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SECURITY & FACILITATION



# ICAO Annex 9 : Facilitation Structure and Amendment 26

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## Annex 9: Structure & Amendment 26

### Structure

- ▶ Annex 9: A Brief History
- ▶ SARPs: Meaning
- ▶ Annex 9: An Overview
  - Guidance Material



## ANNEX 9: BRIEF HISTORY

Annex 9 developed:

→ elaborate States' obligations under Articles 22, 23, 24

→ standardize procedures for meeting legal requirements under Articles 10, 13, 14, 29, 35



## Chicago Convention obligations

Obligations of States: Articles 11, 14, 22, 23, 24, 35, 37, 38

Obligations of Users: Articles 10, 11, 13, 29, 35

Obligation of ICAO: [**Adopt**] & Amend Annex 9: Article 37 (j)

→ Article 54 (l); Article 90



- FAL/1 (1946) & FAL/2 (1948) → **Annex 9, 1<sup>st</sup> Ed.: 25 March 1949**
  - FAL/3 to FAL/11 (1995) → **Annex 9, 2<sup>nd</sup> Ed. to 10<sup>th</sup> Ed.**
  - FAL Panels 1 – 3 → **Annex 9, 11<sup>th</sup> Ed. (2002)**
  - [FALP/4] & FAL/12 (2004) → **Annex 9, 12<sup>th</sup> Ed. (2005)**
  - FAL Panels 5 and 6 → **Annex 9, 13<sup>th</sup> Ed. (2011)**
  - FALP/7 (2012) → **Amendment 24**
  - FALP/8 (2014) → **Annex 9, 14<sup>th</sup> Ed. (2015)**
  - FALP/9 (2016) → **Annex 9, 15<sup>th</sup> Ed. (October, 2017)**
- 
- FALP/10 (10-13 September 2018)**



## ANNEX 9: SARPs MEANING

**Standard:** The uniform observance of which is necessary and in respect of which non-compliance must be notified in accordance with Article 38.

**Recommended Practice:** The observance of which is highly desirable and to which Contracting States will endeavour to conform.



## MANDATE — FACILITATION PROGRAMME

**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

**[→ FOCUS ON BORDER CONTROLS AT INTERNATIONAL AIRPORTS]**



1. Definitions and General Principles
2. Entry and departure of aircraft
3. Entry and departure of persons and their baggage
4. Entry and departure of cargo and other articles
5. Inadmissible persons and deportees
6. International airports – facilities and services for traffic
7. Landing elsewhere than at international airports
8. Facilitation provisions covering specific subjects
9. Passenger data exchange systems

**+ 13 Appendices**





## 1. DEFINITIONS AND GENERAL PRINCIPLES

1. Definitions: Meanings of terms used in the Annex
  - ▶ e.g., Accompanying person, **Admission**, Authorized Economic Operator, **Automated Border Control (ABC)**, Commencement of journey, **Deportee**, Direct Transit Area, **Improperly documented person**, Minor, **Passenger Data Single Window**, Single Window, etc.
2. General Principles:
  - ▶ **Apply throughout the Annex** (e.g. 1.1: SARPs shall apply to all categories of aircraft operation unless specifically mentioned; 1.4: Use of IT)
  - ▶ **Apply specifically to cargo** (e.g. 1.3: Use of risk management for release/clearance of goods).



## 2. ENTRY AND DEPARTURE OF AIRCRAFT

- ▶ Prevention of entry of aircraft: public health reasons & other health-related SARPs
- ▶ Acceptance of electronic documents; Gen Dec, Passenger & Cargo Manifests
- ▶ Use chemical/non-chemical methods and insecticides: WHO
- ▶ Prior authorization & Advance notification (general aviation) → AIPs

## 3. ENTRY AND DEPARTURE OF PERSONS AND THEIR BAGGAGE

- ▶ SARPs on machine readable travel documents, including security of TDs
- ▶ Extension of the validity of MRTDs
- ▶ Public Key Directory
- ▶ INTERPOL's Stolen and Lost Travel Document (SLTD) database
- ▶ Machine Readable Convention Travel Documents [refugees, stateless persons]



### 3. ENTRY AND DEPARTURE OF PERSONS AND THEIR BAGGAGE

- ▶ SARPs on inspection of travel documents, e.g. Assistance in evaluation of TDs
- ▶ Departure procedures, e.g. income tax clearance certificates
- ▶ Entry procedures and responsibilities, e.g. responsibility of aircraft operator for custody & care; Automated Border Control (ABC) systems (→)
- ▶ Transit procedures
- ▶ SARPs on disposition of baggage separated from its owner (unidentified, unclaimed or mishandled baggage)
- ▶ SARPs on crew and other aircraft operators' personnel, e.g. Crew Member Certificates
- ▶ Emergency assistance/entry visas in cases of *force majeure*
- ▶ Minors



