



| ICAO

UNITING AVIATION

ICAO Medical Confidentiality Survey feedback

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UNITING AVIATION

ICAO confidentiality Survey

Ref.: AN 5/22-18/83

Subject: State support for the designated disclosure of specific and limited medical confidential information

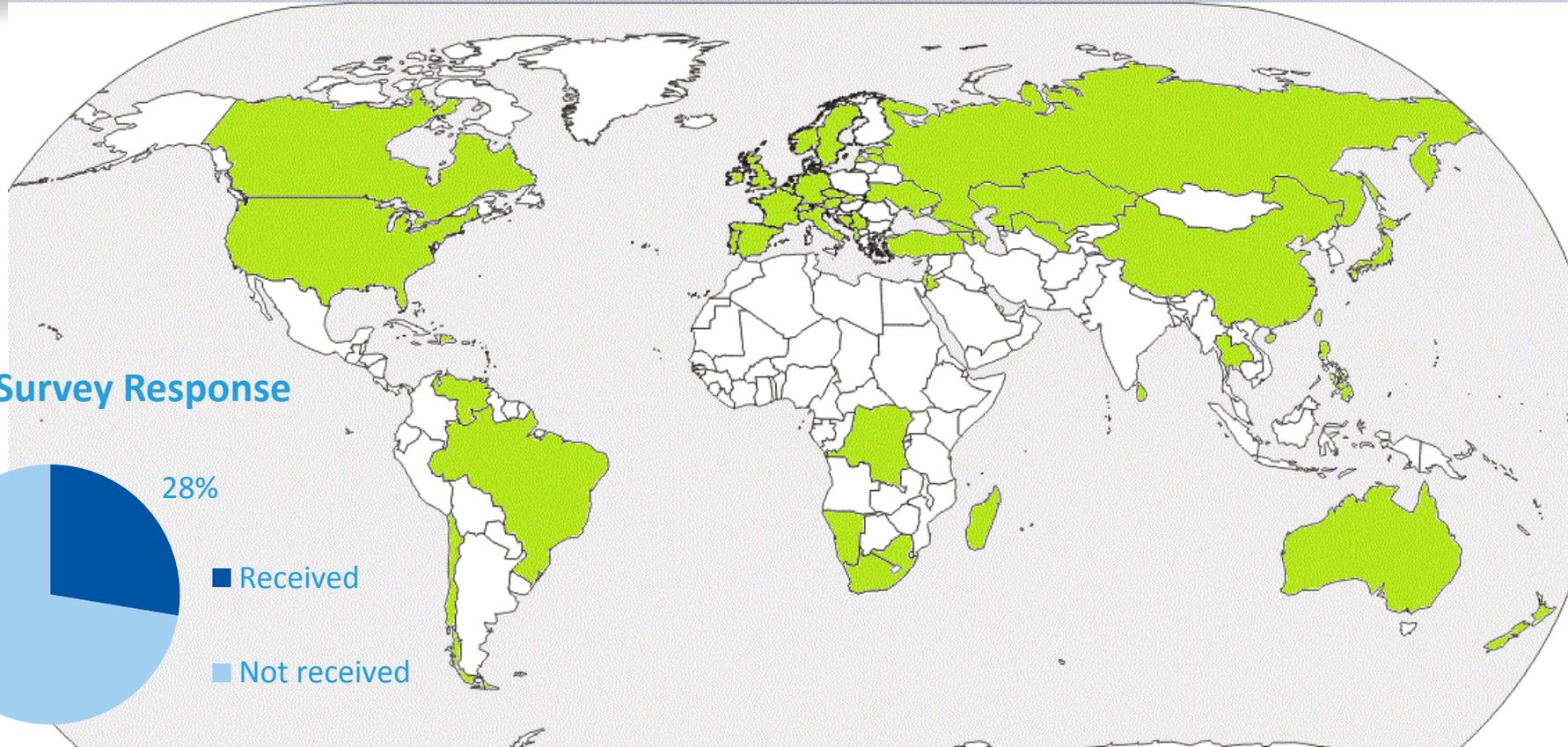
Action required: Submit the medical confidentiality survey to ICAO by 20 November 2018

