

HLSC/2 side-meeting addressing

Current Initiatives to Assist Accident Victims and their Families

Date and time: Thursday, 5 February 2015 from 1500 to 1700 hours
Venue: ICAO Headquarters
Audience: HLSC/2 Participants

Objective: To address developments in ICAO aimed at improving assistance to aircraft accident victims and their families, together with relevant legislation and regulations of States.

1. **Víctor M. Aguado, Representative of Spain on the Council and Chairman of the special task force on the Assistance to Aircraft Accident Victims and Chair of this side event** opened the meeting with introductory statements.

He stressed that it would appear sometimes that when we refer to accidents we concentrate our attention to machines, technology, numbers, statistics, money....without giving full recognition to the fact that human beings are directly or indirectly involved, being victims, families, and friends.

In mentioning the Chicago Convention of 1944, the Chairman acknowledged that this dimension of aviation was not part of the proceedings at the time, but he also pointed out that important subjects of today's aviation world had not been contemplated either, such as security, technical cooperation, regional planning or environment.

He continued saying that the success of ICAO in its 70 years of history was closely linked to the capability of the Organization to accommodate and internalize the successive requests and needs of the international community and society in general. This should not be forgotten when treating the subject of this event.

A number of initiatives aiming at promoting and harmonizing the family assistance provided by Member States have been taken already by ICAO. General Assemblies in 1998 and 2001 reiterated that the policy of ICAO should be to ensure that the mental, physical and spiritual wellbeing of victims involved in civil aviation accidents and their families are considered.

The last Assembly in 2013 directed ICAO to give further consideration to the development of Standards and Recommended practices regarding the establishment by States of legislation, regulation and/or policies.

Concluding his introduction, the Chairman indicated that this side event will give everybody the opportunity to be updated of current practices in a number of selected States, as well as hearing from the responsible Directors of the ICAO Secretariat the expected developments in the near future.

2. **ICAO Initiatives on Family Assistance — by Nancy Graham, D/ANB**

Reference in Annex 13 — *Aircraft Accident and Incident Investigation* regarding participation in investigations by States having suffered fatalities or serious injuries to their citizens were first introduced in Annex 13 in 1976. Paragraph 5.27 of Annex 13 was amended and additional Recommended Practice added in 2010. ICAO issued Circular 285, *Guidance on Assistance to Aircraft Accident Victims and their Families* in 2001. This was superseded by Doc 9998, *ICAO Policy on Assistance to Aircraft Accident Victims and their families* and Doc 9973, *Manual on assistance to Aircraft Accident Victims and their families*, both published in 2013. In 2005, provisions were issued in Annex 9 — *Facilitation* related to assistance for family members of victims of an aircraft accident. Further reference and recommendations were made during the 38th Assembly to call on States and urge the Council to support family assistance matters, and to consider the development of provision in an appropriate Annex to that effect.

3. Lessons learned in recent accidents — by Mr Azharuddin Abdul Rahman, Director General of Civil Aviation (Malaysia)

Comments on the major challenges faced by Malaysia in assisting families of victims following the accidents with MH 370 (8 March 2014) and MH17 (17 July 2014).

With regard to MH 370, families are still looking for “closure” of the event, some of them in the hope that their loved ones are alive. Malaysia is doing its utmost with the help of involving States in trying to locate the wreckage. Search efforts are ongoing under the leadership of Australia. Social media has not helped much in the Malaysian endeavour to assist families. A formal request was made for the public to refer to official reports and press releases by the Malaysian Government in matters relating to the search of MH370, as well as to the progress of the investigation. ICAO was advised to further look into the concept of “missing” aircraft in the context of Annex 13-type investigations in order to better guide States during the initial phase of investigations.

As for the accident involving MH17, it was noted that families of victims were subjected to similar distress and have not yet been able to visit the site of the accident. The Government of Malaysia is not measuring efforts and doing the best it can to assist families of both accidents in the most efficient and expeditious way possible. Lessons learned will be shared with ICAO in due time so they can be duly incorporated in relevant guidance material to assist States in improving their assistance to accident victims and their families.

