



ASSEMBLY — 36TH SESSION

TECHNICAL COMMISSION

Agenda Item 28: Protection of certain accident and incident records and of safety data collection and processing systems in order to improve aviation safety

“JUST CULTURE” AND SAFETY OCCURRENCE REPORTING

(Presented by the Civil Air Navigation Services Organisation²)

EXECUTIVE SUMMARY

Safety occurrence reporting is of paramount importance to improving the level of aviation safety. However, the current level of incident reporting and data sharing is judged to be insufficient. The use of safety occurrence information as evidence in judicial proceedings is cited as a contributing factor to the limited application of a “Just Culture” that is conducive to the reporting and analysis of aviation safety occurrences.

In response to Resolution A35-17, ICAO has developed legal guidance for the protection of safety data, which is contained in a new Attachment E to Annex 13. Appropriate follow-up actions are now required to ensure national laws and regulations adequately address the manner in which safety information is to be protected from inappropriate use.

Action: The Assembly is invited to:

- a) note the importance of a “Just Culture” that is conducive to the reporting of safety occurrences;
- b) consider, as future work, the conduct by ICAO of periodic surveys into the impediments to safety occurrence reporting; and
- c) consider, on the basis of such surveys, the conduct by ICAO of seminars and/or workshops – if not a Legal conference – to promote an active dialogue with national legislative and judicial authorities to create a better understanding of aviation safety management and the importance of a “Just Culture” that is conducive to safety occurrence reporting.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objectives A and F, with a view to enhancing safety management in air traffic management.
<i>Financial implications:</i>	Not applicable
<i>References:</i>	Annex 13 — <i>Aircraft Accident and Incident Investigation</i> Doc 9848, <i>Assembly Resolutions in Force (as of 8 October 2004)</i>

¹ Arabic, Chinese, French, Spanish and Russian versions provided by the Civil Air Navigation Services Organization

² CANSO is the global voice of ATM. In 2006, CANSO Member ANSPs serve 61% of world airspace, controlled 84% of world traffic and handled 44 million flights. Full members include: Aena - Spain | AEROTHAI - Thailand | Airports Authority of India | Airservices Australia | Airways New Zealand | ANS of the Czech Republic | ATNS - South Africa | ATSA - Bulgaria | Austro Control - Austria | Avinor - Norway | AZANS - Azerbaijan | Belgocontrol - Belgium | CAA Uganda | DFS - Germany | DHMI - Turkey | DSNA - France | EANS - Estonia | ENAV SpA - Italy | Federal Aviation Administration - USA | HungaroControl | Irish Aviation Authority | Kazaeronavigatsia - Kazakhstan | LFV - Sweden | LGS - Latvia | LPS Slovak Republic | LVNL - the Netherlands | MATS - Malta | MoldATSA - Moldova | NAMA | NANSC - Egypt | NATS - UK | NAV CANADA | NAV Portugal | Naviair - Denmark | OACA - Tunisia | Oro Navigacija - Lithuania | PANSO - Poland | ROMATSA - Romania | Sakaeronavigatsia Ltd - Georgia | Serco | skyguide - Switzerland | Slovenia Control | SMATSA - Serbia | UkSATSE - Ukraine

1. INTRODUCTION

1.1 It is accepted that learning from safety occurrences is an essential component to improving aviation safety. Lessons learned form the basis for activities aimed at improving operational procedures, staff training, system design, and other safety-critical aspects of aviation. It is for this reason that reporting of safety occurrences is of paramount importance.

1.2 However, the current level of incident reporting and data sharing is judged to be insufficient, and the limited application of a “Just Culture” that is conducive to the reporting and analysis of aviation safety occurrences is a contributing factor. A “Just Culture” is one in which “frontline staff are not punished for actions, omissions or decisions taken by them that are commensurate with their experience and training, but where gross negligence, wilful violations and destructive acts are not tolerated.”

1.3 It has been established that legal impediments are a major factor in preventing the adoption of a “Just Culture”. In recent years, information on safety occurrences has been used for disciplinary and enforcement purposes and has also been admitted as evidence in judicial proceedings where criminal charges have been brought against individuals involved in an aviation safety occurrence. This trend is a concern to the ATM industry as it undermines improvements in aviation safety.

2. DISCUSSION

2.1 The protection of safety data from inappropriate use has been an issue of much debate and discussion, and it is accepted that a balance must be struck between the need to protect safety information and the responsibility to administer justice.

2.2 ICAO Annex 13 — *Aircraft Accident and Incident Investigation* establishes that information gathered by a safety investigation shall not be made available for purposes other than accident or incident investigation unless the appropriate authority for the administration of justice determines that their disclosure outweighs the adverse impact such action may have on that or any future investigation. The Annex also provides that voluntary incident reporting systems shall be non-punitive, and sources of information shall be protected.

2.3 However, national laws and regulations in many States offer inadequate protection of the safety information currently available. Resolution A35-17 therefore directed ICAO “to develop appropriate legal guidance that will assist States to enact national laws and regulations to protect information gathered from relevant safety data collection and processing systems, while allowing for the proper administration of justice in the State.” It further urged States “to examine their existing legislation and adjust as necessary, or enact laws and regulations to protect information gathered from all relevant safety data collection and processing systems based, to the extent possible, on the legal guidance developed by ICAO.”

2.4 This legal guidance material has since been delivered by ICAO in the form of a new Attachment E to Annex 13, which asserts among its general principles that “the sole purpose of protecting safety information from inappropriate use is to ensure its continued availability so that proper and timely preventive actions can be taken and aviation safety improved.” It further states that “national laws and

regulations protecting safety information should prevent its inappropriate use” and that “providing protection to qualified safety information under specified conditions is part of a State’s safety responsibilities.”

3. **FUTURE WORK**

3.1 Proper follow-up actions are now required on the implementation of this guidance material in order to ensure national laws and regulations adequately address the manner in which safety information is to be protected from inappropriate use.

3.2 Periodic surveys into the impediments to safety occurrence reporting must be conducted and States should be requested to examine their existing legislation and ensure adherence to the guidance material contained in Annex 13.

3.3 The results of surveys into the impediments to safety occurrence reporting may point to further work to be carried out by ICAO. This can include a Legal conference on “Just Culture” and safety occurrence reporting, regional legal seminars and/or workshops, and the promotion of active dialogue with national legislative and judicial authorities in order to create a better understanding of aviation safety management and the importance of a “Just Culture” that is conducive to the reporting and analysis of aviation safety occurrences.

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