



WORKING PAPER

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

Montréal, 13 to 18 October 2008

Agenda Item 5: Conduct of the Investigation

CONDUCT OF THE INVESTIGATION

(Presented by the Secretariat)

SUMMARY

This paper discusses the need for an independent accident investigation authority and the need for procedures for carrying out investigations. It also discusses the coordination with judicial authorities which in some States have control over the wreckage following an accident.

Action by the meeting is in paragraph 5.

1. INTRODUCTION

1.1 During the preparation of this meeting, a number of States indicated that many States do not have an independent investigation body or appropriate procedures in place for carrying out investigations. It was also indicated that following an accident in some States, the judicial authorities have control over the wreckage which may delay or restrict the conduct of the investigation

**2. INDEPENDENT ACCIDENT INVESTIGATION
AUTHORITY**

2.1 Current Annex 13 — *Aircraft Accident and Incident Investigation* provisions on the above mentioned subject are the following:

5.4 The accident investigation authority shall have independence in the conduct of the investigation and have unrestricted authority over its conduct, consistent with the provisions of this Annex.

2.2 Many States have suggested that not only should the accident investigation authority have independence in the conduct of the investigation, but it should also be a permanent body or entity. This body or entity, charged with accident and incident investigations, should be functionally independent, in

particular, of the national aviation authority responsible for airworthiness, certification, flight operation, maintenance, licensing, air traffic control or airport operation and, in general, of any other party whose interests could conflict with the task entrusted to the investigation body or entity.

2.3 The Secretariat has been informed that a State will present a working paper addressing the need for an independent body or entity to investigate accidents and incidents.

3. **POLICIES AND PROCEDURES FOR CARRYING OUT INVESTIGATIONS**

3.1 In the part of the ICAO Universal Safety Oversight Audit Program (USOAP) audits related to implementation of Annex 13, it was noted that in many States, the law (or legal framework) did not contain all relevant provisions of Annex 13. On the other hand, the accident investigation authority in some States had developed and documented accident investigation policies and procedures, including the policies and procedures required to implement all the provisions in Annex 13, as well as other national best practices and checklists for carrying out investigations. However, it was established in the USOAP audits that many States did not have such documents and lacked detailed guidance for carrying out investigations.

3.2 The USOAP audits have also indicated that there is a clear need for detailed guidance for conducting an investigation in some States which could be in the form of documented accident investigation policies and procedures. It is therefore proposed to include a recommended practice in Annex 13 addressing documented accident investigation policies and procedures. The meeting is further invited to recommend that ICAO develop guidance to States on this matter in the form of a framework.

4. **COORDINATION WITH THE JUDICIAL AUTHORITIES**

4.1 Annex 13 provisions on this subject are the following:

5.4.1 **Recommendation.**— *Any judicial or administrative proceedings to apportion blame or liability should be separate from any investigation conducted under the provisions of this Annex.*

5.6 The investigator-in-charge shall have unhampered access to the wreckage and all relevant material, including flight recorders and ATS records, and shall have unrestricted control over it to ensure that a detailed examination can be made without delay by authorized personnel participating in the investigation.

5.10 The State conducting the investigation shall recognize the need for coordination between the investigator-in-charge and the judicial authorities. Particular attention shall be given to evidence which requires prompt recording and analysis for the investigation to be successful, such as the examination and identification of victims and read-outs of flight recorder recordings.

4.2 The meeting is invited to note that a proposal to amend and upgrade 5.4.1 to a Standard is contained in AIG/08-WP/4.

4.3 The Secretariat believes that the subject of control of the wreckage is adequately addressed in the provisions of Annex 13, as well as in ICAO guidance material (ICAO *Manual of Aircraft*

Accident and Incident Investigation, Part I — *Organization and Planning* (Doc 9756) refers). However, a Note to paragraph 5.10 in Annex 13 is proposed to illustrate how coordination between the accident investigating authorities and the judicial authorities regarding the control of the wreckage during investigations can be achieved.

5. **ACTION PROPOSED**

5.1 The meeting is invited to note the aforementioned and consider the proposals in the Appendix which include:

- a) adding a recommended practice in Annex 13 requiring States to develop documented accident investigation policies and procedures;
- b) inserting a Note to paragraph 5.10; and
- c) a recommendation for ICAO to develop guidance to States for carrying out investigations as per Annex 13.

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APPENDIX

PROPOSED AMENDMENT TO ANNEX 13

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CHAPTER 5. INVESTIGATION

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RESPONSIBILITY OF A STATE CONDUCTING THE INVESTIGATION

General

5.2 **Recommendation.**— *The accident investigation authority should develop documented policies and procedures detailing its accident investigation duties. These should include: organization and planning; investigation; and reporting.*

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Coordination — Judicial authorities

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Note 3.— Possible conflicts between investigating and judicial authorities regarding the custody of the wreckage may be resolved by an official of the judicial authority accompanying the wreckage to the place of examination and being present to such examination when it requires a modification of the condition of the wreckage, thus maintaining custody.

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RECOMMENDATION OF THE MEETING

To assist States in implementing Annex 13 provisions, the 2008 Divisional Meeting (AIG/08) recommends that ICAO develop guidance in the form of a framework of documented policies and procedures for carrying out investigations, to be made available to States in an appropriate ICAO document.

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