



International Civil Aviation Organization

WORKING PAPER

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ASSEMBLY — 38TH SESSION

EXECUTIVE COMMITTEE

Agenda Item 25: Other high-level policy issues to be considered by the Executive Committee

IMPLEMENTATION OF THE POLICY TO ADDRESS THE NEEDS OF AIR TRANSPORTATION ACCIDENT VICTIMS AND THEIR FAMILIES

(Presented by the Air Crash Victims Families Group)

EXECUTIVE SUMMARY

On 1 March 2013, the Council adopted a new ICAO Policy on Assistance to Aircraft Accident Victims and their Families¹. This Information Paper (IP) is in support of the Work Paper A38-WP/22/EX/17 from ICAO and the WP submitted by Spain joined by other States which ask the 38th Assembly to endorse this new Policy and take note of it in a new Assembly Resolution A38/-, additionally encouraging the Council to include the “Policy” into applicable SARP’s in appropriate Annexes to the “Chicago Convention on Civil Aviation of 1944”, while avoiding to affect adversely the independence of accident and incident investigations.

<i>Strategic Objectives:</i>	This working paper relates to the Safety Strategic Objective.
<i>Financial implications:</i>	Not applicable.
<i>References:</i>	<i>ICAO Policy on Assistance to Aircraft Accident Victims and their Families (Doc 9998)</i>

¹ ICAO Policy on Assistance to Aircraft Accident Victims and their Families (Doc 9998) approved by the Council 198th Session (C-WP/13953) and published by its decision — First Edition 2013

1. INTRODUCTION

1.1 The Chicago Convention on Civil Aviation, done in Chicago in 1944 has been ratified by all 191 ICAO Member States. It is the framework within which certain unified worldwide rules and policies for international carriage by air are housed and specified in its various Annexes.²

1.2 After adoption of the unified International Civil Aviation Organization (ICAO) rules and policies, once they come into force – States need to implement them within the laws of their countries.³

2. DISCUSSION

2.1 Over the last sixty years medium and long range transportation by air has developed into either the preferred, and in some parts of the world, the only available means for fast, and secure mass travel – extending to transcontinental, trans ocean and transpolar nonstop flights.⁴

2.2 Today air transportation is conducted by ever larger planes, flying with increasing speed at high altitudes, transporting hundreds of passengers.⁵

2.3 Although travel by air is essentially safe – whenever an incident, accident or catastrophe happens it involves either surviving passengers, some of them injured, or more often even total fatalities with thousands of surviving victims from many countries.⁶

2.4 In our worldwide electronically interconnected environment, any air transportation incident, accident and most especially catastrophe becomes immediately known, even visually transmitted before the search, rescue, go-teams have had time to arrive on the location of the tragedy, to save survivors, recover bodies and start their investigation into its probable causes.

2.5 Ever since the air crashes in Tenerife and at Mt Takamagahara, as well as the development among the air carriers of their “Spoke and Wheel” system, consolidating passengers travels from many origins on long range flights, there arose the need to develop and adopt unified policies, Standards and Recommended Practices (SARPs) and guidance material for the proper treatment of victims and their families, in the immediate aftermath of a civil aviation accident.

2.6 The 32nd Session of the ICAO Assembly considered two working papers introduced by Spain and by the United States.⁷ Following a discussion, the Assembly adopted Resolution A 32-7 stating that the State of Occurrence should address the most critical needs of persons affected by civil aviation accidents.

² *Convention on International Civil Aviation*, signed at Chicago on 7 December 1944 and amended by the ICAO Assembly (Doc 7300)

³ The European Union EU Regulation 889/2002 and EU Regulation 261/2004 implementing the ICAO 1999 Montreal Convention

⁴ ICAO “2012 Annual Safety Report”, 31 Million flights transporting 3 Billion passengers

⁵ Boeing 747 and Airbus 380 – up to 500 passengers and more

⁶ Pan American World Airways/KLM collision in Tenerife – of 3/17/1977 – 583 casualties, Japan Airlines flight 123 at Mt. Takamagahara of 8/12/1982 – 520 casualties – Air France - Air France flight 447 6/1/2009 – Rio de Janeiro – Paris – passengers from 33 countries.

