



Agenda Item 6: Other Business

**PREVENTION PROGRAMS FOR THE PROBLEMATIC USE OF PSYCHOACTIVE
 SUBSTANCES IN CIVIL AVIATION**

(Presented by Brazil)

SUMMARY	
<p>This Working Paper presents a summary of the recently published <i>Regulamento Brasileiro de Aviação Civil nº 120 – RBAC 120</i>, which has as its main purpose, establishing the Programs for the Prevention of Problematic Use of Psychoactive Substances in Civil Aviation, and suggests including the elaboration of similar regulations to the Regional Safety Oversight System work program.</p>	
References:	
<ul style="list-style-type: none"> • Chicago Convention Annexes 1, 2 and 6 • ICAO Doc 9654 – Manual on Prevention of Problematic Use of Substances in the Aviation Workplace • Regulamento Brasileiro de Aviação Civil nº 120 – RBAC 120 - Program for Prevention of Problematic Use of Substances in Civil Aviation 	
Strategic Objective(s)	<i>This working paper is related to Strategic Objective(s) A – Safety</i>

1. Background

1.1 Annexes to the Chicago Convention establish that Contracting States, through their civil aviation authorities, shall address the problematic use of psychoactive substances in its scope of regulatory action, creating obligations for businesses and for certain employees in safety-critical activities.

1.2 Problematic use of substances is defined on the ICAO Doc 9654 – Manual on Prevention of Problematic Use of Substances in the Aviation Workplace”- as the use of one or more psychoactive substances by aviation personnel in a way that: a) constitutes a direct hazard to the user or endangers the lives, health, or welfare or others; and/or b) causes or worsens an occupational, social, mental, or physical problem or disorder.

1.3 Annex 1, item 1.2.7.1 establishes that Holders of licenses shall not exercise the privileges of their licenses and related ratings while under the influence of any psychoactive substance which might render them unable to safely and properly exercise these privileges.

1.4 It follows, in section 1.2.7.3, the recommendation that Contracting States ensure, as far as possible, that licensees who engage in any kind of problematic use of substances are identified and removed from their safety critical functions. The return to these functions may be considered after successful treatment or, in cases where no treatment is necessary, after having stopped the problematic use of substances and upon determination that the person's continued performance of the function is unlikely to jeopardize safety.

1.5 Annex 2, item 2.5, restates what is presented in Annex 1, and specifically states that no individual in a safety-critical function should exercise it while under the influence of any psychoactive substance once performance under this condition is rested compromised.

1.6 Annex 6 also mentions the subject, referring to the above mentioned items of Annexes 1 and 2.

1.7 In 2010, in order to establish the Program for Prevention of Problematic Use of Substances in Civil Aviation, ANAC, developed the *Regulamento Brasileiro de Aviação Civil n° 120 – RBAC 120* – based on ICAO Standards.

1.8 During 2010, seven seminars were held in major centers of national civil aviation, to disseminate and discuss programs contents. These programs incorporate ICAO's definition of problematic use to determine actions on the misuse of psychoactive substances, and will become subject of prevention and control for companies and involved staff, according to the subprograms required by Regulation.

1.9 RBAC 120 was published on June 1, 2011, with deadlines of one year for implementation of the education subprograms and two years for drug testing programs and response to deterrent events.

2. Analysis

2.1 The Brazilian regulations sought harmonization with the FAA's 14 CFR Part 120, and have incorporated elements of the Australian CASR 99, especially with regard to division of structure into three different subprograms.

2.2 The following rules and regulations comply with ICAO standards on the subject and the guidelines of ICAO Doc 9654 - "Manual for the Prevention of Problematic Use of Substances in the Workplace Aviation."

2.3 The proposed rules intend to force companies operating under RBAC 121, 135, 139 and 145, as well as public aerial services operators, to undertake with its own means and focused on its employees involved in safety-critical, methods for managing risks related to the problematic use of psychoactive substances.

2.4 Safety-critical activities included in this proposal are:

- a) Any activity that takes place in a restricted safety area;
- b) Crewmembers and flight dispatchers' activities;
- c) Maintenance, preventive maintenance, modification of aircraft, aeronautical, radio-navigation and communication products, inspections and maintenance certification;

- d) Refueling and maintenance of tank vehicles;
- e) Security agents and x-ray operator's activities;
- f) Load and unload of baggage transportation vehicles; and
- g) Prevention, rescue and fire fighting.

