



**WORKING PAPER**

**FACILITATION PANEL (FALP)**

**SIXTH MEETING**

**Montréal, 10-14 May 2010**

**Agenda Item 6: Amendments to Annex 9**

**EMERGENCY SITUATIONS RESULTING FROM FORCE MAJEURE:  
PROPOSALS TO AMEND ANNEX 9 — *FACILITATION***

(Presented by the Secretary)

**SUMMARY**

The recent disruptions caused to air transport by the eruption of the Eyjafjallajökull Volcano in Iceland resulted in thousands of passengers being stranded in airports because of flight cancellations. Many of these passengers could not even leave the airports because they lacked the necessary entry visas that would have allowed them to seek accommodation at local hotels. Although Annex 9 contains two provisions in Chapter 3 that address such situations, the recent event, and the alleged problems faced by transit passengers, points to the need for even stronger measures to facilitate entry of such persons into States in cases of similar future disasters.

**Action by the FAL Panel:**

The Panel is invited to consider the proposal described in this paper and agree that Annex 9 be amended as set out in the Appendix.

**1. INTRODUCTION**

1.1 Chapter 3 of Annex 9 contains the following two provisions that make allowance for unexpected situations facing air travellers who have already embarked on their journeys:

**3.52 Recommended Practice.**— *In exceptional circumstances, when a visitor, for reasons of force majeure, does not possess the required entry visa prior to arrival, Contracting States should authorize temporary entry.*

3.60 Contracting States shall establish measures whereby in-transit passengers who are unexpectedly delayed overnight due to a flight cancellation or delay may be allowed to leave the airport for the purpose of taking accommodations.

1.2 During the recent disruptions caused to air transport by the eruption of the Eyjafjallajökull Volcano in Iceland, ICAO issued Electronic Bulletin (EB) 2010/18. The purpose of the EB was to draw the attention of Contracting States to these provisions and to urge them to provide assistance, as required, particularly to transit passengers whose flights had been disrupted by the crisis, in accordance with these paragraphs. The EB is reproduced in FALP/6-IP/6 for information.

## 2. DISCUSSION

2.1 Cancellation of flights due to the eruption affected the (air) travel plans of thousands of persons. According to reports in the media, one major immigration-related problem faced by air passengers as a result of such cancellations concerned visas. Apparently, for example: a) in-transit passengers who were not able to continue their journeys were not permitted to leave airports to seek accommodation because they lacked entry visas; b) aircraft were diverted to States whose airports were open, and passengers were not allowed to leave these airports because they did not possess entry visas for those States; and, c) tourists, whose return flights to their home countries were cancelled, faced the additional problem of their transit visas expiring as a result of the delay, leaving them in the awkward situation of not having a valid travel document to transit a State en route to their home States.

2.2 It appears that the greatest difficulty caused to air passengers was the refusal, by transit States, to permit stranded passengers to leave airports because they did not possess entry visas. Recommended Practice 3.52 and Standard 3.60 are meant to address such situations, and to provide a legal basis whereby States can permit such persons to enter their territories for a brief period. However, the recent event, and the alleged problems faced by transit passengers, points to the need for even stronger measures to facilitate entry of such persons into States in cases of similar future disasters. The Secretariat therefore suggests that Recommended Practice 3.52 be amended and upgraded to a Standard, and that Standard 3.60 be amended, as indicated in the Appendix.

2.3 The Annex does not address certain categories of air travellers who would need immediate and priority attention in cases of emergencies such as the recent crisis. These are passengers with medical needs, unaccompanied minors and passengers with disabilities. It is proposed, therefore, that a new Standard be included in the Annex that would oblige States, aircraft operators and airport operators to give priority to such persons in cases of emergency situations. A draft text is provided in the Appendix, for consideration.

2.4 Existing provisions 3.52 and 3.60, although they relate to situations that call for emergency action on the part of States, are located at separate locations in Chapter 3. The Secretariat proposes that a new Section be created in Chapter 3 and the two existing provisions are re-located under this new Section, along with the Standard suggested in para. 2.3 above. This would serve to highlight the existence of these SARPs in the Annex, allowing for easier reference, if required in the future.

— — — — —

## APPENDIX

*Amend* Annex 9 as follows:

### P. Emergency assistance/entry visas in cases of force majeure

3.52 **Recommended Practice.**— ~~In exceptional circumstances, when~~ ~~If a visitor~~ ~~passenger or crew member, for reasons of force majeure,~~ does not possess the required entry visa prior to arrival, ~~due to diversion of a flight for reasons of force majeure,~~ Contracting States ~~should~~ shall authorize temporary entry.

3.60 Contracting States shall establish measures whereby in-transit passengers who are unexpectedly delayed ~~overnight~~ due to a flight cancellation or delay, ~~resulting from force majeure,~~ may be allowed to leave the airport for the purpose of taking accommodations.

3.x In emergency situations resulting from natural disasters, Contracting States, aircraft operators and airport operators shall give priority assistance to those passengers with medical needs, unaccompanied minors and persons with disabilities who have already commenced their journeys.

3.xx Contracting States shall permit the departure from, or the transit through, their territories of passengers holding valid air travel reservations even if their visas have expired due to flight delays resulting from force majeure.

— END —