



ASSEMBLY — 42ND SESSION

TECHNICAL COMMISSION

Agenda Item 24: Aviation Safety and Air Navigation Priority Initiatives

COMPLIANCE WITH THE CHICAGO CONVENTION ANNEX 13 STANDARDS AND RECOMMENDED PRACTICES

(Presented by Jordan on behalf of the Arab Civil Aviation Organization
Member States²)

EXECUTIVE SUMMARY

This paper highlights the challenges associated with the translation and regulatory concepts in the drafting of some guidance material, so as to promote accurate implementation and avoid misunderstanding or misapplication, in an endeavor to achieve the highest possible level of compliance with requirements established by Chicago Convention Annex 13.

The paper also refers to existing challenges in implementing new requirements introduced in Annex 13, concerning the independence of international aviation accident investigation, by placing the process within an international and realistic framework that is commensurate with the size and complexity of the aviation sector in Member States. The relevant guidance material should thus be refocused in order to achieve the highest possible level of independence for international aviation accident investigations, rather than assuming uniformity among organizations without guaranteeing the independence of the investigation process.

The paper addresses two main topics that affect the application of the Chicago Convention Annex 13 SARPs, namely:

1. accuracy of the translation of technical terms in the Arabic version of the Annex, and challenges in understanding as a result of the inaccurate translation, in the context of the application of Annex provisions and reflecting relevant terms in the national legislation;
2. independence of accident investigation authorities, taking into account existing differences among various organizational models adopted in Member States.

¹ Arabic version provided by ACAO.

² Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Palestine, Qatar, Saudi Arabia, Somalia, Sudan, Syrian Arab Republic, Tunisia, the United Arab Emirates, Yemen.

Action: The Assembly is invited to: - conduct a comprehensive review of the Arabic translation of Annex 13, maintaining consistency in legal terms in order to ensure accurate application, in coordination with the Arab Civil Aviation Organization; - review the guidance material issued by ICAO, emphasizing the need to rely on evidence-based data and examples before disseminating conclusions to Member States; - propose the adoption of a flexible formula for the independence of civil aviation accident investigation authorities, which takes into account variances in governmental and institutional structures and allows States to choose the most appropriate structure for their aviation sector, with a view to guaranteeing the independence of the investigation process.	
<i>Strategic Goals:</i>	This working paper relates to <i>Every Flight is Safe and Secure</i> and <i>The International Civil Aviation Convention and other Treaties, Laws and Regulations address all Challenges</i> .
<i>Financial implications:</i>	None
<i>References:</i>	Annex 13 — <i>Aircraft Accident and Incident Investigation</i> Doc 9756, <i>Manual of Aircraft Accident and Incident Investigation</i>

1. INTRODUCTION

1.1 The Chicago Convention on International Civil Aviation aims to regulate global civil aviation and ensure its safe and orderly development. Annexes to the Convention are an essential tool to this end, as they contain Standards and Recommended Practices (SARPs) that aim to enhance safety, security, air navigation efficiency, air transport facilitation and environmental protection by harmonising technical and operational practices among Member States.

1.2 Annex 13, para. 3.2 stipulates that "A State shall establish an accident investigation authority that is independent from State aviation authorities and other entities that could interfere with the conduct or objectivity of an investigation." The objective of ensuring the independence of the authority responsible for investigating civil aviation accidents is to prevent any intentional interference in the investigation procedures and to ensure the objective independence and effectiveness of the investigation.

1.3 ICAO Manuals are intended to provide detailed and practical guidance to help Member States and aviation service providers apply SARPs contained in the Chicago Convention Annexes in an effective and organized manner.

2. THE JORDANIAN EXPERIENCE IN AMENDING NATIONAL PRIMARY LEGISLATION

2.1 In 2024, Jordan embarked on amending Civil Aviation Law No. 41 of 2007 and its amendments, in line with international requirements for civil aviation accident investigation, as contained in Annex 13 of the Chicago Convention. The exercise revealed a number of challenges related to the Arabic translation of the Annex, as it turned out that the term "incidents" in the Arabic version is used invariably to refer to a range of different concepts in English, such as *Incidents*, *Occurrences*, and *Events*, concepts that are clearly distinguished apart in the English version of Annex 13.

2.2 In addition, Annex 13, Chapter 5, addresses the responsibility of instituting and conducting investigation only in “accidents and serious incidents,” which is in line with the requirements of Annex 19 – *Safety Management* that provides for collecting, analysing and managing safety data and employing it in safety management at the State level. The goal would be to ensure monitoring and analysing aviation *occurrences* and leveraging that to enhance safety initiatives and realize the goals of national safety plans and programmes.

2.3 The Arabic translation of Annex 13, however, makes no distinction between ‘incidents’ and ‘occurrences,’ referring to both as ‘occurrences’ in titles and narrative. That, in turn, casts ambiguity on the content of Annex 13 regarding the necessity of conducting an international investigation if an ‘occurrence’ is detected, even if it does not qualify as a ‘serious incident’.

2.4 Such confusion in terminology has complicated the process of drafting the State's primary legislation and led to the possibility of widening the scope of technical and legal obligations in a manner not at all intended in the original text of Annex 13.

2.5 Furthermore, Doc 9756, *Manual of Aircraft Accident and Incident Investigation*, Part I - Organization and Planning, Second Edition, 2015, Amendment No. 1, Chapter 2, paragraph 2.1.11 states: "For some States, there is a history of examples of undue influence and conflicts of interest that led to legislative changes and the establishment of an accident investigation authority that is structurally, organizationally and operationally independent from the Ministry of Transport and other State civil aviation authorities (e.g. Canada, New Zealand, United States). In those States, some investigative findings have identified deficiencies in the effectiveness of the safety oversight functions of the civil aviation authorities, and undue pressures were brought to bear on the investigation authorities. These actions resulted in legislative amendments to provide for the independence of the accident investigation authority."

2.6 The above-mentioned text assumes that civil aviation authorities in those States were unable to ensure full independence of the investigation of civil aviation accidents, on account of undue pressures and conflict of interest, which consequently led to the introduction of legislative amendments providing for the independence of accident investigation authorities. The issue here lies in the fact that the document does not provide sufficient evidence, references or explanations to clarify the ‘pressures’ referred to. Notwithstanding differences in the institutional nature or legislative governance among States, the paragraph cited above does not offer useful information, nor can it be drawn upon, from a practical or legal perspective, to apply to other Member States.

2.7 In most Member States, the commissioned investigator is remunerated by a financially independent government entity, such as the Ministry of Finance or its equivalent, which reinforces the principle of neutrality and independence. In other countries, on the other hand, the investigator is remunerated by the party that caused the incident or the party under investigation (most often the service provider), which raises concerns about a potential conflict of interest or lack of true independence. That example, which is the case in some States where the financial and regulatory systems are separate, was held as a basis for generalising the assumed lack of independence of investigations in all Member States, despite the fact that the majority of Member States adopt more neutral and independent models, especially in the financial system.