



*International Civil Aviation Organization*

**FOURTH MEETING OF THE ASIA PACIFIC ACCIDENT INVESTIGATION GROUP  
(APAC-AIG/4)**

*Tokyo, Japan, 1-2 September 2016*

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**Agenda Item 2: Update on ICAO initiatives**

**THE IMPORTANCE OF AN INDEPENDENT AVIATION SAFETY  
INVESTIGATION AUTHORITY**

*(Presented by Australia)*

**SUMMARY**

The requirement for a State/Administration to have an independent aviation safety investigation authority will become an ICAO Annex 13 Standard on 10 November 2016. The investigation authority should be independent in terms of both structure and functioning.

A number of arguments that might be raised to suggest that having a separate independent aviation safety investigation authority is not practicable are addressed.

**1. INTRODUCTION**

1.1 The role of an independent safety investigation agency is crucial to maintaining and enhancing aviation safety. By carrying out aviation safety investigations in a thorough and timely manner, a State/Administration can identify areas of safety concern, leading to action by government and aviation industry organisations. In that way, the work of the independent authority contributes directly to establishing and maintaining a safe and reliable transport system.

1.2 To be effective, an accident investigation authority must be seen as trusted source of accurate and unbiased information. The authority must be accepted as an honest broker that investigates and reports without fear or favour. Sometimes the message that the investigation authority delivers may be unpalatable. Nevertheless, if the authority is held in high regard it is more likely to be listened to, and the message acted upon.

**1.3 Amendments to ICAO Annex 13**

1.3.1 The importance of a State/Administration having an independent aviation safety investigation agency is recognised by the requirement for such an agency becoming an ICAO Annex 13 Standard from 10 November 2016. Amended paragraph 3.2 of Annex 13 will now stipulate that,

A State shall establish an accident investigation authority that is independent from State aviation authorities and other entities that could interfere with the conduct or objectivity of an investigation.

1.3.2 In addition, Annex 13 will now define ‘Accident investigation authority’ as “the authority designated by a State as responsible for aircraft accident and incident investigations within the context of this Annex”.

1.3.3 A note to Annex 13 amended paragraph 3.2 states,

Guidance on the independence of an accident investigation authority is contained in the *Manual of Aircraft Accident and Incident Investigation, Part I — Organization and Planning* (Doc 9756) and the *Manual on Accident and Incident Investigation Policies and Procedures* (Doc 9962).

## **2. DISCUSSION**

### **2.1 What does ‘independent’ mean?**

2.1.1 ICAO State Letter ‘Adoption of Amendment 15 to Annex 13’ (AN 6/1.1-16/20) states, that,

Independent refers to an authority that is functionally separate from State aviation authorities and other entities that could interfere with the conduct or objectivity of investigations so that the associated causes and contributing factors are properly and adequately identified

2.1.2 Specifically, ‘independent’ refers to a number of different aspects related to both the structure and functioning of the accident investigation authority.

### **2.2 Independence of Structure**

2.2.1 Independence of structure refers to the organisational context in which the accident investigation authority operates. In general, the investigation authority should be independent from any other party whose interests could conflict with those of the authority.

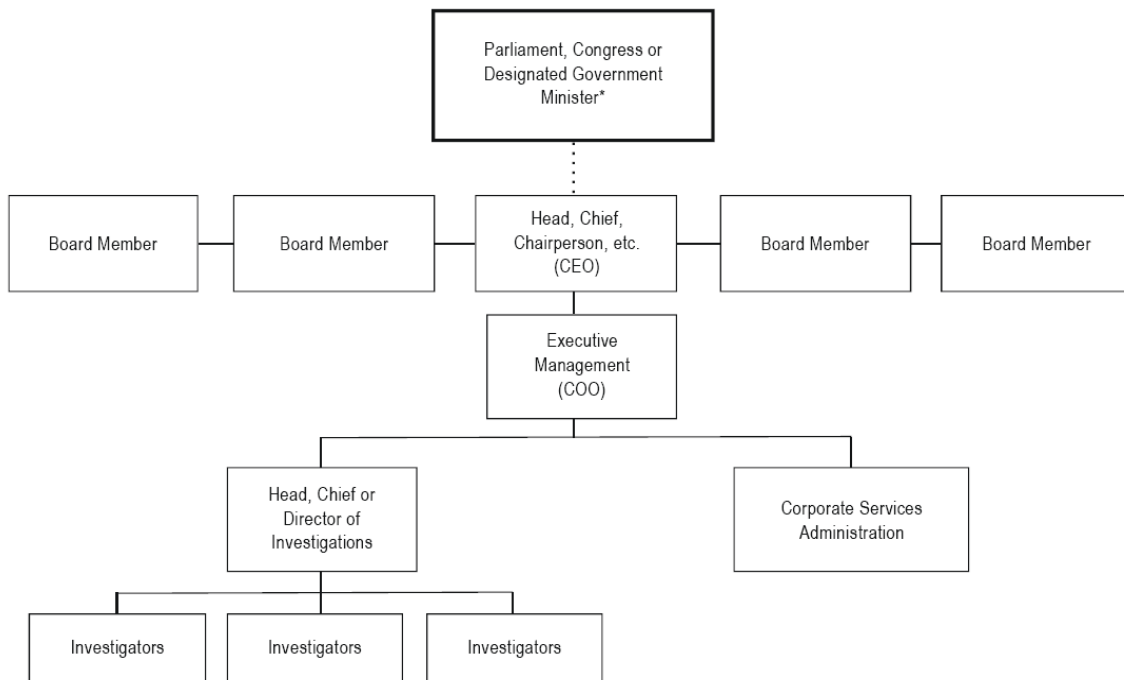
2.2.2 In particular, as outlined in ICAO Doc 9962, *Manual on Accident and Incident Investigation Policies and Procedures* (section 3.2), the authority should be separate from the national civil aviation authority responsible for airworthiness, certification, flight operation, maintenance, licensing, air traffic control or airport operation.

