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# RECONNECTING THE WORLD



## ICAO Facilitation Implementation Seminar MID

ICAO Annex- 9 Facilitation Programme Overview

12-13 April 2022





## Presentation Overview

- ❑ ICAO Organization and Structure
- ❑ ICAO's Facilitation Mandate
- ❑ Annex 9 SARPs: Development, Adoption and Implementation
- ❑ EFOD system



## ICAO Organization and Structure

- ❑ ICAO Council;
- ❑ ICAO Secretariat;
- ❑ Facilitation section.





## ICAO Organization and Structure

Established by the “Chicago Convention” in 1944

UN specialized agency

193 Member States

Standards, policies & guidance



### ❑ ICAO Standards and Recommended Practices (SARPs)

- ✓ Harmonized and standardized global norms for civil aviation
- ✓ More than 12,000 SARPs under 19 Annexes to the Chicago Convention
- ✓ Structured, transparent and multi-stage process to develop

### ❑ ICAO governing bodies:

- ✓ ICAO Council
- ✓ ICAO Secretariat

## ICAO Organization and Structure

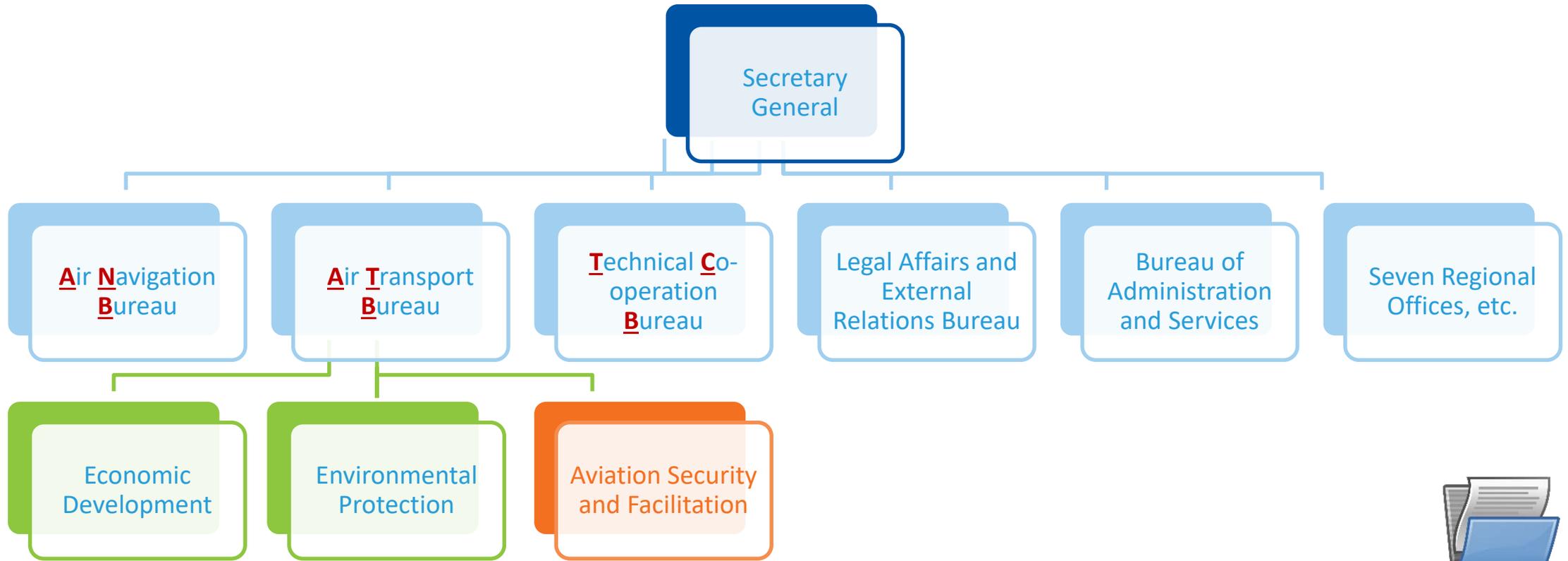
### ☐ ICAO Council:

- 36 member States;
- Convenes the Assembly;



## ICAO Organization and Structure

### ICAO Secretariat:





## ICAO Organization and Structure

ICAO Secretariat

Air Transport Bureau

Aviation Security and Facilitation

**Facilitation section**

- Responsible for management of three programmes:
  - Annex 9 – Facilitation SARPs;
  - ICAO Traveller Identification Programme (TRIP) Strategy;
  - ICAO Public Key Directory (PKD).



