

## **ANConf/13 Special Session**

### **Ensuring accident victims and their families are treated the same the world over**

**Date and time:** 16 October 2018 from 09:30 to 17:15 hours

**Venue:** ICAO Headquarters

**Audience:** AN-Conf/13 Participants

### **Welcoming remarks by Mr. Víctor M. Aguado, Representative of Spain on the Council of ICAO and Chairman of the meeting**

Reference was made to the repeating challenges in aviation history, the accidents with victims and the inherent wish to learn from aircraft accident investigations.

As a historical reference, he mentioned an accident that happened in the year 875 AD, when Abbas Ibn Firnas, a wise man, mathematician and astronomer in Córdoba, launched himself from a tower in his own designed glider and, after remaining aloft for some time, the glider crashed and both of his legs broken. Closer to our more recent aviation history, in the sixties, seventies and eighties, there were over 2 000 fatal victims in commercial civil aviation annually. Fortunately, that number has been greatly reduced since then.

Over fifty years after the signing of the Chicago Convention, during the ICAO Assembly in 1998, two working papers were presented by the United States and Spain addressing, for the first time, the needs of the families of victims of civil aircraft accidents. He referred to a number of further improvements that have taken place considering the needs of the families of victims, as requested during the 2013 and 2016 ICAO Assemblies.

He closed his introduction by kindly reminding the meeting to listen to the experiences of States, industry and families of victims' associations, to share information and to reflect on the next step(s) to be taken, with special emphasis for the next ICAO Assembly in 2019.

### **Opening speech by Dr Olumuyiwa B. Aliu, President of the ICAO Council**

Dr Aliu recognized Mr Aguado's engagement and intense work related to family assistance matters and assured him of his continuous support and cooperation. He also recognized the efforts of the representatives of States, industry, and the family victims' associations, in particular Mrs Pilar Vera, in promoting this subject.

An aircraft accident is an unexpected and usually catastrophic event. Concern for persons who have suffered distress and loss as the result of aircraft accidents has led to increased efforts within the aviation industry to establish means by which the needs of victims and their families can be addressed in a timely fashion.

During its 32nd Session in October 1998, the ICAO Assembly considered for the first time the subject of assistance to aircraft accident victims and their families. The Assembly adopted Resolution A32-7, which stated inter alia that: the State of Occurrence should address the most critical needs of persons affected by a civil aviation accident; the policy of ICAO should be to ensure that the mental, physical and spiritual well-being of victims involved in civil aviation accidents and their families are considered and accommodated by ICAO and its Contracting States; and that States should provide a homogeneous solution for treatment of victims of civil aviation accidents and their families.

The Assembly also called on States to reaffirm their commitment to support victims of civil aviation accidents and their family members; urged States, in cooperation with ICAO and other States, to promptly review, develop, and implement regulations and programmes to provide such support; and the ICAO Council to develop material citing the need for the establishment of regulations and programmes by States and their air operators to support accidents victims and their families.

Similarly to the 32nd Assembly, the 38th ICAO Assembly in 2013 recognized the need for the global implementation of family assistance and urged States to implement legislation, regulations and/or policies to support victims of aircraft accidents and their families. In 2016,

during the 39th ICAO Assembly, Resolution A38-1 was revised to reflect recent work addressing family assistance.

Throughout the past several years, ICAO has taken numerous initiatives in order to ensure that family assistance matters are adequately addressed.

Annex 13 — *Aircraft Accident and Incident Investigation* had its first provision associated with family assistance in 1976, when States having suffered fatalities to its citizens were entitled to participate in the investigation; and in 2005, provisions were included in Annex 9 — *Facilitation to enable expeditious entry into the State of Occurrence of family members of the victims of the accident*.

Acknowledging that further action was necessary to promote family assistance, the ICAO Council approved on 1 Mar 2013 the *ICAO Policy on Assistance to Aircraft Accident Victims and their Families* (Doc 9998).

