



**WORKING PAPER**

**ASSEMBLY — 37TH SESSION**

**TECHNICAL COMMISSION**

**Agenda Item 25: Follow-up of the High-level Safety Conference (2010)**

**Agenda Item 27: The protection of certain accident and incident records**

**TERMS OF REFERENCE FOR MULTIDISCIPLINARY GROUP ON INFORMATION PROTECTION PROVISIONS**

(Presented by Australia)

**EXECUTIVE SUMMARY**

The High-level Safety Conference (2010) made Recommendation 2/4 that ICAO establish a multidisciplinary group to progress activities regarding the protection of safety data and safety information with the view to ensure the availability of safety information for the management of safety. The Council of ICAO has agreed to the establishment of this group, on the basis of proposed terms of reference to be presented to the Air Navigation Commission (ANC) during the 185th Session of the ANC. The purpose of this paper is to provide support to the Council's proposals in A37-WP/60 and A37-WP/66 that certain principles for the protection of safety information be taken into account when providing the multidisciplinary group with the terms of reference, and to urge that important complementary principles also be taken into account.

**Action:** The Assembly is invited to endorse the proposal that, in developing the terms of reference for the multidisciplinary group, the principles outlined in paragraphs 2.2 to 2.5 of this working paper are taken into account, along with those outlined in A37-WP/60 and A37-WP/66.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objectives A & D: Safety and Efficiency
<i>Financial implications:</i>	Those attributable to the cost of establishing and maintaining the multidisciplinary group.
<i>References:</i>	A37-WP/60; A37-WP/66; A37-WP/74 Doc 9935, <i>Report of the High-level Safety Conference (2010)</i> HLSC 2010-WP/7, 22, 30, 44, 58, 66, 77, 79 HLSC 2010-SD/6 Doc 9914, <i>Report of the Accident Investigation Divisional Meeting (2008)</i> AIG/08-WP/30 C-WP/13554 C-DEC 190/6 Annex 13 – <i>Aircraft Accident and Incident Investigation</i> State letter AN 12/53.1-10/56

## 1. INTRODUCTION

1.1 Recommendation 2/4 (a) of the High-level Safety Conference (HLSC 2010) (Montréal 29 March – 1 April) is for ICAO to establish a multidisciplinary group to progress activities regarding the protection of safety data and safety information with the view to ensure the availability of safety information for the management of safety.

1.2 The ICAO Council has agreed to this Recommendation and to the presentation of proposed terms of reference for the multidisciplinary group to the Air Navigation Commission (ANC) during its 185th Session (C-WP/13554; C-DEC 190/6). Australia proposes that the Assembly should encourage the Secretariat to present, and the ANC to establish, terms of reference for the task force that take account of the matters in paragraphs 2.2 to 2.5 below.

## 2. DISCUSSION

2.1 HLSC (2010) Recommendation 2/4 (c) states: when establishing the terms of reference for the group, ICAO should take into account the ideas developed in the working papers on this item and should consider:

- 1) protection of safety data in support of SSP and SMS other than those related to accidents and incidents records;
- 2) protection of certain accident and incident records; and
- 3) interactions between safety and judicial authorities and the concept of an open reporting culture.

2.2 Related to the terms above, Australia supports the Council's proposal in A37-WP/60 that draft Resolution 25/1 would form a high-level framework to guide the work of the proposed multidisciplinary task force that will address the legal, technical and operational aspects related to the sharing of safety information. Australia also supports the concepts with respect to the protection of safety information expressed in draft resolutions 27/1 and 27/2, appended to A37-WP/66, being used to guide the deliberations of the multidisciplinary group.

2.3 The draft resolutions emphasise the need for protections for information that are commensurate with the nature of the information as derived from its source. Consistent with this principle, Australia proposes that the protections should be commensurate with the purpose for which the information is proposed to be disclosed.

2.4 Further, it is suggested that the multidisciplinary group should be encouraged to liaise with representatives of other technical professions, similar to aviation, that have complex safety systems to determine whether a consistent approach can be taken to interacting with judicial and other relevant authorities.

2.5 Addressing these matters would cover the concerns raised in the papers put forward at the HLSC (2010) under topic 2.4 (HLSC 2010-WP/7; HLSC 2010-WP/22; HLSC/10-WP/30;

HLSC 2010-WP/44; HLSC 2010-WP/58; HLSC 2010-WP/66; HLSC 2010-WP/77; HLSC 2010-WP/79). It would also cover corresponding concerns raised in the papers put forward at the AIG Divisional Meeting (2008) under agenda item 1.7, having particular regard to the paper put forward by Australia (AIG/08-WP/30).

### 3. CONCLUSION

3.1 Australia is fully supportive of the recommendation to establish a multidisciplinary group to review information protection provisions with a view to ensure the availability of safety information for the management of safety. This objective is more likely to be achieved if the terms of reference governing the work of the multidisciplinary group clearly address relevant concerns raised at the HLSC (2010) (Doc 9935) and the AIG Divisional Meeting (2008) (Doc 9914).

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