## ICAO's Facilitation Mandate

- ☐ Chicago Convention



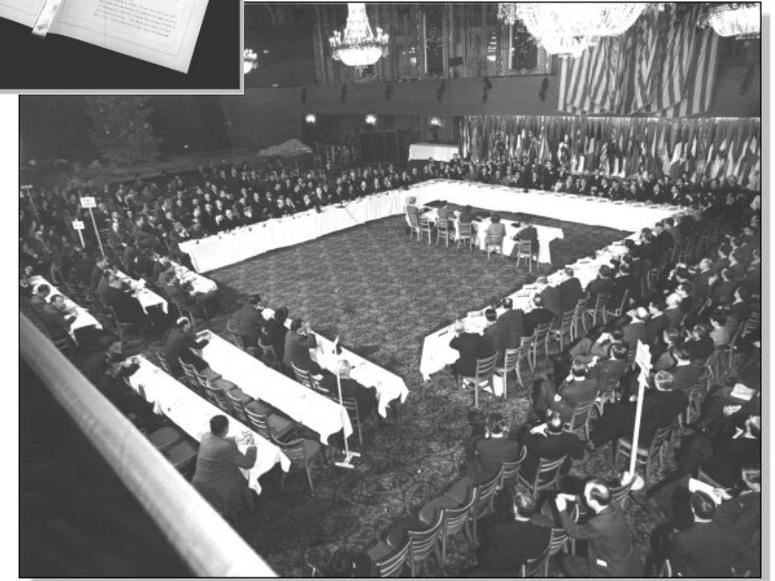
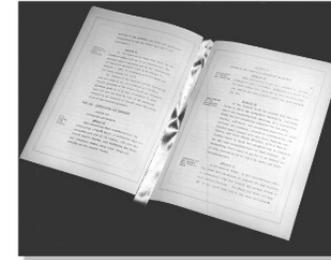
- ☐ ICAO Assembly Resolutions





## Chicago Convention

- Convention on International Civil Aviation
  - Drafted in 1944 by 54 nations, in Chicago (Doc 7300);
  - Led to the creation of ICAO (4 April, 1947);
  - Established core principles permitting international travel by air;



### **Article 44 (Objectives)**

*“The aims and objectives of the Organization are . . . to foster the planning international air transport so as to: . . . meet the needs of the peoples of the world for safe, regular, efficient and economical air transport.”*

## Chicago Convention

### ☐ **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

**Article 38:** Departure from international standards and procedures

## Chicago Convention

- **ARTICLES on Facilitation**

Obligations of aviation community members: Articles 10, 11, 13, 29, 35

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

Obligation of ICAO: [Adopt] & Amend Annex

<http://www.icao.int/publications/Pages/doc7300.aspx>



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## Chicago Convention

### Article 10: Landing at customs airport

*“... Every aircraft which enters the territory of a contracting State shall, if the regulations of that State so require, land at an airport designated by that State for the purpose of customs and other examination...”*

- Obligation of aviation community members;
- Recognizes the responsibility of aircraft to land and submit to examination where and when required.



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## Chicago Convention

### Article 11: Applicability of air regulations

*“...the laws and regulations of a contracting State relating to the **admission to or departure from** its territory of aircraft engaged in international air navigation, or to the **operation and navigation** of such aircraft while within its territory, shall be applied to the aircraft of all contracting States without distinction as to nationality, and shall be complied with by such aircraft upon entering or departing from or while within the territory of that State.”*

→ Obligation of both contracting States and aviation community members ;



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## Chicago Convention

### Article 13: Entry and clearance regulations

*“The laws and regulations of a contracting State as to the admission to or departure from its territory of passengers, crew or cargo of aircraft, such as regulations relating to **entry, clearance, immigration, passports, customs, and quarantine** shall be complied with by or on behalf of such passengers, crew or cargo upon entrance into or departure from, or while within the territory of that State.”*

→ Obligation of aviation community members;



# Chicago Convention



## Article 14: Prevention of spread of disease

*“Each contracting State agrees to take effective measures to prevent the spread by means of air navigation of cholera, typhus (epidemic), smallpox, yellow fever, plague, and such other communicable diseases ... and will keep in close consultation with the agencies concerned with international regulations relating to sanitary measures applicable to aircraft...”*

- Obligation of contracting State;
- Agencies concerned with international regulations, e.g. the World Health Organization (WHO).



