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ICAO Regional FAL Seminar Lima, Peru 9-12 September 2014

Annex 9: Compliance Issues

10 September 2014



ANNEX 9 COMPLIANCE ISSUES: OVERVIEW

- 1. INTRODUCTION**
- 2. OBLIGATIONS UNDER CHICAGO CONVENTION**
- 3. ASSEMBLY RESOLUTIONS: EXPECTATIONS**
- 4. COMPLIANCE: DETERMINATION OF**
- 5. NON-COMPLIANCE: REASONS**
- 6. NON-COMPLIANCE: SOLUTIONS**
- 7. NEXT STEPS**
- 8. EFOD**
- 9. COMPLIANCE WITH STANDARD 3.10.1**



1. INTRODUCTION

1. Compliance with Chicago Convention, i.e. Obligations under Convention
2. “Annex 9 – Facilitation: Compliance Issues”
→ Compliance with Annex 9; i.e. Implementation of SARPs



2. OBLIGATIONS UNDER CONVENTION

Article 10: Landing at customs airport

Article 11: Applicability of air regulations

Article 13: Entry and clearance regulations

Article 14: Prevention of spread of disease

Article 22: Facilitation of formalities

Article 23: Customs and immigration procedures

Article 24: Customs duty

Article 29: Documents carried in aircraft

Article 35: Cargo restrictions

Article 37: Adoption of international standards and procedures

Article 38: Departures from international standards & procedures



OBLIGATIONS OF STATES

Article 11: Applicability of air regulations

Article 14: Prevention of spread of disease

Article 22: Facilitation of formalities

Article 23: Customs and immigration procedures

Article 24: Customs duty

Article 35 (b): Cargo restrictions

Article 37: Adoption of international standards and procedures →

Article 38: Departures from international standards and procedures

OBLIGATIONS OF “USERS”

Article 10: Landing at customs airport

Article 11: Applicability of air regulations

Article 13: Entry and clearance regulations

Article 29: Documents carried in aircraft

Article 35 (a): Cargo restrictions



State Letter on Adoption of an Amendment

- ▶ Attachment A (Note on notification of differences)
 - ▶ Attachment B (Form on notification of disapprovals) [Art. 90 (a)]
 - ▶ **Attachment C (Form on notification of compliance or differences) Reminder to States ▶ Art. 38**
- ▶ International Standards have a **conditional binding force** to the extent that a State has not notified any differences under **Article 38**



Article 38: Compliance

(Departures from international standards & procedures)

[. . .] In case of amendments to international standards, any State which does not amend its own regulations shall notify the Council . . .

→ low % of notification of compliance or differences with Amendments [less than 50 responses]

→ CONSEQUENCE: Status of implementation of most Annex 9 SARPs not known for many States



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3. ASSEMBLY RESOLUTIONS

[+Art. 38] → A38-16: Facilitation Policies & Practices

The Assembly urges Contracting States to:

- increase their efforts to implement Annex 9 SARPs
- through national facilitation committees: call upon all interested government departments to the need for:
 - making the national regulations and practices conform to the provisions of Annex 9



4. COMPLIANCE: DETERMINATION OF

- Response to SL on adoption of a new Amendment (compliance/differences) [EFOD*]
- USAP (“security-related”) Annex 9 Standards
- Response to SARP-specific SLs (e.g. API; 3.10.1)
- AIPs filed under Annex 15
- Unofficial information from various sources



5. NON-COMPLIANCE: REASONS

- Insufficient communication between ICAO and States
 - loss of documentation by recipients
 - delays in delivering documentation to responsible party
 - difficulties in identifying responsible party (SL to CAA)
 - ▶ Health; Immigration; Quarantine; Customs; Travel document-issuing authorities; Disability agency; etc.
- SARPs address non-State entities
- Insufficient resources within States
- Costs of implementation



- Difficulty in comprehending and interpreting Annex material
- Differing interpretation by individual States of SARPs
- Lack of understanding about role of States in consultation phase
- **Lack of notification to ICAO under Art. 38**



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6. NON-COMPLIANCE: SOLUTIONS

- Seminars, Symposia
- Individual Missions
- Audits
- State Letters/Electronic Bulletins
- Regional Offices: Outreach Activities
- Guidance Material: FAL Manual, PWD Manual, etc.
- Formal Contacts
- Revision of SARPs



- Dedicated focus on specific SARP(s)
- Cooperation/Coordination with other Organizations and/or Industry
- National [Regional] Air Transport FAL Programmes
- Concentrated Focus of Available Resources
- Prioritization of Work: What are the Most Important Issues for States/Regions?
- Electronic Filing Of Differences (EFOD)→Notifications



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7. NEXT STEPS

1. A38: FAL Programme to address non-compliance issues: Top priority
2. Determine reasons for non-compliance
3. Develop strategies to assist State compliance

