



**WORKING PAPER**

**ASSEMBLY — 39TH SESSION**

**TECHNICAL COMMISSION**

**Agenda Item 36: Aviation safety and air navigation implementation support**

**IMPLEMENTATION OF ICAO SARPS**

(Presented by Canada)

**EXECUTIVE SUMMARY**

This working paper proposes that the Assembly further support work by the Secretariat to put forward strategies to improve States' implementation of Standards and Recommended Practices (SARPs) related to aviation safety, to recognize that States have limited financial and human resources, and may be better placed to implement SARPs more effectively and in a timely manner with assistance and additional measures, including: modifying timeframes for implementation to align better with domestic regulatory processes and work priorities, providing States early notice of SARPs development, and developing approaches to make the process for implementation and filing of differences more streamlined and flexible for States. This working paper also supports the No Country Left Behind (NCLB) initiative through strategies that will promote increased compliance with new SARPS.

**Action:** The Assembly is invited to:

- a) consider approaches to permitting States to receive early notification of work on SARPs related to aviation safety and to respond to new SARPs in timely and efficient ways, aligned with international and domestic priorities;
- b) support efforts, such as extended time frames, to assist States in implementing and complying with ICAO SARPs;
- c) support ICAO's ongoing efforts to improve implementation of SARPs, and implement streamlined and flexible processes for filing notification of differences; and
- d) reaffirm the Council of the International Civil Aviation Organization's (ICAO) commitment to the No Country Left Behind initiative.

<i>Strategic Objectives:</i>	This working paper relates to the Safety Strategic Objective.
<i>Financial implications:</i>	This working paper contains no substantial financial implications.
<i>References:</i>	A39-WP/37, Assisting implementation through the application of impact assessments and implementation task lists during the standards-making process A38-WP/48, Formulation and implementation of Standards and Recommended Practices (SARPs) and Procedures for Air Navigation Services (PANS) and notification of differences A37-WP/114, Making new Standards and Recommended Practices: Impact assessment Resolution A-37-15, Consolidated statement of continuing ICAO policies and associated practices related specifically to air navigation Resolution A38-11, Formulation and implementation of Standards and Recommended Practices (SARPs) and Procedures for Air Navigation Services (PANS) and notification of differences HLSC 2010-WP/17, <a href="http://www.icao.int/Meetings/AMC/HLSC/Pages/default.aspx">http://www.icao.int/Meetings/AMC/HLSC/Pages/default.aspx</a>

## 1. INTRODUCTION

1.1 Given increasing complexity and rapid growth in the global aviation system, ICAO Standards and Recommended Practices (SARPs) play a key role in promoting safety, regularity and efficiency in international civil aviation. The development by ICAO of SARPs and seeking compliance by States is imperative to its ongoing work and must be strongly supported.

1.2 An increase in recent years in the adoption of SARPs related to aviation safety by ICAO Council, coupled with an increase in the filing of differences by States and difficulty in States being able to meet their obligation regarding the filing of differences, may indicate an emerging gap in States' capacity for meeting the requirements of the SARPs process. Often the timeframes for response and compliance are short, as little as 90 days from the receipt of a State Letter.

1.3 States' work in developing legislation and regulations and modifying domestic rules, policies and standards require time, resource prioritization and broader consultation with industry and other involved stakeholders.

1.4 ICAO has recognized this challenge for States, and work is already underway to assist States through different measures and strategies, including developing impact assessments when SARPs are developed and improved processes for filing of notification of differences. Efforts need to focus on how ICAO states are able to predict activities on the international stage, to develop domestic safety work programs to align with ICAO priorities, and to promote increased compliance with new SARPs.

1.5 ICAO further recognized this need for additional work to improve overall implementation of SARPs in its 2015 Global Aviation Safety Plan: "Efforts to attain greater standardization must nonetheless recognize that ICAO Member States face varying safety issues and have disparate human, technical and financial resources at their disposal to manage safety."

1.6 As a result of these efforts, and building upon Resolutions A37-15 and A38-11 from the 37th and 38th Sessions of the ICAO Assemblies, respectively, over 30 resolutions, instructions, directives, and associated practices have been put in place that seek to improve the effective implementation of SARPs and the filing of differences.

## 2. IMPROVING STATES' IMPLEMENTATION OF SARPS

2.1 In recent years, Canada and numerous other States have undertaken a risk-management approach to aviation, which ensures the continuous improvement and maintenance of high quality aviation programs through the ongoing management of risk, ensuring public funds and program activities continue to be tied to the greatest benefit. A number of ICAO States have established documented processes for managing risks, including Safety Management Systems (SMS) that integrate operations and technical systems with the management of financial and human resources to ensure aviation safety.

