



Agenda Item 3: Preparatory activities for the 39th Session of the ICAO Assembly (A39)

**PREPARATION FOR THE THIRTY-NINTH SESSION OF THE ICAO ASSEMBLY -
SAFETY ACTIVITIES**

(Presented by the Secretariat)

SUMMARY	
This working paper presents information on the main issues to be addressed at the 39 th Session of the ICAO Assembly and the safety issues that will be submitted by SAM States to the Assembly through working papers.	
References:	
<ul style="list-style-type: none">• Provisional agenda of the 39th Session of the ICAO Assembly• A39 preparatory teleconferences (15 April, 20 May, 20 June, and 21 July 2016)	
<i>ICAO strategic objectives:</i>	<i>A - Safety B – Air navigation capacity and efficiency D – Environmental protection</i>

1 Introduction

1.1 The ICAO Assembly is the sovereign body of the Organization and meets at least once every three years, summoned by the governing body of ICAO, the Council. The Assembly can also hold extraordinary sessions at any time, as convened by the Council or at the request of at least one fifth of the total number of contracting States, addressed to the Secretary General (Article 2 of the Standing Rules of Procedure of the ICAO Assembly, Doc 7600/8).

1.2 The 39th Session of the ICAO Assembly (A39) will take place from 27 September to 7 October 2016 at ICAO Headquarters in Montreal, Canada. Its main task will be to establish the global aviation policy for the 2017-2019 triennium. For this event, ICAO has invited its 191 member States and a large number of international organisations.

1.3 The ICAO Assembly consists of plenary sessions and meetings of the Executive Committee and of the technical, economic, and legal commissions. The functions of the Executive

Committee are, *inter alia*, to submit to the Assembly, when necessary, a list of the contracting States that wish to be taken into account when electing the Council; to study amendments or additions to the agenda of the Assembly; to create committees and commissions of the Executive Committee; to review the agenda items entrusted by the Assembly and report thereon; to make recommendations to the Assembly on the organisation and direction of the work of the latter; and to advise the President of the Assembly, when so required, on matters it must address. The technical, economic, and legal commissions analyse, respectively, air navigation and safety aspects related to policies, implementation standardisation and support, economic aspects related to international air transport, and legal aspects.

1.4 The agenda of the A39, as well as the working papers to be discussed, are posted on <http://www.icao.int/Meetings/a39/Pages/default.aspx>.

2 Analysis of the main issues to be addressed by the Technical Commission

2.1 The issues to be addressed by the Technical Commission and the results expected with regard to the main issues, are summarised below.

2.11 Item 33: *Aviation safety and air navigation monitoring and analysis*. Under this item, the ICAO Council will report on the status of priorities and goals for the implementation of the Global Aviation Safety Plan and the Global Air Navigation Plan, using regional and global reporting mechanisms. It will also report on the status of compliance in each region with GASP and GANP key priorities. The reports will include the latest information on the Universal safety oversight audit programme (USOAP) continuous monitoring approach (CMA).

2.12 Information will also be provided on the results of the Second high-level meeting on safety and emerging matters (HLSC 2015), especially on recent developments concerning remotely piloted aircraft systems (RPAS), the global aeronautical distress and safety system (GADSS), which includes aircraft tracking, coordination in conflict areas, and new issues, such as cyber-security.

2.13 Item 34: *Aviation safety and air navigation policy*. Under this issue, the ICAO Council will present the fifth edition of the Global air navigation plan (GANP, Doc 9750) for endorsement by the Assembly. Likewise, as a deliverable of the Assembly, the States, PIRGs, service providers, and airspace users are required to establish priorities and goals consistent with GANP objectives and the operational needs of each Region. Furthermore, States are urged to implement PBN as an objective under Resolution A37-11 and the ASBU modules, in accordance with the operational needs identified at national or regional level, and to adopt a new resolution to replace Resolution A38-2. Also, it is expected that the Assembly will endorse the edition (2017-2019) of the Global aviation safety plan (GASP, Doc 10004).

2.14 Item 35: *Aviation safety and air navigation standardisation*. In this regard, the Council will inform about the activities for the drafting of standards on the formulation of the air navigation (AN) work programme, the standardisation roadmap, and the reactivation of the initiative known as the standardisation round table. It will also provide an outlook on ICAO provisions expected for the next triennium and beyond. All these activities are aimed at maintaining the strategic orientation of the Organization in terms of aviation safety and air navigation capacity and efficiency, in line with the Global aviation safety plan (GASP, Doc 10004) and the Global air navigation plan (GANP, Doc 9750), including Block 1 of the GANP ASBU (aviation system block upgrades) methodology.

2.15 Item 36: *Aviation safety and air navigation implementation support*. In this regard, information will be provided on the status of objectives and enabling elements of the 2014-2016 edition of the Global aviation safety plan (GASP) and of the priorities of the fourth edition of the Global air navigation plan (GANP). It is expected that the Assembly will encourage States to take action to meet

GASP objectives and to coordinate their priorities with those of the GANP; encourage States to support the regional safety groups (RASGs) and the regional planning and implementation groups (PIRGs) in the implementation of regional priorities, and to provide information on their progress and status of implementation; and urge States to inform, through the on-line framework (OLF) and on a timely basis, about their status of implementation of corrective action plans (CAP) for the deficiencies identified in USOAP audits.

Preparation of the 39th Session of the ICAO Assembly

2.16 In order to support SAM States in the preparation for the A39, the SAM Office organised web teleconferences in the area of air navigation, safety and security. These teleconferences were led by the air navigation, safety, and security officers of the ICAO SAM Office, with the participation of air navigation, safety, and security directors of the States or representatives designated by the States.

2.17 In the area of security, four teleconferences were held on a monthly basis, starting in April 2016. These teleconferences addressed the analysis of the A39 agenda of the Executive Committee and the Technical Commission, the working papers that could be submitted from a regional point of view, and the analysis of working papers related to safety.

2.18 The safety directors considered that the SAM Region could prepare six (6) working papers to be submitted at the 39th Assembly, addressing the following topics at the Technical Commission:

- ✓ Item 33 - WP/109 – Strategy for the implementation of the SSP within the framework of safety management;
- ✓ Item 33 - WP /113 – Compliance with the Declaration of Bogota;
- ✓ Item 33 - WP /115 – Recognition of multinational certifications;
- ✓ Item 34 - WP /111 – Assessment of the amendment to the GASP;
- ✓ Item 36 - WP /102 – Establishment and management of the South American AIG Regional Cooperation Mechanism (ARCM); and
- ✓ Item 36 - WP /110 – Protection of safety information.

Item 33 – Aviation safety and air navigation monitoring and analysis

2.19 Working paper 109 on the *strategy for the implementation of the SSP within the framework of safety management*, analyses the progress made in SSP implementation, the challenges and impact it would have on effective implementation (EI) results in the SAM Region, taking into account that ICAO plans to audit the 91 SSP PQs starting on 1 January 2018. This working paper will be presented by Peru, and is shown in **Appendix A** to this working paper.