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## Chicago Convention



### Article 22: Facilitation of formalities

*“Each contracting State agrees to adopt all practicable measures, through the issuance of special regulations or otherwise, to **facilitate** and **expedite** navigation by aircraft between the territories of contracting States, and to **prevent unnecessary delays** to aircraft, crews, passengers and cargo, especially in the administration of the laws relating to immigration, quarantine, customs and clearance.”*

→ Obligation of contracting State;



# Chicago Convention



## Article 23: Customs and immigration procedures

*“Each contracting State undertakes, so far as it may find practicable, to **establish customs and immigration procedures** affecting international air navigation in accordance with the practices which may be established or recommended from time to time, pursuant to this Convention. Nothing in this Convention shall be construed as preventing the establishment of customs-free airports.”*

- Obligation of contracting State;
- Contracting States agree to develop effective customs and immigration procedures.



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## Chicago Convention



### Article 24: Customs duty

*“a) Aircraft ... shall be admitted temporarily free of duty, ... Fuel, lubricating oils, spare parts, regular equipment and aircraft stores on board an aircraft of a contracting State, ...shall be exempt from customs duty, inspection fees or similar national or local duties and charges. This exemption shall not apply to any quantities or articles unloaded...”*

*b) Spare parts and equipment imported into the territory of a contracting State for incorporation in or use on an aircraft of another contracting State engaged in international air navigation shall be admitted free of customs duty,...”*

- Obligation of contracting State;
- Contracting States agree to provide duty exemptions under certain conditions, for aircraft, parts, supplies and equipment.



## Chicago Convention



### Article 29: Documents carried in aircraft

*“Every aircraft of a contracting State, engaged in international navigation, shall carry the following documents in conformity with the conditions prescribed in this Convention:*

...

*f) If it carries **passengers**, a list of their names and places of embarkation and destination;*

*g) If it carries **cargo**, a manifest and detailed declarations of the cargo.”*

- Obligation of aviation community members;
- Certification of registration, airworthiness, licenses, journey logbook etc.



# Chicago Convention



## Article 35: Cargo restrictions

*“a) No munitions of war or implements of war may be carried in or above the territory of a State in aircraft engaged in international navigation, except by permission of such State.*

*b) Each contracting State reserves the right, for reasons of public order and safety, to regulate or prohibit the carriage in or above its territory of articles other than those enumerated in paragraph a): ...”*

- Obligation of aviation community members;
- recognizes the right of Contracting States to require licences for prohibited or restricted articles other than those enumerated in subparagraph a).



# Chicago Convention



## Article 37: Adoption of international standards and procedures

*“Each contracting State undertakes to collaborate in securing the **highest practicable degree of uniformity** in regulations, procedures, and organization in relation to aircraft, personnel, airways and auxiliary services in all matters in services which such uniformity will facilitate and improve air navigation...”*

- Obligation of contracting States;
- authorizes the concept of Annexes to the Convention, including one to contain SARPs for customs and immigration procedures. This document is **Annex 9 - Facilitation.**



# Chicago Convention



## Article 38: Departure from international standards and procedures

*“Any State which finds it impracticable to comply in all respects with any such international standard or procedure, or to bring its own regulations or practices into full accord with any international standard or procedure after amendment of the latter, or which deems it necessary to adopt regulations or practices differing in any particular respect from those established by an international standard, shall give immediate notification to the International Civil Aviation Organization...”*

- Obligation of contracting States;
- Obligates Contracting States to notify ICAO of differences between their national practices and the Standards in the Annexes;
- ICAO publishes these differences and distributes them to Contracting States as **Supplements to the Annexes.**

## Resolutions of the ICAO Assembly

- ❑ Convened by the Council, not less than once in three years
- ❑ **Assembly Resolutions**, include policy statements related to:
  - Development of facilitation provisions;
  - Implementation of Annex 9 SARPs;
  - Notification to ICAO of differences;
  - International cooperation in protecting the security and integrity of passports.



