



*International Civil Aviation Organization*

**First Meeting of the Asia Pacific Accident Investigation Group (APAC-AIG/1)**  
*(Bali, Indonesia, 18-19 September 2013)*

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**Agenda Item 2: Report on recent accident/incident investigation related developments and activities**

**ICAO SAFETY INFORMATION PROTECTION TASK FORCE**

(Presented by Singapore)

**SUMMARY**

This paper draws the States/Administrations' attention to the work of the ICAO Safety Information Protection Task Force (SIP TF).

**1. INTRODUCTION**

1.1 The collection, voluntary reporting, analysing and confidential sharing of safety information is essential for improving the safety of international civil aviation. However, the success of such safety data collection, processing and exchange systems (SDCPS) depends, in part, on the existence of effective legal safeguards that allow analysis and investigations to proceed in a way that protects and encourages meaningful reporting and cooperation among the participants in those systems.

1.2 In October 2008, the Accident Investigation and Prevention (AIG) Divisional Meeting recommended that ICAO undertake a study with the aim of reviewing and facilitating the implementation of Paragraph 5.12 and Attachment E to Annex 13. The High-Level Safety Conference, held in Montreal from 29 March to 1 April 2010, also recommended that ICAO establish a multidisciplinary group, supported by Member States and international organisations, to progress activities regarding the protection of safety data and safety information to ensure availability of safety information. The 37<sup>th</sup> Session of the Assembly, held in Montreal from 28 September to 8 October 2010 instructed the ICAO Council to consider enhancing the provisions on the protection of certain accident and incident records to facilitate effective implementation of Annex 13 provisions, taking into account the necessary interactions between safety and judicial authorities in the context of an open reporting culture.

1.3 With these recommendations in mind, the ICAO Secretariat determined these issues to be of sufficient scope and importance as to warrant additional review and analysis by a group of experts convened specifically for this purpose, and the Air Navigation Commission established the Safety Information Protection Task Force (SIP TF) in December 2010.

## 2. DISCUSSION

2.1 The SIP TFs' tasks were to provide recommendations for new or enhanced provisions and guidance materials related to the protection of safety information in support of the state safety programme and safety management systems, including safety information gathered through accident/incident investigation and confidential/voluntary/ non-punitive incident reporting systems.

2.2 The SIP TF comprised a multidisciplinary membership of safety and legal experts of 25 members from 19 Member States<sup>1</sup>, six International Organisations<sup>2</sup> and supported by 30 advisors. The task force were led by Dr Jonathan Aleck of Civil Aviation Safety Authority of Australia as the Chairman and Mr Kenneth Quinn of the Flight Safety Foundation as the Vice Chairman.

2.3 The SIP TF completed its deliberations during the fourth meeting held in Montreal in January 2013. The SIP TF made findings and recommendations for new and/or enhanced Standards and Recommended Practices (SARPs) and guidance materials, mostly relating to Annex 13 (Aircraft Accident and Incident Investigation) and the new Annex 19 (Safety Management)<sup>3</sup> to facilitate the appropriate protection and use of information generated through accident and incident investigations and information collected through safety management processes.

### a) Annex 13

Paragraph 5.12 (Non-disclosure of records) of Annex 13 prescribes the protection of certain records gathered by the accident investigation authority in the course of an investigation. These records could only be considered for release through a due process of "balancing test" for deciding whether the disclosure of the records outweighs the adverse domestic and international impact such action may have on that or any future investigations. A number of the SIP TF recommendations were aimed at enhancing the protection of such records. They include the following:

- i. The authority designated in Annex 13 to perform the balancing test should be a competent authority designated by the State, but does not need to be an authority for the administration of justice (as is currently the case).
- ii. The public disclosure of the audio contents of cockpit voice recordings and the video contents of cockpit airborne image recordings should be absolutely prohibited, i.e. these recordings should not be subjected to any balancing test.
- iii. An Attachment could be added to Annex 13 listing the types of records usually obtained or generated by the accident investigation authority in the course of an investigation with an explanation as to why a particular type of record needs to be protected.
- iv. Examples of State legislation that provides for the protection of accident/incident investigation information could be provided in a guidance material.

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<sup>1</sup> 19 Member States: Australia, Austria, Brazil, Cameroon, Canada, Chile, Costa Rica, France, Japan, Nigeria, Peru, Republic of Korea, Russia, Singapore, South Africa, Spain, United Arab Emirates, United Kingdom & United States.

<sup>2</sup> 6 International Organisations: Civil Air Navigation Services Organisation (CANSO), European Union/European Commission, Eurocontrol, Flight Safety Foundation (FSF), International Airlines Transport Association (IATA) & International Federation of Airline Pilots' Associations (IFALPA).

<sup>3</sup> The new Annex 19 (Safety Management) has been adopted by the ICAO Council and will become applicable on 14 November 2013.

- v. An accident investigation authority should have advance arrangements with competent judicial authorities to inform them on the roles of the accident investigation authority, the difference between an Annex 13 investigation and a police investigation, and the need to protect safety information.
- vi. Relevant ICAO bodies to review Attachment E (Legal Guidance for the Protection of Information from Safety Data Collection and Processing Systems) to consider its elevation into an Appendix.

b) Annex 19

The new Annex 19 was developed from the recommendations of the Safety Management Panel (SMP). The SIP TF made the following recommendations:

- i. New and/or enhanced provisions in Chapter 5 (Safety Data Collection, Analysis and Exchange) to assure the protection of data collection, analysis and exchange and its related sources.
- ii. Elevate Attachment B (Legal Guidance for the Protection of Safety Information From Safety Data Collection and Processing Systems)<sup>4</sup> to an Appendix with a view to strengthening the principles of protection of voluntarily reported safety information and the principles of exception for the disclosure of such information (which principles may be extended to mandatorily reported safety information, if a State so wishes).

**3. ACTION BY THE MEETING**

- 3.1 The meeting is invited to note the findings and recommendations of the SIP TF.

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<sup>4</sup> The Attachment B of Annex 19 is duplicated from Attachment E of Annex 13.