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FACILITATION

Fast, smooth, secure.

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The many pieces of the facilitation puzzle

Salvatore Sciacchitano
Executive Secretary of ECAC



Global air transport is expected to double in size in terms of flights and passengers over the next 15 years, creating an increasing need to reconcile security requirements with passengers and goods flow. This continuous growth is without doubt positive, reflecting the importance of civil aviation to the social and economic vitality of travellers, businesses and ultimately States.

The growth of any industry sector brings with it a number of fundamental concerns, and certainly the need for co-ordinated and innovative practical measures. Indeed, unlawful interference with civil aviation, illegal migration, illicit trafficking and contagious diseases can, if not handled appropriately, undermine the movement of legitimate travellers and trade. This highlights how many different areas, and therefore actors, are involved in designing and implementing facilitation measures.

It was nearly thirty years ago that ECAC started its first working group on the topic of facilitation. For this issue, ECAC News asked the current chair of the Facilitation Working Group to describe the general landscape of facilitation in the ECAC region in a joint interview with an ECAC Secretariat expert. To look into the provisions at the global level and the discussions that took place only last month in Montreal, the Secretary of the ICAO Facilitation Panel takes us through the history, achievements and priorities of the worldwide meeting.

Spain has been particularly involved in the topic of assistance to victims and families of victims of air accidents. In this issue, Spain's Director General of Civil Aviation discloses his vision on how to provide the best possible support in the tragic circumstances of an air accident. Managing the spread of contagious diseases, as we have seen recently with the Ebola crisis, is also a key challenge in facilitation, as described by ECAC lead on health issues in "lessons learnt".

Over the years, facilitating air travel for passengers with reduced mobility (PRMs) has become an increasing part of the facilitation puzzle. Various perspectives on PRMs' mobility are presented in this edition. On the global level with the United Nations Convention on the Rights of Persons with Disabilities in air transport, at the EU level with the ten year anniversary of the European Union's legislation on PRMs, and from an ECAC perspective, through the objectives and achievements of the ECAC Sub-Group on PRMs.

Passenger experience is indeed at the heart of facilitation, and it starts at the airport: ACI EUROPE highlights for ECAC News the key elements that promote efficient airport facilitation.

The flow of goods constitutes another critical side of facilitation that has known recent impactful changes, as the Union Customs Code entered into force on 1 May. Air cargo facilitation is tackled here from two perspectives: the Dutch customs experience and the industry angle, with the Global Express Association.

Finally, ICAO may be best known through its technical entities but another major aspect of its role is to elaborate legal norms of utmost importance to the civil aviation community worldwide. The developments in international air transport law are presented here for ECAC News by the chair of the ICAO Legal Committee.

"Facilitation: fast, smooth and secure": as we see in this edition, many and complex are the elements to combine to reach the vision of air transport as an enjoyable experience.

I hope you enjoy this issue on facilitation!

The facilitation landscape in the ECAC region: striking the regulatory balance between security and facilitation



Frédéric Rocheray

ECAC Facilitation Working Group

José Maria Peral Pecharromán

ECAC Secretariat

Frédéric Rocheray, Chair of the ECAC Facilitation Working Group and Facilitation Co-ordinator at the Swiss Federal Office of Civil Aviation (FOCA), and José Peral Pecharromán, ECAC Secretariat Aviation Security Technical Officer, introduce the multi-field topic of facilitation to provide ECAC News readers an overview of the latest developments at the ICAO and ECAC levels.

1 – How would you define ‘facilitation’ in the field of air transport?

Frédéric Rocheray: Facilitation may be defined as a combination of measures by human and material resources in order to improve and optimise aircraft, crew, passenger and cargo procedures in general. Facilitation therefore comprises a wide range of subjects including immigration and customs procedures as well as the prevention of communicable diseases. The continuous improvement of control processes and service procedures is necessary and requires a high degree of cooperation among the sectors concerned in civil aviation. It includes the States with their institutions, airlines, handling agents and airport operators as well as the customers.

José Maria Peral Pecharromán: I fully agree with Frédéric. Facilitation is closely linked to aviation security, one of the strategic priorities of ECAC, and in fact is the other side of the coin. Perhaps what makes facilitation such an interesting but also complex subject is that it pertains to so many different fields, and therefore requires close co-ordination between civil aviation authorities, the industry and stakeholders from very different organisations. In this context, the standardisation of procedures is not only desirable, but critical to guarantee smooth and efficient operations.

2 – How is facilitation currently regulated at the international level? What are the most important provisions on the matter?

FR: The legal framework is given by Annex 9 of the 1944 Convention on International Civil Aviation (known as the ‘Chicago Convention’). It includes all standards and recommended practices related to facilitation. It is reviewed and amended on a regular basis and is currently in its 14th edition dated October 2015. The Facilitation Manual (Doc 9957) that is currently under revision serves as a reference tool, explaining to interested parties how Annex 9 provisions could be implemented and how compliance can be achieved. Of course, other documents published by ICAO reflect specific facilitation topics.

JPP: I would like to mention some of the most important ICAO documents that provide detailed facilitation provisions.

- Manual on Access to Air Transport by Persons with Disabilities (Doc 9984)
- Machine Readable Travel Documents (Doc 9303)
- Guidelines on Passenger Name Record (PNR) Data (Doc 9944)
- International Signs to Provide Guidance to Persons at Airports and Marine Terminals (Doc 9636)
- Dynamic Flight-Related Public Information Displays (Doc 9249)
- ICAO Policy on Assistance to Aircraft Accident Victims and their Families (Doc 9998), and
- Manual on Assistance to Aircraft Accident Victims and their Families (Doc 9973).



Last meeting of the ECAC Working Group on Facilitation, in Paris, 7-8 March 2016.

3 – Is there any specific regulation framing facilitation in Europe?

FR: For ECAC Member States, the reference document is ECAC Doc. 30, Part I on Facilitation, which was amended by ECAC Directors General in December 2015 (Amendment 5). When States determine their national measures and methods for improving facilitation, they should be guided by the provisions and recommendations of Doc. 30 and its Annexes.

JPP: As the document is publically available on the ECAC website, it can be used as a reference not only by ECAC Member States, but also by other countries and stakeholders.

FR: Besides Doc. 30, which offers a comprehensive approach to facilitation, there are many other more specific sources of provisions such as the European regulations applicable in the European Union and European Free Trade Association (EFTA) Member States. For example, Regulation (EC) 1107/ 2006 concerning the rights of persons with disabilities and persons with reduced mobility (PRMs) when travelling by air is now the baseline text for PRMs in Europe. ECAC Doc. 30, Part I mirrors this Regulation in order to ensure its harmonised implementation in all 44 ECAC Member States.

JPP: Regarding the European Union, I also wish to underline the roles played by the European Aviation Safety Agency (EASA) and Frontex (which will be replaced by the European Border and Coast Guard in the future). They specifically produce facilitation provisions in the area of PRMs and immigration. Two examples are the recent EASA ED Decision 2016/004/R on Carriage of Special Categories of Passengers (SCPs) and the Frontex best practice guidelines on Automated Border Control (ABC) Systems.

4 – Doc. 30 on Facilitation was recently amended. What is the added value of that document and in which cases would States and/or stakeholders use it?

FR: The value of ECAC Doc. 30, Part I lies in its 'all-encompassing nature'. It was conceived to compile all facilitation-related recommendations while adapting them to the ECAC region. It includes the references to

the legal framework and guidelines of global and European organisations currently in force. It is complementary to Annex 9.

JPP: The aim of ECAC Doc. 30, Part I is to be a comprehensive reference document to implement the required European facilitation policies consistent with ICAO Annex 9. Its update not only reflects the practices and recommendations of ECAC on the subject but also takes into account the compatibility with the security provisions compiled in ECAC Doc. 30, Part II.

5 – What role do civil aviation authorities play in furthering the diverse aspects of facilitation you mentioned?

FR: Civil aviation authorities are key players in ensuring the efficient co-ordination of all the State bodies and administrations (for example ministry of interior, health, immigration, customs authorities, etc.) involved in enforcing the compliance with facilitation provisions. As facilitation encompasses so many diverse subjects and administrations, it is absolutely essential that such subjects are co-ordinated by an authority that has a direct involvement with the sector concerned.

JPP: We should also note that areas like air transport safety and security have dedicated inspections, whereas in facilitation there is no established comprehensive, global monitoring system. This may be due to the fact that responsibilities are split between different governmental bodies, they even involve administrations from multiple States. Hence, provisions are only partially monitored. In this context, the National Facilitation Committee as described in ICAO Annex 9, comprising representatives of all the relevant authorities, should be promoted as a consultation forum between governments and the private sector. Also, the development of a National Civil Aviation Facilitation Programme (NCAFP) would be the most efficient way to address facilitation issues respecting European and national practices.



6 – What challenges are emerging? Are there bottlenecks withholding passengers’ traffic facilitation?

FR: Passenger traffic growth and the measures implemented to counter the current security threats are certainly two of the major facilitation challenges. Any new measure deployed should trigger reflections on the consequences to airport operations and passenger flow. An additional emerging challenge concerns the increasing requests from States for the transmission of passenger data. ICAO Guidelines on Passenger Name Record (Doc 9944) offers a smooth way forward with regard to facilitation and it is now up to Contracting States to properly implement these guidelines. Facilitation can contribute a lot to ensuring the most effective and seamless introduction of the newly required measures.

Bottlenecks are mainly due to check-in, security and immigration procedures. Should an irregularity occur during one of these procedures, whether for technical reasons or due to unforeseen external factors, the entire smooth running of operations might be considerably affected, including the neighbouring processes.

However, while these areas potentially generate the most dissatisfaction among passengers, they are also the areas where we are seeing the most progress due to the fast-paced development of new technologies. To tackle the challenge of security measures versus facilitation, the issuance of Electronic Machine-Readable Travel Documents (eMRTDs) or the automation of cargo formalities (for example with the Single Window concept, e-freight programme, etc.) are fundamental steps to progress towards a more efficient system.

JPP: Echoing Frédéric’s words, one of the major challenges is to combine the requirements for security and immigration with the aspirational vision of air transport as an enjoyable experience.

7 – What are the ‘hot topics’ being discussed in the ECAC Facilitation Working Group right now?

FR: The ninth ICAO Facilitation Panel took place from 4 to 7 April 2016 in Montreal with 41 ICAO Member States and 7 international organisations and industry associations. Among the adopted amendments to ICAO Annex 9, we should highlight the provisions on the transport of minors (presented by ECAC), the adoption of Advance Passenger Information (API) as a standard and two standards with regard to Passenger Name Record (PNR) processing. Based on the outcome of the Panel, the discussions during the last meetings of our working group, and the current ECAC work programme priorities, the current ‘hot topics’ could be summarised as follows:

- standards and recommended practices on the transport of minors as well as the respective follow-up;
- the adoption of Advance Passenger Information (API), the implementation of Automated Border Control (ABC) systems and Passenger Name Record (PNR);
- guidelines on website information for PRMs, the review of airline codes for passengers with special needs; and
- the promotion of self-check-in solutions.

These priorities are being addressed more specifically in the ECAC Facilitation Sub-Groups on PRMs and Immigration. With regard to the latter, the proper implementation of the recently adopted EU Directive on Passenger Name Record (14 April 2016) will undoubtedly be at the centre of discussions in the coming months, as there are still a lot of pending questions with regard to its translation and implementation into national systems.

JPP: We should also mention the two topics on which ECAC is organising dedicated workshops:

- ECAC Workshop on Assistance to Victims and Families of Victims of Air Accidents (Malaga, 9-10 June 2016) with a victims emergency drill organised by the Spanish Ministry of Development on 8 June; and
- ECAC Workshop on Best Practice for National Enforcement Bodies (NEBs) (Lisbon, 13 October 2016), organised in collaboration with Portugal (ANAC).

8 – What is the role of international co-ordination and cooperation in the field of facilitation and how does it work in practice?

FR: As mentioned earlier, international co-ordination and cooperation are essential in the field of facilitation, as many problems are transnational by nature and in practice. For instance, in the event of an outbreak of epidemics such as Ebola, a fast and efficient international co-ordination amongst Member States, the World Health Organization (WHO) and ICAO is critical. Cargo and immigration processes require similar international co-ordination. In their case, using Machine Readable Travel Documents (MRTD) for example has proved essential in combating the use of falsified and counterfeit travel documents, and to help combat child trafficking or the phenomenon of foreign

“One of the major challenges is to combine the increasingly strict framework on security and immigration with the aspirational vision of air transport as an enjoyable experience.”

fighters. Any of the measures adopted at the national level can only be effective if they are co-ordinated at the international level. Of course, there is also co-ordination at the operational level amongst ECAC Member States and the industry. In addition, the ECAC Working Group on Facilitation has established regular exchanges on facilitation-related issues with the US Department of Transport (DOT).

JPP: At the international level, the most important forum is of course the above-mentioned ICAO Facilitation Panel, that takes place every two years. ICAO also periodically organises regional facilitation seminars and carries out various initiatives in the facilitation area, such as the CAPSCA programme (Collaborative Arrangement for the Prevention and Management of Public Health Events in Civil Aviation) or the ICAO Public Key Directory (PKD). Regarding MRTD, its use also allows the comparison with the INTERPOL Stolen and Lost Travel Document (SLTD) database, therefore increasing the chances of intercepting unlawful documents or individuals at the borders.

FR: With regard to the initiatives launched by the private sector, I would like to mention the IATA/Control Authorities Working Group (IATA/CAWG), which serves as a forum for an ongoing dialogue between airlines and immigration authorities. It also cooperates with the ECAC Sub-Group on Immigration.

9 – Are there any European specificities to the way facilitation is dealt with in the region? Are there any major differences with other regions in the world?

FR: ECAC Member States were always strongly committed to facilitation. They have high technical standards. This is directly reflected in the adoption of the Advance Passenger Information (API) systems, the implementation of Automated Border Control (ABC) systems, and the harmonisation of Passenger Name Record (PNR) requirements, according to the EU PNR Directive. ECAC Member States can also be considered as pioneers in issuing regulation on PRMs and air passenger rights. ICAO initiative ‘No Country Left Behind’ aims to support countries in complying with the provisions of Annex 9 and the development of technical features. Of course, the ECAC Facilitation Working Group is willing to provide support to any State interested in knowledge transfer in this area. ■

Frédéric A. Rocheray is a lawyer at the Legal and International Affairs Section of the Swiss Federal Office of Civil Aviation (FOCA). After graduating from university, he completed his training to become a commercial airline pilot. He is also a graduate of the Advanced Studies Programme in Air and Space Law of Leiden University. In his professional capacity, he is the national facilitation co-ordinator, secretary to the National Facilitation Committee and Alternate Member for Switzerland to the ICAO Facilitation Panel. In May 2013, he was appointed to the position of Chair of the ECAC Facilitation Working Group. Besides his duties in the field of facilitation, Mr Rocheray serves as chief negotiator for air services agreements.

José Peral Pecharromán joined the ECAC Secretariat in 2014 as Aviation Security Technical Officer. In this role, he manages the ECAC Common Evaluation Process (CEP) and deals with technical aviation security matters. Graduated as an aeronautical engineer from the Universidad Politécnica of Madrid and with a Master in International Business Management from the Instituto de Comercio Exterior (ICEX), Mr Peral Pecharromán started his career in the defence sector, first as a test engineer for the Spanish army and later in EADS Defence & Security (currently Cassidian). In 2008, he joined the Spanish DGAC where he worked in the inspection branch. Promoted to Head of Security and Facilitation Division in September 2009, he has represented Spain in international and European forums and participated in several international working groups and workshops on aviation security.



