ASSEMBLY — 37TH SESSION

TECHNICAL COMMISSION

DRAFT TEXT FOR THE REPORT
ON
AGENDA ITEM 25

The attached material on Agenda Item 25 is submitted for consideration by the Technical Commission.

(6 pages)

Agenda Item   25:   Follow-up of the High-level Safety Conference (2010)

25.1:   **Implementation of the High-level Safety Conference (2010) Recommendations**

25.1.1   The Commission reviewed A37-WP/74, presented by the Council containing a report on the action being taken on the implementation of the recommendations made by the High-level Safety Conference (HLSC 2010). The working paper provided information on the outcome and milestone associated with each of the actions as well as their financial implications.

25.1.2   All the delegates who took the floor on the subject supported the action taken by the Council. Many delegates stressed the importance of the development of the new Safety Annex and indicated the willingness of their States to be involved in its development.

25.1.3   The Commission, having reviewed the information provided in A37-WP/74, endorsed the Declaration, Conclusions and Recommendations made by HLSC 2010 and the action thereon taken by the Council and the Air Navigation Commission.

25.2   **Safety initiatives arising from recent accidents**

25.2.1   The Commission reviewed A37-WP/73, presented by the Secretary General, providing a report on action taken on the recommendations framed by the HLSC 2010 on Agenda Topic 3.2 (Safety initiatives arising from recent accidents). These recommendations address three major topics: improving access to flight data necessary to support accident and incident investigations; improvement of surveillance, flight monitoring and communications of aircraft operating in oceanic/remote areas, including the provision of timely and adequate search and rescue services in search areas; and a review of existing requirements on flight deck activities, checklist and standard operating procedure design.

25.2.2   The Commission reviewed A37-WP/245, presented by the Interstate Aviation Committee (IAC) on the implementation of continuous flight data transmission by satellite to support search and rescue and accident investigation. The paper invited the Assembly to support the concept and to request ICAO to develop the supporting SARPs.

25.2.3   There was broad support for the action taken by the Council following the HLSC 2010 Recommendation on the subject. One delegation expressed concern with the planned 2018 applicability dates for upgraded underwater locator devices (ULBs) and suggested a 2015 applicability date. Another delegation indicated its support, in principle, for the measure, but stressed that the development of SARPs should be following safety management principles and be based on risk assessment.

25.2.4   The Commission noted the report, endorsed the planned ICAO activities contained therein and urged States and other stakeholders to take the measures called for in the recommendations. It also asked the Council to take into consideration the proposal contained in WP/245, comments made on the applicability date of the ULB SARPs, the possibility of speeding up the work and the need to follow a risk-based approach.

25.3   **Sharing of Safety Information**

25.3.1   The Commission reviewed A37-WP/60, presented by the Council and proposing in the form of a draft Assembly Resolution a set of high-level principles for the development of a Code of Conduct on the use and sharing of safety information, in accordance with Recommendation 2/3 of the HLSC 2010.

25.3.2   The Commission reviewed A37-WP/81 presented by Belgium on behalf of the European Community and its Member States and by the other States Members of the European Civil Aviation Conference and by EUROCONTROL. The paper provided the views of Europe on ICAO safety priorities, with particular consideration on the conclusions of the HLSC 2010. The paper also proposed an Assembly resolution on transparency and addressed in more detail HLSC 2010 recommendations with respect to a new State Safety Management Annex, aviation personnel competency and runway safety.

25.3.3   The Commission reviewed A37-WP/103, presented by the United States on the transparency of safety data, stressing the importance for ICAO to provide the list of States having a significant safety concern (SSC) to the traveling public in an appropriate format. The paper also requested ICAO to post existing USOAP results in a more prominent location on the ICAO website, together with a clear explanation of the significance of these results, allowing the traveling public to make informed travel decisions.

25.3.4   The Commission reviewed A37-WP/122, presented by Australia on the terms of reference for a multidisciplinary group on the protection of safety information. The paper presented a set of principles and suggested that they be taken into account when developing the terms of reference for the multidisciplinary group.

25.3.5   The Commission reviewed A37-WP/124, presented by AFCAC on behalf of 53 African States, on principles for the Code of Conduct. The paper proposed that the Code of Conduct apply to every legal person and stressed that it should include statements on the nature, scope and methods for the exchange of safety information, as well as levels of access to the information and the purpose for which the information may be used.

25.3.6   The ensuing discussion focused on two major issues: the provision of information to the public so they can make informed travel decisions and the development by ICAO of a Code of Conduct on the use and sharing of safety information.

25.3.7   With regard to the provision of information to the public, several delegates recalled that the HLSC 2010 requested the Council of ICAO to investigate how SSCs could be provided to the public in a usable form and called for timely action on the subject. Other delegates, while supporting the principle of greater transparency, felt that ICAO should procede with caution in order to ensure that there would be no unintended negative consequences.   It was agreed that this matter would need to be considered in its entirety by the groups which will be established to decide on the various aspects of sharing, use and protection of safety information.

