



**RAAC/10**

**INTERNATIONAL CIVIL AVIATION ORGANIZATION**

**South American Regional Office**

**TENTH MEETING OF CIVIL AVIATION AUTHORITIES OF THE  
SAM REGION  
RAAC/10**

**FINAL REPORT**

**(Caracas, Venezuela, 13 – 15 June 2007)**

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## HISTORY OF THE MEETING

### ii-1 PLACE AND DURATION OF THE MEETING

The Tenth Meeting of Civil Aviation Authorities of the SAM Region was held in Caracas, Venezuela, from 13 to 15 June 2007, at the J. W. Marriott Hotel.

### ii-2 OPENING CEREMONY AND OTHER MATTERS

Mr. José Miguel Ceppi, Regional Director of the ICAO South American Office, thanked the Government of Venezuela and welcomed the participants to the meeting, emphasizing the importance of these meetings for the development of regional air transport. Then, G/B. Ramón Viñas García, President of the National Institute of Civil Aviation addressed the participants and after a brief speech proceeded to inaugurate the meeting.

### ii-3 SCHEDULE, ORGANIZATION, WORKING METHODS, OFFICERS AND SECRETARIAT

B/G Ramón Viñas García was elected Chairperson of the Meeting, and Brig. José Antonio Alvarez (Argentina), was elected as Vice-Chairperson. Mr. José Miguel Ceppi, acted as Secretary of the Meeting. He was assisted by Mr. Carlos Stehli Deputy Director *a.i.* of the SAM Office and Mr. Samuel H. Cardoso, Aerodromes Regional Officer of the ICAO SAM Office, Lima.

### ii-4 WORKING LANGUAGES

The working languages of the meeting and its relevant documentation were English and Spanish.

### ii-5 AGENDA

The following agenda was adopted:

- Agenda Item 1: Review of the level of safety oversight attained in the Region
- a) Results of the application of the Universal Safety Oversight Audit Programme,
  - b) Evaluation of the progress made by the SRVSOP,
  - c) Status of implementation of safety management systems in the States of the Region.
- Agenda Item 2: Review of aviation security attained in the Region

- Agenda Item 3:           Review of the implementation of the Regional Air Navigation Plan
- a) Analysis of the Global Air Navigation Plan and its impact on regional planning,
  - b) Review of improvements to the regional ATM,
  - c) Reduction or elimination of deficiencies identified in the provision of air navigation services
- Agenda Item 4:           Institutional aspects related to the management and control of multinational systems and facilities
- Agenda Item 5:           Review of the Implementation of the RAAC Conclusion 9/8: New Regional Technical Cooperation Project
- Agenda Item 6:           Review of the programme of activities of the Regional Office for the 2008-2010 period
- Agenda Item 7:           Follow-up on the conclusions adopted by previous RAAC meetings
- Agenda Item 8:           Other matters

ii-6           **ATTENDANCE**

Six States of the SAM Region, 1 State of the NAM Region and 3 International Organisations, IATA, IFALPA and LACAC, totaling 44 participants, attended the meeting. The list of participants is shown in pages iii-1 to iii-8.

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**Agenda Item 1: Review of the level of safety oversight attained in the Region****a) Results of the application of the Universal Safety Oversight Audit Programme**

1.1 The Meeting was informed on the progress made by the USOAP in the attainment of the ICAO strategic objective concerning safety enhancement. It was noted that, to date, Panama, Guyana, Peru and Colombia had been audited in the SAM Region, and Bolivia and Chile, as well as Argentina and Uruguay, were scheduled to be audited in May and December next year, respectively.

1.2 The Meeting took note of the following aspects concerning the USOAP auditing process:

- a) that the final safety oversight audit reports are submitted to all contracting States through a secure website, giving them access to all relevant information derived from the audit findings and differences database (AFDD).
- b) that, in accordance with the Memorandum of Understanding (MOU), the States undertake to prepare and submit to ICAO, within sixty calendar days from the date the provisional audit report has been presented, a corrective action plan addressing the findings and recommendations contained in the report, including the specific measures and deadlines and the offices responsible for each measure.
- c) that the transition to the global systems approach required that a large number of auditors be trained on the new audit methodology and procedures, taking into account all the areas within the scope of the audit, and that, by 30 April 2007, a total of seventy three auditors had been approved.
- d) that the States have actively supported the programme through the secondment of officials to ICAO. Since the launching of the global systems approach, a total of seven States (Austria, France, Malaysia, Republic of Korea, Switzerland, United Kingdom, and United States) have seconded experts to ICAO on a long-term basis. Furthermore, nineteen States and two international organisations have seconded experts to ICAO on a short-time basis to take part in the audit teams.

1.3 The Meeting was informed that ICAO was beginning the process of decentralisation of lead auditors to the Regional Offices, and that this process would start in the South American Office, thus improving audit preparatory work with the participation of the Regional Offices, and reducing implementation costs. The Civil Aviation Authorities welcomed this information and endorsed the decentralisation process.

1.4 Regarding the results of audits in the SAM Region, **Appendix A** to this part of the report shows the status of implementation of the eight critical elements at the regional level. As may be seen, the critical element related to the training of technical personnel and the critical element related to surveillance activities have the highest levels of non-compliance.

1.5 Although audit results under the global systems approach still include audit findings in the areas of personnel licensing, aircraft operations, and airworthiness, it should be noted that most of the audit findings within the framework of the new cycle are related to the new audit areas, *i.e.*, aerodromes, air navigation services, and aircraft accident and incident investigation.

1.6 The Meeting endorsed the post-2010 USOAP approach of the ICAO Secretariat, since it considered that the resources made available to the programme would be used more effectively and efficiently through the establishment of a continuous monitoring programme (CMP), whereby contracting States would be continuously monitored by ICAO. The CMP would be based on pre-established risk indicators. This more proactive approach would allow for audits to be prioritised and better focused while maintaining the principle of universality. It would also yield additional programme benefits, encouraging contracting States to ensure ongoing compliance with ICAO provisions while implementing the critical elements of a safety oversight system.

1.7 The Representative of Venezuela provided information on the plan developed by Venezuela and on the addition of an office tasked with preparing INAC for the USOAP audit. He also reported that an internal audit would be conducted this year to allow for the correction of any deficiencies that might be identified.

1.8 Finally, a request was made to clarify the procedure to be used by ICAO to amend the report to be posted on the ICAO website to reflect the findings corrected by the States. The Meeting was informed that ICAO is studying a procedure to update as necessary, reports issued as a result of USOAP audits.

#### **b) Evaluation of the progress made by the SRVSOP**

1.9 The Meeting recalled that the SRVSOP had originated at the RAAC/5 meeting held in 1996 in Cuzco, Peru, and that, as of that date, this issue had been included in the agenda of all the meetings of civil aviation authorities of the SAM Region.

1.10 It was also recalled that the 35<sup>th</sup> Session of the ICAO Assembly (Montreal, 28 September to 8 October 2004) adopted Resolution **A35-7** “*Unified strategy to resolve safety-related deficiencies*”, whereby the States recognised that the establishment of regional and sub-regional safety oversight organisations could be of significant assistance to the States in the fulfilment of their obligations under the Chicago Convention through economies of scale and the promotion of uniformity at a larger scale.

1.11 The Meeting took note that, to date, the SRVSOP had developed the following LARs and related documents: LAR 1, on Deficiencies, abbreviations, and symbols; LAR 11, on Rules for the formulation, issuance and amendment of LARs; LAR 145 Version 2, on Approved maintenance organisations; LAR 61 Version 2, on Pilot licensing and ratings; LAR 63 Second edition, on Licensing of crew members, except pilots; LAR 65 Second Edition, on Licensing of aeronautical personnel, except flight crew members; LAR 67 Second Edition, on Standards for granting the

aeronautical medical certificate; LAR 141 on Civil Aviation Training Centres for training flight crews, cabin crews, and flight dispatchers; LAR 147 on Civil Aviation Training Centres for training aircraft maintenance technicians; LAR 119 on Certification of air service operators; Airworthiness Inspector Manual, Revision 01; Operations Inspector Manual; AC 6.425 on Requirements for RVSM approval; and AC 145.001 on Acceptable methods for compliance; and Explanatory and information material on LAR 145.

1.12 The Meeting recognised that the development and subsequent implementation of this regulatory framework had not been an easy task and that a series of paradigms existing in the Region had to be overcome. Likewise, the professionals of the region had to be trusted so that they could develop their full rulemaking capabilities.

1.13 The Meeting also recognised that the interpretation of the terms “harmonisation” and “adoption” which appeared in the adhesion agreement and in the system regulations had been the subject of interesting debates by the General Board. Finally, the fifteenth meeting of the General Board of Panama, held in Panama on 10 November 2006, had clearly defined the scope of these terms, thus responding to the concerns of some States that required more time for the harmonisation process.

1.14 It was agreed that one of the main benefits to be derived from LAR implementation would be the mutual agreement by the States that participated in the SRVSOP on aspects inherent to the granting of licenses, ratings, permits, and approvals. This would allow the States to reduce paperwork and save time and resources, without losing their sovereignty. In this regard, the Meeting adopted the following conclusion:

#### **CONCLUSION 10/1 SUBSCRIPTION OF CERTIFICATION RECOGNITION AGREEMENTS**

States are urged to facilitate the subscription of certification recognition agreements and to continue making efforts to harmonise and/or adopt\* standards and procedures, as a means to strengthen regional safety oversight activities and to avoid duplication of efforts.

*\* For purposes of all the work to be carried out under the SRVSOP within the framework of the “harmonisation” and “adoption” of LARs, the General Board defined the scope of these terms as follows:*

**Harmonisation:** *Harmonisation is understood to be the set of reforms that must be introduced by the member States of the Regional System in their national regulations and procedures, based on the LARs and related documents, in order to achieve, within a period of time defined by each State and reported to the General Board, an environment in which all States have similar requirements and conditions for the issuance of a certification or aeronautical license, and thus a single certification issued by any Aeronautical Authority of an SRVSOP member State would be acceptable to the other member States. Additional requirements may be established, provided they are reported to other States through an Appendix to the LAR, for consultation by any Aeronautical Authority of the SRVSOP member States at the time of issuing a certificate in this harmonised environment.*

**Adoption:** *Adoption is understood to be the set of reforms that must be introduced by the members of the Regional System in order to accomplish, in a period of time defined by the General Board, and in an absolutely voluntary fashion, a harmonised environment, without any additional requirements.*

1.15 The Meeting considered that, once the harmonisation process and the recognition agreements among member States were consolidated, the SRVSOP would have the necessary elements for the development of recognition agreements with the United States FAA and the European EASA.

1.16 The Representative of Colombia noted that his State had considered the Regional Safety Oversight (SRVSOP) system standards to be a valuable reference tool for the development of regulations, which had been recently assessed by a USOAP audit. He also stated that Colombia would honour any certification recognition agreements to be reached within the system, requesting that said agreements be registered in ICAO, if applicable, especially if they involved an assignment of responsibilities, and that non-SRVSOP States be clearly informed about them. Likewise, once the adjustment resulting from the audit had been made, consideration could be given to the adoption of recognition mechanisms between the system and Colombia.

1.17 The Meeting was reminded on the LACAC Strategic Plan, where tasks related to safety have been included and also that Chile has been appointed as focal point in this area. In this sense, emphasis was placed on the need to carry out a preliminary coordination, aimed at clearly defining the scope that LACAC should assume, through the State Focal Point and which is the Regional System scope to avoid duplicity of efforts and interference. Thus, it is agreed to hold a formal meeting, attended by the LACAC President and Secretary, the President and General Coordinator of the Regional System and the State of Chile, as Focal Point for safety matters. In spite of what has been said before, the need for maintaining permanent coordination among the LACAC Secretariat, the State Focal Point and the General Coordinator of the Regional System, was emphasized.

1.18 The Representative of the United States informed that the FAA was reviewing the LARs which had been forwarded by the General Coordinator of the system, and that comments would be formulated in the coming weeks. She also expressed interest in receiving information on the results of the courses provided by the FAA on certification of major aircraft modifications and repairs.

1.19 The Representative of Ecuador explained that his State would not be in a position of adopting the LARs in the short or medium term, and supported the increased emphasis on oversight activities by the SRVSOP.

**c) Status of implementation of safety management systems in the States of the Region**

1.20 The Meeting took note of the progress made in the implementation of Safety Management Systems (SMS) in the SAM Region, as a result of the joint efforts by the SAM Regional Office and the States, with the support of ICAO Headquarters. The first initiative of the SAM Regional Office on this issue was a workshop on SMS applied to airports, held in Buenos Aires, on 4 to 8 April 2005, with the participation of 106 representatives of the States and the industry, which resulted in the development of the "Guide for the Implementation of Safety Management Systems at Airports" in May 2005.

1.21 The Meeting also noted that, to date, seven States had already developed basic legislation in support of SMS implementation and that five airports in the Region had already implemented safety management systems.

1.22 In 2006, ICAO published Doc 9859, Handbook on Safety, and developed the standard SMS course, which is being provided to all contracting States that so required. The SAM Regional Office, with the support of the States, has been working actively on the provision of SMS implementation training in the Region. Table 01 provides information on the courses already conducted during 2006/2007 in the Region, as well as on those scheduled for 2007. Two other important events on SMS were being scheduled in the SAM Region for 2007, in Lima, Peru, jointly with ICAO Headquarters: the “Seminar on SMS Implementation in OMA’s LAR 145” and the “Workshop on SMS Implementation”, to be held on 24-28 September and on 17-18 October, respectively.

**Table 01** – Summary of ICAO SMS courses provided in the SAM Region

State	Year		Number of Participants	Remarks
	2006	2007		
Panama	14-18 AUG	---	28	
Brazil	18-22 SEP	---	30	
Uruguay	DEC	---	33	
Colombia	---	19-23 FEB	30	
Argentina	---	05-09 MAR	29	
Chile	---	12-16 MAR	30	
Peru	---	26-30 MAR	33	
Panama	---	23-27 APR	30	2nd course
Argentina	---	25-29 JUN	To be determined	2nd course
Chile	---	16-20 JUL	To be determined	2nd course
Paraguay	---	13-17 AUG	To be determined	
Bolivia	---	20-24 AUG	To be determined	
Venezuela	---	03-07 SEP	To be determined	ICAO reg.course
Colombia	---	10-14 SEP	To be determined	2nd course
<b>Total participants in the official ICAO SMS course</b>				<b>243</b> (as of April 2007)

1.23 The delegates were reminded that Annexes 11 and 14 required the States to implement SMS for air traffic service providers and certified aerodromes, respectively, starting November 2005, and that Annex 6, in turn, established that aircraft operators and maintenance and repair organisations should have implemented SMS by 31 January 2009. In this regard, despite some State initiatives, very few efforts were being made towards SMS implementation.

1.24 The Meeting was also informed that the FAA, the United States Federal Aviation Administration, fully endorsed the ICAO initiative on SMS implementation for commercial air operators and approved maintenance organisations, in keeping with the recently adopted amendments to Annex 6. It also noted that this Agency had started to apply the SMS concept in 2002. In this sense, some of the aspects considered by the FAA, in keeping with ICAO, are:

- The need for the government and the industry to have, not only a more systemic, but also a more business-like approach to safety;
- A more integrated and cooperative, rather than a legalistic and confrontational, approach to safety;
- A more suitable vision of safety management as a joint effort by government and industry, etc.

1.25 The Meeting was also informed that the FAA had issued Advisory Circular (AC) 120-92, Introduction to Safety Management Systems for Air Operators, and had initiated a regulatory effort in support of the changes to Annex 6. In November 2006, a team of technical specialists was given the task of regulating SMS implementation for air operators and maintenance organisations.

1.26 In view of the foregoing, the following conclusion was formulated:

**CONCLUSION 10/2 ESTABLISHMENT OF WORKING GROUPS BY THE STATES**

That SAM States consider the establishment of working groups to create the conditions for SMS implementation, in keeping with each Annex.

**WHTI/GEASSA Initiative**

1.27 The Meeting was informed about the Group of Experts on Aviation Safety, Security and Assistance (GEASSA), noting that it was a high-level working group charged with enhancing safety and security levels, pursuant to WHTI Ministerial statement resulting from the March 2001 meeting in Punta del Este, Uruguay, which instructed the Executive Committee to propose: " ....as soon as possible, an action plan to improve safety conditions in the region, including the identification of programmes and sources of funding". Following 9/11, security was added to its mandate.

1.28 Detailed information was also provided on the activities being carried out by this group, highlighting the following:

- ATS Quality Assurance Programme implemented by Colombia with the support of Transport Canada.
- Aeronautical phraseology deficiencies within the ATS quality assurance programme.
- AVSEC training to prepare staff for ICAO audits (funding by the Canadian Department of Foreign Affairs and International Trade for this programme amounted to US\$65,000). As a result, 14 workshops and 2 seminars attended by 401 participants from the CAR/SAM Regions were conducted, providing a clear understanding and awareness of ICAO Annex 17, USAP and AVSEC.
- Seminar on runway incursion prevention - PAAST.
- Workshop of the ATS QA programme.
- Workshop on the safety management system (SMS).
- ICAO/PAIGH Project for the production of VFR aeronautical charts, scale 1:1000000/1:500 000.

1.29 The Meeting considered that the information provided was very positive, and recognised that GEASSA was an important mechanism for supporting the Region and that better use could be made of the cooperation possibilities offered by the WHTI/GEASSA Initiative. In view of the foregoing, the Meeting adopted the following conclusion:

### **CONCLUSION 10/3 PARTICIPATION OF THE REGION IN WHTI/GEASSA ACTIVITIES**

- a) That civil aviation administrations of the Region support GEASSA activities; and,
- b) That the ICAO South American Regional Office participate actively by submitting regional projects for implementation by GEASSA.

#### **Application of Article 83 Bis of the Chicago Convention**

1.30 The Meeting recalled that Article 83 bis, effective 20 July 1997, introduced an amendment to the Convention on International Civil Aviation, establishing the possibility of transferring certain functions and obligations of the State of Registry to the operator of aircraft subject to leasing, chartering and interchange, clearly defining safety oversight responsibilities, simplifying procedures, and strengthening safety.

1.31 It was noted that all SAM States had ratified Article 83 bis and, thus, should make sure that their legislation recognised the validity of airworthiness certificates, as well as radio equipment and crew licenses issued or validated by the State of the Operator. All this should be made clear to all the other States so that they may fulfill their oversight functions pursuant to these responsibilities, especially regarding:

- o The responsibilities concerning the safety standards adopted by each party to the agreement in their respective areas of competence; and
- o The standardisation of technical safety standards to be applied by the States.