2.20 Working paper 113 on *compliance with the Declaration of Bogota*, presents the progress made by SAM States regarding compliance with the 2016 safety and air navigation goals established in the Declaration of Bogota. This working paper will be presented by Chile, and is shown in **Appendix B** to this working paper.

2.21 Working paper 115 on *recognition of multinational certifications*, deals with the need to reduce duplication of certification and oversight activities by approved maintenance organisations (AMO) and approved training organisations (ATO), in order to contribute to the development of the aeronautical industry worldwide, and to strengthen safety through the application of standards harmonised with the SARPs contained in the Annexes to the Chicago Convention for the conduction of these activities. This working paper will be presented by Chile, and is shown in **Appendix C** to this working paper.

Item 34 – Aviation safety and air navigation policies

2.22 Working paper 111 on *the assessment of the amendment to the GASP*, proposes a new GASP planning deadline for 2022, establishing clear and attainable objectives, with a 6-year GASP revision cycle, eliminating the current rigidity, and taking into account the level of maturity of the SSP of each State. This working paper will be presented by Peru, and is shown in **Appendix D** to this working paper.

Item 36 – Aviation safety and air navigation implementation support

2.23 Working paper 102 – Establishment and management of the South American AIG Regional Cooperation Mechanism (ARCM), addresses the establishment of the SAM ARCM and the progress made in its creation as a body to support aviation accident and incident investigation and safety enhancement in the Region. This working paper will be presented by the AIG authority of Argentina, and is shown in **Appendix E** to this working paper.

2.24 Working paper 110 – *Protection of safety information*, analyses the need to delve further into aspects concerning the protection of safety information. This working paper will be presented by Peru, and is shown in **Appendix F** to this working paper.

3 Suggested action

3.1 The Meeting is invited to take note of the information presented and to keep track of the information posted on the A39 website:

<http://www.icao.int/Meetings/a39/Pages/default.aspx>

3.2 To conduct a fifth meeting on 16 September this year in order to review the other working papers that may be of interest for the SAM Region.

-END-



ASSEMBLY — 39TH SESSION

TECHNICAL COMMISSION

Agenda Item 33: Aviation safety and air navigation monitoring and analysis

STRATEGY FOR THE IMPLEMENTATION OF THE STATE SAFETY PROGRAMME (SSP) WITHIN THE SAFETY MANAGEMENT FRAMEWORK

(Presented by Peru; endorsed by the Countries of the SAM Region and the 22*
Member States of the Latin American Civil Aviation Commission (LACAC))

EXECUTIVE SUMMARY

This Working Paper analyses the progress of SSP implementation, the challenges and impact it could have on the SAM Region's effective implementation (EI) results, considering that ICAO plans to begin the audits related to the 91 Protocol Questions (PQs) from the SSP as of 01 January 2018.

Action: The Assembly is invited to analyse the arguments raised in this Working Paper in order to assess the possibility of postponing the commencement of the audits that consider the 91 PQs from Annex 19.

<i>Strategic objectives:</i>	Safety
<i>Financial implications:</i>	N/A
<i>References:</i>	Annex 19 - <i>Safety Management</i> Doc 9734, <i>Safety Oversight Manual, Part A</i>

1. BACKGROUND

1.1 Standardizing global civil aviation activities is one of the core functions of ICAO. A tool, which enables ICAO to verify the standardization of such activities, is the USOAP audits, whereby States are assessed in order to ensure the effective implementation of Standards and Recommended Practices (SARPs).

¹ Spanish version provided by Peru

1.2 Protocol questions (PQs) are specific elements that are used in the ICAO Universal Safety Oversight Audit Programme (USOAP) Continuous Monitoring Approach (CMA) for assessing the level of effective implementation of a State's safety oversight system.

1.3 As of 01 January 2018, ICAO has scheduled the commencement of State audits, including against the 91 Safety-related PQs from Annex 19 that consider SSP implementation, of all States which demonstrate that they have achieved over 60 percent Effective Implementation (EI) of the State System. This condition applies to approximately 70 percent of the States in the SAM Region.

2. DISCUSSION

2.1 *Progress in the SAM Region*

2.1.1 The States of the Region are working in coordination in order to comply with the requirements of Annex 19; a result of this teamwork is the recent analysis of a shortfall present in the Region, which has revealed that many aspects informed by the States had no correlation with the actual situation, in terms of service providers having effective SMSs, as well as the States' SSPs.

2.1.2 This work, carried out with a high self-criticism capacity, has enabled the Region to reach three significant findings which determine that:

- a) the vast majority of States are not in a position to be audited against the 91 PQs that will be included as of the year 2018 since 70 percent of them have achieved over 60% EI;
- b) since the SMS oversight activities were assumed by those responsible for SSP tasks, leaving safety inspectors aside, this has led to confusion in responsibilities; and
- c) the States are required to develop work schedules that reflect the challenges adopted by the Region in order to comply with the requirements raised by ICAO within the shortest timeframe.

2.1.3 There are several factors at the root cause of this situation; among other things, the following can be mentioned: the absence of more specific guidance material establishing the way in which the theoretical framework could be put into practice, and the absence of training for those responsible for implementing Annex 19 requirements.

2.2 *Agreed-upon Challenges*

2.2.1 Training

2.2.1.1 The States of the SAM Region consider training a key and priority element for SSP and SMS implementation to ensure that the provision of skills and knowledge to the different stakeholders involved in the aforementioned safety management systems constitutes an essential condition to achieve effective implementation.

2.2.1.2 In this context, consideration should be given to the establishment of a new, comprehensive training program, specifically under ICAO's responsibility, with special emphasis on

those responsible for the SSP, for safety (oversight) inspectors and for those responsible for the SMS of service providers.

2.2.2 Guidance material

2.2.2.1 To develop new guidance material, which includes the following material: guidelines, manuals, procedures and checklists, supplemented with the regional experience and reality and with special emphasis on the way in which the theoretical framework could be put into practice.

2.2.3 Information exchange

2.2.3.1 To establish as a permanent and systematic practice in the Region, the smooth and timely exchange of experiences obtained through the implementation of Annex 19 requirements in order to establish a common tool for solving similar issues.

2.2.4 Regular coordination meetings

2.2.4.1 To conduct regular coordination and follow-up meetings in order to monitor the progress of the Region's States in complying with the requirements established by Annex 19 and to enable mutual support in order to achieve the objectives within the shortest timeframes.

2.2.5 To carry out the objectives referred to in the Declaration of Bogota.

2.2.5.1 To achieve effective implementation of the SSP and SMS by 2020.

2.3 Impact on the Region

2.3.1 Considering the actual situation related to compliance with Annex 19 requirements and the major impact represented by the 91 PQs in percentage with respect to the total PQs considered in the audit, this leads to the fact that the States that will be audited as of 2018 will have a high probability of reducing their effective implementation percentage, generating with this a distorted image in public opinion regarding a supposed regression in safety, while in practice, there could be significant progress made.

2.3.2 The above-mentioned distortion could also lead to the fact that States that are below 60 percent and are not likely to be audited in 2018 could position themselves above those States that had initially obtained a higher EI percentage, which would be inconsistent.