Doc 9998 calls for actions on the part of States and some non-government organizations to reaffirm their commitment to ensure that adequate and sufficient assistance is provided to accident victims and their families. It sets out ICAO policies regarding family assistance, encouraging States to incorporate these policies when planning, developing, and implementing their legislation, regulations, policies and procedures related to family assistance.

On 12 June 2015, the Council of ICAO adopted Amendment 25 to Annex 9, which included a Recommended practice for States to establish legislation, regulation and/or policies in support of assistance to aircraft accident victims and their families.

Family assistance plans developed by air operators, airport operators, and governments should provide continuous and timely information to survivors and their family members, so that their fundamental needs and concerns can be addressed. Because of variations in the size and circumstances of accidents, the resources required to provide family assistance will vary considerably. Therefore, proper planning is essential to ensure that the assistance is adequate and sufficient.

ICAO is attuned to the needs of families and victims of aircraft accidents, and stands ready to continue working with the aviation community and family associations towards the progress of this subject of utmost importance.

## **1. Legislation, regulation and policies on family assistance**

### **1.1 Montreal Convention 1999 - by Jiefang Huang, D/LEB**

Regarding the legal framework for the victim's compensation, reference was made to: the Warsaw Convention of 1929 according to which passenger's benefitted from a "reversed burden of proof" in exchange for low limits of air carrier liability; the 31st ICAO Assembly in 1995 directing the Council to modernize the "Warsaw System"; and the 146th Session of the Council which established a Secretariat study on the Modernization of the Warsaw Convention System and the subsequent Diplomatic Conference convened in Montréal in 1999 (adopting the Montreal Convention of 1999, MC99), resulting in higher compensation levels and advocating the mechanism of advance payments. Special mention was made to Mr. Hans Ephraïmson-Abt as an international advocate for the needs of aircraft accident victims and their families.

Reference was made to European Commission Regulation 2027/97 which imposed mandatory advance payments for families of victims. Insurers faced difficulties with the implementation of this Regulation since there was no one-size-fits-all approach. The Montreal Conference was mindful of this issue when stipulating in the Convention text that advance payments were to be made to eligible persons "if required by the airline's national law" and that such payments shall not constitute recognition of liability. Article 28 of MM99 hence reads: *In the case of aircraft accidents resulting in death or injury of passengers, the carrier shall, if required by its national law, make advance payments without delay to a natural person or persons who are entitled to claim compensation in order to meet the immediate economic needs of such persons. Such advance payments shall not constitute a recognition of liability and may be offset against any amounts subsequently paid as damages by the carrier.* MC99 has been ratified by 135 Contracting States, with one more State to accede in the near future; said States will comprise 95% of the total scheduled revenue passenger kilometres in 2017.

## **1.2 Development of ICAO provisions on family assistance – by Marcus Costa, C/AIG; and the ICAO Policy on Family Assistance, by Stephen P. Creamer, D/ANB**

In 1976, the first ICAO provision associated with family assistance was introduced in Annex 13, which provided States having suffered fatalities to their citizens to appoint an expert to participate in the investigation. In 2001, the provision was strengthened to a Standard. ICAO issued its first guidance on family assistance in 2001 in Circular 285 (Circ 285). In 2005, Annex 9 introduced five SARPs (four Standards and one recommendation) to facilitate travel and entry of family members into the State of Occurrence of the accident. In 2010, the provisions related to family assistance in Annex 13 were expanded; such as the right and entitlement to visit the accident site and a recommendation to ensure that families were properly and timely updated with the progress of investigations. In 2016, a new provision was introduced in Annex 9 recommending States to establish national legislation, regulations and/or policies in support of family assistance.

In May 2013, the *ICAO Policy on Assistance to Aircraft Accident Victims and their Families* (Doc 9998) was published, followed by the publication of the *Manual on Assistance to Aircraft Accident Victims and their Families* (Doc 9973) in December 2013 that replaced Circ 285.

The ICAO Policy was approved by the Council to reflect the importance allocated by ICAO on family assistance. Doc 9998 provides high-level guidance on important topics related to States' readiness, family assistance plans, timeliness of family assistance, and describes the roles of the family assistance providers, as well as governmental and non-governmental stakeholders. While Doc 9998 provides a strategic approach of family assistance matters, addressing States' legislation, regulations and/or policies and the structure of family assistance plans, Doc 9973 contains guidance to assist States in implementing those policies.