1.32 In view of the above, the Meeting adopted the following conclusion:

### **CONCLUSION 10/4 IMPORTANCE OF AN APPROPRIATE MANAGEMENT OF ARTICLE 83 Bis**

That, in order to increase the level of safety oversight, adequate information on the obligations derived from the agreements under Article 83 Bis should be made available by civil aviation administrations of the Region to the other States, including, insofar as possible, information on the procedures applied to ensure compliance of safety oversight obligations.

#### **Safety Roadmap**

1.33 The Meeting was presented with detailed information on the Safety Roadmap developed by the ISSG, which had taken on the task of developing this strategy under the coordination of IATA and with the participation of Airbus, Boeing, the Airports Council International (ACI), the Civil Air Navigation Services Organisation (CANSO), the International Federation of Air Line Pilots' Associations (IFALPA), and the Flight Safety Foundation (FSF).

1.34 It was noted that the basic purpose of the Roadmap was to provide a common frame of reference for all stakeholders, including States, regulators, airlines, airports, aircraft manufacturers, pilots' associations, safety organisations, and air traffic service providers.

1.35 The Meeting also noted that the Roadmap contained elements addressed to ICAO, the States and the industry. Elements of the Roadmap needed to be incorporated into the strategic objectives of both ICAO, Civil Aviation Authorities of the SAM Region, and our operators.

1.36 The Meeting also noted that the development of a regional action plan for South America, with emphasis on particular areas where assistance was clearly needed, would contribute to State visibility and the pooling of efforts. Regional implementation would make use of funds, experience and resources to benefit safety and would facilitate access to financing sources, if needed.

1.37 It was also agreed that the States of the Region, together with ICAO, which has a mandate to coordinate matters, and the other partners, should take on the responsibility of implementing all Roadmap elements in order to reduce the risk of commercial aviation accidents in our Region.

1.38 In view of the above, the Meeting adopted the following conclusion:

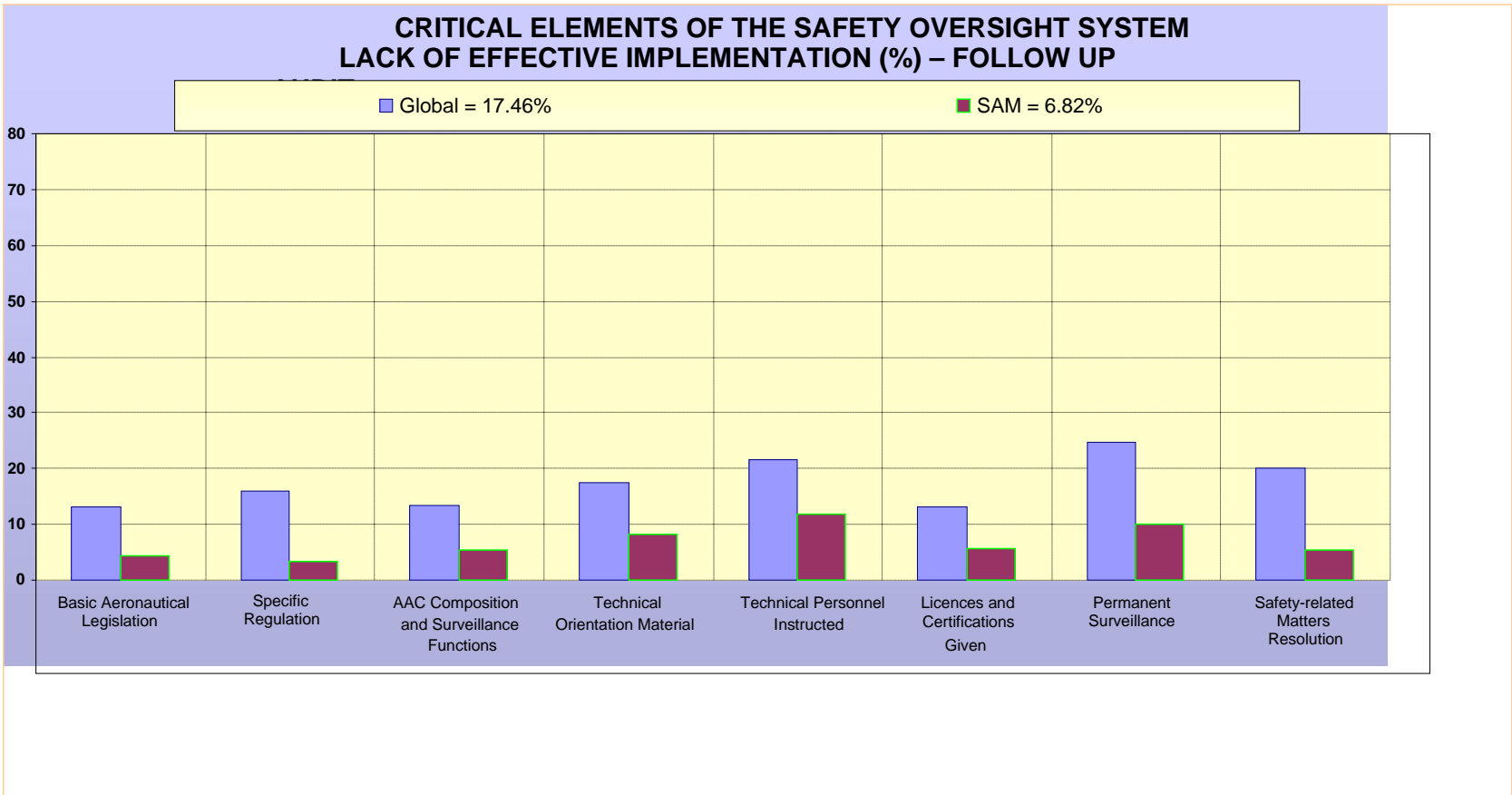
#### **CONCLUSION 10/5 SAFETY ROADMAP**

That the States:

- a) support the activities of the ICAO Regional Office as coordinator for pooling efforts around the Safety Roadmap; and
- b) to the extent possible, disseminate the contents of the Roadmap among the aviation community.

1.39 The Meeting received information on a workshop on Safety Roadmap that, together with the industry in Colombia, was being scheduled probably for next October, and that the Regional Office was participating actively in its preparation and would send the invitation letter in due time.

1.40 The Delegate of Venezuela invited SAM States to participate in the ICAO Course on Safety Management Systems to be conducted on 3-7 September 2007. I was recalled that the Conference of Directors General of Civil Aviation, held on 20-22 March 2006, established that safety management systems should be adopted worldwide.



## Agenda Item 2: Review of aviation security attained in the Region

2.1 The Meeting, in noting the progress achieved in the implementation of the ICAO USAP Programme, was informed that all SAM States had been audited and that 72 follow-up missions had been carried out, revealing a considerably higher level of application of ICAO security standards, thus confirming the commitment of the States to achieve the ICAO USAP objective of reinforcing security worldwide. It was also noted that the ICAO USAP had been implemented as scheduled and within budget, thanks to the active participation of 13 security experts of the SAM Region, who had been certified to participate as members of the audit team. It was expected that States of the Region would continue contributing in the same way during the second USAP cycle, which would include audits on Annex 9-Facilitation. In this sense, the Meeting expressed its full support to the ICAO USAP Programme.

2.2 The Meeting took note of the security quality assurance workshops of Phase II of the training programme, sponsored by ICAO with the cooperation of Canada. In this regard, it was noted that the objective of these workshops was to assist States in the resolution of their deficiencies regarding Annex 17 standards and to allow security management staff to develop effective security quality assurance measures for the implementation of ICAO Annex 17, Standards and Recommended Practices (SARPs), and other security elements contained in other Annexes. Within this context, due note was taken that ICAO continued providing training at the AVSEC Training Centres. States were urged to participate in the aforementioned quality assurance workshops.

2.3 The Meeting encouraged States to support the AVSEC Action Plan and, in addition to financial contributions, to provide qualified human resources, namely short-term instructors/experts (STE). Likewise, it recalled the following relevant matters:

- a) Participation in the ICAO Point of Contact Network (PoC) (State letter Ref: SP 48/1-06/19 dated 24 March 2006;
- b) Implementation by States by March 2007 of guidelines on security controls for screening liquids, gels and aerosols (State letters Ref: AS 8/11-06/100 – Confidential, dated 1 December 2006, and Ref: AS 8/11-07/26 – Confidential, dated 30 March 2007; and
- c) That States report acts of unlawful interference, pursuant to their obligations under Article 11 of The Hague Convention, Article 13 of the Montreal Convention, and Standard 5.3.1 of Annex 17.

2.4 The Meeting was informed that ICAO had completed the revision of the seventh edition of Doc 8973 (Restricted) - *Security Manual for Safeguarding Civil Aviation Against Acts of Unlawful Interference* and that the initial English language version was scheduled for distribution to States by June 2007. Likewise, the Meeting was informed that as a complementary activity, a new manual entitled *Establishment and Management of State Security Oversight* had been developed and would be published in the third quarter of 2007.

2.5 United States submitted information through an information paper, indicating that threats to civil aviation continued on the increase. Current techniques could be sophisticated and expensive. It was recalled that technology was no substitute for imagination. It was also described a low-cost technique called “suspicious behaviour detection”, used by investigators operating in different areas, which, together with other low-cost methods, could be used in civil aviation as additional layers of security. Their purpose was to assess suspicious verbal and non-verbal behavior through investigation and observation. These experiences were taking place in the United States, Japan, Israel and the United Kingdom.

**Agenda Item 3: Review of the implementation of the Regional Air Navigation Plan**

- a) Analysis of the Global Air Navigation Plan and its impact on regional planning

3.1 The Meeting took note of the process followed by ICAO, the States, and the industry for the formulation of the second amendment to the Global Air Navigation Plan for CNS/ATM Systems (Doc. 9750) and of its designation as Global Air Navigation Plan, which responded to the integration of all the elements of the air navigation system. The document was reviewed by the ALLPIRG/5 meeting and approved by the ICAO Council on 30 November 2006, and was currently available in the ICAOnet. It was noted that the Global Plan took into account the operational initiatives of the industry roadmap, which form part of the 23 Global Plan Initiatives (GPIs) that were designed to support the planning and implementation of the performance objectives identified in the Regions to achieve ATM improvements and short- and medium-term benefits.

3.2 The Meeting noted that future planning based on the Global Air Navigation Plan would be supported by a series of planning tools, an electronic air navigation database, project management techniques, programmes, and new reporting methodologies. These tools would be used by ICAO, the States, and the PIRGs to implement the identified operational initiatives.

3.3 Taking into account the Global Plan objectives and the vision of the ATM operational concept, the States, ICAO, the PIRGs, and other members of the ATM community were expected to plan for the harmonious implementation of ATM systems, using the planning tools being developed by ICAO. It was noted that, for purposes of a future planning consistent with the ICAO Global Plan, the following was underway:

- a) Inclusion of GPIs in the Regional Air Navigation Plans.
- b) Harmonisation of all the Tables of the Air Navigation Plans.
- c) Review of the Basic Operational Requirements and Planning Criteria (BORPC).
- d) Review of the Terms of Reference and Work Programmes of the PIRGs.

3.4 The Meeting was presented with a scheme for future regional planning and the ICAO/PIRG interaction during this process, which was based on the identification of ATM community expectations/definition of performance objectives, the selection of Global Plan Initiatives, projects/programmes to meet performance requirements, and performance oversight, harmonisation, and measurement. The Meeting noted that, within the ICAO Plan of Activities for the 2008-2010 period, the key activities to achieve the Strategic Objectives had been linked to the Global Plan Initiatives. Also within this context, the ICAO regional programmes have been included in the air navigation integrated programme (ANIP), which is an on-line information technology tool that will facilitate regional planning, since it will permit stakeholder interaction in order to develop an integrated approach to air navigation project management and implementation. The Meeting noted that this tool was still under development.

**b) Review of improvements to the regional ATM**

3.5 The Meeting took note that, in response to all the planning resulting from the endorsement given to the Global ATM Operational Concept by the Eleventh Air Navigation Conference (AN-Conf/11) and the formulation of the Global Air Navigation Plan, the AP/ATM/12 meeting had defined seven regional projects aimed at implementing ATM improvements based on performance parameters. Based on these projects, a series of ATM activities had been carried out. In this regard, the Meeting noted the following:

- a) Proposed amendment to Spanish PANS-ATM phraseology. Proposal originated by GREPECAS/13. It would be presented to the Council for approval.
- b) RVSM Implementation. Functionality successfully implemented on 20 January 2005.
- c) RNAV Routes. To date, 64 international RNAV routes have been implemented and an additional 44 have been realigned.
- d) Performance-Based Navigation (PBN) Roadmap. The GREPECAS/14 meeting adopted the PBN implementation roadmap. It will enable utilisation of advanced capabilities of aircraft navigation applications, which, combined with the air navigation system infrastructure, will permit airspace optimisation, including the route network.
- e) RNAV and RNP Training Requirements. Courses on airspace planning, PANS/OPS procedures, and safety assessment offered to States requesting them.
- f) ATFM Operational Concept. GREPECAS/14 adopted the ATFM CONOPS. The adoption of timely measures will permit demand-capacity balancing, thus avoiding ATM system overload. The ATFM CONOPS defines a simple implementation strategy to attain this objective.
- g) Catalogue of ATS Contingency Plans. The Catalogue of CAR/SAM ATS Contingency Plans was adopted.
- h) CAR/SAM ATM Transition Plan. Taking into account the Global Plan and the seven projects mentioned above, a first draft of the CAR/SAM ATM Transition Plan was presented at the Fifth Meeting of the GREPECAS ATM/CNS Subgroup. Aspects of the other parts of the air navigation structure (AGA, AIM, CNS and MET), as well as the institutional aspects, were being developed.
- i) Improving ATS interfacility data communications. The use of ADS-C and CPDLC in continental and oceanic airspaces will permit the reduction of horizontal separation minima, enhance safety, and improve flight cost efficiency. Applications such as D-ATIS will provide additional advantages in terms of pilot and controller workload. AIDC will reduce coordination errors between ATS units.
- j) Flexible Use of Airspace (FUA). FUA implementation will permit an optimum, balanced, and equitable use of airspace by civil and military users.

3.6 The Meeting took note that, in view of the aforementioned tasks, SAM States had adopted the work philosophy of establishing technical cooperation projects to fulfil the tasks required for the implementation of ATM improvements. In this sense, Project RLA 06/901 was expected to meet these short- and medium-term implementation aspirations.

3.6.1 It was also noted that the agreed implementation initiatives had been established in order to support the planning and implementation of performance objectives in the SAM Region. The set of initiatives cited above were intended to facilitate and harmonise the work being carried out in the Region and bring to aircraft operators the short- and medium-term benefits they needed.

3.7 The United States presented a working paper concerning the main lessons learned as a result of the work and ATM coordination carried out to date by the FAA Air Traffic Control System Command Center (ATCSCC), the NAVCANADA National Operations Center (NOC) and the *Centro de Control de Flujo de México* (CCFMEX). The Meeting noted that the same working paper had been presented at the GREPECAS/14 meeting and that the ATM Committee of the ATM/CNS Subgroup was considering the action suggested therein. It also noted that this same working paper would be presented at the next meeting of the ATFM Task Force of the ATM Committee.

3.8 Venezuela presented a working paper showing INAC national plans for the introduction of ATM improvements based on RNAV, airspace restructuring, and the exchange of radar data as part of ATM automation. The Secretariat took advantage of the opportunity to provide information on the plans to implement a new phase of the automation task foreseen under project RLA/98/003.

### **Matters pertaining to GNSS implementation**

3.9 Brazil and the United States submitted a working paper showing DECEA plans for the implementation of satellite navigation systems in support of ICAO regional GNSS implementation plans. Note was taken of the plans and joint efforts developed by both administrations and of their future activities.

3.9.1 Brazil is the State in the Region with the largest conventional air navigation infrastructure, which has a high maintenance and replacement cost. Consequently, within the CNS/ATM system modernisation process, DECEA has endeavoured to progressively implement GNSS navigation applications based on the PBN roadmap recommended by GREPECAS (Con. 14/46). The Meeting took note that DECEA plans on this matter involved three implementation phases until 2020.

3.9.2 Within the GNSS transition strategy based on the Global Air Navigation Plan, DECEA envisaged a significant reduction of elements of the current conventional navigation system, while retaining a portion as backup to ensure the continued provision of air navigation services.

3.9.3 The Meeting, upon reviewing this matter, agreed that the States of the Region should give priority to updating or developing their national air navigation plans based on the ICAO Global Air Navigation Plan. They should also take into account the PBN roadmap recommended by GREPECAS when developing GNSS-based navigation applications. The Meeting noted that GREPECAS/14 had recommended the phase-out of NDB facilities and that the CNS Committee would develop a plan for decommissioning these facilities, and expressed its interest that this Committee draft generic guidance material on conventional radio aids in general.

3.9.4 In view of the above, the Meeting formulated the following conclusion:

**CONCLUSION 10/6 GRADUAL IMPLEMENTATION OF GNSS TECHNOLOGY**

In order to implement ATM improvements and obtain benefit for air operations as a result of the progressive use of GNSS technology, the States are urged to:

- a) update/develop air navigation plans, taking into account ICAO Global Air Navigation Plan;
- b) begin Performance Based Navigation (PBN) implementation, taking into account the GNSS as the main system to satisfy PBN roadmap requirements, recommended by GREPECAS (Con. 14/46);
- c) in coordination with the ATM community, develop plans to phase-out elements of the conventional radio aid system, providing for a backup system for GNN-based navigation applications; and
- d) to the extent necessary during the transition, consider the implementation of GNSS monitoring capabilities.

3.10 Chile presented a working paper containing standard (RNAV/GNSS) non-precision instrument approach procedures for four airports. The working paper included the corresponding AIC that established the use of said procedures. The Meeting agreed that Chile should present this working paper at other fora in order to provide information on this topic.

- c) Reduction or elimination of deficiencies identified in the provision of air navigation services

3.11 The Meeting took note of the progress made in the management of the deficiency database, mainly with the application of statistical analyses, which provided a quick and effective overview of the general situation in the Region and in each State. Once again, the delegates were urged to take advantage of the Air Navigation Deficiency Database (GANDD), which is electronically available on the ICAO website. It was also noted that the focal point for these matters at the SAM Office was Mr. Arturo Martínez ([am@lima.icao.int](mailto:am@lima.icao.int)).

