



ASSEMBLY — 40TH SESSION

EXECUTIVE COMMITTEE

Agenda Item 14: Facilitation Programmes

DEVELOPMENTS PERTAINING TO ANNEX 9 — FACILITATION

(Presented by the Council of ICAO)

EXECUTIVE SUMMARY

Facilitation is the efficient management of border control processes to expedite clearance of aircraft, passengers/crew, baggage and cargo. The 39th Session of the Assembly (2016) agreed that the Annex 9-related Facilitation (FAL) Programme's priorities during the 2017-2019 triennium would be, inter alia, the streamlining of the provisions of Annex 9, providing a simplified set of enhanced performance-based Standards and Recommended Practices (SARPs); and engaging with advances in technologies and preparing responses to emerging issues in the field of facilitation. Accordingly, this paper reports on developments in Annex 9 since the last Assembly and also presents the current priorities of the FAL Programme's work on Annex 9. It concludes by proposing work priorities for Annex 9 in Appendix A, and expected outcomes, for the next triennium.

Action: The Assembly is invited to endorse the proposed priorities for the Annex 9-related FAL Programme and expected outcomes for the 2020-2022 triennium, as set out in Appendix A.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objective — <i>Security and Facilitation</i> .
<i>Financial implications:</i>	The activities referred to in this working paper will be undertaken subject to the resources available in the 2020 – 2022 Regular Programme Budget and/or from extra-budgetary contributions.
<i>References:</i>	Annex 9 – <i>Facilitation</i> (15th edition, October 2017) Doc 10075, <i>Assembly Resolutions in Force (as of 6 October 2016)</i> A40-WP/61, <i>Consolidated statement of continuing ICAO policies related to facilitation</i> Doc 10042, <i>Model National Air Transport Facilitation Programme</i>

1. BACKGROUND

1.1 The Thirty-ninth Session of the Assembly (2016) agreed that the Annex 9-related Facilitation (FAL) Programme's priorities during the 2017 – 2019 triennium would fall under two categories. In “working better with what we have”, the Programme's priorities would be to undertake a consolidation of its work, examine issues relating to non-compliance with the Standards and Recommended Practices (SARPs) of Annex 9 — *Facilitation*; and development of strategies to assist State compliance. The second category, “planning for the future”, would involve a continuous engagement with advances in technologies pertaining to the work of this FAL Programme, including the preparation of responses to new and emerging facilitation-related issues.

2. DEVELOPMENTS IN THE PRIORITIES ENDORSED FOR 2017 - 2019

2.1 With regard to “working better with what we have,” non-compliance issues related to Annex 9 are being addressed through FAL Regional Seminars, as well as the online Compliance Checklist (CC) in ICAO's Electronic Filing of Differences (EFOD) System which allows for the recording of information on compliance with SARPs, and hence assessing the status of the implementation of SARPs by Member States (Appendix B, refers). The EFOD system was developed to address the need for a more efficient means of reporting and researching differences to SARPs. Implementation of not only Machine Readable Travel Document (MRTD)-related SARPs of Annex 9 is being undertaken through activities under the ICAO Traveller Identification Programme (ICAO TRIP) strategy, and this is reported separately in A40-WP/xx.

2.2 In December 2016, State letter EC 6/1-16/106, *Nomination of a National Focal Point for Facilitation* was disseminated. As of the writing of this paper, 164 Member States have submitted nominations. In November 2017, State letter EC6/3-17/126, was disseminated, drawing attention to Standard 9.22.1 of Annex 9 — *Facilitation*, which obliges Contracting States requiring the transfer of Passenger Name Record (PNR) data to adopt and implement the EDIFACT-based PNRGOV message as the only method for airline-to-government PNR data transferal to ensure global interoperability.

2.3 During the current triennium, FAL Regional Implementation Seminars were held in various ICAO Regional Offices: Paris, France (20-24 November 2017); Dakar, Senegal (5-8 March 2018); Cairo, Egypt (12-15 March 2018); Lima, Peru (16-19 September 2018); and Bangkok, Thailand (11-15 March 2019). The focus of the series of seminars was on: a) the EFOD System, with a dedicated session on the completion of the Annex 9 CC; and, b) the development of National Air Transport Facilitation Programmes (NATFPs), based on Doc 10042, *Model National Air Transport Facilitation Programme* that contains guidance on how States may comply with Annex 9 Standards 8.17, 8.18 and 8.19 and work towards enhancing cooperation and coordination on facilitation-related matters among various relevant Government agencies or departments.

