



Agenda Item 4: Aviation Safety Matters
4.6 Other Aviation Safety Matters

FLAGS OF CONVENIENCE

(Presented by the Secretariat)

SUMMARY	
The Council, at the eighth meeting of the 187th Session, considered activities contributing significantly to control the potential risk of flags of convenience. C-WP/13296 in the Appendix to this paper provides a progress report on measures being taken by ICAO to address the issue of flags of convenience, as well as a report on progress to date on the development of an international register of Air Operator Certificates (AOC).	
References:	
<ul style="list-style-type: none">• Annex 6 — <i>Operation of Aircraft, Part I — International Commercial Air Transport — Aeroplanes and Part III — International Operations — Helicopters</i>• Doc 9866, <i>Report of the Directors General of Civil Aviation Conference on a Global Strategy for Aviation Safety</i>• Doc 8335, <i>Manual of Procedures for Operations Inspection, Certification and Continued Surveillance</i>• State letter EC 2/93, AN 11/41-05/83	
Strategic Objectives	<i>This working paper is related to Strategic Objective A.</i>

1. Introduction

1.1 The need to reduce the potential safety risks associated with the abuse of flags of convenience has led to several on-going ICAO activities.

1.2 The recent activities included the availability of the advanced fifth edition of Doc 8335, the *Manual of Procedures for Operations Inspection, Certification and Continued Surveillance*, the development of the ICAO International Aircraft Information System (IIAIS) and the introduction of an International Register of AOCs, that will be developed using a 2-phase approach. These activities are described in the **Appendix** to this working paper, which contains an ICAO Council working paper, C-WP/13296.

1.3 Since C-WP/13296 was published, the International Register of AOCs has moved forward with the support of IATA and the appointment of a project manager.

2. Action

2.1 The meeting is invited to:

- a) note the information and discussion contained in the Appendix to this working paper;
- b) encourage the Directors of Civil Aviation of the Central Caribbean Region to use the new edition of Doc 8335, which will help States ensure implementation of a safety oversight programme for all commercial air operations, including those by foreign operators;
- c) encourage the Directors of Civil Aviation of the Central Caribbean Region to participate in the databases being developed by ICAO, i.e. the International Aircraft Information System and the International Register of AOCs, when they become operational.

APPENDIX



International Civil Aviation Organization
WORKING PAPER

C-WP/13296
25/5/09

COUNCIL — 187th SESSION

Subject No. 14: Subjects relating to air navigation

**PROGRESS REPORT ON THE ISSUE OF FLAGS OF CONVENIENCE
(AN Programme No. A1-SMP-ACT)**

(Presented by the Secretary General)

EXECUTIVE SUMMARY

The Council, at the sixth meeting of the 183rd Session, considered the issue of flags of convenience and supported the Air Navigation Commission's intent to establish unique identifiers for all aircraft habitually involved in international civil aviation and to focus its efforts on foreign aircraft operating with inadequate safety oversight, empowering States to take action when necessary to preserve safety. The Council requested the Secretary General to report on the development of an international register of air operator certificates (AOC). This paper provides a progress report on measures being taken by ICAO to address the issue of flags of convenience, as well as a report on progress to date on the development of an international register of AOCs.

Action: The Council is invited to:

- a) request the Air Navigation Commission to explore ways to provide incentives or requirements for participation by States in the international register of AOCs, through an Annex 6 — *Operation of Aircraft* amendment; and
- b) request the Secretary General to seek additional funding sources to support the further development of the international register of AOCs, including its maintenance, and, contingent upon funding, report back to the Council with a progress report for the register during its 190th Session.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objective A.
<i>Financial implications:</i>	The implementation of the International Aircraft Information System, pursuant to Article 21 of the Convention, requires no additional resources. The development and establishment of an international register of AOCs requires additional resources which would be sought from extra budgetary sources.
<i>References:</i>	C-WP/13133 C-WP/12480 C-DEC 185/3 C-DEC 183/6 C-DEC 175/6 AN Min. 177-1 Annex 6 — <i>Operation of Aircraft</i> , Part I — <i>International Commercial Air Transport — Aeroplanes</i> and Part III — <i>International Operations — Helicopters</i> Doc 9866, <i>Report of the Directors General of Civil Aviation Conference on a Global Strategy for Aviation Safety</i> Doc 8335, <i>Manual of Procedures for Operations Inspection, Certification and Continued Surveillance</i> State letter EC 2/93, AN 11/41-05/83