3.12 Based on the statistical studies mentioned in the previous paragraph, the Meeting analysed the results shown in Figures 1 to 8, which are self-explanatory.

3.13 However, it is important to stress that, while the percentages for pending “A” and “B” deficiencies are greater than those for “U” deficiencies, the opposite case applies to corrected deficiencies. There is 57% (92) corrected *versus* 43% (70) pending “U” deficiencies.

3.14 Another aspect considered by the Meeting was that total **pending** and corrected “U” deficiencies amounted to **32** and 52 for AGA, **9** and 2 for AIS, **9** and 21 for ATM/SAR, **3** and 4 for CNS, and **17** and 13 for MET, making a total of 70. According to GREPECAS Conclusion 13/92 and ALLPIRG Conclusion 5/15, these 70 deficiencies had to be eliminated by **31 December 2007**.

3.15 **Appendices A** and **B** contained a summary of the percentages of all pending and resolved “A”, “B” and “U” deficiencies, respectively, by air navigation area, in the SAM Region. In turn, **Appendix C** showed the situation in each State in terms of resolved and pending “A”, “B” and “U” deficiencies by air navigation area.

3.16 Based on the above, the Meeting formulated the following conclusion:

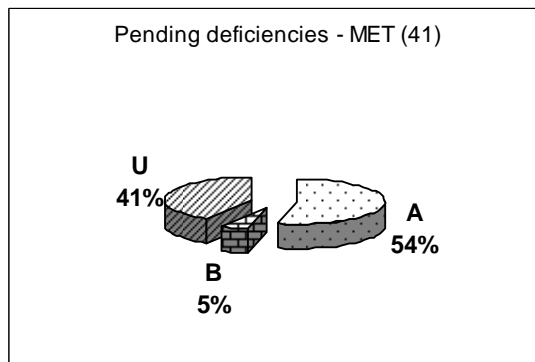
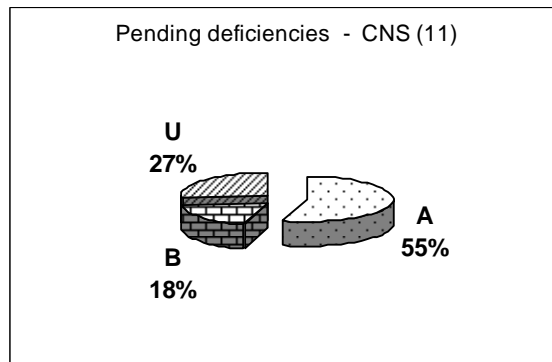
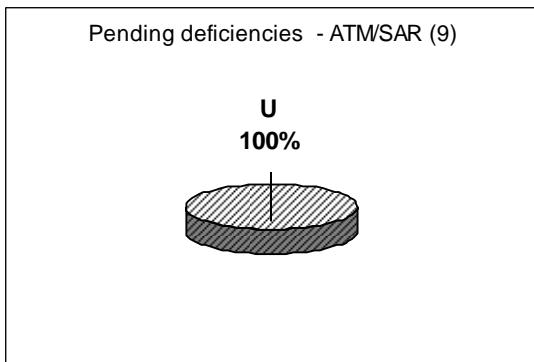
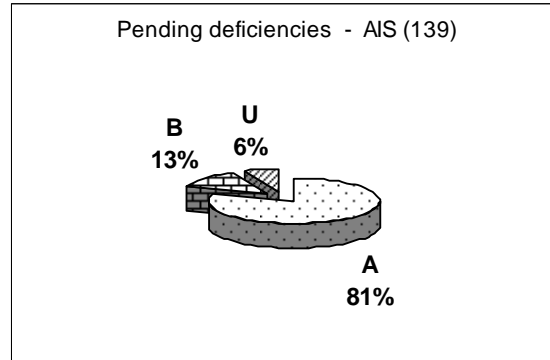
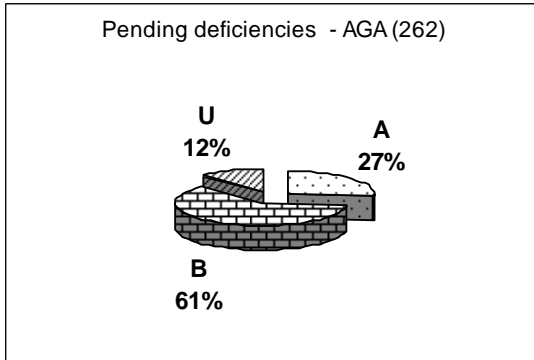
**CONCLUSION 10/7 CORRECTION OF “U” DEFICIENCIES BY 31 DECEMBER 2007**

That SAM States:

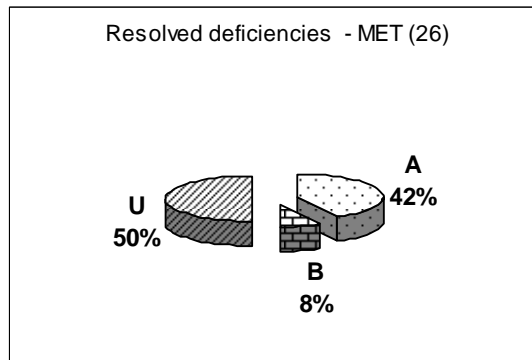
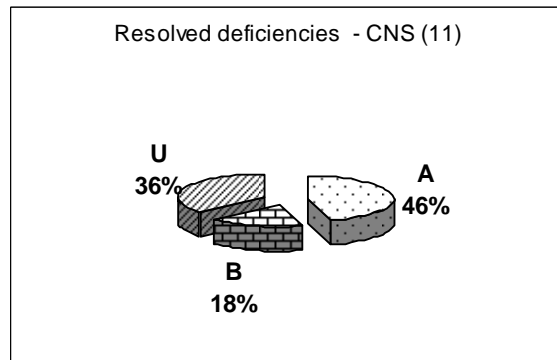
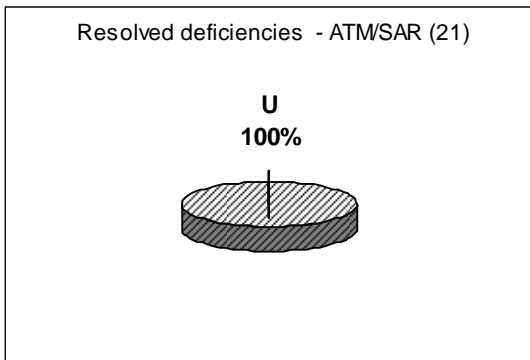
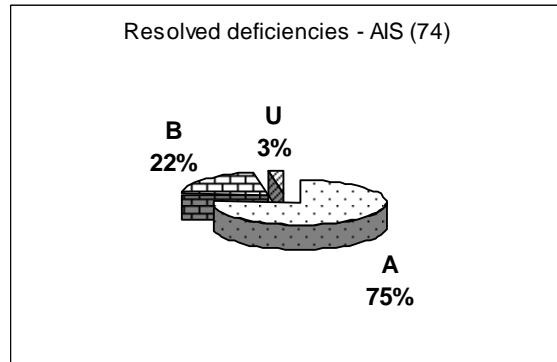
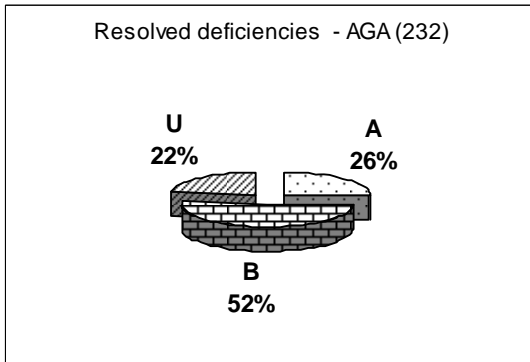
- a) Correct “U” deficiencies by 31 December 2007, in keeping with GREPECAS Conclusion 13/92 and ALLPIRG Conclusion 5/15, respectively.
- b) Be aware that, as of 31 December 2007, ICAO will apply last resort actions pursuant to GREPECAS Conclusion 13/92 in cases where “U” deficiencies have not been corrected.

3.17 The Representative of Venezuela informed the Meeting about the progress made by the Project for Airport Modernisation and Air Traffic Management (MAGTA) that the National Civil Aviation Institute (*Instituto Nacional de Aeronáutica Civil* - INAC) is jointly working with the ICAO Technical Cooperation Bureau. Likewise, the Maiquetía International Airport Autonomous Institute (*Instituto Autónomo Aeropuerto Internacional de Maiquetía* - IAAIM) was developing the Maiquetía 2000 Project. The MAGTA Project would cover 10 radar stations, 17 VOR/DME systems, 33 control towers, 22 fire-fighting vehicles, 3 helicopters, 3 ILS systems, geodetic surveys of 33 airports (WGS-84), 10 boarding bridges.

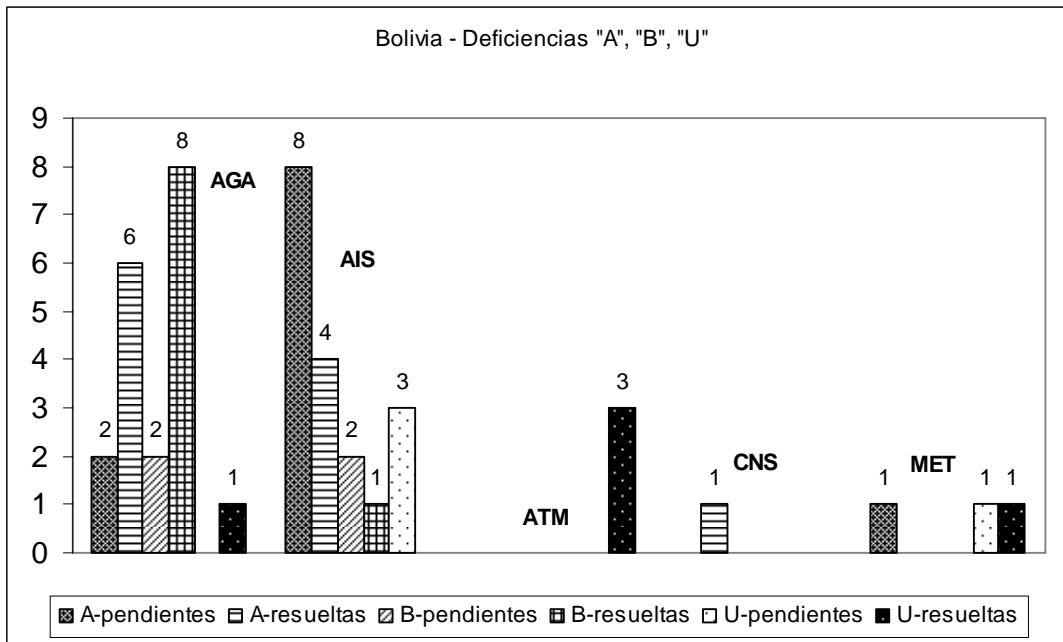
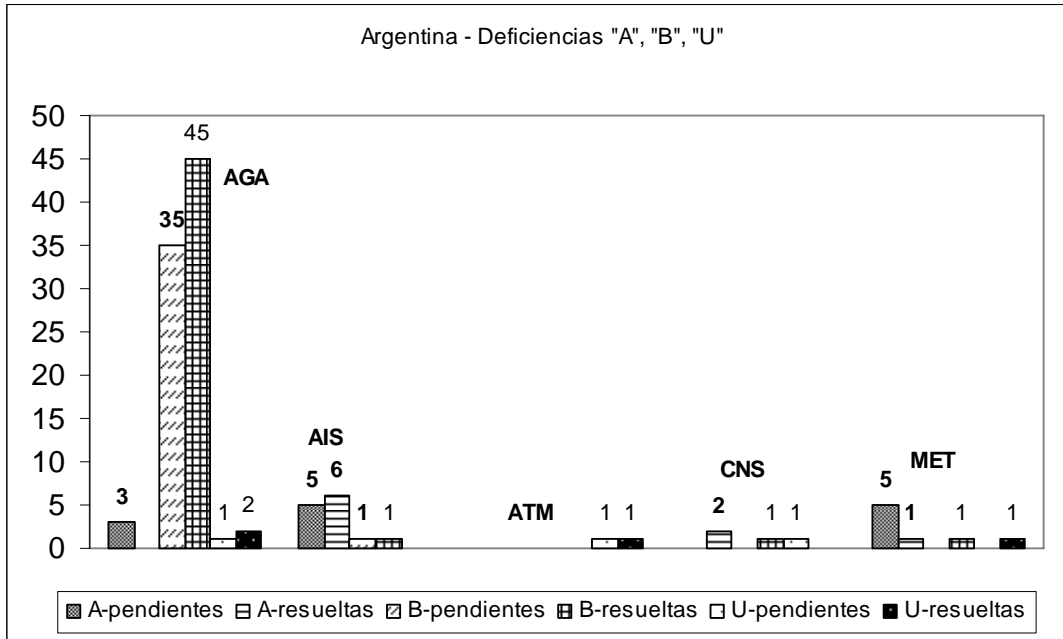
**Summary of percentages of all pending and resolved “A”, “B” and “U” deficiencies**

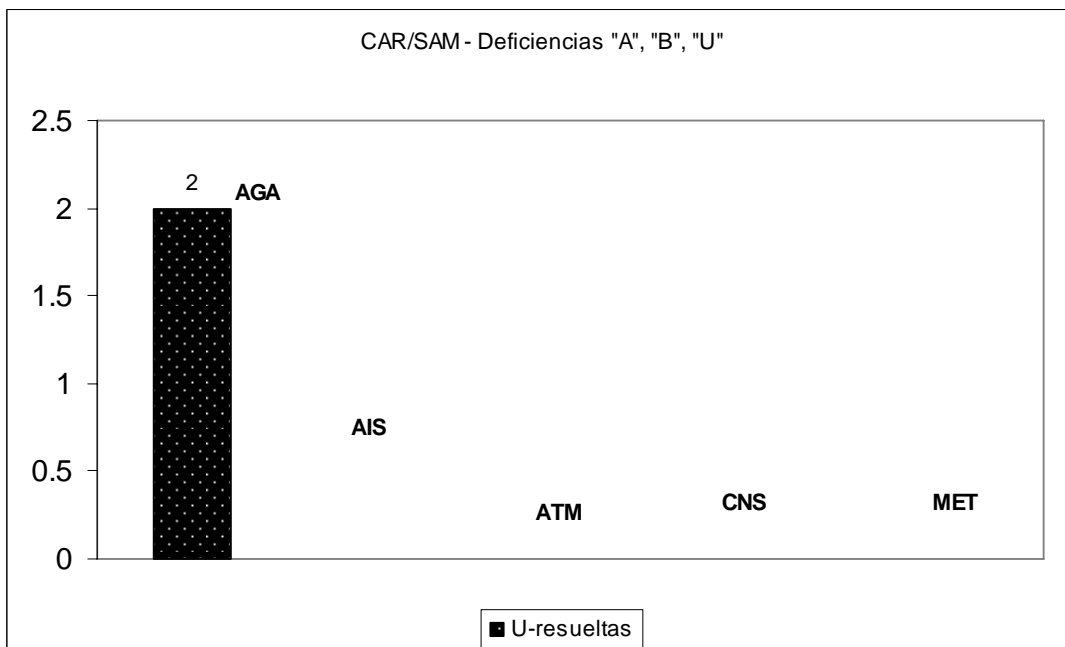
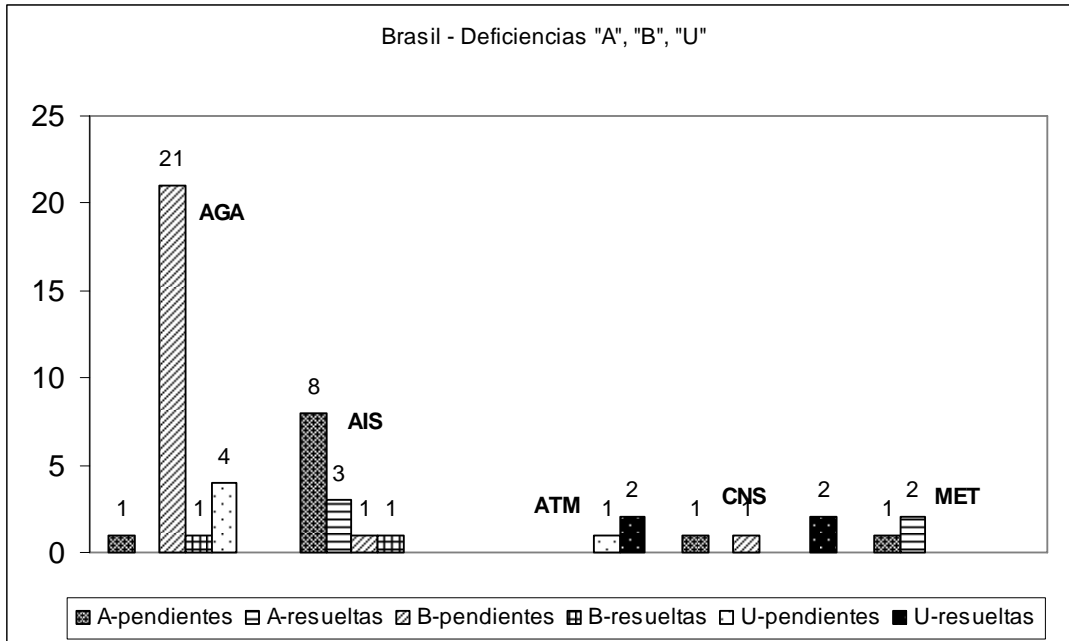