The ICAO Facilitation (FAL) Panel: a brief history of shaping facilitation worldwide

Jithu Thaker

Secretary of ICAO's Facilitation Panel

In this article, Jitu Thaker, Secretary of ICAO's Facilitation Panel, takes us through the history and main achievements of the global body, from its establishment to the outcome of its most recent meeting in April 2016 and its objectives for the future.

► Background

Annex 9 – Facilitation to the Convention on International Civil Aviation (“the Convention”) was one outcome of Article 37 of the Convention which requires inter alia, that the International Civil Aviation Organization (ICAO) adopts and amends, from time-to-time, international Standards and Recommended Practices (“SARPs”) dealing with customs and immigration procedures and other such matters concerned with the regularity and efficiency of air navigation. The Annex was developed as a means of articulating the obligations of Member States under Articles 22, 23 and 24 and standardising procedures for meeting the legal requirements referred to in Articles 10, 13, 14, 29 and 35 of the Convention.

The first Edition of Annex 9, adopted by the ICAO Council in 1949, was based on recommendations of the first (1946) and second (1948) sessions of the Facilitation Division, an international body composed of officials in the fields of customs, immigration, public health and quarantine, consular, tourism and civil aviation, for the purpose of advising the Council on facilitation matters. Subsequent sessions of the Division expanded

and amended comprehensively the provisions of Annex 9, in response to the needs of States, resulting from the progressive and changing nature of international air transport and its challenges.

Over the years, the FAL Divisions eventually came to be held with longer gaps between sessions, ranging from seven to ten years. The eleventh session (1995) of the FAL Division addressed concerns expressed regarding the issue of the time lapse between meetings that had made it difficult for ICAO to keep up with technical progress and take decisions required to improve the facilitation of civil aviation through Annex 9. Therefore, the Division recommended that a Facilitation Panel be set up, in order to monitor progress in the field of facilitation and to promote and implement ICAO's FAL Programme on a continuous and regular basis.

► Establishment of the ICAO FAL Panel

In November 1995, ICAO's Air Transport Committee (ATC), in order to carry out work on facilitation matters at the worldwide ICAO level between Division sessions, decided to set up a Facilitation

Panel, to assist in the further development of Annex 9 and of other aspects of the Organization's Facilitation Programme. The Committee also approved the terms of reference of the FAL Panel, with a first priority being the development of SARPs. Member States were invited to submit nominations of subject-matter experts, with expertise in at least one of the professional disciplines that comprise the field of the facilitation of air transport. Initially, 25 individuals were appointed as Members of the Panel. Over the years, this number has risen to 32⁽¹⁾.

► Achievements

Since 1949, hundreds of amendments have been made to the SARPs of Annex 9. While these changes were well-reasoned and sound in themselves, the cumulative amendments led to an Annex that had become bulky, wordy, and cumbersome to use as an assessment tool. Some of the SARPs were difficult to understand and implement because succeeding amendments had made them complex. In the mixture of old and new provisions, States often had difficulty identifying the main objectives. The establishment of the FAL Panel gave the Organization an opportunity to review Annex 9 as a whole and investigate how it might be updated and simplified.

(1) The current membership is composed of individuals from the following States: Argentina, Australia, Belgium, Brazil, Canada, China, Cuba, Czech Republic, Egypt, France, Germany, Ghana, India, Italy, Japan, Kenya, New Zealand, Nigeria, Pakistan, Portugal, Qatar, Russian Federation, Saudi Arabia, Senegal, Singapore, South Africa, Switzerland, Thailand, United Arab Emirates, United Kingdom, United States and Uruguay.



Last meeting of the ICAO Facilitation Panel, in Montreal, 4-7 April 2016.

The FAL Panel thus began to streamline Annex 9. The Panel, to date, has held nine meetings⁽²⁾, the last of which took place recently, in April 2016.

During its bird's-eye-view examination and revision work, the Panel has sought to ensure that new or amended SARPs are:

- a) clear, simple and unambiguous as to intent, and implying a specific action or tangible result;
- b) logically organised, reflecting a chronological, procedural or other progression;
- c) written so as to facilitate their incorporation, without major textual changes, into national legislation; and
- d) supportive of contemporary FAL objectives and strategies for global interoperability.

Wherever possible, duplicative SARPs are combined, and inconsistencies removed. Many SARPs are shortened, and their language and syntax simplified. Outdated SARPs – especially those adopted in the formative years of Annex 9 and which no longer support a contemporary objective – are deleted. Provisions of an explanatory nature, which provide guidance on implementation, or contain detailed technical specifications, are removed from the Annex and placed in ICAO Doc 9957, The Facilitation Manual (that itself is currently being extensively revised). New or amended SARPs are drafted with the functions of the user (specific government agency or operator) in mind. SARPs referring to proce-

dures of operators are drafted using modern industry terminology.

Examples of key achievements to date by the FAL Panel included recommendations to:

- incorporate the 'one passport, one person' or 'one person per passport' concept in Annex 9 as a result, inter alia, of the fact that the concept is compatible with machine-readable passport technology (FALP/2);
- align, to the extent possible, the cargo facilitation provisions of Annex 9 with the provisions of the World Customs Organization's (WCO) revised Kyoto Convention (the International Convention on the Simplification and Harmonization of Customs Procedures, 1973 (as amended in 1999)) and the WCO's SAFE Framework of Standards (FALP/3, FALP/6, FALP/7);
- enhance SARPs relating to Advance Passenger Information (API) and Passenger Name Record (PNR) matters, and revise extensively ICAO's Guidelines on PNR Data (published as Doc 9944) (FALP/3, FALP/5, FALP/6, FALP/7);
- facilitate the prompt clearance of radioactive material, particularly that used in medical applications (FALP/5);
- revise the health-related SARPs of Annex 9, to assist States prepare for international outbreaks of communicable diseases posing public

health risks or public health emergencies of international concern (FALP/6);

- enhance provisions in Annex 9 to facilitate the entry, for example, into States of transit travellers affected by disruptions caused to air transport by natural disasters (such as volcanic eruptions) (FALP/6);
- strengthen Annex 9's provisions on inadmissible persons and deportees, to foster a greater amount of international cooperation and to establish uniform procedures to assist States address issues affecting such persons (FALP/1, FALP/7);
- simplify and reinforce the provisions of Annex 9 concerning the disinsection and disinfection of aircraft (FALP/3, FALP/6);
- revise the provisions on Persons with Disabilities and substantially update the relevant guidelines, published as Doc 9984, Manual on Access to Air Transport by Persons with Disabilities (FALP/1, FALP/7);
- publish Doc 10042, Model National Air Transport Facilitation Programme, in order to assist States comply with their appropriate obligations under Annex 9 (FALP/8);
- strengthen provisions addressing assistance to aircraft accident victims and their families (FALP/8);
- augment SARPs concerning travel documents, such as those relating generally to

(2) : In 1997, 1999, 2001, 2002, 2008, 2010, 2012, 2014 and in 2016. Information on these meetings is gradually being uploaded to <http://www.icao.int/Meetings/FALP/Pages/default.aspx>.

machine readable travel documents (MRTDs), and more specifically to the ICAO Public Key Directory, Crew Member Certificates, INTERPOL's Stolen and Lost Travel Documents (SLTD) database, machine readable travel documents for refugees and stateless persons (FALP/3, FALP/7, FALP/8); and,

- comprehensively revise the provisions relating to the facilities and services provided at international airports (FALP/5).

The Panel's recommendations for amendments to Annex 9 were subsequently adopted by the ICAO Council, and those related to guidance material (Manuals) approved by the ICAO Secretary General.



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► FAL Panel's current initiatives

At its latest meeting (FALP/9, from 4 – 7 April 2016), the Panel made additional recommendations for the revision of Annex 9. These recommendations are scheduled to be reviewed by the ATC in October 2016, before they are subsequently disseminated to Member States for comments and input and then submitted to the ICAO Council for consideration for adoption.

The FALP/9's recommendations comprise of proposals to include:

- the nationality of passengers in Appendix 2, Passenger Manifest, in order to improve the accuracy and speed of information that can be provided to families of aircraft accident victims;
- a new Standard obliging each Contracting State to establish an Advance Passenger Information (API) system in light, inter alia, of UN Security Council Resolution 2178 (2014) and of the increasing use of API for border security and counter-terrorism;
- new Recommended Practices on Electronic Travel Systems (ETS), in response to increasing requirements by governments to require passengers to apply for a travel authorisation or to register online prior to boarding a flight for travel. The aim is that ETS-related terminology is standardised and this technology is included in the Annex 9 policy and regulatory framework, so as to provide guidance to governments planning implementation of an electronic version of visa issuance or travel authority;
- enhanced Passenger Name Record (PNR)-related provisions, in response to the growth in PNR programmes and in order to support adherence to content, format and transmission standards to mitigate non-compliant PNR data requests;
- new Standards and Recommended Practices on the transport of minors, in light of increasing international awareness on the foreign fighters phenomenon and on child trafficking, and the limited availability of international guidance on the treatment of minors travel-

ling by air, in order to help harmonise the policies and procedures followed by Contracting States and aircraft operators on the handling and safety of minors; and

- augmented provisions on Automated Border Control (ABC) systems, as a result of the increasing use of such systems.

► Next steps for the FAL Panel

The FALP/9 meeting also agreed that a working group should be established to examine, during the inter-session, the concepts and principles concerning a planned Global Aviation Facilitation Plan (GAFP), with a report on its deliberations to be presented to the next meeting of the Panel (tentatively scheduled for September 2018).

Additionally, in order to assist States implement Annex 9, the FAL Panel is expected to continue its on-going work in streamlining the provisions of Annex 9. A consolidation of work in this area is expected to be completed by 2019, providing a simplified set of performance-based SARPs for the benefit of States, and to keep existing material useful, relevant and targeted.

The FAL Panel will continuously follow advances in technologies and prepare responses to new and emerging issues in the field of facilitation. Additional work on air cargo facilitation is pending, and is expected to be completed following co-ordination with the WCO on the results of the 2013 World Trade Organization Conference in Bali, Indonesia, on the Agreement on Trade Facilitation. This will allow ICAO to align the SARPs of Annex 9 with any new provisions developed by the WCO, continuing the close collaboration on cargo facilitation between the two organisations. ■

Jitu Thaker, a graduate of McGill University's Institute of Air and Space Law, has been with the International Civil Aviation Organization since 1997. He works in the Facilitation Section of the Air Transport Bureau, and manages Annex 9 – *Facilitation* to the Convention on International Civil Aviation. He is the secretary of ICAO's Facilitation Panel.

How to best assist victims and families of victims in air accidents

Raül Medina

Director General of Civil Aviation for Spain



Spain has been particularly involved in the topic of assistance to victims and families of victims of air accidents, from chairing the dedicated ICAO Task Force in 2012 to the development and promotion of an extensive domestic framework on the matter. In this article, Spain's Director General of Civil Aviation Raül Medina presents the progress achieved in recent years at the international and national levels.

Aviation accidents are tragedies that cause an enormous human impact on the survivors and families of the victims. Victims and their families have immediate needs that require adequate emotional attention as well as precise and immediate information. The facilitation of a number of practical measures and arrangements to help the affected people to reach the right information point, gain access to immediate financial compensation, transport and accommodation, or the collaboration with the authorities for the identification of victims, are some examples of essential issues that need to be addressed to cover these needs.

such accidents. Having this in mind, an intensive prescriptive ruling system is already in place and regularly supervised on a daily basis. Proactive approaches, like State Safety Plans, are also largely deployed at a national level. When an accident occurs, the reasons involved are analysed by the competent authorities in order to establish new measures or guidelines preventing similar causes in the future.

The management of the catastrophic events which surround an accident has normally been addressed by the civil protection authorities. However, experience has shown that there is a need to adopt new measures to assist victims of aircraft crashes and their families. Instead of a general disaster approach, it has been proved that an adequate and structured plan involving not only aeronautical or civil protection authorities but also the other parties involved in an accident is more appropriate to meet the needs of the victims of an aviation accident and their families.

that each State should develop appropriate programmes to regulate these cases. In 2001, ICAO drafted the guidance on assistance to aircraft accident victims and their families (circular 285). In 2005, it incorporated in Annex 9 to the Chicago Convention - *Facilitation* some measures to facilitate the entry of family members to the States where an accident occurred. Spain participated in the adoption of this circular.

The adoption of these documents served as a preamble to the adoption, at the 38th Session of the ICAO Assembly, of a recommendation to be included in Annex 9, which highlighted the necessity for each State to implement legislations, regulations and/or policies to support victims of aviation accidents and their family members.

“Public authorities shall design national assistance plans for aviation accident victims and their families, and foster the involvement of airlines and airport in meeting their needs.”

Since preventing aviation accidents has been the main focus for each State and its supervisory authorities, aviation tragedies have traditionally been regulated by the aeronautical community. The main focus of these regulations has been to address the prevention of

► Progress made by ICAO

In 1998, the ICAO Resolution stressed the need for a policy to facilitate the physical, mental and emotional welfare of the victims and their families. They proposed

► Measures adopted in Spain

During the past years, Spain has made significant progresses in regulating the assistance to victims of aviation accidents, and has promoted specific measures at the international level. In 2013, regulatory measures were adopted in order to have a National Assistance Plan to attend victims of an aviation accident that involved public authorities, airport service providers, and airlines. This regulation established an organised and co-ordi-



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nated assistance mechanism to be implemented by civil aviation authorities, judicial police, forensic doctors, accident investigation authorities, police, or authorities of the ministry of foreign affairs. The co-ordination of these parties was regulated by the Protocol of Co-ordination for Victims Assistance. In this regulation, Spain also established a 'contact person' taking care immediately of the victims and their families, as well as a 'Victims Assistance Office,' a support office established to help families following an aviation tragedy.

Spanish regulations have imposed obligations on the different individuals involved in this system. The civil protection authorities shall guarantee the provision of psychological assistance to the victims and their family members, facilitate the establishment of a private space to protect the privacy and dignity, prevent the unauthorised entry of third parties (such as lawyers or journalists), and provide private spaces to facilitate collaboration with the State security forces for the identification and description of the victims.

Airlines have to develop victims assistance plans, which are audited by both the civil aviation authority and the civil protection authorities. These plans should include:

- the facilitation of multilingual telephone contact lines immediately after an accident;
- the supply of infrastructural

facilities for assistance to family members: access to transportation and accommodation - if necessary - during rescue and identification tasks and minimum communication services;

- psychological assistance;
- financial compensations as derived either from the 1999 Montreal Convention for the unification of certain rules of international air transport, or from the applicable European Union legislation; and
- the facilitation of other questions, such as the organisation of memorial ceremonies.

The Spanish regulations also impose generic obligations on airport management, such as the need to cooperate for the accommodation of infrastructure and the designation of a spokesperson.

In order to ensure adequate information to the families, Spanish regulations provide that, unless it would be detrimental to the objectives of the technical investigation of the aircraft accident, the accident investigation authority shall provide the factual information on the accident within a period of 48 hours after it occurred.

Finally, the Ministry of Transport has drafted informative electronic and paper material that has been distributed at airports and in the central government offices, and posted on its website, together with a set of frequently asked questions and responses, as well as a

list of the legislation applicable regarding assistance to victims, which may be useful when an accident occurs.

► Victims Assistance Office

The Victims Assistance Office, a permanent office, has been created within the Spanish Ministry of Transport, to provide continual services not only to accommodate the needs of victims, but also to help airports and airlines carry out their drills. This office fosters the continuous improvement of the system, including co-ordination procedures, updates of shared databases and the promotion of the relevant legislative proposals regarding assistance to victims of accidents. In 2014, this office promoted an amendment to the national law on voluntary jurisdiction, finally adopted in 2015. The new piece of legislation guarantees a collective and immediate mechanism to determine that the death of persons on board a crashed aircraft can be registered as soon as there is absolute certainty of their death. This quick declaration helps the victims' families after an aircraft crash because it facilitates immediate access to bank accounts and other very restrictive economic situations the families may encounter after the death of a person.