## Resolutions of the ICAO Assembly

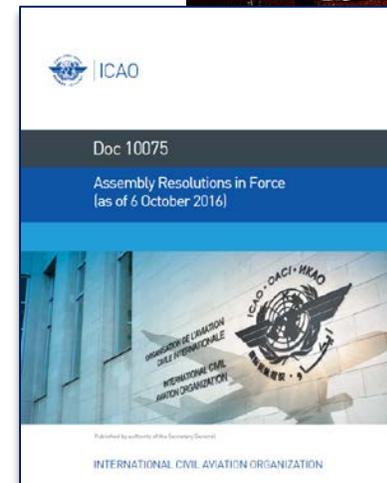
### □ Assembly Resolutions (selected):

 **A40-14:** 2019, Montreal

 **A40-15:** 2019, Montreal

 **A40-16:** 2019, Montreal

 **A39-27:** 2016, Montreal



## Resolutions of the ICAO Assembly

### A40-14

#### Mitigation of Spread of Disease

- ❑ **States:** become members of The Collaborative Arrangement for the Prevention and Management of Public Health Events in Civil Aviation (CAPSCA) programme
- ❑ **States:** support ICAO and WHO in implementing this Assembly Resolution by considering the recommendations included in ICAO, WHO and CAPSCA publications and guidance material ...;
- ❑ **States:** require pest management control programmes around airports and related facilities, which would mitigate the need to impose aircraft disinsection requirements.

## Resolutions of the ICAO Assembly

### A40-14

#### Mitigation of Spread of Disease

- ❑ **States:** encourage airport reporting to the ICAO Airport Vector Control Registry and to keep the information current.
- ❑ **Declares that this resolution supersedes Resolution A39-28**

## Resolutions of the ICAO Assembly

### A40-15

#### Combating Human Trafficking

- ❑ **States:** give attention to adopting and promptly implementing Annex 9's Recommended Practices 8.47 and 8.48;
- ❑ **States:** give due regard to Circular 352, Guidelines for Training Cabin Crew on Identifying and Responding to Trafficking in Persons, in their implementation of the relevant provisions of Annex 9;
- ❑ **Council:** ensure that relevant guidance material related to the issue of combating human trafficking is current and responsive to the needs of Member States.

## Resolutions of the ICAO Assembly

### A40-16

#### Consolidated Statement of Continuing ICAO Policies Related to Facilitation

- Development of a work programme on accessibility for passengers with disability in order to reach for a disability-inclusive air transport system;
- Cooperation on human trafficking matters amongst Member States and with the various national, regional, international parties and other stakeholders interested in this area.

## Resolutions of the ICAO Assembly

### A40-16

#### Consolidated Statement of Continuing ICAO Policies Related to Facilitation

- All Member States to prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents in reference to United Nations Security Council, in resolutions 1373 (2001), 2178 (2014) and 2396 (2017).

## Resolutions of the ICAO Assembly

### A40-16

#### Consolidated Statement of Continuing ICAO Policies Related to Facilitation

- ❑ Member States that have not already done so, to develop the capability to collect, process and analyze PNR data and to ensure that PNR data is used by and shared with their competent national authorities, with full respect for human rights and fundamental freedoms for the purpose of preventing, detecting and investigating terrorist offences and related travel.