2.4 In 2014, the United Nations Security Council (UNSC), in resolution 2178 (2014), called upon Member States to require that airlines operating in their territories provide Advance Passenger Information (API) to the appropriate national authorities. “Planning for the future” developments since the last Assembly include the adoption by the Council, in June 2017, of Amendment 26 to Annex 9. One of the most significant changes introduced by this Amendment to the Annex is the inclusion of a new Chapter 9 that contains new and revised SARPs on Passenger Data Exchange Systems, covering Advance Passenger Information (API), interactive-API (iAPI), Passenger Name Record (PNR) data, and Electronic Travel Systems (ETS).

2.5 The 15th Edition (October 2017) of Annex 9 now obliges each Contracting State to establish an API system which is required to be supported by appropriate legal authority and be consistent with internationally recognized standards for API. The importance of legislation/legal authority is underlined, in that the Annex also recommends that a State developing legislation for the purpose of implementing an API system should consider developing aligned regulations that meet the needs of all involved agencies, define a common set of API data elements required for that jurisdiction, and appoint one government agency (Single Window) to receive API data on behalf of all other agencies. The first “ICAO API Workshop” was held from 24 to 25 September 2018 in Singapore with the support of the Ministry of Transport, Singapore and the International Air Transport Association (IATA).

2.6 Other changes introduced in Amendment 26 included MRTDs, Automated Border Control (ABC) systems and the transport of unaccompanied minors by air, the last in light of increasing international awareness on the Foreign Terrorist Fighter (FTF) phenomenon and on child trafficking. Following the adoption of Amendment 26, the Aviation Security Audit protocol questions *vis-à-vis* the Annex 9 (Facilitation) components that support both aviation security and border security objectives were adjusted, as appropriate.

2.7 The Tenth Meeting of the Facilitation Panel (FALP/10) was held from 10 to 13 September 2018. Topics covered included proposals for new/revised Annex 9 SARPs on crew identity documents, the travel of unaccompanied minors by air and trafficking in persons. The Panel recommended, in particular, that the Passenger Data Single Window be upgraded to a Standard. Two new FAL Panel Working Groups have been established, one to address the issue of new/revised SARPs dealing with PNR data and the second, related to trafficking in persons. The Panel also decided, inter alia, that a Global Aviation Facilitation Plan (GAFP) is impracticable (not viable) for the time-being. The provisions of Amendment 27, resulting from the recommendations of FALP/10, adopted by the Council in June 2019 is in Appendix C.

2.8 The Thirty-ninth Session of the Assembly (27 September-6 October 2016) agreed to invite the Council to give further consideration to the proposal to upgrade Recommended Practice 8.46 of Annex 9 to a Standard, following a review of the results of the Universal Safety Oversight Audit Programme (USOAP) audits (A39-WP/528, paragraphs 31.5 and 31.6, refer). Subsequently, the Council agreed that the time-frame/target date for implementation of the Assembly’s decision would follow an evaluation of the extent of the level of implementation of family assistance plans obtained through the Annex 9 and USOAP Compliance Checklists (CCs) in the EFOD System in the third quarter of 2018 for Annex 9, and the fourth quarter of 2020 for USOAP. In April 2019, at its Second meeting of the 217th Session, the Air Transport Committee (ATC) considered information, provided by the Secretariat, on the implementation of RP 8.46. The ATC decided that the Secretariat gather information on the implementation by airlines and airports of their family assistance plans, obtained from the International Air Transport Association (IATA) and the Airports Council International (ACI); provide a status of RP 8.46 implementation obtained through the Universal Safety Oversight Audit Programme, if available; and present such information during the 219th Session.