In 2012, Spain chaired the Task Force created by the Council of ICAO, in order to review the previous circular and draft the new ICAO policy on the assistance to victims of aviation accidents and their families. The Task Force resumed its activities on 6 December 2012 and the new ICAO policy (Document 9998) as well as the adoption of a Manual of Assistance to Victims of Civil Aviation Accidents (Document 9973) were adopted in 2013.

Moreover, Spain fostered the adoption in 2015 of amendment 25 to Annex 9 to the Chicago Convention - *Facilitation* in order to include a new recommendation whereby the 191 States must implement legislations, regulations

and/or policies either to support the victims and their family members in the event of an aviation accident, or justify the reasons why they would not adopt the amendment. Spain also supported the USOAP (Universal Safety Oversight Audit Program) Audit Protocol update, in order to include questions concerning the implementation of this new recommended practice in each State. Apart from boosting its implementation, this audit programme will indicate the real level of compliance, and potentially serve to determine more effective rules to include in the regulation.

▶ Next steps

On the occasion of the upcoming ICAO Assembly (27 September – 3 October 2016), it is necessary to continue the adoption of specific measures regarding the assistance to victims. Spain considers an analysis should be made on the possibility that the current recommendation (whereby the 191 ICAO States must implement legislations, regulations and policies to support the victims and their families) is converted into a standard. Spain also supports the audit protocol questions would be included in the USOAP audit programme in order to check the level of compliance with this measure. Finally, Spain considers that an analysis should be made on the possibility that airport emergency plans include measures on the assistance to victims.

▶ Victims Associations

Victims support policy does not only refer to public authorities, airlines and airports, but also to victims themselves, either personally or through the associations that represent them. For example, Spain has experienced a close collaboration with the association of those affected by the accident of the Spanair flight JK5022 at Adolfo Suarez-Barajas Airport in 2008. Since its constitution in 2015, Spain has also maintained regular contact with the association of victims of the Germanwings flight accident, and developed direct contacts during other recent tragedies such as that of Mali Air Algérie Flight 5017 on 24 July 2014. The association of victims of Spanair flight JK5022 has had a critical impact in the drafting of the legislative projects concerning assistance to victims, as well as for the production of informative material.

Spain also supported the establishment of the first International Federation of Victims of Civil Aviation Accidents (FIVAAF) in July 2015, gathering the Spanish

(AVJK5022), German (HIOP-447) and Pakistani (ABBlue202) associations of victims, so that the FIVAAF could be recognised by international organisations, especially ICAO. It is considered of the highest interest that, for the first time, a federation representing the interests of the victims is represented before ICAO, especially on the occasion of its next assembly. The improvement of the victims assistance system involves listening to their existing and emerging needs and proposals, and translating these into the national and international legal framework.

Finally, Spain would like to honour aircraft accident victims' memory by acknowledging the very important role of victims' associations and expressing its appreciation and gratitude for their work. Spain invites the aeronautical and public authorities involved to cooperate with them, and to provide aviation accidents victims' associations a voice to work together for the benefit of other victims and of the international community. ■



Raúl Medina has been appointed Director General for Civil Aviation of Spain in 2015, after serving as Deputy Director General since 2010. He is also a member of the ECAC Co-ordinating Committee and ECAC Focal Point for RPAS. Mr Medina started his career in the Siemens Group where he worked as a Systems Engineer. He then joined the Ministry of Transport where he held several positions, all of them in the regulatory and supervisory fields of the air transport sector. He holds master's degrees in aeronautical engineering (MS) from the Polytechnic University of Madrid and in Public Administration (MPA) from the Columbia University of New York where he studied as a Fulbright Scholar. Mr Medina is a civil servant of the Corps of Aeronautical Engineers.



Facilitating through health-related risks: lessons learnt

Patrick Lansman

Health Focal Point of the ECAC Facilitation Working Group

How to respond to health risks spreading via air transport in a speedy but measured way? Patrick Lansman, Health Focal Point of the ECAC Facilitation Working Group, discusses the essential elements of efficiently managing a public health crisis, and the lessons learnt.

SARS, H1N1, Chikungunya, Ebola, MERS-CoV, Zika: most travellers are unfamiliar with these names when they suddenly make headline news. Today's rapid growth in travel brings a rising number of health risks requiring authorities to increasingly focus their attention on air transport.

The issue concerns air travellers on several accounts since, depending on the virus, they may be contaminated at their destination, during their flight or carry an infected mosquito in their baggage and in turn contaminate others on their return.

The health authorities regard air transport as a major risk in the spread of diseases, yet it is merely one aspect of a health policy that includes, inter alia, researching the disease, developing vaccines, reinforcing means to fight the disease and informing healthcare professionals.

In addition, contagious diseases do not all involve the same risks and cannot be treated in the same way.

So this is truly a complex issue, and therefore one with a number of inherent challenges: passengers must be informed and reassured, and flights must take place with the least disruption to traffic.



▶ Mitigating fast but measured actions

When faced with a real threat whose impact is often difficult to gauge, authorities must frequently take measures without having all the information they need. For example, measures to combat Zika were taken before the virus' connection with microcephaly was confirmed.

Authorities must resist the temptation to overreact. There is frequent temptation to stop flights to and from dangerous zones, particularly under pressure from public opinion. Yet the World Health Organization (WHO) and the International Civil Aviation Organization (ICAO) issue constant reminders of the ineffectiveness of this measure, except in some very specific cases. As a matter of fact, cancelling an air route stops the flights but not the passengers who simply travel by other routes. Whereas health con-

trol measures can be implemented on a clearly identified flight, cancelling a line results in arrivals via multiple routes, which makes any control measure illusory. Residents in the affected country may also feel abandoned and hasten their departure, particularly when only a few carriers operate the route.

Another temptation is requiring disinfection of aircraft arriving from affected territories, even though no infected passengers have travelled on them. This causes flight delays or even cancellations, often disrupting passenger travel significantly and incurring high costs for carriers.

Some countries restrict or even ban access by people who have travelled to affected territories, including pilots or crew members, despite the economic impacts for transport and tourism.

► Challenges for air carriers

Meanwhile, carriers face a dual challenge: their crews' fear of travelling to affected countries, particularly when it involves an overnight stay, and the equally strong fear of passengers who tend to defer their travel plans, thus emptying aircraft. Airlines may then decide to accommodate crews in a neighbouring country and/or to assign crew members on a voluntary basis. They may be forced to cancel flights for economic reasons due to the shortage of passengers. Yet these flights are necessary to transport medical teams and aid workers.

A particular problem arises for repatriating the sick. In the early stages of disease, repatriation on scheduled flights is often possible without risk for other passengers or the crew, but they will nonetheless be very reluctant. Medevac flights are therefore preferred, despite the cost and the absence of medical justification.

Ebola raised specific difficulties due to the particularly high risk of contamination. It soon became apparent that few carriers had suitable aircraft to transport contaminated passengers in a confinement unit, both ensuring their safety and avoiding the risk of aircraft contamination. Some countries chose to use State or military aircraft, requiring significant refits. In spite of the precautions taken, some countries banned technical stopovers by these aircraft on their territory.



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► The role of airports

As all passengers must go through them, airports play a key role in border health control. Many international regulatory health measures apply in airports: temperature control, separating flight passengers to be controlled from others, providing rooms to examine the sick or for isolation before their transfer to hospitals, etc.

These measures may result in rescheduling flights to mitigate traffic disruption and avoid passengers missing their connecting flights, or in deploying several control teams for example.

Airports may also have to manage their staff's reluctance to be in contact with the aircraft or passengers (for example refuelling operators or baggage handlers).

► Lessons learnt

Communication plays a decisive role. People must be both informed and reassured. A disease like Ebola sparked off irrational fear that needs to be managed.

Several audiences require information:

- First the passengers, who must be informed of the nature of the risk and how to avoid it, and be given numbers to call if any symptoms develop during or after their trip. Standard measures appear suited to these needs (information in the media, notices in airports, document handouts at boarding, messages in planes, etc.).
- Secondly, flight and other personnel who may be in contact with the affected country and with passengers, aircraft and baggage return-

ing from it. Appropriate notices in staff rooms greatly ease their concerns. Information meetings with civil aviation and healthcare personnel can also provide rational answers to the legitimate questions staff may have.

- Information must also target the public at large. In the Ebola case particularly, the public, members of parliament and the media all voiced concern over the risk of contamination in European countries. In this respect the control measures implemented on arrival in several countries greatly helped to reassure both airport personnel and the population, despite doubts about the medical effectiveness.

However, care must be taken not to repeatedly disseminate information to the point of causing concern. Visible action must be taken to provide reassurance. But authorities must be mindful of the limits of such action: the more notices there are, the less people read them, and messages are not always heard.

► Consultation and cooperation with all players is vital

The list of stakeholders is long: international organisations (WHO, ICAO, European Commission, Red Cross, etc.), health and civil aviation authorities in countries hit by an epidemic, those in countries of destination and transit, aviation industry players (airlines, airports, station handlers, etc.), and those in healthcare (hospitals, emergency services, research centres, etc.); as well as, depending on the crisis, humanitarian organisations and ministries of foreign affairs, the interior or defence.

To make appropriate decisions and to assess results, swift escalation of reliable information must be facilitated. For instance, in-flight confirmation procedures avoid sudden diversions and unnecessary traffic disturbance. And naturally, resources essential to one mission should not be diverted by assigning them to a less critical mission.



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► Reacting at the national level

On a national scale, the creation of an interministerial co-ordination unit with a manager empowered to make choices facilitates consultation and decision-making. This unit is all the more effective if it has broad powers. In particular, it must be able to address cooperation or assistance with an affected country, since measures taken at departure airports form the main barrier against the spread of epidemics.

It is also preferable that each authority (health, civil aviation) remains the main contact point for entities and businesses in their sector.

Co-ordination is made easier when preparatory work is done in advance: provisions of international health regulations, plans to control infectious diseases, etc.

During the crisis, communication with other countries having taken similar measures – between national authorities and embassies for example – is useful to assess the adequacy of decisions and leverage partners' experience.

After the crisis, evaluating measures and their results provides learning for the future. In this regard, CAPSCA⁽¹⁾ provides a very valuable platform for sharing and comparing experiences.

► Conclusion

There is no doubt that the “barrier” measures taken in Europe against epidemics have avoided them from spreading on its territory. But each epidemic is specific and ongoing vigilance is vital to continue to provide effective protection. ■

(1) CAPSCA, the Collaborative Arrangement for the Prevention and Management of Public Health Events in Civil Aviation, is an ICAO global programme to improve preparedness planning and response to public health events that affect the aviation sector, such as an influenza pandemic or a nuclear power-plant accident.

Patrick Lansman is the Focal Point for Health of ECAC Working Group on Facilitation. After graduating in law and politics from the Ecole Nationale d'Administration (ENA) in 1989, and earning a post-graduate diploma in defence, Mr Lansman held various managerial positions in the French Ministries of Defence, Equipment, Cooperation and Tourism where he gained extensive experience in public policy implementation and international negotiations. He joined the French Civil Aviation Authority (DGAC) in 2005 where he is currently leading the Mission for passenger rights and in charge of facilitation matters in the air transport department. He regularly contributes to work done by ECAC, ICAO and CAPSCA, and takes part in talks on European directives or regulations (particularly the revision of the regulation on delays, cancellations and denied boarding, and on PNR data collection and processing).

The implementation of the United Nations Convention on the Rights of Persons with Disabilities in air transport



Gunta Anta

*European Disability Forum (EDF) Vice-President and
Chair of the EDF transport expert group*

The United Nations Convention on the Rights of Persons with Disabilities⁽¹⁾ (UN CRPD) is an international human rights treaty which reaffirms that all persons with disabilities must enjoy all human rights and fundamental freedoms. It plays a key role in air transport as it provides the international facilitation provisions on accessibility and personal mobility.

The Convention reaffirms that all disabled persons have the right to participate in the civil, political, economic, social and cultural life of the community just as anyone else. The Convention clearly states what public and private authorities and organisations must do in order to respect, ensure and promote the full enjoyment of these rights by all disabled people.

► Background and scope of the Convention

The text was adopted in 2006 by the United Nations and became the world's most quickly ratified human rights treaty. As of April 2016, 25 of the 28 European Union (EU) Member States have ratified the Convention (except for Finland, the Netherlands and Ireland). A remarkable point is that, apart from its Member States, the EU itself, as a regional organisation, has also ratified the Convention. This means that the EU is now also responsible for transposing it into its body of legislation and policy, including all transport-related legislation, such as the passenger rights provisions. It is also important to note that the Convention is the first international treaty to have negotiated with the direct participation of its beneficiaries: persons with disabilities and their families.

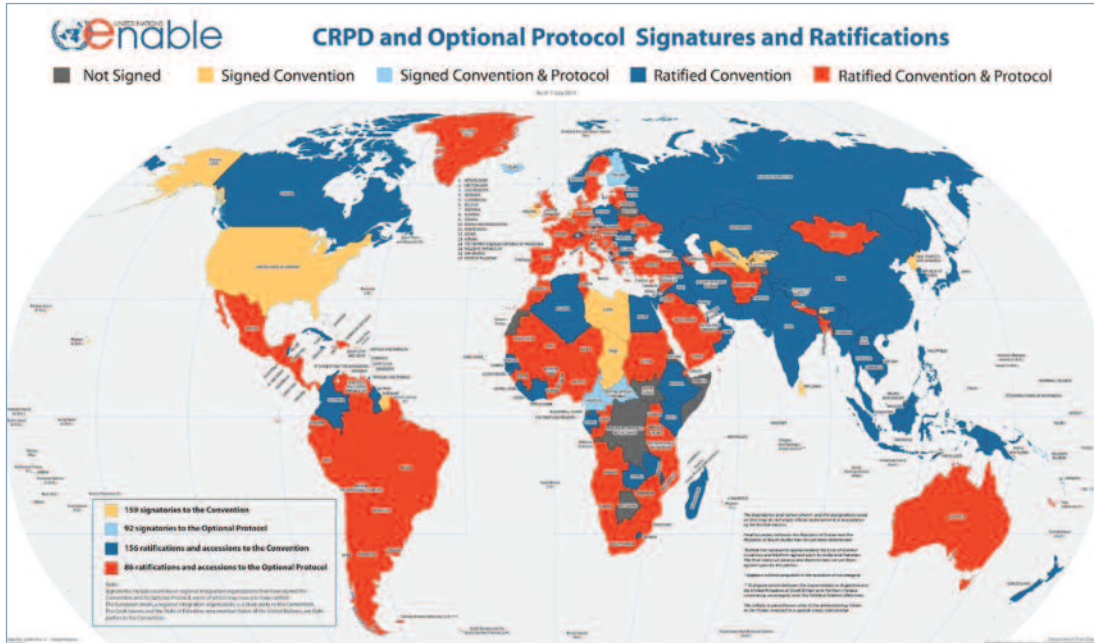


By concluding the Convention, the EU committed to ensure and promote the full realisation of all human rights for all persons with disabilities through the adoption of new legislation, policies and programmes and the review of existing measures.

As a result, the Convention clearly explains that no decision concerning the rights of persons with disabilities is legitimate unless it is taken by persons with disabilities or with the active and meaningful involvement of their representative organisations. The motto of the disability movement "Nothing about us without us" is applicable on all the rights of the Convention.