## **1.3 Legislation, regulations, policies and national initiatives – by Argentina, Australia, Brazil, Italy, Spain, and United States.**

### **1.3.1 Argentina - by Pamela Suárez, President JIAAC**

The JIAAC used to be part of the Argentine Air Force, and has recently become an independent aircraft accident investigation organization in accordance with the Annex 13 provisions, and is also part of the State Safety Programme (SSP) in accordance with Annex 19 – *Safety Management*. The JIAAC's role to assist victims and their families also presented an opportunity to study relevant national and international regulations and to create in September 2016 a national protocol, *Resolution 149*, to assist victims and their families during investigations. Consequently, investigators received communication training and a focal point of contact was established in order to be able to facilitate the needs of the victims and their families. Since 2016, the JIAAC has worked in accordance with the new protocol in 15 aircraft accidents, assisting 31 families. In addition, JIAAC has provided support to Argentine victims in aircraft accidents in Cuba and the U.S. The JIAAC promotes the importance of the role of groups of victims and their families in aviation forums, encouraging the Air Crash Victims Families' Federation International (ACVFFI) to be an observer in the AIG Regional Cooperation Mechanism of South America (ARCM-SAM).

### **1.3.2 Australia – by Samuel Lucas, Australian Representative on the ICAO Council**

The provision of family assistance is primarily the responsibility of the airline involved. The Australian *Code for the Preparation of Airline Family Assistance Plans* was introduced in 2002 and updated in 2014. It follows a non-regulatory approach, and was developed in consultation with the civil aviation industry and response agencies. The four key elements of the plan address: infrastructure requirements; information management; financial, logistical and emotional support for families; and appointment of a designated airline family support coordinator. Airlines are expected to have in place procedures to establish two coordination centers, each with its specific provisions and responsibilities; an airline crisis management center and an airline family support coordinator and family support center. These procedures should be practiced and kept up-to-date. Other procedures that airlines are expected to have in place are related to financial, logistical and emotional support, such as advance payments and financial assistance to families of victims. Similarly, procedures are expected to be in place for

information management with airlines, such as the coordination with the aircraft accident investigation authority and other government agencies involved.

The role of Australia in the MH370 accident was discussed. The Australian code for airline family assistance plans did not apply, since flight MH370 did not depart from or arrive at an Australian airport. However, Australia accepted Malaysia's request to assume responsibility for the coordination of the extensive search activities within the Australian Search and Rescue (SAR) region of the Southern Indian Ocean. These SAR activities were later formalized by the Australian government in the establishment of the Joint Agency Coordination Centre (JACC). A key role of the JACC was to ensure support to families of victims regarding the progress of the search.

### **1.3.3 Brazil – by Marcelo M. Fremder, ANAC**

The Brazilian *Regulation IAC 200-1001* deals with the support to families of victims, and was based on Circ 285 and published in 2005. It requires public air transportation service providers to develop plans to assist victims and to support the victims' families after aircraft accidents. The Regulation is concise, clear and indicates that the provision of family assistance equals being prepared to respond to an accident. The first time that specialized ANAC inspectors were deployed to supervise the airline response was for the accident of flight AF447 in 2009. Until 2009, verification of compliance of the regulation by air carriers was carried out by analysis of their plans. As of 2012, it followed a more hands-on approach through audits and simulation of aircraft accidents. As of 2013, a total of six table top drill audits were conducted combining major airports and airline operators based on the size of the fleet, number of transported passengers, etc. The audit results showed that the response preparedness with multiple fatalities needed further improvement and more top management commitment. The meeting was informed that Brazil would host an international forum on assistance to victims and their families on 23 November 2018.