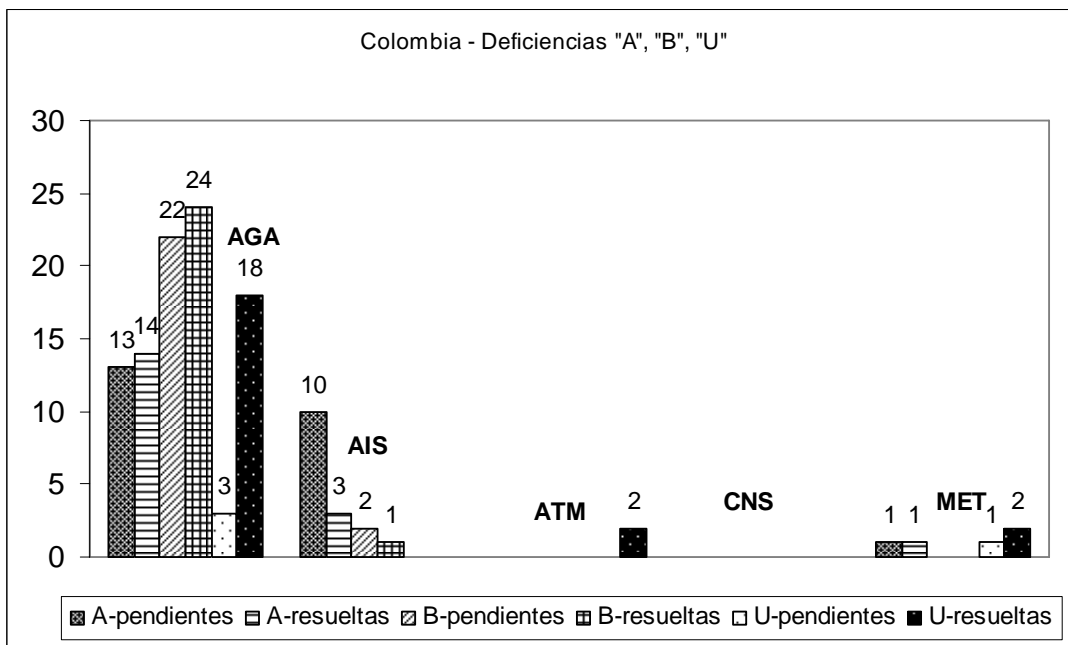
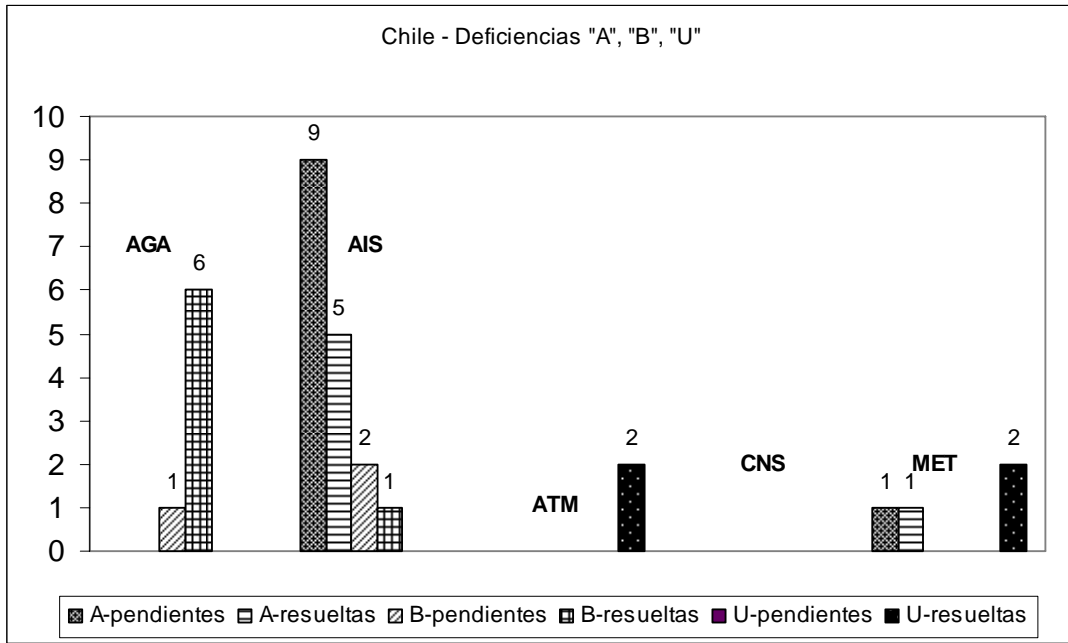
**Summary of percentages of all pending and resolved “A”, “B” and “U” deficiencies**

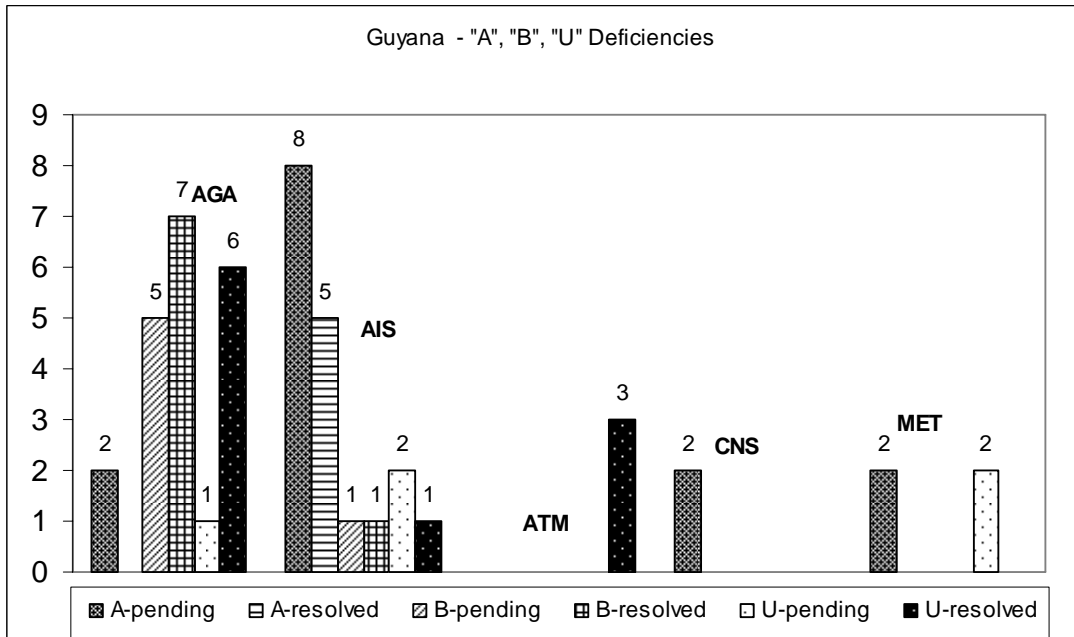
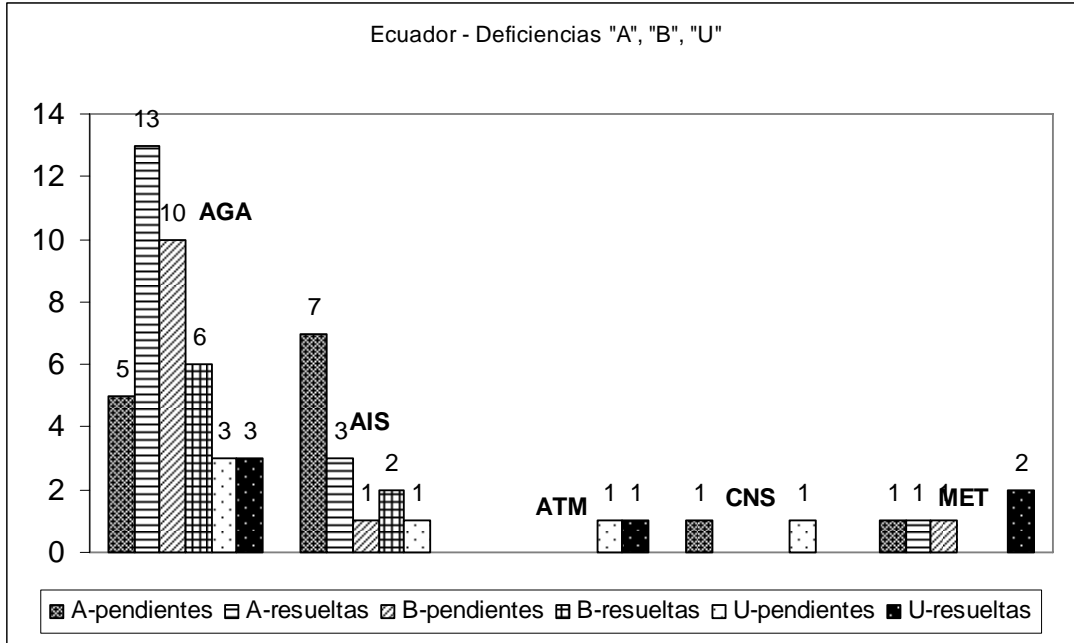


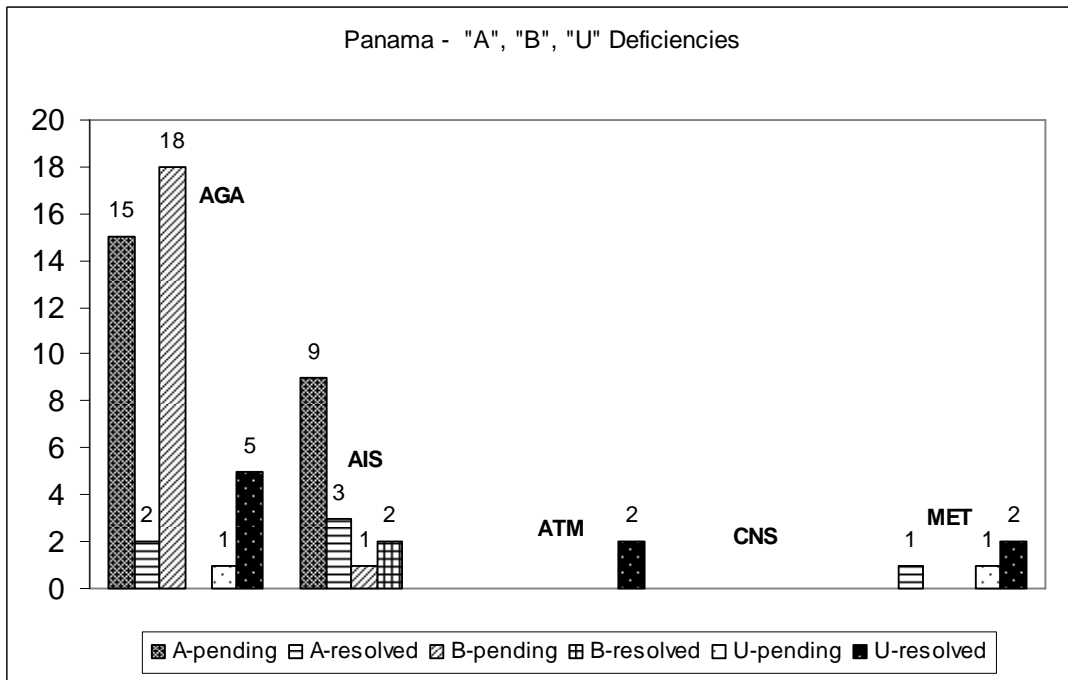
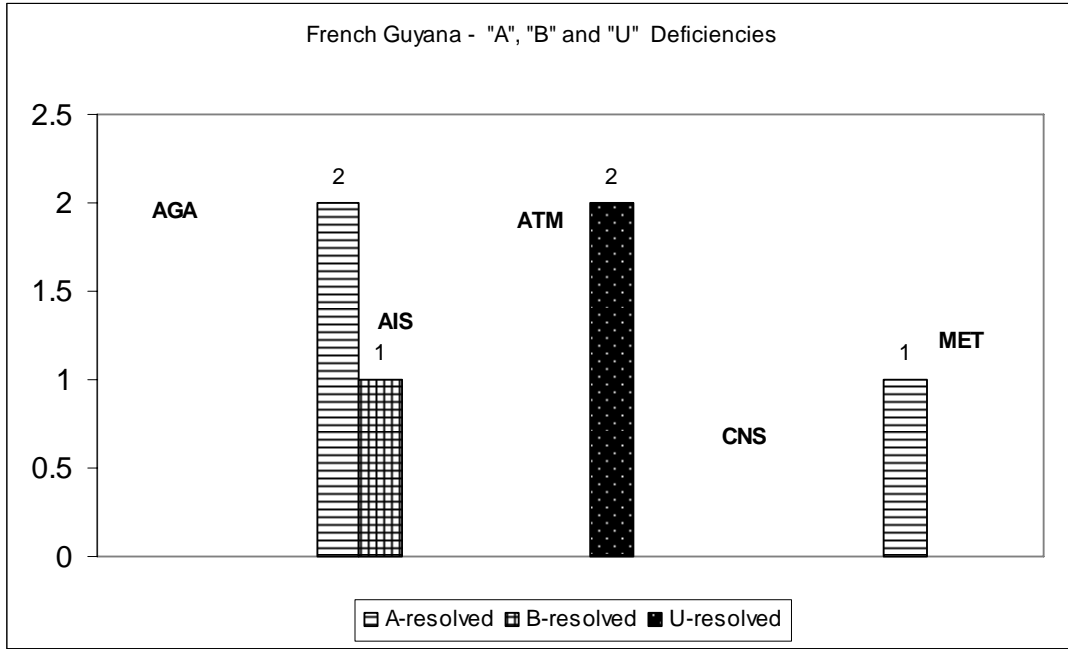
**Situation in each State - Resolved and Pending “A”, “B” and “U” deficiencies**

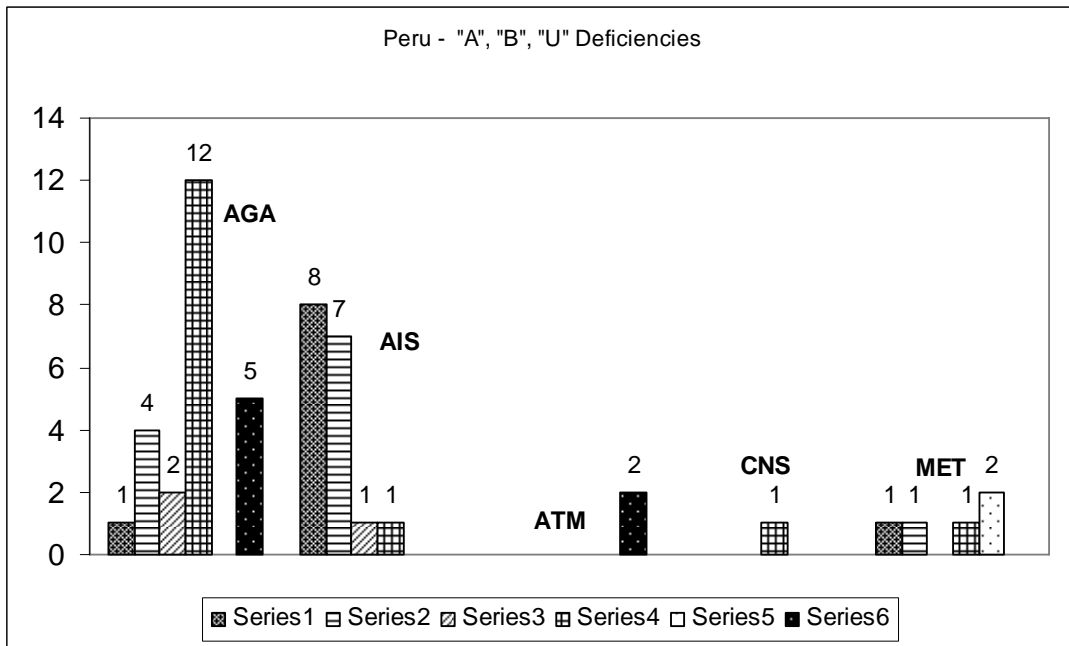
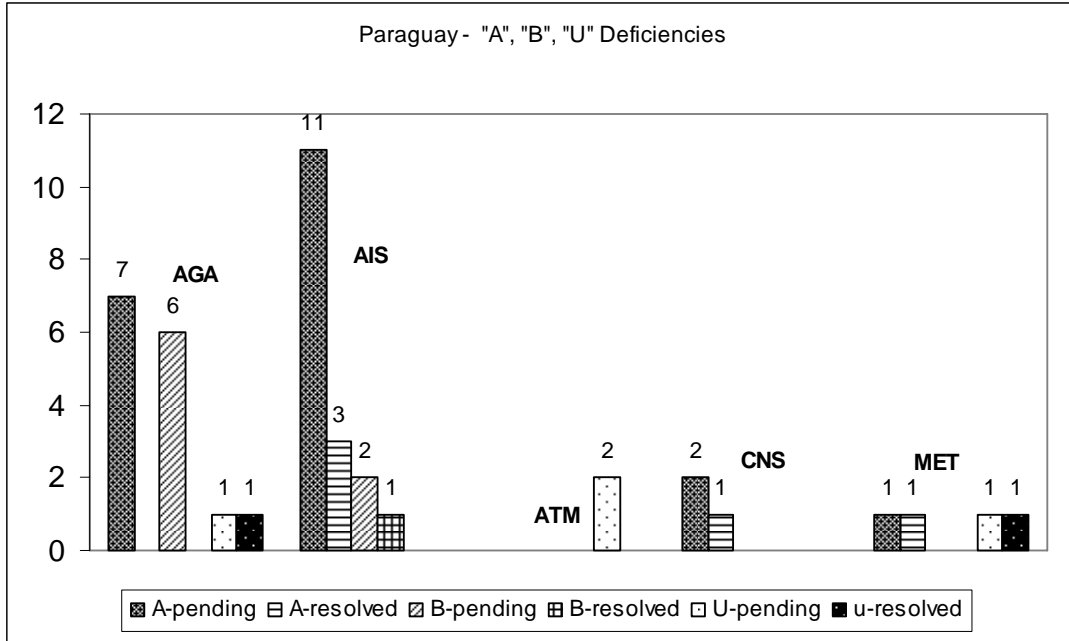


