



Agenda Item 4.1: Model Legislation for the Protection of Safety Information and Follow-up Activities Report

CONSIDERATION OF MODEL FRAMEWORK FOR THE PROTECTION OF SAFETY INFORMATION SOURCES:

(Presented by the United States and Brazil)

SUMMARY

The global aviation community is evolving to more and more reliance on sound safety data 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 2007 High-Level Safety Conference and subsequent, 37th Assembly of the Council, resulted in global safety initiative III, to develop a model legislation framework that States could use to create their own project to amend laws. The Regional Aviation Safety Group-Pan American (RASG-PA) completed Project GSI 3, in support of this effort, to inform, educate, and offer a proposed model for States to consider in implementing legal protections for safety data sources.

This information paper discusses the need to ensure protections for safety data sources and encourages States and other Regional Aviation Safety Groups to review the work of related ICAO initiatives on the development of protections for safety information, and to review the RASG-PA document on “*Proposal for Amendment to Aeronautical Legislation to Protect Safety Information Sources*”.

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
- Regional Aviation Safety Group, Pan America, Project GSI 3 Document: Proposal for Amendment to Aeronautical Legislation to Protect Safety Information Sources
- ICAO Code of Conduct on Sharing of Safety Information

Strategic Objective

This information paper is related to Strategic Objective A – Safety

1. Introduction

1.1. The global aerospace industry is facing an important challenge that involves cultural change in order to further improve aviation safety levels. This cultural change is 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 the 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 Contracting 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 protecting 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, ICAO is expecting to publish *Annex 19 - Safety Management*, which includes 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: ICAO Global Aviation Safety Plan and Global Aviation Safety Roadmap

2.1. Protection of safety information remains an important issue the aviation community must address. Protections must be in place to allow data collection 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. Work in this area under the auspices of ICAO 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 global 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 Contracting 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 Contracting States with development of their own legislative changes. Additionally, ICAO Regional Offices for North America, Central America and the Caribbean and South America are carrying out surveys among Contracting States to identify gaps. RASG-PA is promoting regional seminars to provide more guidance on the topic; the first of those initiatives took place through the week between the 23th and the 27th of April, 2013, at the ICAO-SAM Regional Office at Lima, Peru. The Group has already gathered important notes to improve the Model Framework further still from the perspectives shared at that event.

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 available to parties with sole purpose to improve aviation safety.

3.2. States and other Regional Aviation Safety Groups are encouraged to note the information contained in this paper and 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). This document can serve as additional guidance for Contracting States in the development of their proposals for amendment and for obtaining approval by their legislative bodies.