



International Civil Aviation Organization

Western and Central African Office

**Second Meeting of the AFI SAR Services Integration Task Force
(ASSI TF/2) (Nairobi, Kenya, 5 - 6 December 2012)**

Agenda Item 5: SAR Legislation and Regulations

(Presented by the Secretariat)

SUMMARY

This paper highlights the importance of the legislative and regulatory framework related to the provision of SAR services at the national level as well as with regard to SAR agreements.

Action by the meeting is at **paragraph 3**.

REFERENCES

This Working Paper is related to Strategic Objectives: **A**

1. INTRODUCTION

1.1 The meeting may recall that the APIRG air navigation deficiencies recording system, the assessment made by the AFCAC/ICAO SAR project (2002-2007), as well the Universal Safety Oversight Audit Programme (USOAP) audits findings concurred and showed that the lack of appropriate SAR legislation/regulation and lack of SAR agreements were the major specific deficiencies that continued to be the long-time obstacles to the provision of efficient SAR services in AFI region.

1.2 It will be recalled that one of the objectives of a SAR legislation is to make a SAR operation legal and to empower the SAR Mission Coordinator to discharge his/her duties and to protect him/her against legal action taken by owners of facilities, in case of accidents occurring to those same facilities during a SAR operation.

2. DISCUSSION

2.1 In order to assist and facilitate States in discharging their responsibilities in various fields of SAR, and in addition to the guidelines reviewed under agenda item 4, the meeting may wish to consider the following guidance material related to the development of SAR national legislation and regulations. Likewise, in accordance with the TOR of the Task Force, the meeting will consider

the issue of SAR agreement in order to foster an effective co-operation between States in the provision of SAR services.

2.2 The meeting is reminded of the Sample Legislation for establishing a SAR Organization, from ICAO Document 9731 (IAMSAR Manual) as at **Appendix A** to this working paper.

2.3 The IAMSAR Manual provides also a model of SAR agreement reproduced at **Appendix B** this working paper that AFI States could use as a base document for the development of SAR agreements between various stakeholders.

2.4 The meeting is also reminded of the achievements of the ICAO/AFCAC SAR Project which *inter alia* included the adoption of a complete set of template SAR documentation that may be used as models by States and adapted to their national environment. This documentation included:

- a) a draft SAR Bill;
- b) a draft SAR Presidential Decree;
- c) a draft SAR Plan;
- d) a draft SAR Inter-ministerial Order;
- e) a draft Agreement between the Ministries in charge of Civil Aviation and Defence;
- f) draft terms of reference for a SAR Coordinating Committee;
- g) a draft International SAR Agreement;
- h) Draft International SAR Agreement (Case of Several States Belonging to the Same SRR); and
- i) a draft Rescue Coordination Centre (RCC) Operations Manual.

2.5 This documents are available at the following address:
http://legacy.icao.int/SARAfrica/documentation_en.html

3. ACTION BY THE MEETING

3.1 The meeting is invited to:

- a) note the information in this working paper;
- b) call upon States to comply with ICAO provisions related to SAR legislation and SAR agreements.

Appendix A

Sample Legislation Establishing a SAR Organization

Note: The sample legislation can be adapted for use by aeronautical, maritime, or authorities of both.

[Type of Legislation] of the [Legislative Body]

Concerning

The Establishment of a Search and Rescue Organization>

[Date]

Article 1

A Search and Rescue Organization shall be established for the provision of search and rescue services in accordance with the IMO International Convention on Maritime Search and Rescue, 1979, as amended, and the Convention on International Civil Aviation Annex 12.

The Search and Rescue Organization shall, as far as its primary function permits, assist in other emergencies.

Article 2

The competent national authorities shall be responsible for the provisions of the Search and Rescue services.

Article 3

During search and rescue operations, the competent national authorities shall be entitled to call for the collaboration and support of other Government services.

The competent national authorities shall be authorized to conclude agreements concerning the provision of assistance with local (State, provincial, municipal) authorities and suitable private agencies or persons.

Article 4

The competent national authorities shall be responsible for negotiating the terms of international agreements with the Search and Rescue organization of other States.*

All Government services concerned shall take measures to facilitate, as far as possible, the immediate and temporary entry of personnel, and their equipment, from other States who, in agreement with the competent national authorities are participating in search and rescue operations.

All Government services concerned shall seek to implement, as appropriate, the search and rescue recommendations and standards of the International Civil Aviation Organization and/or the *International Maritime Organization*.

* Depending on the administrative practices, agreements of this type may have to be endorsed at higher levels.

Article 5

Questions of assignment of costs, connected with the conduct of a search and rescue operation, shall not be allowed to interfere with its prompt and effective execution by the [Departments in charge of Civil Aviation and/or Merchant Marine].

Article 6

This *[Type of Legislation]* shall be effective as of *[date]*.

[place] *[date]*

For the *[Legislative Body]*

[signature]

Appendix B

SAR Agreements

Notes regarding SAR agreements, and the sample agreement that begins on the following page:

Parties may be organizations within a State, maritime and/or aeronautical SAR authorities of two or more different States (particularly with neighbouring search and rescue regions), or higher authorities of two or more States, i.e., the sample agreement can be adapted for local, national or international use.