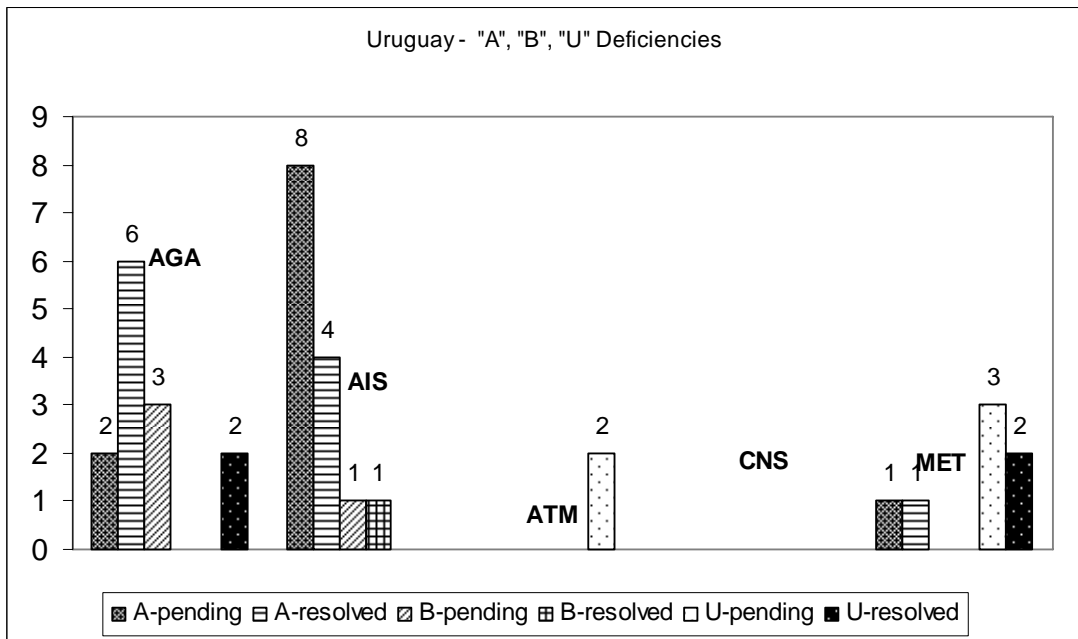
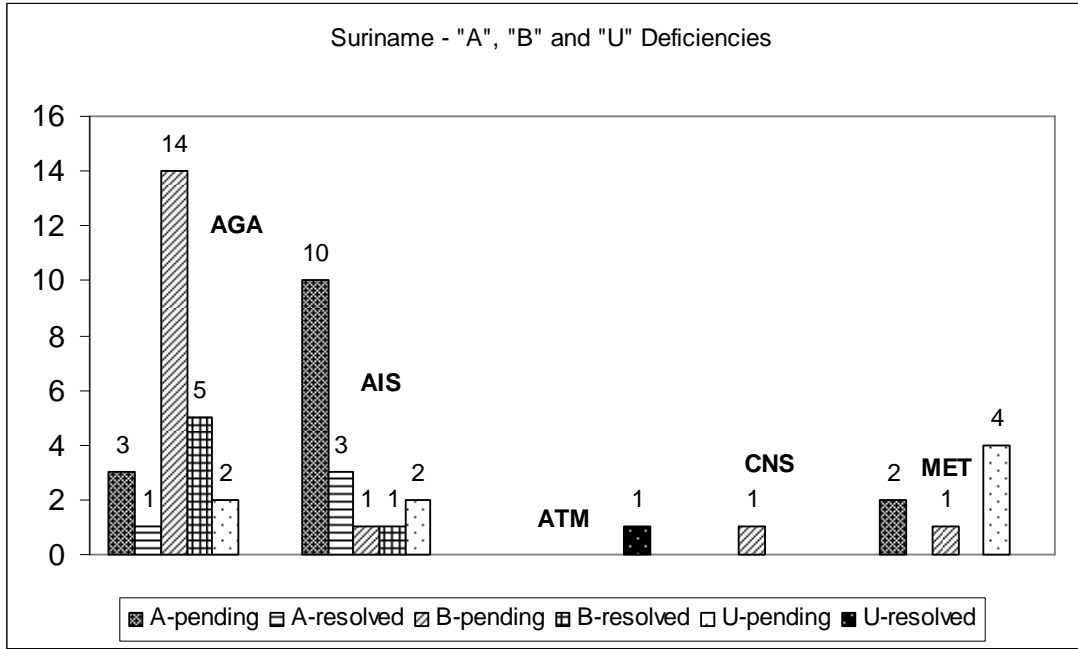


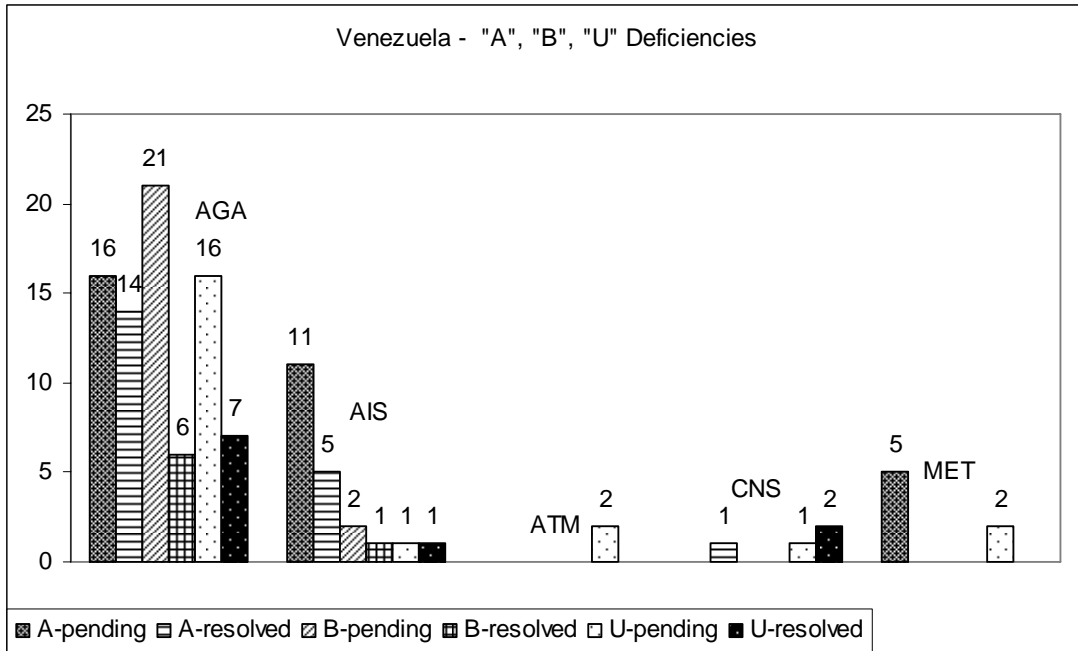












**Agenda Item 4: Institutional aspects related to the management and control of multinational systems and facilities**

4.1 The Meeting was presented with the results obtained by GREPECAS with regard to the establishment of a multinational mechanism for the consolidation, management, and implementation of multinational facilities, as foreseen in RAAC Conclusions 6/7 and 6/8. It was noted that GREPECAS, with the support of the Institutional Aspects Task Force and regional technical cooperation project RLA/98/003, had been actively working in the definition of the following:

- a) Possible systems to be implemented as multinational facilities (GREPECAS Conc. 12/5);
- b) Operational scenarios for the implementation of multinational facilities (GREPECAS Conc. 13/2);
- c) Guidance material on legal matters pertaining to the implementation of Multinational Regional Organisations (MROs) (GREPECAS Conc. 13/3);
- d) Basic documentation for the establishment of Multinational Regional Organisations (MROs) (GREPECAS Conclusion 14/5) as the most effective way to consolidate/implement/manage multinational facilities.
- e) The technical cooperation mechanism for the implementation of an MRO (GREPECAS Conc. 14/6).

4.2 The Meeting recognised that, throughout time, the SAM Region had been paving the way for the establishment of a broad cooperation and collaboration framework, as reflected in several regional technical cooperation projects that had served as administrative tools for channelling multinational initiatives. This momentum should be considered an advantage for the management of existing multinational systems and the subsequent implementation of new ones under an initial international mechanism that would facilitate the consolidation/management/implementation of multinational facilities in the SAM Region, aimed at the regional/global ATM.

4.3 The Meeting considered that the aeronautical authorities of the SAM Region should analyse the implementation of this mechanism in light of the generic document recommended by the GREPECAS/14 Meeting (Conclusion 14/5) and taking into account the recommendation to coordinate with ICAO the formulation of a technical cooperation project (Conclusion 14/6) aimed at the initial implementation of the mechanism. Regarding the way in which the technical cooperation project should be formulated, it was noted that the new regional technical cooperation project RLA/06/901 could be used to draft the project document for its subsequent distribution to the States.

4.4 After discussing various aspects of the regional mechanism, the Meeting agreed that any difficulty that a State in the Region might have to participate in it should be addressed by the High-Level Panel so as to identify the best formula for its implementation.

4.5 In view of the above, the Meeting formulated the following conclusion:

**CONCLUSION 10/8            GREPECAS GUIDANCE MATERIAL FOR THE  
IMPLEMENTATION    OF    MULTINATIONAL  
FACILITIES**

That the aeronautical authorities of the SAM Region consider that:

- a) The guidance material recommended in GREPECAS Conclusion 14/5 should be used to analyse the implementation of a South American Multinational Regional Organisation to consolidate/manage/implement multinational facilities;
- b) ICAO, in coordination with the States, and taking into account GREPECAS Conclusion 14/6, prepare a draft document defining a regional technical cooperation project for implementing the aforementioned mechanism; and
- c) ICAO coordinate with the States the holding of the first meeting of the High-Level Panel to examine the material contained in the agreement for the establishment of the regional mechanism, as well as the draft regional technical cooperation project document for its implementation. Based on the results of said meeting, the States, in coordination with ICAO, should consider convening a Diplomatic Conference or other appropriate event to formalise the corresponding documents for the implementation of the regional mechanism.

4.6 Upon learning about the holding of the Legal Seminar that ICAO Headquarters was organising in the Region for late October of this year, the Meeting considered advisable to hold the meeting mentioned in sub-paragraph c) of Conclusion 10/8 concurrently with this seminar in Lima.

4.7 Upon examining the Terms of Reference and Work Programme of the Regional High-Level Panel, the Meeting agreed to modify tasks 2 and 4 of the Work Programme, and adopted the following conclusion accordingly:

**CONCLUSION 10/9            AMENDMENT TO THE WORK PROGRAMME OF  
THE HIGH-LEVEL PANEL**

Replace Tasks 2 and 4 of the Work Programme of the High-Level Panel with the following:

- a) Based on the multinational facilities identified by GREPECAS and in line with the interests of the States, consider the financial issues related to their implementation; and
- b) Taking into account the guidance material prepared by GREPECAS on the establishment of a Multinational Regional Organisation as the most effective way of consolidating/implementing/managing multinational facilities, consider the most appropriate mechanism for their implementation.

## **SUMMARY OF THE CONTENT OF THE DRAFT AGREEMENT FOR THE CREATION OF A REGIONAL MULTINATIONAL ORGANISATION (RMO)**

The Whereas clauses would be the preamble of or introduction to the agreement, and they mention and explain the legal background and foundations supporting it, namely:

a) The Convention on International Civil Aviation (Chicago Convention,) and, specifically, articles 28 and 15

b) Standards and recommended practices on the Convention on International Civil Aviation (Chicago, 1944)

c) ICAO Assembly Resolutions, namely:

1.- Resolution A32-19: Letter on the rights and obligations of States with respect to GNSS services.

2.- Resolution A32-20: Development and drafting of an appropriate long-term legal framework to govern GNSS implementation.

3.- Resolution A35-3: Practical way to further the legal and institutional aspects of communication, navigation, and surveillance and air traffic management (CNS/ATM) systems.

4.- Resolution A-35-15: Revised statement of ongoing ICAO policies and practices regarding a global air traffic management system (ATM) and the communication, navigation, and surveillance and air traffic management (CNS/ATM) systems.

5.- Resolution A35-7: Unified strategy to resolve safety-related deficiencies.

d) Conclusions 13/2 and 13/3 of the CAR/SAM Regional Planning and Implementation Group (GREPECAS), thirteenth meeting, held in Santiago – Chile, on 14-18 November 2005.

As to the clauses of the draft agreement for the creation of Regional Multinational Organisation (RMO), we can make the following remarks:

### Creation:

The so-called originating or founding States are the ones that will negotiate the treaty that will create the RMO; they will become member States of the Organisation, once the Legislative Branch of each of them has ratified the agreement, and will have full participation therein, in the sense that they shall be entitled to all the rights and obligations arising from the constituent provisions.

The legal existence of RMO will result from a multilateral legal act, prior and outside of the Organisation, emanating from sovereign States, that will take the form of a multilateral treaty, which is generally agreed upon within the framework of an intergovernmental conference and based upon the standards of the law of treaties (Vienna Convention on the Law of Treaties – 1969).

The starting point could be a meeting of Directors of Civil Aeronautics of the States concerned, who will recommend that a diplomatic conference be summoned to create the RMO, to be attended by plenipotentiaries of said States.

Name: The specific name given to the constituent act or instrument is Agreement, and the RMO should also be given a special name and an abbreviated denomination, if applicable, usually expressed by its acronym. In this sense, we would have an agreement with a specific nature, with conventional and constitutional attributes, considering that a new international legal entity is being created.

Scope: The scope is the definition and description of the RMO, which, in this case, will be the provision and management of international facilities, in order to implement the ATM operational concept with a view to the global ATM, supported by communication, navigation, and surveillance and air traffic management (CNS/ATM) systems, and to provide assistance on safety oversight, pursuant to ICAO standards and recommended practices. These services will be rendered in the territory of the contracting Parties and in all those zones or areas of responsibility pursuant to Regional Air Navigation Agreements and of other States to whom the responsibility could be assigned by virtue of bilateral or multilateral agreements.

Nature: The RMO will be a legal entity different from the States and necessary to comply with the purposes it was created for, and therefore limited to meeting the objectives set out by the founders. Although the performance of the RMO will depend upon the presence of its member States, it shall be capable of developing and expressing an autonomous will within the scope of its competence, in such a way that the decisions taken by any of its bodies will be considered as decisions of the Organisation and not of its Members.

Therefore, the representation of the States is delegated in such a way that their expressed will is identified with the legal entity (RMO) of which both –assignor and assignee- are parties to.

Consequently, the RMO shall have sufficient legal capacity to be a holder of duties and obligations for the pursuit of its objectives and the fulfilment of its duties within the territory of the contracting Parties and in its relationships with other international entities.

In principle, the scope of its legal status will emanate from its constituent instrument, and will be evolutionary and non-static.

In summary, the main characteristics of the RMO will be:

- a) It will have special legal status because it will be limited to its assigned objectives and functions;
- b) It may exercise certain rights and undertake certain obligations within the framework of concrete legal systems both within the States and internationally;
- c) It will have managerial and financial autonomy to hire, purchase and dispose of goods and service; and
- d) It will be empowered to bring about lawsuits, appear in trial and to be represented out of court.

Purpose: The purpose of the RMO will be limited, since it will be the one stated in the Agreement. Thus, we can state that it will have a functional status in keeping with the speciality that inspires it.

Thus, the purpose of the Organisation will be to provide and manage the following facilities:

- a) those foreseen in the ICAO Regional Plan, in keeping with the corresponding bylaws;
- b) assistance for the effective fulfilment of safety oversight responsibilities by the States; and

c) other services not foreseen in the CAR/SAM Regional Air Navigation Plan, through bilateral or multilateral contracts or agreements (for example, overflights).

Rights, duties and responsibilities of States:

The guiding principle concerning the status of RMO member States will be that of equal rights and obligations.

The basic and essential right will consist in the participation in the bodies of the Organisation and in their decision-making process, through representatives appointed by the governments of the respective member States.

In general, the obligations derived from membership consist in cooperating with the Organisation for the achievement common objectives; achieving financial balance for its proper operation, and respecting the independence of RMO officials.

RMO liability:

Since the RMO will be an international legal entity, it will be liable for damages resulting from the operation of the facilities and/or services under its responsibility and *vis-à-vis* third parties. These risks shall be covered by the appropriate insurance.

Functions and authority: The rights and powers of the RMO are related to all those subject matters covered by the objectives set forth in the constituent instrument.

As the Organisation starts operating, it will be generating its own legal order, which will have an impact within the organisation, since it will govern the relationship among its bodies and with the outside, since it will govern the relationship between member States and the RMO, between the RMO and other international entities, and also with the users.

RMO operations will be based on an autonomous regulatory power, in light of the competencies it will be given by its founders--the States--in the Agreement, and will be implemented based on the decisions that it makes, in writing and in practice, aimed at regulating its own operation and management. Some examples of this are: the appointment of officials or agents, budget approval, the creation of technical, operational, and administrative offices, and the approval of bylaws and internal regulations.

The functions and duties of the RMO will expressly and implicitly emanate from the provisions of the Constituent Agreement, and will have the characteristics of its specialty, while the achievement of its concrete objectives defines the scope of the competencies established by member States.

The express or explicit duties shall be those listed in the constituent agreement or in subsequent agreements.

The specific function of the RMO that will be created will be to exercise exclusive rights in connection with the provision, definition, reception, and management of the services described in the respective article, in keeping with the standards and recommended practices of the Annexes to the Convention on International Civil Aviation (Chicago, 1944).

On the other hand, the implicit duties are those that are not formally or expressly listed, but emanate from the agreement because they can be inferred from an extensive interpretation of that text, and are indispensable for a more complete completion of the tasks vested upon the RMO.

In this sense, the international doctrine has established that implicit duties are legitimate if they fall within the general duties foreseen in the constituent agreement and are compatible with its spirit.

As an example, we can mention the following duties that were included in the draft:

- a) To conduct the necessary technical, operational, and administrative studies and take the necessary action to meet its objective, taking into account the development of civil international aviation and compliance with the standards of The Convention on International Civil Aviation (Chicago Convention,).
- b) To study, advice, recommend, facilitate, decide on, and implement all those issues connected with the normal or regular operation of the Organisation.
- c) To carry out any other activity requested by member States that is connected to its purpose and falls within its capacity.

Organisational chart: The RMO will have a permanent institutional structure, made up by various administrative, technical, and operational bodies that will permit the continuous and stable operation of the Organisation and will be capable of expressing an independent legal will.

These bodies would be different and independent from those of member States, will be set out to last, and will be responsible for managing the collective and common objectives and interests of the RMO. Accordingly, they shall be provided with the appropriate and necessary means.

Notwithstanding the above, the organisational chart of the RMO must not be static but rather be subject to the dynamism of the aeronautical activity and allow for the introduction of changes in order to adapt to the new international technical and operational circumstances.

Based on a functional criterion, the organisational chart of the RMO will be as follows:

- a) A deliberative and decision-making body, working as a plenary assembly in which all member States will participate through their delegates or representatives; it will be intergovernmental and can take various names: governing body, governing board, or board.
- b) An executive body in charge of overall and day-to-day management and administration, which may be called Executive Director or General Manager, to be performed by an international official or agent.
- c) Various technical, operational, and administrative bureaus or managerial offices.

In summary, the Organisation would be made up and managed by:

- a) A governing body
- b) An executive director, and
- c) The necessary and appropriate technical, operational, and administrative bureaus (headed by managers) to carry out the entrusted duties, notwithstanding the offices or station agencies that could be located in the territory of each of the contracting Parties.

