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WORKING PAPER

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EXECUTIVE COMMITTEE

Agenda Item 14: Audit Programmes – Continuous Monitoring Approach

LEGAL OVERSIGHT IN ICAO AUDITS: ENHANCING EFFECTIVENESS THROUGH LEGAL EXPERTISE WITH AVIATION LAW BACKGROUND

(Presented by Kazakhstan)

EXECUTIVE SUMMARY

This paper highlights the potential for strengthening ICAO's audit methodology by integrating legal professionals and experts in Aviation Law into audit teams, particularly when evaluating Critical Elements CE-1 (Primary Aviation Legislation) and CE-8 (Resolution of Safety Concerns). Given the diversity of legal systems among ICAO Member States—ranging from civil law and common law to customary and mixed legal frameworks, this multidisciplinary enhancement could enrich the interpretation and contextualization of national aviation laws and enforcement structures. Legal experts with aviation law backgrounds can support more nuanced assessments, enhance dialogue with States, and contribute to the long-term development of effective legal oversight capacities.

Action: The Assembly is invited to:

a) acknowledge the value of aviation legal expertise in strengthening the assessment of CE-1 and CE-8 during ICAO audits;
b) encourage the inclusion of legal professionals with aviation or international legal backgrounds in audit missions; and
c) promote national legal capacity-building as an integral part of comprehensive aviation safety oversight systems.

Strategic Goals:	This working paper relates to the Strategic Goal *Every Flight is Safe and Secure*.
Financial implications:	To be determined.
References:	ICAO Universal Safety Oversight Audit Programme - Continuous Monitoring Approach (USOAP CMA) Protocol Questions (CE-1 and CE-8)

1. INTRODUCTION

1.1 ICAO's Universal Safety Oversight Audit Programme (USOAP) provides a foundational mechanism for assessing Member States' safety oversight capabilities. Each audit commences with the evaluation of CE-1 (Primary Aviation Legislation), which underpins all other elements including CE-8 (Resolution of Safety Concerns).

1.2 While ICAO's audits have yielded significant progress, the increasing complexity of national legal systems and the diversity of legal traditions present a growing challenge for fully contextual and accurate assessments. Legal systems such as civil law, common law, customary law, and hybrid systems vary in how they formulate, interpret, and enforce aviation laws and regulations.

1.3 Within this context, the presence of legal professionals—particularly those with expertise in international and aviation law—can enhance the precision and relevance of audit outcomes. Their role would be supportive, working in collaboration with technical experts and national authorities.

2. DISCUSSION

2.1 CE-1 assessments require an understanding of how States have structured and enacted aviation legislation. Legal experts can offer valuable insights into the legislative hierarchy, statutory delegation, and administrative procedures, improving the alignment of assessments with State-specific legal contexts.

2.2 Similarly, CE-8 concerns a State's ability to implement corrective actions and enforce safety-related regulations. Evaluating CE-8 often involves analyzing legal frameworks for enforcement authority, sanctions, appeals, and procedural fairness—areas best understood through a legal lens.

2.3 Including legal professionals in audit teams can also facilitate improved dialogue with States, many of whom rely on legal counsel to interpret and explain their national legislative and enforcement regimes.

2.4 This proposal does not suggest any deficiency in current audit practices. Rather, it aims to build upon ICAO's strengths by promoting a more multidisciplinary and context-aware approach. Such an enhancement would be consistent with ICAO's mission of fostering global harmonization and continuous improvement in civil aviation oversight.

3. CONCLUSION

3.1 Given the diversity of legal systems among ICAO Member States and the centrality of legal foundations in aviation safety oversight, it is proposed that ICAO consider integrating legal expertise into its audit process more systematically.

3.2 This approach would strengthen the quality and effectiveness of audits, foster more informed engagement with States, and support the long-term development of national legal capacity in civil aviation.

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