2.2 ICAO States recognize the various socio-economic benefits available to States through SARPs – there is a strong connection between the effective implementation of global aviation standards and policies and social and economic benefits. A safe and reliable air transport system delivers important economic benefits to States through improved quality of life, shared societal and cultural knowledge, better services and aid to the public and enhanced access to remote and lesser-developed areas. Other benefits and contributions include improved air connectivity and bolstering of competitiveness.

2.3 However, aviation authorities around the world face various external economic pressures and internal budget pressures that require them to prioritize initiatives and realign resources to those issues most pressing.

2.4 **Early notification of work on SARPs or other documents.** By applying principles such as risk-management, ICAO Council could develop a system for early prioritization of SARPs related to aviation safety, as well as effective notification of international aviation priorities to States.

2.5 Planning tools that target identified priorities, such as a business plan, would provide States with greater predictability. ICAO can work with individual States at the DGCA level to develop a product that provides them appropriate advance notice of what is on the horizon. Currently, ICAO's high-level strategic objectives are provided in the air navigation work programme of ICAO.

2.6 By providing direction to ICAO at events like the Assembly and the High Level Safety Conference (HLSC), the ANC and ICAO panels, and sometimes initiating SARP development, States can often influence the SARP process at the beginning. Early engagement would equally provide the ANC and ICAO panels the opportunities to communicate with States and industry associations at early stages of their work and on an ongoing basis, to ensure regular interaction and to set expectations relating to development of new SARPs.

2.7 As outlined in Resolution A37-15, States should comment fully and in detail on the proposals for amendment of SARPs and Procedures for Air Navigation Services (PANS) or at least should express their agreement or disagreement on their substance. Going a step further, States could be involved earlier on, at the Origin of the Proposal Stage, before direct submission. In addition, States could leverage less formal gatherings such as panels, forums and conferences, as an early place for discussion of proposed SARPs.

2.8 Early notification would also allow for input from the experts in implementation of aviation-related SARPs, enabling a new and valuable level of expertise to inform the SARPs development process. With the introduction of a mechanism for States to receive earlier information concerning the development of SARPs, this could provide the opportunity for specific implementation information and impacts to be advised to ICAO, thereby providing States the opportunity to prepare more specific Task Lists and more widely informed impact assessments of the new and changed provisions.

2.9 **Extended timeframe for SARPs response.** A measure that would assist States to prioritize international aviation activities and plan for resources to implement SARPs is a widening of the gap between effective and applicable dates to approximately 9 months so States will be given an opportunity to meet key performance indicators by deferring implementation. This time frame can be reviewed on a regular basis by ICAO, and adjustments may be considered where necessary or where there is a direct effect on aviation safety.

2.10 **Greater interaction between ICAO ANC and its priorities and States' domestic work plans.** ICAO sets SARPs which are necessary for aviation safety, security, efficiency and environmental protection on a global basis. SARPs are not directly applicable within national legislative and regulatory frameworks, but they do directly influence how domestic civil aviation authorities plan and implement regulations and best practices.

2.11 Currently, States undertake cost-benefit analyses when deciding whether to develop regulatory amendments, including regulations resulting from new aviation safety-related SARPs. In some cases, the cost-benefit exercise results in a State deciding that compliance with a SARP is not of a

sufficient benefit to its aviation industry and travelling public. Early engagement and work with ICAO through the ANC and panels may offer States and ICAO the opportunity to carry out cost-benefit analyses in the early stages of the consideration of potential new SARPs proposals. Such early collaboration may result in validating the need to move forward with the proposed SARP; it may also lead ICAO to re-examine the priority of the proposal if results of the analysis would lead a large number of States to view the proposal as not being of a strong enough benefit for aviation safety domestically and internationally.

2.12 Work is already underway by ICAO to develop new tools and to promote existing tools for States to move closer to compliance by providing assistance with regulatory processes (i.e., impact statements, general text that can be used to modify legislation). Based on work initiated at the 2010 High Level Safety Conference, as well as at the 37<sup>th</sup> and 38<sup>th</sup> sessions of the Assembly, the Council has submitted for consideration at this 39<sup>th</sup> session of the Assembly a working paper (A39-WP/37) to facilitate implementation of SARPs through the development and application of impact assessments and implementation task lists during the standards-making process.

2.13 ICAO is further encouraged in undertaking work that would assist States at the early development and standards-making process. This level of assistance by ICAO would support the No Country Left Behind initiative, especially where the assistance is related to knowledge transfer and setting up of efficient regulatory and evaluation processes.