### **1.3.4 Italy – by Giovanna Laschena, Head of Crisis Management Team, ENAC**

In 2014, ENAC issued Circular *ENAC Advisory GEN-05, Plan of assistance to victims of air accidents and their families* that was based on ICAO Docs 9973 and 9998, and Article 21 of EU Regulation 996/2010. The Circular was updated with the issuance of the second edition, *ENAC Advisory GEN-05B*, on 12 October 2018. The Circular is applicable in the event of an aircraft accident occurring in Italian territory, with an Italian registered airline or when Italian citizens are on board of an aircraft having its origin or destination in Italy. The Circular's two main targets are: (1) the airline operator's correct drafting of the family assistance plan in line with the relevant international provisions with particular reference to psychological support; and (2) stakeholders' management of key elements to ensure accident preparedness by specialized training, and providing timely information and financial and psychological assistance to people involved in an accident. Four distinct groups are responsible for providing assistance: governmental institutions, airline operators, airport managers and third parties, such as victims' family associations. In case of an emergency, an Emergency Airport Committee ("COE") is formed with representatives of the main governmental stakeholders. The COE is coordinated by ENAC.

### **1.3.5 Spain – by Raúl M. Caballero, Director General of Civil Aviation**

The first steps to create a national framework on family assistance started after the accident of flight JK5022 in 2008, which was Spain's most relevant accident in 40 years, resulting in more than 150 casualties. Spain worked on three levels to develop the framework: international engagement by chairing the *ICAO Assistance to Aircraft Accident Victims Policy Task Force (AVPTF)* that developed the ICAO Policy on family assistance, Doc 9998; by supporting the development of EU Regulation 996/2010 to provide the victims and their families accident information before going public and to publish the list of passengers within 2 hours after the accident; and on national level relating to the establishment of the Assistance to victims Royal Decree 632/2013, which includes victim and family support preparedness obligations for public administrations, airlines and airport managers, and the oversight of the application of the regulations by the Spanish Aviation Safety and Security Agency (AESA). The Victims Assistance Office acts as a partner for the victims and families in the first hours after an

accident. It was suggested that the 40th ICAO Assembly be asked to upgrade Recommended Practice 8.46 in Annex 9 to a Standard; and to develop new provisions for airlines and airports to establish and implement plans to assist accident victims and their families.

### **1.3.6 United States – by Elias J. Kontanis, Coordinator-Medicolegal Operations/NTSB**

Part of NTSB's mission is dedicated to family assistance and has the commitment of all board members, including recurrent training on how to communicate with families of victims. Universal family assistance response cornerstones are: notification of involvement; victim accounting; information and resources; and personal effects. The U.S. *Aviation Disaster Family Assistance Act* was enacted in 1996 and was revised on 5 October 2018 qualifying "any loss of life" in transportation to receive family assistance from the NTSB. The NTSB determines if the accident meets the criteria of the legislation, coordinates and provides additional resources to assist victims and their families, being responsible for: coordination with federal, State, local, and non-governmental agencies, air operators; facilitating victim recovery and identification; monitoring attorney solicitation; monitoring for non-impede clause violations; overseeing air operator response; and providing investigation information to families.

The NTSB Transportation Disaster Assistance Division is dedicated to family assistance and focus on victims' services, emergency management, and victim accounting/medicolegal operations. U.S. air operators' family assistance legislation obligates operators to establish a program that meets the operators' specific needs with focus on: sufficient resources and training, provision of manifest, travel and care of family members, personal effects and equal treatment of crew and passengers, ground fatalities, and family notification. The effectiveness of a family assistance plan is only tested when experiencing a major accident. Primary challenges are initiating contact with the family response community, including social media and 24-hour news cycle. Since 2017, the NTSB has provided assistance to 1,373 accident victims and their families in 325 accidents.