3. CONCLUSION

3.1 The Assembly is invited to urge ICAO to review the possibility of postponing the audits against the 91 PQs to the year 2020.



WORKING PAPER

ASSEMBLY — 39TH SESSION

TECHNICAL COMMISSION

Agenda Item 33: Aviation safety and air navigation monitoring and analysis

COMPLIANCE WITH THE DECLARATION OF BOGOTA

(Presented by Chile with the support of Argentina, Brazil, Colombia, Ecuador, Panama, Paraguay, Peru, Uruguay, Bolivia, Guyana, Venezuela, and Suriname)

EXECUTIVE SUMMARY

This working paper presents the progress made by SAM States in the attainment of the safety and air navigation goals set in the Declaration of Bogota for 2016.

Action: The Assembly is invited to:

- a) take note of the information provided with respect to the progress made in the implementation of the safety and air navigation goals established in the Declaration of Bogota; and
- b) urge ICAO to review the methodology for classifying accidents in the Regions, so that, after identifying the cause of the accident, it may be classified according to the State of the Operator and its Region, or the State of Registry and its Region, as appropriate, when the State where the accident occurred is not responsible.

<i>Strategic Objectives:</i>	This working paper relates to the Safety Strategic Objective.
<i>Financial implications:</i>	N/A
<i>References:</i>	Annex 19 — <i>Safety Management</i> Annex 13 — <i>Aircraft Accident and Incident Investigation</i>

¹ English and Spanish versions provided by Chile.

1. INTRODUCTION

1.1 ICAO has incorporated into all its processes methods for measuring performance with regard to its different strategic objectives, through the establishment of a set of indicators and metrics, and performance dashboards for each Region. The performance dashboard of the SAM Region allows States to manage safety based on measurements. This approach is based on the essential safety principles: result-based work, and measuring for the purpose of managing. In the concrete case of the Declaration of Bogota, the aeronautical authorities of the SAM Region established a set of goals to be achieved by the end of 2016, the performance of which is analysed below:

2. DISCUSSION

Safety: *Achieve 80% effective implementation (EI) in the SAM Region*

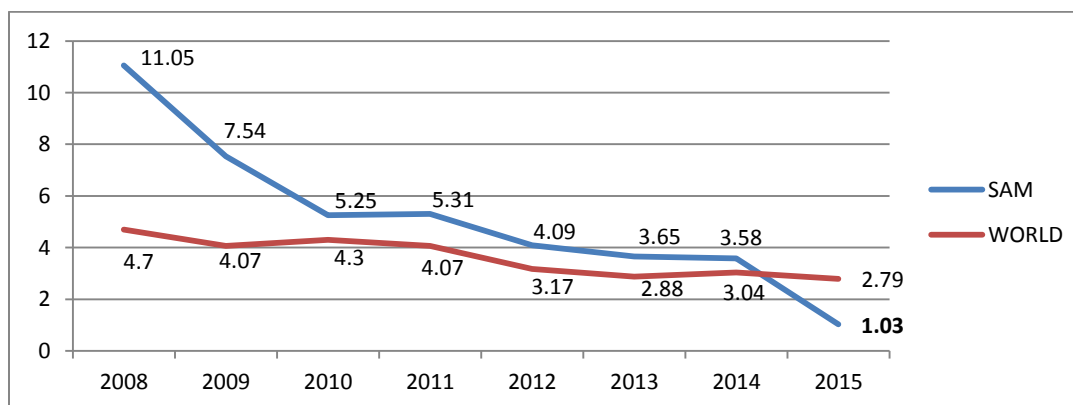
2.1 Between November 2011 and May 2016, ICAO has conducted nine (9) ICAO coordinated validation missions (ICVMs), three (3) CMA audits, and three off-site activities in the SAM Region. During this period, 8 out of the 10 States that had had a USOAP CMA activity showed significant improvement in the effective implementation of ICAO SARPs.

2.2 Based on the results obtained, the average for the SAM Region went from 66.31% in 2011 to 71.75% (+5.44%) in May 2016, still requiring an 8.25% improvement to attain the goal by the end of 2016.

2.3 The results of the three missions that ICAO will conduct starting in June 2016 until December 2016 would still need to be added. In this regard, the Region trusts that it will be able to reach the 80% goal. Seventy per cent (70%) of SAM States show an EI of SARPs above 60%.

Accidents: *Reduce the accident rate gap of the SAM Region with respect to the global accident rate by 50%*

2.4 The following table shows that the accident rate in South America (blue line) for aircraft above 5 700 kg conducting scheduled commercial air transport operations has been gradually decreasing, reaching a rate of **1.03** accidents per 1.000.000 departures in 2015. Based on this performance, the goal was exceeded in 2014, and for the first time the SAM rate was lower than the global average rate (red line) in 2015 (1.03).



2.5 However, it should be noted that the data on accidents occurred in scheduled commercial air transport in the SAM Region between 2008 and 2016, obtained through the ICAO iSTARS 3.0

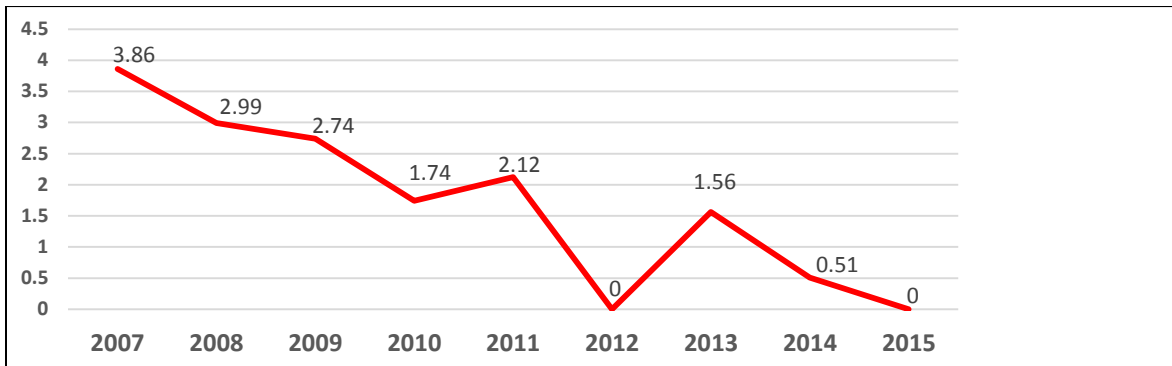
ADREP application, shows that 92 accidents occurred with aircraft above 5 700 kg, 14 of which involved aircraft of registry and operators from non-SAM States, accounting for 15% of total accidents.

2.6 In this regard, the Region requests ICAO to review the way in which accidents are classified in the Regions, so that, after identifying the cause of the accident, it should be classified by State of the Operator and its Region, or State of Registry and its Region, as applicable, when the State where the accident occurred has no responsibility.

2.7 This is mainly based on the fact that accidents involving aircraft of extra-regional operators that occur in the Region increase the perception of lack of safety, when the Region actually is not responsible for the cause of the accident, even more so, when the number of extra-regional operators exceed by far the number of operators of the Region.

