



MARCH 1950

CIRCULAR 14—AT/3

FACILITATION OF INTERNATIONAL AIR TRANSPORT

**Report on Implementation of Annex 9 to
the Convention as well as on Other
Aspects of the FAL Programme**

*Prepared by the Facilitation Section
of the Air Transport Bureau and
published by authority of
the Secretary General*

**INTERNATIONAL
CIVIL AVIATION
ORGANIZATION
MONTREAL • CANADA**

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This Publication is issued in English, French and Spanish

Published in Montreal, Canada, by the
International Civil Aviation Organization.

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should be addressed to the Secretary General
of ICAO, International Aviation Building,
1080 University Street, Montreal, Canada.

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Price: 10 cents (Canadian currency) (Montreal)

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FOREWORD

It is almost one year since the ICAO Council approved the Annex to the Convention on Facilitation of International Air Transport (Annex 9), and the time has arrived when Contracting States undertake to apply its provisions. It is believed that interested persons will wish to know the extent to which the FAL Annex, as well as other aspects of the FAL Programme, is being implemented. This Circular, based upon advice received up to 1 March 1950, attempts to present this information in concise form, and in such a way that it can, where desired, be used as a supplement to the FAL Annex for purposes of aiding in the determination of existing requirements for the clearance of aircraft and the loads which they carry.

The chart contained herein, which attempts to illustrate generally the present degree of implementation of Annex 9, should be examined with certain qualifications in mind. The information received did not always indicate with complete clarity the precise nature of the differences between Annex 9 and a given corresponding national practice, and the chart may contain a few errors due to ambiguity or misunderstanding in this respect. In some cases, where it was known that official replies were unavoidably delayed, it has been necessary to rely upon unofficial information, and in this connection grateful acknowledgments are made to representatives of ICAO Regional Offices and IATA; in other cases, it has been necessary to rely upon the silence means acceptance philosophy of Article 38 of the Convention. Although most of them do so, there is no obligation under Article 38 of the Convention for States to notify differences with respect to Recommended Practices in an annex, as is the case with respect to Standards; therefore, information may be lacking in instances other than those cited with respect to differences from Recommended Practices. In some cases, an indication has been given that the differences may be likely to disappear in the relatively near future and in other cases it has been indicated that the differences are likely to be permanent; it has not always seemed practicable to predict the permanence or otherwise of the differences. As differences are further clarified or disappear through amendment of national laws or regulations, it will be possible to portray more accurately the actual degree of implementation of Annex 9, and it is intended to publish other Circulars in the future which will do so.

The chart herein uses the abbreviations (ST) and (RP) to indicate which provisions of Annex 9 are Standards and Recommended Practices, respectively. It might be mentioned in this connection that during the development of Annex 9, efforts were generally directed toward establishing as Standards those provisions which appeared to affect air transport exclusively, and establishing as Recommended Practices those provisions which appeared to affect other forms of international transport as well. However, exceptions to this general philosophy occur, usually because a particular provision was found to affect air transport - due to its greater speed - much more seriously than other forms of transport. By way of illustration, two hours of clearance formalities at each end of a ten-hour flight involve 28.5 per cent of the total time required to make the journey; at each end of a hundred-hour voyage involve 3.8 per cent of the total time required.

FACILITATION OF INTERNATIONAL AIR TRANSPORT

Report on Implementation of Annex 9 to the Convention as well as on other Aspects of the FAL Programme

1.- GENERAL

The Facilitation Programme is now set forth at length in the printed Standards and Recommended Practices on Facilitation of International Air Transport (Annex 9 to the Convention on International Civil Aviation), and in the Seventh Report to Council by the Chairman of the Air Transport Committee (Doc 6674-C/763). Although no summary can obviate reference to that basic information, a brief sketch may serve to bring into focus the essentials. The Programme, which was begun in late 1945 (see Historical Introduction and Preamble of Annex 9), is aimed at the "Facilitation of International Air Transport" in the sense of permitting free and unimpeded passage of aircraft and the traffic that they carry. It extends to the related, but nevertheless distinct, fields of:

