



International Civil Aviation Organization

North American, Central American and Caribbean Office

Second Meeting of North American, Central American and Caribbean Directors of Civil Aviation (NACC/DCA/2)

Tegucigalpa, Honduras, 11 – 14 October 2005

NACC/DCA/2-IP/03

22/09/05

Agenda Item 2: Safety Oversight
2.1 USOAP

STATE SAFETY OVERSIGHT OBLIGATIONS

(Presented by the United States of America)

SUMMARY

This paper addresses one aspect of an amendment to ICAO Annex 6, Part I initially proposed by the United States in 2003, one that strengthens current ICAO provisions in the area of state safety oversight obligations. This proposal was reviewed by the ICAO Air Navigation Commission last June and is now the subject of ICAO State letter AN 11/44-05/61 dated August 12, 2005 soliciting review and comments from all Contracting States. This paper briefly describes the proposal and urges Contracting States in this region to express their support to ICAO when responding to the ICAO State letter. A copy of the U.S. response to the ICAO State letter is included in the appendix to this information paper.

1. Introduction

1.1 As one part of the effort to expand the scope of the ICAO Universal Safety Oversight Audit Program (USOAP), the ICAO Secretariat reviewed and recommended amendments to the Standards and Recommended Practices (SARPs) in some annexes so they serve as more appropriate benchmarks for audit purposes. Two key areas addressed were the SARPs in the fields of air traffic services (Annex 11) and aerodromes (Annex 14).

2. Discussion

2.1 The United States believes that such an effort is also needed with respect to the safety oversight-related provisions in Annex 6, Part I. As a result of ICAO implementing the new systems approach to auditing earlier this year, the USOAP final reports will be restructured to critically assess a state's capability to effectively implement international safety related policies and associated procedures, using the eight critical elements that define an effective safety oversight system specified in existing ICAO guidance material (DOC 9734). It is now necessary to take the next logical step and establish provisions in Annex 6, Part I related to these eight elements in order to more clearly outline the obligations of Contracting States to provide effective safety oversight of their air operators.

2.2 Accordingly, the United States completed such a review of the safety oversight-related provisions of Annex 6, Part I and transmitted a proposed amendment to ICAO in early 2003. The intent of this proposal is to clarify the obligations of a State of the Operator to provide effective safety oversight of the air operators it regulates. Presently, most of the provisions of Annex 6, Part I focus on the obligations of a State of the Operator (and Registry) and its personnel, which is the primary focus of the USOAP. This proposal, one that was previously coordinated with the Joint Aviation Authorities (JAA), Transport Canada, and the Civil Aviation Safety Agency of Australia (CASA), received a preliminary review by the ICAO Air Navigation Commission (ANC) last June. It was subsequently sent to all ICAO Contracting States for comments that are due back to ICAO on November 30, 2005.

3. Conclusion

3.1 ICAO Standards and Recommended Practices are recognized by all Contracting States as a specification, the uniform application of which is internationally recognized for the safety of international air navigation. Therefore, a clear and complete delineation of State safety oversight obligations, currently lacking in Annex 6, is of paramount importance. The results of previous cycles of USOAP audits indicate that a significant number of Contracting States, in the area of aircraft operations, are not conforming with all internationally adopted standards and procedures, defined by the Convention on International Civil Aviation, articles 37 and 38. This situation reinforces the need for a higher level of accountability.

3.2 The United States urges all Contracting States in this region to express their support of ICAO State letter AN 11/44-05/61 dated August 12, 2005. A copy of the U.S. response is **Appended** to this paper.

APPENDIX

U.S. Response to ICAO State letter AN 11/44-05/61 dated August 12, 2005 on the subject of proposed amendments to Annex 6, Parts I and III

We appreciate the opportunity to reply to ICAO State letter AN 11/44-05/61 dated August 12, 2005 on the subject of the proposed amendment to Annex 6, Parts I and III. As you are aware, the issues addressed in this letter arose at ICAO as a result of two proposals that were sent to ICAO by the United States in February and April of 2003 respectively. Before sending these proposals to ICAO, the Federal Aviation Administration (FAA) coordinated them beforehand with the Joint Aviation Authorities, Transport Canada, and the Civil Aviation Safety Authority of Australia. We shall respond to your letter along the lines of the two topics that were addressed in the initial U.S. proposals in 2003.