3. PRIORITIES AND OUTCOMES: 2020 – 2022

3.1 The categories for the FAL Programme’s work on Annex 9 for the next triennium should be retained, with updated outcomes in light of work already accomplished during this triennium. For example, the FAL Programmes, through events undertaken under the ICAO TRIP Strategy, ICAO Public Key Directory (PKD) Workshops and FAL Regional Implementation Seminars, will continue to assist

States to implement relevant SARPs of Annex 9 pursuant to the Organization's *No Country Left Behind* (NCLB) initiative.

3.2 During the 2020 – 2022 triennium, the Secretariat intends to conduct a series of FAL Regional Implementation Seminars dedicated notably to API, PNR and PKD. The seminars detail the regulatory framework defined by Annex 9, set the steps to be taken by Member States to implement passenger data exchange, share best practices followed by some States, notably in the areas of privacy and data protection regulations, and involving, IATA and other international partners, as appropriate. The recent adoption of a Standard mandating the establishment of API, the continuing work on enhancing passenger data exchange SARPs in Annex 9, including the work of the FAL Panel Working Group on PNR SARPs, the benefits of API and PNR *vis-à-vis* border management and border security and the specific inclusion in the Global Aviation Security Plan (GASeP) of API; the proliferating international interest in passenger data exchange, as especially expressed by the UNSC that — acting under Chapter VII of the UN Charter — mandated the use of API and PNR by Member States in resolution 2396 (2017) (extracts from are reproduced in Appendix D), have made API and PNR implementation an important priority for the FAL Programmes. Moreover, this series of Regional Seminars would serve to strengthen ICAO's NCLB activities relating to global passenger data exchange regulatory matters, as well as complement initiatives taken by other international and regional organizations to further their specific mandates and interests, such as the UN Office for Counter-Terrorism (UNOCT), the UN Office on Drugs and Crime (UNODC), and the Organization for Security and Cooperation in Europe (OSCE).

3.3 Planning for the future is an on-going task, as the Annex 9-related FAL Programme, again through the FAL Panel, continuously engages with advances in technologies and prepares responses to new and emerging issues in the field of facilitation. Additional work on SARPs and guidance material on issues including PNR, trafficking in persons and reconciliation of multiple travel documents with one passenger is pending, and is expected to be completed by the FAL Panel during the next triennium. It is anticipated that the next meeting of the FAL Panel will review the 2nd, revised edition of Doc 9957, *The Facilitation Manual* on which work is ongoing. Enhancement of guidelines on disruptive events, cargo facilitation (in light of any relevant and recent work of the World Customs Organization in this area, including e-commerce), Automated Border Control (ABC), and new or revised subjects introduced into the Annex through Amendment 27 are anticipated for inclusion in the FAL Manual.

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APPENDIX A

PRIORITIES AND OUTCOMES: 2020 – 2022

The table below summarizes the proposed priorities for the FAL Programme’s work on Annex 9 and expected outcomes for the 2020 – 2022 triennium:

Categories	Priorities: 2020 - 2022	Expected Outcomes
A. Working better with what we have	1. Non-compliance with SARPs	a) Develop strategies to assist State compliance, through the Annex 9 EFOD Compliance Checklist; b) New format for FAL Regional Implementation Seminars focusing on API and PNR; and c) Development, with the support of the Global Aviation Training (GAT) office, of an Annex 9 training package.
B. Planning for the future	1. Responses to new and emerging issues	a) Development of PNR SARPs; b) FAL-related issues on human trafficking; and c) Multiple travel documents used by passengers during air transport.
	2. Advances in technologies	Examination of the possible need to include SARPs in Annex 9 vis-à-vis FAL-related aspects of Remotely Piloted Aircraft Systems (RPAS).