PART A. Reporting of aircrew and other aviation-related personnel with medical conditions or psychiatric conditions that could be hazardous to aviation or public safety

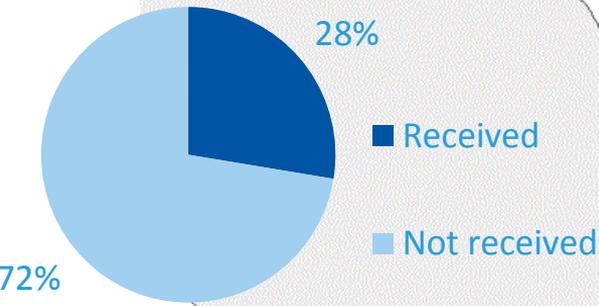
PART B. Accident and incident investigation



ICAO confidentiality Survey

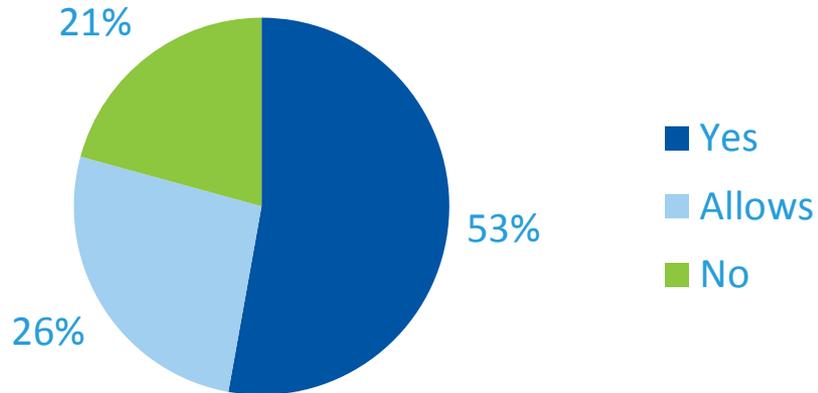


Survey Response



Does your legislation provide for **mandatory reporting** (or alternatively allow) reporting of **flight crew or other aviation related personnel** who might pose a threat to aviation safety or public safety due to a medical or psychological condition (i.e. a threat to themselves or other persons)?

Mandatory reporting

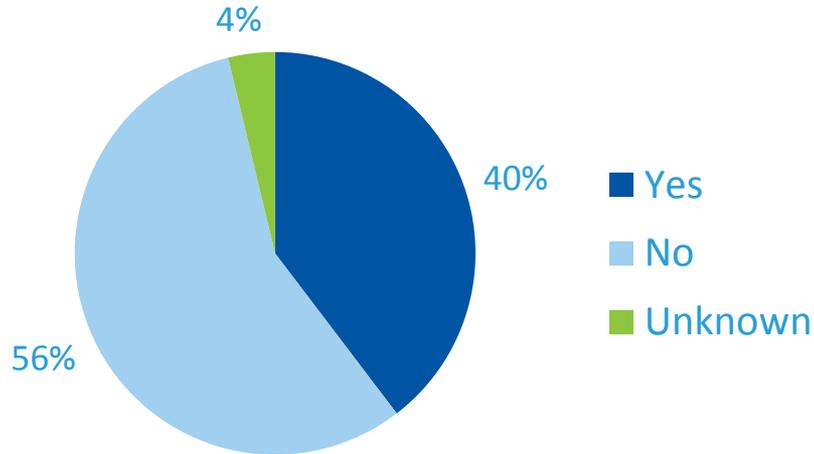


- 11 countries reporting not mandatory/ allowed
- Majority Asia-Pacific
- Keep in mind poor response from African countries



Does your State have laws in place that **prohibit medical professionals to disclose** medical confidential information for purposes of reporting a patient who might be a threat to aviation or public safety?