Runway excursions: Reduce the rate of runway excursions by 20% with respect to the average rate of the SAM Region (2007-2012)

2.8 The average rate of runway excursions between 2007 and 2012 was 2.24 accidents per million departures. The 20% reduction goal represents 1.8 accidents per million departures. The following table shows that the performance of the SAM Region exceeded the goal set for 2014 and 2015.



Aerodromes: Achieve 20% of international aerodromes certified

2.9 The number of certified aerodromes has gone from 8 in 2013 to 19 in July 2016, reaching 18.3%. Therefore, the goal is expected to be reached by the end of 2016.

SSP and SMS: Reach 67% implementation of the SSP and 100% implementation of the SMS of service providers

2.10 To date, 42% SSP implementation and 83% SMS implementation has been achieved, although these percentages are subjective because they are based on State estimates. These percentage estimates will improve in 2016 through a survey and virtual meetings.

Resolution A37-11: Achievement of goals concerning APV procedures

2.11 Regarding compliance with approach procedures with vertical guidance (APV), 69.14% implementation was achieved by June 2016, compared to the expected 100%.

SIDs/STARs and en-route PBN: 60% of international airports with SIDs and STARs, and 60% of en-routes with PBN

2.12 Regarding the implementation of SIDs and STARs, the 60% goal was exceeded in June 2016, reaching 70.7% compliance.

2.13 Regarding the implementation of PBN routes/airspace, the 60% goal was exceeded in June 2016, reaching 65%.

CCO and CDO: 40% international aerodromes with continuous descent operations (CDO) and continuous climb operations (CCO)

2.14 Regarding the implementation of CDO and CCO, 18% and 19% was achieved by June 2016, respectively.

Reduction of CO₂ emissions: Reduce CO₂ emissions in the Region by 40,000 tonnes through the implementation of en-route PBN

2.15 As a result of the route network optimisation process in the SAM Region during 2014, the annual goal of 40,000 tonne reduction of CO₂ established in the Declaration of Bogota was exceeded by more than 11,000 tonnes, obtaining a reduction of 51,132 tonnes of CO₂. In 2015, it was 23,351 tonnes of CO₂. It is estimated that more CO₂ annual savings will be achieved during the course of 2016 if the implementation plans foreseen for this year are fulfilled. In this sense, several States have done a good job at calculating savings resulting from the optimisation of selected airspace. Most States have used the ICAO IFSET tool, while others have calculated these savings in collaboration with air service operators.

ATFM: 100% ACCs providing ATFM service

2.16 Progress has not been as expected. By June 2016, only 56% of the States of the Region had implemented ATFM. Consequently, 44% still remains to be completed in order to comply with the Declaration of Bogota.

AIM: 100% of the elements required in Phase 1 of the AIS-to-AIM roadmap

2.17 By June 2016, 70% of SAM States had implemented Phase 1 of the AIS-to-AIM transition, which involves the implementation of quality management. The remaining States have already started the quality management process.

AMHS interconnection: 100% of AMHS interconnections in the Region implemented

2.18 Out of the 26 interconnections that had to be implemented by the end of 2016, only six had been implemented and were operational by June 2016. AMHS interconnection tests have been conducted with positive results in three interconnections, which should be in operation by the end of 2016. The goal established for this critical implementation in the Declaration of Bogota would not be attained.

Interconnection of automated systems: 100%

2.19 Out of the 15 AIDC interconnections foreseen in the Declaration of Bogota, only one is in the operational phase, three are in the pre-operational phase, and 4 have been tested, with positive results. The goal set in the Declaration of Bogota for this implementation would not be reached.

Implementation of national IP communication networks: 80%

2.20 Regarding the implementation of national IP networks, 60% of the total implementation stipulated for the end of 2016 had been achieved by June 2016.

Post-Declaration of Bogota

2.21 For safety and air navigation planning after 2016 in the SAM Region, a Regional Plan to Support Air Transport in the SAM Region is being developed as a management tool to support decision-making by States to ensure the sustainable development of air transport during the next 15 years (until 2032) and thus contribute to the attainment of several sustainable development goals (SDGs) established by the United Nations to ensure the prosperity of humankind and environmental protection.

2.22 A diagnosis of the current status (applying a gap analysis) will define the activities and actions required to attain the benefits defined in the civil aviation objectives—safety, capacity, and efficiency of air navigation, aviation security and facilitation, economic development of air transport, and environmental protection. The goals, indicators, and metrics of the plan are based on the following four main axes: connectivity, capacity building, safety, and the environment.

— END —



ASSEMBLY — 39TH SESSION

TECHNICAL COMMISSION

Agenda Item 33: Aviation safety and air navigation monitoring and analysis

RECOGNITION OF MULTINATIONAL CERTIFICATIONS

(Presented by Chile, with the support of Argentina, Bolivia, Brazil, Colombia, Ecuador, Guyana, Panama, Paraguay, Peru, Uruguay, Suriname, and Venezuela)

EXECUTIVE SUMMARY

The SRVSOP, as a regional safety oversight organisation (RSOO) in Latin America, shares the need to reduce duplication of activities concerning certification and oversight of approved maintenance organisations (AMOs) and approved training organisations (ATOs), so as to contribute to the global development of the aeronautical industry and strengthen safety through the application of standards consistent with the SARPs contained in the Annexes to the Chicago Convention for the conduction of these activities.

Action: The Assembly is invited to:

- a) support ICAO in the implementation of actions for the establishment of a global framework for the certification and oversight of AMOs and ATOs, based on the regional harmonisation of regulatory requirements and procedures for conducting these activities;
- b) urge States and regional organisations at global level to sign agreements for mutual recognition of approved maintenance and training organisations in order to avoid duplication of efforts and contribute to the development of the global aviation industry; and
- c) urge States to set deadlines for the harmonisation of their regulations, based on the SARPs contained in the Annexes to the Convention, in order to allow for their standardisation and to facilitate multinational processes of certification and oversight of the aforementioned organisations.

<i>Strategic objectives:</i>	This paper relates to the Safety and Air Navigation Capacity and Efficiency Strategic Objectives.
<i>Financial implications:</i>	Resource savings in certification and oversight processes.
<i>References:</i>	Annex 1 — <i>Personnel Licensing</i> Annex 2 — <i>Rules of the Air</i> Annex 6 — <i>Operation of Aircraft</i> Annex 7 — <i>Aircraft Nationality and Registration Marks</i> Annex 8 — <i>Airworthiness of Aircraft</i> Annex 14 — <i>Aerodromes</i> Annex 16 — <i>Environmental Protection</i> Annex 18 — <i>The Safe Transport of Dangerous Goods by Air</i> Annex 19 — <i>Safety Management</i> Doc 7300, <i>Convention on International Civil Aviation</i> Doc 10046, <i>Report of the Second High-Level Safety Conference (2015)</i>

¹ Spanish version provided by Chile.

1. INTRODUCTION

1.1 The Second High-Level Safety Conference held in Montréal, Canada from 2 to 5 February 2015, through Conclusion 3/1, established that ICAO, in collaboration with the States and the industry, should develop an international framework and regional initiatives to help reduce duplication of activities for the certification and oversight of approved maintenance organisations (AMO).