4. Family Assistance – an Australian perspective — by John Doherty (Australia)

A policy approach instead of a regulatory approach is followed in Australia. Family assistance is primarily the airline’s responsibility. The Australian code for Airline Family Assistance Plans is adaptable and made appropriate to the airline’s circumstances. The four key elements of the plan address: infrastructure requirements; information management; financial, logistical and emotional support for families; and appointment of airline family support coordinator.

5. Current Initiatives to Assist Accident Victims and their Families — by Marcelo Lima (Brazil)

An airline's philosophy should be based on moral obligation to passengers and families, as well as their commercial obligation to their stakeholders. The role of the authorities relates to coordination, facilitation, being a neutral and trustworthy organization. Brazilian regulation on family assistance was first issued in 1997 and reviewed in 2005, based on ICAO principles. It calls for airlines to provide assistance and resources immediately. The regulation includes topics such as: contact person, passenger list, plan, call centre, assistance centre, actions and facilities at the affected airports, visit to accident site, personal effects, information flow and training. There are provisions for simulation exercises (three table-top exercises per year) and ANAC requirements to approve the family assistance plan. Brazil will host a seminar on family assistance in the second half of 2015 and all were encouraged to join the event.

6. Regulation on Family Assistance in Civil Aircraft Accident: Chinese Perspective — by Fang Jun (China)

China's regulation on Emergency Response and Family Assistance Related to Civil Aircraft Accident (CCAR-399) entered into force on 1 January 2006. It contains requirements for emergency response and family assistance and the roles and responsibilities for governments, air operators, airport operators and other parties. The regulation provides for the audit of emergency plans and inspection of assistance facilities in order that material and mental assistance can be provided after an accident. An annual emergency drill shall be organized to correct potential problems in the plan. The family assistance plan submitted to the CAAC shall include contact numbers for assistance staff, notice procedures to families, handling of remains, personnel training, compensation and funeral services and commitment of sufficient resources. Key provisions involve assistance to families to travel to accident site, logistical support like lodging, mental conciliating assistance, medical health support and funds.

7. Assistance to Aircraft Accident Victims and their Families — by Daniele Giuseppe Carrabba (Italy)

The Italian ENAC *Policy on Assistance to Aircraft Accident Victims and their Families* involves ENAC, air operators, airport operators, care team and third-parties in the groups involved in the family assistance process. This policy highlights the proper reaction and adequate assistance to victims and their families, endorse national and international regulations and guidelines (Italian, EU and ICAO) and provides guidance to airlines for their emergency response plans. Reference was made to the ICAO Policy and EU regulations which provide for States to establish an emergency plan at national level and to ensure that airlines operating in their territory have assistance plans in place. Guidelines are provided for managing air operators' plans. ENAC is currently assessing and improving Italian air operators' assistance plans and has released an *Aircraft Accident Victims and their Families Rights Flyer*.

8. Transportation Disaster Family Assistance in the United States: Current Status & Challenges — by Elias Kontanis (United States)

In the United States, concerns involving notifications, victim accounting, information and personal effects of family members are initial considerations. The U.S. *Aviation Disaster Family Assistance Act* was enacted in 1996 and the *Foreign Air Carrier Family Support Act* in 1997. The NTSB coordinates and provides additional resources to assist accident victims and their families, being responsible for: coordination with federal, State, local agencies and air carriers; facilitating victim recovery and identification; monitoring attorney solicitation; monitoring for non-impede clause violations; overseeing air carrier response; providing investigative information to families.

The NTSB partner with the American Red Cross, carriers, local/State agencies, Department of Homeland Security, Defense, State and FBI. Some of the major challenges relates to information management in the modern cyber society and victim accounting. Family assistance in the U.S. is based on independent and transparent safety investigations, a well-designed family assistance process, addressing the core needs of family members and empathy supported by knowledge.

