



大会 — 第 38 届会议

技术委员会

议程项目 27：航空安全 — 政策

关于适当使用和保护安全信息的现行与未来工作

(由澳大利亚提交)

执行摘要

根据第 37 届大会各项决议以及理事会据此做出的指示，空中航行委员会建立了多学科的安全信息保护工作队（SIP TF），以便就保护安全信息的新的和/或强化的国际民航组织规定和指导材料提供建议。SIP TF 编制了发现结果和建议以供审议，其中建议对附件 13 的多项规定和新的附件 19 第五章的特定规定进行重要修订，以及对附件 19 附篇 B 现行规定进行修订并推出新的规定。这些发现结果和建议考虑到处理关键安全关切的重要性，同时在保护安全信息和适当行使司法的需要之间取得平衡。

SIP TF 的发现结果与建议预计还将对安全管理专家组以及其他国际民航组织机构、专家组、工作组和研究组的工作有所启发，从而进一步编制、润饰和实施旨在确保适当使用和保护安全信息的理性化标准、建议措施和指导材料，以便维护和提高航空安全。

澳大利亚支持符合这些目标的现行进展，提议对规范该领域的大会决议进行更新，以便确保继续取得此种进展。

行动：请大会：

- a) 注意到 SIP TF 成功地完成了其被赋予的任务，提交了工作队的发现结果和建议，以供适当的国际民航组织机构、专家组、工作组和研究组等审议；
- b) 注意到确保维持 SIP TF 工作反映的动力的重要性；和
- c) 据此审议大会 A37-2 号以及 A37-3 号决议的拟议修订。

战略目标：	本工作文件涉及安全战略目标。
财务影响：	无需额外资源。
参考材料：	附件 13 — 《航空器事故和事故征候调查》 附件 19 — 《安全管理》 Doc 9958 号文件：《大会有效决议》（截至 2010 年 10 月 8 日），见 A37-2 和 A37-3。

	<p>Doc 9935 号文件：《高级别安全会议的报告》（2010 年），见建议 2/4</p> <p>Doc 9914 号文件：《事故调查和预防（AIG）专业会议报告》（2008 年），见建议 1.7/1</p> <p>C-DEC190/6 号决定（2010 年 5 月 28 日）</p> <p>AN 8/1-IND/11/1 号国家级信件（2011 年 3 月 1 日）</p> <p>《安全信息保护工作队第四次会议报告》（2013 年 1 月 21 日至 25 日）（SIP TF/4-WP/24 号文件）</p> <p>A38-WP/80 — 《平衡安全信息的保护与使用》</p> <p>A38-WP/82 — 附件 19 — 《安全管理》</p>
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1. 引言

1.1 根据事故调查和预防（AIG）专业会议（2008 年）的成果，和理事会对高级别安全会议（2010 年）建议行动的接受（C-DEC 190/6 号决定），并根据大会 A37-2 号决议（对某些事故和事故征候调查记录的不予公布）以及 A37-3 号决议（为提高航空安全而保护安全数据收集和处理系统的资料），空中航行委员会于 2010 年 12 月 7 日商定成立一个多学科的安全信息保护工作队（SIP TF），以便就保护安全信息的新的和/或强化的国际民航组织规定和指导材料提供发现结果与建议。SIP TF 职权范围要求，任何发现结果或建议必须考虑到处理关键安全关切的重要性，同时在保护安全信息和适当行使司法的需要之间取得平衡。

1.2 在 2011 年 5 月至 2013 年 1 月之间，SIP TF 举行了四次正式会议以及多次附属会议和电话会议，圆满地提交了 8 项建议，载于 SIP TF 第四次会议报告中。

1.3 除此之外，SIP TF 建议对将于 2013 年 11 月 14 日开始适用的附件 19 — 《安全管理》第五章的规定进行重要的修订，并对附件 19 附篇 B 的规定进行重大修订。

1.4 关于源于事故和事故征候调查的信息保护方面，SIP TF 建议对附件 13 的规定进行修订，包括不公布特定事故和事故征候记录；加强保护驾驶舱话音记录或驾驶舱机载影像记录的录音和录像内容；在事故调查和司法主管机关之间加强合作；以及把附件 13 的建议措施 8.8 升级为标准。SIP TF 进一步建议，有鉴于附件 19 附篇 B 的建议修订，应对附件 13 附篇 E 进行相应的审查。