1.2 The Conference was also presented by the United States Federal Aviation Administration (FAA) with a working paper highlighting that, due to the globalisation of the international aviation industry, service organisations, like AMOs, were subject to a variety of certification and oversight processes under different regulatory schemes by civil aviation administrations (CAAs) of the States to which they applied. This does not necessarily translate into an enhanced level of safety, but quite the opposite, into an expenditure of resources for States and the industry, with the corresponding duplication of tasks. Accordingly, it felt the need to establish new strategies to consider other efficient ways to conduct oversight and promote the development of these organisations of the aeronautical industry.

1.3 Although many States have entered into bilateral agreements with a view to reducing such duplication, this continues to consume State and industry resources, and not only of the AMOs but also of the approved training organisations (ATOs). The introduction of safety management system (SMS) implementation requirements for such organisations has worsened the problem.

1.4 On the other hand, the Regional Safety Oversight Cooperation System (SRVSOP), which groups 12 Latin American States, not exempt from this reality, established a strategy within its State assistance mission that stated that the first step to avoid duplication of efforts and resources among its States was to develop common regulations based on the Standards and Recommended Practices (SARPs) contained in the Annexes to the *Convention on International Civil Aviation* (Doc 7300), called Latin American Aeronautical Regulations (LARs), to expedite a safe and efficient implementation of the processes applied by both civil aviation authorities and the industry, under one same approach.

1.5 In this sense, the LARs were developed seeking a high level of harmonisation and using the SARPs contained in the Annexes to the Convention and the analysis of regulatory models from other States with major aeronautical industries as a basis for their development and updating.

1.6 At present, the SRVSOP has issued 36 regulations that address the requirements of Annex 1 — *Personnel Licensing*, Annex 2 — *Rules of the Air*, Annex 6 — *Operation of Aircraft*, Annex 7 — *Aircraft Nationality and Registration Marks*, Annex 8 — *Airworthiness of Aircraft*, Annex 14 — *Aerodromes*, Annex 16 — *Environmental Protection*, Annex 18 — *The Safe Transport of Dangerous Goods by Air*, and Annex 19 — *Safety Management* to the Convention on International Civil Aviation. Likewise, to supplement this and for better implementation by its States and the aviation industry, there are 10 manuals, 38 advisory circulars, 4 guidance brochures on multinational certification, and 28 compliance checklists that are used by States to report progress in LAR harmonisation. This helps those States that are in the harmonisation process to address critical elements 2 (regulations) and 5 (technical guidance).

1.7 Furthermore, the SRVSOP provides training to both CAAs and the industry to address critical element 4, leaving to the States the responsibility of implementing and complying with the critical elements of implementation (CE-6, CE-7, and CE-8).

2. MULTINATIONAL CERTIFICATIONS WITHIN THE SRVSOP FRAMEWORK

2.1 Progress made by States in LAR harmonisation, currently at a global average of 73% (PEL/OPS/AIR) and with an agreed deadline of March 2017, has allowed the States to take more

ambitious steps, such as the signing of multinational technical cooperation agreements for mutual recognition of multinational certifications issued by multinational LAR inspection teams for:

- a) maintenance organisations (LAR 145);
- b) civil aviation training centres (LAR 141, 142, and 147); and
- c) aviation medical examining centres (LAR 67).

2.2 Multinational certification of maintenance organisations started in 2012 under this Agreement, which has served to foster certification and renewal activities in a multinational environment, avoid duplication of efforts, and foster strict compliance with the standards and recommended practices contained in the Annexes to the Convention on International Civil Aviation.

2.3 Regarding AMOs, four (4) maintenance organisations in Latin America have obtained the multinational certification to date:

- a) LAN Peru
- b) AEROLANE of Ecuador
- c) LAN Colombia
- d) CMR SAS of Colombia

2.4 Likewise, the SRVSOP has started the certification process of the maintenance organisation *Division Turbos SRL* of Argentina.

2.5 Regarding training centres, it is expected that the first multinational certification will be granted this year with a LAR 141 training centre of Ecuador. Other requests have been received, which will be accommodated in 2017.

3. GLOBAL RECOGNITION OF MULTINATIONAL CERTIFICATIONS

3.1 It is considered that the establishment of an international framework and the promotion of regional initiatives is a first priority to help reduce the duplication of activities concerning oversight of entities such as AMOs and ATOs, allowing for an efficient and well-organised management of oversight activities, supported by harmonised regulations based on the SARPs contained in the Annexes to the Convention. This framework would allow all States to use their resources more efficiently, reduce significantly the number of inspections, and allow the industry to conduct its activities according to a transparent and manageable oversight timetable.

3.2 Likewise, the conduction of multinational inspections under uniform assessment criteria would contribute to strengthen safety. In conclusion, it is felt that the existence of certification and oversight processes in a multinational environment would generate the following benefits for the industry and the CAAs worldwide:

For the industry

- a) Under a single process, an organisation could obtain the authorisation of other ICAO signatory States signatory to multinational agreements, thus avoiding duplication of efforts (man-hours and documentation) and achieving significant cost savings, resulting in increased profitability to be invested in safety.
- b) The organisation would be assessed and overseen under uniform criteria and procedures based on the SARPs contained in the Annexes to the Convention and on best audit practices mutually agreed among the States, thus avoiding additional and sometimes different requirements.
- c) The multinational approach would allow organisations to expand their services to aircraft of other registries, resulting in increased profits and greater presence in the aeronautical market.

For the CAA/State

- a) Promotes the development of certification and oversight activities in a multinational environment.
- b) Promotes the development of State organisations, achieving a high quality and safety standard worldwide.
- c) Optimises the competencies of government inspectors through the application of best certification and oversight practices under standard procedures.
- d) Increases effective compliance with the critical elements of the State safety system with regard to certification and oversight processes.

— END —



WORKING PAPER

ASSEMBLY — 39TH SESSION

TECHNICAL COMMISSION

Agenda Item 34: Aviation safety and air navigation policy

AN ASSESSMENT OF THE GASP AMENDMENT

(Presented by Peru and supported by the countries of the South American (SAM) Region and the twenty-two Member States of the Latin American Civil Aviation Commission (LACAC)²)

EXECUTIVE SUMMARY

Consideration should be given to the establishment of a new GASP planning deadline, setting out objectives that are clear and achievable by 2022, with a 6-year GASP review cycle, removing the current rigidity and taking account of the specific maturity level of each State's SSP.

Action: The Assembly is invited to:

- a) analyse the relevance of maintaining a referential milestone of 60 per cent EI (effective implementation) of SARPs;
- b) extend the GASP amendment deadline to at least 6 years, given that it takes time for States to be able to achieve the strategic objectives. ICAO could ask for comments in the interim three-year period, in order to be able to make an appropriate amendment every 6 years;
- c) promote this new vision in the corresponding fora.