Law prohibits disclosure

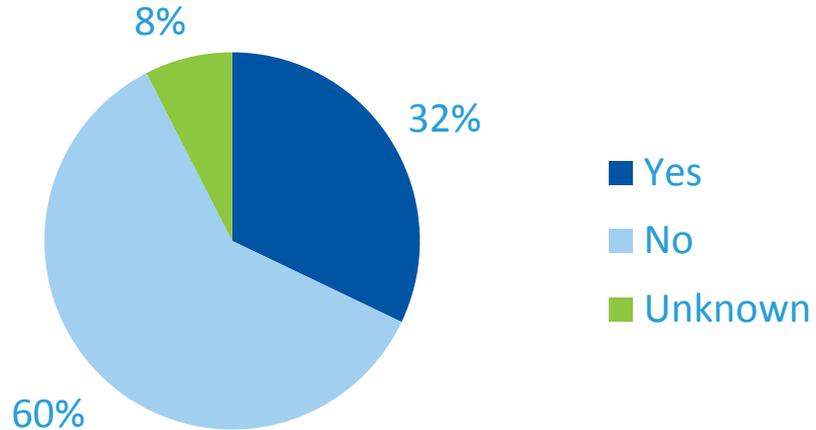


- 20 countries with complicated laws
- Majority Europe and Asia-Pacific
- Examples
 - Law on protection of Data
 - Data Privacy Act
 - Criminal Code
 - Penal code
 - Personal Information Protection Law
 - General Health Law
 - National Health Act
 - Constitution
 - **Only by court order**



Are there any legal provisions that **hold medical service providers liable for failure to disclose** confidential medical information in the interest of aviation or public safety?

Legally liable if failure to disclose



- 17 countries with legal liability
- Need to clarify with respondents

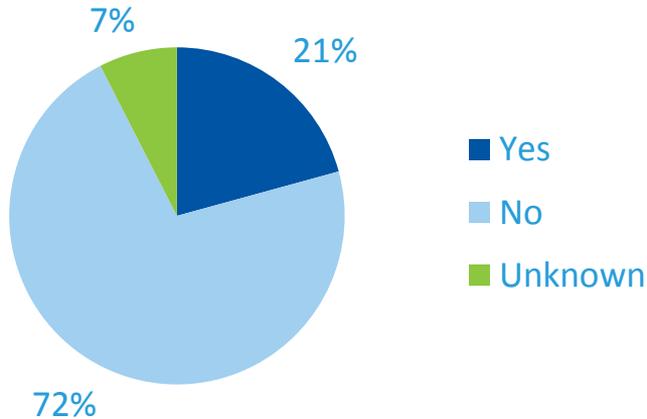
Canada has specific applicable article in Aeronautics law

...Italian Penal Code establishes the just cause to medical disclosure and the article 40 states that not preventing an event that is on your duty to prevent is equivalent to causing it.



If **not contained in legal provisions**, are there any **other policies, procedures, recommendations or guidelines** available (e.g. civil aviation authority, medical regulatory bodies, medical organisations, medical insurance companies, employers etc.) that allow for disclosure of medical confidential information of flight crew or aviation-related personnel to **specific parties for specific reasons**?