⁷ <http://www.nts.gov/speeches/former/hall/A32WP80.htm>, <http://www.nts.gov/speeches/former/hall/A32WP31.htm>

2.7 Resolution 32-7 resulted in the development of ICAO circular *Guidance on Assistance to Aircraft Accident Victims and their Families* (Cir 285)-AN/166 in 2001.⁸

2.8 At the 33rd Session of the ICAO Assembly, France introduced a working paper underlining the importance of satisfactory implementation of a policy for assistance to victims of aviation accidents and their families and proposed that the Council study desirable developments to the SARPs in the various Annexes.⁹

2.9 In 2007, France again submitted a working paper to the 44th Conference of Directors General of Civil Aviation Asia Pacific Region concerning the need to update of ICAO Circular 285.¹⁰

2.10 France, Japan and Singapore submitted a working paper to the 46th Conference of Directors General of Civil Aviation Asia and Pacific Regions regarding “Information to Families Related to a Safety Investigation”¹¹ followed by another working paper submitted by France and the United States to the 48th Conference.¹²

2.11 At the “Aircraft Accidents Preparedness and Management Conference” held in Singapore, the progress made and lessons learned from post air crash crisis management were discussed.¹³

2.12 At the ICAO High-level Safety Conference 2010, the DGAPAC initiative became subject to sidebar discussions resulting in the formation of a Task Force (TF285) similar to an international study group of experts.

2.13 Acknowledging that further action was necessary to promote the assistance to accident victims and their families, in 2012 the ICAO Council agreed to establish an Assistance to Aircraft Accident Victims Policy Task Force (AVPTF) in order to develop a policy document for the provision of family assistance.¹⁴

2.14 The Report and the recommendations of the AVPTF were considered by the Council resulting in a “Policy Resolution” that was adopted by unanimous vote on 1 March 2013.¹⁵

2.15 Subsequently, an updated guidance material replacing the ICAO Circular 285-AN/166 was approved by the Secretary General.¹⁶

3. **BENEFITS**

3.1 Governments: By addressing the needs and entitlements of assistance to aircraft accident victims and their families, the often contentious political environment in the aftermath of air transportation accidents, incidents and catastrophes is “detoxified”. There is no more need for extensive

⁸ ICAO Circular 285-AN/166 – Approved by the Secretary General and published under his authority – 2001

⁹ A33-WP/160.en.wpd

¹⁰ DGCA-44 DP – XI’AN, China, 22-26 October 1007

¹¹ DGCA-46/DP – Osaka, Japan, 12-16 October 2009

¹² DGCA-48/DP – New Caledonia, France 10-14 October 2010

¹³ “Family Assistance” Progress made and lessons learned from Air Crash Crisis management – the Victims Experience”

¹⁴ ICAO State letter AN 6/39-IND/12/9, dated 30 April 2012

¹⁵ ICAO Doc 9998, *ICAO Policy on Assistance to Aircraft Accident Victims and their Families*

¹⁶ ICAO Doc 9973, *Manual on Assistance to Aircraft Accident Victims and their Families*

post-crash parliamentary inquiries. Remedial actions can be more freely determined by competent post-crash (in some States independent) investigation authorities.

3.2 Investigators: Can concentrate on determining the probable cause that led to the incident, accident or catastrophe and make remedial recommendations without public pressure in a less stressful environment.

3.3 The carriers, their insurers and potential co-liable parties: Caring for the victims worldwide create an environment of transparency leading to a relationship of mutual respect and facilitate the damages resolution, reducing or even eliminating long and costly litigation.¹⁷

3.4 The survivors and the victims' families will be entitled to worldwide uniform, compassionate care in the aftermath of an incident, accident or major air transportation catastrophe, and obtain early resolution of their provable damages.¹⁸

— END —

¹⁷ Korean Airlines Flight 007 – September 1, 1983 – 1929 Warsaw Convention – No Crisis Management – Litigation in five States lasting 17 years in US – three decision by Supreme Court and need for remedial legislation vs Air France Flight 4590 (Concorde) July 27, 2001 – Victims Crisis Management Program by Carrier – all damages claims settled WITHOUT litigation in 11 months

¹⁸ “Convention for the Unification of Certain Rules for International Carriage by Air” done in Montreal on 28 May 1999, now ratified by 103 + 1 States