## 4. ENTRY AND DEPARTURE OF CARGO & OTHER ARTICLES

- ▶ Provisions aligned with the WCO's Kyoto Convention
- ▶ Use of risk management for examination of cargo
- ▶ Use of modern screening or examination techniques for examination of cargo
- ▶ RP: States to consider introduction of Authorized Economic Operator programmes (entity involved in the international movement of goods – approved by customs authority – complying with WCO or equivalent supply chain security standards.)
- ▶ SARPs on information required by the public authorities, e.g. RP: Advance Cargo Information; RP: Single Window (submission of information to a single entry point)
- ▶ SARPs on the release and clearance of export and import cargo, e.g. urgent consignments
- ▶ SARPs on spare parts, equipment and stores, e.g. prompt release of security equipment
- ▶ Containers and pallets; mail
- ▶ Radioactive material, e.g. prompt release of material used in medical applications



## 5. INADMISSIBLE PERSONS & DEPORTEES

- ▶ Obligation of States to cooperate with one another to resolve differences in implementation
- ▶ Inadmissible Persons: step-by-step procedures for addressing their removal – notification; consultation; issuance of removal order; covering letter for lost, destroyed or seized travel documents; security of flight; responsibility for custody and care (aircraft operator/State); place of removal of inadmissible person; obligation of State to accept for examination; **inadmissible unaccompanied minor (suitable arrangements in place . . . best interests)**; etc.
- ▶ Deportees: Obligation to issue deportation order; Obligation of deporting State for responsibilities and costs; **unaccompanied minor being deported**; risk assessment by State; option of aircraft operator/pilot-in-command to refuse carriage on a specific flight; use of direct, non-stop flights; issuance of travel documents; obligation of State to accept deported national; etc.
- ▶ Procurement of a replacement travel document, e.g. State not to refuse to issue a TD to a national



## 6. INTERNATIONAL AIRPORTS — FACILITIES AND SERVICES FOR TRAFFIC

- ▶ States to ensure implementation of Annex 9 to privatized airports
- ▶ Obligation to provide customs, immigration, quarantine and health border clearance services at international airports
- ▶ SARPs on airport traffic flow arrangements, e.g. adequate facilities for embarkation and disembarkation of passengers without delay; Aircraft parking and servicing arrangements; Cargo and mail handling and clearance facilities
- ▶ Facilities required for implementation of public health, emergency medical relief, and animal and plant quarantine measures, e.g. obligation to maintain first-aid attendance at international airports
- ▶ Facilities required for clearance controls and operation of control services, without charge
- ▶ Unruly passengers
- ▶ Passenger amenities, e.g. childcare facilities



## 7. LANDING ELSEWHERE THAN AT INTERNATIONAL AIRPORTS

- ▶ Assistance to aircraft that lands elsewhere than at an international airport: control formalities and procedures to be kept to a minimum
- ▶ Short stop-over; No resumption of flight

## 8. FACILITATION PROVISIONS COVERING SPECIFIC SUBJECTS

- ▶ Relief flights following natural and man-made disasters
- ▶ Implementation of international health regulations and related provisions, e.g. pilot-in-command to report a suspected communicable disease to ATC
- ▶ Communicable disease outbreak national aviation plan
- ▶ Establishment of national facilitation programmes
- ▶ Facilitation of the transport of persons with disabilities, e.g. airport facilities and services to be adapted to the needs of persons with disabilities.
- ▶ Assistance to aircraft accident victims and their families