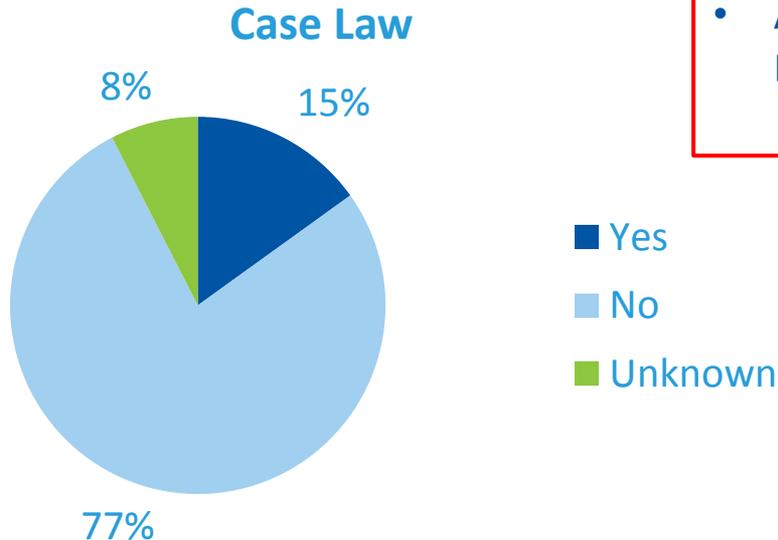
Other Guidelines Available



- Small % of guidelines
- Examples of guidelines
 - Health Regulatory Commission
 - Aviation Authority handbooks
 - Code of Ethics
 - Air operators/ provider manuals
 - Website
 - Newsletters



Is there any relevant **case law** that needs to be taken into account when interpreting the applicable legislation on this topic?

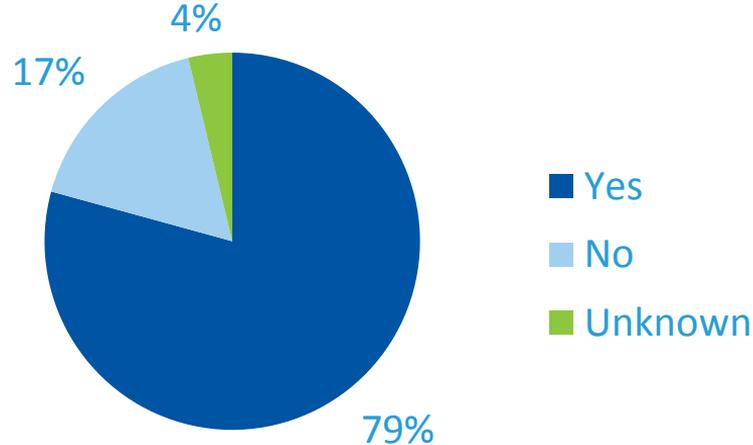


- 8 countries
- Australia, Austria, Canada, France, Germany, Portugal, Spain, Venezuela



Does your accident investigation authority have **access to confidential medical information** of flight crew involved in an accident or (serious) incident?

AIA access to information

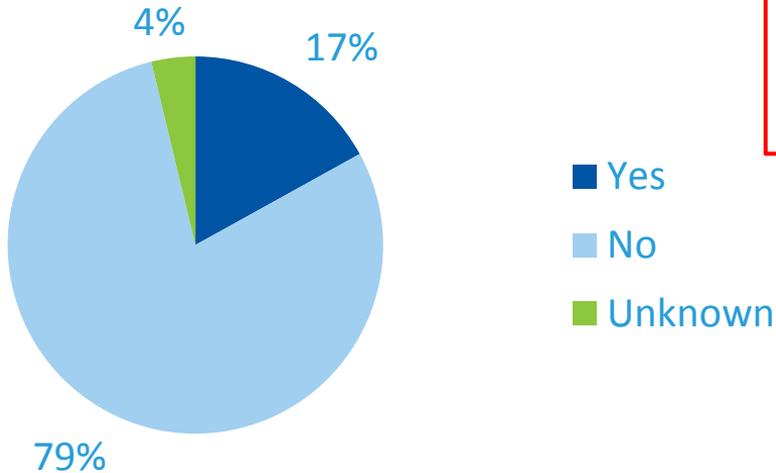


- 9 countries no access
- Majority in Europe



Do **different rules** on access to medical information for the accident/incident investigation authority apply, depending on whether the flight crew **survived** the accident/incident?

