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**Agenda Item 4 Collaborative Approaches to Safety**

# REGULATORY HARMONIZATION IN AIRCRAFT EXCHANGE AGREEMENTS TO STRENGTHEN THE CONNECTIVITY AND RESILIENCE OF INTERNATIONAL AIR TRANSPORT

(Presented by El Salvador)

**EXECUTIVE SUMMARY**

This Working Paper addresses the need to harmonize the surveillance of interchange aircraft to prevent ambiguity in Annex 6 (6.1.3) and Doc 8335 from becoming an administrative barrier. For developing regions, air transport groups (Holdings) and regional integration models, redundancy in national approvals of technical documents such as MEL not only hinders Exploitation Rights (Doc 9626), but penalizes the connectivity and resilience of the sector without providing additional benefits to operational safety.

The current "double approval" scenario creates critical operational risks by allowing the same aircraft to carry multiple versions of MEL approved divergently by different states. This fragmentation of documents leaves the crews without technical certainty in the event of a failure and nullifies the integrity of the aircraft's technical configuration, weakening the continuity of the surveillance that must be exercised in coordination by the States involved.

It is proposed that ICAO develop a standardized Technical Acceptance methodology in Doc 8335. The aim is to provide a uniform pathway that eliminates subjectivity in USOAP audits and ensures legal certainty. By standardizing these processes, aircraft exchange is consolidated as an effective compliance practice that strengthens the operational safety and sustainable economic development of international aviation.

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| Action: | The Meeting is invited to recommend to ICAO the updating and development of guidance material detailed in Doc 8335, which will facilitate the uniform application of Annex 6, Part I, 6.1.3, by matching that standard with the Technical Acceptance mechanism. This initiative, seeks to eliminate the duplication of primary approvals, avoid the coexistence of multiple technical manuals for the same aircraft, guarantee uniformity in USOAP audits and ensure that the monitoring of operational safety does not become an administrative barrier to the exercise of the Exploitation Rights defined in Doc 9626. |

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| *Strategic Objectives:* | • All flights are safe and secure<br>• Comprehensive legal framework<br>• Economic development of air transport |
| *References:* | • Annex 6, Part I (Attachment B)<br>• Doc 8335 (Certification and Supervision Manual)<br>• Doc 9626 (Air Transport Regulations Manual)<br>• Doc 9760 (Airworthiness Manual). |

**1.** Introduction

1.1 The International Air Transport Regulatory Manual (Doc 9626) defines interchange as a scheduled service where a single aircraft links the routes of two different operators, with the same aircraft and crew, but under the operational control of the corresponding operator on each leg.

1.2 According to Chapter 2.3 of Doc 9626, the exchange constitutes a direct specification of the exploitation rights relating to the mode of operation. As a right of access to markets, its exercise should not be limited by redundant technical processes that do not add additional value to operational safety, provided that it is guaranteed that the aircraft remains under the operational control of the authorized carrier on each route.

1.3 This modality represents a strategic tool for air transport groups (Holdings) to maximize the use of their assets. It allows a primary fleet aircraft for one operator to efficiently serve another affiliate of the group, ensuring regional connectivity without unnecessary administrative interruptions that penalize the economic sustainability of the sector.

1.4 Doc 8335 recognizes that the exchange offers passengers the benefit of service on a single aircraft and provides operational optimization to the operators involved. Therefore, the evolution of state surveillance towards technical acceptance mechanisms is essential to strengthen the efficiency and resilience of the international civil aviation system.

**2.** Undue Extension of Regulatory Scope

2.1 Paragraph 4.3.3 of Doc 8335 states that "it is necessary for the States involved to be clear about their respective responsibilities" and that these operations are "similar to those observed when an aircraft is leased without a crew".

2.2 However, the requirement for the State to approve the MEL (Annex 6, 6.1.3), in the absence of guidance in Doc 8335, has led to the practice of requiring individual and successive national approvals. This lack of harmonization leads to an extension of the regulatory scope based on the erroneous premise that each change in operational control requires repeating the certification process of technical documents already validated by a competent authority of the State of the initial operator.

2.3 The lack of harmonisation forces operators to comply with regulations that are often incompatible between the State of Registry, the State of the Operator and other States involved in the interchange agreement. This regulatory complexity, far from strengthening safety, generates gray areas of responsibility that Doc 8335 fails to mitigate with its current guidance, which is insufficient to guarantee the effective and continuous control that the system requires.

2.4 This technical discretion shifts the focus from surveillance – which should focus on technical verification – towards administrative redundancy that does not add value to operational safety and limits the agility of air transport.

2.5 Additionally, this absence of guidance affects the uniformity of USOAP audits. In the absence of a global standard, compliance is evaluated under different interpretations, encouraging preventive redundancies that shift operational efficiency towards a formal non-harmonized conformity.