<i>Strategic Objectives:</i>	This working paper relates to the Safety and Air Navigation Capacity and Efficiency Strategic Objectives.
<i>Financial implications:</i>	N/A.
<i>References:</i>	Annex 1 — <i>Personnel Licensing</i> Annex 6 — <i>Operation of Aircraft</i> Annex 8 — <i>Airworthiness of Aircraft</i> Annex 11 — <i>Air Traffic Services</i> Annex 13 — <i>Aircraft Accident and Incident Investigation</i> Annex 14 — <i>Aerodromes</i> Doc 10004, <i>Global Aviation Safety Plan (2014-2016 and 2017-2019)</i> State Letter AN 8/3.1-16/16 on the Adoption of Amendment 1 to Annex 19 ESC/25-NE/08 Rev. Twenty-Fifth Regional Aviation Safety Group-Pan America Executive Steering Committee Meeting (RASG-PA ESC/25) http://www.icao.int/RO_NACC/Pages/meetings-2015-rasgpaesc25.aspx

¹ Spanish version provided by Peru.

² Presented by 22 Contracting States (Argentina, Aruba, Belize, Bolivia (Plurinational State of), Brazil, Chile, Colombia, Costa Rica, Cuba, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela (Bolivarian Republic of)).

1. INTRODUCTION

1.1 Important changes have been made to the Global Aviation Safety Plan (GASP) as the guidance instrument for defining high-level policies which, as with the Global Air Navigation Plan (GANP), establishes guidelines and complements the continuous improvement of the global air transport sector.

1.2 The GASP proposes the targets and priorities to be addressed by State and aviation safety regional planners. It also sets out a common planning framework for States to make improvements in safety through the use of four Safety Performance Enablers: standardization, collaboration, resources and safety information exchange. It also proposes strategies and best practice guidance material to assist States and regions to find concrete solutions to address the global objectives and priorities.

1.3 One of the most important aspects of the GASP's objectives is that all States implement over the next few years effective safety oversight systems and fully implement the ICAO State Safety Programme (SSP) framework.

1.4 Although the GASP sets global objectives and priorities, it needs to incorporate a clear, achievable, long-term vision for both States and industry, which wins over and inspires the different stakeholders to work on and make improvements in their organizations for the attainment of this vision. This engaging and inspiring vision should generate a leadership process, which helps to mobilize political will and resources to achieve the proposed objectives.

1.5 Attachment E to State letter AN 8/3.1-16/16 regarding Amendment 1 to Annex 19 – *Safety Management*, proposes 07 November 2019 to States as the applicability date for this amendment.

2. DISCUSSION

2.1 The following improvement opportunities could be considered when developing the new GASP:

- a) the region fully agrees that States, which have an effective implementation of SARPs below 60 per cent, should concentrate their efforts on achieving an effective safety oversight system before starting to implement the SSP;
 - However, States that are above 60% are not necessarily in a position to be audited with the 91 PQs as of 2018, considering the marginal progress made with SSP and SMS implementation in the region;
 - Therefore, the results obtained at the time when the audits are conducted should not affect the effective implementation percentage for the other PQs and hence, it should be recorded separately, at least until all States are subject to the same audit conditions.
- b) The GANP and the GASP currently have a similar structure, something which is not necessarily commensurate with the special characteristics of the information contained therein. Therefore, it would be useful to adjust the structure of the GASP in order to avoid restricting its content and conditioning its effectiveness; and

- c) develop an efficient and effective futuristic vision that addresses evolutionary developments in aviation and safety activities.

2.2 Building the vision

2.2.1 The first step should be to define the vision of the future environment that we want to build with the Plan. We then need to analyze the current situation on the basis of this vision, before defining the strategies needed to achieve this future vision. In other words, we need to envisage as clearly as possible what we want to achieve or where we want to go with the GASP. Once this has been defined, we need to chart out the course of the GASP towards the future and define the corresponding milestones.

2.2.2 The vision should take account of the environment in which air transport will operate in 2022. It will perhaps operate in a very advanced technological environment with an autonomous, continuous and automatic cloud-based flow of information enabling the immediate, safe exchange of data between in-flight and ground entities; an environment in which sensors transmit and receive data and can selectively determine which information is useful for improving safety. This concept has already been captured in the GANP but it has not been so clearly stated in the GASP.

2.2.3 Furthermore, this vision should take into account that safety management systems may become smart information systems that process data and calculate risks automatically, based on the data shared by multiple entities, and that are also capable of generating real-time hazard alerts and intervening in systems when so required.

2.2.4 This will only be possible if States accompany this evolutionary process. Only a mature SSP can guarantee the proper conditions for a continuous and safe exchange of information, thus permitting timely processing of data. SSPs must mature as the GASP progresses, and should be fully mature by the time risk management based on the flow of information shared in the cloud starts operating.

2.3 The GASP review cycle

2.3.1 According to the region's experience, a minimum period of 6 years is required to be able to launch and move forward with a new concept. For example, the SSP Programme has not yet been able to be implemented, in spite of the fact that the corresponding standards became applicable on 23 November 2006 for Annexes 6, 11 and 14 and on 18 November 2010 for Annexes 1, 8 and 13. Amending a new concept, programme or new provisions within as short a period as three years only causes confusion amongst States, holds up progress and interrupts the implementation cycle underway.

2.3.2 Given the response times of the civil aviation system to review the GASP for the 2019-2022 triennium, a working group could be created to duly visualize the future of safety management systems, in order to enable the development of a roadmap that works backwards from the end date, and defines the milestones to be attained at each stage. ICAO could call upon industry professionals, data analysts and other experts who are capable of defining the characteristics of this future.

2.3.3 The new GASP should not be limited by the structure and content of the GANP. Instead, some points of convergence should be defined to make sure that both plans are developed in a coordinated manner, without conditioning or limiting the specific requirements and potential of the other.

2.3.4 The process should be supported by an aggressive, global communication campaign to disseminate the goals of the GASP and the importance of the role played by States and Regions in ensuring compliance.

2.3.5 Since the GASP has been set up as a high-level policy document to guide and complement air transport progress, it must contain realistic deadlines and compliance targets. It must also be harmonized with GANP provisions, Annex 19 and the relevant implementing provisions.

3. **CONCLUSION**

3.1 The GASP has to be an inspiring document that generates a process of global leadership and offers an engaging and irresistible vision so that it is perceived as the realistic global reference on the milestones and specific priorities to be taken into account by States and aviation safety regional planners. It also needs to be harmonized with Annex 19.

— END —



WORKING PAPER

ASSEMBLY — 39TH SESSION

TECHNICAL COMMISSION

Agenda Item 36: Aviation safety and air navigation implementation support

**ESTABLISHMENT AND MANAGEMENT OF THE AIG REGIONAL COOPERATION
MECHANISM (ARCM) OF SOUTH AMERICA**

(Presented by Argentina with the support of Bolivia, Brazil, Chile, Colombia, Ecuador, Guyana, Panama, Paraguay, Peru, Uruguay, Suriname, Venezuela and Caribbean Aviation Safety and Security Oversight System (CASSOS))

EXECUTIVE SUMMARY

This working paper presents the establishment of the AIG Regional Cooperation Mechanism (ARCM) of South America, as well as the progress attained in conforming this as an organism in support of aircraft accidents and incidents investigation and of the improvement of safety in the Region.

