



Agenda Item 4: RASG-PA Projects
4.1 RASG-PA GSI-3. Project - Effective Errors and Incidents Reporting

PROTECTION OF SAFETY INFORMATION

(Presented by the Secretariat)

SUMMARY	
This working paper presents the history and status of RASG-PA Project GSI-3.	
References:	
<ul style="list-style-type: none"> • ICAO Global Aviation Safety Plan (GSI-3) Efficient Reporting of Errors and Incidents • ISSG Global Aviation Safety Roadmap (Focus Area 3) Impediments to Reporting of Errors and Incidents 	
<i>Strategic Objective</i>	<i>This working paper is related to Strategic Objective A: Safety</i>

1. Introduction

1.1 The Global Aviation Safety Plan (GASP) serves as a strategic document, providing the planning methodology that will lead to global harmonization in the area of safety. It also provides a common framework to ensure that regional, sub-regional, national and individual initiatives are coordinated to deliver a harmonized, safe and efficient international civil aviation system.

1.2 The Global Aviation Safety Roadmap (GASR) that was developed by the ISSG provided the foundation upon which the Global Aviation Safety Plan is based. In March 2006, ICAO held the Directors General of Civil Aviation Conference on a Global Strategy for Aviation Safety (DGCA/06), which welcomed the development of the Global Aviation Safety Roadmap and recommended that ICAO develop an integrated approach to safety initiatives based on the Global Aviation Safety Roadmap, which would provide a global framework for the coordination of safety policies and initiatives.

1.3 Global Safety Initiatives (GSIs) are designed to support the implementation of the ICAO Safety Strategic Objective and other safety objectives that might be established by regions, States or industry. Planning and implementation should be started in the near-term and progressed in an evolutionary manner.

1.4 The GSIs identify the areas on which safety efforts should be focused to best achieve improvement in safety. For ICAO, the GSIs are used to assess whether proposed new safety tasks should be included in the work programme, and once in the work programme, to measure progress. In conjunction with the planning process, they provide the framework for the development of regional and national activities.

2. RASG-PA GSI-3.A History

2.1 As a result of a gap analysis completed in 2008 for the Pan American region, RASG-PA developed a project to focus on the Global Aviation Safety Plan, Global Safety Initiative #3 **“Effective Errors And Incidents Reporting.”** This RASG-PA project was initially titled GSI/3: “Effective Flow of Hazard Information,” and was established during the first RASG-PA meeting in Puntarenas, Costa Rica, November 2008. The project was later titled RASG-PA GSI/3.A, “Protection of Safety Information.”

2.2 As a means to determine the existing approaches in the region towards the protection of safety information, the Secretariat sent a questionnaire to all States in the NAM/CAR/SAM Regions requesting information concerning their respective legislation, regulations and programmes that promote the effective flow of safety information.

2.3 Only a limited number of States replied to the questionnaire, and RASG-PA considered this to be an insufficient sampling to draw appropriate conclusions on this issue.

2.4 RASG-PA, however, moved forward by developing an action plan for the GSI/3 project. The project incorporated recommendations that had previously been received during the first GASR meeting in the region. The plan took into account the legal implications related to the protection of safety information in the context of the various legal systems within the NAM/CAR/SAM regions.

2.5 The plan that was developed included identification of legislative gaps, development of a model legislation framework, and conducting a workshop for regulators, industry and other institutions within States that could support the approval of legislative changes.

2.6 The initial stages of this project were made possible through RASG-PA funding received from the Boeing Company as well as in-kind support from COCESNA/ACSA, the Jamaican Civil Aviation Authority and IFALPA who provided legal experts to develop the framework for the legislative model.

2.7 One of the strategies of GSI/3 urges states to introduce regulatory changes in their primary aviation legislation in order to support a “JUST CULTURE” promoting a voluntary reporting system and protecting the data collected for the purpose of improving safety.

2.8 RASG-PA agreed that developing a model proposal of amendment to national legislation would be one of the main initiatives of the GSI/3 project as a way of supporting States with the development of their own legislative changes.

3. Proposal for amendment to the aeronautical legislation in order to protect safety information sources

3.1 Beginning in June of 2009, legal experts provided by COCESNA/ACSA, Jamaica and IFALPA began to draft a document titled, “Proposal of Amendment to Aeronautical Legislation in Order to Protect Safety Information Sources” as part of the RASG-PA GSI/3 project

3.2 In March of 2010, this draft document was distributed to States for review, and they were also asked to provide the status of its activities regarding the following items that were agreed to during the RASG-PA/02 Meeting in November 2009, held in Bogota, Colombia:

1. Establishment of a national team to comply with the GASP GSI/3 initiative.
2. Report of any proposed legislative amendments that had already been completed.
3. Any proposals for amendment that had already been sent to corresponding legislative bodies.
4. Reporting of any approvals for legislative amendments to protect safety information.

3.3 The replies were limited but it was evident that many States had not progressed very far with regard to complying with the GASP GSI/3 initiative.