APPENDIX B

**SUMMARY OF RESPONSES TO STATE LETTER EC 6/3–15/90 (21 December 2015)
COMPLETION OF ONLINE COMPLIANCE CHECKLIST FOR ANNEX 9 – FACILITATION**

Up to and including Amendment 26 (effective: 23 October 2017)
(as of 10 June 2019)

C = Compliance notified	D = Difference(s) notified
— = No entries made in CC	

State	CC Entry	RP 8.46	State	CC Entry	RP 8.46
Asia & Pacific Region (APAC:39 States)			Eritrea	D	D
Afghanistan	—	—	Eswatini	—	—
Australia	D	C	Ethiopia	D	—
Bangladesh	—	—	Kenya	—	—
Bhutan	—	—	Lesotho	—	—
Brunei Darussalam	—	—	Madagascar	C	C
Cambodia	—	—	Malawi	—	—
China	D	—	Mauritius	D	—
China (Hong Kong SAR)	D	C	Mozambique	—	—
China (Macao SAR)	D	—	Namibia	—	—
Cook Islands	—	—	Rwanda	—	—
Democratic People's Republic of Korea	C	—	Seychelles	—	—
Fiji	C	—	Somalia	—	—
India	—	—	South Africa	D	C
Indonesia	D	D	South Sudan	—	—
Japan	D	—	Uganda	D	D
Kiribati	—	—	United Republic of Tanzania	C	—
Lao People's Democratic Republic	—	—	Zambia	D	C
Malaysia	C	—	Zimbabwe	C	—
Maldives	D	C	ESAF TOTAL	12 4C; 8D	6 3C; 3D
Marshall Islands	—	—	European & North Atlantic Region (EUR/NAT: 56 States)		
Micronesia (Federated States of)	—	—	Albania	—	—
Mongolia	D	D	Algeria	—	—
Myanmar	C	—	Andorra	—	—
Nauru	—	—	Armenia	C	C
Nepal	—	—	Austria	C	—
New Zealand	D	—	Azerbaijan	D	C
Pakistan	—	—	Belarus	—	—
Palau	—	—	Belgium	—	—
Papua New Guinea	—	—	Bosnia and Herzegovina	—	—
Philippines	—	—	Bulgaria	D	—
Republic of Korea	C	C	Croatia	—	—
Samoa	—	—	Cyprus	D	—
Singapore	D	—	Czechia	D	C
Solomon Islands	—	C	Denmark	D	—
Sri Lanka	—	—	Estonia	D	—
Thailand	D	—	Finland	D	C
Timor-Leste	—	—	France	D	—
Tonga	—	—	Georgia	—	—
Tuvalu	—	—	Germany	D	—
Vanuatu	—	—	Greece	C	—
Viet Nam	—	—	Hungary	—	—
APAC TOTAL	14(+2 SARs) 5C; 9+2D	6(+1SAR) 4+1C; 2D	Iceland	D	—
Eastern & Southern African Region (ESAF: 24 States)			Ireland	D	—
Angola	C	—	Israel	D	D
Botswana	D	D	Italy	D	C
Burundi	D	—	Kazakhstan	D	D
Comoros	—	—	Kyrgyzstan	D	D
Djibouti	—	—	Latvia	D	—
			Lithuania	D	C
			Luxembourg	—	—

State	CC Entry	RP 8.46
Malta	D	C
Monaco	D	—
Montenegro	D	C
Morocco	C	—
Netherlands	D	C
North Macedonia	C	C
Norway	D	—
Poland	D	—
Portugal	—	—
Republic of Moldova	D	D
Romania	D	—
Russian Federation	—	—
San Marino	—	—
Serbia	D	C
Slovakia	D	—
Slovenia	—	—
Spain	D	C
Sweden	D	C
Switzerland	D	C
Tajikistan	D	—
Tunisia	—	—
Turkey	C	C
Turkmenistan	D	C
Ukraine	D	—
United Kingdom	D	C
Uzbekistan	D	—
EUR/NAT TOTAL	41 6C; 35D	21 17C; 4D
Middle East Region (MID: 15 States)		
Bahrain	C	C
Egypt	D	C
Iran (Islamic Republic of)	—	—
Iraq	D	—
Jordan	D	C
Kuwait	D	C
Lebanon	—	—
Libya	—	—
Oman	C	C
Qatar	C	C
Saudi Arabia	—	—
Sudan	C	C
Syrian Arab Republic	—	—
United Arab Emirates	D	C
Yemen	—	—
MID TOTAL	9 4C; 5D	8 8C
North American, Central American & Caribbean Region (NACC: 22 States)		
Antigua and Barbuda	—	—
Bahamas	D	C
Barbados	C	—
Belize	—	—
Canada	D	C
Costa Rica	—	—
Cuba	D	C
Dominican Republic	D	—
Dominica	—	—
El Salvador	—	—
Grenada	—	—
Guatemala	C	—
Haiti	—	—