### 3. **ADOPTING A MORE PROGRESSIVE APPROACH TO FILING OF DIFFERENCES**

3.1 While SARPs have an important role in promoting safety, regularity and efficiency in international civil aviation, they are not always congruent with domestic realities. When States cannot implement a SARP or a SARP is deemed to be counter to national interests and realities, States are required (Article 38 of the Chicago Convention) to notify ICAO. The practice of filing differences makes information easily available to all stakeholders and allows ICAO to monitor and analyse the differences between the regulations and the practices of Member States and the SARPs.

3.2 **Effective timelines and processes for notification of differences.** In recent years, there have been a high number of amendments to various Annexes. Considering the entire process that States undergo, it is often very difficult for States to fulfill their notification and publication of difference obligations in a timely manner given the number of SARPs created or amended over short periods of time. According to the 2015 Report on Universal Safety Oversight Audit Programme Continuous Monitoring Approach (USOAP CMA), more than 75 per cent of the States have not established an effective system for the identification and notification of the differences between the SARPs and their national regulations and practices to ICAO. In addition, more than 80 per cent have not published their significant differences in their AIP, as required by Annex 15. It becomes even more difficult when the amendments involve financial and industrial arrangements. Issues with the filing of differences may be indicative of greater hurdles faced by States to incorporate SARPs into their domestic regulatory frameworks.

3.3 Challenges associated with SARPs implementation and the filing of notification of differences are not new. However, recent efforts on both the part of ICAO Council and States to improve the SARPs process have had promising results.

3.4 Resolution A37-15 from the 37th ICAO Assembly speaks specifically to SARPs and PANs for air navigation. At the 38th ICAO Assembly in 2013, the ICAO Council issued a stand-alone resolution highlighting a commitment on the part of States and ICAO to improve how differences between States' own regulations or practices and international standards were filed. A38-11 sought to broaden the scope of A37-15 to encompass all Annexes and technical guidance material. This approach was initially proposed in a working paper presented by ICAO Council (A38 – WP/48).

3.5 The working paper highlights a review of ICAO documents related to differences, which finds that States are experiencing difficulty in fulfilling their obligations due to various reasons, and acknowledges that substantial resources are required to develop and maintain all ICAO technical guidance material for SARPs and PANS. The working paper also notes that the ICAO Secretariat does not have capacity to translate differences into all ICAO working languages and publish them in a timely manner.

3.6 **Filing differences, with clearly set implementation goals.** Recognizing that while States may not be ready to comply with a new SARP immediately, a solution that may fit a State's work planning would be to file a difference with ICAO and provide a clear schedule for entering into compliance. This approach would offer more States the opportunity to add ICAO priorities to their own domestic priorities, in line with their resource and technical abilities. This approach to responding to new SARPs related to aviation safety can provide increased predictability and ultimately increased safety internationally, as more States could strive to meet ICAO's minimum standards.

3.7 **New opportunities for developing States to implement new SARPs.** Not for lack of political will or commitment, developing nations lacking in human, technical and financial resources will continue to struggle to keep pace with rapid changes in SARPs, and may risk further falling behind. The opportunity to file a difference with a goal for compliance in the short or medium-term (e.g., in 5 or 7 years) creates a new opportunity for States to reach out for expert assistance to work on implementing new SARPs while taking into account financial and resource constraints. This approach aligns with the objective and purpose of the No Country Left Behind initiative.

3.8 With the No Country Left Behind initiative, a focus is placed on all States having the same access to a safe and reliable air transport system. This flexible approach to filing of differences may allow some States to adjust their own long-term work planning to align with ICAO's adoption of new SARPs.

#### 4. CONCLUSION

4.1 In summary, these proposed measures, tools and commitments seek a renewed effort on the part of the ICAO Council, the Secretariat and States for the timely and effective implementation of SARPs related to aviation safety. Early notification of work by the ANC and panels on SARPs, an extended timeframe for States' responses to new SARPs, and a commitment to improved interaction between ICAO ANC and its priorities and States' domestic work plans would be a good start to improving States' compliance with SARPs, while recognizing States' ongoing resource and financial challenges.

4.2 The option to file notification of differences and plan to comply with new SARPs would provide a new opportunity for States to meet their international obligations while dealing with their own domestic resource challenges. This measure would be aligned with the work currently underway by ICAO to assist States with the processes and timelines related to filing of notifications of differences. This proposed approach aligns with the objectives of ICAO's No Country Left Behind initiative.