Action: The Assembly is invited to:

- a) take note of the creation of the AIG Regional Cooperation Mechanism (ARCM) of South America;
- b) urge States and regional organization worldwide to subscribe agreements with the ARCM to strengthen global AIG cooperation; and
- c) support the ARCM in achieving its objective addressed to improve effective implementation (EI) of it member States and to reduce the aircraft accidents and incidents rate in the Region.

<i>Strategic Objectives:</i>	This working paper relates to the Safety, Air Navigation Capacity and Efficiency and Economic Development of Air Transport Strategic Objectives
<i>Financial implications:</i>	None
<i>References:</i>	Report of the First South American AIG Authorities Meeting (AIG-SAM/1), Lima, Peru, 18 - 20 March 2014. (http://www.icao.int/SAM/Pages/MeetingsDocumentation.aspx?m=2014-AIG) Report of the Second South American AIG Authorities Meeting (AIG-SAM/2), Buenos Aires, Argentina, 09 - 11 June 2015: (http://www.icao.int/SAM/Pages/MeetingsDocumentation.aspx?m=2015-AIG2) Report of the Third South American AIG Authorities Meeting (AIG-SAM/3), Lima, Peru, 07 - 09 March 2016: (http://www.icao.int/SAM/Pages/MeetingsDocumentation.aspx?m=2016-AIGSAM03)

¹ English and Spanish versions provided by Argentina with the support of Bolivia, Brazil, Chile, Colombia, Ecuador, Guyana, Panama, Paraguay, Peru, Uruguay, Suriname, Venezuela and Caribbean Aviation Safety and Security Oversight System (CASSOS)).

1. INTRODUCTION

1.1 With the vision of improving the effective implementation (EI) of its States and to support the decrease of aircraft accidents and incidents rate in the SAM Region, the ICAO South American Office, in 2013 and 2014, carried out a survey and a diagnosis of the AIG situation in its States.

1.2 In the diagnosis accomplished, the SAM Region analysed the last results obtained for its States in the Universal Safety Oversight Audit Programme (USOAP) up to 2014, and determined, that one of the audit areas with less effective implementation (EI) regarding the safety oversight capability was the area of aircraft accidents and incidents investigation (AIG), showing **69.64%** of compliance.

1.3 It was principally observed that, in this area, the aspects related to investigation policies and procedures; development, completion and release of the final report; organization and personnel staffing and training; development, issuance, and recording of safety recommendations and accident/incident data reporting (ADREP) are the ones that have the highest number of unsatisfactory Protocol Questions (PQ) as the SAM States general average.

1.4 The Region considered that those aspects should be object of a deeper analysis in order to identify the root causes and to establish mitigation measures that could be tackled from a collaborative point of view through the implementation of a regional AIG cooperation mechanism, as one of the forms of a regional organization for aircraft accidents and incidents investigation (RAIO), and as one of the acceptable solutions to improve the SAM Region effective implementation and support the decrease of accidents and incidents in the region.

1.5 The Region also analysed the possibility that several States would not have the resources to investigate the full range of aviation accidents and incidents or to carry out an exhaustive analysis of data on accidents and incidents that are received. For these States, the establishment of the ARCM could be one of the solutions to improve their national system of investigating accidents and incidents.

2. ARCM ESTABLISHMENT AND MANAGEMENT

2.1 To establish the ARCM, the South American Region held three face-to-face meetings and one virtual meeting in a period of two-year management.

2.2 In the First meeting (Lima, Peru, 18 - 20 March 2014), SAM States AIG authorities presented the situation of their organizations and agreed on a strategic plan to conform the ARCM. As follow up of this meeting, a virtual meeting was programmed in November 2014, in which the diagnosis of the AIG situation in South America was presented, which was the base for the first steps of the ARCM creation.

2.3 In the Second meeting (Buenos Aires, Argentina, 09 - 11 June 2015), AIG authorities of 13 States of South America formally established the ARCM, and approved the first version of the regulations and guidance material of the AIG mechanism.

2.4 In the Third meeting (Lima, Peru, 07 - 09 March 2016), AIG authorities of SAM States signed a multinational technical cooperation agreement to facilitate the cooperation among its States. Up to date, 10 of the 13 States have adhered to this Agreement.

2.5 The ARCM has been implemented following its strategic plan principal guidelines and according to a continuous process that has allowed to the AIG authorities of the 13 South American States to share their knowledge and resources.

2.6 During the stages of the process, States have agreed on the benefits that can be obtained with the implementation of the mechanism, considering also that this could be the solution for States having difficulties in attending their international commitments in matter of accidents investigation.

2.7 The ARCM participation is open to the AIG Authorities of States of the Region, as well as to State and/or private entities that, interested in accidents and incidents investigation, express their will to be part of the ARCM as special observers.

2.8 The following AIG organizations are presently part of the ARCM as special observers: BEA from the Republic of France, NTSB from the United States of North America, and CASSOS (Caribbean Aviation Safety and Security Oversight System).

3. ACHIEVEMENTS

3.1 A set of regulations and documents has been elaborated in accordance with ICAO documents guidelines, in order that the investigation organizations of the Region adopt or harmonise it. This will allow standardising procedures for carrying out accidents and incidents investigations in the region within a common and harmonised framework.

3.2 Likewise, a webpage has been created (www.arcam-sam.org), where all the documents and activities developed by the ARCM are being posted.

3.3 The ARCM has established a safety data collection and processing system (SDCPS) to guarantee the collection, storage and management of accidents and incidents data of member States. This system will permit establishing the necessary preventive measures to improve safety in the region.

3.4 Virtual assistance has been provided to different SAM States for the revision of AIG protocol questions (PQ). The end of the revision of AIG PQs is planned to be concluded by December 2016.

3.5 AIG authorities of the ARCM States have signed an AIG cooperation agreement for regional cooperation and for the use of the following resources prior agreement between the parts:

- a) Investigators or other specialists related to the field of AIG;
- b) technical installations;
- c) equipment related to accidents and serious incidents investigations;
- d) training, including on-the-job training (OJT);
- e) reading of flight data recorders and cockpit voice recorders;
- f) material and fluids trials; and
- g) elaboration of documents and other publications.

4. **NEXT STEPS**

4.1 Once the ARCM has been established, the principal objective of AIG authorities is to operate the mechanism in an effective and efficient way, comply with the annual activities programme allowing the management of regional safety in the field of AIG, improve effective implementation (EI) of member States, and reduce aircraft accidents and incidents rate in the Region.

4.2 The annual activities programme contemplates the harmonization of regulations, activities with multinational teams to facilitate AIG assistance, training activities and workshops, AIG meetings, implementation of ADREP/ECCAIRS systems in all the States of the region, and the implementation of the ARCM safety data collection and processing system (SDCPS) at a regional level.

5. **CONCLUSION**

5.1 The AIG Regional Cooperation Mechanism (ARCM) of South America is and will be, without any doubt, a fundamental tool for safety improvement of its member States and of the Region.