## **1.4 Policies, guidelines and plans on family assistance – by ACI and IATA**

### **1.4.1 ACI - by Nina Brooks, Director, IT, Security and Facilitation, ACI World**

ACI World has 641 members operating nearly 2 000 airports in 176 States. One of the key roles is to provide guidance and best practices to airports, including assistance to accident victims and their families. ACI has no enforcement capabilities to check its members for compliance, but invests in training and peer review. Family assistance is one part of the broader topic of the emergency planning and response, whether it is an aircraft accident, aircraft or airport security incident, or an external (non-aviation) event on the landside of the airport. Airports are the natural place where families will go to when an aircraft accident occurs and where the media will also focus on, so airports need to be prepared. ACI recognizes a strong need to coordinate with the involved air operators, service handlers, government, third parties, law enforcement and emergency services for consistent messaging and information. ACI addresses five key components that are described in more detail in the 2014, first edition of the *Emergency Preparedness and Contingency Planning Handbook*: the airport emergency plan; training of staff; implementation, such as facilities equipped with emergency items; adequate response after an event; and recovering from an event, such as aid investigation, counseling and memorial service. Similar topics are also described in the Airport Cooperative Research Program (ACRP) Research Report 171, *Establishing a Coordinated Local Family Assistance Program for Airports*.

### **1.4.2 IATA – by Serkan Simitcioglu, Head, IOSA, Audit Programs, Safety & Flight Operations**

The IATA Operational Safety Audit (IOSA) Standards (ISARPS) related to family assistance are based on ICAO provisions (Docs 9973 and 9998) and industry best practices, and described in the *IOSA Standards Manual* (ISM). ISARPS are available to all commercial passenger and cargo air operators, regardless of IATA membership status. There are 438 air operators on IOSA registry, comprising about 90% of global air traffic. The audit comprises of

eight disciplines that are audited every two years. IOSA provisions on emergency response require air operators to have an Emergency Response Plan (ERP) with a responsible designated manager, and to coordinate individual ERPs and ERPs from other applicable organizations. The ERP requires the operator to provide a manifest to the appropriate authorities in the event of an accident. Personnel with responsibilities in the ERP should be trained and properly qualified. The ERP has to be rehearsed periodically, documenting deficiencies in the plan and its execution to ensure that these are addressed for improvement. Other ERP key elements address the operator: to ensure central coordination and control of all communications with external entities; to have procedures and resources to establish command posts and a telephone enquiry center; dedicated equipment and material to dispatch humanitarian teams to appropriate locations to attend individuals in need of assistance; and assistance to passengers, crew and their families. The conformity rate with these provisions is about 88 % out of 401 audits. When an operator does not comply with the ISARPS at its biannual audit, it will be taken out of the registration list at the date of the audit expiry date.

## **2 Development of ICAO provisions stemming from A39, compliance checklist and USOAP audits**

### **2.1 Current Status of CC and USOAP audits – by Denis Guindon, DD/MO**

The ICAO Safety Oversight Audit Programme (USOAP) has a Protocol Question (PQ) asking whether the State has established a comprehensive system for providing assistance to aircraft victims and their families. That PQ, introduced in 2016 and first used in 2017, includes, among others, primary aviation legislation, responsibilities and roles, review of family assistance plan, designation of an agency to coordinate the timely and appropriate delivery of assistance. Three States have been audited with “no satisfactory” results so far for the three-year Continuous Monitoring Approach (CMA) audit cycle (2017-2020), while the remaining States are still undetermined. When it comes to the current Status of the Compliance Checklist (CC) and USOAP audits, 18 States have responded through the Electronic Filing of Differences (EFOD) System: 15 States are in compliance; 1 State exceeded the Recommended Practice; and 2 States are not in compliance.

### **2.2 Future Provisions on Family Assistance – by Boubacar Djibo, D/ATB**

Reference was made to Annex 9, noting that Facilitation relates to efficient management of border control processes to expedite clearance of aircraft, passengers, crew members, baggage, cargo, preventing unnecessary delays. This Annex also deals with how survivors of accidents and family members would have the ability to travel to the State of Occurrence without delays, and how human remains would be repatriated expeditiously.