- 1) Entry and departure of aircraft;
- 2) Entry and departure of individuals by air (immigration procedures);
- 3) Entry and departure of cargo by air (Customs procedures);
- 4) Air traffic passing through the territory of a Contracting State;
- 5) Customs-free airports and customs-free trade zones;
- 6) Air sanitation and quarantine (public health and agriculture procedures);
- 7) Currency exchange facilities;
- 8) Indirect impediments which increase costs, e.g., certain duplicatory insurance and taxation requirements.

The principal means by which these objectives are sought to be accomplished are improved and uniform procedures on the part of those government agencies whose activities tend to delay or restrict the rapid free movement of international air traffic. Such procedures should be adjusted so as to impose the least amount of restraint on air transport, while at the same time assuring adequate protection of national interests.

It should be noted that the problem of facilitation of international air transport is not uniform throughout the world. It is difficult in a particular country in direct proportion to the rigidity of customs, immigration, public health, agriculture, and other regulations in that country. Government requirements in certain countries are so much more restrictive than in others that a recommendation which seems radically liberal to one country may appear in another country to have certain aspects of the reactionary.

However, it is believed that the FAL Programme as a whole is considerably more liberal than any overall set of government requirements now in force, and that the programme, since its inception a few years ago, has been responsible either directly or indirectly for a new impetus toward bringing the speed of administrative clearance formalities abreast of aviation's technical progress. The wholehearted cooperation and support of IATA (scheduled operators), FITAP (non-scheduled operators) and FAI (private fliers), as well as of other international organizations*, have been received by the FAL Programme from the outset. ICAO remains the only official inter-governmental organization which has attempted to date to go beyond general resolutions or recommendations and lay down specific formulae whereby at least one form of international travel and transport might be facilitated in a manner consistent with the minimum security requirements of Contracting States.

* During 1949, the UN Economic Commission for Asia and the Far East, the International Union of Official Travel Organizations, the International Air Transport Association, the Inter-American Bar Association, and the International Chamber of Commerce passed Resolutions urging rapid governmental implementation of the FAL Annex. The United Nations (Economic and Social Council) has drawn the attention of its member Governments to the FAL Annex in connection with activities aimed at reducing existing barriers to the international transport of goods.

The FAL Standards and Recommended Practices (Annex 9) inevitably take two forms: first, a negative form, e.g., that States shall not impose more than certain maximum requirements in the way of paper work, restrictions of freedom of movement, etc., and second, a positive form, e.g., that States shall provide certain minimum facilities for passenger convenience, for traffic which is merely passing through, etc. Whenever a question arises under a negative provision, it is assumed that States will, wherever possible, relax their requirements below the maximum provided in the Standards and Recommended Practices. Wherever there is a positive provision, it is assumed that States will, wherever possible, furnish more than the minimum provided in the Standards and Recommended Practices.

The provisions of the FAL Standards and Recommended Practices apply to all categories of aircraft operators except in the few cases where provisions specifically refer to airlines without mentioning other types of operators. However, the possible development of provisions relating exclusively to private flying and non-scheduled air transport (Doc 6674-C/763), as in the case of provisions relating to multiple insurance and taxation requirements, must await the conclusion of action in another form now under consideration in the Air Transport Committee and Council*. It would appear that all three of these problems, although related to the general FAL Programme and first introduced at meetings of the FAL Division, will continue to receive treatment separately from the actual provisions of the FAL Annex, and this in effect has already been decided in the case of the latter two.