2.2.3 It is a principle of sound investigation practice that an agency should not investigate itself. That principle may be violated if the accident investigation authority is not separate from other agencies in the aviation system. For example, a consideration of the regulatory, surveillance, and safety oversight functions of the civil aviation authority of a State/Administration may be a relevant aspect of the investigation.

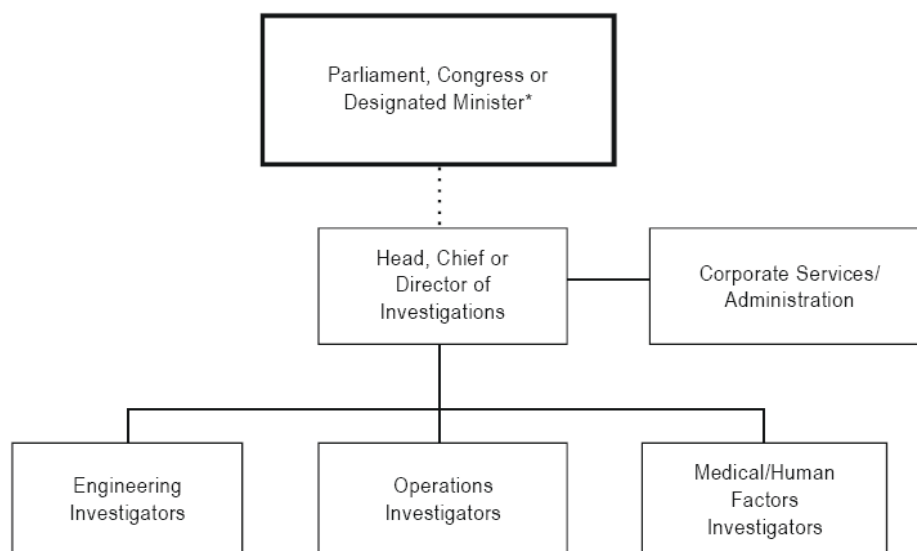
2.2.4 It should be noted, however, that ‘independent’ does not mean that the accident investigation authority is not administratively supervised and accountable to a government Minister or ministry (or parliament) for its finances, administration, policies and working methods (ICAO Doc 9962).

2.2.5 An accident investigation authority that is part of the civil aviation authority (the ‘aviation regulator’) of a State/Administration does not satisfy the requirement for independence. This has been confirmed by a ruling from ICAO Headquarters (4 March 2016).

2.2.6 Many States/Administrations have achieved the independence of their accident investigation authority by having the authority report directly to congress, parliament or a ministerial level of government. An example of a structure that embodies this principle is shown below (ICAO Doc 9946).



2.2.7 For smaller States/Administrations, a simpler structure may be more approximate. One such structure is shown below (Doc 9946).



2.2.8 The key principle is that the accident investigation authority should be established in such a way that it can withstand political or other interference or pressure. In that way it can not only be strictly objective and totally impartial, but it will also be perceived to be so (ICAO Doc 9756). To ensure that is the case, the investigation authority should not report to the same Minister responsible for the regulation and/or safety oversight of civil aviation, nor should it report to the judicial authority (ICAO Doc 9946).

## 2.3 **Independence of functioning**

2.3.1 Annex 13 section 5.4 specifies the following Standard in relation to the independence of the investigation process,

The accident investigation authority shall have independence in the conduct of the investigation and have unrestricted authority over its conduct.

2.3.2 In practice, this means that the accident investigation authority should not be controlled or limited in its ability to,

- Initiate investigations
- Gather and analyse evidence
- Determine causes/contributing factors
- Issue safety recommendations
- Publically release investigation reports

2.3.3 The independent authority should have the power to initiate an investigation into any aviation accident or incident required under Annex 13. To support this function, the authority should have made available to it all reports of aviation accidents or incidents that the State receives through the mandatory and voluntary reporting schemes as per Annex 13 and Annex 19.