3.4 In June of 2010, as a result of comments from the RASG-PA ESC and conclusions from the ICAO High Level Safety Conference (HLSC), the “Proposal for amendment to the aeronautical legislation” was reviewed to improve the document and also to determine whether differences between information and data had been considered in the initial document.

3.5 The revised document was presented during the RASG-PA/03 Meeting in Punta Cana, Dominican Republic, October 2010. The Meeting agreed that additional time was required for additional stakeholder comment and it was agreed that comments would be accepted until January 2011.

3.6 During the comment period, several stakeholders advised that the review would take much longer than initially agreed because of the complexity of the issues involved. The ESC agreed to extend the time frame until the parties could meet and discuss the project with respective legal representatives.

3.7 A meeting is scheduled to take place in Miami, Florida, October 2011 to discuss the GSI/3 project with stakeholders.

4. Establishment of the Safety Information Protection Task Force (SIP TF)

4.1 The first meeting of the Safety Information Task Force (SIP TF) was held at IATA Headquarters in Montreal, Canada, from 4 to 5 May 2011, which was created as a recommendation from the High Level Safety Conference 2010.

4.2 Ms. Nancy Graham, Director of the Air Navigation Bureau and Mr. Denys Wibaux, Director of the Legal Affairs and External Relation Bureau, opened the meeting. In her opening remarks, Ms. Graham stressed the need to develop an adequate protective legal framework for safety information to ensure its continued availability for the management of safety information and the need for the proper administration of justice. Mr. Wibaux emphasized that the protective framework needs to reflect a balance between the need for protection of safety information and the need for the proper administration of justice.

4.3 As a conclusion of the meeting, the Safety Information Protection Task Force (SIP TF) recognized that the safety benefits associated with the increased collection and use of reports from operational personnel have the potential to result in proactive indicators of emerging safety risk issues. Such reports, indicative of hazards that exist within the aviation system and the human factor issues that result in inadvertent errors, are becoming increasingly available through the propagation of the State Safety Programme (SSP) and related Safety Management Systems (SMS). Accordingly, the SIP TF will undertake efforts to ensure the continued availability of safety data and safety information, much of which is provided voluntarily by operational personnel or under mandatory reporting programmes.

4.4 While reaffirming that the sole objective of accident and incident investigation is the prevention of their recurrence and not to apportion blame or liability, the SIP TF recognized that the continued availability of all relevant information necessary to establish the causes or contributing factors to enable preventive actions is dependent upon adequate protection of the information and its related sources. Consequently, the disclosure of accident and incident records must be subject to the determination of the appropriate authority for the administration of justice bearing in mind the nature and use of the information generated by each source and the purposes that the disclosure of such information would serve. Under these circumstances, the SIP TF will provide recommendations to ensure the availability of safety information as well as prevent its use for purposes that are not demonstrably safety-related.

4.5 The SIP TF recognized the need to balance the objectives of proactive safety analysis, regulatory actions taken for demonstrably safety-related purposes and the proper administration of justice. The SIP TF therefore agreed to conduct an analysis of existing legal and regulatory provisions and to engage safety, law enforcement, and judicial, legal and prosecutorial communities in an effort to develop principles related to the protection of safety information, either for use within court proceedings or for its disclosure to the general public.

4.6 The SIP TF will recommend communication and outreach strategies to encourage adoption of the principles associated with the protection of safety information.

4.7 To accomplish its task, the SIP TF agreed to establish three working groups to propose findings and recommendations for the new enhanced ICAO provisions and guidance materials related to the protection of safety information. These working groups should maintain, in so far as practicable, a multidisciplinary composition. These proposed working groups are:

- a) **Working Group 1: Review of existing ICAO Standards and Recommended Practices (SARPS) and guidance material related to the protection of information of safety information.**

- b) Working Group 2: **Review of existing and proposed Member States legislation, regulation and practice related to the protection of safety information.**
- c) Working Group 3: **Outreach communication and engagement of safety administrative, judicial, law enforcement, legal, prosecutorial groups, along with victim's support groups.**

4.8 Taking into account the legal framework prepared by RASG-PA, the SIP TF invited the COCESNA/ ACSA specialist to participate in the task force with the objective to collaborate with them.

4.9 The participation of the specialist of COCESNA/ACSA was possible in the second meeting held in Montreal 20-21 September 2011. A presentation was provided by Mr. Adolfo Zavala from the ICAO NACC Regional Office by video conference and Ms. Sagrario Padilla who was at the meeting, regarding the RASG-PA legal framework Project for the under development by RASG-PA.

4.10 The Project was very well received by the SIP TF and they requested to use the document as part of the documentation relative to the protection of the information if authorized by RASG-PA to do so.

4.11 The SIP TF suggested to the COCESNA/ACSA specialist to continue her participation in the work group 2 review of existing and proposed member State legislation, regulation and practice related to the protection of safety information.

5. Suggested Action

5.1 The Fourth Regional Aviation Safety Group – Pan America (RASG-PA/04) Meeting is requested to:

- a) take note and comment on the information provided in this working paper; and
- b) send a letter to the SIP TF expressing RASG-PA support for the SIP initiative and an interest to continue collaborating with them on the project-