Different procedure if fatalities

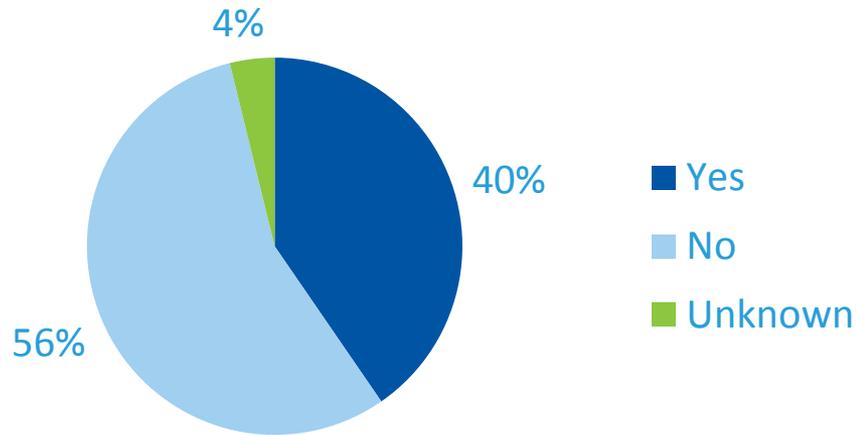


- 9 countries
- Europe (3), AP (3), Americas (3)



Is there any **guidance material** (e.g. from a regulatory body, medical organisations, the accident investigation authority, etc.) on this matter?

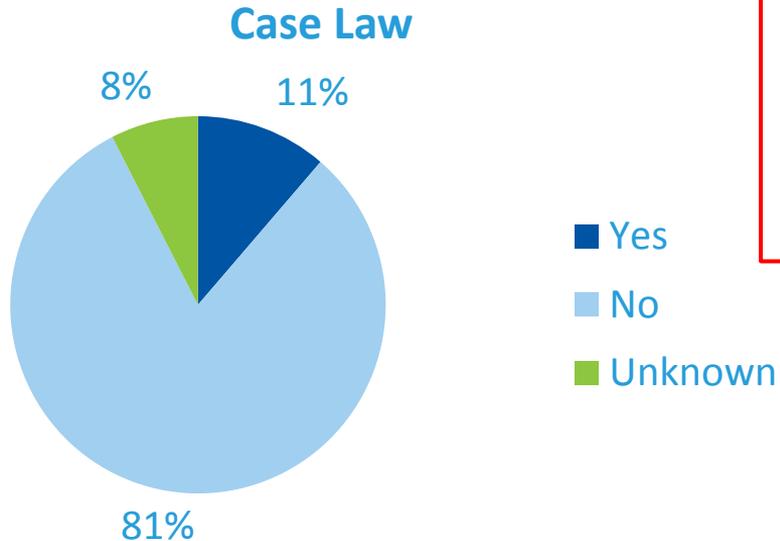
Guidance material available



- 9 countries
- Europe (3), AP (3), Americas (3)
- Examples
 - Manuals
 - Rulebooks
 - Website



Is there any relevant **case law** that needs to be taken into account when interpreting the applicable legislation on this topic?



- 6 countries
- Canada, Cyprus, Portugal, Spain, US, Venezuela



- Poor response rate
- Misinterpretation of questions
- Some cases not completed by most applicable person
- Quality of response varied
- Insufficient detailed information
- Survey not compiled by expert; although it was widely circulated prior to distribution