Every four years, the status of implementation and the progress achieved by each State party to the Convention is examined by a UN Committee. The EU was reviewed in 2015 for the first time. After an in-depth analysis and dialogue with all parties involved, it gave its view on how efficiently the EU had implemented the Convention. The UN Committee also made recommendations for improvement called "concluding observations". In these concluding observations, the UN Committee also had made several recommendations on the EU transport policy, directly related to accessibility.

(1) <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>



► The UN Convention’s provisions on air transport

The two main parts of the Convention that deal with transport policy are Article 9 on Accessibility and Article 20 on Personal Mobility.

Both articles are very important but Article 9 has a more overarching purpose. It explains how accessibility as a right is the pre-requisite to the enjoyment of many other rights enshrined in the UN Convention, including the right to personal mobility. For example, in order to achieve personal mobility for persons with disabilities, all modes of transport first have to be accessible. Therefore Article 9 is crucial in order to fulfil any of the other provisions of the Convention.

According to Article 9 of the Convention, “States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas.”

It means that both the EU itself and the Member States who have ratified the Convention have to adjust their legislation accordingly

and include accessibility in all new and revised legislation.

In the EU review process in 2015, some aspects related to transport were highlighted:

- 1) A clear recommendation was given under Article 9 on the publication of a proposal for a European Accessibility Act⁽²⁾, which was categorised as an “urgent issue” subject to review after one year (by September 2016). The UN Committee called on the EU to adopt the Act promptly and urged that it should contain effective and accessible enforcement mechanisms. Furthermore, the UN Committee recommended ensuring the participation of Disabled People’s Organisations (DPOs) in the adoption process. This recommendation was immediately taken up by the EU and the European Commission published the legislative proposal for a European Accessibility Act on 2 December 2015.

- 2) In relation to Article 20 of the UN Convention, the EU was asked to ensure immediately the freedom of movement of persons with disabilities and their families. This includes better enforcement of passengers’ rights legislation and the guarantee that personal assistants can travel for free on all transport modes if they accompany a person with a disability, as was foreseen by Regulation 1177/2010⁽³⁾ on the rights of passengers when travelling by sea and inland waterway. Especially in air travel, this is a huge economic burden for individual passengers who have to pay for a second ticket for their assistants to accompany them, while EU law allows the assistants to accompany them for free when travelling by boat. This inconsistency should be addressed. It has also been a long-standing problem that the rights of passengers with

(2) Proposal for a Directive of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States as regards the accessibility requirements for products and services, COM/2015/0615 final, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2015%3A615%3AFIN>

(3) <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32010R1177>



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disabilities have not been respected and cases of refusal of transportation due to a person's disability still happen frequently. The UN Committee also underlined the role of the National Enforcement Bodies (NEBs) appointed under the passenger rights legislation, which should help passengers to enforce their rights more effectively and recommended that their competences be harmonised and strengthened.

▶ Putting this in the policy context

The UN Convention contains over 50 articles, dealing with all aspects of the life of persons with disabilities. It is thus not surprising that transport is only a small part of this, considering also how broad are the issues covered by the UN Convention (such as the right to vote, legal capacity, employment, access to justice, and other fundamental issues). This also explains why the review process of 2015 concentrated on relatively few transport issues, even though there are certainly many more that could have been taken up and are of

equal importance. The UN Committee chose to address the most burning issues at that moment and also those in which the EU has the competence to make changes. Similar processes are also followed for the EU Member States that are parties to the UN Convention.

As mentioned above, the UN recommendations have already led to the first changes in the EU policy context. The publication of the proposal for a European Accessibility Act is one of the greatest achievements so far and has been a major step forward in also making transport more accessible for persons with disabilities. All EU Member States are now obliged to make changes to their national legislation on accessibility and they have to do so in a harmonised, co-ordinated way.

For the air transport sector, the UN Convention underlines what has already been the trend and especially what has been happening for a long time on the other side of the Atlantic, as the USA has been implementing comprehensive accessibility legislation for many years. Hence it is high time accessibility is also systematically implemented in the EU via an international convention.

▶ Conclusion

The UN Convention is probably the best "tool" available to both governments and DPOs to make accessibility a reality in the EU today. Nonetheless, this tool has to be used efficiently to make changes to legislation and to everyday practices and procedures so that everybody has equal access to air travel. ■

About the European Disability Forum

The European Disability Forum is an independent NGO representing the interests of 80 million Europeans with disabilities. EDF is a unique platform bringing together representative organisations of persons with disabilities from across Europe with a secretariat based in Brussels. Some of the policy areas EDF focuses on are human rights, social policy, and accessibility of both Information and Communication Technologies (ICT) and transport. EDF is a regular observer member in the ECAC Facilitation Sub-Group on issues concerning persons with reduced mobility and has been active in campaigning for better accessibility of air travel since it was founded. EDF has also actively contributed to the shaping of the EU legislation on passenger rights, in particular Regulation 1107/2006⁽⁴⁾.

(4) <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32006R1107>

Gunta Anca is the European Disability Forum Vice-President and chairs its expert group on transport. She has been a proactive disability rights activist and an advocator gender equality throughout her career. Since 2002, she is the Chair of the Latvian Umbrella Body for Disability Organisations (SUSTENTO). At European level, Ms Anca is also a member of the European Economic and Social Committee (EESC), an EU consultative body that gives representatives of Europe's socio-occupational interest groups, and others, a formal platform to express their points of view on EU issues. Ms Anca is advisor to the Disability Rights Fund, a cooperation body between donors and the disability community to advance the UN Convention on the Rights of Persons with Disabilities (CRPD).



Ten years of European Union regulation on the rights of disabled persons and persons with reduced mobility when travelling by air

Ruth Lopian

Policy Officer at the European Commission's Directorate General for Mobility and Transport (DG MOVE)

In Europe, there are about 80 million people whose mobility is reduced permanently or temporarily, for example because of a disability, injury or old age. In order to take a flight, these people need assistance at departure and arrival, when in transit, or when boarding or disembarking an aircraft. Persons with reduced mobility (PRMs) today have the right to travel by air on an equal footing with other passengers, and to receive all the assistance they need without any further charge. But this has not always been the case. The legislation⁽¹⁾ granting them these passenger rights has been in force for ten years now since 2006. What results, and what challenges for the future?

These rules apply for all flights departing from a European Union (EU) airport, even if the airline companies are not EU-based: a huge EU policy-making success. However, the rules on passenger rights for PRMs are not free from criticism. There is always a way to improve our laws, or to improve the way they are applied or enforced. Above all, when it comes to passenger rights there is a continuous need to make EU citizens aware that these rights exist, explain where to find the relevant information and how the rights can be applied.

► The early initiatives

In the 1990s, the EU single market made air travel accessible for a majority of citizens by creating more routes at cheaper prices. European citizens started to travel more and more by air for business and leisure. The extent of the change brought about by this air travelling revolution was such that poor access to air transport services was found to severely impede the social inclusion of citizens with disabilities or special needs.

The general context of the EU non-discrimination policy also paved the way for a specific air transport regulation to facilitate



the inclusion of PRMs. Specifically, Article 21 of the Charter of Fundamental Rights lays down the general principle that discrimination, including on the grounds of disability, shall be prohibited.

The European Commission made 2003 the "European Year of People with Disabilities". In order not to stop there but to produce tangible results for PRMs and to achieve a sustainable and practical approach to disability issues, the European Commission adopted at the end of 2003 a communication on "Equal opportunities for people with disabilities: a European Action Plan".

At the same time, a number of initiatives were taken to improve the access of PRMs to air transport. A 2002 European Commission consultation paper on airlines' contracts discussed operational questions, identified possible improvements to passengers' rights and invited stakeholders to comment on issues required to ensure that people with disabilities could be confident their needs would be met when travelling by air. The responses from the consultation showed a broad consensus among stakeholders: in order to ensure assistance free of additional charges, and reduce unjustified denied boarding situations for PRMs, voluntary agreements were not sufficient. In addition to the efforts

(1) Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air – OJ L204 of 26.7.2006, p. 1.

Denied boarding? Cancellation?
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already made by a number of airlines and the work undertaken by the European Civil Aviation Conference (ECAC) to establish good practices, the European Commission had to act and propose new legislation.

The results of the consultation already reflected the main 'pillars' of the future regulation which had to strike the right balance between the rights of passengers with disabilities and air safety. A so-called 'fair treatment clause' should allow airlines to refuse boarding in a limited number of situations, for example when either safety could be compromised or when the design of the aircraft would not allow carriage.

► The Regulation

The main objective of Regulation (EC) 1107/2006, which was adopted on 5 July 2006, is the protection of PRMs against discrimination. Notably, this protection does not only cover persons with disabilities but also those with reduced mobility, for example because of an injury or old age. In practice, the Regulation applies to commercial passengers on all air services departing from, transiting through, or arriving at any airport situated in the territory of the EU. In addition, certain provisions, such as boarding refusal, also apply to travellers departing from a non-EU country airport to an airport situated in the EU on aircraft operated by an EU airline.

Refusals to board or assist should always be exceptional and must be clearly based on a reason contained within the Regulation. For instance, if a passenger is not able to eat on his own or cannot go to the toilet without help, this is not in itself sufficient ground to refuse boarding.

To avoid difficulties and to receive good quality personalised assistance, passengers need to notify their needs at least 48 hours

in advance of travelling. Passengers must also inform the airline, its agent or the tour operator if they travel with specific mobility or medical equipment that could fall under dangerous goods rules. However, even where no prior notification has been made, air transport operators must make reasonable efforts to provide assistance to allow the passenger to fly.

One considerable hurdle was taking the decision on who should be responsible for providing assistance at the airports: the airline or the airports managing body. Eventually, responsibilities were divided as follows: the managing body of an airport is responsible for organising and financing assistance at the airport, including baggage handling. It can provide assistance by itself or by means of a subcontractor. Airports may levy a charge on airlines to finance this assistance. This charge has to be proportional to the total number of passengers that the airline carries to and from the airport. On-board assistance and carriage of mobility equipment is the responsibility of the airline.

In principle, airlines must also carry recognised assistance dogs in the cabin together with their owner. However, national legislation banning the cross-border transport of these animals may apply. Airports and airlines need to ensure their staff is adequately trained and aware in order to deal with different kinds of disabilities so that they are able to adapt the service to the specific needs of passengers.

The enforcement of the Regulation is EU Member States' responsibility. They must designate a National Enforcement Body (NEB) to be responsible for ensuring the rules are applied correctly by everyone. They must also receive and handle passenger complaints and inform passengers about their rights. In addition, Member States must have a penalty scheme in place to sanction infringements of the Regulation.

► Are these rules fit for purpose?

Many passengers with disabilities and their representative associations appreciate the added value the Regulation has brought in allowing them to fly, which was often not possible before. However, some passengers, as well as some reports from the NEBs and the industry, were critical towards some provisions of the Regulation that were not considered sufficient to prevent discrimination.



As a mitigating measure, in 2012 the Commission, in cooperation with all interested parties (for example the airlines and airports, associations for persons with disabilities and national authorities) drafted interpretative guidelines⁽²⁾ on the Regulation in order to clarify unclear provisions and provide

(2) Interpretative guidelines on the application of Regulation (EC) N° 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air – SWD(2012) 171 final of 11.6.2012.

recommendations to improve its application. These guidelines, which were published in June 2012 in time for the Paralympics Games in London, were welcomed by all these parties as balanced and proportionate.



Despite these efforts, some problems persist with the carriage of expensive mobility equipment, such as electric wheelchairs. Currently, airlines are liable under the limits of the Montreal Convention, which only recognises mobility equipment as baggage. Often the compensation offered under the Montreal Convention for the Unification of Certain Rules for International Carriage by Air is not sufficient to repair or replace for example a damaged wheelchair, which may have dramatic consequences for the owner who has to rely on a functioning wheelchair. The Commission set out to fill this gap in its 2013 proposal for a revision of Regulation 261/2004 and Regulation 2027/97, which is currently being negotiated in the European Parliament and Council.

Overall, however, after eight years of full application, it can be

said that the Regulation works well and is fit for purpose. This is confirmed by a 2014 Eurobarometer survey on passenger rights in all modes of transport. EU citizens were asked, among others, about their experience with assistance provided to passengers with disabilities or reduced mobility when travelling, and 81 percent of those who asked for such assistance were satisfied with it. Yet only 7 percent of respondents requested assistance. A recent survey from Airports Council International Europe (ACI EUROPE) reveals that 0.69 percent of all air passengers at EU airports ask for assistance and this number has only marginally increased since the last survey of 2013 (from 0.64 percent).

NEBs also receive relatively few complaints about the Regulation. This is illustrated in a working document the Commission services published in 2014. The regular meetings the Commission organises with NEBs confirm this low complaint rate: at the last meeting in November 2015, NEBs reported that the majority only received between 0 and 6 complaints in 2015, three Member States received between 12 and 21 complaints; and only one Member State stood out with 270 complaints, which is still very few compared to the complaints received under the Air Passenger Rights Regulation (Regulation (EC) 261/2004). However, the low complaint rate does not necessarily mean everything is perfect and it may be due to passengers' low awareness of their rights or to the fact that cases under Regulation 1107/2006 concern individual passengers rather than collective problems, as under Regulation 261/2004.

► Raising awareness and future activities

Passengers' awareness about their rights remains nevertheless a critical issue. While Member States have an obligation to inform passengers with disabilities or reduced mobility about their rights under the Regulation, and how to complain, the Commission has taken a leading role in raising awareness about passenger rights. Between 2009 and 2015 it carried out several information campaigns, created a free-of-charge smartphone application and disseminated a lot of information material: posters, leaflets and videos, including a specific video in several languages and with voice-over on the rights of persons with disabilities. A new online-based information campaign will be launched before the summer of 2016.

In addition, the Commission continues to hold regular meetings with NEBs and interested parties to ensure a close monitoring of how the Regulation is applied and to exchange good practices. These meetings and the forum they provide have already produced tangible results, for example Member State initiatives to improve the online information provided by airlines and airports, dedicated programmes for specific disabilities such as autism, or guidance for passengers needing specific equipment on board. Better awareness by passengers of their rights has also led to higher average pre-notification rates. This facilitates and improves the provision of assistance and reduces travellers' frustration. The Commission might, in the future, put together such good practices in a document to ensure an even better application of the Regulation and smoother air travel for PRMs. ■

For more information on passenger rights, please see:
http://ec.europa.eu/transport/themes/passengers/index_en.htm

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Objectives and challenges of the ECAC Sub-Group on Persons with Reduced Mobility

Teresa Antunes

Chair of the ECAC Facilitation Sub-Group on the Transport of Persons with Reduced Mobility



Created in 1992, the ECAC Facilitation Sub-Group on the Transport of Persons with Reduced Mobility continues to be very active in promoting guidance and good practices in the field, with the aim of harmonising a high quality approach throughout the ECAC region. Teresa Antunes, who chairs this group, describes the hot topics currently being discussed and the priorities for the near future.

International Standards and Recommended Practices regarding the facilitation of air transport of persons with disabilities and persons with reduced mobility (PRMs) are set out in ICAO Annex 9, Chapter 8. The “Manual on Access to Air Transport by Persons with Disabilities” (ICAO Doc 9984) consolidates the general principles in this regard, following the Convention on the Rights of Persons with Disabilities.

In the European Union, PRMs’ rights are protected under Regulation (EC) 1107/2006. These provisions are reflected in ECAC Doc. 30, Part I. ECAC Member States that are not members of the European Union can choose whether to follow the EU Regulation.

The objective of the Facilitation Sub-Group on the Transport of PRMs is to contribute to the development of good practices and quality standards, so that they can be implemented on a harmonised basis throughout the ECAC region.