9. Air Crash Victims Families Group — by Pilar Vera Palmés (ACVFG)

The group is composed of victims and associations of Spain, Italy, Pakistan, Germany, the United States, Brazil, France, Poland and other countries. The presentation focused on three main issues:

a) Share experiences of victims

Victims need to share experiences in dealing with investigation results, airlines insurers, manufacturers and governments, etc.

b) Progress achieved in victim assistance

Reference was made to ICAO Doc 9988, approved by the Council and the 38th ICAO Assembly, and major accidents of 2014; however, implementation still needs to be further addressed; and

c) A proposal for the future

It was proposed that protection of victims' rights should be developed as part of the sustainable development of aviation.

ACVFG is pleased with the progress reached in the HLSC about flight recorder provisions; flight tracking and information sharing of conflict zones as their natural calling are for the promotion of safety.

ACVFG encourages further developments in the following areas: enhanced independence of accident investigations; new SARPs in Annex 9 to strengthen ICAO Doc 9998; and cooperation among governments and global institutions to enhance safety. ACVFG would further like to

share its experience and be granted an active role in ICAO work relating to family assistance matters.

10. Initiatives to Assist Accident Victims and their Families: Annex 9 and Provisions on Family Assistance — by Boubacar Djibo, D/ATB

Reference was made to Annex 9, noting that facilitation relates to efficient management of border control processes to expedite clearance of aircraft, passengers, crew members, baggage, cargo, preventing unnecessary delays. This Annex also deals with how survivors of accidents and family members would have the ability to travel to the State of Occurrence without delays, and human remains would be repatriated expeditiously.

Following Assembly Resolution A38-1 "*urging the Council to give further consideration to the development of Standards and Recommended Practices regarding the establishment of legislation, regulation and/or policies to support victims of civil aviation accidents and their family members*", the ICAO Facilitation Panel proposed a provision, initially a recommended practice, for Annex 9 in support of assistance to accident victims and their families. This provision is part of the amendment n° 25 to Annex 9, currently under consultation with States, to be submitted to the Council for its adoption in June 2015.

11. Conclusions — Mr. Víctor M. Aguado

Mr. Víctor M. Aguado provided concluding remarks; thanking all the presenters, the Chairman stressed the progress achieved so far as well as the importance in having all the ICAO Member States applying the Policy of the Organization captured in Doc 9998, and summarized the contributions.

He referred to the almost instantaneous information that society was exposed to, due to the wide use of internet based social networks and the challenge that this posed to the different authorities engaged in post-accident information management activities. He pointed out that not only timely information was needed, but trustworthy information based on credible institutional arrangements was also essential to transmit confidence to the public opinion. In more than one occasion during the meeting, the independence of the accident investigation authorities was underlined as a key factor to gain that confidence.

From the ongoing initiatives and the interventions of the Secretariat, it was understood that a provision, as a first step a recommendation, to be included in Annex 9 of the Chicago Convention will be submitted to the Council before the Summer. The relevant protocol of the Universal Safety Oversight Audit Program of ICAO will be complemented in order to assess the implementation by States of such a recommendation, and the results to be made public in the report of those audits.

Capturing the main points addressed by the ACVFG, while showing satisfaction for the initiatives of ICAO, it was understood that following the experience in the implementation of the recommendation in Annex 9, a full standard could be considered in the future. The ACVFG encouraged ICAO to regularly update the Policy in Doc 9998 and the associated Manual. Furthermore, the ACVFG made it clear that together with ensuring a dignified treatment to the victims and families, an objective that they are keen to share with ICAO is the enhancement of the aviation safety in the world to which they would like to contribute. The meeting was advised that the different Associations are working to establish an International Federation that could serve as a common voice in working with ICAO, and that they will ask ICAO to recognize the Federation as one of the Organizations to be invited to ICAO meetings.

The Chairman finally thanked all the presenters from States, ICAO Secretariat and the Air Crash Victims Families Group for their participation.