The Council adopted Amendment 25 to the Annex, applicable as of February 2016, incorporating a new RP 8.46 recommending States should establish legislation, regulations, and/or policies on assistance to aircraft victims and their families. Following the 39th Assembly requesting the Council to give further consideration to upgrade RP 8.46 of Annex 9 to a Standard following a review of the results of the USOAP audits, the Council subsequently clarified that the timeframe/target date for implementation of the A39 decisions would follow an evaluation of the extent of the level of implementation obtained through Annex 9 Compliance Checklist in the third quarter of 2018, and then the USOAP checklist in the fourth quarter of 2020. During the 10<sup>th</sup> meeting of the Facilitation Panel held in September 2018, the Panel discussed the matter of States' implementation of RP 8.46 and was of the opinion to keep the status of the provision as a Recommended Practice for now.

During the discussion on the availability of the manifest within two hours after the accident, the meeting was informed of the adoption of SARPs in Chapter 9 of Annex 9, Passenger Data Exchange Systems, with the obligation for each State to establish an Advance Passenger Information (API) system. These provisions emanated from the meeting of the Facilitation Panel in 2016, and adopted by the Council in its 211th Session in May/June 2017. The new SARPs were included in Amendment 26 of Annex 9 and became effective in October 2017.

### **3. Lessons and experiences on the provision of family assistance – by China, France, Malaysia, Netherlands, and ACVFFI**

#### **3.1 China – by Wu Lijun, Director, Office of Aviation Safety, CAAC**

China developed legislation with the “*Emergency Response and Family Assistance of Civil Aircraft Flight Accidents*” (CCAR-399), which came into force in 2006. CCAR-399 specifies the responsibilities and obligations of government departments, public air transport enterprises and airports regarding emergency response and family assistance. The family assistance plan is one of the prerequisites for the air operator’s certificate approval by the CAAC. The CAAC is responsible for the oversight of the emergency responses and family assistance. After activation of an emergency plan, the National Command for Handling Flight Accidents immediately designates a team responsible for coordinating the emergency handling of the accident and liaison between the air operator and the families. The air operator is responsible for: providing material and comfort assistance for victims and their families; developing an emergency plan, to exercise, train staff and to improve the plan; and timely reporting to the accident coordinating team in case of foreign passengers. Airports are responsible to develop an emergency rescue plan and to support the family assistance provided by the air operator. China’s domestic “*Emergency Response Law*” is not applicable for foreign air operators, and family assistance plans need to be improved in accordance with existing international family assistance provisions and best practices. CAAC is developing amendments to the CCAR-399 to correct these inconsistencies.

#### **3.2 France – by Rémi Jouty, Director of BEA**

The timeline of the Germanwings investigation illustrates how fast it was made public due to media leaks 36 hours after the accident, and before the BEA was able to have any interaction with the victims’ families, indicating a high pressure from the media from day one. When the Preliminary Report was published 1.5 months after the accident, the victims’ families were informed prior to its release. Likewise, the Final Report was published within one year and its content was shared with the families prior to its release. EU Regulation 996/2010 requires air operators to release to the appropriate authorities the passenger list, but does not require to provide family contact information as a result of privacy data protection, while at the same time the accident investigation authority has to inform the families prior to any publication. Eventually, this information was provided to BEA with the help of Lufthansa. Visits to the accident site have taken place by victims’ families and several memorials have been placed.

The meeting was informed about a survey of 1 157 fatal accidents with transport category aircraft worldwide and its high number (58%) of unpublished Final Reports for the time period from 1990 – 2016. In this connection, there was proposed new provisions in Annex 13 from the third meeting of the Accident Investigation Panel (AIGP/3) in 2017, to provide the other involved States in the investigation the possibility to release information after consent. These provisions are planned to come into force in the next amendment of Annex 13 in 2020. The meeting was also informed that in many States and particularly in Europe, safety recommendations and their responses are recorded and made available to the public. EU Regulation 996/2010 requires that each entity receiving a safety recommendation shall implement procedures to monitor the progress of the actions taken in response to the safety recommendation received.