The PRM Sub-Group comprises delegates from ECAC Member States, and observers from the European Commission and the European Aviation Safety Agency (EASA), disability organisations (European Disability Forum), organisations representing air carriers (AEA, ELFAA, ERA, IACA, IATA), crew (ECA, IFALPA), airports (ACI EUROPE) and tour operators (ECTAA). The United States, with which the Sub-Group holds regular co-ordination meetings, is invited to the plenary meetings on an ad hoc basis.

▶ Background

The first meeting of the Working Group on Facilitation (FAL) took place on 26-28 January 1988 and the FAL Sub-Group on Developments was created to prepare the documents in view of its first meeting in Paris on 17-18 December 1990.

The FAL Sub-Group was segmented and a dedicated group on disabled persons was created in 1992. The full original name was the ‘FAL Sub-Group on the Transport of Elderly or Disabled Persons’ and its first meeting took place in Paris (10 January 1992).

It was during its sixth meeting, held in Lufthansa Seeheim in 1993, that the current name was adopted: Facilitation Sub-Group on the Transport of Persons with Reduced Mobility.

Since then, the Sub-Group has been chaired by Mr Yves Toffin (France), Mr Vollrath Brusén (Sweden), Ms Ann Frye (United Kingdom) and Ms Cinzia Mariani (Italy).

Two persons who contributed and influenced the work of the Sub-Group for a long time should be mentioned: Ms Ann Frye, who was chair from 1996 (FAL-SG-PRM/11) until September 2011 (FAL-SG-PRM/48), and Mr Jürgen Wächtler (ACI EUROPE), the most long-standing participant in the Sub-Group, from 1992 until 2015.





Last meeting of the PRM Sub-Group in February 2016

► Doc. 30, Part I, Section 5

Doc. 30, Part I, Section 5 defines and recommends common rules for the protection and provision of assistance to disabled persons and persons with reduced mobility (PRMs) travelling by air, so that they can be implemented on a harmonised basis in all ECAC Member States.

The Sub-Group ensures that Doc. 30 Recommendations (Section 5 and related Annexes) are fully consistent with EU Regulation 1107/2006. Annexes to Doc. 30 provide guidance and best practices to assist in the implementation of these recommendations.

► On-going work

COMPLAINTS DATABASE

In 2010, the Sub-Group decided to develop a template for complaint recording, which has been improved several times. The ECAC Member States have provided the ECAC Secretariat on a voluntary basis with data collected using the agreed template and complaint codes.

The objective of this template is to provide a common format for complaint records received by Member States' National Enforcement Bodies (NEBs), airlines, airports and agents, in application of

EU Regulation 1107/2006 and ECAC Doc. 30, Part I, Section 5. It provides a common coding for areas of complaint, a consistent anonymous summary of complaints data across ECAC Member States and a tool for spotting complaints and identifying areas of concern in the implementation of the two aforementioned documents. The overall aim is to help ensure that the quality of the PRM experience when travelling by air transport is improved in the future.

UPDATING DOC. 30, PART I

The Sub-Group must regularly check the need to update Doc. 30, Part I in order to ensure consistency with ICAO Annex 9 and Regulation 1107/2006, and to keep abreast of developments in air transport in several domains.

As part of its mission, the Sub-Group cooperates with observers (ACI EUROPE, AEA, EASA, EBAA, ECA/IFALPA, EDF, ERA, European Commission, IACA, IAOPA, IATA). It has also established close cooperation with the United States Department of Transport (DoT).

The Sub-Group usually works with small study groups that take care of specific tasks and are responsible for delivering the results in due time, during the Sub-Group ordinary meetings. Currently, the Sub-Group has established four study groups dedicated to specific on-going topics of interest.

► Priorities for 2016

NEW ANNEX 5-J: GUIDELINES ON WEBSITES' INFORMATION FOR PERSONS WITH DISABILITIES AND PRMS

The importance of the information provided to passengers via internet is growing day by day, as new technologies allow an easy and direct access to the travelling public. For PRMs, the benefits of web-based services are very important as they are able to pre-notify in detail which services they will require. ECAC Member States are aware of the importance and potential benefits of defining a harmonised approach to how the information is provided by airlines and airports. In March 2016, the Sub-Group adopted a new Annex to Doc. 30, Part I, which included guidelines on websites' information to PRMs.

REVIEW OF ANNEX 5-F (ADVISORY NOTE ON PROCEDURES FOR CARRYING PERSONS WITH DISABILITIES AND PRMS)

This review proved necessary after the recently issued EASA Decision 2016/004/R on the Carriage of Special Categories of Passengers (SCPs). The Sub-Group will check if it should lead to any amendments to Doc. 30, Part I.

ASSESSMENT MATRIX FOR ECAC DOC. 30, PART I, SECTION 5

The matrix originally developed in 2009 as a tool to harmonise the

monitoring activities among ECAC Member States has been updated. A pilot inspection using the matrix will take place this year and the results of the experience will be shared during a workshop in Lisbon in October 2016.

WORKSHOP ON BEST PRACTICES FOR NATIONAL ENFORCEMENT BODIES

The same workshop (Lisbon, October 2016) will also look into best practices for National Enforcement Bodies (NEBs) and share different approaches on how the enforcement of Doc. 30 Recommendations and the EU Regulation is monitored.

CONTRIBUTIONS TO THE ON-GOING REVIEW OF THE ICAO FACILITATION MANUAL

As the Facilitation Manual (ICAO Doc 9957) is currently being reviewed, the Sub-Group is considering the possibility of presenting some contributions regarding the transport of persons with disabilities and PRMs.

Other topics under the spotlight

There are some remaining problems and concerns, which will continue to be the subject of the Sub-Group's attention. The first is the need for pre-notification. The Sub-Group will continue to look at the low levels of pre-notification of some airports and airlines. It is crucial to raise awareness of pre-notification in order to improve the efficiency and rationality of the assistance.

The Sub-Group insists on the correct transmission of assistance needs. Recognising the problems caused by the wrong use of codes regarding certain PRMs – mainly elderly people and persons with hidden disabilities – the Sub-Group

is investigating the possibility of adding new codes to the IATA code list (reproduced in ECAC Doc. 30, Part I, Annex 5-A).

There are still reports of inappropriate and insensitive handling of PRMs, which are urgent to eliminate. Special attention should therefore be dedicated to staff training, including for the security screeners.

Member States continue to strive for more comprehensive and accessible information during the booking process as well as about assistance requests, services available onboard aircraft and at airports, and regarding distances between the different areas of a terminal building.

Other concerns are related to the seat allocation process (providing PRMs with inappropriate seats), inconsistent service quality coverage at airports on all parts of the passenger's journey (for example from arrival points to check-in on departure, and from baggage reclaim to car park on arrival), inconsistencies in the application of airline policies on the circumstances in which airlines might refuse carriage for a PRM on safety grounds, and restrictions on carriage of mobility equipment.

The Sub-Group also follows the developments and best practices across Europe (for example on the studies about hidden disabilities) with the utmost attention.



Compliance monitoring

Regularly, some of the most interesting and valuable discussions held during the Sub-Group meetings have been related to different forms of compliance monitoring. Some Member States focus on audits and inspections. Others prefer to disseminate formal letters and carry out surveys and/or issue questionnaires. The debate on the search for different effectiveness measures and their results becomes very enriching for the different participants.

Is legislation and international guidance sufficient and effective?

Throughout the European Union, there is a general perception of the good functioning of Regulation 1107/2006.

Regarding the recommended common rules, Doc. 30, Part I, Section 5 and its Annexes comprises a complete guidance. Nevertheless, the Sub-Group keeps track of developments in civil aviation – for example the new Annex J – on websites' information.

The Sub-Group does not foresee any immediate need for new common legislation. Instead it will focus on the revision and improvement of Doc. 30, Part I, Section 5, and on sharing best practices of NEBs and industry actors across Europe.

The number of people with disabilities and with reduced mobility travelling by air is increasing in a remarkable way. The Sub-Group will therefore be attentive and proactive, helping ECAC Member States to face the new challenges of the future. ■

Teresa Antunes joined the Portuguese Civil Aviation Authority (ANAC) in July 2012, to work at the Facilitation and Security Bureau. In charge of facilitation matters, she represents ANAC in several international organisations. Currently, Ms Antunes chairs the ECAC Facilitation Sub-Group on the Transport of Persons with Reduced Mobility and is a Member of the ICAO Facilitation Panel.



Facilitation in The Netherlands: customs' innovations set the scene for the next decade

Gijs van Son

*Customs and Cargo issues Focal Point
of the ECAC Facilitation Working Group*

This article introduces us to the new air cargo provisions under the Union Customs Code (UCC) – now applicable throughout the customs territory of the European Union since 1 May 2016 – and describes the 'Schiphol SmartGate Cargo' programme, a Dutch innovation that brings together public and private sectors for a safer, faster and more efficient cargo handling.

Customs authorities have to ensure the smooth flow of goods and facilitate legitimate trade, whilst applying the necessary controls to guarantee the protection of the health and safety of the citizens of the customs territory of the European Union (EU).

To strike the right balance between these apparently contradictory demands, customs procedures and control methods have to be modernised, and cooperation between the different border law enforcement agencies has to be further improved.

This article gives information about:

- **Union Customs Code (UCC)**, the new customs legislation is applicable throughout the EU customs territory since 1 May 2016. It repealed the Community Customs Code (CCC), which dated back to 1992. The UCC modernises and harmonises many existing procedures, introduces a number of new concepts and enables customs to focus more on trade facilitation.
- **Cooperation between border law enforcement agencies** within the 'Schiphol SmartGate Cargo' programme. This is a Dutch innovative cooperation initiative between government authorities and air cargo industry. Its goal is to achieve a safer, faster, more efficient and cheaper cargo through the cooperative han-

dling of monitoring, speed, safety and reliability within the air cargo supply chain.

► The new provisions regulating air cargo under the Union Customs Code

The UCC is part of the modernisation of customs and serves as the new framework Regulation on the rules and procedures for customs throughout the EU. During a transitional period that will last until the end of 2020, a phased implementation of the new legislation and an introduction of new pan-European IT-systems is foreseen.

KEY DATES FOR THE TRANSITION AND IMPLEMENTATION OF THE NEW UNION CUSTOMS CODE

Date	Milestone
30/10/13	The Union Customs Code enters into force
01/05/16	The Community Customs Code is repealed
01/05/16	The Union Customs Code becomes applicable
01/01/21	All IT systems to be fully operational

AIMS OF THE NEW REGULATION

The aims of the UCC and its implementing provisions are:

- streamlining customs legislation and procedures;
- offering greater legal certainty and uniformity to companies;
- introducing wide-ranging provisions which will allow customs decisions and authorisations to be valid across the EU;
- increasing clarity for customs officials throughout the EU;
- simplifying customs rules and procedures and facilitating more efficient customs transactions in line with modern-day needs;
- completing the shift by customs authorities to a paperless and fully electronic environment;
- establishing common data requirements as the basis for new IT systems linking Member States' customs administrations to ensure a seamless exchange of information;
- reinforcing smoother customs procedures for compliant and trustworthy economic operators ('Authorised Economic Operators' or 'AEOs'); and
- improving risk management in order to reinforce the fight against trade in illicit and prohibited goods, terrorism and other criminal activities.

STEPS FOR A SMOOTH TRANSITION

The phased implementation until the end of 2020 is split up in an *IT transitional time period*⁽¹⁾ and an *administrative transitional time period*⁽²⁾. The IT related transitional time period is necessary to develop completely new pan-European IT systems whilst the already existing ones have to be adapted in line with the UCC technical requirements.

The administrative transitional time period allows for the alignment of the current customs procedures and authorisations with the UCC requirements and the implementation of new customs procedures, such as 'centralised clearance'. 'Centralised clearance' allows an economic operator to lodge a customs declaration to the customs office where it is established, whilst the goods are presented at another customs office situated in one of the 27 other EU Member States.

Of course, the interests of companies are also taken into account with regard to the transitional time period, as they too need enough time to adapt their IT-systems and align their procedures with the UCC requirements.

THE MOST SIGNIFICANT UCC CHANGES RELATED TO AIR CARGO

Pre-loading of Entry Summary Declaration data for air cargo

As soon as the pan-European IT-system ICS 2.0 [see below] is applicable, a pre-loading declaration containing the '7+1 raw dataset*' has to be lodged at the latest before the loading of goods on to an aircraft in a third country. This legal requirement is based upon the SAFE Framework of Standards to Secure and Facilitate Global Trade. The procedure has been tested with the participation of the relevant trade representatives and aims at facilitating a first layer of security risk analysis in close cooperation with civil aviation authorities.

Risk analysis with regard to aviation security is performed on the '7+1 dataset'⁽³⁾ by customs. In case of an alleged 'high risk consignment', the responsible customs authority can send a request for further information to the person who lodged the pre-loading information. As a result of the customs' request, the consignment cannot be loaded until the alleged aviation security risks have been declared mitigated by the responsible aviation security authority.

IT-system 'Import Control System 2.0.' (ICS 2.0)

For the electronic exchange of information between customs authorities and between customs authorities and economic operators, a new pan-European IT-system, called 'ICS 2.0', is being developed.

The goal of this new IT-system is to strengthen the safety and security of the supply chain by:

- improving data quality (i.e. by using the EU Customs Data Model, based upon the World Customs Organization (WCO) Data Model);
- enabling multiple filings (several persons in the logistic chain are enabled to deliver the required data); and
- strengthening the availability and sharing of data (i.e. pre-loading data and storage of data in a central common repository for use by Member States' authorities).

The implementation of 'ICS 2.0' is foreseen in 2020. Meanwhile the current processes with regard to the entry formalities as prescribed in the CCC remain unaltered.



(1) Example of an activity covered by the IT transitional time period:

'Customs Decisions' is a completely new pan-European IT-system. This system aims to harmonise the processes related to the application for a customs decision, the decision taking and the decision management through the standardisation and electronic management of application and decision/authorisation data across the EU. The system will facilitate consultations during the decision taking period and the management of the authorisations process. Implementation is foreseen towards the end of 2017.

(2) Example of an activity covered by the administrative transitional time period:

AEO authorisations issued prior to 1 May 2016 will have to be re-assessed in light of the new UCC requirements. The new AEO requirement 'practical experience or professional qualifications' and some other changes within the current AEO-criteria have to be re-assessed before 1 May 2019.

(3) The identified 7 + 1 data are:

1. Number of packages
 2. Gross weight
 3. Brief cargo description
 4. Shipper name
 5. Shipper address
 6. Consignee name
 7. Consignee address
- + The house air waybill number





► Cooperation between border law enforcement agencies: the Schiphol Smart-Gate Cargo' initiative

It is expected that the flow of goods entering the EU will even further increase in the coming years. In order to strike the right balance between control and facilitation, cooperation between border law enforcement agencies is essential for a safe, fast and efficient cargo handling.

A good example of a close cooperation between border law enforcement agencies is the Joint Inspection Centre (JIC) that is currently under construction at Schiphol Airport. Due to open in September 2016, the JIC will be a multifunctional building in which 24/7 physical controls and monitoring processes will take place. The gross floor area of the new building will be approximately 6 300 m² and will house various enforcement and inspection agencies⁽¹⁾. The authorities will work collaboratively towards a so-called 'one-stop-shop model', integrating as much as possible the controls that will be performed during off-peak periods in

the logistics flow. This means that goods flows and checks by border law enforcement agencies will be carried out quickly and efficiently.

