



WORKING PAPER

**ACCIDENT INVESTIGATION AND PREVENTION (AIG)
DIVISIONAL MEETING (2008)**

Montréal, 13 to 18 October 2008

**Agenda Item 1: Annex 13
1.2: Chapter 5 of Annex 13**

PARTICIPATION OF STATES IN INVESTIGATIONS

(Presented by the Secretariat)

SUMMARY

This paper discusses the issue of extending provisions in Annex 13 to allow the State of Departure, the State of Arrival and the State having citizens on board the accident aircraft to have access to current information of the investigation.

Action by the meeting is in paragraph 3.

1. INTRODUCTION

1.1 A State has suggested that it would be advisable to extend the provisions of Annex 13 — *Aircraft Accident and Incident Investigation* to include the States of Departure and Arrival of a flight involved in an accident or incident as parties entitled to access current information of the investigation.

2. DISCUSSION

2.1 Discussion during the 36th Session of the Assembly

2.1.1 A State raised concerns regarding ICAO provisions relating to the conduct of investigations, in particular, recommendation in paragraph 6.6 of Annex 13, that are not always applied by some States or for some accidents. An example of this is an accident in which the State that conducts the investigation is only involved as the State of Occurrence. In this case, States directly involved, whether in relation to their responsibilities as State of Design or State of the Operator or due to their citizens having been killed, can encounter great difficulties in obtaining and using information required to enhance safety or to inform the families of victims. These difficulties cannot always be resolved by interaction between the accredited representative and the investigator-in-charge, or by State-to-State

intervention. It would therefore be advisable to extend the provisions of Annex 13 to the States of departure and arrival of the flights involved, so as to allow these States to have real-time access to the elements of the investigation.

2.2 Current entitlements

2.2.1 As per Annex 13, Chapter 5, when the State of Occurrence institutes and conducts an investigation, the State of Registry, the State of the Operator, the State of Design and the State of Manufacture shall each be entitled to participate in the investigation by appointing an accredited representative and be entitled to appoint one or more advisers.

2.3 Any State which on request provides information, facilities or experts to the State conducting the investigation shall be entitled to appoint an accredited representative to participate in the investigation. In addition, any State that provides an operational base for the field investigation, or is involved in the search and rescue of the wreckage recovery, or is involved as a State of code-share or alliance partner of the operator, may also be invited to appoint an accredited representative to participate in the investigation.

2.4 Finally, a State which has a special interest in an accident by virtue of fatalities or serious injuries to its citizens shall be permitted to appoint an expert who shall be entitled, among others, to have access to the relevant factual information and receive a copy of the Final Report.

2.5 A way to allow the State of Arrival and the State of Departure to have access to current information of investigations is to entitle them to participate in investigations by appointing an accredited representative. Experience has however shown that the size of investigation teams may affect the time of investigations. Larger teams tend to increase the duration of investigations. Furthermore, increasing the number of bodies submitting comments on the draft Final Report may delay the publication of the Final Report.

2.6 Current ICAO provisions entitle many parties to participate in investigations. Increasing that entitlement might slow down the investigation process and delay the submission of factual safety information, including the Final Report. However, there may be a need to change the provisions of Annex 13 to ensure that a State having its citizens on board an accident aircraft receive information from the State conducting the investigation, so as to inform the families of victims of the progress of the investigation.

3. ACTION PROPOSED

3.1 The meeting is invited to consider the amendments in the Appendix regarding paragraph 5.27 and the introduction of a new recommended practice.

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APPENDIX

PROPOSED AMENDMENT TO ANNEX 13

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CHAPTER 5: INVESTIGATION

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PARTICIPATION OF STATES HAVING SUFFERED ~~FATALITIES OR SERIOUS INJURIES TO ITS~~ ~~CITIZENS ON BOARD AN ACCIDENT AIRCRAFT~~

Rights and entitlement

5.27 A State which has a special interest in an accident by virtue of its citizens being on board the accident aircraft, as passengers or part of the crew, shall be entitled ~~fatalities or serious injuries to its citizens shall, upon making a request to do so, be permitted by the State conducting the investigation to~~ appoint an expert who shall be entitled to:

- a) visit the scene of the accident;
- b) have access to the relevant factual information, which has been approved for public release by the State conducting the investigation and including information on the progress of the investigation; and
- ~~c) participate in the identification of the victims;~~
- ~~d) assist in questioning surviving passengers who are citizens of the expert's State; and~~
- e)c) receive a copy of the Final Report.

This will not preclude the State from also:

- a) assisting in the identification of victims; and
- b) assisting in meetings with survivors from that State.

5.28 **Recommendation.**— *The State conducting the investigation should release, at least throughout the first year of the investigation, established factual information and indicate the progress of the investigation in a timely manner.*

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