



| ICAO SECURITY & FACILITATION

FACILITATION REGIONAL IMPLEMENTATION SEMINAR

Lima, 16 – 19 October 2018

IMPLEMENTATION OF ANNEX 9:

ELECTRONIC FILING OF DIFFERENCES (EFOD) & COMPLIANCE

STATES' RESPONSIBILITIES UNDER ARTICLE 38 & RESPONSES TO STATE LETTERS

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16 October 2018



OVERVIEW

States' Responsibilities under Article 38

→ Assembly Resolutions

Review of Responses to State letters

→ Examination of responses to recent SLs



State Letter on Adoption of an Amendment

Cover + Amendment +

- ▶ **Attachment A** — Implementation task list and outline of guidance material in relation to Amendment 26 to Annex 9
- ▶ **Attachment B** — Impact assessment in relation to Amendment 26 to Annex 9
- ▶ **Attachment C** (Form on notification of disapprovals) [Art. 90 (a)]
- ▶ **Attachment D (Form on notification of compliance or differences)**
Reminder to States ▶ Art. 38
- ▶ **Attachment E** (Note on notification of differences)

International Standards have a **conditional binding force** to the extent that a State has not notified any differences under **Article 38**



Article 38

Article 38: *Departures from international standards and procedures*

. . . In the case of amendments to international standards, any State which does not make the appropriate amendments to its own regulations . . shall give notice to the Council within sixty days of the adoption of the amendment to the international standard . . .

→ **Compliance with Annex 9; i.e. Implementation of SARPs**



[. . .] 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 to Amendment SLs
 - higher rate for SLs focused on specific Standards

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



SL Responses: Assembly Resolutions

- A39-20: Facilitation Policies:

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



- A39-21 (2016): Low response rate by Member States to ICAO State letters; SG to introduce new communication tools to improve communications and interaction with Member States; SG to introduce follow-up procedures at ROs.
 - A39-27 (2016): Assistance to victims of aviation accidents and their families
 - Member States to inform ICAO, through the CC in EFOD, of the level of implementation of the provisions in Annex 9 associated with family assistance plans
- + Other Resolutions that urge implementation of SARPs



- A39-22 (2016): [Preambular Clauses]:
 - Member States obliged to give immediate notification under Article 38;
 - Making differences available to all important to promote safety, regularity and efficiency in international civil aviation;
 - Member States experience difficulty in keeping pace with frequent amendments to Annexes . . .
- [Operative Clauses]:
 - Member States to abide by obligations under Art. 38;
 - Member States to use EFOD when notifying differences



REVIEW OF RESPONSES

State Letter EC 6/3 – 15/90, 21 December 2015

→ Completion of online compliance checklist for Annex 9

State Letter EC 6/3 – 17/92, 24 July 2017

→ Annex 9: Provisions on the SLTD database of INTERPOL



REPORT ON ENTRIES INTO CC/EFOD

[Information as of 22 August 2018]: ● NACC = 21 States

	NACC (21)
Compliance Checklist entries	
→ begun to make entries, but not yet completed	4
→ submitted differences	1
→ but: some/all Amendment 26 (Oct 2017) input pending	4
→ yet to begin making entries (i.e. not yet started)	12
TOTAL	21



REPORT ON ENTRIES INTO CC/EFOD

[Information as of 22 August 2018]: ● SAM = 13 States

	SAM (13)
Compliance Checklist entries	
→begun to make entries, but not yet completed	3
→submitted differences	2
→but: some/all Amendment 26 (Oct 2017) input pending	6
→yet to begin making entries (i.e. not yet started)	2
TOTAL	13



State Letter EC 6/3 – 17/92, 24 July 2017

→ **Annex 9: Provisions on the SLTD database of INTERPOL**

→ Total responses: 70/192 Member States (25/7/2018)

→ 6 out of 21 NACC States have responded

→ 9 out of 13 SAM States have responded

3.10: Report stolen, lost, revoked TDs for inclusion in database

→ **NACC**: 4 “yes”, 2 “no”; **SAM**: 8 “yes”, 1 “no”

RP 3.10.1: Query at borders TDs against SLTD

→ **NACC**: 4 “yes”, 2 “no”; **SAM**: 8 “yes”, 1 “no”



THANK YOU!

QUESTIONS?