## ICAO Facilitation Programme Overview

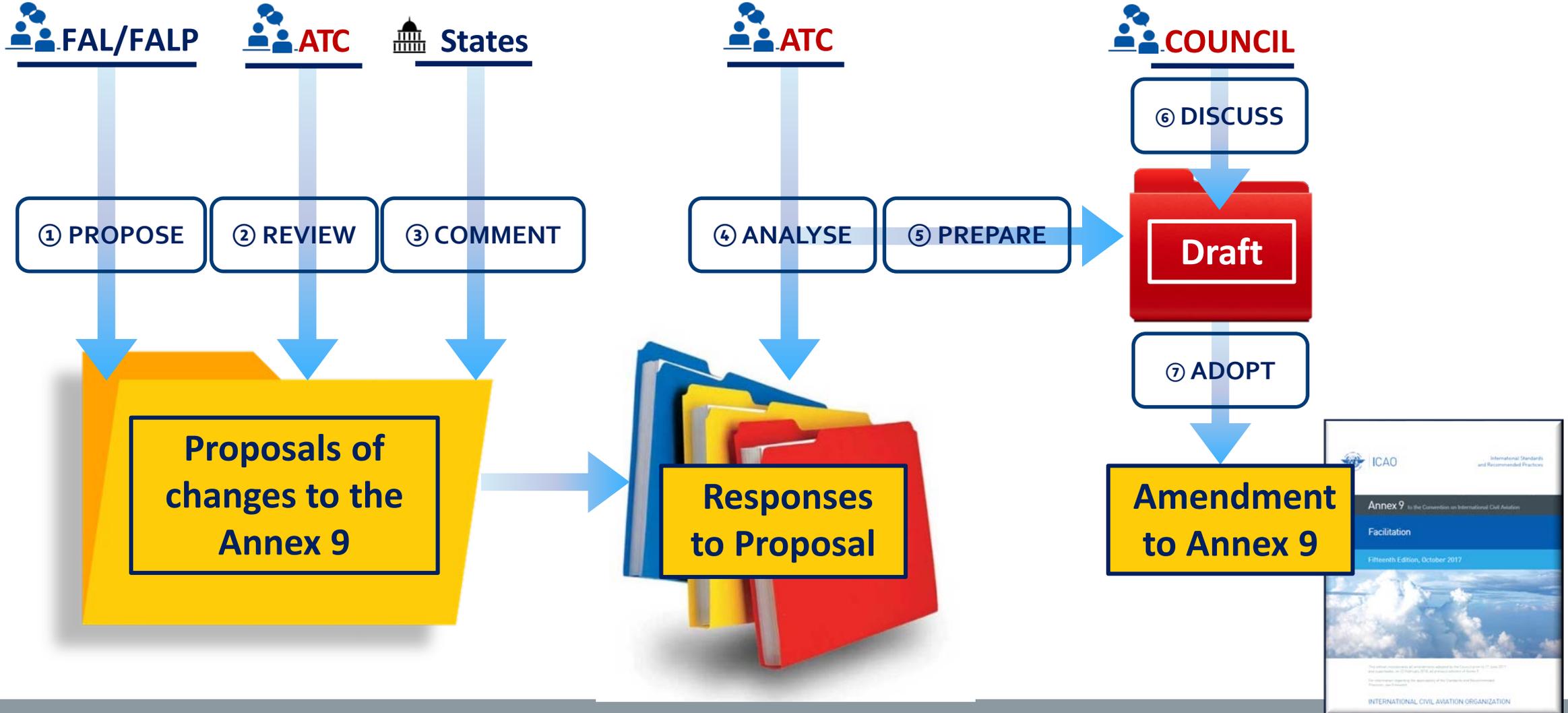
- Annex 9 SARPs: development, adoption and implementation
  - Annex 9: a brief history
  - Annex 9 amendment process
  - Annex 9 implementation
  - ICAO Facilitation Panel (FALP)
  - Annex 9: compliance with ICAO SARPs

## Annex 9: A Brief History

### **Article 37: Adoption of international standards**

- **Uniformity:** requires all Contracting States to collaborate in securing the **highest practicable degree of uniformity** in regulation and standards, in order to facilitate and improve international air navigation.
- **ICAO's role:** authorize ICAO to **adopt** and **amend** international SARPs and procedures in order to assist States in securing this uniformity.

## Annex 9 Amendment Process





## Annex 9 Amendment Process

- ICAO disseminates a **State letter** inviting Contracting States to take action on the adopted Amendment.

### **State letter:**

Letter - describes the Amendment, provides deadlines for response

Attachment A – note on the Notification of Differences

Attachment B – notify of **DISAPPROVAL** (90 days)

Attachment C – notify of **COMPLIANCE** or **DIFFERENCES** (180 days)