1. INTRODUCTION

1.1 The study on the safety and security aspects of economic liberalization (C-WP/12480, C-DEC 175/6 and State letter EC 2/93, AN 11/41-05/83 refer) recognized that flags of convenience could be a major safety concern. In such cases, an aircraft rarely, if ever returns to its State of Registry, and its airworthiness oversight becomes an issue in the absence of proper safety oversight arrangements between the State of Registry and the State of the Operator. The study identified two broad groups of foreign registered aircraft that can be deemed to operate under a flag of convenience: those done for fiscal purposes and those done to take advantage of a system with no or minimal economic or technical oversight.

1.2 The Air Navigation Commission considered that the foreign registered aircraft that pose a concern from a safety standpoint would be better characterized as those foreign registered aircraft operating outside of the State of Registry and/or State of the Operator with inadequate safety oversight.

1.3 The Directors General of Civil Aviation Conference on a Global Strategy for Aviation Safety (DGCA/06), in Recommendation 2/4, proposed that “States should eliminate flags of convenience and prevent illegal operations as well as the possible export of such activities from one State or group of States to another, and exchange safety information to this end”.

1.4 On 12 March 2008, the Council (C-DEC 183/6) provided guidance and direction on the way forward to address the issue of flags of convenience and illegal operations.

1.5 ICAO has initiated a number of activities that are contributing significantly to control the potential risk of flags of convenience. Some of those activities are completed or about to be implemented for operational use. The development of the international register of AOCs has been started but was delayed by a lack of resources resulting from the economic outlook that deferred donors’ funding, as well as from other ICAO priorities. A progress report on these activities follows.

2. PROGRESS REPORT

2.1 International Aircraft Information System

2.1.1 The ICAO International Aircraft Information System (IIAIS) will contain pertinent information concerning all aircraft habitually involved in international civil aviation, including registration, ownership and control, in accordance with Article 21 of the Chicago Convention. The IIAIS was developed with a capability to establish unique identifiers for aircraft, as requested by Council. Data to support this system will be provided by States using the ICAO web-based system. As an alternative to providing the data directly to ICAO through the organization's web-based system, States may format their data using software labels provided by ICAO, upon request, or use an ICAO accredited service provider to format their data. The IIAIS database will be available only to Contracting States for the purpose of identifying ownership and control of an aircraft.

2.1.2 The IIAIS is now in its pilot testing phase. The pilot phase will last until mid-summer 2009, at which time a State letter will be issued describing the IIAIS and making it available to all Contracting States. It is anticipated that States will be able to begin using the system during the last quarter of 2009.

2.1.3 The IIAIS will provide a means to uniquely identify aircraft, using two fields of data that, when combined, uniquely identify all aircraft entered into the database, whatever their current registration marks. A history of aircraft ownership and control would thus be available.

2.2 **Provisions and activities to support the surveillance of foreign operators**

2.2.1 The Council further requested the Air Navigation Commission to focus efforts on foreign aircraft operating with inadequate safety oversight, empowering States to take action when necessary to preserve safety. A number of recent ICAO decisions and provisions adequately address the surveillance of foreign operators and empower States, through the following:

