



International Civil Aviation Organization

First Meeting of the Asia Pacific Accident Investigation Group (APAC-AIG/1)
(Bali, Indonesia, 18-19 September 2013)

Agenda Item 1: Review of the Conclusions of APRAST-AIG AWG/3, APRAST/3 and RASG-APAC/3

**CONSIDERATION FOR SUBSCRIBING TO
THE ASIA-PACIFIC REGIONS CODE OF CONDUCT ON
COOPERATION RELATING TO CIVIL AVIATION
ACCIDENT/INCIDENT INVESTIGATION**

(Presented by Hong Kong, China)

SUMMARY

Hong Kong, China is in support of the Asia Pacific spirit of cooperation in civil aviation accident/incident investigation. While concurring to this spirit of cooperation, it is noted that non-investigation related laws, rules, regulations and national policies from time-to-time, may hinder the accession to or compliance with the Code of Conduct by different States/Administrations. This paper shares the views and considerations of Hong Kong, China in subscribing to this Code of Conduct.

1. INTRODUCTION

1.1 As a pledge to cooperate in civil aviation accident/incident investigation, Asia Pacific States/Administrations are encouraged to subscribe to the **Code of Conduct on Cooperation Relating to Civil Aviation Accident/Incident Investigation** (Code of Conduct).

1.2 Through ICAO APAC letter, referenced T6/13.9 – AP109/13(FS) dated 2 August 2013, it has been stressed that the Code of Conduct is not legally binding and it has been revised to avoid using words that may suggest otherwise.

2. DISCUSSION

2.1 Hong Kong, China is in support of the Asia Pacific spirit of cooperation in civil aviation accident/incident investigation. While concurring to this spirit of cooperation, it is noted that non-investigation related laws, rules, regulations and national policies from time-to-time, may hinder the investigative bodies to accede to or comply with the Code of Conduct by different States/Administrations.

2.2 Some areas of concerns are illustrated below: -

- (i) The actual legal effect of the Code of Conduct may be subject to different interpretation in different States/Administrations;
- (ii) The ability of an investigative body to participate in an investigation not directly related to their Annex 13 obligations may have resource and policy implications which are beyond the control of the investigative body.

2.3 From the angle of Hong Kong, China's legal system, we consider that: -

- (i) The change of language used in the revised Code of Conduct (e.g. the use of the word "should" or "may" in many of the provisions) is in line with international law practices and is having a positive effect to reinforce the non-binding nature of the Code of Conduct, though in some provisions where the word "should" has replaced "will" (e.g. Item II-2), the use of the word "will" is suggested to be reinstated;
- (ii) The revision of certain provisions, such as the use of "should offer assistance" in Item II-2(a), the use of "should take steps, as they deem appropriate" in Item II-2(c), and the choice of opting out from the Code of Conduct by giving due notice in Item III, all indicate the participating authorities are only required to assist subject to available resources.

2.4 The successful implementation of the Code of Conduct will require the support of States/Administrations in the region. To promote mutual cooperation in accident/incident investigation, States/Administrations are encouraged to support and duly consider their subscription to the Code of Conduct.

3. ACTION BY THE MEETING

3.1 With the objective of enhancing the Asia Pacific spirit of cooperation in civil aviation accident/incident investigation, the meeting is invited to note the views and considerations of Hong Kong, China in subscribing to the Code of Conduct. States/Administrations are encouraged to duly consider their subscription to pledge their support to this cooperative spirit.

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