Each section of the sample agreement may be optionally used or adapted as the Parties agree, bearing in mind consistence with the principles of international law, and the goals of IMO, ICAO and the States and organizations concerned.

It is generally advisable to include specific information, such as phone numbers or addresses, in appendices other documents separate from the basic signed agreement.

When SRRs are addressed in the agreements, normally only the lines separating the SRRs of the Parties are described, since other delimitation of the SRRs would normally involve States other than the Parties. Agreements between national organizations may or may not need to address geographic areas of responsibility. It should be recognized among the Parties that the establishment of SRRs is mainly for ensuring the availability of SAR services, and to facilitate proper distribution of distress alerts to RCCs; SRRs should not be viewed as affecting political boundaries, and do not need to align with political boundaries if the Parties so agree for the sake of improving or simplifying SAR operations. SRR delimitation over international waters is not intended to obstruct the provision of SAR services in any way. Furthermore, the provision of SAR services within an SRR shall be without regard to the nationality or circumstances of the persons in distress.

If agreements discuss territorial entry for SAR, provisions should account for a balance of concerns for sovereignty and concerns for saving lives.

The concept of “territory” is understood to include territorial land, airspace and seas. It is advisable that SAR agreements address sensitive issues to the degree necessary for practical SAR co-operation between or among the Parties, while emphasizing the humanitarian nature of SAR, and avoiding topics which are unrelated to SAR, or which are both politically sensitive and unnecessary.

Agreement on [Aeronautical and/or maritime] Search and Rescue between
[name the parties]

1 INTRODUCTION

Knowing the importance of co-operation in search and rescue (SAR), and of the provision of expeditious and effective SAR services;

Desiring to support the provisions of the [*International Convention on Maritime Search and rescue of the International Maritime Organization (IMO) and/or the Convention on International Civil Aviation of the International Civil Aviation organization (ICAO)*]; and

Seeking to provide an overall plan for SAR co-ordination, use of available resources, mutual assistance, and efforts to improve SAR services;

The Parties have agreed as follows:

2 EXTENT OF ASSISTANCE

The parties agree to co-operate in the following areas:

- (a) Support each other by pooling SAR facilities as appropriate for operations within their respective search and rescue regions (SSRs);
- (b) Make, and respond to, requests for operational assistance between the designated rescue co-ordination centres (RCCs) or rescue sub-centres (RSC)s of the Parties as capabilities allow;
- (c) Develop procedures and communications appropriate for co-ordination among facilities of both Parties responding to the same distress incident, and for co-ordination between the RCFCs or RSCs of the Parties;
- (d) Normally apply the guidance of the International Aeronautical and Maritime SAR Manuals regarding SAR operational procedures and communications;
- (e) Work to establish agreed procedures, which balance concerns for sovereignty and for saving lives, regarding entry of various types of SAR facilities into the territory of the other Party, solely for a search or a rescue operation; and
- (f) Enter into other collaborative SAR efforts which may include:
 - mutual visits by SAR personnel of the Parties;
 - joint training or exercises;
 - co-operation in development of SAR procedures, techniques, equipment, or facilities;
 - exchange of pertinent SAR or communications information; and
 - establishment of one or more SAR committees to provide a means for ongoing co-operation in improving SAR effectiveness.

3 SEARCH AND RESCUE REGIONS

Establishment of SRRs is intended only to effect an understanding concerning where each Party accepts primary responsibility for coordinating or providing SAR services. SRRs of the Parties shall be separated by lines connecting points as follows: *[appropriate co-ordinate points describing applicable lines]*

4 TERMS OF AGREEMENT

Each Party will:

- (a) Keep information readily available on availability of any SAR facilities or other resources which may be needed for implementing this Agreement.
- (b) Keep each other fully and promptly informed of all SAR operations of mutual interest, or which may involve use of facilities of the other Party;
- (c) Authorize its RCC(s) to request assistance via the RCC(s) of the other Party, and to provide all pertinent information on the distress situation and the scope of assistance needed;
- (d) Authorize its RCC(s) to promptly respond to a request for assistance from an RCC of the other party;
- (e) Authorize its RCC(s) to promptly arrange, or arrange in advance, with other national authorities for territorial entry of SAR facilities of the other Party (including overflight or landing of SAR aircraft, and similar accommodation of surface (land or water) SAR units) as circumstances dictate for fueling, medical, or other appropriate and available operational support, or in response to a request to the RCC of the other Party for assistance of those facilities which would involve territorial entry;
- (f) Normally fund its own activities in relation to this Agreement unless otherwise arranged by the Parties in advance, and, in any event, will not allow a matter of reimbursement of cost to delay response to persons in distress.

5 GENERAL PROVISIONS

This Agreement:

shall enter into force ... [provisions as appropriate].

May be amended [provisions as appropriate]; and

May be terminated or superseded [provisions as appropriate];