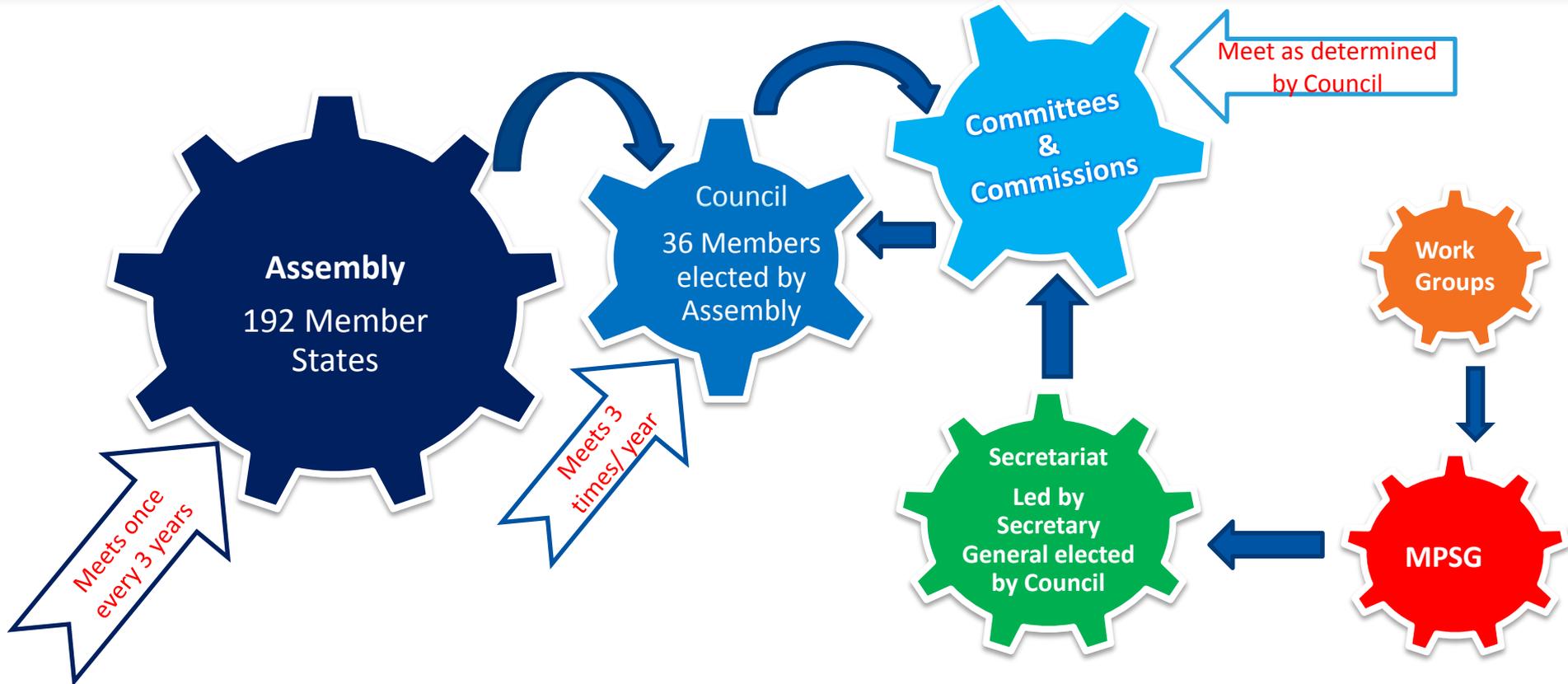
- Good geographical representation
- Confirmed the variability in practices
- Identified regional priorities
- Identified focus areas in specific regions and countries
- Identified interventions that could be implemented to assist AME's and accident investigators
- Identified relevant questions for a follow-up survey
- Provided possible solutions that can be provided to States during discussion and consultation process to support possible amended SARPs and guidance material



- Clarifying some of the responses
- Draft formal report for submission to ICAO Management
- Obtain appropriate resources for follow up survey
- Conduct follow-up survey
- Submission to ICAO MED work groups on Mental Health & Alcohol and substance use
- Submission to AIG (Accident Investigation) panel and MPSG (Medical Provisions Study Group)
- Recommendations to Air Navigation Commission following ICAO regulatory procedure



ICAO Regulatory Process





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North American
Central American
and Caribbean
(NACC) Office
Mexico City

South American
(SAM) Office
Lima

ICAO
Headquarters
Montréal

Western and
Central African
(WACAF) Office
Dakar

European and
North Atlantic
(EUR/NAT) Office
Paris

Middle East
(MID) Office
Cairo

Eastern and
Southern African
(ESAF) Office
Nairobi

Asia and Pacific
(APAC) Sub-office
Beijing

Asia and Pacific
(APAC) Office
Bangkok



THANK YOU