- The governing body shall be made up by a representative of each contracting Parties and a substitute to replace that representative in case of absence; they shall both be appointed by said member State, and it would be very important and convenient if they were proficient in aeronautical matters.

They will be officials holding elected positions and their representation will be functional in nature, since they will be part of bodies that are independent from the States that appointed them.

The governing body will have a president and a vice-president; their term in office will be time-limited, and they will be elected from among its members on a rotational base.

All the members of the governing body can learn about and voice their opinions on the activities of the Organisation, and, therefore, it shall be in charge of setting the direction of the Organisation, approve budgets, and perform financial management, and decide over all those matters that are significant and indispensable for its general operations.

This body will get the support of other bodies that report to it, that have a different composition, with experts on its subject matter.

In absence of a universal nature, its small number of participants will facilitate work continuity and decision-making on regulatory, technical, and operational matters.

- The Executive Director, appointed by the deliberative body, to which he/she shall report, will be a national of any of the contracting parties. The duration (usually from three to six years) and conditions (whether or not it can be extended) of tenure will be determined, together with the type of election, and the position requirements.

A detailed list of the duties of both the governing body and the executive director may be included in the bylaws of the RMO and may be supplemented with one or several internal operational regulations.

- The technical, operational, and administrative bureaus or managerial offices will express the dynamic nature of the aeronautical activity and their adaptation to its practical evolution. Consequently, they could be merged, or existing ones be eliminated, or new bodies be established.

The competence for the creation of these new bureaus will emanate of the powers vested on the governing body, as the main decision-making body of the RMO.

Control bodies: The control function means that the bodies that supplement it are different from both the Organisation and the governments of members States.

These bodies shall basically perform the technical, operational, and financial control of the Organisation. Since the RMO will have its own budget, it will have to be subject to economic control mechanisms.

The RMO will be subject to the following audits, in order to control its activities:

a) internal audit

b) annual external to be performed by someone proposed by the Executive Director and approved by the Governing Body

c) security and safety foreseen by ICAO

Determination of will: The RMO shall be guided by a democratic principle; that is, all of its members are equal in the sense that each member will have one vote.

The legal will of the RMO is expressed in the decisions approved by the internal bodies, for which the Organisation is directly responsible and at the same time they would be binding for all member States.

In its constituent agreement, the RMO shall establish the voting procedures and modalities to be applied and the internal bodies that must participate in it.

The decision-making modality that has been foreseen is a qualified majority (*i.e.*, to require a majority that exceeds the so-called simple or absolute majority, which, in this case, would be the favourable vote of two thirds) as a general rule, and unanimity, for exceptional circumstances.

Indeed, the unanimity rule shall be the exception, because, although related to the respect for State sovereignty upon considering the principle of equality among members, it has the problem that it would be very difficult to make decisions and it would lead to a certain standstill of the RMO.

On the other hand, the qualified majority procedure will expedite the approval of resolutions, without detriment to the fact that efforts would be made to reach a general agreement if interests at stake are very important and could affect any of the member States.

Staff: In order to fulfil its functions, the RMO--as a corporation--, must have human resources, *i.e.*, international officials or agents through which it will act.

The existence of a body or group of international officials or agents working for the Organisation on a continuous and exclusive, or temporary, basis will enable it to carry out its technical, operational, and administrative activities.

Particularly, the Organisation will hire—directly--employees who are citizens of the member States, except in duly justified exceptional circumstances or situations, like, for instance, technical or operational qualifications, which shall be assessed and decided over by the governing body on a case-by-case basis.

Due to the international nature of his/her work, the official will be independent from the member State from which he/she is a citizen, and will have functional protection granted by the Organisation through the so-called jurisdictional guarantees.

The RMO internal bodies will also control the appointment and performance of the staff.

Notwithstanding certain specific provisions of the constituent agreement, the staff would have its own labour regime, to which end, the respective bylaws must be drafted and approved, taking as a legal basis those of the United Nations Organisation.

This statutory regime will define most aspects of its legal condition and shall consider the set of standards that will define the rights and obligations of the officials and the RMO in relation to the following topics or issues:

Citizenship, origin, quantity, distribution, selection requirements and modalities, hiring conditions, categories, inabilities and incompatibilities, rights and obligations, compensation or salary scheme, tax exemptions, bonds, sanctions, causes for dismissal, work hazard coverage, and retirement scheme.

On the other hand, and if necessary, the RMO may hire external experts, from time to time or on a temporary basis, to carry out specific functions.

Financial regime: Also, for the achievement of its objectives, the RMO shall have the financial means to cover the expenses derived from its operations (equipment, maintenance of facilities, personnel, administration, meetings of its bodies, travel, publications, etc.).

In relation to a given period—generally, one year--and given the need to establish programmes that must be implemented within a given term, income and expenditures must be reflected in the budget of the RMO, the draft of which will be prepared by the executive director, and will be approved by the decision-making body (the governing body).

Income will be derived from the resources generated by the RMO. To this end, it shall establish a financial policy that will allow it to achieve a financial balance, trying to avoid bureaucracy.

The financial regime is divided into two stages:

- a) the establishment and initial operation of the Organisation, to which end ICAO may provide assistance through a Technical Cooperation Project to be funded by the States.
- b) subsequent operation, to be funded through the generation of its own resources. This will allow the RMO to ensure its regular operation, achieve a higher level of financial autonomy, and strengthen its independent legal status.

The resources of the Organisations could be derived mostly from the rates paid by individuals or corporations that operate aircraft at the time when the flight has taken place.

The RMO will be subject to financial control mechanisms, aimed at reviewing the accounts, regularity, and good management of income and expenditures.

Term or duration: In general, this type of international organisation is characterised by its permanence, *i.e.*, it is intended to last, and often the agreement is for an indefinite period of time.

In this case, it has been foreseen that it will have a limited duration, to be determined, and the possibility of automatic and successive extensions for equal periods of time or for a different term, also to be agreed upon.

In this respect, the continuity of the RMO should not be affected by possible changes resulting from its composition (increase or reduction in the number of members) or its adjustment to new international circumstances, such as technical or operational aspects, or the revision of its constituent agreement.

Headquarters: In absence of its own territory, the RMO will be forced to establish its headquarters in one of the contracting States.

The headquarters may be defined in the constituent agreement or during the initial stage of the RMO, and could vary during the life of the Organisation. This circumstance should be

contemplated in the respective bylaws, including the possibility for the Governing Body to change it.

The legal consequences of the physical establishment of the RMO are specified in the so-called “Headquarters Agreement”, signed by the Organisation and what might be called the “host” State.

Legal capacity, privileges and immunities: Since the RMO will have to operate in the territory of the States to perform its assigned functions, it will be granted legal capacity within the internal legal system of each of its member States, supplementing such recognition with a number of the facilities, privileges, and immunities required to achieve its objective, which must be mentioned in the constituent agreement.

The legal capacity of the RMO in the local legislations will be limited to the specialisation principle; that is, it will be inferred from its own rules and it will operate within the scope of the assigned objectives and functions, like, for instance, the hiring capacity that is limited to the services required for its customary, normal and regular operation.

Some of these matters need to be taken into account at such time when the so-called Headquarters Agreement is signed between the RMO and the State in whose territory it will be established.

In this sense, it must also be taken into account that, even though national State legislations acknowledge the legal capacity of the RMO, they might contain certain limitations or requirements that are incompatible with the performance of this capacity.

The privileges and exemptions granted to international organisations, their equity, income, acts, and contracts, in order to enable its operation include those in connection with financial, tax, and customs issues.

In turn, RMO representatives and officials must also be entitled to the privileges and immunities necessary for them to perform their duties independently. This is a functional protection granted by the Organisation.

Jurisdiction immunity: Jurisdiction immunity is a general and very common clause that is included in practically every constituent agreement of international organisations. It specifies that only when they expressly waive such immunity can they be brought before the courts of the States that are party to it or member States.

RMO officials and agents can also enjoy this immunity with regard to all the acts they carry out in performing their official duties.

The goods and salaries can also enjoy immunity against any legal procedure, unless there is an express waiver. Nevertheless, this waiver will not apply to the execution of court rulings.

Infringement: According to article 12 of the Convention on International Civil Aviation (Chicago, 1944), the Organisation shall undertake to report to the relevant national authorities, which shall in general be those related to aviation, any alleged infringement of air navigation standards that occurs within its jurisdiction, and it shall send to the relevant State, the background information evidencing the infringement or omission which makes up the infringement, so that the corresponding action may be taken.

Dispute resolution: Although the interpretation and enforcement of the provisions of the constituent agreement and the RMO bylaws is a constant and regular activity of its internal bodies, whenever a conflict or dispute arises in this respect, the dispute resolution mechanisms foreseen in the same agreement will have to be applied. These could be:

- a) mediation by the Executive Director, that is, the intervention of a third party, whose decision shall not be legally binding; and, if no solution is reached:
- b) final decision by the Governing Body; or, arbitration at the request of any of the conflicting parties.

The form and procedures to resolve these issues can be included in the text of the bylaws.

Final provisions:

Signature: It is the signature and expression of the name and last name of the individual who is vested with plenipotentiary powers, together with the identification of the State he/she represents, which will be placed at the end of the agreement to prove that whoever signs is duly authorised and can bind to the agreement.

Before entering into force, the agreement will be available for signing by any other State interested in participating.

Ratification: This is the approval or confirmation of the agreement that was signed by a State representative in connection with the rights and obligations to be undertaken.

It means that the State concerned accepts as its own the legal act or agreement executed by a proxy on its behalf.

All in all, it is the decision whereby each of the competent State authorities, normally the Legislative Branch, Congress or Parliament, acknowledges the agreement signed by its representative.

The entry into force of the international agreement that creates the RMO defines its birth, and the conditions for its effectiveness must be established in this text, in the sense of determining the number of ratifications required.

In this case, it will require the ratification of a minimum number of signatory States to the constituent agreement, since it is a regional or restricted organisation where cooperation and integration links prevail.

This ratification involves the deposit of the respective ratification instrument of the signatory parties, where the depository must be identified. It may be ICAO, the State where the agreement is signed, or any of the States party to the agreement.

As of the entry into force of the constituent agreement, the States party to the agreement become member States of the Organisation being established.

Registration: This is the annotation or recording of the agreement; in this case, it shall be the act by virtue of which ICAO records the treaty, pursuant to article 83 of the Convention on International Civil Aviation (Chicago, 1944).

Accession: This is the act whereby a State agrees to, approves or accepts the terms of the agreement after it has entered into force; in other words, it is the admission of a State after the Organisation has been established.

Unlike the founding States, the participation by new States will be subject to the admission rules and procedures defined in the agreement, and will require the intervention of RMO institutions.

In this regard, the plenary body of the Organisation will review the application, and will make a unanimous decision.

To become a new member, two will have to agree: that of the State submitting the candidacy and that of the Organisation which will eventually accept the application; and compliance of the formal aspects regarding the submittal of the accession instrument to the designated depository.

Moreover, the accession will require negotiations with the candidate, resulting in an agreement between said State and the Organisation, addressing the technical, operational, financial, and administrative issues that will enable its accession.

Amendment: It is any change that any of the contracting parties may propose in order to modify the agreement, and shall be submitted to the governing body for preliminary review and, if applicable, approved unanimously by said contracting parties.

Notice of termination: All members have the inherent right to withdraw from the RMO, which is equivalent to a unilateral termination of the constituent agreement and its possible modifications. This will be done in keeping with the provisions of the agreement itself.

The possibility that a member State withdraws from the Organisation may be subject to some conditions: minimum time of effectiveness of the RMO and prior notice to the depository, who shall in turn inform this to the other contracting States.

For this termination to be valid, it should involve a notice of at least one year in advance, calculated from the date when the last contracting party received the corresponding notice from the depository.

Consideration should also be given to settling the accounts of the State that will lose its membership.

The dissolution is the act whereby a legal relationship is terminated or ended; in this case, it will be the annulment, liquidation or conclusion of the agreement as a result of the principle of freedom that also inspires the creation of, and participation in, the Organisation.

The dissolution of the RMO could be due to the specific duration of the constituent agreement, to a major change of circumstances whereby the common interests that gave rise to its creation are eliminated, or to serious financial difficulties in its operation.

Since this is an exceptional assumption, the dissolution of the RMO will require a unanimous decision by the governing body, *i.e.*, the body where all the member States are represented.

The Organisation must keep on existing until its final or definitive dissolution; therefore, a transition period and mechanisms need to be foreseen to facilitate the distribution and transfer of the goods, rights, and obligations of the RMO to a new organisation or to the contracting parties.

In summary, in case of dissolution, the following issues must be considered:

- a) the continued provision of CNS/ATM and safety oversight services;
- b) the situation of the members of the Organisation;
- c) the situation of RMO officials and agents;
- d) the succession of the functions, competencies, and equity of the dissolving Organisation since this could create difficulties; for example, the financial compensation of contracting Parties in proportion to their contributions, like, for instance, in connection with the host State.

Transitory provisions: If any, these should be contained in the constituent agreement. In this case, the initial operation and the financial scheme of the RMO have been envisaged.

Initial issues prior to the start-up of the RMO:

- a) Determine the headquarters for the Organisation
- b) Appoint the representatives to the governing body
- c) Designate the executive director
- d) Draft or plan the bylaws (general and for staff) and internal regulations; this can be done through an ICAO technical cooperation project
- e) Have available the initial budget
- f) Hire the personnel required for the Organisation

**DRAFT CONSTITUENT AGREEMENT FOR THE CREATION, OPERATION AND MANAGEMENT OF A REGIONAL MULTINATIONAL ORGANISATION (RMO)**

Whereas none of the aspects inherent to the communication, navigation, and surveillance/air traffic management (CNS/ATM) systems is incompatible with the Convention on International Civil Aviation (Chicago 1944) and the standards and recommended practices thereof, and therefore there are no legal obstacles for its establishment and operation pursuant to Resolutions A32-19, A32-20, and A35 of the Assembly of the International Civil Aviation Organization (ICAO);

Whereas the States have the authority and responsibility over air navigation control and compliance of safety oversight standards within the airspace under their sovereignty, in accordance with Article 28 of the Convention on International Civil Aviation (Chicago 1944);

Whereas ICAO Assembly Resolutions A32-19, A32-20, and A-35-15 on this subject matter urge for cooperation and mutual assistance among the States in order to achieve the highest possible level of uniformity in the provision of CNS/ATM services;

Whereas regional initiatives concerning the development and planning of international air navigation principles and methods, the enhancement of international civil aviation safety to prevent and reduce the negative impact of operational failures of CNS/ATM systems and effectively fulfill with safety responsibilities, are important;

Whereas regional cooperation is effective for implementing and consolidating CNS/ATM systems with a view to the Global ATM, and the safety system, taking into account ICAO standards, recommendations, and guidance, and in particular, Assembly Resolutions A35-3 and A35-7;

Whereas ICAO Assembly Resolution A35-7 encourages the States to promote the creation of regional and sub-regional partnerships to collaborate in the development of solutions to common problems, in order to strengthen their individual safety oversight capacity;

Whereas it is necessary to establish international agreements at the regional level in order to facilitate the establishment, operation, and management of the communication, navigation and surveillance/air traffic management (CNS/ATM) and safety systems in the SAM and/or CAR Regions;

Whereas CNS/ATM systems are of a regional/global scope and the investment required for their implementation and operation is significant, and in order to achieve greater efficiency and savings, avoiding duplication of human and material resources, it is essential to seek international regional cooperation in light of the benefits to be derived from the sharing of facilities, services, and costs, and the possibility of obtaining common funding and benefits.

Whereas cost distribution among users must be reasonable, its implementation and the recovery of costs will be done in keeping with Article 15 of the Convention on International Civil Aviation (Chicago 1944).

Whereas an appropriate legal framework is required to regulate the operation of CNS/ATM systems and safety oversight cooperation, giving access to as many States as possible in order to apply the principle of uniformity to the standards and procedures regarding international air navigation and safety.

Whereas the meetings of the Civil Aviation Authorities (RAACs) of the SAM Region have acknowledged the need to create a regional mechanism to study and decide upon the feasibility of implementing the CNS/ATM systems (RAAC/6, RAAC/7 y RAAC/9).

Whereas the CAR/SAM regional planning and implementation group (GREPECAS), at its thirteenth meeting, held on 14-18 November 2005, concluded that the CAR and/or SAM Regions be considered as potential operational scenarios for the establishment and management of multinational facilities and that there were sufficient legal principles to implement some systems in the short and medium term (Conclusions 13/2 and 13/3);

The following has been agreed upon:

## **CONSTITUENT AGREEMENT FOR THE CREATION OF A REGIONAL MULTINATIONAL ORGANISATION (RMO)**

### **Article 1 – Scope**

The contracting States agree to establish a Regional Multinational Organisation (**RMO**) for the provision and management of multinational facilities, in order to implement the ATM operational concept with a view to the Global ATM, supported by communication, navigation and surveillance/air traffic management (CNS/ATM) systems, and for the provision of assistance on safety oversight, in accordance with the standards and recommended practices of the International Civil Aviation Organization (ICAO) that will be called ... and hereinafter referred to as ... (in this document “the Organisation”).

### **Article 2 – Nature**

The Organisation will have legal capacity, it will exercise its rights and undertake obligations and will have the financial and managerial autonomy required to hire, purchase and dispose of the goods and services of the Organisation, and to promote legal action, appear in trials, and be represented out of court.

### **Article 3 – Purpose**

The purpose of the Organisation is to provide and manage the multinational facilities foreseen in the ICAO Regional Plan, in keeping with the provisions set forth in the respective bylaws, and to provide assistance for the effective fulfilment by the States of their safety responsibilities in the territory of the Contracting Parties and in all those areas of responsibility according to the Regional Air Navigation Agreements and those of other States which have been assigned to it by virtue of a bilateral or multilateral agreement.

The Organisation may also provide public air navigation services not foreseen in the CAR/SAM Regional Air Navigation Plan, as well as advisory services on safety oversight in keeping with the respective bylaws and through bilateral or multilateral contracts or agreements.