1. State safety oversight obligations

The U.S. made this proposal because clear and sufficiently detailed Standards and Recommended Practices in Annex 6 were lacking for specific State safety oversight obligations, although adequate guidance material, in the form of the 8 critical elements, did exist in Chapter 3 of the ICAO Safety Oversight Manual (Doc 9734). The experience of the ICAO Universal Safety Oversight Audit Program (USOAP) emphatically demonstrates that such provisions are needed to establish a higher degree of accountability for States.

With the following exceptions, we agree without comment with this aspect of the proposal that emanated from the Air Navigation Commission's preliminary review and as documented in this State letter.

1. Standard 1.2 (Appendix 5 of Part I and Appendix 2 of Part III)---agreement with comment

In order to provide effective oversight, inspectors have a need for face-to-face dialogue with operator officials in the course of performing their certification and continued surveillance tasks. Hence, this Standard should include explicit mention of access to personnel, as well as records, aircraft, operations, and facilities.

2. Standard 3.1 (Appendix 5 of Part I and Appendix 2 of Part III)---disagreement with comment

This Standard provides an opportunity to underscore the critical need for civil aviation authorities to be truly independent regulatory entities whose objectivity in making safety-related decisions is beyond question. Hence, the U.S. proposes again that the following text, stricken in the course of the ANC's preliminary review, be restored as follows (new text is underlined):

3.1 The State of the Operator shall ensure that the Authority is responsible for the safety oversight of air operators and that it has resources appropriate to the size and complexity of civil air operations under the jurisdiction of the State, to effectively discharge the responsibilities of the State, without reliance on direct contributions from entities regulated by the Authority.

Note.- The intent of this Standard is the avoidance of situations that may compromise or appear to compromise the objectivity of the Authority and its personnel.

3. Recommendation 5.4 (Appendix 5 of Part I and Appendix 2 of Part III)---disagreement with comment

This proposed Recommendation, as changed during the ANC preliminary review, is at variance with the concept now reflected in current ICAO guidance material, i.e. paragraph 9.3 of Doc 8335 (Manual of

Procedures for Operations Inspection, Certification, and Continued Surveillance). This material specifies that Authority inspectors should “enjoy conditions of service and remuneration.....comparable to those personnel of the operator whose activities they will inspect or supervise.”

This admonition recognizes that Authorities ought to be prepared to offer and provide adequate remuneration to both attract and retain qualified inspectors who might otherwise opt to accept or maintain higher-paying positions with operators (particularly operations inspectors who often receive much higher remuneration as pilots).

Hence, the United States proposes again that this new Recommendation 5.4 read as follows (new text is underlined):

5.4 Recommendation.- The State of the Operator should ensure, to the extent practicable, that the remuneration and conditions of service of Authority inspectors are commensurate with the responsibilities and qualifications associated with their respective functions and comparable to the remuneration and conditions of service of the aviation industry personnel whose activities they will inspect or supervise.

The above is also intended to respond to your request in paragraph 5b) of your letter.

In paragraph 5a) of your letter, you raised the question of whether the critical elements of a State regulatory system should be specified, with suitable modifications, in each of the safety-related Annexes to the Convention, or in a new Annex. First, we believe that any decision with respect to this issue should not in any way delay the adoption and incorporation of this aspect of this amendment into Annex 6. We also believe that there is merit in exploring the use of appropriately modified provisions to establish comparable basic State “building blocks” appropriate for each annex.

In paragraph 5c) of your letter, you solicited our reaction to the issue of whether the new guidance material proposed for Attachment F should be kept in Annex 6 or placed in a manual such as Doc 8335. This material, as drafted, was intended to group together, for ease of identification, all the State approval and acceptance actions that are specified in Standards and Recommended Practices throughout Annex 6, Parts I and III. Given this degree of close connectivity, we have a preference for retaining this useful reference information within Annex 6 itself as the proposed Attachment F.

2. Operational control and dispatch systems.

The U.S. made this proposal due to the experience and familiarity of the FAA with the methods of control and supervision of flight operations employed by a number of non-U.S. operators. Many operators control and supervise flights in ways that disperse such functions among several unlicensed personnel (often in different departments), personnel who also do not receive operator-specific training in such functions. The bottom line is a practice that results in a lack of proper coordination and accountability as to whom is responsible, in conjunction with the pilot-in-command, for the safe dispatch and operation of a flight.

The U.S. consequently agrees without further comment with the new and revised provisions in Annex 6, Parts I and III that address these issues and rectify current deficiencies in ICAO provisions.