2.5 The control of the undue use of psychoactive substances targeted by the regulation will be achieved mainly by the inhibitory effect of a minimum annual amount (minimum percentage of applicable activities) of random drug testing, associated with the following tests:

- a) Prior to hiring new employees or transfer to safety-critical functions;
- b) After serious accidents and incidents occurred;
- c) Prior to return to function, for individuals who tested positive or refused to provide test samples;
- d) For the monitoring of individuals who are returning to function after an impeding event, be it a refusal to a requested examination, an attempt to tamper with test samples, or a positive result on a performed test, and
- e) Motivated by a written determination made by supervisors trained for the purpose of identifying individuals who may be involved in the problematic use of substances;

2.6 The programs aim to previously educate and train the companies' workforce involved in the issue.

2.7 The programs also aim to remove from activity safety-critical individuals that may be introducing unacceptable risks to the operation (as evidenced by positive drug test result or refusal to provide bodily samples for testing), and refer them to medical and psychological treatment (if applicable) or disciplinary advisory.

2.8 The main objectives sought by the proposition of this Regulation:

- a) Comply with ICAO standards on the subject.
- b) To promote increased levels of safety in civil aviation.
- c) Align Brazilian standards to those of other countries who already manage and control the risk involved in the use of psychoactive substances.
- d) Seek to ensure, in the best way that affected individuals are prevented from performing safety-critical functions and can be referred for counseling and/or treatment as applicable, in accordance to ethical and technical principles.
- e) Establish clear criteria that allow the health care of the individuals involved, to allow the return of the critical role previously carried out when the return does not imply more risk to operational security.
- f) Helping to promote a cultural change that can gradually be extended to other industries and other activities.

- 2.9 The following items can be listed as cost to the programs implementation:
- a) carrying out directed education program at least for individuals performing safety-critical activities and their supervisors;
 - b) conduct yearly random drug testing corresponding to a percentage set at 50, 28 or 7% of the safety-critical activities, according to ranges that include the number of employees working in safety-critical positions in each of the companies required to implement the program.
 - c) conducting drug tests: (i) after an accident or serious incident occurred, to each of the involved personnel, (ii) motivated by reasonable suspicion, (iii) to return to activity and follow-up after the return, (iv) prior to admission and transfer to safety-critical activity.
 - d) maintenance of a structure that allows the performance and analysis of toxicology tests, including:
 - i. Own means or contractors to perform bodily sample collection with subsequent submission of samples for analysis in authorized laboratories, as well as means for conducting toxicology tests specifically for alcohol concentration analyses;
 - ii. Need for action of specialized medical professional in reviewing the results of toxicology tests.
 - e) Involvement of an expert in the treatment of disorders caused by the use of psychoactive substances for referral to treatment and evaluation of the treatment

2.10 It is noteworthy the fact that direct and indirect costs of the program tend to be offset by a significant decrease in the amount to be paid by insurance to cover accidents and incidents from the proof of the adoption of such programs. The amounts to be paid for conducting toxicology tests can even be partially or fully covered by some insurance contracts in the interest of safety.

- 2.11 Among the main expected benefits, it can be enumerated:
- a) To the Civil Aviation System:
 - Increase in actual levels of safety;
 - Increase in perceived level of safety (public perception);
 - b) To companies:
 - Reduced levels of absenteeism, presenteeism and turnover, resulting in increased productivity and reduced costs associated to employees' health;
 - Improved conditions for contracts with foreign companies and multinationals;
 - Improved company image in the market and in the community: social responsibility;

- c) To workers:
- Direct benefits to health, providing opportunity for reflection and change of lifestyle;
 - Access to adequate information about substance abuse and its consequences, creating opportunity for reflection and the possibility of seeking professional support, if applicable;
 - Possibility of extension of program benefit to the families of employees, based on agreements to be negotiated between employers and employees.

3. Creation of panel of experts to prepare the LAR 120

3.1 It is understood to be important the definition of rules for a Latin American Program for Preventing problematic use of psychoactive substances in Civil Aviation, as an activity to be included in the 2012 work program for the Regional System.

4. Suggested action

4.1 From what was presented, the RASG-PA Executive Steering Committee is invited to:

- a) Take note of the information presented in this working paper and in its appendix;
- b) Include in the Regional Safety Oversight System work program, the creation of amendments to LAR 121, to include the implementation of programs for the prevention of problematic use of substances in the aviation workplace.