



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

INDEPENDENCE OF THE INVESTIGATION

(Presented by the International Coordinating Council of Aerospace Industries Associations)

SUMMARY

This paper considers the proposed amendment concerning the independence of investigations from judicial or administrative proceedings.

Action by the meeting is in paragraph 3.

1. INTRODUCTION

1.1 ICCAIA has noted the amendment proposed by ICAO Secretariat (AIG/08-WP/4) aiming at strengthening the independence of investigations from judicial or administrative proceedings.

2. DISCUSSION

2.1 ICCAIA disagrees with the proposal as written. Although ICCAIA does agree that separation between judicial and Annex 13 investigations is absolutely appropriate, we are concerned that the manner in which this separation is accomplished could go too far. If excessive restrictions are placed on investigative data then Technical Advisors permitted to support the investigation may be restricted from its use and this would hurt Annex 13 investigations. For example, if FDR data were not provided to manufacturers it would significantly hamper our ability to provide technical assistance to the investigation. Further, various safety initiatives by the manufacturer or operator could be impacted. More specific guidance in this area may be more appropriate than simply raising the issue to a Standard.

2.2 With the current protection in place, some States already prevent the manufacturers from having access to the CVRs despite the fact that the CVR might include valuable information that might be useful in understanding an accident and the support of the manufacturer may provide the insight of an actor intimately familiar with the product. Blocking access may prevent manufacturers from contributing insight into the accident and identifying all possible preventive measures. The way current suggestions for "strengthening the provisions related to the independence of the investigation" are stated raises the potential for further preventing manufacturers to get access to this type of crucial data and could hamper our ability to provide optimum support to the investigation.

2.3 Whilst Industry fully supports the objective of ICAO Annex 13 which is accident prevention and not apportioning blame or liability, it does consider that all actors of the Air Transport System have to take into account the expectation of the public, and more specifically the families of victims and the judicial institutions, which is to establish facts. Therefore, facts established with certainty during an ICAO Annex 13 investigation should be made public and not overprotected. This is essential to keep the confidence of general public and judicial authorities in Annex 13 investigations.

3. ACTION PROPOSED

3.1 The meeting is invited to reconsider the proposed amendment (working paper AIG/08-WP/04 submitted by ICAO Secretariat) in order to reflect a proper balance between the necessary independence and above mentioned considerations on accessibility for manufacturers and the maintaining of public and judicial authorities confidence.

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