ADVANCED CARGO SCANNING

The JIC site will be connected to the already existing site of the Unit Load Device (ULD) scan, which has recently been modernised. Firstly, the quality of the scan images has improved enormously by using the latest advanced technology. Secondly, the system transporting the selected cargo to the ULD scan has been improved. By increasing the weight capacity to 4 500 kilograms per meter, more cargo can be scanned in one go. With these upgrades, the Dutch customs have one of the most advanced cargo scanning systems in the world.

PUBLIC-PRIVATE COOPERATION IN THE AIR CARGO SECTOR

JIC is part of an innovative public-private partnership between governmental authorities and air cargo industry at Schiphol Airport called 'Schiphol SmartGate Cargo'. The aim of the concept is to achieve a safer, faster, more efficient and cheaper freight handling at Schiphol Airport.

The pilot remote scanning, nuclear detection, mobile backscatter, mobile container scan and scan mobile are also part of the 'Schiphol SmartGate Cargo' concept. The remote scanning facility is one of the first international public-private collaborative projects in the air cargo sector.

• **Remote scanning pilots** are currently being conducted by a number of forwarding companies that have direct access to the apron

of Schiphol airport. They are scanning shipments selected by the customs office with their own scanners. Customs officers from the JIC send a scanning request to the company holding the cargo to be checked. The company then reviews the selected shipments using its own X-ray equipment. The JIC staff receives these images remotely, in real time, analyses them, and then decides whether an additional physical control has to take place.

• **Nuclear detection** will also be optimally integrated into the logistical chain for the outbound cargo at Schiphol airport. Nuclear detection gates will be located at all access gates of cargo handling companies located at Schiphol Airport. Customs operators in the central command post of the JIC will permanently and accurately monitor all passages. In the event of a radiation alert, the vehicle will immediately be stopped and inspected by customs officers and/or officers from the Department of Transport.

► Conclusion

With the modernised Union Customs Code and the intensified cooperation between other customs border law enforcement agencies, customs authorities have set the framework for the coming decade. In doing so, they aim at maintaining a proper balance between customs controls and the facilitation of legal trade, the security and safety of the European Union and its residents, and the protection of the environment. ■

(1) Such as the Inspection Environment and Transport (ILT), Authority for Nuclear Safety and Radiation Protection (ANVS), the Royal Netherlands Marechaussee (KMar) and the Netherland Food and Consumer Product Safety Authority (NVWA)

Gijs van Son has been a policy advisor at the Ministry of Finance in the Netherlands since 2015. His main tasks are risk management and facilitation-related matters for all modes of transport. Before joining the Ministry of Finance, Mr van Son was policy advisor on legal and international affairs for the Customs Administration of the Netherlands. In this role, he was involved in implementing the 'Authorised Economic Operators' concept in the various customs processes. During the 51st meeting of the ECAC Facilitation Working Group, Mr. van Son was appointed focal point for cargo and customs issues.

Trade facilitation: a matter of partnership

Carlos Grau Tanner

Director General, Global Express Association



Trade facilitation has the potential to unlock substantial economic benefits yet requires close cooperation amongst government agencies, and between them and the industry. In this article, Carlos Grau Tanner describes the challenges faced by express delivery operators and offers an industry perspective on trade facilitation.

The four members of the Global Express Association (DHL Express, FedEx Express, TNT and UPS) are at the heart of global trade, and global value chains in particular.

Their business is to convey high-value added cargo, virtually from any doorstep on the planet to any other doorstep on the planet, in a secure, fast and time-definite manner. Goods can be delivered, depending on the distance and the product chosen by the client, the same day, overnight, or up to a maximum of 72 hours after pick-up. During this time, the goods remain under the express carrier's control.

Express delivery networks span the globe. Our members are present in 220 countries and territories. They operate over 1700 aircraft and 200 000 ground vehicles (from bikes to lorries). From an air transport perspective, and unlike passenger airlines, they operate multiple hub-and-spoke networks with hubs in Europe, North America and Asia. There, millions of parcels are transhipped every night, in a few hours, to make sure they reach their final destination on time.

GEA members have invested heavily in information technology too, to make sure every shipment is associated with an electronic record that contains all the necessary information about it – including air cargo security. This information is stored in proprietary IT systems and can be conveyed and retrieved electronically worldwide as required.

▶ An increasing demand for express delivery

Over the last few years, despite the economic crisis, demand for express delivery has increased around 7 percent annually on average. Interestingly, the highest growth in demand is now coming from what the World Trade Organization calls 'South-South' and 'South-North' countries, that is, out of developing countries.

Express delivery clients include large multinationals that operate worldwide, just-in-time manufacturing networks. A clutch made in Vietnam will be at a German assembly line the next day in order to be installed in a car. The latest tablet will reach several hundred stores in different countries on time for a simultaneous release on a particular day, at a particular hour, without anyone catching a glimpse of it until it is time. A spare part made in Switzerland will be delivered to a ship whose engine has broken down in Callao, Peru, so it can resume its voyage as quickly as possible.

A vast majority of express delivery clients, however, are small and medium sized enterprises. They rely on express delivery to reach their export markets before the competition. A cheese maker in France will send samples to a food store that could be a potential

client in the USA. And many law firms, banks and other corporations will convey important documents by express delivery. Your replacement credit card might thus reach you in a hotel abroad, 24 hours after you ordered it.

All in all, over 30 million shipments travel through our networks daily. Many are international shipments. They will cross one or indeed several borders en route to their destination. How fast that happens depends on how efficiently a country's authorities run that border.

▶ 'Border efficiency' and express delivery facilitation

As far as border management is concerned, there is much room for improvement. In many countries, several agencies – not only customs – can 'hold' a shipment at the border. An express delivery carrier's IT systems can convey all the necessary information to them ahead of arrival, so that they can run their own risk analysis and decide swiftly whether they need to inspect a shipment or, on the contrary, they can release it immediately. But many are not in a position to receive and process such information, and in many countries border agencies cannot share data and decisions amongst them.

This results in widely differing levels of 'holds'. Even in the European Union, there are countries where almost one in two express delivery shipments will not be immediately released. For an investor, this is discouraging. In an era where companies can pick and choose locations for manufacturing and distribution facilities, countries with the most efficient borders are immensely attractive. And vice-versa.

In sum, trade facilitation – making trade easier – is a key factor for the success not only of the express delivery business model but also of the industries that rely on it every day. And, most importantly, trade facilitation has also become a key factor for a country's competitiveness on the international scene.

► The WTO Trade Facilitation Agreement

To address such issues, the World Trade Organization (WTO) adopted a multilateral treaty on Trade Facilitation (the Trade Facilitation Agreement, or TFA for short) in Bali in December 2013.

The WTO's 162 member countries are now in the process of ratifying the Trade Facilitation Agreement. Seventy-seven of them have already done so. At this pace, it is likely to come into force by the end of this year. As a WTO instrument, it will become binding on all Member States at some point: immedi-

ately upon entry into force for developed countries; and, for developing and least developed countries, as specified in their accession instruments. Moreover, it will be enforceable and subject to the WTO's Dispute Resolution Mechanism. This is new. Previously existing instruments in this area, such as the World Customs Organization's Revised Kyoto Convention, were not enforceable. Yet, the two treaties intertwine very nicely: one provides high level, enforceable obligations. The other provides the details for implementing them.

The international community's attention is now focusing on the need to implement the TFA after it comes into force. A host of donor agencies are rolling out plans to assist countries financially and technically in their endeavours.

The treaty's compulsory nature is far from the only reason for this. Even more convincing are the economic benefits it will bring. Every single economic study on the benefits of implementing the TFA coincides: they are huge. The OECD has estimated that it could reduce the cost of trade by up to 15 percent. The World Economic Forum for its part estimates that 'if all countries reduce supply chain barriers halfway to global best practice, global GDP could increase by 4.7 percent and world trade by 14.5 percent, far outweighing the benefits from the elimination of all import tariffs'.

In short, the TFA has the potential to deliver much-needed economic growth. But the devil will be in the details.

In the European Union (EU), for instance, the new Union Customs Code (UCC) will be rolled out, after two decades of negotiations, in May 2016. Will it reflect the TFA correctly?

The TFA provides for a number of provisions aiming at more efficient and expedited clearance of goods, including special provisions on 'expedited shipments'. It states that each signatory shall adopt or maintain procedures allowing for the expedited release of at least those goods entered through air cargo facilities to persons who apply for such treatment, while maintaining customs control (article 8.1).

Under the UCC, however, the simplified way of clearing low value shipments has been 'reserved' only for postal consignments. Thus, any simplified treatment is not based on the types and nature of goods but on who is carrying them on (both at import and export). In this case, equal treatment between express and postal operators should be preserved.



► Impact on Authorised Economic Operators

Authorised Economic Operators also spring to mind in this context, especially as it is an area in which aviation authorities have an important role to play.

Under the TFA, so-called 'authorised operators' shall be granted a number of benefits identified in the treaty – at least three out of a list of seven. AEOs were introduced in the EU back in 2008, but there was limited uptake. It is an expensive label to get and benefits remain limited. The idea was to expand the list of benefits with the introduction of the UCC, but the latest developments go in the opposite direction. For instance, the UCC imposes a mandatory guarantee for almost all customs procedures. Yet, the EC's interpretation is that even an AEO is not eligible for a guarantee waiver. The two things combined could erect an important obstacle to trade by SMEs. Worse, if this model is exported through technical assistance to other countries as part of the TFA implementation efforts, bad practice might spread.

AEOs are an area, too, in which cooperation between civil aviation authorities and customs can be enhanced to reduce the burden on industry, for instance by eliminating duplicated inspections.

► Possible impact of Pre Loading Advance Cargo Information

The possible rolling out of PLACI (Pre Loading Advance Cargo Information) in Europe could also impact trade facilitation – positively



or negatively. For express shipments, as we have seen, time is everything. PLACI systems will require the ability to process vast amounts of information – at shipment level – very fast, in a matter of minutes. It will also require a central, joint risk assessment in Europe. Where an assessment points to the presence of an Improvised Explosive Device (IED), authorities must be able to share it amongst themselves, with the carriers, and with their counterparts at the cargo's origin at once so that mitigation measures can be applied there without delaying legitimate cargo. A badly implemented PLACI, on the contrary, could have devastating effects on cargo flows, trade and on the economy as a whole.

► Conclusion

Trade facilitation is now at the top of the international agenda. It has the potential to unlock substantial economic benefits that will be widely shared. But at the same time it requires close cooperation, indeed a partnership, amongst government agencies, and between them and industry. For their part, GEA members are ready and willing to enhance their cooperation with civil aviation, customs and other authorities to reach that goal. There are only incentives to do so. ■

Carlos Grau Tanner is Director General of the Global Express Association (GEA), which he joined in March 2010. GEA represents the four leading express delivery carriers (DHL Express, FedEx Express, TNT and UPS). In this capacity, he is involved in international policy issues in the areas of trade, trade facilitation, customs, postal regulation and civil aviation, including air cargo security. Mr Grau has a law degree from the University of Barcelona, Spain, and a Master of Arts in Law and Diplomacy from The Fletcher School at Tufts University in Boston, USA. Before joining GEA, Mr Grau was Director, Government and Industry Affairs at the International Air Transport Association (IATA) and General Manager, Government and Industry Affairs at Swissair. He started his career as an international civil servant at the Council of Europe in Strasbourg, France. Mr Grau is a dual Spanish-Swiss citizen.



The passenger at the heart of the airport business

Federico Bonaudi

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The past 15 years have seen an extraordinary shift in the way European airports see themselves – as well as in the way they operate. Through the spread of more open skies, the rise of new airline business models as well as the corporatisation of airports and the arrival of new shareholders, the airport business has changed irrevocably. These changes have also coincided with the rise of the internet and more recently, the emergence of the so-called ‘empowered passenger’.

For all of these reasons, airports in Europe know that their future lies in attracting a broad mix of airlines and routes, and in making every effort to ensure passengers feel welcome.

European airports are seeking to enhance the passenger experience through efficient operations, an ever-increasing array of communications platforms and creative concepts to inspire.

With that in mind, ACI EUROPE’s Guidelines for Passenger Services at European Airports, upon which this article is based, offer a holistic approach, looking at how passenger needs and expectations have evolved and at the role and remits of airports’ operations and their partners in shaping the overall passenger experience.

Airports have evolved from being mere infrastructure providers to businesses on their own. The liberalisation of the European market in the 90s and the ever-growing airport competition led to differentiation through the development of destinations served, access, airport facilities landside and airside and passenger services.

As part of this dynamic process, the evolution continues beyond physical infrastructure and the provision of more and better services. Different actors within airport boundaries need to be co-ordinated and their cooperation enhanced in order to deliver more efficiency, comply with regulations as well as passengers’ demands and higher expectations.

The role of European airports as ‘Ground Co-ordinators’ should be recognised and strengthened in order to guarantee the quality of the services offered by suppliers, air carriers, ground handling service providers and air navigation service providers.

Regulators should provide the framework required to achieve this objective.

Each airport may be different – located in a different country or region, have a different mix of traffic or passengers or even regard itself as a seasonal airport. But they all have one thing in common: people as passengers or guests, regardless of their cultural background, age or experience in flying. Although each passenger perceives the world differently, human beings share many innate reactions.

Thousands of years of evolution mean that we all react similarly to certain situations, events and incidents which can trigger stress and discomfort. Most people feel insecure in the dark, when subjected to high noise, undue cold or heat, visual glare or distraction, unclear or confusing information, crowded areas, or whenever affected – either consciously or unconsciously – by other external physical influences beyond our control. In addition, psychological factors, such as expectations and fears, may increase uncertainty.

There is much room for debate on the subject of perceptions and expectations – which are always subjective – and a survey of 1000

people is likely to produce 1000 different opinions and views. Therefore it is advisable to rely on scientific studies and reports of experiences from other sources in the same industry or in related sectors.

From an airport managing body’s point of view, this requires a new approach. Airports must be designed, built and operated with the passenger at their core. Co-ordination, cooperation and information flow amongst different partners are crucial in order to ensure the overall quality of the passenger experience.

► An innovative approach for passenger categorisation

The traditional categorisation is based on the different products offered by air carriers to passengers. These products are linked to different levels of services, for instance time waiting in line for check-in, number of bags allowed, lounge access, frequency of travel, passenger flow, etc.

Passengers can also be seen from a different perspective since the passenger experience also depends on the passengers' own feelings and their mindset when they travel.

Elderly people and first-time travellers may need more personalised services. Families need more space and spend more time in security lines. Passengers from different cultural backgrounds may interpret signage differently and request different kinds of food and beverages. Airport managing bodies need to find ways to give information to passengers in their language and use commonly understood signs or pictograms. In some cultures the meaning of colours or even numbers may be interpreted differently, affecting the behaviour and feeling of safety.

Segmentation can be based on people's behaviours but that is only one dimension that can be attached to a passenger experience. Examples of dimensions relevant to designing the passenger experience could include time spent at the airport before departure, and travel duration. All dimensions can be cross-referenced in order to create a map of passenger needs and expectations, as shown in the graphic below.

▶ Passenger needs and expectations

Once an airport managing body has identified what categories of passengers are likely to use their terminal facilities, it is time to determine – based also on the type of traffic (international, domestic, etc.) and applicable regulatory requirements - what services shall be offered.

Airports can be operated at the minimum level, complying with the local, regional, national and international regulations. However, in order to differentiate their services, the minimum level may not be enough. We have identified three levels of passenger experience: **required**, **expected** and **valued**. These levels can be used as tools to set goals for passenger services.

Firstly, the 'required' level consists of the 'must-do' mandatory processes and requirements to facilities set by either authorities, airport operators or customers. Secondly, the 'expected' level in customers' minds implies a series of services the airport must be able to deliver in order to be considered a good airport. Thirdly, the 'valued' level consists of services that surprise passengers in a positive way. These three levels can differ from airport to airport – and from terminal to terminal within the same airport, depending on the airport's operational approach and the customer's currently relevant needs.

