ASSEMBLY — 38TH SESSION

TECHNICAL COMMISSION

Agenda Item 27: Aviation Safety – Policy

PROTECTION OF SAFETY INFORMATION SOURCES

(Presented by the United States and Brazil)

EXECUTIVE SUMMARY

The international aviation community is evolving to a safety management system reliant on sound safety data collection and analysis capabilities.

In order to achieve such goals in establishing global safety data exchange and to better support safety management, States are learning about, and implementing, data collection and analysis tools.

The ICAO 2010 High-level Safety Conference and subsequent, 37th Assembly, resulted in a number of resolutions to address the importance of providing an environment where the reporting and collecting of civil aviation safety data is able to occur without implications of punitive harm or used for any reasons other than the improvement of aviation safety. As a result, a number of activities continue to take place at the global level to pursue a global approach to implementing legal protections for safety data sources to better support the availability of safety information required for safety management.

This working paper discusses the need to ensure protections for safety data sources and encourages States and Regional Aviation Safety Groups to review the work of related ICAO initiatives on the development of protections for safety information for guidance towards implementing legal protections to enable successful safety management principles.

Action: The Assembly is invited to develop next steps towards tangible guidance material for States to use towards amending existing legislation and/or regulations to protect information gathered from all relevant safety data collection and processing systems based upon the recommendations of the ICAO Safety Information Protection Task Force as well as those developed by the ICAO Safety Management Panel and the Regional Aviation Safety Group-Pan American document on "model legislation".

Strategic Objectives:	This working paper relates to the Safety Strategic Objective.
Financial implications:	Expected that this is covered in the draft budget.
References:	ICAO Global Aviation Safety Plan (2007) Initiative III (GSI 3): Efficient Reporting of Errors and Incidents; 2010 High-level Safety Conference WP/85, Conclusions and Recommendations Doc 9958, *Assembly Resolutions in Force (As of October 2010)* ICAO Safety Information Protection Task Force Meeting Reports and Recommendations Regional Aviation Safety Group, Pan America, Project GSI 3 Document: Proposal for Amendment to Aeronautical Legislation to Protect Safety Information Sources

1.   **INTRODUCTION**

1.1   The global aerospace community is facing an important challenge that involves cultural change in order to further improve aviation safety levels. This change being accomplished through implementation of ICAO Safety Management Systems (SMS) by service providers and State Safety Programmes (SSP) by regulatory bodies.

1.2   Although the elements that constitute an SMS or SSP are relatively easy to understand, effective implementation will take many years and will involve the development of new regulations and procedures, personnel training, changes in the organizational culture, and a suitable legal framework.

1.3   Both SMS and SSP are based on an effective flow of information on hazards as a vital element for continuous safety assessment and deficiency correction. Preventing the inappropriate use of this safety information is fundamental to ensure its continued availability. Use of safety information that, without proper protection, would not be made available for analysis, for other than safety-related purposes may inhibit the future availability of such information consequently adversely affecting safety.

1.4   The aforementioned is mostly understood by aviation professionals. Accordingly, there has been extensive debate about the need for ICAO Member States to take action regarding the introduction of legislative changes to support what has been called a "just culture," to promote open reporting systems and protect anonymity of the voluntary reports, collected for the sole purpose of improving safety.

1.5   To this end, ICAO developed Attachment E to Annex 13 − *Aircraft Accident and Incident investigation*, which contains legal guidance for the development of proposals for amendment to existing legislation. Furthermore, the ICAO Council recently adopted Annex 19 − *Safety Management*, which duplicates the legal guidance set in Annex 13. However, to go from the legal principles to a concrete proposal and implementation of an amendment to civil aviation law may represent a significant challenge for many legal experts and State Civil Aviation Authorities.

2.   **BACKGROUND: GLOBAL SAFETY MANAGEMENT, RESOLUTIONS FOLLOWING THE 2010 ICAO HIGH-LEVEL SAFETY CONFERENCE AND 37TH SESSION OF THE ASSEMBLY**

2.1   Protection of safety information remains an important issue the aviation community must address. Protections must be in place to allow the safe reporting and collecting of critical safety data in order to conduct safety management in areas of certification, operations, analysis and investigation and within an environment where voluntary reporting can occur free from harm of inappropriate use.

2.2   Following resolutions of the 2010 High-level Safety Conference and the 37th Session of the Assembly, work in this area is underway within the activities of the ICAO Safety Management Panel (SMP), which is responsible for the development of Annex 19. Specifically, Annex 19, Chapter 5 and Attachment B, includes much of the content that existed in Annex 13, Chapter 8 and Attachment E. Additionally the ICAO Safety Information Protection Task Force has made recommendations to the SMP and will support the States' efforts to ensure protections for data sources and data exchange. Member States and stakeholders are encouraged to participate, as appropriate, in these initiatives and review the products of these groups once material is published.

2.3   The ICAO Global Aviation Safety Plan (June 2007) contains 12 Global Safety Initiatives (GSI). The third global initiative, known as GSI 3, is aimed at efficient reporting of errors and incidents to establish the free flow of data to assess safety risks in the aviation system. The GSI 3 strategy urges Member States to introduce regulatory changes to support an evolved concept for the treatment of safety-related information which includes legal provisions for the due protection of voluntarily provided information.

2.4   ICAO is also assigned the task of reviewing State activities in order to identify any legislative gaps, foster voluntary reporting systems, and develop a plan to fill those gaps.

2.5   The Regional Aviation Safety Group – Pan-America (RASG-PA) implemented Project GSI 3A for the purpose of developing a model proposal for amendment to aeronautical legislation to protect safety information sources as a way to support Member States with development of their own legislative changes. This document can serve as additional guidance for Member States in the development of their proposals for amendment and for obtaining approval by their legislative bodies.

3.   **CONCLUSION**

3.1   The context of the proposal for the protection of safety information is based upon the need to not only protect sources but to promote safety information exchange and to make safety information available to parties with sole purpose of improving aviation safety.

3.2   States and Regional Aviation Safety Groups are encouraged to note the information contained in this paper and participate, where appropriate, in the ICAO initiatives on these efforts to support data exchange and protections of data sources.

3.3   States are also encouraged to review the work products of the ICAO Safety Management Panel, the ICAO Safety Information Protection Task Force and the RASG-PA document on "*Proposal for Amendment to Aeronautical Legislation to Protect Safety Information Sources*" (approved by the RASG-PA in October 2012).

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