#### **3.3 Malaysia – by Ahmad N. Zolfakar, CEO of CAAM**

Malaysia’s experiences following the disappearance of flight MH370 were discussed. Most of the passengers on board were of Chinese origin. Malaysian authorities and Malaysia Airlines were not prepared to handle the complex family assistance activity to the victims’ families, and faced organizational, administrative, psychological and financial challenges with untrained airline staff, counselors, volunteers, social workers and non-governmental organizations. Difficulties experienced include: briefings given at two locations, Beijing and Kuala Lumpur; presentations given by a group of people at the same time, resulting in confusion to the families; how to handle proper body language when communicating with the families. With regard to notification and information to the families, it is strongly recommended to adhere to facts and not speculate. Because flight MH370 has not been found, briefings to inform the

families continue to be organized, including consideration of commemoration of anniversaries and monuments. Ideally, the authority and the airline have to assign two trained staff for each family to provide special assistance. It is important to provide adequate lodging and rest for the caregiving staff and the preparation of duty rotations.

### **3.4 Netherlands – by Jos Wilbrink, Manager aviation safety, Civil Aviation Department; and Kas Beumkes, Senior investigator, Dutch Safety Board**

The Netherlands has implemented the provisions for Annex 9 and EU Regulation 996/2010 “*National Crisis Plan Aviation Accidents*”. The crisis plan involves accident scenarios on four different locations: airports, outside airports, the North Sea, and abroad or over international waters. For victims and their families, complementary points of contact (PoC) and points of information (Pol) are established: the air operator’s “*Special Assistance Team*”; the “family detective” who collects useful information for identification and informs the family; a “*Victim Information System*” to inform families on the location of injured victims. The Ministry of Foreign Affairs provides consular assistance for foreign victims and their families and for the embassies and consulates of their States. Each “safety region” with an airport requires a crisis management plan that has to be practiced with all stakeholders on a regular basis. A communication plan helps prevent the media from being informed earlier than the victims’ families, recognizing the difference between passengers and victims to avoid false hope and confusion. It is a policy level decision to release names of victims.

During the investigation of Flight MH17 the Dutch Safety Board (DSB) provided access to the victims’ families to visit the wreckage on three occasions: at the arrival of the wreckage in the Netherlands; at the presentation of the wreckage parts; and at the exposure following the reconstruction. The families were escorted and supported by investigators, victim support officers, family detectives and medical staff. This was also done immediately after the publication of the Final Reports, which are available on the DSB website. The DSB Twitter account provided news flashes during the investigation process. Special means to inform the families were the Victim Support Netherlands MH17 information website, and the book *MH17 Investigation, facts, stories*, with stories of key persons involved in the investigation.

The meeting was informed of the multi-sectoral nature of the DSB with the legal authority to perform investigations after an occurrence in any sector in the Netherlands. The DSB is required to publish responses to their safety recommendations. Mindful of the international scope and impact of the MH17 investigation, the DSB decided to perform a follow-up investigation on the implementation of the safety recommendations. The results are scheduled to be published by the end of 2018.

### **3.5 ACVFFI – by Pilar Vera, Chairwoman of ACVFFI**

The ACVFFI was founded in Madrid in 2013 by three associations related to the victims’ families of the following accidents: flights AVJK502 (20 August 2008), AF447 (1 June 2009), and ED202 (27 July 2010). ACVFFI carries on the work initiated by Hans Ephraïmson-Abt, chair of the Air Crash Victims Family Group (ACVFG), founded in 1983. ACVFFI was recognized by ICAO as a permanent observer in 2016. ACVFFI’s vision, mission, and goals are: to share victims’ experiences, developing uniform global treatment for victims, and to improve air safety. At the 39th ICAO Assembly in 2016, ACVFFI presented three Working Papers addressing the upgrade of Annex 9, RP 8.46 to a Standard and becoming part of the USOAP; the support for independent accident investigation authorities in Annex 13; and a proposal for an Annex 13 amendment for States to notify ICAO of all safety recommendations of global concern (SRGC) in the process of an investigation. ACVFFI further encourages air operators, their alliances, and their insurers to unify, coordinate and simulate their crisis management plans and processes, and making this information public. It urged ICAO as a global organization, and regional organization including the EU, to promote regulations that balance the interests of air operators, insurers and victims. It encouraged States to ratify the 1999 Montreal Convention, and requested the collaboration from States so that other victims associations join the ACVFFI.