### **Article 4 – Duties and powers**

The Organisation will have the following duties and powers:

a) Exercise exclusive rights in connection with the provision, establishment, reception, and management of the services mentioned in the previous article.

b) Establish an economic policy that permits the achievement of a financial balance, through the raising of its own resources.

c) Obtain loan in the financial markets, which can be guaranteed by Contracting Parties or others, if necessary.

d) Propose to Contracting Parties the standardisation of national regulations, rules, and procedures concerning air navigation and safety oversight services, in accordance with the standards and recommended practices contained in the Annexes to the Convention on International Civil Aviation (Chicago, 1944).

e) Conduct the necessary technical, operational, and administrative studies and take the corresponding action for the achievement of its objective, taking into account the evolution and development of international civil aviation and compliance of the standards of the Convention on International Civil Aviation (Chicago, 1944).

f) Propose to Contracting Parties the relevant modifications to the ICAO Regional Air Navigation Plan, if necessary.

g) Provide appropriate training to its staff on an ongoing basis.

h) Establish the required links with the States and International Organisations in order to perform its duties.

i) Request from, and report to, the competent national authorities all relevant information and alleged infringements to air navigation standards occurred within its jurisdiction.

j) Assess the standardisation of systems within the territory of contracting parties.

k) Study, advise, recommend, facilitate, decide over, and implement all matters related to the normal and regular operation of the Organisation.

l) Undertake any other activity required by member States that is related to its purpose and which falls within its capacity.

#### **Article 5 – Liability and insurance**

The Organisation shall cover all risks derived from any liability for damages resulting from the operation of facilities and/or services *vis-à-vis* third parties, by hiring the appropriate insurance.

#### **Article 6 – Structure**

The Organisation will be structured with a Governing Body, an Executive Director, and the appropriate technical, operational, and administrative offices required to carry out the assigned duties. The Executive body shall not be complicated so that the daily and regular operation of the RMO will be agile. The tasks to be carried out by the officials shall include technical, operational, and administrative aspect related to implementation and representation.

### **Article 7 – Governing body**

The Organisation will be managed by a Governing Body composed of one representative of each Contracting Party, who will have an alternate to replace him/her in case of absence, both being designated by the Contracting Party and they should both be proficient in aviation.

The Governing Body will have a President and a Vice President, who will be elected among its members on a rotational basis, and for the period of time established in the bylaws.

### **Article 8 – Duties of the Governing Body**

The Governing Body will have the following functions:

- a) Adopt a common policy regarding the operation and management of multinational systems.
- b) Set the rates and fees to be paid by service users.
- c) Designate the Executive Director and the technical, operational, and administrative Directors following the proposal of the Executive Director.
- d) Approve the hiring of the insurance defined in article 5 from the companies it deems appropriate.
- e) Approve the annual budget, before (specify the date or period of time) of the year prior to its application, and its possible modifications.
- f) Approve the bylaws and Internal Regulations of the Organisation, and generate amendments thereto, based on the proposals of the Executive Director.
- g) Approve the amount and conditions of loans obtained in the financial markets to pursue its objectives.

### **Article 9 – Executive Director**

The Governing Body will appoint an Executive Director who will be a citizen of any of the Contracting Parties, with a tenure of ... (at least four) years.

### **Article 10 – Duties of the Executive Director**

The Executive Director will have the following functions:

- a) Sign all the documents required for the operation of the Organisation, within the scope of his/her competence.
- b) Submit all the reports required by the Governing Body.
- c) Set the policy concerning the staff to be hired, in terms of number and qualifications.
- d) Hire the staff required by the Organisation, and present nominations to the Governing Body for the technical, operational, and administrative Directors, in order to hire them.

- e) Submit the draft modifications to the bylaws and Internal Regulations of the Organisation.
- f) Forecast the rates and fees to be collected by the Organisation.
- g) Prepare the annual budget and give advise to the Governing Body on that matter.
- h) Act as Secretary to the Governing Body.
- i) Perform any other task assigned by the Governing Body.

#### **Article 11 – Decision-making modalities**

Each Contracting Party is entitled to one vote in the Governing Body through its representative.

Governing Body meetings will require a quorum of two thirds of its members.

Decisions will be adopted by a majority of two thirds of the members present, except for those cases expressly defined in the Bylaws that require a unanimous decision, and will be binding for each State or Contracting Party.

#### ***Article 12 – Personnel***

The Organisation will hire individuals who are citizens of the Contracting States, except under duly justified exceptional circumstances or situations.

The personnel will be subject to their own labour regime, and, to that end, the respective bylaws will be drafted and approved, based on those of the United Nations Organization.

#### **Article 13 – Financial regime**

For the establishment and initial operation of the Organisation, ICAO could provide assistance through a Technical Cooperation Project to be funded by the States.

Following this initial stage, the Organisation should try to achieve financial balance by charging and recovering costs, based on the first budget approved and in keeping with article 15 of the Convention on International Civil Aviation (Chicago 1944).

#### **Article 14 - Duration**

This agreement shall remain on force for ... years, and may be automatically and successively extended for ... years (or an equal period).

#### **Article 15 – Headquarters**

The headquarters of the Organisation will be in a city to be determined in a Party State, according to the advantages offered for its establishment. The respective Headquarters Agreement will be signed with said State.

#### ***Article 16 – Audits***

The Organisation shall be subject to internal, external, and ICAO audits, as defined in the respective bylaws.

### **Article 17 – Tax and customs exemptions**

Within the territory of each Contracting Party, the Organisation, its equity, income, acts, and contracts will be exempt from taxes, fees, contributions and/or any other lien, as well as from any restriction or prohibition derived from the import and export of that required for its operations.

### **Article 18 – Privileges and immunities**

Within the territory of the Contracting Parties, the Organisation and each of its internal bodies will have the legal capacity required to perform its duties, and the facilities, privileges, and immunities necessary to meet its objectives, as long as they are consistent with the constitution, the international law, and the laws of the particular State.

Its representatives and officials will also have the privileges and immunities necessary to carry out the duties derived from this agreement in an independent manner.

Goods and salaries are protected from any legal procedure, unless a waiver is expressly provided regarding such protection. Nevertheless, such waiver will not apply to any court judgment.

### **Article 19 – Infringements**

The Organisation will report to the competent national authorities any alleged infringement to air navigation standards that has occurred within its jurisdiction, and will send the background information evidencing the perpetration or omission that constitutes the breach so that the corresponding measures may be taken.

### **Article 20 – Dispute resolution**

Any conflict or dispute arising from the interpretation or application of this agreement will be submitted to the Governing Body for its resolution. The Party States agree to accept the final decision of the Governing Body.

### **Article 21 – Signature and ratification**

This agreement will be signed and ratified by each of the Contracting Parties and the respective ratification instrument will be deposited with ICAO.

Before its effective date, this agreement will be available for signing by any other interested State that is admitted by unanimous decision of the other signatory States.

ICAO will inform the Governments of the other signatory States of any other signature or deposit of a ratification instrument.

### **Article 22 – Entry into force**

This agreement shall enter into force sixty days after at least.... Contracting States have deposited their ratification instruments, to which end ICAO will advise of this date to each of the respective Governments.

For each State that deposits its ratification instrument after the effective date of this agreement, this agreement will enter into force sixty days after said ratification instrument has

been deposited.

#### **Article 23 – Registration**

This agreement will be registered with the International Civil Aviation Organization (ICAO), according to the terms set forth in article 83 of the Convention on International Civil Aviation (Chicago, 1944).

#### **Article 24 – Accession**

Non-signatory States may adhere to this agreement once it has entered into force, by submitting an accession instrument to ICAO.

Before a State adheres to the agreement, the unanimous approval by the Contracting Parties will be required, and the State and the Organisation will enter into an agreement addressing the technical, operational, financial and administrative matters concerning its admission.

Accession shall become effective ... (days, month or months) after the respective instrument has been deposited.

#### **Article 25 – Amendments**

Any Contracting Party may propose amendments to this agreement. These will be submitted to the Governing Body, and approved unanimously by the Contracting Parties.

#### **Article 26 – Termination**

Contracting Parties may terminate this agreement after... years have lapsed since its entry into force through a notice to ICAO. In turn, ICAO shall advise the other Contracting Parties of this event.

The termination of the agreement shall become effective ... (at least one year) after the last Contracting Party has received the respective notice.

#### **Article 27 – Dissolution**

The Organisation may be dissolved by unanimous decision of the Governing Body and will continue to exist until its final settlement. An agreement must be reached with regard to the distribution and transfer of the goods among the Contracting Parties, and the continued provision of CNS/ATM and safety oversight services.

#### **Article 28 – Transitory provisions**

During its initial phase, the Organisation will operate based on the assistance provided by ICAO through a Technical Cooperation Project, until such time when its operations are consolidated.

The Technical Cooperation Project will last a period of five years, and it may be extended for an equal period of time. During this time, the Governing Body will establish the financial regime of the Organisation, by raising resources of its own in order to achieve a financial balance.

**DRAFT BYLAWS OF THE REGIONAL MULTINATIONAL ORGANISATION (RMO)****I.- General provisions****Definitions:**

For the purposes of these bylaws, the following terms and expressions will have the following meaning:

- Organisation (insert the name given to the RMO and the abbreviated designation or acronym, if any).
- Agreement: The multilateral treaty or constituent agreement of... (insert the name of the RMO), signed by the States on ..., in the city of..., Republic of... and ratified by the Contracting Parties.
- Contracting Parties: Are the founding member States that ratified the agreement and the States that adhered to it.
- Representative or delegate: The regular representative--and the alternate--of each Contracting Party to the Agreement before the Governing Body, appointed by each one of such Contracting Parties.
- Bylaws or general bylaws: Is the set of legal norms or provisions that govern the relationship between the government and RMO operations.
- Personnel bylaws: Is the set of legal norms or provisions that govern the relationship between the RMO and its personnel.
- Internal regulation/s: Is the set of provisions that govern the operation of the RMO on technical, operational, financial, managerial and auditing matters.
- Governing body: Is the plenary body of highest rank in the RMO.
- President: The person leading the Governing Body.
- Executive Director: The international official or agent that leads, enforces legal provisions, and represents the RMO.
- Offices: The units that will be in charge of the technical, operational and administrative management of the RMO.
- Auditor/s and audit/s: The officials and/or agents in charge of the technical, operational, financial and administrative supervision or control of the RMO through the procedures set forth in the bylaws, internal regulations, Governing Body decisions, and by the International Civil Aviation Organisation (ICAO).
- Headquarters: (Insert the place where the RMO will be established or leave as follows) The domicile of the RMO, or the place that may be established as such in the future.
- Qualified majority: The favourable vote of two thirds of the Contracting Parties in the Governing Body.

- Unanimity: The favourable vote of all the Contracting Parties in the Governing Body.
- Currency: The value symbol in which the budget will be prepared and which allows for exercising the rights and fulfil the obligations of the RMO (define: it could be US dollar).
- Dissolution: Legal act whereby the extinction or termination of the RMO is decided.
- Liquidation/settlement: The set of operations carried out in order to determine what corresponds to each of the stakeholders in the assets and liabilities of RMO equity.

### **Article 1 – Applicable legal regime or law**

The legislation that will govern the RMO is:

- a) The constituent agreement, which constitutes international law, and ranks above the national laws of member States
- b) The bylaws
- c) The internal regulations
- d) International law regulations and the laws of Contracting States, as applicable

### **Article 2 – Legal status**

... (name of the RMO) is a Regional Multinational Integration Organisation, with legal status and capacity, even to litigate, and which has its own equity.

Within the territory of each one of the contracting parties, the RMO will be entitled to the privileges, immunities and exemptions required for the fulfilment of its functions and in keeping with its international legal status.

### **Article 3 – Members**

The original or founding States that have ratified the constituent agreement, and the States that adhere to it, will be members of the RMO, as established in said agreement.

### **Article 4 – Purpose**

In those areas of its competence, the purpose of the RMO, in the initial stage, is to provide and manage the following public services:

- Aeronautical telecommunications
- Aeronautical information
- Air traffic flow management (ATFM)
- Assistance for safety oversight
- Any other activity related to and compatible with the cited services

### **Article 5 – Functions and powers**

In order to meet its objective, the RMO will have the following functions and powers:

- To exercise exclusive rights regarding the provision, establishment, reception and management of the services cited in the previous article.
- To provide the public services stated in the previous article, as foreseen in the ICAO Regional Plan, in the territory of the Contracting Parties and in other areas under its responsibility pursuant to Regional Air Navigation Agreements and in any others assigned to it pursuant to bilateral or multilateral agreements.
- To provide other States with the public services stated in the previous article, as foreseen in the ICAO Regional Plan, in those areas assigned to it pursuant to bilateral or multilateral agreements.
- To provide the public services stated in the previous article and not foreseen in the CAR/SAM Regional Air Navigation Plan, in the territory of the contracting Parties and in other areas assigned to it, pursuant to bilateral or multilateral agreements.
- To provide the public services foreseen in the ICAO Regional Air Navigation Plan other than those stated in the previous article, subject to the prior consent of the Contracting Parties.
- To advise, facilitate and provide assistance to the contracting parties for the effective fulfilment of their safety oversight responsibilities.
- To study and propose to the Contracting Parties the standardisation of national rules, regulations and procedures concerning air navigation and safety oversight services, pursuant to the standards and recommended practices of the Annexes to the Convention on International Civil Aviation (Chicago, 1944).
- To propose to the Contracting Parties, if necessary, relevant modifications to the ICAO Regional Air Navigation Plan.
- To conduct the necessary technical, operational and administrative studies, and decide over, and take, the corresponding action to achieve its objective, taking into account the compliance of the standards of the Convention on International Civil Aviation (Chicago, 1944) and its respective Annexes.
- To establish and apply an economic policy that will allow for a financial balance, by raising resources of its own.
- To obtain loans in the financial markets, which could be guaranteed by the Contracting Parties or others, as necessary.
- To hire individuals who have the citizenship of the contracting states, except in duly justified circumstances or situations, to be decided on a case-by-case basis.
- To properly train personnel on an ongoing basis.
- To require from, and to communicate to, the competent national authorities all the relevant information and report any alleged infringement to air navigation regulations occurred within its assigned jurisdiction.

- To establish, together with the States and International Organisations, the necessary links to perform its functions.
- To facilitate the consultation and participation of service users on technical and rate-related matters.
- To study, advice, recommend, facilitate, decide over, and implement all those matters related to the normal and ordinary operation of the Organisation.
- To develop any other activity related to its purpose and which falls within its legal capacity.

## **II.- Financial aspects**

### **Article 6 – Equity**

The equity of RMO is composed of:

- real estate
- movables
- facilities and equipment that have been assigned to it
- real, personal, and equity rights
- loans
- payments and contributions by Contracting Parties and other persons or organisations
- payments for services rendered
- any other good that is subsequently included

### **Article 7 – Rates**

Setting rates: Rates will be set taking into account the principles set forth in article 15 of the Convention on International Civil Aviation (Chicago 1944) and the following costs:

- those incurred by Contracting States on account of air navigation facilities and safety oversight
- those related to the operation of RMO systems
- those related to the management of RMO systems

Origin: Own resources could come mainly from the rates to be owed by the individuals or corporations operating aircraft at the time of the flight.

If the identity of the operator is unknown, it will be assumed that the owner of the aircraft is the operator until such time when the operator is identified.

Execution: If the debtor has not paid the sum owed, it may be collected through an administrative or court proceeding.

This execution procedure will be filed within the jurisdiction of the Contracting State where:

- the debtor has its domicile or main office
- the debtor has a commercial establishment, if its domicile or main office is not located in the territory of a Contracting State
- the debtor holds property, in the absence of the two previous assumptions
- the RMO has its headquarters, in the absence of the three previous assumptions

The RMO has the capacity to take action with the relevant authorities of the States that are not parties to the Agreement.

The relevant authorities of the Contracting States will cooperate with the RMO in collecting the rates.

### **III.- Internal organisational structure**

#### **Article 8 – Governing body**

##### Type of organisation and integration:

The Governing body is the highest-ranking body; it makes decisions and is made up by a representative or delegate of each State or Contracting Party, who shall have an alternate who shall replace him/her in case of his/her absence. They will both be appointed by the Contracting Party and they shall both be proficient in aeronautical issues.

Tenure: The delegate--regular and alternate--who represents each Contracting Party will remain in office during the entire time of his/her appointment. The instrument of appointment will be deposited before the Secretary of the RMO, which will in turn present it to the Governing Body.

##### Functions:

The Governing Body will have the following functions:

- Adopt a common hiring policy and procedures regarding the operation and management of multinational systems
- Agree to provide public air navigation services not foreseen in the CAR/SAM Regional Air Navigation Plan.
- Approve the technical, operational, and administrative organisation of the RMO.
- Approve the bylaws and Internal Regulations of the Organisation and their respective modifications.
- Set the fee or distribution formula for Contracting Parties, in order to determine their annual payment or contribution for the funding of the RMO.
- Establish the principles that shall govern costing for setting rates.
- Approve the cost recovery percentage and the formula to estimate rates.

- Determine the units to express rates.
- Approve the rates and charges to be paid by service users.
- Establish the period of application and payment conditions for rates.
- Approve the annual budget and its modifications, if any, before (set date) of the year immediately prior to its application.
- Set and/or change RMO headquarters, and sign the Headquarters Agreement with the State in whose territory it will be established.
- Approve the hiring of liability insurances to cover risks derived from the operation of facilities and *vis-à-vis* third parties.
- Create, modify, merge, or eliminate technical, operational, and administrative offices.
- Designate, dismiss, and penalise the Executive Director, in connection to matters related to his/her administration and responsibilities.
- Authorise, on a case-by-case basis, the hiring of individuals who are not citizens of the Contracting States under duly justified exceptional circumstances or situations.
- Approve the hiring of external audits (or authorise the performance of external audits).
- Decide upon or resolve conflicts and disputes that may arise among the Contracting Parties in connection with the interpretation or enforcement of the constituent agreement.
- Accept or admit a new State to the RMO, before and after the entry into force of the constituent agreement.
- Review all amendments or modifications to the constituent agreement before submitting them for the final approval by the Contracting Parties.
- Decide upon the dissolution of the RMO and the conditions under which it shall be carried out.
- Carry out any other activity in accordance with the constituent agreement, bylaws and internal regulations.

Meetings or sessions:

It will hold regular annual meetings or sessions and all the extraordinary meetings that are necessary for the discussion and resolution of concrete and urgent problems or topics. Minutes will be taken for each meeting or session.

The Governing Body will set the date and time for the meetings and the Secretary will call the meetings through a notification at least 60 days before the meeting is to take place, except in the case of an extraordinary meeting, where this term can be shortened.

Vote, quorum, and decisions

Each Contracting Party shall be entitled to one vote through its representative.

Governing body meetings will require a quorum of two thirds of its members.