**3.** Risks to Operational Safety and Technical Integrity

3.1 The fragmentation of technical authority through multiple approval processes on the same aircraft in exchange generates four critical risks for operational safety:

I. Complexity in the Management of Specific Approvals (SPA): When the initial operator's State has validated operations under particular conditions (CAT II/III, EDTO or PBN), the requirement for a parallel approval by a second State hinders the necessary consistency between the Minimum Equipment List (MEL), the maintenance program and the operator's actual operational capabilities. An administrative discrepancy at this level can lead to errors in aircraft clearance and crew decision-making.

II. Inconsistency in Version Control and Technical Authority Conflict: The requirement for redundant approvals affects the uniformity of the aircraft's technical configuration. The coexistence of multiple versions of the MEL, validated as independent administrative acts, generates a loss of traceability before the State of Registry and third States. This documentary disparity generates inconsistencies in airworthiness records and deprives the crew of a unique and accurate technical standard in the event of a failure.

III. Fragmentation of Technical Responsibility: The multiplicity of administrative acts on the same technical instrument disperses the responsibilities established in Doc 9760 for the State of registration and the State of the operator. This dispersion makes it difficult for crews and maintenance personnel to unambiguously identify the applicable standard, which is essential for safe and standardized operation.

IV. Conflict of Technical Authority and its Impact on the Human Factor: The coexistence of concurrent technical criteria places the Pilot-in-Command, flight dispatch personnel and maintenance personnel in a situation of regulatory ambiguity when evaluating airworthiness and planning the pre-flight operation. As there is no single hierarchy for the same aircraft, the

probability of errors in the application of operational penalties and in decision-making increases, compromising the ability of technical personnel to ensure compliance with the responsibilities established in ICAO Annexes 2 and 6.

**4.** The Acceptance Mechanism as a Technical Solution

4.1 Annex 6, Part I (Attachment B) defines Acceptance as the method by which the receiving operator's State validates a technical document without the need to issue an active re-approval, provided that the document has already been approved by a competent authority and regulatory compliance is demonstrated.

4.2 In the context of air transport groups (Holdings) and operations with aircraft in exchange, the Acceptance allows the technical rigor of the peer authority to be recognized. This mechanism ensures the continuity of surveillance in the various exchange scenarios, whether the State of Registry is unrelated to the operation or one of the participating States acts simultaneously as the State of Registry and the Operator. By standardizing these processes, the resources of the Aeronautical Authorities are optimized, allowing inspection efforts to shift from documentary redundancy to direct operational supervision.

4.3 It is essential to specify that the application of the Acceptance mechanism does not limit the sovereign right of the host State to carry out additional technical assessments or verifications. On the contrary, by establishing a clear methodology for the transition of operational control between different States, mutual trust is strengthened and traceability to the State of Registration is guaranteed. This ensures the integrity and uniformity of the aircraft's technical configuration, eliminating the documentary ambiguity currently faced by USOAP auditors as well as crews and third States.

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**5.** Strategic Proposal for ATConf/7

5.1 Towards the Seventh World Air Transport Conference (ATConf/7), regulatory efficiency and technical harmonization are presented as fundamental elements to strengthen the resilience of the sector and facilitate the sustainable growth of international air transport.

5.2 The incorporation of harmonized guidance under Doc 8335 for technical processes related to aircraft exchange agreements would contribute significantly to strengthening administrative efficiency and preserving the sovereign responsibilities of States. This regulatory development would facilitate air connectivity and economic sustainability at the same time, particularly in emerging markets and developing regions.

5.3 The aim is to ensure that safety monitoring remains the absolute priority, ensuring that the administrative structure supports operational agility rather than becoming an obstacle to the full exercise of the Exploitation Rights defined in Doc 9626.

**6.** Suggested Action

6.1 The Meeting of Directors of Civil Aviation is invited to:

a. To acknowledge that the application of additional national approval processes on MEL and other technical documents in exchange agreements may create safety risks and fragment the effectiveness of State surveillance;

b. To recommend to ICAO the development of additional guidance under Doc 8335 and other applicable documents, setting out objective criteria for the transition of operational control in exchange agreements, explicitly linking compliance with Annex 6, Part I, 6.1.3 with the Technical Acceptance mechanism for MEL validation, and include a standardized methodology for the recognition of prior approvals and providing clarity on the harmonization of processes in interchangeable aircraft; and

c. To encourage ICAO, through standardization in guidance material, to promote the harmonization of criteria in audit activities (USOAP) related to aircraft exchange, ensuring that the Acceptance mechanism is recognized as an effective practice of compliance with Annex 6, Part I, 6.1.3, thereby reducing interpretative subjectivity and strengthening the resilience of international air transport.

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