

**61ST CONFERENCE OF
DIRECTORS GENERAL OF CIVIL AVIATION
ASIA AND PACIFIC REGION**

*Kuala Lumpur, Malaysia
7 – 11 September 2026*

AGENDA ITEM 3: AVIATION SAFETY

**DESIGNATING COMPETENT AUTHORITIES FOR THE
PROTECTION AND DISCLOSURE OF SAFETY DATA AND
SAFETY INFORMATION: CHALLENGES FOR STATES WITH
RIGHT TO INFORMATION LEGISLATION**

(Presented by the Democratic Socialist Republic of Sri Lanka)

INFORMATION PAPER

SUMMARY

This Paper presents the challenges and considerations associated with the designation of competent authorities for the protection and disclosure of safety data and safety information in accordance with ICAO provisions.

ICAO Annex 13, Annex 19, ICAO Doc 9859, and ICAO Doc 10056 establish principles for the protection, use, and disclosure of safety data and safety information, recognizing the need for appropriate competent authorities depending on the nature of proceedings. While ICAO has provided guidance on the designation of competent authorities, implementation within national legal frameworks remains challenging, particularly for States with Right to Information (RTI) or Freedom of Information (FOI) requirements.

The Paper highlights the challenges faced by States in harmonizing aviation safety legislation with access-to-information obligations while ensuring the protection of safety information, maintaining Just Culture principles, and supporting effective safety reporting systems. The Paper also facilitates the sharing of experiences and best practices among States in implementing ICAO guidance on the protection and disclosure of safety data and safety information.

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1. INTRODUCTION

1.1 ICAO Annex 13, Annex 19, ICAO Doc 9859 (Safety Management Manual) and ICAO Doc 10056 provide guidance on the protection and disclosure of safety data and safety information. These provisions recognize the importance of protecting safety information to support effective safety management systems, occurrence reporting, and Just Culture principles.

1.2 ICAO guidance recognizes that different competent authorities may be appropriate for applying the principles of exception depending on the nature of proceedings. Judicial authorities may be suitable for civil or criminal proceedings, while regulatory authorities or accident investigation authorities may be appropriate for administrative or safety-related matters.

1.3 However, implementation of these principles within national legal frameworks remains challenging, particularly in States where Right to Information (RTI) or Freedom of Information (FOI) legislation provides broad public access to information.

1.4 This Paper provides information on the challenges associated with implementing ICAO provisions within different national legal frameworks and highlights approaches adopted by States to protect safety information while maintaining transparency and accountability.

2. DISCUSSION

2.1 ICAO Annex 13, Annex 19, ICAO Doc 9859 and ICAO Doc 10056 provide principles for the protection and disclosure of safety data and safety information, including the designation of competent authorities responsible for applying the principles of exception. The appropriate competent authority may vary depending on the nature of proceedings, such as judicial, administrative, regulatory, or safety-related matters.

2.2 While ICAO guidance provides a framework for States to establish appropriate arrangements, implementation within national legal systems remains challenging. This is particularly relevant for States that have enacted Right to Information (RTI) or Freedom of Information (FOI) legislation, where requests may involve protected aviation safety information, including occurrence reports, voluntary safety reports, Safety Management System (SMS) records, Flight Data Monitoring (FDM) information, and accident investigation records.

2.3 States are required to establish an appropriate balance between transparency and the protection of safety information. Key considerations include determining the interaction between aviation safety legislation and RTI/FOI laws, identifying authorities responsible for disclosure decisions, and ensuring that such authorities possess the necessary legal authority and technical expertise to apply appropriate assessment processes.

In particular, States with Right to Information (RTI) or Freedom of Information (FOI) legislation need to reconcile the public's right of access to information with the need to preserve the confidentiality of safety data to support a Just Culture. Considerations include whether existing legislation adequately protects all categories of safety data and safety information envisaged by ICAO Annex 19, identification of competent authorities appropriate to different legal proceedings, establishment of consistent criteria for disclosure decisions, and ensuring that designated authorities possess appropriate legal authority and technical expertise.

2.4 Different approaches have been adopted by Contracting States depending on their constitutional and legal frameworks. Some States rely primarily on aviation legislation to protect safety information, while others apply aviation-specific protections together with RTI/FOI provisions through statutory exemptions, balancing mechanisms, or judicial review processes.

2.5 An effective competent authority may require appropriate independence, legal authority, knowledge of aviation safety principles and Just Culture, access to technical expertise, and the ability to apply protective measures such as confidentiality restrictions, redaction, and controlled disclosure.

2.6 Sharing experiences and best practices among States contributes to greater awareness of different approaches to implementing ICAO provisions while maintaining confidence in safety reporting systems and supporting continuous improvement of aviation safety.

3. ACTION BY THE CONFERENCE

3.1 The Conference is invited to note the information contained in this Paper.

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