



WORKING PAPER

ASSEMBLY — 40TH SESSION

TECHNICAL COMMISSION

Agenda Item 30: Other issues to be considered by the Technical Commission

COMPLIANCE WITH THE ICAO USOAP AND CHALLENGES FOR SMALL STATES

(Presented by Trinidad and Tobago with the support of Jamaica, and the ICAO Member States are also members of the Organisation of Eastern Caribbean States (OECS))

EXECUTIVE SUMMARY

This paper highlights the challenges faced by small States which are required to comply with the requirements of Annex 13 — *Aircraft Accident and Incident Investigation*, and the resulting low level of effective implementation of the Standards and Recommended Practices (SARPs). Currently all States are audited to the same standard irrespective of your level of aviation complexity, it matters not if you manufacture or design and build, or you are a State that simply has a number of aircraft on your register.

Trinidad and Tobago is of the view that the root of the audit findings and the low level of effective implementation of the Annex 13 SARPs lays in the Annex and the guidance material to which States strive to comply.

This paper suggests that ICAO should establish a panel or system to review the processes used in auditing and or evaluating a State's compliance with the SARPs of Annex 13, and Doc 9756, *Manual of Aircraft Accident and Incident Investigation* similar to that of Annex 8 — *Airworthiness of Aircraft*, and Doc 9760, *Airworthiness Manual* where the Airworthiness role is clear for the State of Design, manufacture, operator, and register.

Action: The Assembly is invited to:

- a) acknowledge that there is real difference in the level of effective implementation of Annex 13, between less developed States and States with complex aviation industries which include aircraft manufacturing and those that do not have manufacturing capabilities;
- b) recommend to the Council that a panel be set up to consider an alternative means of compliance other than delegation of the responsibility for accident investigation and the RAIO.
- c) that ICAO review the feasibility of reorganizing Annex 13, and Doc 9756, such that it treats differently with States of Design and manufacture, either as a separate document, or subdivided.
- d) that ICAO develop audit protocols that allow for the adoption of appropriate policies and procedures as a means of demonstrating compliance with the SARPs other than establishment of offices.
- e) recommend that a process for amending associated manuals of procedures be established.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objectives Safety Oversight Compliance.
<i>Financial implications:</i>	Low

<i>References:</i>	ICAO Annex 13 ICAO Annex 8 ICAO Doc 9756 ICAO Doc 9760, Volume I provides one level of guidance for Organization and Procedures, and Volume II is dedicated to Design Certification and Continuing Airworthiness.
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1. INTRODUCTION

1.1 This paper seeks to present an alternative solution to States struggling to satisfy the requirements of ICAO Annex 13, the USOAP and the continuous monitoring approach.

1.2 It is proposed that States with less complex aviation environment be treated in accordance with the long-established system used in evaluating compliance with ICAO Annex 8 for Airworthiness, that is if you are a State of Design and or manufacture you shall demonstrate an appropriate level of competence demonstrated by the regulatory frame work, trained and qualified personnel among others requirements.

1.3 It further proposes that having Member States develop and implement applicable procedures will be far more effective, efficient, and productive and will satisfy the requirements of the audit, as opposed to demonstrating the ability to conduct complex investigations.

1.4 It is further recognized that Chapter 5, item 5.1 of Annex 13, makes provision for the delegation of the whole or part of any investigation. However this is not necessarily an option for many countries because of the complexities of laws, liability, and political implication among other reasons.

1.5 It is proposed that States be mandated to have and to demonstrate that they have a system for conducting accident investigation, **which ensures the independence of the investigation.**

2. DISCUSSIONS

2.1 Over the last 17 years, Trinidad and Tobago and other Caribbean States have grappled with the issue of satisfying the requirements of Annex 13 for accident investigation inclusive of the need for independent investigator.

2.2 Various reports of audits conducted of states in the Caribbean region continue to show that compliance with ICAO Annex 13 remains relatively low and remains a challenge for small states.

2.3 To solve this challenge one of the recommendations that has been discussed repeatedly over the last five (5) years including with the EASA representatives to the Caribbean and the NACC office has been the formation of a Regional Accident Investigation Office properly staffed and resourced, but for various reasons this remains a challenge.

2.4 Trinidad and Tobago is of the view that this approach will not singularly resolve the issues as no office can be resourced with all the trained, qualified and experienced personnel 365 days of the year, 24 hours a day to basically be on standby. Obtaining the facilities and keeping it current will be only one of several challenges.

2.5 This paper proposes that it is far more effective, efficient, and productive and that it satisfies the requirements of the audit that states should be mandated to have and to **demonstrate that they have a system that facilitates the independence of the investigation free from interference and biases.**

2.6 Our experience is that in the Caribbean countries a sizeable cadre of inspectors have completed several hours of classroom accident investigation training but are not qualified to lead any accident investigation because they have no practical experience on the job (OJT). Practical experience normally comes from accidents, and we work to eliminate accidents and serious incidents therefore the approach may be self-defeating.

2.7 Small Island states similar to Trinidad and Tobago do not currently have the complexity of aviation activity that enables the State to have the technical, human and financial resources required to efficiently conduct an accident investigation.

2.8 Experience in treating with several aircraft incidents over the years is that these can be satisfactorily resolved through corporation with the various states of design and manufacture whenever there is an incident. This has also worked whenever there have been accidents in the region.

2.9 To put this argument into perspective, operating into the Caribbean and into Trinidad and Tobago we have the Boeing 777, Boeing 737, ATR 72, ATR 42, Cessna Caravan, Boeing 767, Embraer 190 and a myriad of helicopters, to name a few. I am not sure that EASA or Boeing will be willing to share their design data systems for analysis of flight data recorder and cockpit voice recorder so that States can make a meaningful analysis of the last few hours or minutes of a flight.

2.10 The point to be emphasized is that an audit that seeks to suggest that a State has all the facilities and resources for the different types of aircraft operating into its jurisdiction and an accident or incident may be overly optimistic.

3. PROPOSAL

3.1 The structure of these ICAO audits should be reviewed to take into consideration the complexity of operation in a particular state in various parts of the world.

3.2 It is proposed that the principles of Annex 8 be adopted for Annex 13 along with establishing similar guidelines to those which guide the structure of Doc 9760, where continuing airworthiness responsibilities of States is treated different from those for aircraft design, production and manufacture.

3.3 The associated *Manual of Aircraft Accident and Incident Investigation* (Doc 9756) Part 1, and the *Manual on Accident and Incident Investigation Policies and Procedures* (Doc 9962) should be amended to be competency based so that all States can be audited against standards which are achievable.

3.4 It must be clear that a state of occurrence which is also a state with responsibilities for design and manufacture will be required to address a different set of protocol questions if not all as opposed to those States which do not have complex aviation industries and that are not engaged in design or manufacture.

3.5 So with an amended Annex 13 and guidance manual of procedures for accident investigation States can be in a position to achieve and demonstrate compliance with the Annex.

4. **CONCLUSION**

4.1 All States want to be in a position to be able to demonstrate that they have a system to effectively and independently conduct accident investigations.

4.2 Being able to use limited resources by having appropriate procedures that recognize the ability of States to engage at short notice appropriate technical resources is an effective alternative to trying to have that resource on staff. As stated above, delegating the accident investigation also requires appropriate laws and procedures which may themselves prove impractical or unworkable.

4.3 It is proposed that this can be solved by each State implementing those laws, regulations and associated guidance procedures that protects the independence of the investigator in charge and the investigation.

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