2.3.4 The power of the authority to initiate investigations is not contradicted or diminished by the additional power of a relevant government Minister to direct the authority to investigate a particular aviation accident or incident.

2.3.5 In gathering evidence, the Investigator in Charge (IIC) must have the power of access and control stipulated in Annex 13 paragraph 5.6, namely,

The investigator-in-charge shall have unhampered access to the wreckage and all relevant material, including flight recorders and ATS records, and shall have unrestricted control over it to ensure that a detailed examination can be made without delay by authorized personnel participating in the investigation.

2.3.6 In particular, access to evidential material by the investigation authority should not be restricted or delayed by administrative or judicial investigations or proceedings (Annex 13 paragraph 5.4.3).

2.3.7 The investigation authority should have the power to release Preliminary and Final Reports as they are completed, in accordance with ICAO Standards and Recommended practices. The power of the authority to release reports should not be subject to veto or unreasonable delay by any government Minister, agency, or official.

2.3.8 Independence of functioning also requires that sufficient financial and human resources are dedicated to the independent investigation authority, including managers, investigators and administrators. Since it is impossible to accurately forecast annual budget requirements for accident investigation, provision should be made for supplementary funding as required (Doc 9756).

## 2.4 **ICAO Implementation Workshop**

2.4.1 An ICAO Implementation Workshop related to the Standard for an independent aviation safety investigation authority will be held in the Asia Pacific region in April 2017.

## 2.5 **Rebuttal of possible arguments against an independent authority**

2.5.1 A number of arguments might be raised to suggest that having a separate independent aviation investigation authority is not feasible. Those arguments are addressed below. In summary, the principle of independence outweighs other considerations, and practical difficulties in establishing and maintaining an independent authority can be overcome.

*An independent authority won't have the technical expertise of bigger agencies like the aviation regulator*

2.5.2 No aviation safety investigation authority, whether big or small, will have every specialist ability or resource that they may need at some stage. This is particularly so given the range of aircraft types and specialised technical methods that may be required during an investigation. Hence, all independent authorities will need to have processes in place to source specific expertise if and when needed. This is irrespective of the size of the authority.

2.5.3 While utilising the resources of the aviation regulator may be appropriate in some limited circumstances, great care must be taken that staff seconded from the regulator are not faced with conflicting loyalties or goals. The danger is that seconded personnel may fear retribution when they return to their normal duties should the civil aviation authority react unfavourably to the findings in the Final Report of the investigation (Doc 9756).

*The independent authority won't have anything to do between major accidents*

2.5.4 A common misconception is that the work of independent authority will only involve the investigation of accidents, and major accidents at that. In effect, this approach takes the view that "We'll deal with it when it happens". This can be very counterproductive.

2.5.5 A State/Administration will only be able to respond adequately to a major aircraft accident if they are in a state of constant preparedness. A very important aspect to achieving that preparedness comes through the investigation of serious incidents. The concept of a 'close call' providing a 'free lesson' in aviation safety cannot be overemphasised. With that mindset, the independent authority will always have work to do, and will be prepared to respond immediately to a major accident.

*Our State is too small to warrant and support an independent authority*

2.5.6 ICAO recognises that some States may not have the resources necessary to comply with ICAO standards and recommended practices on their own. In such cases, ICAO suggests that one possible solution to the barrier of resource constraints is for a group of States in a region to work together to implement a Regional Accident and Incident Investigation Agency (RAIO).

2.5.7 The *Manual on Regional Accident and Incident Investigation Organization* (ICAO Doc 9946) provides information and guidance on the establishment and management of an RAIO to assist States to fulfil their obligations for accident and incident investigation.

## 3. **SUMMARY**

3.1 In summary, as stated on ICAO State Letter AN 6/1.1-16/20,

The functional independence of the accident investigation authority will avoid real or perceived conflict of interests, enhancing the credibility of investigations. It will also improve the ability to properly identify the causes and contributing factors to

the occurrence, along with associated safety recommendations, with a positive impact on safety.

**3.2 Access to relevant ICAO Documentation**

3.2.1 The following ICAO documents are available from the ICAO Secure Portal,

<http://portal.icao.int>

- Manual of Aircraft Accident and Incident Investigation (Doc 9756)
- Manual on Accident and Incident Investigation Policies and Procedures (Doc 9962)
- Manual on Regional Accident and Incident Investigation Organization (Doc 9946)

3.2.2 The following ICAO documents are available from the ICAO public website,

<http://www.icao.int/safety/Implementation/Pages/Resources.aspx>

- Model Aircraft Accident and Incident Investigation (AIG) Act
- Model Aircraft Accident and Incident Investigation (AIG) Regulations

**4. ACTION BY THE MEETING**

4.1 The meeting is invited to,

4.1.1 Note that the requirement for a State/Administration to have an independent aviation safety investigation authority will become an ICAO Annex 13 Standard on 10 November 2016.

4.1.2 Note that an ICAO Implementation Workshop related to the Standard for an independent aviation safety investigation authority will be held in the Asia Pacific region in April 2017.

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