- a) the 36th Assembly recognized that States have a responsibility to assure “themselves that foreign operators flying in their territory receive adequate oversight from their own State and [for] taking appropriate action when necessary to preserve safety”, and adopted Resolution A36-6 “State Recognition of the Air Operator Certificate of Foreign Operators and Surveillance of their Operations”;
- b) Amendments 30 and 11 to Annex 6 — *Operation of Aircraft, Part I — International Commercial Air Transport — Aeroplanes* and Part III — *International Operations — Helicopters*, respectively, established a requirement to carry a certified true copy of the air operator certificate (AOC) and a copy of the operations specifications on board aircraft;
- c) since November 2008, Annex 6, Parts I and III, require surveillance programmes for foreign operators, as well as operator’s contact information for operational management. States are now implementing such surveillance programmes. These programmes involve validation by States of the safety oversight of foreign operators and ramp inspections that will help States identify operators and aircraft where there may be safety concerns that need to be addressed. Guidance on resulting actions are provided in the fifth edition of the *Manual of Procedures for Operations Inspection, Certification and Continued Surveillance* (Doc 8335) (see below);
- d) the fifth edition of Doc 8335 was recently approved by the Secretary General and is available on ICAO-NET since October 2008. It provides guidance material for the oversight of leasing agreements and for the surveillance of foreign operators, including guidance on actions to be taken as a result of findings during ramp inspections. With assistance from the ICAO Secretariat, the Cooperative Development of Operational Safety and Continuing Airworthiness Programmes (COSCAPs) in Asia developed model regulations, a manual and a training course for inspectors to facilitate the implementation of these surveillance programmes. The first course will be given in June 2009 and regional availability of courses is expected for July 2009. This material is freely available, fully compliant with ICAO provisions and has been promoted in Africa and in Latin America; and

- e) a procedure was developed and approved by the Council to address “significant safety concerns” on a timely basis. The procedure would be applied when a State, while being audited under the ICAO Universal Safety Oversight Audit Programme, is found to have allowed a holder of an operating authorization or approval to exercise the privileges attached to it, even though the minimum requirements established by the State and by the Standards set forth in the ICAO Annexes are not met, thus resulting in an immediate safety risk to international civil aviation. If a State has been identified as having inadequate oversight and, if the State does not respond appropriately when the procedure is applied, the significant safety concern will be made available to all Contracting States through ICAO’s secure website. This is a significant contribution to the prevention of flags of convenience risks.

2.3 **International Register of AOCs**

2.3.1 As decided by the Council, the Secretariat explored the feasibility of establishing an international register of AOCs to facilitate the surveillance of foreign operators. A task force of regulators and industry was convened, including the United States Federal Aviation Administration, the European Aviation Safety Agency, Transport Canada, the Australian Civil Aviation Safety Authority and the International Air Transport Association (IATA), to scope the development of the international register of AOC. The task force came to the conclusion that the project should take place in two phases.

2.3.2 Phase I consists in the implementation of a database to collect, from the States of the Operator, the AOC and operations specifications content required by Annex 6. The task force has already defined the application functionalities (so called “business rules”) and the data to be collected. This accurate, timely and State-certified data would be available to Contracting States to facilitate surveillance of foreign operators. Phase I requires funding, which will be supported by IATA, and consists of: a project manager; the hardware (\$12 000 USD); and the software application (\$70 000 USD). After developing the application, pilot testing would take place, before operational deployment. Deployment is estimated to occur six to eight months after the project manager is selected and appointed.

2.3.3 After deployment, means of encouraging participation by States in the register should be explored, with a possible incentive being an amendment to the AOC and operations specifications carriage requirements in Annex 6, exonerating those operators, for which the relevant data is accessible from the register, from carrying a certified true copy of the AOC and a copy of the operations specifications on-board their aircraft.

2.3.4 Phase II is to take place when stakeholders are using the register on a regular basis. It would entail the definition of an additional data set, and associated register functionalities, to provide sufficient data to facilitate international civil aviation operations and their surveillance. Development of the register application would allow this additional data to be uploaded and used. Benefits would result for both States and industry in a more efficient management and update of the information required by States for the authorization and surveillance of operations by a foreign operator, and in the availability of additional risk management tools for the related surveillance activities.

2.3.5 Funding for the first phase was delayed as a result of the economic situation within the air transport industry, but IATA has confirmed that it will support the first phase and the appointment of the project manager is imminent. Funding for Phase II and long-term maintenance of the register will need to be identified.

3. **CONCLUSION**

3.1 The threat created by flags of convenience has been reduced as a result of measures taken by ICAO. The IIAIS is nearing operational status and various provisions have been developed. However, the international register of AOC has not progressed as fast as expected due to scarcity of resources, but is underway using a two phase development process.

3.2 There is a need to encourage participation by States in the international register of AOC, through appropriate incentives or requirements, such as an Annex 6 amendment.