State	CC Entry	RP 8.46
Honduras	D	—
Jamaica	—	—
Mexico	D	—
Nicaragua	D	C
Saint Kitts and Nevis	—	—
Saint Lucia	—	—
Saint Vincent and the Grenadines	—	—
Trinidad and Tobago	—	—
United States	D	C
NACC TOTAL	10 2C; 8D	5 5C
South American Region (SAM: 13 States)		
Argentina	—	—
Bolivia (Plurinational State of)	D	C
Brazil	D	C
Chile	D	D
Colombia	D	D
Ecuador	C	—
Guyana	C	—
Panama	C	—
Paraguay	D	D
Peru	D	C
Suriname	—	—
Uruguay	C	—
Venezuela (Bolivarian Republic of)	D	C
SAM TOTAL	11 4C; 7D	7 4C; 3D
Western & Central African Region (WACAF: 24 States)		
Benin	—	—
Burkina Faso	D	C
Cameroon	C	—
Cabo Verde	D	—
Central African Republic	—	—
Chad	—	—
Congo	—	—
Côte d'Ivoire	—	—
Democratic Republic of the Congo	D	C
Equatorial Guinea	—	—
Gabon	—	—
Gambia	—	—
Ghana	—	—
Guinea	D	C
Guinea-Bissau	—	—
Liberia	—	—
Mali	—	—
Mauritania	—	—
Niger	—	—
Nigeria	C	—
Sao Tome and Principe	—	—
Senegal	D	C
Sierra Leone	—	—
Togo	—	—
WACAF TOTAL	7 2C; 5D	4 4C
GRAND TOTAL	104 (+2) 27C; 77+2D	57 (+1) 45+1C; 12D

APPENDIX C
TEXT OF AMENDMENT 27 TO THE
INTERNATIONAL STANDARDS
AND RECOMMENDED PRACTICES
FACILITATION

ANNEX 9
TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION

Chapter 3. Entry and Departure of Persons and their Baggage

Amend Annex 9 Chapter 3 as follows:

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3.65 CMCs and crew identity cards shall be issued only after a background check has been carried out by or on behalf of the relevant public authority. In addition, adequate controls such as a certification of employment status of an applicant prior to issuance, controls on blank card stock, and accountability requirements for issuing personnel, shall be placed on the issuance of CMCs and crew identity cards.

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3.85 Recommended Practice.— *Contracting States should ensure that aircraft operators transporting unaccompanied minors in an airline program collect the following information on the accompanying form:*

- Surname and first name(s), number of the Passport or Identification document and the contact details (country of residence, home address, telephone number) of the minor, the person sending off at departure and the person collecting the minor at destination;

- Surname and first name(s), and the contact details (country of residence, home address, telephone number) of the parent or guardian of the minor.

Chapter 6. International airports — facilities and services for traffic

Amend Annex 9 Chapter 6 as follows:

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6.9 Recommended Practice.— *Each Contracting State should utilize existing guidance material on wayfinding and signage, including ~~ensure that signage used at airports is based on~~ Doc 9636, International Signs to Provide Guidance to Persons at Airports and Marine Terminals, published jointly by ICAO and the International Maritime Organization, to the extent it remains applicable.*

Note.— A non-exhaustive listing of ‘best practices’ guidance material and resources is maintained on the ICAO website at [. . .] for consideration and utilization by Contracting States.

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~~6.12 **Recommended Practice.**— Each Contracting State should ensure that an airport operator or aircraft operator, as appropriate, maintains a flight information system, and follows the standard layout recommended in Doc 9249, Dynamic Flight Related Public Information Displays.~~

Chapter 8. Facilitation provisions covering specific subjects

Amend Annex 9 Chapter 8 as follows:

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8.22 **Recommended Practice.**— *When travelling, persons with disabilities should be provided with special assistance in order to ensure that they receive services customarily available to the general public. Assistance should be provided in a manner that respects the dignity of the individual.*

Note.—Attention is drawn to Doc 9984, Manual on Access to Air Transport by Persons with Disabilities, developed for the purpose of elaborating on the Standards and Recommended Practices relating to the facilitation of the transport of persons with disabilities, and assisting the civil aviation community in their implementation.