## APPENDICES

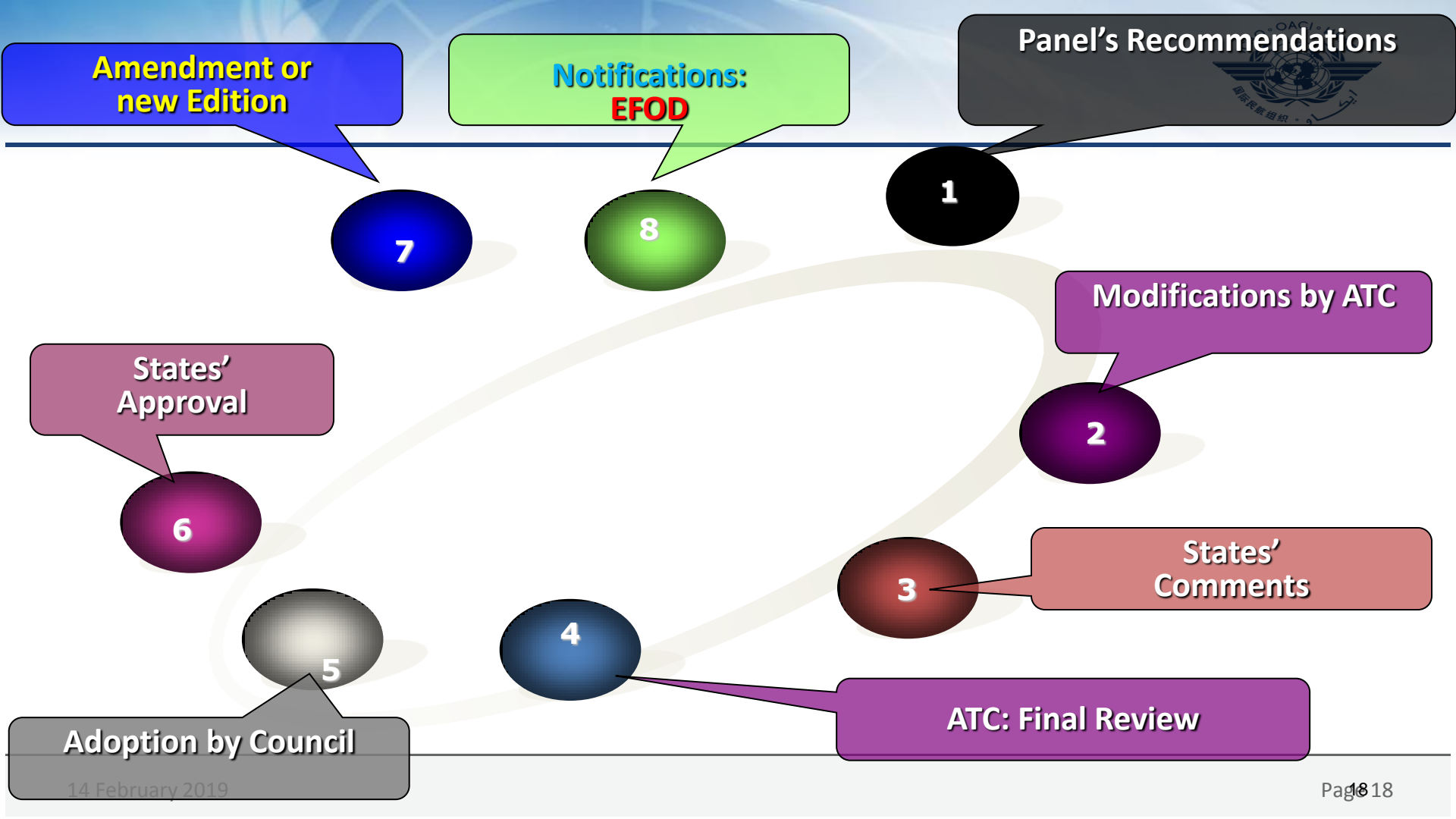
1. General Declaration
2. Passenger manifest
3. Certificate of residual disinsection
4. Certificate of residual disinsection
9. Suggested formats for documents relating to the return of inadmissible persons
10. Suggested formats for documents relating to the return of inadmissible persons
11. Model airport Facilitation programme (FAL)
12. Model national FAL programme
13. Public health passenger locator form





## Amendment 26

- FALP/9, 4 to 7 April 2016: Proposals to amend Annex 9
  - Machine Readable Travel Documents (MRTDs), the transport of minors by air, passenger data exchange systems and the passenger manifest
- Amendment 26 adopted by Council on 16 June 2017
  - Convention, Article 54 (Mandatory functions of Council)
  - Convention, Article 90 (Adoption & amendment of Annexes)
    - 2/3rds vote; amendment effective 3 months after submission to States unless majority disapprove
- Effective date: 23 October 2017 ● Applicable date: 23 February 2018





## 9. PASSENGER DATA EXCHANGE SYSTEMS

- FALP proposed a new Chapter 9: increase in the number of provisions relating to passenger data exchange
- Four Sections: A. General; B. Advance Passenger Information (API) (incl. iAPI)
  - C. Electronic Travel Systems (ETS)
  - D. Passenger Name Record (PNR) Data
- **A. General**
  - 4 Recommended Practices (“operational”)
  - States should create a “Passenger Data Single Window” facility for exchange of API, iAPI & PNR data

[Definition of PDSW; RP 9.7]



## B. Advance Passenger Information (API)

9.5 Each Contracting State shall establish an Advance Passenger Information (API) system. [Note. UNSCR 2178, para. 9]

→ UNSCR 2396 (21 Dec 2017), paragraph 11

9.6 The API system of each Contracting State shall be supported by appropriate **legal authority** (such as, inter alia, legislation, regulation or decree) and be consistent with **internationally recognized standards** for API. [4 Notes: What is API? UN/EDIFACT PAXLST



## 1. API Standard

- First step: to enact legislation/regulations/etc.
- Areas to be addressed in legislation (examples):
  - UN/EDIFACT PAXLST for API transmission (9.8, 9.9, 9.6 Notes)
  - Purposes for which API required (API Guidelines; A39-20)
    - ▶ Improve clearance at border controls; Combat illegal migration; More effective allocation of border control resources; improve/enhance aviation security; fight against terrorism: e.g., UN SC Res 2178 (2014), 2309 (2016), \*2396 (2017)\*
  - Data elements required (9.8, 9.7)
  - “Passenger Data Single Window” to receive API transmissions (RP 9.1; Definition; RP 9.7)



→ Internal coordination among Government agencies (8.17-8.19; 9.7; API Guidelines): Customs, immigration, police, border security, etc.

→ Data privacy issues (A39-18, Appendix C, para. 8; Declaration on Security; A39-20, Appendix D)

→ Operational aspects (Standards 9.11, 9.13 & RP 9.2, 9.3, 9.4, 9.10, 9.12, 9.16)

## 2. Non-compliance with SARPs

- a) Collect and assess rate of compliance;
- b) Determination of reasons for non-compliance with SARPs; and
- c) Development of strategies to assist State compliance



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