Decisions will be binding for Contracting Parties and will be adopted by a majority of favourable votes from the two thirds attending the meeting.

A unanimous decision is required only in the following cases:

- to agree on the provision of public air navigation services not foreseen in the CAR/SAM Regional Plan.
- set or change the quota of Contracting Parties in order to determine their contribution to finance the RMO.
- approve the bylaws and Internal Regulations
- accept or admit a new State after the agreement has been signed, and before and after its effective date.
- approve all proposed amendments or modifications to the constituent agreement.
- decide upon the dissolution of the RMO and the conditions under which this will be carried out.
- obtain loans in the financial markets.

Chair:

The Governing body will be presided over, or will have, a President, who will be elected among its members on a rotational basis, and will remain in office for.... (at least one year) year/s. The chair will be held successively and in alphabetical order by each of the member States.

In the absence of the President, the Governing body will be chaired by the Vice President, and in the absence of the latter, a person will be elected among its members to chair that meeting.

Functions of the President:

The President will have the following functions:

- Monitor compliance with the constituent agreement, the bylaws, the internal Regulations and the decisions of the Governing body.
- Issue general directives for the fulfilment of the functions of the Governing Body.
- Preside over, and suspend, with proper justification, Governing body meetings.
- Carry out any other activity assigned to it by the constituent agreement, its bylaws or internal Regulations.

Secretary:

The Executive Director will act as Secretary of the Governing Body.

**Article 9 –Executive director**Type of body and representation:

The Executive Director is the executive manager and representative of the RMO.

Designation:

The Executive Director will be elected through public contest and will be appointed by the Governing Body, reporting directly to this body.

Requirements:

In order to become Executive Director, the individual must meet the following requirements:

- to be a citizen of any of the Contracting Parties
- to be at least.... years old and maximum .... years old
- to hold a university degree in ....., with a major in .... (or preferably with a major in ...)
- to have.... years of experience (or broad or considerable experience), having held high ranking or managerial positions within its area of expertise and in international civil aviation (or in international civil aviation administration and management)
- proficiency in Spanish and English, written and spoken, would be desirable
- broad knowledge of air navigation and safety oversight services
- demonstrate qualifications and the highest degree of efficiency, professional competence, and integrity to carry out duties
- ability to hold personal interviews
- initiative, mature judgment, and tact to maintain harmonious relationships at work and with civil aviation administrations

Tenure of position:

The Executive Director will stay in office for ... (could be a minimum of 4 or 5) years and can be re-elected for the position.

In case of absence, incapacity, resignation or dismissal, the director (or manager) in charge of.... (determine the office or unit that will replace him/her) will temporarily and transitorily perform the functions of the Executive Director,

Functions:

The Executive Director will have the following functions:

- Represent the RMO, even in and out of court
- Sign all the documents necessary for the regular (or normal) management and operation of the RMO, within its scope of competence
- Manage, enforce, and monitor the implementation of the systems under the responsibility of the RMO
- Report regularly to the Governing body on the operation of the systems under the responsibility of the RMO
- Forecast rates and fees to be collected by the RMO
- Adopt the necessary measures to ensure the collection of rates
- Prepare the draft annual budget before (specify date) of the year immediately prior to its application, submit it to, and advise the Governing body on the issue.
- Forecast (or propose draft) bylaws and internal Regulations and their possible modifications, at the request of the Governing body
- Act or perform as Secretary to the Governing body.
- Propose to the Governing body the designation of operational, technical, and administrative Directors (or Managers); and the hiring of external audits (or for the last part: authorise the performance of external audits, prior approval by the Governing body).
- Set the policy for the personnel to be hired, in terms of number and qualifications.
- Hire, penalise, and dismiss the technical, operational and administrative personnel required by the RMO, except Directors (or Managers) and internal auditors. They shall be citizens of a Contracting State
- Hire liability insurances to cover the risks derived from the operation of facilities, and *vis-à-vis* third parties, with companies considered to be appropriate
- Submit the reports required by the Governing body as soon as possible
- Perform any other task entrusted to it by the Governing body.

**Article 10 – Offices**

RMO will have the following technical, operational, and administrative offices: .....

The Organisation could have one Station Office (or Agency) (or give it a different name) in the territory of the Contracting parties, in keeping with the characteristics set forth in the respective Regulations.

#### **IV.- Final provisions**

##### **Article 11 – Audits**

The RMO will be subject to the following audits:

a) internal audit, which comprises:

- administrative and financial aspects, in order to review the accounts, regularity and good financial management of income and expenditures of the RMO

- technical and operational aspects, in order to perform quality control and ensure an effective provision of safety-related services

b) annual external audit, to be performed by someone proposed by the Executive Director and approved by the Governing body

c) security and safety audits, as foreseen by ICAO

##### **Article 12 – Language**

The official language of the RMO will be Spanish, notwithstanding the use of both Spanish and English in air navigation operations.

##### **Article 13 – Publications**

The RMO will publish manuals, guidelines, circular letters, bulletins, directives, and all other documentation it may deem necessary and convenient for its operation.

##### **Article 14 – Dispute resolution**

The conflicts or disputes arising among the Contracting Parties in connection with the interpretation or enforcement of this constituent agreement, and the statutory and regulatory norms, will be submitted to the Governing body for their resolution. The participating States undertake to accept the final decision of the Governing body. The Parties involved in the dispute may not vote.

##### **Article 15 – Dissolution and settlement**

In case of dissolution and settlement of the RMO, the following issues will also be resolved:

a) continued provision of CNS/ATM and safety oversight services;

b) situation of the Contracting Parties;

c) situation of RMO officials, agents, and personnel;

d) the distribution and assignment of the functions, rights, obligations, and equity of the RMO to a new Organisation or to the Contracting Parties, including financial compensation to Contracting States, including financial compensation to member States in proportion to their contributions.

**Article 16 – Entry into force**

These bylaws will become effective on (or ... days) after its approval by the Governing Body.

**V.- Transitory provisions**

If any.

This section could deal with:

- 1) the drafting and approval of the various internal regulations within a given period of time, as of the approval of this Bylaw
- 2) initial budget and effectiveness

**Agenda Item 5: Review of the Implementation of RAAC Conclusion 9/8: New Regional Technical Cooperation Project**

**Description of UNDP/ICAO Regional Project RLA/98/003**

5.1 The Meeting took note that the fifth meeting of Civil Aviation Authorities of the South American Region (RAAC/5), held in Cusco in 1996, taking into account recommendation 8/5 of the Tenth Air Navigation Conference, had deemed it advisable to establish a technical cooperation framework to assist States with their national plans for the transition to the new CNS/ATM systems and to identify the most convenient implementation options; provide information and advise the States on cost-benefit analyses; and assist them in the implementation of the World Geodetic System 1984 (WGS-84) and the establishment of an integrated automated aeronautical information system for the region.

5.1.1 As requested by the RAAC/5 meeting, ICAO submitted to the consideration of the administrations of the region the document of the regional technical cooperation project RLA/98/003 on the Transition to the CNS/ATM Systems in the SAM Region. Subsequently, at the initiative of GREPECAS, the Project was extended to cover the CAR Region as well.

5.2 The Meeting took note of the results of project RLA/98/003, highlighting the following:

- ✓ Analysis of the 18 main air traffic flows in the region to guide the implementation of RNAV routes, RVSM and RNP 10.
- ✓ Development of an RNAV route implementation plan, an RVSM implementation plan and the plan for the implementation of RNP 10 in the Santiago-Lima segment.
- ✓ Support to the restructuring of the ATS route network in the CAR/SAM Regions, which included the implementation of 64 RNAV routes, realigning/extension of 44 ATS routes, elimination of 16 ATS routes and 12 ATS route segments.
- ✓ Training for approximately 1,400 professionals through various seminars/workshops organised by the project, amounting to 334 man/months of training.
- ✓ Drafting of document “Guidance material for the evolution towards the ICAO global ATM in the CAR/SAM Regions”.
- ✓ Advisory visits to participating States to report on project results, including detailed presentations on the activities to improve ATM, institutional considerations, and implementation options.
- ✓ Advisory visits for WGS-84 implementation.
- ✓ Development of a software tool known as PET (Planning and Evaluation Tool), distributed to all the States for the implementation of CNS/ATM systems.
- ✓ Seminars on CNS/ATM institutional aspects.
- ✓ Support to the GREPECAS Institutional Aspects Subgroup to study possible institutional arrangement options for CNS/ATM systems.
- ✓ Four (4) seminars on WGS-84 coordinates and aeronautical information issues, providing training for more than 150 specialists of the CAR and SAM Regions.

5.3 The Meeting, as previously done by the States on other occasions, recognised that project RLA/98/003 had been an important tool for implementation, for conducting training courses on the critical aspects of CNS/ATM system, and for supporting the process of coordination, planning and implementation of CNS/ATM systems. It had also enabled an active and timely participation of specialists in different areas from CAR/SAM States/International Organisations, including those that did not contribute to the project, with a view to implementation in the whole airspace of both Regions.

5.3.1 It was noted that this project had begun its activities in December 1998 and would finalise by the end of 2007.

#### **Status of the new regional technical cooperation project - Assistance for the implementation of a regional ATM system**

5.4 The Meeting recalled that the ninth meeting of Directors of Civil Aviation, held in Santiago, Chile, on 18- 20 April 2005, had analysed the results of the Eleventh Air Navigation Conference and the global operational concept of air traffic management (ATM) in order to achieve an interoperable global air traffic management system for all users during all flight phases that would meet the agreed safety levels, provide cost-effective operations, be environmentally friendly and meet national security requirements.

5.4.1 In this sense, the RAAC/9 meeting had taken note of the importance of the institutional aspects for creating the framework for the future ATM systems and the interconnection of automated systems, as well as of the possibility of facing these new challenges with a tool similar to project RLA/98/003. Consequently, the meeting had adopted conclusion 9/8, whereby ICAO had been requested to prepare and circulate a technical cooperation project document to assist in CNS/ATM implementation and in the evolution towards the global ATM.

5.5 The Eighth Coordination Meeting of Project RLA/98/003 (Lima, February 2006) was presented with the first draft document of Project RLA/06/901 prepared by ICAO in keeping with the aforementioned conclusion 9/8. This document was revised to include the comments received, and the final version of the document was circulated to SAM States on 17 November 2006 under State Letter SA5841. It was noted that, in order to include the States of the CAR Region, the NACC Regional Office was requested to consider circulating it among the States accredited to it. Responses had been received from 9 SAM States expressing their interest to participate in the project.

5.5.1 The Meeting was informed that the annual budget for the implementation of project activities had been estimated at US\$250,000. With nine (9) States in the project, the annual cost-sharing contribution by State would be US\$27,778. As more States were added to the project, annual contributions would be reduced. As follow-up to coordination with the States, letter SA5209 dated 21 March 2007 had been sent to the States with the adhesion agreements to be signed and returned to the ICAO Regional Office. To date, duly signed agreements had been received from Brazil, Bolivia, Peru and Argentina.

5.6 The Meeting was informed that the activities of this new project were expected to begin in 2008, once adhesion formalities had been completed and cost-sharing contributions received. For purposes of programming project activities, a first coordination meeting would be convened to approve the 2008 work programme and its budget.

5.7 In view of the above, the Meeting formulated the following conclusion:

**CONCLUSION 10/10 BEGINNING OF ACTIVITIES UNDER PROJECT  
RLA/06/901**

Taking into account the importance of continuing implementation of CNS/ATM technologies with a view towards a regional ATM system:

- a) the States of the Region that have confirmed their interest to participate in regional project RLA/06/901 are urged to respond to letter SA5209 of 21 March 2007;
- b) the States that have not done so yet, are urged to consider their participation in the project.

5.8 Colombia informed the Meeting that, under the present project formulation conditions, it had some reservations to participate in it.

**Agenda Item 6: Review of the programme of activities of the Regional Office for the 2008-2010 period**

6.1 The Meeting was informed that the Programme of Activities of the Regional Office had to be consistent with the ICAO Strategic Objectives for the 2005 – 2010 period, as approved by the Council in 2004, with the ATM Operational Concept approved by the Eleventh Air Navigation Conference, and with the Global Air Navigation Plan which contained the industry roadmap.

6.2 The Meeting took note that the ICAO Plan of Activities had been conceived to translate the Strategic Objectives of the Organization into action plans and to ensure a link between planned activities, resources, and performance assessments. With the adoption of the Plan of Activities, ICAO had moved to a result-based approach that would enable the Organization to fulfil its mission in an efficient and effective manner. Likewise, this new approach was permitting a greater functional integration with the Regional Offices.

6.3 Based on the above, the Meeting took note of the main activities that should be carried out in the Region during the next triennium, especially:

**ATM Area**

- Reorganisation of work programmes based on performance objectives (GREPECAS Conclusion 14/51)
- Implementation of Performance-Based Navigation (PBN) (GREPECAS Conclusion 14/46)
- Air Traffic Flow Management (ATFM) (GREPECAS Conclusion 14/49)
- Harmonisation of Contingency Plans (GREPECAS Conclusion 14/50)

**CNS Area**

- Development and integration/interconnection of regional digital networks (GREPECAS Conclusion 14/52)
- AMHS development
- SBAS augmentation (GREPECAS Conclusion 14/55)
- Air/ground data links
- Development of surveillance systems and study of the regional implementation of SSR Mode S
- Revised strategy for the deployment of ADS-C and ADS-B
- Formulation of the Central Interface Document for connecting ATM automation systems

**AGA Area**

- Continue with Airport Certification
- Implementation of Safety Management Systems (SMS)
- Consolidation of the Latin American and Caribbean Association of Airfield Pavement (*Asociación Latino Americana y Caribeña de Pavimentos Aeroportuarios*, ALACPA) and of the CAR/SAM Regional Committee for Bird Strike/Fauna Hazard Prevention (CARSAMPAF)

**AIS/MAP Area**

- Implementation of Quality Management Systems for AIM (GREPECAS Conclusion 14/36)
- Digital VFR Aeronautical Charts (GREPECAS Conclusion 14/37)
- Geographical Information Systems (GIS) in CAR/SAM AIM Services (GREPECAS Conclusion 14/39)
- Ground and Obstacle Electronic Data (GREPECAS Conclusion 14/40)
- AIS automation systems and data transfer formats.

**MET Area**

- International Airway Volcano Watch – IAVW; and
- SIGMET
- Aerodrome meteorological observing stations – AMOS; and
- World area forecast system – WAFS

6.4 Regarding institutional aspects, a task that would be included in the work agenda for coming years, was the establishment of a regional mechanism for the consolidation, management and implementation of multinational facilities.

6.5 The Meeting agreed that the aforementioned tasks constituted the main activities to be carried out in the Region during the coming years in the air navigation field, and that all States should give their full support, so as to achieve a successful implementation.

**Agenda Item 7: Follow-up on the conclusions adopted by previous RAAC meetings**

7.1 The Meeting reviewed the conclusions formulated by previous RAAC meetings and considered that Conclusions 6/8, 7/5, 7/7, 7/14, 7/15, 8/2, 8/3, 8/12, 9/1, 9/2, 9/4, 9/8, 9/14, 9/15, 9/16, 9/18 had been finalised. Originally, Conclusion 7/3 - MEASURES TO IMPROVE AVIATION SECURITY (AVSEC) had been considered as finalised; however, the Meeting decided to maintain it as valid, due to its scope and importance.

7.2 Conclusions 5/4, 6/15, 6/16, 7/3, 9/3, 9/5, 9/6, 9/7, 9/9, 9/10, 9/11, 9/12, 9/13, and 9/17 were still valid.

**Agenda Item 8: Other matters****Emissions Trading for International Aviation**

8.1 The Meeting took note that the Committee on Aviation Environmental Protection (CAEP) had completed the guidance material for the application of emissions trading to international aviation. The ICAO Council had discussed the draft guidance material and would submit it to the consideration of the oncoming Assembly.

8.2 The Meeting also noted that there is a clear division between Europe and the rest of the world regarding the term “geographic scope”. In this regard, all non-EU CAEP members and all non-EU Council members considered that airlines from one State should be included in another State’s emissions trading system based on mutual consent. In turn, the EU proposed laws to broaden the emissions trading scheme of the European Union to civil aviation, on a unilateral basis.

8.3 An important aspect discussed by the delegates was that the Kyoto Protocol excluded international aviation emissions and directed signatories to work through the International Civil Aviation Organization (ICAO) to limit or reduce such emissions. Likewise, the Meeting was informed that aviation accounted for 2% - 3% of greenhouse gas emissions, compared to 19% for land-based transport in Europe.

8.4 The Meeting was informed that the Committee considered that the additional cost per passenger resulting from the participation of aviation in the ETS would reach nine euros. In this regard, the International Air Transport Association (IATA) stated that said costs would be much higher.

8.5 The Meeting also discussed the adoption of a positive strategy to manage the increase of aviation emissions in the long run, and the effective support to an approach based on the traditional strengths of aviation in terms of technological innovation. This included efforts addressed to:

- Promote better scientific understanding
- Expedite air traffic efficiency improvements
- Foster energy efficiency in aircraft and engines
- Explore the development of alternate fuel sources
- Use market options with a good cost-benefit ratio and based on mutual consent

8.6 Based on the above, the Meeting unanimously decided to strongly endorse the guidance material on emissions trading prepared by ICAO, provided that the inclusion of airlines from other States be done based on mutual consent, as the only way to implement emissions trading for international aviation. It was also agreed that States should consider an approach based on aviation traditional strengths in terms of technological innovation, in order to handle the increase of aviation emissions in the long run.

8.7 The Secretary of LACAC informed the Meeting that the President of LACAC had sent a letter to the European Commission stating that this matter should be addressed within the ICAO forum.

8.8 United States through an information paper, submitted information regarding the current air transportation system could not be expanded to meet existing demand. NextGen, a user-friendly project that sought a shift in the safety culture, through proactive (in real time) rather than reactive risk assessment, as currently done, would be implemented no later than 2025.

8.9 Likewise, through another information paper, kept abreast the Meeting about the efforts being made by the United States in response to the threat of an influenza pandemic. Work in this sense was being carried out jointly with ICAO. Likewise, the United States, Canada, and Mexico had developed a Joint Concept of Operations for cooperative aviation operations during an influenza pandemic. Some assumptions that had been considered were: the pandemic could start at any time, at any location; a pandemic could last from 12 to 18 months or longer; not all regions would be affected at the same time; about 40 % of the workforce could be absent at the peak of the outbreak; air travel would be reduced due to pandemic requirements or government action.