— END —



WORKING PAPER

ASSEMBLY — 39TH SESSION

TECHNICAL COMMISSION

Agenda Item 36: Aviation safety and air navigation implementation support

PROTECTION OF SAFETY INFORMATION

(Presented by Peru and supported by the countries of the South American (SAM) Region and the twenty-two Member States of the Latin American Civil Aviation Commission (LACAC)²)

EXECUTIVE SUMMARY

This working paper examines opportunities for improvement relating to the need to take a close look at aspects of safety information protection.

Action: The Assembly is invited to review the arguments put forward in this working paper with a view to requesting ICAO to consider incorporating the Region's suggestions into the amendment to Annex 19.

<i>Strategic Objectives:</i>	This working paper relates to the Safety Strategic Objective.
<i>Financial implications:</i>	N/A
<i>References:</i>	Annex 19 — <i>Safety Management</i> Annex 13 — <i>Aircraft Accident and Incident Investigation</i>

¹ Spanish version provided by Peru.

² Presented by 22 Contracting States (Argentina, Aruba, Belize, Bolivia (Plurinational State of), Brazil, Chile, Colombia, Costa Rica, Cuba, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela (Bolivarian Republic of)).

1. INTRODUCTION

1.1 On February 22, 2016, the ICAO Council adopted Amendment 15 to Annex 13 — *Aircraft Accident and Incident Investigation*, which considers the current difficulties experienced by the authority responsible for accident and incident investigation in adequately protecting the records and the multiple reports, interests, and projects related to the investigation.

1.2 The following elements and key factors referred to in the amendment should be highlighted: a) the improved protection of investigation records, while simultaneously maintaining a balance between the objectives of the investigation and other public interests; b) effective means for protecting the records that are under the control of the investigating authority; c) support for States that enables the designated competent authority to apply the “balancing test for conflicting interests”; d) the acknowledgement that different protective safeguards are required for different circumstances and that complete protection can be counter-productive; e) adaptation to different legal systems and State practices in order to provide effective protection of investigation records.

1.3 Subsequently, on March 2, 2016, the Council adopted Amendment 1 to Annex 19 — *Safety Management*, which considers a series of recommendations derived from the 2nd HLSC 2015. At that conference, it was apparent that the positions on information protection were valid but also divergent, and that at the time, there were no clear criteria for specifying what was to be protected. This was corrected in Amendment 1 to Annex 19, which includes the following: a) standardization of the terms used throughout the amendment, b) development of definitions for safety data and information, and c) consideration of the content of the guidance material in Attachment B of Annex 19 as part of the Standards and Recommended Practices (SARPs) on this subject.

1.4 The South American (SAM) Region recognizes and appreciates the work done by ICAO and the rapid response to and consideration of the concerns raised by the States of the Region during the 2nd HLSC held in February 2015, as well as the comments made by the States of the Region concerning the content of Amendment 1 to Annex 19.

2. DISCUSSION

2.1 The current trend in these States with respect to information is to promote the transparency of public management and to regulate citizens’ rights to access information. It is in this context that it has been difficult for the States of the Region to establish a legal framework for the protection of safety information, which is essential to decreasing the accident rate and thus to protecting human lives.

2.2 Clearly, it is fundamentally important to protect against the inappropriate use of safety information so that it continues to be available in a way that enables States to adopt adequate and appropriate preventive measures.

2.3 Despite the significant improvements contained in Amendment 1 of Annex 19, the States of the Region consider that ICAO still needs to take additional action to help States achieve their objectives for information protection, especially as follows:

Levels of and conditions for protection

2.3.1 Amendment 1 of Annex 19 refers to States’ obligation to share safety information considered to be of interest to other States, and it stipulates the condition that the level of protection and

the conditions under which such information will be shared must be agreed upon. Additionally, States must ensure that the conditions are specified under which safety data and information and the related sources qualify for protection.

2.3.2 The foregoing situation creates a contradiction in the sense that when Annex 19 was drafted, the scope of protection clearly included safety data and information and related sources. The inclusion of conditions and levels for determining the scope of protection of the above-mentioned elements could, however, leave some data, information and related sources outside the scope of protection despite their need for protection. They necessarily should be protected in light of the very mandate of Amendment 1 to Annex 19, which does indeed grant each State the authority to establish its own conditions and levels.

2.3.3 If this situation persists, ICAO will need clearly to define the conditions and levels it is referring to so that we can rely on having standardized elements for all States.

Related sources

2.3.4 Amendment 1 to Annex 19 established the scope of protection, setting out three elements which must be protected: safety data, safety information, and the related sources. Although the first two elements have been defined, there is no definition of what could be considered related sources.

2.3.5 The lack of a definition of related sources would mean that the States do not have complete information as to which specific sources they have to protect. Such an omission could lead some States to fail to identify all of the sources, thereby undermining the progress made by ICAO on the definitions already provided in the amendment.

Right to know law

2.3.6 It is general knowledge that laws relating to the right to know or laws concerning the freedom of information, open records, or transparency allow the public to access information held by the State.

2.3.7 In considering it a mandatory obligation for States to create exceptions within right-to-know laws in order to guarantee the confidentiality of voluntarily supplied safety data and information, ICAO is creating a requirement that limits States' freedom to regulate the protection of safety information through the regulatory frameworks that they consider appropriate and that could, in fact, be more effective, such as a special law on the protection of safety information independent of the right-to-know law.

2.3.8 The foregoing is based upon a degree of complexity involved in incorporating exceptions into this type of law. The following examples of such complexity can be highlighted.

2.3.9 While it is true that exceptions to this rule can be found, access to information, like any right, is not absolute. The exceptions must, however, meet the following requirements: a) they must be expressly set out in a law (includes the Constitution); b) the exception must be supported by the need to protect a fundamental right (privacy or life, for example) or other constitutional right (national security, for example); c) it is not sufficient for the exception simply to be provided for in the Law. Rather, in order for it to be legitimately enforced, the party alleging the violation must prove that in the case in question, dissemination of the information will create a certain (real), impending, and serious risk (evidence of harm) to the basic right or other constitutional legal right which the cited exception is intended to protect; d) the interpretation of the exception must always be restrictive.

2.3.10 Therefore, taking into account the type of information that is associated with safety, all of the aforementioned requirements could be met without their legitimacy being questioned, but the complexity involved in providing evidence of impending harm could make it obligatory to submit information relevant to safety.

2.3.11 In accordance with all of the above statements, the Region requests that ICAO make the requirement more flexible so that the States have the power to choose the legal mechanism they will use to achieve the objective of protecting safety information, which is considered a priority by all of the States.

ICAO's strategy for implementing information protection

2.3.12 We consider it appropriate to request ICAO to step up its efforts so that it may offer the region clarity regarding the scope and object of the protection. Thereafter, ICAO will have to consider a complete strategy that includes all those in the relevant authorities who are involved in the approval of the legal framework for the protection of safety information so that it can convince the political, legislative and legal institutions and the wider citizenry of the importance of such an approval.

2.3.13 Considering that there is no doubt within the world of aviation that information protection is important, it could serve as a key negotiating tool for ICAO to work actively with the various levels within States, given that its involvement as an international organization specialized in civil aviation would be of great assistance in achieving the desired outcomes.

3. CONCLUSION

3.1 The Assembly is invited to urge ICAO to consider taking into account the proposals contained in this working paper.

— END —