REQUIRED

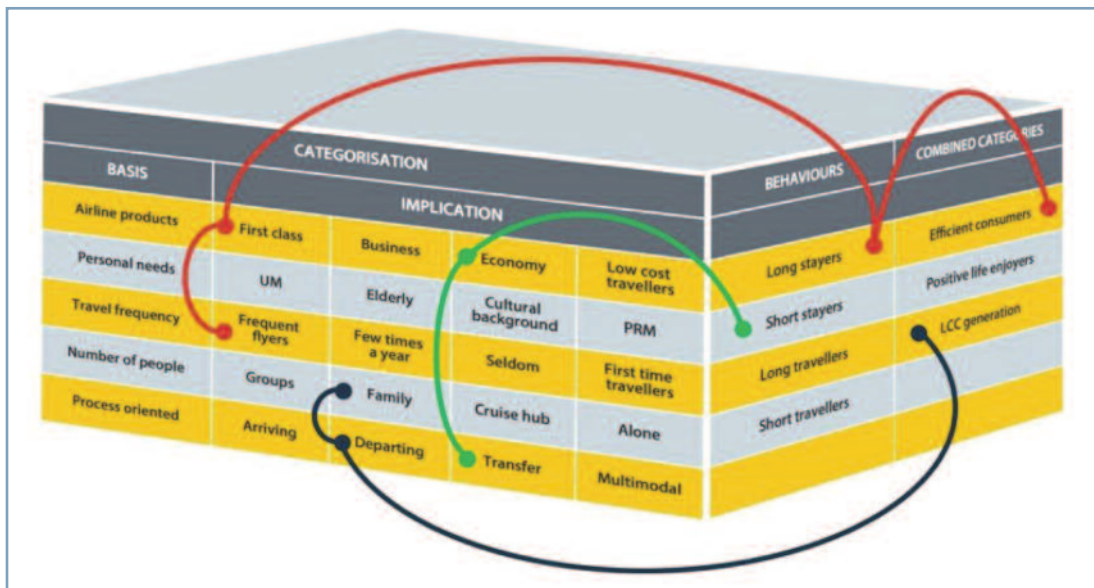
- The airport offers basic services to enable passenger traffic. This could be a regional airport with point-to-point traffic and often low-cost carriers.
- Level of service meeting regulatory requirements and basic passenger needs
- Premises are clean, the processes meet the official requirements and the traffic mix is supported by the necessary services.

EXPECTED

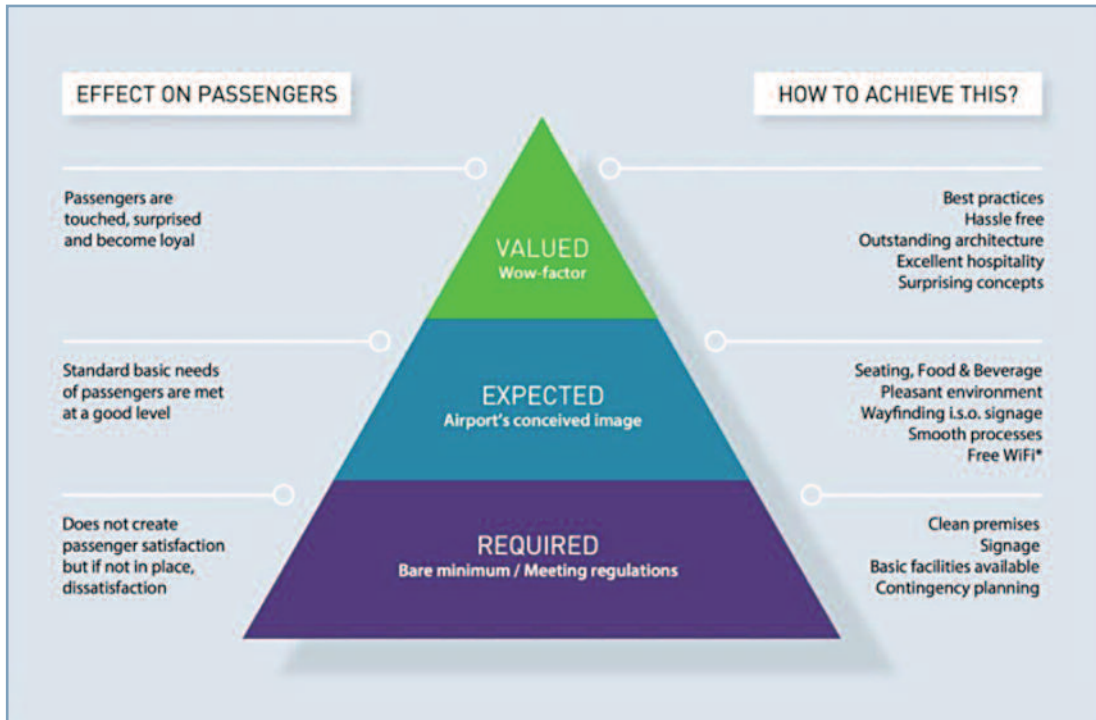
- The airport wants to support a varied mix of traffic and is in competition with surrounding airports or other modes of traffic.
- The airport may be the country's main airport, has been performing well in the past and needs to maintain a good level of overall service.
- This level presupposes that there are already some high-level services in place, in particular in the commercial offer.

VALUED

- Value can be added by introducing new ways to go through the compulsory steps. It can mean dynamic signage or guidance via personal devices.
- The element of "wow factor" needs to be there, and this can be a very simple differentiation tool or major development in what the passenger feels, sees or hears.
- Over time, some elements become expected so constant renewal is a must (free and fast Wi-Fi offered by the airport is highly valued at the moment, but is becoming an expected norm for a good airport).



► Pyramid of passenger perception levels



► The 3P Approach (Premises-Processes-People)

The three main elements: premises - processes - people, together form the pillars of the passenger experience.

The design of the **premises** needs to be functional, but also needs appeal for the customer and provide good ambience. Terminals must be clean, attractive, easy to navigate and identifiable, representative of the location of the airport.

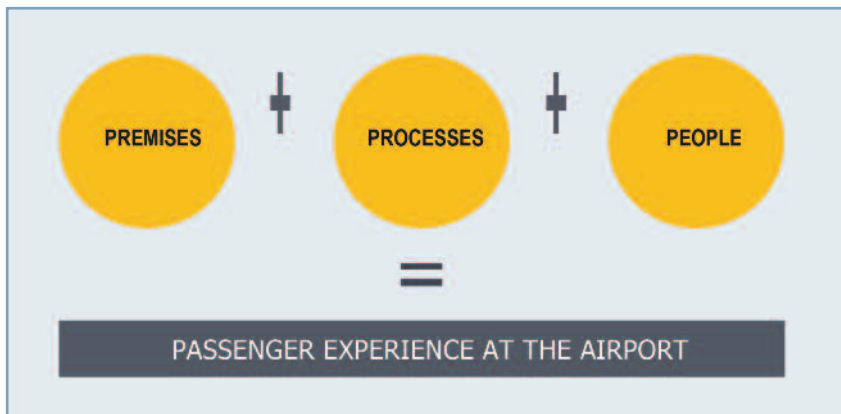
The **processes** at the airport must run smoothly, avoiding unnecessary steps along the way and

be predictable without major negative surprises. The signage at an airport must indicate and guide the passenger through the relevant processes and talk to the passengers in a language they understand.

Service is always provided by **people** to other people. Even with the introduction of self-service in different phases of the process, Airport managing bodies must acknowledge the need for touchpoints where staff assistance is needed and welcomed. Airport

managing bodies must treat passengers with respect, taking into account cultural differences and the needs of different passenger personalities.

Balance between these three elements is essential. If premises are state-of-the-art design, but the processes are not clear and easily understood, the experience will not be good. One negative interaction with a member of the airport staff can also ruin the passenger experience.





► Conclusion: Shaping the passenger experience

1

Categorise, identify and segment your passengers.

2

Know your airport. Define your cluster.

3

**Benchmark with comparable airports and focus on Premises, Processes and People where you have:
a) Larger gaps, b) Higher control, c) Higher stress levels.**

4

Analyse the status of your pyramids and ensure Required, strengthen Expected and find your Valued (WOW) factors.

5

Shape solutions. Don't miss any of the 3Ps (Premises, Processes and People).

Federico Bonaudi joined ACI EUROPE in September 2008 and covers policy developments relating to facilitation, parliamentary affairs and regional airports. Prior to joining ACI EUROPE, he worked at the AeroSpace and Defence Industries Association of Europe (ASD) where he was Project Manager (2006-2008). He has extensive experience of international and European affairs, having worked in a number of positions at the Ministry of Foreign Affairs in Uruguay (1994-2006). Mr Bonaudi has a BA in International Relations from the Universidad de la República in Uruguay and an MA from the Diplomatic Academy of the Ministry of Foreign Affairs in Uruguay. A Belgian and Uruguayan national, Mr Bonaudi speaks fluent English, French, Italian, Spanish and Portuguese.



ICAO Legal Committee: the latest developments in question in international air transport law

Terry Olson
Chair of the ICAO Legal Committee

ICAO is probably best known within the civil aviation community through its technical entities, in charge of developing guidance to make sure aircraft fly safely, are operated by skilled pilots, receive adequate maintenance, follow appropriate routes and are supported by well-trained air navigation supervisors on the ground. Another major aspect of the role of ICAO is to elaborate and implement legal norms of utmost importance for all civil aviation stakeholders throughout the world. These legal norms belong first to treaty law.

Since the Chicago Convention of 1944, many conventions or protocols have been negotiated and adopted under the auspices of ICAO. Other norms belong to “soft law”, bearing various names (circulars, manuals, etc.). The procedure to adopt and amend them is usually lighter. In purely legal terms their binding authority is also different but, in the real aviation world, most of these ICAO soft law norms are well known and widely observed. Terry Olson describes the important role played by the ICAO Legal Committee (ICAO/LC) in this field.

▶ How does ICAO/LC work?

All Member States are members of ICAO/LC, but usually around 60 States actually send delegates. The 36th and last session, which took place at the end of 2015, was attended by 61 States. The European co-ordination was skilfully undertaken by Ms Susanna Metsälampi (Finland) who chairs the ECAC Legal Task Force.

ICAO/LC sessions are also attended by observers from international organisations or NGOs, usually about ten of them. The European Commission and EUROCONTROL usually attend. For the first time during the 36th session, ECAC appointed a representative, Ms Patricia Reverdy.

ICAO/LC operates in connection with the President of the ICAO Council, the ICAO Secretary General and the ICAO Secretariat. Within the ICAO Secretariat, ICAO/LC is supported by the Legal Affairs and External Relations Bureau (LEB), now headed by Mr John Augustin whose deputy is Mr Jiefang Huang. Between sessions, the ICAO/LC Bureau and LEB co-ordinate in order to undertake the work that has

been agreed. That will be the case, for instance, when it has been decided to conduct a survey or send a questionnaire to States, or to set up a legal task force on a given subject. Taking into account that LEB has a lot of tasks to fulfil apart from the ICAO/LC follow-up, its legal expertise and cooperation is of utmost importance, since ICAO/LC does not have any specifically dedicated working force of its own.

The ICAO/LC Bureau includes five officers, a chairperson and four vice-chairpersons, currently: Ms Tan (Singapore), Mr Luongo (Argentina), Mr Eid (Lebanon) and Mr Mabaso (South Africa). Such officers usually reflect the diversity of both geographical regions and legal systems (civil law/common law). The Bureau is not elected for a fixed term of x years, but for two sessions. A session takes place usually once every two years. The next session should normally be scheduled during the second semester of 2017.

Last but not least, the ICAO Council plays a key role. With respect to the items on the ICAO/LC working programme and the order



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of priority in which they appear, it has authority to approve the proposals made by the Committee. It may also add some new items to the programme. Its role is particularly crucial when it comes to decide to set up a diplomatic convention aimed at adopting new treaty law. This implies that the ICAO Council believes, on the one hand, that the ICAO/LC has adopted a draft which is robust enough and, on the other hand, that there is sufficient political momentum to reach a consensus during a diplomatic conference. This is indeed a very important responsibility in the hands of the ICAO Council, because in the event the diplomatic conference would fail, the whole exercise could come to a standstill for quite some years.



► What are the main topics that have been addressed by ICAO/LC in recent years?

There was a significant change between the 35th and the 36th sessions. Until the 36th session, ICAO/LC devoted most of its time to developing treaty law. This could lead to drafting new instruments, such as the 2001 Cape Town Convention on International Interests in Mobile Equipments.

It could also lead to amending existing instruments. The 1999 Montreal Convention, which modernised the 1929 Warsaw Convention, entered into force in 2003. ICAO/LC later adopted four drafts during three diplomatic conferences, respectively:

- **In Montreal, in 2009:** modernisation of the 1952 Rome Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface;
- **In Beijing, in 2012:** redrafting the 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, and amending the 1970 Hague Convention for the Suppression of Unlawful Seizure of Aircraft;
- **In Montreal, in 2014:** modernisation of the 1963 Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft.

Developing new treaties or modernising existing conventions is essential when the introduction

of legally binding obligations is needed, for instance in order to have States extradite offenders, or to ensure that national courts establish their competence on certain offences against civil aviation. There might be some discrepancy between the agenda of governmental decision-makers, which are often short term, and the slow process of negotiating a treaty, adopting it and waiting for such instrument to come into force, which may take time. There can even be a risk of seeing an instrument never reach the minimum level of ratifications, and therefore never enter into force, because of a lack of interest and political support.

In any case, the draft that was adopted by the ICAO/LC in 2013, which one year later became the Montreal 2014 Protocol amending the Tokyo Convention, probably brought the above-mentioned cycle of modernisation of existing conventions close to its end.

Since the beginning of its 36th session, the ICAO/LC works in a different way.

► What are the key issues to be tackled by ICAO/LC in the coming years?

Until the next session and under supervision of the ICAO Council, legal work undertaken under the ICAO/LC working programme is expected to mainly tackle six issues.

- A Task Force is dealing with **safety aspects of economic liberalisation** and Article 83

bis Agreements. It is chaired by Mr Thatchet (Canada) and has progressed with view to revising ICAO circular 295 and developing a Manual to help States implement 83bis Agreements. It is also working on possible options to improve the current registration system by LEB, which could be web-based.

- ICAO/LC continues to consider the issue of Guidance on **conflicts of interest in civil aviation**. At this stage, it encourages States to provide the ICAO Secretariat with information on their best practices to prevent conflicts of interest. A number of States expressed their intention to submit a draft resolution to the 2016 ICAO Assembly, urging States that have not already done so to develop a legal framework in that field.

“ICAO/LC seems to have entered in another cycle of activities, focusing more on how to implement existing treaties in a comprehensive and consistent manner, and developing prospective thinking on the legal needs of the civil aviation world within the next ten years or so.”

- Another Task Force, headed by Ms Polkowska (Poland), is working on updating Circular 288 on **disruptive and unruly passengers**. Such update is necessary because of the legal implications of the adoption of the 2014 Montreal Protocol amending the 1963 Tokyo Convention. Some States need assistance to develop domestic legislation tackling the issues raised by this growing phenomenon. This Task Force should be able to submit a draft for consideration by the ICAO/LC at its next session.



- ICAO/LC has started to work on issues relating to **remotely piloted aircraft systems (RPAS)**. During its last session, it took note of a presentation dealing with liability issues. Indeed in case of incidents involving RPAS, some provisions of existing international instruments would be likely to apply. However, while RPAS are a growing industry, operating them might raise legal aspects *other* than liability, such as registration or insurance. Such questions might need to be fully explored. As a first step, it was agreed that a questionnaire should be drafted, both to gather information on national legislation, and to identify international issues that domestic legislation is unable to solve. This questionnaire is expected to be distributed by the ICAO Secretariat by mid-2016.

