



WORKING PAPER

ASSEMBLY — 41ST SESSION

TECHNICAL COMMISSION

Agenda Item 30: Aviation Safety and Air Navigation Policy

30.3 Relevant Outcomes of the High-level Conference on COVID-19, Safety Stream (HLCC 2021)

PROMOTING VOLUNTARY SMS IMPLEMENTATION AND EXTENDING SMS APPLICABILITY ON A DISCRETIONARY BASIS

(Presented by Brazil, supported by the Latin American Civil Aviation Commission (LACAC¹))

EXECUTIVE SUMMARY

This working paper discusses the importance for States to promote the voluntary implementation of a safety management system (SMS) and extend SMS applicability to aviation organizations beyond the scope of Annex 19 – *Safety Management* on a discretionary basis as an effective means to achieve improvements in safety performance, allowing a more flexible, proportional, and risk-based regulation.

Action: The Assembly is invited to:

- a) recognize the value of promoting voluntary SMS implementation to support the effective management of safety risks, encouraging States to do so;
- b) encourage ICAO to increase the visibility of SMS discretionary applicability as a tool for States to achieve improvements in safety performance, allowing a more flexible, proportional, and risk-based regulation; and
- c) request ICAO to reinforce the supporting guidance contained in the 4th edition of the *safety Management Manual* (Doc 9859).

<i>Strategic Objectives:</i>	This working paper relates to the Safety Strategic Objectives.
<i>Financial implications:</i>	
<i>References:</i>	<i>Annex 19 – Safety Management</i> Doc 9859, <i>Safety Management Manual</i>

¹ Argentina, Aruba, Belize, Bolivia (Plurinational State of), Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Uruguay, and Venezuela.

1. INTRODUCTION

1.1 It is broadly recognized that safety risks to a State's aviation system related to services provided by aviation organizations outside the scope of Annex 19 – *Safety Management* need to be addressed through the respective State safety program (SSP).

1.2 Many of these aviation organizations do not require regulatory approval or certificates. As such, the infrastructure or the competencies necessary to support the implementation and the oversight of an safety management system (SMS) may not be in place.

1.3 In this case, the action to be taken by the State should be aligned with the safety risk assessment of those organizations. The level of safety risk related to some sectors may vary substantially between States.

1.4 Annex 19, as well as the 4th edition of the *Safety Management Manual (SMM)* (Doc 9859), both identify proactive means by States to manage the safety risks to their aviation system effectively and improve safety performance without necessarily resorting to the introduction of new “command and control” regulations.

2. DISCUSSION

2.1 Under an SSP, each State is responsible for identifying its top systemic cross-cutting safety risks, including risks potentially introduced by aviation organizations outside the scope of Annex 19.

2.2 For those safety risks identified to warrant action, States should consider all the safety risk controls available to manage their safety risks and achieve the desired improvement in safety performance, taking into consideration the resources required by the industry and by the State, as well as potential benefits.

2.3 As part of each State's evaluation process, a cost-benefit analysis should be carried out to support the implementation of recommended safety risk control actions. Risk controls implemented by the States may include: the establishment of compliance-based requirements, the implementation of alternative management systems (e.g., quality management systems), promotion of voluntary SMS implementation, or mandating SMS, in a discretionary manner, to aviation organizations outside the scope of Annex 19.

2.4 This strategy allows each State to tailor its approach according to its reality and effectively manage identified safety risks to its aviation system.

2.5 States may determine that compliance with new or revised prescriptive requirements will adequately address the safety risk(s) introduced by the activities of the aviation organizations. This decision would need to be reflected in the relevant operating regulations and would impact the States' oversight responsibilities, albeit to a lesser extent than mandating a full SMS.

2.6 Depending on the products or services being delivered, States may determine that another type of management system is a more appropriate alternative than mandating an SMS. Such an example would be a quality management system.

2.7 States also have the option to promote the voluntary implementation of SMS to aviation organizations outside the scope of Annex 19, as noted in Chapter 1.2.2.1 in the 4th edition of the SMM. The voluntary implementation provides a way forward for States to manage risks proactively as part of their SSP.

2.8 Many aviation organizations outside the mandate of Annex 19 have proactively recognized the benefit of voluntarily implementing an SMS to identify and address their safety risks while developing a positive safety culture that encourages personnel to identify and report hazards without the compliance costs commonly associated with civil aviation administration (CAA) oversight.

2.9 Where States are considering extending SMS applicability in their regulatory framework, the cost-benefit analysis should address available State resources in terms of budget and staffing levels, as well as acquire skills and knowledge required to ensure oversight of SMS implementation and assess SMS effectiveness for a broader range of aviation activities.

2.10 Furthermore, States should ideally be able to perform such oversight as part of their certification or authorization processes for the activities or categories of service providers at stake.

2.11 Imposing an SMS in the absence of an organization certificate, authorization, or approval may prove difficult, as States may not be in a position to take enforcement action, apply fees, charges, or penalties - therefore, being unable to discharge its safety oversight responsibilities.

2.12 Allowing States the flexibility to allocate their resources to areas of greater concern or safety risk should also be an important consideration.

2.13 When a State uses its discretion to extend SMS applicability, there are many mechanisms at its disposal. These mechanisms are enabled through Amendment 1 to Annex 19 and the 4th edition of the SMM.

2.14 States may emphasize the responsibility for Service Providers defined in Chapter 3.2.2 of Annex 19 to include relevant contracted aviation organizations (third party providers) in their SMS. The contractual agreement would outline the safety requirements for the provision of service, as well as provide oversight capabilities to the service provider. States would then only conduct oversight of the Service Providers with checks of relevant third party organizations included during that oversight.

3. CONCLUSION

3.1 States have many mechanisms to effectively improve safety performance, allowing a more flexible, proportional, and risk-based regulation.

3.2 Such mechanisms include encouraging aviation organizations outside the scope of Annex 19 to voluntarily implement an SMS and extending SMS applicability on a discretionary basis.

3.3 If the need for intervention is identified, the adoption of “command and control” Standards and Recommended Practices (SARPs) should be considered last, supported by a comprehensive cost-benefit assessment, which would address whether the desired outcomes could be achieved by implementing or strengthening other regulatory strategies of lower costs.