1.5 关于经修订的附件 19 附篇 B 以及连带修订的附件 13 附篇 E，SIP TF 建议两个附篇都应升级为附录。

1.6 SIP TF 的发现结果和建议预计将对安全管理专家组以及其他国际民航组织机构、专家组、工作组和研究组的工作有所启发，从而进一步编制、润饰和实施旨在确保适当使用和保护安全信息的理性化标准、建议措施和指导材料，以便维护和提高航空安全。

1.7 澳大利亚支持符合这些目标的现行进展，建议对规范该领域的大会决议进行更新，以便确保继续取得这种进展，同时认识到已经完成的工作。

2. 讨论

2.1 SIP TF 已有效地根据空中航行委员会为该工作队制定的职权范围履行其义务，即：交付“关于编制新的和/或现行 SARPs 和指导材料的建议，以便确保下列资料的适当保护层级：a) 不属于事故和事故征候记录之列的安全数据和信息；和 b) 特定的事故和事故征候记录等”（见 AN 8/1-IND/11/1 号国家级信件附篇 B（2011 年 3 月 1 日））。

2.2 SIP TF 的工作和成果摘要载于 A38-WP/80 号文件，A38-WP/82 号文件则提及了 SIP TF 对未来制定安全管理相关 SARPs 和指导材料的具体意见。SIP TF 的发现结果和建议可见于 SIP TF 第四次（也是最后）会议报告（见 SIP TF/4-WP/24 号文件）。

2.3 澳大利亚和许多国家以及其他相关利害攸关方都提名了人选，积极地参与了 SIP TF 这个真正多学科专家组的重要工作，并与他们一道支持工作队的发现结果与建议。

2.4 随着这项支持，澳大利亚还认识到有必要确保关于适当使用和保护安全信息的关键工作，包括审议 SIP TF 的发现结果与建议等，得以继续积极、有意义地、和迅速地往前迈进。澳大利亚希望，若是可能最好在定于 2015 年召开的局长安全会议之前，但肯定要在下次 2016 年国际民航组织大会常会届会之前，就新规定和/或修订规定提出全面、具体和充实的提案，交给负责 SARPs 和指导材料的相关机构审议。

3. 结论

3.1 第 37 届大会明确承诺建立一个多学科专家组，从而建立了 SIP TF，就此，注意到该工作队已成功完成了其被赋予的任务，并认识到有必要确保迄今已完成工作所反映的动力得到维持，澳大利亚敦促大会对这项工作、对目前取得进展的根本原则，以及视所涉目标的重要性而维持一定水平的建设性活动和监督的必要性等，重申其承诺。

3.2 为此目的，澳大利亚建议根据本工作文件附录的建议，对大会 A37-2 号和 A37-3 号决议进行修订。

APPENDIX

PROPOSED AMENDMENTS TO A37-2

Non-disclosure of certain accident and incident records

Whereas the primary objective of the Organization continues to be that of ensuring the safety of international civil aviation worldwide;

Whereas it is essential that cognizance be taken that it is not the purpose of the investigation of accidents and incidents to apportion blame or liability;

Recognizing that it is essential that all relevant information be made available to the accident investigators to facilitate the establishment of the causes and/or contributing factors of accidents and incidents in order to enable preventative action to be taken;

Recognizing that the prevention of accidents is essential to safeguard the continued confidence in air transport;

Recognizing that public attention will continue to focus on States' investigative actions, including calls for access to accident and incident records;

Recognizing that the protection of certain accident and incident records from inappropriate use is essential to ensure the continued availability of all relevant information to accident investigators in future investigations;

Recognizing that the use of information, derived from accident investigations, for disciplinary, civil, administrative and criminal proceedings is generally not a means to **maintain or** improve aviation safety;

Recognizing that the measures taken so far to ensure the protection of certain accident and incident records may not be sufficient, and *noting* the issuance by ICAO of legal **and other** guidance to assist States in this regard;

Recognizing that the legal guidance in Attachment E to Annex **13, and in Attachment B to Annex 19, will continue to assist** ~~has assisted~~ many States in the development and implementation of means to protect certain accident and incident records from inappropriate use;

Considering that a balance needs to be struck between the need for the protection of safety information and the need for the proper administration of justice, and that protection should be to a level commensurate with the nature of the information each source generates, as well as with the purpose of disclosure of such information;

Mindful that the accident investigation authorities and the civil aviation authorities acknowledged the need for further study by ICAO on the protection of safety information; and

Recognizing the **Safety Information Protection Task Force** established pursuant to recommendations of the High-level Safety Conference 2010 and in response to Resolution A37-2, has

promulgated for consideration a number of findings and recommendations with respect to the appropriate use and protection of safety information:

The Assembly:

1. *Urges* Contracting States to continue to examine and if necessary adjust their laws, regulations and policies to protect certain accident and incident records in compliance with paragraph 5.12 of Annex 13, in order to mitigate impediments to accident and incident investigations, in consideration of the legal guidance for the protection of information from safety data collection and processing systems issued by ICAO;
2. *Instructs* the Council, ~~to consider to enhance, in view of the results of the work of the multi-disciplinary group, the provisions on the protection of certain accident and incident records with the aim of facilitating the implementation of Annex 13 provisions addressing the protection of safety information, taking into account the necessary interaction between safety and judicial authorities in the context of open reporting culture~~ taking into account the findings and recommendations of the Safety Information Protection Task Force and further work informed by those findings and recommendations, to take such steps as may be necessary to ensure meaningful progress toward the development of new and/or amended provisions in Annex 13, Annex 19 and related guidance material before the next ordinary session of the Assembly; and
3. *Declares* that this resolution supersedes Resolution ~~A36-8~~A37-2.

PROPOSED AMENDMENTS TO A37-3

Protecting information from safety data collection and processing systems in order to maintain and improve aviation safety

Whereas the primary objective of the Organization continues to be that of ensuring the safety of international civil aviation worldwide;

Recognizing the importance of the free communication of safety information amongst the stakeholders of the aviation system;

Recognizing that the protection of safety information from inappropriate use is essential to ensure the continued availability of all relevant safety information, to enable proper and timely preventive actions to be taken;

Concerned by a trend for safety information to be used for disciplinary and punitive enforcement actions and to be admitted as evidence in judicial proceedings;

Noting the importance of a balanced environment in which disciplinary action is not taken as consequence of actions by operational personnel that are commensurate with their experience and training, but where gross negligence or wilful violations are not tolerated;

Mindful that the use of safety information for other than safety-related purposes may inhibit the provision of such information, with an adverse effect on aviation safety;

Considering that a balance needs to be struck between the need for the protection of safety information and the need for the proper administration of justice, and that protection should be to a level commensurate with the nature of the information each source generates, as well as with the purpose of disclosure of such information;

Recognizing that technological advances have made possible new safety data collection, processing and exchange systems, resulting in multiple sources of safety information that are essential in order to maintain and improve aviation safety;

Noting that existing international laws, as well as national laws, ~~and~~ regulations, policies and practices in many States, may not adequately address the manner in which safety information is protected from inappropriate use;

Noting the issuance and continuing development by ICAO of legal guidance aimed at assisting States to enact national laws and regulations, and to introduce supportive policies and practices, to protect information gathered from safety data collection and processing systems, while allowing for the proper administration of justice;

Recognizing that the legal guidance in Attachment E to Annex 13, and in Attachment B to Annex 19, will continue to assist ~~has assisted~~ many States in the development and implementation of means to protect information gathered from safety data collection and processing systems;

Mindful that the civil aviation authorities acknowledged the need for a ~~further~~ continuing study by ICAO on the protection of safety information; and

Recognizing the Safety Information Protection Task Force established pursuant to recommendations of the High-level Safety Conference 2010 and in response to Resolution A37-3, has promulgated for consideration a number of findings and recommendations with respect to the appropriate use and protection of safety information:

The Assembly:

1. *Urges* all Contracting States to continue to examine their existing legislation and adjust as necessary, or enact laws and regulations and introduce supportive policies and practices, to protect information gathered from all relevant safety data collection and processing systems based, to the extent possible, on the legal and other guidance developed by ICAO;
2. *Urges* the Council to cooperate with Contracting States and appropriate international organizations regarding the development and implementation of guidance, taking into account the findings and recommendations of the Safety Information Protection Task Force and further work informed by those findings and recommendations, to support the establishment of effective safety-reporting systems, and the achievement of a balanced environment where valuable information derived from all relevant safety data collection and processing systems is readily accessible for the purposes of maintaining and improving aviation safety, while respecting principles of administration of justice and freedom of information;
3. *Instructs* the Council to take appropriate steps to ~~consider to enhance, in view of the results of the work of the multidisciplinary group,~~ ensure that provisions in ICAO Standards and Recommended Practices and guidance materials on the protection of information gathered from safety data collection and processing systems (SDCPS) are enhanced, taking into account the findings and recommendations of the Safety Information Protection Task Force and further work informed by those findings and recommendations, with a view to ensuring and sustaining the availability of safety information required for the management, maintenance and improvement of safety, taking into account the necessary interaction between safety and judicial authorities in the context of open reporting culture; and
4. *Declares* that this resolution supersedes Resolution ~~A36-9~~ A37-3.

— END —