→ **Suggestions most welcome!**



8. EFOD

(Electronic Filing of Differences)

- Art. 38

→ **States** obliged: notification of differences with Standards

[→ States urged: notify differences to RPs]

– traditionally, paper-based

→ **ICAO** mandated to notify States

– traditionally, paper-based



- Universal Safety Oversight Audit Programme

- [MOUs] States required to complete Compliance Checklists (CCs)

- information on implementation of specific SARPs: all Annexes except A9 & A17

- online system: complete CCs & view safety-related information & CCs of other States

- C-DEC (2006): online CCs to be adapted to EFOD

- Art. 38 + USOAP purposes



EFOD: COMPONENTS

1. Online user interface

- States view Annex SARPs
- Indicate compliance/differences
- English only, but capture & process data in EFRS (A, C)

2. Annex manager (ICAO use)

- Manage amendments
- Update online user interface
 - latest amendments
 - monitor & analyze global level of implementation of SARPs
 - generate **electronic** Supplements



Electronic Supplement

A dynamic and on-demand research tool on differences from SARPs submitted through EFOD that provides:

- ✓ A list of States who have verified differences
- ✓ Completeness of data reporting for a selected State
- ✓ Differences per Annex for a selected State
- ✓ Differences of all States per a selected provision



EFOD: IMPLEMENTATION

- Phased implementation for all Annexes (except A9 & A17) (2011-2013)
 - Jan 2011, CC data from 153 States were migrated into the EFOD system
 - April 2011, States requested to:
 - **Recognize EFOD** as an alternative means of filing of differences
 - **Verify and confirm** the data in EFOD which had previously been submitted through CC under USOAP.



- Expansion to Annex 9

- ✓ Annex provisions uploaded in the system
- ✓ Differences information to be uploaded by mid/late-2013
- ✓ **States requested to use EFOD: Amd. 24 SL**

- Amd.24 SARPs uploaded after 29 March 2014

→(Effective Date of Amd 24)

- Generation of electronic Supplements

<https://soa.icao.int/usoap/>



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9. COMPLIANCE WITH STANDARD 3.10.1

For **passports** issued after 24 November 2005 and which are not machine readable, Contracting States shall ensure the **expiration date** falls before 24 November 2015

→ **Standard 3.10.1 of Annex 9**



A. HISTORY OF 3.10.1

1. Proposal: FAL/12 (Cairo, 2004)

→ 1 April 2010 deadline for MRP-issuance

2. ATC Review: States to issue MRPs as soon as possible

→ anti-terrorism

→ security of air travel system

→ all persons have same access to modern, efficient facilities at border controls

→ **non-MRP long-validity**: universal possession of MRPs realized much later than 2010



3. State Letter (July 2004): FAL/12 proposals + ATC's views

→ **Need for an additional provision?**

- date after which non-machine readable passports would no longer be valid for travel; or,
- deadline by which all persons holding non-MRPs would have to replace them with new MRPs before travelling

4. ATC (2005: Final review): “Sunset” date

→ RP: States should encourage its nationals holding passports that are not machine readable, to apply for new MRPs by 1 April 2015



5. Council (2005) compromise on:

a) 1 April 2010 deadline for MRPs

→ Standard 3.10

b) 24 Nov 2015 phase-out of non-MRPs

→ Standard 3.10.1



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B. STATE LETTER EC6/3-12/70

- State Letter dated **31 December 2012**
 - Brief background of issue
 - Governments urged to invite citizens holding non-MRPs to apply for MRPs
 - Questionnaire: gather information on worldwide application of 3.10.1 – determine action to promote implementation



QUESTIONNAIRE

NAME OF STATE: _____

Please circle the appropriate response.

1. All *non-machine readable passports* have expired, or are due to expire, before 24 November 2015 **Yes/No**

If the answer is “**Yes**”, please skip to Question 3.

2. If the answer to Question 1 is “**No**”, please respond to the following questions:
- 2.1 The number of non-machine readable passports in circulation beyond 24 November 2015 will be approximately
- 2.2 All non-machine readable passports are due to expire by (date)



REGION	TOTAL RESPONSES (23 May 2014)	Q1: YES	Q2: NO	REMARKS Q. 2.1/2.2
APAC	17/38	14	3	217/2016 1.5m/2020 -/2017
ESAF	6/24	6	–	–
EURNAT	33/56	32	1	300,000/2017
MID	9/15	9	–	–
NACC	10/21	9	1	-/2017
SAM	5/13	4	1	2 million
WACAF	5/24	5	–	–
TOTALS	85/191	79	6	



C. WHAT NEXT?

Governments: Invite citizens holding non-MRPs to apply for MRPs

ICAO: 1. Promoting implementation: Seminars & other events

2. (Individual) Follow-up State Letter (**106**/191)



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QUESTIONS?