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J. Trafficking in Persons

8.47 **Recommended Practice.**— *Contracting States should take measures to ensure that procedures are in place to combat trafficking in persons, including clear reporting systems and relevant competent authorities’ points of contact for airport and aircraft operators.*

8.48 **Recommended Practice.**— *Contracting States should take measures to ensure that airport and aircraft operators’ personnel in direct contact with the travelling public are provided with awareness training on trafficking in persons.*

Chapter 9: Passenger Data Exchange Systems

Amend Annex 9 Chapter 9 as follows:

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9.1 **Recommended Practice.**— *Contracting States requiring the exchange of Advance Passenger Information (API), interactive API (iAPI) and/or Passenger Name Record (PNR) data from aircraft operators ~~should~~ shall create a Passenger Data Single Window facility for each data category or both data category categories combined that allows parties involved to lodge standardized information with a*

common data transmission entry point ~~for each category~~ to fulfil all related passenger and crew data requirements for that jurisdiction.

9.1.1 Recommended Practice.—*Contracting States requiring the exchange of passenger and crew data from aircraft operators should consider creating a Passenger Data Single Window facility for both data categories combined.*

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9.XX Contracting States shall not penalise or otherwise hold an aircraft operator responsible for inconsistencies in passenger data exchanges when the aircraft operator has collected and provided accurate advance passenger information data based on a travel document presented which is valid for the journey and the passenger presents a second travel document which is valid for the journey on arrival.

APPENDIX D

EXTRACTS FROM UN SECURITY COUNCIL RESOLUTION 2396 (2017)

The Security Council,

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Welcoming, . . . ICAO's decision to establish a standard under Annex 9 — Facilitation, regarding the use of Advance Passenger Information (API) systems by its Member States with effect from October 23, 2017, and *recognizing* that many ICAO Member States have yet to implement this standard

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Acting under Chapter VII of the Charter of the United Nations

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11. *Decides* that, in furtherance of paragraph 9 of resolution 2178 and the standard established by ICAO that its Member States establish advance passenger information (API) systems as of October 23, 2017, that Member States shall require airlines operating in their territories to provide API to the appropriate national authorities, in accordance with domestic law and international obligations, in order to detect the departure from their territories, or attempted travel to, entry into or transit through their territories, by means of civil aircraft, of foreign terrorist fighters and individuals designated by the Committee established pursuant to resolutions 1267 (1999), 1989 (2011) and 2253 (2015), and *further calls upon* Member States to report any such departure from their territories, or such attempted entry into or transit through their territories, by sharing this information with the State of residence or nationality, or the countries of return, transit or relocation, and relevant international organizations as appropriate and in accordance with domestic law and international obligations, and to ensure API is analysed by all relevant authorities, with full respect for human rights and fundamental freedoms for the purpose of preventing, detecting, and investigating terrorist offenses and travel;

12. *Decides* that Member States shall develop the capability to collect, process and analyse, in furtherance of ICAO standards and recommended practices, passenger name record (PNR) data and to ensure PNR data is used by and shared with all their competent national authorities, with full respect for human rights and fundamental freedoms for the purpose of preventing, detecting and investigating terrorist offenses and related travel, *further calls upon* Member States, the UN, and other international, regional, and subregional entities to provide technical assistance, resources and capacity building to Member States in order to implement such capabilities, and, where appropriate, *encourages* Member States to share PNR data with relevant or concerned Member States to detect foreign terrorist fighters returning to their countries of origin or nationality, or traveling or relocating to a third country, with particular regard for all individuals designated by the Committee established pursuant to resolutions 1267 (1999), 1989 (2011), and 2253 (2015), and also *urges* ICAO to work with its Member States to establish a standard for the collection, use, processing and protection of PNR data