## Annex 9 Amendment Process

- Procedures to be followed by States notifying **DISAPPROVAL**

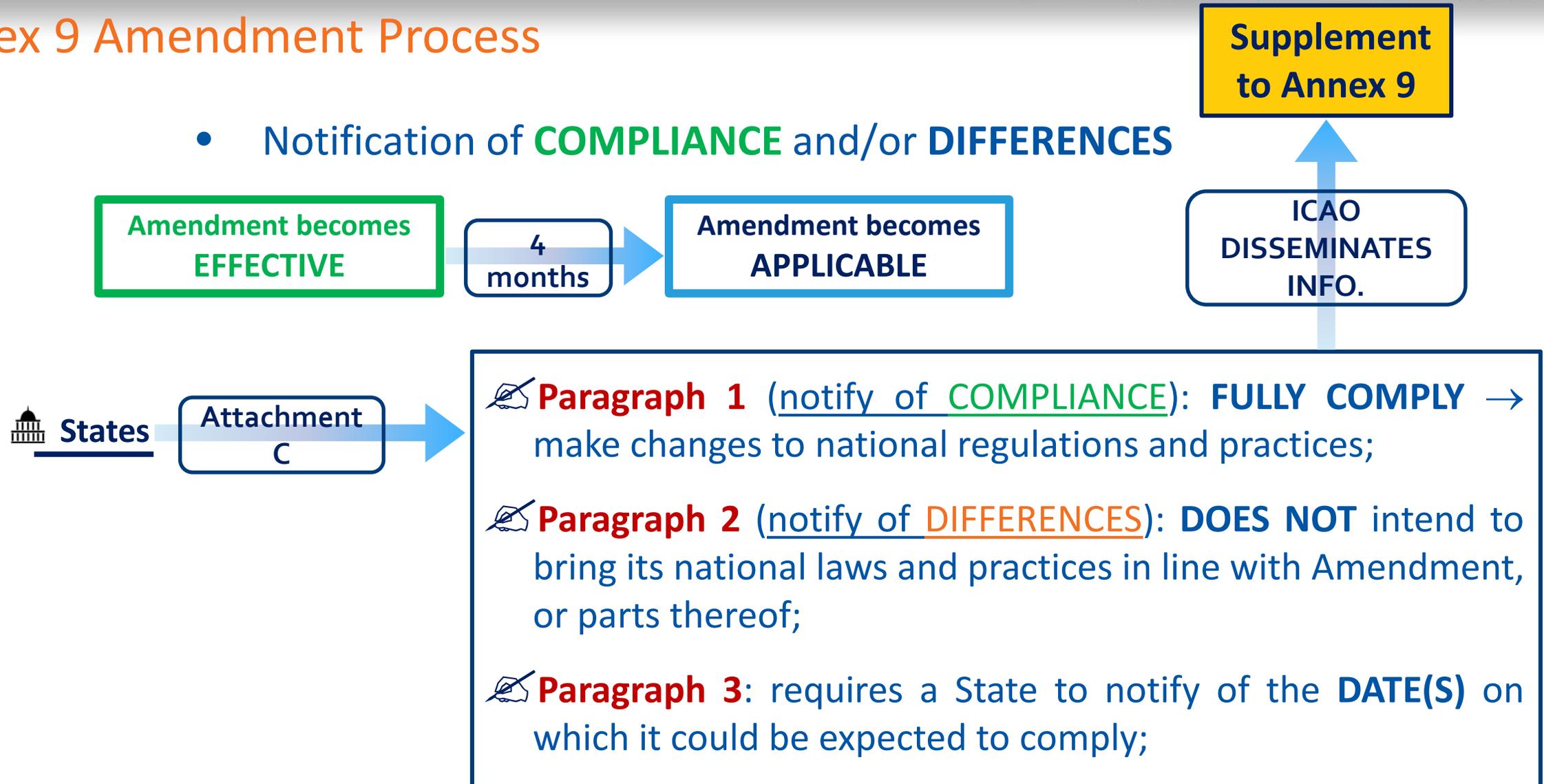


- States has **90 days** (3 months) from the adoption of the Amendment to notify disapproval;
- If a State does not reply to the State letter indicating disapproval, ICAO assumes State does not disapprove;
- Registration of disapproval  $\neq$  notification of difference



## Annex 9 Amendment Process

- Notification of **COMPLIANCE** and/or **DIFFERENCES**



## Annex 9: compliance with ICAO SARPs

- Electronic Filing Of Differences (EFOD)
  - ❑ Compliance Issues with regard to Annex 9;
  - ❑ Background & Introduction;
  - ❑ ICAO's role in maintaining the EFOD System;
  - ❑ States' role in making entries into the EFOD System;
  - ❑ Understanding the EFOD System;
  - ❑ How to make entries into the EFOD System;
  - ❑ Report on entries into the Annex 9 CC;
  - ❑ Potential EFOD problems faced by States.

## Annex 9: compliance with ICAO SARPs

- Article 38, Chicago Convention + Assembly Resolutions
- **Means of Determination of Compliance:**
  - Response to SL on adoption of a new Amendment (compliance/differences) [EFOD entries];
  - Audits of Annex 9 Standards under USAP- & USOPA-CMAs;
  - Response to SARP-specific SLs (e.g. API; 3.11.1; SLTD);
  - Information in Aeronautical Information Publications (AIPs) filed under Annex 15;
  - Unofficial information from various sources (e.g. Regional Offices, FAL Contacts).