- ICAO/LC has taken steps to develop work on the issue of the **status of civil/state aircraft**. Article 3 of the 1944 Chicago Convention includes a definition of state aircraft but the Convention is not applicable to them in principle. Some States think that such definition should be clarified, but others feel it is appropriate. A questionnaire for States is expected to be distributed also in 2016.
- ICAO/LC also does its best to **promote the ratification of existing instruments**. This includes holding workshops aimed at helping countries willing to do so to adapt their domestic law, before becoming a State party.

There is indeed a lot of diversity among the issues tackled within ICAO/LC. It seems to have entered into another cycle of activities, at least for its coming sessions, focus-

ing more on how to implement practically in a comprehensive and consistent manner existing treaties, and developing prospective thinking on what could be the legal needs of the civil aviation world within the next ten years or so. ICAO/LC remains at the disposal of the ICAO Council, willing to adapt its programme to the legal needs of the civil aviation community, eventually taking on board other items. That may be the case, in due course, for environmental matters. Such availability and flexibility seem all the more necessary in the context of a world industry which, because of technological and economic factors, is growing and evolving quickly. ■



Terry Olson has chaired the Legal Committee of the International Civil Aviation Organization (ICAO) since 2013 and has served as legal advisor to the French Director General of Civil Aviation since 2002. He is *conseiller assesseur* (deputy chairman) of a chamber in the litigation section of the French *Conseil d'État* (Supreme Administrative Court), also serving in the *Mission d'inspection des juridictions administratives*, auditing courts of appeal or tribunals. Additionally, Mr Olson teaches law at the *Institut d'Études Politiques de Paris* ('*Sciences-Po*').

Mr Olson has a Master's degree in Public Law from the University of Paris X and from the *Institut d'Études Politiques de Paris*. He joined the French Naval Academy in 1981 where he served as a legal officer for 12 years. He was appointed *auditeur* to the French *Conseil d'État* in 1993. He was *rapporteur* from 1993 to 2000, before becoming *commissaire du gouvernement* (advocate general) in the litigation section in 2008 and *conseiller d'État* in 2007. From 2008 to 2012, Mr Olson also held the role of foreign relations delegate in the *Conseil d'État*.

▶ Member States News

New Directors General were appointed in:

- > *Bulgaria* – Mr Ivan Ivanov
- > *United Kingdom* – Mr Dan Micklethwaite

▶ Composition of the ECAC Co-ordinating Committee (May 2016)

- > **Ingrid Cherfils** – DGCA Sweden – President
Focal Point for External Relations
- > **Patrick Gandil** – DGCA France – Vice-President
Focal Point for Environmental Matters
- > **Bilal Ekşi** – DGCA Turkey – Vice-President
Focal Point for Pan-European Matters
- > **Silvia Gehrler** – DGCA Austria
Focal Point for Economic Matters
- > **Pekka Henttu** – DGCA Finland
Focal Point for Safety
- > **Gerold Reichle** – DGCA Germany
- > **Alessio Quaranta** – DGCA Italy
Focal Point for Facilitation and Security
- > **Rob Huyser** – DGCA Netherlands
- > **Mario Nemeth** – DGCA Slovakia
- > **Raül Medina Caballero** – DGCA Spain
Focal Point for RPAS

▶ Co-ordinating Committee

The ECAC Co-ordinating Committee met in Paris on 28 April for its one hundred and seventy-seventh meeting (CC/177). Discussions on the European papers to be presented to the 39th Session of the ICAO Assembly in Montreal (27 September - 7 October 2016) in each area of ECAC's activities remained high on the agenda. Directors General also reviewed the progress achieved in view of the High-level Meeting on a Global Market-Based Measure (MBM) Scheme due to take place in Montreal from 11 to 13 May 2016.

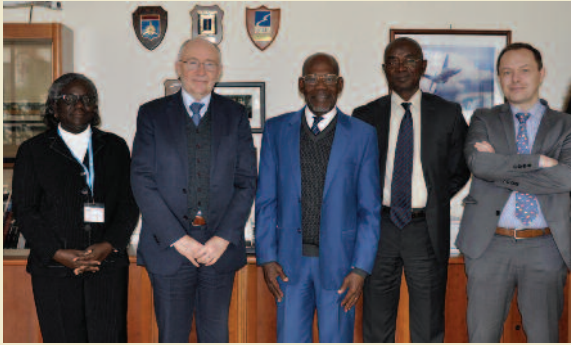
They also agreed on some of the main agenda points of the Co-ordinating Committee's upcoming meetings with international partners (CC/United States and CC/China) and discussed the opportunity of formalising cooperation in the field of security with international partners.

Directors General set Remotely Piloted Aircraft Systems (RPAS) as the topic of the ninth ECAC Forum (6 December 2016). With regard to ECAC internal matters, the meeting reviewed the implementation of the last Work Programme (2013-2015), the performance of the existing ECAC working groups, and examined a number of legal and financial issues pertaining to the Secretariat activities.

Finally, the Co-ordinating Committee appointed Alessio Quaranta, Director General of Civil Aviation for Italy, as ECAC Focal Point for Facilitation and Security, replacing former United Kingdom Director General for Civil Aviation Patricia Hayes. His post as ECAC Focal Point for Training remains vacant for the time being. The meeting also saw the creation of a new Focal Point portfolio on RPAS, to be held by Raül Medina Caballero, Director General of Civil Aviation for Spain.



▶ Meeting between ECAC Secretariat and WAEMU



On 10 March, in the margins of the ECAC Security Forum in Paris, Executive Secretary Salvatore Sciacchitano hosted a bilateral meeting with a West African Economic and Monetary Union (WAEMU) delegation led by its Commissioner for Urban and Community Planning and Transport Augustin Tompieu-Zouo. While the two organisations have been cooperating since 2007 and meet regularly for general exchanges of views on their activities, this meeting was an opportunity for Mr Tompieu-Zouo, Tcha-Didjoré Deybou Bah-Traoré (WAEMU Audit Programme Co-ordinator) and Irène Seka Gnassou (WAEMU Air Transport Director/ COSCAP Project Co-ordinator) to receive an update on the latest CASE Project developments from Project Co-ordinator Antoine Zannotti. The two parties had previously met in February this year during the first meeting of the Project's Steering Group, of which WAEMU is a member.

▶ Korean delegation discusses security issues with ECAC Secretariat



A Korean delegation of five, led by Jae-Soo Chang, Deputy Director of the Aviation Security Division of the Ministry of Land, Infrastructure and Transport (MOLIT), met ECAC Deputy Executive Secretary Patricia Reverdy and ECAC security expert José Peral Pecharromán in Paris on 27 April. The purpose of the visit, which took place in the framework of the Memorandum of Understanding (MOU) signed between ECAC and MOLIT in July 2009, was to present the latest ECAC developments in aviation security and the current priorities of MOLIT and the Korean Testing Laboratory. The discussions open up a new potential area of cooperation between the two parties, in particular regarding the certification of security equipment and airport assessments.

▶ Events to come

JUNE

- 1-2/ Eighteenth meeting of the Study group on Explosive Detection Dogs, Lisbon
- 1-3/ Sixty-fourth Technical Task Force, Malaga
- 1-3/ IATA AGM, Dublin
- 8/ Eighteenth meeting of the Co-ordination group on Market-Based Measures, Brussels
- 8-9/ ECAC Workshop on Security Culture, Paris
- 9-10/ ECAC Workshop on Assistance to Victims of Air Accidents and their Families, Malaga
- 10/ Twenty-third meeting of the Security Programme Management Group, Rome
- 27-28/ Twenty-third meeting of the Study Group on Cyber Threats to Aviation Security, Berlin

JULY

- 1/ Fourth meeting of the European Safety Co-ordination Group for the 39th ICAO Assembly
- 5-6/ Sixth course on Vulnerability Assessment Training and Certification, Paris
- 7-8/ Thirty-second Training Task Force, London
- 8/ Second meeting of the Economic Working Group, Paris
- 26/ Thirtieth meeting of the Common Evaluation Process Management Group, Paris

News from the JAA Training Organisation (JAA TO)



ASSOCIATED BODY OF ECAC

JAA TO is pleased to announce that its Foundation Board has appointed Ms Paula Almeida to the post of JAA TO Director. Ms. Almeida has over 12 years of experience in the aviation sector, specifically in the field of aviation training. She has occupied several positions since JAA TO's inception, as Training Manager, Business Development Manager and Deputy Director.

▶ EASA Virtual Academy

The EASA Virtual Academy (EVA) is part of EASA's efforts to ensure harmonised and high-quality regulatory training. It is especially designed for National Aviation Authority (NAA) staff involved in approval and oversight activities (inspectors).

The following NAA Inspectors Training Courses are now scheduled at JAA TO's premises in Hoofddorp:

- NAA Inspectors Training Course - Initial Airworthiness: 13 - 15 September 2016
- NAA Inspectors Training Course - Continuing Airworthiness: 26 - 28 September 2016
- NAA Inspectors Training Course - Aircrew/FSTD: 31 October 2016 - 3 November 2016
- NAA Inspectors Training Course - Aerodrome Safety Regulation (Basic): 13 - 17 June 2016
- NAA Inspectors Training Course - Flight Operations Inspector: 12 - 16 September 2016 and 5 - 9 December 2016

▶ New training courses

> IMPLEMENTING ATQP AND EVIDENCE-BASED TRAINING

The Alternative Training and Qualification Programme (ATQP) allows airlines to develop innovative approaches to pilot training and performance assessment. It makes use of operational data to shape assessment. The two initiatives overlap and are complementary. This two-day workshop will introduce delegates to the steps needed to introduce the concepts into their airline's training programmes and will be held on **24 - 25 October 2016 in Hoofddorp**, the Netherlands.

For more information, please visit JAA TO's website: <https://jaato.com/courses/519/>

> ENVIRONMENT COURSES

Currently the subject of the environment is a hot topic in the news, but also a big political issue debated for action at both the national and international levels. Based on this, JAA TO has developed two training courses on **Environment Awareness** and **Aviation and the Environment**.

The **Environment Awareness** is a one-day training course providing an easy introduction to the general subject of the environment and to the specific environmental issues for civil aviation, without going into technical or policy details. The first course will be held

▶ Revamped ICAO TRAINAIR PLUS Training Instructors Course

The Training Instructor Course (TIC) is comprised of two parts. Part 1, which is the Instructional Competencies Course, is delivered online, and Part 2 is ICAO's Instructional Methodologies and Practices classroom course. **Part 1** has been fully revised in order to include more exercises, study cases and real scenarios in the aviation context. Formerly it was named 'Online Instructional Techniques' and provided the participants with basic instructional techniques and knowledge. The revamped course, renamed to '**Instructional Competencies**', provides the participants with instructional **competencies**, which will enable them to be ready to deliver training courses in an effective way and gain an internationally recognised qualification in basic instructional competencies as defined in the **ICAO Instructor Competency Framework**.

For more information and registration, please visit the JAA TO website: <https://jaato.com/online/522/>

on **16 September 2016 in Hoofddorp**.

More information at: <https://jaato.com/courses/237/>

The **Aviation and the Environment** is a two-day course providing such awareness at a higher level of technical details. Students are able to gain a clear understanding of the issues and solutions involved so they can apply this knowledge in their daily activities. The first course will be held on **17-18 November 2016 in Hoofddorp**.

For more information and details, please visit the website: <https://jaato.com/courses/119/>

> EASA AIR OPERATIONS INTRODUCTION (structure and basic principles)

This course introduces the structure and the basic principles of the Commission Regulation (EU) No 965/2012, published by the European Union. This regulation provides the technical requirements and administrative procedures related to air operations and impacts the way in which National Aviation Authority (NAA) and operators work and demonstrate their compliance with the regulations. Participants will gain knowledge of the basic principles and structure of this regulation to understand the different types of operations and their applicability.

For more information about the course, please visit the website: <https://jaato.com/courses/529/>

▶ Additional dates for popular courses

Because some courses are very popular, courses may get fully booked. Therefore, JAA TO has scheduled additional dates:

- ICAO SMS and EASA Management System Requirements – Introduction: 30 May 2016 - 1 June 2016
- IR Part-145 Training Course: scheduled each month
- Auditing Techniques Flight & Ground OPS - Part OPS Compliance Monitoring: 21-23 June 2016
- Air Crew Commission Regulations (EU) 1178/2011 and Amending Regulations: 6-8 July 2016
- Advanced Aviation Lead Auditor: in September, exact date to be determined.

▶ JAA TO's Faculty Manager speaks at ICAO RPAS and Remote ATS Symposium

Remotely Piloted Aircraft Systems (RPAS in short, also called 'drones') are a hot topic at the moment. JAA TO will be represented by its Faculty Manager in this field, who spoke as an instructor during the Remotely Piloted Aircraft Systems and Remote Air Traffic Services Symposium held on 9-10 May in Sweden. The symposium aimed to advance the understanding of remote air traffic services with a specific focus on how to address the challenges and make best use of the opportunities availed by these parallel, cutting-edge technologies.

Regarding this subject, on 30-31 May and 25-26 October JAA TO will organise an 'RPAS (Drones) Requirements - Initial' training course in Hoofddorp, the Netherlands. Register now!

▶ ECAC Network of Training Organisations

On 31 March 2016, JAA TO attended the eighth meeting of ECAC's TRA-NET, which was successfully held in Rome at ENAC's premises. The meeting was chaired by ECAC's Focal Point for Training and Italian Director General Mr. Alessio Quaranta and co-ordinated by Mr Laurent Banitz, ECAC Training and Capacity Development Officer. In addition to engaging in vivid discussions on educational and training-related issues, JAA TO contributed to the paper on Best Practices in Training Delivery. Furthermore, each member organisation presented an update on recent achievements, current activities and their work priorities for 2016. JAA TO recognises the great merits and importance of this group and devotes its utmost commitment to contributing actively, in co-ordination with the excellent professionals who are members of the Network.

▶ A small selection of successfully held courses at JAA TO's and client's locations in April

- Air Crew Commission Regulation No 1178/2011 and amending regulations at JAA TO Malta
- DOA (Annex Part-21) training course at three different client locations
- Human Factors/TRM (Team Resource Management) in Aviation Maintenance course at JAA TO Hoofddorp
- IR Part-M, Subparts G and I training course at JAA TO Hoofddorp
- Stores Management & Inspection Procedures and Processes training course for a cargo company in Denmark
- Electronic Flight Bag (EFB) - The Paperless Cockpit training course at JAA TO Hoofddorp
- 2 x IR Part-145 training course at the same Danish client's location
- Recurrent training for Auditors at an Austrian company's location
- EASA Air Operations - Commercial Air Transport for Aeroplanes course, for an airline in Turkey
- ICAO SMS and EASA Management System Requirements workshop at an airline's location in Iran
- Auditing Techniques Flight & Ground OPS - Part OPS Compliance Monitoring course at JAA TO Hoofddorp
- Cabin Safety Operations course at JAA TO Hoofddorp
- IR Part-M general training course at JAA TO Hoofddorp



> Auditing Techniques Flight & Ground OPS - Part OPS Compliance Monitoring course at JAA TO Hoofddorp
Held on 20-22 April 2016



> Electronic Flight Bag (EFB) - The Paperless Cockpit training course at JAA TO Hoofddorp
Held on 15 April 2016



> IR Part-M general training course at JAA TO Hoofddorp
Held on 14 April 2016

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