



**WORKING PAPER**

**ASSEMBLY — 41ST SESSION**

**TECHNICAL COMMISSION**

**Agenda Item 31: Aviation Safety and Air Navigation Standardization**

**ENHANCING REGULATORY CAPACITY THROUGH RECOGNITION OF EQUIVALENCE**

(Presented by South Africa)

**EXECUTIVE SUMMARY**

Whereas Article 33 of the *Convention on International Civil Aviation* (Chicago Convention, Doc 7300) states that, “Certificates of airworthiness and certificates of competency and licenses issued or rendered valid by the contracting State in which the aircraft is registered shall be recognized as valid by the other contracting states, provided that the requirements under which such certificates or licences were issued or rendered valid are equal or above the minimum standards which may be established from time to time pursuant to this convention.”

Current practice is that States compel approval holders to obtain approval similar or identical to that issued by the local national aviation authority. Even though the level of implementation in the other State could be equivalent to their own.

This paper seeks to urge ICAO and Member States, while respecting sovereignty of each State, to create a uniform and non-burdensome environment.

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

- a) request ICAO to develop a framework to guide States in the development of processes to recognise Certificates of Airworthiness, Certificates of Competency, and licenses issued or rendered valid by a Contracting State in which the aircraft is registered, where requirements under which such certificates or licences were issued or rendered valid are equivalent; and
- b) urge States to enter into bilateral and multilateral agreements that undertake to recognise each other’s certificates and licenses under the proviso that the State seeking operations in the subject’s State is rated equal or above the State it intends to operate in.

<i>Strategic Objectives:</i>	This working paper relates to the Strategy and Policy Strategic Objectives.
<i>Financial implications:</i>	<p><i>Financial implications for the aviation community</i></p> <p>No financial implications for the aviation industry. Financial implications are expected for States in terms of implementing training initiatives.</p> <p><i>Financial Implications for ICAO</i></p> <p>No financial implications identified for ICAO.</p>
<i>References:</i>	N/A

## 1. INTRODUCTION

1.1 Article 33 of the *Convention on International Civil Aviation* (Doc 7300) states that, “Certificates of airworthiness and certificates of competency and licenses issued or rendered valid by the contracting State in which the aircraft is registered shall be recognized as valid by the other contracting states, provided that the requirements under which such certificates or licences were issued or rendered valid are equal or above the minimum standards which may be established from time to time pursuant to this convention.”

1.2 To facilitate this recognition of validity Article 37 further states that, “Each Contracting State undertakes to collaborate in securing the highest practicable degree of uniformity in regulations, and organization in relation to aircraft, airways and auxiliary services in all matters which such uniformity will facilitate and improve air navigation.”

1.3 The practice, however, has been that States have continued to compel approval holders to obtain approval similar or identical to that issued by the local national aviation authority. As a result, seamless aviation operations have proven to be a challenge.

## 2. DISCUSSION

2.1 In developing regulations most States endeavour to ensure that their regulations comply with ICAO’s Standards and Recommended Practices (SARPs) in line with Article 37 and have established national civil aviation authorities, which are tasked with regulating aviation operations as guided by ICAO SARPs.

2.2 To ensure this compliance to SARPs, Contracting States are subjected to the Universal Safety Oversight Audit Programme (USOAP) Continuous Monitoring Approach (CMA). The results of USOAP reflect the level of Effective Implementation (EI) of ICAO SARPs in all Contracting States.

2.3 However, aviation participants from developing States, although their States comply to ICAO SARPs and in some cases having a good EI do not get recognition from some States and find themselves having to obtain approval from two or more States or regional bodies. In stances where agreements are entered into, they are usually one sided in favour of the developed States. This practice hinders aviation development in the developing States and does not align with ICAO’s campaign of No Country Left Behind.

2.4 In line with the spirit of Article 33, it would be desirable for member States to recognise each other’s regulatory regimes, where the level of implementation in their respective States are equivalent. This could be achieved through bilateral and multilateral agreements that undertake to recognise each other’s certificates of airworthiness and certificates of competence under the proviso that the State seeking operations in the subject’s State meets an acceptable level of effective implementation in the State it intends to operate in.

2.5 To facilitate such agreements, it would be helpful for ICAO to develop a framework to guide States in entering into such recognition of equivalence agreements.

2.6 Such recognition of equivalence would greatly assist in encouraging all states to enhance their compliance to ICAO’s SARPs and as a result improve the safety levels globally. Where shortcomings in the level of effective implementation are identified, the more compliant State could assist

the less compliant State in meeting its compliance obligations thus ensuring that No Country is Left Behind.

### 3. CONCLUSION

3.1 Recognition of equivalence among States, leading to recognition of Certificates of Airworthiness, certificates of competency and licenses issued by the contracting State in which the aircraft is registered would be very helpful in easing the burden upon member states and aviation participants of having to comply with multiple regimes.

3.2 Guidance by ICAO would also help States enter such agreements whilst ensuring that sovereignty is respected, and safety is not compromised.

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