## Annex 9: compliance with ICAO SARPs

### ❑ Non-compliance Reasons

- ❑ Gaps in communication between ICAO and States;
  - delays in delivering documentation to responsible party
  - difficulties in identifying responsible party ([SL sent to CAA](#))
    - Health; Immigration; Quarantine; Customs; Travel document-issuing authorities; Disability agency; Law enforcement, 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;

## EFOD: background

- ❑ Old paper-based notification: laborious, time-consuming, delayed;
- ❑ 2011-2013: Phased implementation for all Annexes (except A9 & A17):
  - Jan 2011, CC data from 153 States were migrated into the EFOD system;
  - April 2011 SL AN 1/1-11/28, 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;
  - **Annex 9 in EFOD from Amendment 24 (2014).**

## EFOD: introduction

- ❑ Dynamic & on-demand research tool;
- ❑ More accessible, efficient, timely means for notifying differences & disseminating information;

### EFOD 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: introduction

### □ ACRONYMS

- **CC:** Compliance Checklist (contains information on implementation of SARPs);
- **CMA:** Continuous Monitoring Approach
- **PQ:** Protocol Question
- **USAP:** Universal Security Audit Programme
- **USOAP:** Universal Safety Oversight Audit Programme



## EFOD: introduction

- Users of EFOD

- **Data providers**: Users who have read and write access.

- Users authorized to provide and validate information in the EFOD System;

- **Data consumers**: Users who have read-only access.

- Users granted access to view and research information on the EFOD System;

→ Each user is assigned an **access level** based on the user's **roles and responsibilities**.



## EFOD: ICAO's role

AS A DATA PROVIDER	AS A DATA CONSUMER
<p><b>READ/WRITE</b> to Annex Information;  (i.e. enter information on amended SARPs)</p>	<p><b>READ-only</b> to Annex information;  (Validated compliance/differences information)</p>
<p><b>+ General maintenance of EFOD System:</b> → System performance management → Improvement of functionalities</p>	



## EFOD: States' roles

AS A DATA PROVIDER	AS A DATA CONSUMER
<p><b>READ/WRITE</b> to compliance/difference information to an Annex of that State;</p> <p><u>UPDATE information</u> on amended Annex</p> <p><b>Ensure quality</b> of information entered.</p>	<p><b>READ-only</b> to Annex information of own State;</p>
<p><b>Manage data providers</b> and keep information up-to-date (e.g. no replication or inaccuracy of information due to multiple users)</p>	<p><b>READ-only</b> to validated compliance/differences information of all other States</p>



## EFOD: Differences vs. CC

	FILING OF DIFFERENCES	COMPLETION OF CC
<b>MANDATE</b>	<ul style="list-style-type: none"> <li>● Article 38 of the Convention</li> <li>● Assembly Resolutions</li> </ul>	MOUs signed between a Member State and ICAO
<b>INDICATION OF LEVEL OF IMPLEMENTATION</b>	<ul style="list-style-type: none"> <li>● <b>Standards (Mandatory)</b></li> <li>● Recommended Practices (<b>urged</b>)</li> </ul>	<ul style="list-style-type: none"> <li>● Standards (Mandatory)</li> <li>● Recommended Practices (<b>Mandatory</b>)</li> </ul>
<b>INFORMATION REQUIRED</b>	<ul style="list-style-type: none"> <li>● Difference category</li> <li>● Description of the difference</li> <li>● Reasons for difference</li> </ul>	<ul style="list-style-type: none"> <li>● Difference category</li> <li>● Description of the difference</li> <li>● Reasons for difference</li> <li>● <b>Reference to corresponding national regulation</b></li> </ul>

## EFOD: Access control

1. State nominates **N**ational **C**ontinuous **M**onitoring **C**oordinator (**NCMC**);
2. ICAO grants user account(s) to NCMC(s);
3. NCMC(s) manage user accounts for their State including issuing of additional user accounts and deactivating of invalid user accounts;
4. FAL access to EFOD through NCMC.





## Annex 9 Implementation

### □ Two-step implementation

- **Administrative process:** bring SARPs into force nationally;
- **Practical arrangement:** provisions of facilities, personnel and equipment.



Thank you!



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