



*International Civil Aviation Organization*

**First Meeting of the APRAST – Accident Investigation Ad hoc Working Group  
(APRAST-AIG AWG/1)**

*(Bangkok, Thailand, 6-8 June 2012)*

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**Agenda Item 4: Independence of Investigation**

**INDEPENDENT INVESTIGATION UNIT**

(Presented by Singapore)

**SUMMARY**

This paper highlights ICAO's emphasis on independent investigation system and suggests a number of ways for States/Administrations to enhance their investigation systems to achieve independence.

**1. INTRODUCTION**

1.1 ICAO requires that States establish an independent accident/incident investigation system that has as its sole objective the prevention of accident and incident and that has no role in the apportioning of blame or liability.

1.2 Twenty-two APAC States have been assessed by ICAO through audits in 2005-2010 under its Universal Safety Oversight Programme (USOAP) as not having an independent investigation system.

**2. DISCUSSION**

2.1 The usual explanation for not an independent investigation unit is that the States concerned have limited resources to support an independent unit, or have only a small aviation industry or too few accidents to warrant an investigation unit. For such States, the obligation under Annex 13 to investigate is typically discharged by:

- An operating division of the CAA (e.g. flight standard section, airworthiness section); or
- An ad-hoc commission set up by the Minister or the CAA with members drawn all, or practically all, from among the CAA staff.

2.2 While these arrangements are understandable, they fall short glaringly of ICAO's requirement. States/Administrations need a change of paradigm and have to start viewing investigation as an important

and indispensable element in the effective management of a State's safety oversight system, as propounded by ICAO in its State safety programme approach.

2.3 To better meet ICAO's expectation, and even if it is a policy decision to let the CAA handle the investigation, it is possible to inject some measures that will enhance perception of independence, although such an arrangement may not eradicate the perception of non-independence and may not fully address ICAO's deficiency finding. For example, States may consider the following:

- If the CAA does not have an investigation division and CAAS staff are mobilised to assume investigation duties, then these staff shall be given clear terms of reference for their role as investigators and the CAA shall assure them in writing that they will:
  - Be relieved from all encumbrances and obligations that may arise from his regular employment with the CAA;
  - Have complete freedom to act independently for the purposes of the investigation; and be devoid of the need to paying allegiance, loyalty or affinity to the CAA;
  - Be assured that no legal or administrative or any other form of action will be taken by the CAA against him, affecting his present or future career status with the CAA for any of the legitimate investigation work performed;
  - Not be required by the CAA to disclose or divulge any of the matters, sources or information connected with or incidental to the conduct of the investigation, during or after the investigation; and
  - Report, for the purposes of the investigation, to a person or a body outside the CAA (e.g. the Minister, the Parliament).
- The CAA may set up an investigation unit that will have no operational or regulatory tasks. Similarly, there should be clear terms of reference for the investigation unit and the unit shall report, for the purposes of the investigation, to a person or a body outside the CAA. Even a one-man unit will represent a significant advance in the State's attempt to better discharge its investigation obligation.
- Neutral parties and external experts may be invited to assist in its investigation.

2.4 An ad-hoc investigation commission set up by, say, the Minister with members not drawn from the CAA may assure an independent investigation. However, the effectiveness of the investigation may be questionable if the commission members do not have the relevant aviation experience and do not know the Annex 13 investigation protocol.

2.5 A better arrangement will be for the Ministry to set up an investigation unit with, as a minimum, one investigator<sup>1</sup>. This lone investigator has to be well-versed with Annex 13 and be able to perform the function of the investigator-in-charge in the event of a major air accident (which means that he has to know where to obtain resources to form an investigation team; and how to manage the investigation team and to direct the investigation and exercise quality control, and that he has to ensure that all the Annex 13 protocols are met).

2.6 An oft-asked question is what this lone investigation official shall do when there is no accident. This stems probably from a misconception that accidents are only those high-profiled ones as reported, for example, in the media. ICAO definition of "accident" encompasses far more than such high-profiled cases. In addition, ICAO requires that serious incidents be investigated. ICAO is also encouraging the investigation of incidents as possible precursors to more serious events. So there will be no shortage of occurrences to keep the one-man investigation unit busy.

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<sup>1</sup> The European Union requires its member States to each have a permanent safety investigation authority which shall comprise at least one investigator able to perform the function of the investigator-in-charge in the event of a major air accident.

2.7 Apart from investigation tasks, there will be many “peace-time” duties for the lone investigation officials, for example:

- Updating investigation legislation;
- Putting in place investigation procedures;
- Ensuring adequate investigation logistics;
- Planning for investigator resources (e.g. secondment from CAA, specialists from neutral parties in the State, investigation experts from other States or form a regional pool of experts, MOUs to secure the availability of such experts/specialists);
- Coordination with other agencies and other States; and
- Advising Ministry on investigation related matters.

2.8 By having at least a one-man investigation unit, there will be more certainty and continuity on the part of the State concerned as regards policies and international cooperative relationship. It has to be noted that international relationship is an important asset for an investigation unit, as this will enable assistance from foreign investigation units to be organised even with a short notice.

2.9 Last but not least, States may achieve independence in investigation through subscribing to a regional accident/incident investigation organisation, but this will likely require more time to arrange. Even so, there is still a need for at least one investigation expert to handle the many issues that participation in such a regional arrangement will give rise to.

### 3. ACTION BY THE MEETING

3.1 The meeting is invited to consider suggesting to APRAST that:

- a) RASG-APAC encourage those States/Administrations which do not yet have independent investigation systems to consider establishing some form of independent investigation organisation; and
- b) RASG-APAC request these States/Administrations to indicate if they have a definite plan to establish a form of independent accident investigation unit as discussed in this paper and, if they have, to indicate if they need assistance in the establishment of such a unit and, if they need, to indicate the kinds of assistance that they need.

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