As will be observed from the chart contained herein, a substantial number of differences remain as of 1 March 1950 between the various national practices and those specified in the FAL Annex. However, in order to view these differences in their proper perspective, it is necessary to keep in mind that a) all States agree to utilize the uniform system of FAL clearance and related documentation; b) the differences in detail are in most cases limited either in degree or in time; and c) in many instances, States have relaxed their requirements below, or provided services above, the maximums and minimums set forth in the FAL Annex. Much room for improvement in the field of facilitation of international air transport will always exist, but at least a moderate degree of optimism appears justified upon the basis of official and unofficial information received to date. It is of interest in this connection that at least twenty States have organized their own Committees on Facilitation for the purpose of promoting the implementation of the ICA. FAL Programme, and for the solution of day-to-day problems in this field of international civil aviation.

* As of 1 March 1950, Docs 6850-C/797; C-WP/453 and 6943-C/805, respectively, show the status of each of these three projects.

2.- PROVISIONS WITH RESPECT TO ENTRY AND DEPARTURE OF AIRCRAFT

Based upon official and unofficial information received to date, it appears that States are implementing the provisions under this heading in the FAL Standards and Recommended Practices, except in the cases shown on the chart contained herein.

The myriad of different inward and outward declarations, aircraft health declarations, crew manifests, and related forms used in the past by the various countries serves to illustrate the tremendous step forward which has been achieved in securing the adoption of a delay avoiding uniform system of aircraft documentation.

Although a few countries still demand additional data, it will be noted that the General Declaration has become almost universally acceptable, except with respect to the reservation maintained by some countries that it be signed by the pilot-in-command. Most clearance authorities have agreed that this is a hold over surface transport requirement which should not apply to the person in command of an aircraft because a) he is not readily available for signing; b) his attention should not be diverted from other pressing matters; and c) the authorized agent's signature provides adequate protection. It therefore appears that this difference from the FAL Annex will disappear through amendment of national laws or regulations.

The requirements for additional information on the passenger and cargo manifests, which a limited number of countries continue to maintain, present a rather serious problem from the standpoint of avoiding delays to aircraft. The FAL Annex procedures are designed so that this information might be secured from documents completed during flight (e.g., the Embarkation/Disembarkation Card) rather than from the manifests which must always be completed during the period of time immediately preceding the departure of the aircraft.

The reservation of the right to require manifesting of transit traffic on through-flights only when a change of aircraft or other well defined circumstances occur should not result in many delays to aircraft under the existing situation. However, this cannot be said for regulations which require that manifests or stores lists describing everything on board be furnished regardless of the through nature of particular aircraft operations.

Many delays to aircraft will be eliminated through what appears to be the willingness of most countries to accept the documents for entry and departure of aircraft when furnished in the language of the nationality of the aircraft and accompanied by immediate verbal and/or later written translations.

The requirement maintained by a few countries that visas be obtained on certain aircraft documents and that fees be paid for them presents a serious problem, particularly from the standpoint of the development of international air cargo. Speed is of the essence in the development of air cargo and it is unlikely to be attained in sufficient degree where visas are required for items on the cargo manifest.

3.- PROVISIONS WITH RESPECT TO ENTRY AND DEPARTURE OF INDIVIDUALS

Based upon official and unofficial information received to date, it appears that States are implementing the provisions under this heading in the FAL Standards and Recommended Practices, except in the cases shown on the chart contained herein.

Customs experts have long debated whether the oral or the written passenger baggage declaration enables the passenger to complete formalities most expeditiously. The FAL Division approached the problem from the point of view that, if a written passenger baggage declaration is required, it should be uniform and readily capable of being completed in flight. Of the countries requiring a written passenger baggage declaration, it appears that many of them are willing to accept the form designated for this purpose in the FAL Annex.

It also appears that most countries are willing to accept the FAL Annex forms and procedures for the entry and departure of individuals in lieu of the large number of varying temporary entry permits, immigration information sheets, certificates of good conduct, certificates of good health and the like used in the past. It is particularly noteworthy that most States will accept the FAL Annex's crew member certificates or flight crew member licences for temporary admission in lieu of passports and visas, for this action represents a considerable step along the way towards securing for aviation crew members privileges equal with those long granted surface transport crew members. It is also of interest to note that few countries maintain exit visas or more than a minimum of other exit formalities.