25.3.8   There was unanimous support for the development of a Code of Conduct on the sharing of safety information. There were, however, diverging views on the scope and the nature of the Code. The Chairman, noting that it would be impossible to resolve this issue within the Technical Commission due to time constraints, suggested the following course of action, which was agreed by the Commission:

a) the Commission submits, for adoption by the Plenary, the following resolution; and

b) all the papers and discussions related to this subject that were presented at this Assembly and during the High-level Safety Conference 2010 should be made available to the Task Force developing the Code of Conduct and to the Council when adopting the Code of Conduct.

RESOLUTION FRAMED BY THE TECHNICAL COMMISSION AND RECOMMENDED FOR ADOPTION BY THE ASSEMBLY

Resolution 25/1:   Principles for a code of conduct on the sharing and use of safety information

Whereas ensuring the safety of international civil aviation is the responsibility of Member States both collectively and individually;

Whereas the Convention and its Annexes provide the legal and operational framework upon which Member States can build a civil aviation safety system based on mutual trust and recognition, requiring that all Member States fulfil their obligations in implementing the Standards and Recommended Practices (SARPs) and in adequately performing safety oversight;

Recalling that mutual trust between States, as well as public confidence in the safety of air transportation is contingent upon access to adequate information regarding the implementation of international SARPs;

Recalling that transparency and the sharing of such information are fundamental tenets of a safe air transportation system and that one of the objectives of sharing information is to ensure a consistent, fact-based and transparent response to safety concerns at the State and at the global levels;

Recognizing that the safety information in the possession of individual States, aviation industry and aviation organizations regarding the existence of operational hazards has the potential to provide a clearer perspective on existing and emerging areas of risk and the opportunity for timely interventions to improve safety when shared and acted upon collectively*;*

Recognizing that there is a need to develop principles of confidentiality and transparency to ensure that safety information is used in an appropriate, fair and consistent manner, solely to improve aviation safety and not for inappropriate purposes, including for the purpose of gaining economic advantage*;* and

Mindful that the use of such information for other than safety-related purposes may inhibit the provision of such information, with an adverse effect on aviation safety;

The Assembly:

      1.   *Instructs* the Council to develop a Code of Conduct for the Sharing and Use of Safety Information based on the following principles, among others

    a)   Member States will collect and share relevant and appropriate safety information to ensure that they can effectively discharge their individual and collective responsibilities for the safety of international civil aviation;

    b)   Member States will utilize safety information to assist in ensuring that operations under their oversight are conducted in full compliance with applicable SARPs and other regulations;

    c)   Member States, aviation industry and aviation organizations will ensure that shared safety information is used in an appropriate, fair and consistent manner, solely to improve aviation safety;

    d)   Member States will use caution in disclosing information, keeping in mind equally the need for transparency and the possibility that such disclosure may inhibit the future provision of such information; and

    e)   Member States receiving safety information from another State, will agree to provide levels of confidentiality and uphold principles for disclosure equivalent to those provided by the State generating the information.

25:4   **Development of ICAO SARPs**

25:4.1   The Commission reviewed A37-WP/114, presented by New Zealand, proposing that impact assessments be required in the development of new SARPs. This paper recommends, in the form of a draft Assembly resolution that ICAO, following the HLSC recommendation on the subject, implement a regulatory impact assessment process to explain and document the context and justification related to proposals for new SARPs.

25:4.2   All the delegations that took the floor on the subject supported A37-WP/114 in principle, but some, noting the heavy burden of the development of a robust impact assessment, suggested a phased implementation approach. It was also noted that the Council, acting on the HLSC Recommendation, had requested the Air Navigation Commission to present a feasibility study on the subject during its first session of 2011. The study is well underway and will be reviewed by the Air Navigation Commission during the fall session of 2010.

25:4.3   In view of the discussion and the action already taken by the Council on the subject, the Commission agreed that, rather than proceeding with a resolution, this was a matter that should be left with the Council as it would be in the best position to decide how ICAO could allocate its resources to support an impact process, based on competing needs of the Organization as well as the results of the feasibility study.

25:5   **Information Papers**

25:5.1   The Commission also noted the following information papers:

A37-WP/140 presented by the African Civil Aviation Commission (AFAC) informing the Assembly of the progress by African States on aviation safety;

A37-WP/289 presented by Australia on some caveats on "just culture";

A37-WP/313 presented by the Airports Council International (ACI) on safety of airports; and

A37-WP/315 presented by the United States on United States perspectives from the 2010 HLSC: a proposal for responding effectively to identified safety issues.

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