The ACVFFI’s agenda is focused on: making Doc 9998 known to ICAO Member States; establishing an ICAO task force to work on provisions for a well-balanced relationship between air operators, insurers and passengers; including airport emergency and crisis plans into the USOAP or equivalent ICAO audit programme; working with governments and international institutions in order to increase passengers’ safety, their assistance and their rights.

#### **4 Round table: prospective views on family assistance; the way forward**

- Moderator: Nancy Graham, President Graham Aerospace International, LLC;
- Participants: ACI, ACVFFI, IATA, ICAO, NTSB

Initial remarks by the moderator made reference to actions stemming from the 38th Assembly in 2013, which resulted in the publication of ICAO Docs 9998 and 9973. As a consequence, both IATA and ACI responded in 2014 with associated provisions; however, these are all of a voluntary nature for air operators and airports. Family assistance-related matters are not simply another technical issue addressed in ICAO provisions, but rather a humanitarian issue. Thus, it was submitted that the subject of family assistance went beyond the responsibility of any one ICAO technical body and would need to be considered at the level of the Council. The meeting was asked to reflect on these aspects, and the upgrading of Annex 9, RP 8.46 to a Standard, as well as any other improvements related to family assistance provisions.

A State noted that the discussion would go beyond “should” and “shall”, and illustrated the need to change perspectives and build capacities in order to achieve mutual understanding and build on normalizing and improving the assistance to families.

IATA would welcome a Standard, noting that the provision would be directed to States and not to operators; therefore not having significant impact on IOSA that already requires member airlines to have family assistance plans. ACI, in turn, expressed that upgrading RP 8.46 should not jeopardize the flexibility on how different actors address the subject. Updating/expanding existing guidance should be considered. The industry is willing to cooperate in this process, including visits to air operators and airports.

A number of representatives from associations represented in ACVFFI argued for a new Standard to replace RP 8.46, aiming at requiring States to introduce regulatory provisions to ensure airlines and airports have the necessary plans and arrangements to assist victims and their families.

Some States urged caution to upgrade RP 8.46 to a Standard, while agreeing that increased preparedness and global application were desirable in order to improve the assistance provided to victims and their families. They noted that RP 8.46 had only been adopted in 2016, and a clearer picture of why some States have not introduced requirements for family assistance was critical in building States’ consensus to ensure effective implementation of ICAO provisions. Many developing States experience challenges in implementing ICAO SARPs, and additional Standards would add to those challenges, without necessarily achieving the desired goals. Additional research and outreach work by ICAO was required to further assist States and build international commitment to family assistance concepts.

The Secretariat noted that for some States and regions, a Standard is necessary in order to move forward; and in any case States can file a difference at any time when unable to implement a Standard. With the upgrade of RP 8.46, some States would be better equipped than others to implement such a provision; and for those States the upgrade of RP 8.46, amended as a performance-based Standard, could be the way forward.

In discussion, it was broadly argued that an upgrade of RP 8.46 should be considered in the near future because all ICAO provisions on family assistance take the form of recommendations and guidance material. A State felt that it would be better to have States in need to provide a clear way forward, rather than imposing a further Standard on all States.

Another State recalled a large experience with investigations together with the challenges to properly assist families and victims of aircraft accidents, noting that ICAO is a standard-making organization and therefore would support the upgrade of RP 8.46 to a Standard.

While there was no full consensus on a Standard covering family assistance, there was consensus on the principle to ensure that timely and adequate family assistance be provided to aircraft accident victims and their families, and on the need for ICAO to move forward with the tools available promoting this principle to States with the aim of global implementation.

For the majority of the participant States the upgrade of RP 8.46, amended as a performance-based Standard, could be the way forward so as to avoid prescriptive approaches.

**Concluding remarks**

The Chairman thanked all the attendees and presenters for their active participation and valuable contributions, highlighting the need for ICAO to find a way to ensure that aircraft accident victims and their families are timely and properly assisted the same the world over and pinpointed the opportunity to present suggestions and recommendations by the different actors during the next ICAO 40th Assembly to take place in Montreal in September 2019.

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