



## **FACILITATION PANEL (FALP)**

### **NINTH MEETING**

**Montréal, 4-7 April 2016**

#### **Agenda Item 3: Amendments to Annex 9**

#### **PROPOSED AMENDMENT TO ANNEX 9: STANDARD 3.35.1**

(Presented by the European Civil Aviation Conference)

#### **SUMMARY**

This paper proposes an amendment to Annex 9, Standard 3.35.1 (14th Edition, 2015), attempting to resolve practical difficulties regarding the treatment of counterfeit documents. With this amendment the treatment of counterfeit documents should be facilitated for all ICAO Member States.

#### **Action by the FAL Panel:**

The FAL Panel is invited to consider the proposed amendment to Annex 9, Standard 3.35.1 as presented in the Appendix.

### **1. INTRODUCTION**

1.1 At the last meeting of the Panel (FALP/8, 24-28 November 2014), several Standards related to the inspection of travel documents were amended and renumbered as a result of the work conducted by the FAL Panel and other technical bodies such as the Technical Advisory Group on Machine Readable Travel Documents (TAG/MRTD).

1.2 Amendment 24 to ICAO Annex 9 became applicable on 29 July 2014. Based on practical experiences, Slovenia pointed out that counterfeit documents, being a complete fabrication of a legitimate travel document, were not owned by a particular State and should therefore not be returned, contrary to what Annex 9 Standard 3.35.1 states, to any particular State.

1.3 This issue was discussed between ECAC Member States, and in consultation with the IATA Control Authorities Working Group (IATA/CAWG) it was decided to conduct a survey to better identify the current practices in relation to counterfeit documents.

1.4 The replies received confirmed that Member States' national practices did not include the return of counterfeit documents as these had not been issued by any particular State. Therefore, ECAC Member States agreed to propose an amendment to ICAO Annex 9 at the next Facilitation Panel (FALP/9).

## 2. DISCUSSION

2.1 Annex 9 Standard 3.35.1 (Chapter 3, Entry and departure of persons and their baggage, inspection of travel documents) currently reads as follows:

3.35.1 The public authorities of each Contracting State shall seize fraudulent, falsified or counterfeit travel documents. The public authorities shall also seize the travel documents of a person impersonating the rightful holder of the travel document. Such documents shall be removed from circulation immediately and returned to the appropriate authorities of the State named as issuer or to the resident Diplomatic Mission of that State.

2.2 The result of the ECAC - IATA/CAWG survey reflected the understanding that seized counterfeit documents were not to be returned to the 'owning' Member State. The following wording is therefore proposed for amending Annex 9 in line with current practices:

3.35.1 The public authorities of each Contracting State shall seize fraudulent, falsified or counterfeit travel documents. The public authorities shall also seize the travel documents of a person impersonating the rightful holder of the travel document. Such documents shall be removed from circulation immediately, ~~and~~ All seized documents, except counterfeits, shall be returned to the appropriate authorities of the State named as issuer or to the resident Diplomatic Mission of that State.

2.3 The understanding reflected in the proposal is that counterfeit documents, which are complete fabrications of an entire travel document, are not owned by a particular State and therefore should not be returned to this alleged issuing State. In practice, the procedures applied by ECAC Member States are as follows:

- 89% indicated that counterfeit documents were destroyed immediately by the identifying Member State, unless required to facilitate a return or to undertake a prosecution;
- 11% of returns indicated that counterfeit documents are returned to the 'owning/alleged issuing' Member State to raise their awareness of how their travel documents are being counterfeited.

## 3. ACTION BY THE FAL PANEL

3.1 The FAL Panel is invited to consider the proposed amendment to Annex 9 Standard 3.35.1, as presented in Paragraph 2.2 (and as reflected in the Appendix).

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**APPENDIX**

*Amend* Annex 9 as follows:

**Chapter 3. Entry and Departure of Persons and their Baggage**

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**I. Inspection of travel documents**

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3.35.1 The public authorities of each Contracting State shall seize fraudulent, falsified or counterfeit travel documents. The public authorities shall also seize the travel documents of a person impersonating the rightful holder of the travel document. Such documents shall be removed from circulation immediately, ~~and~~ **All seized documents, except counterfeits, shall be** returned to the appropriate authorities of the State named as issuer or to the resident Diplomatic Mission of that State.

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