



**WORKING PAPER**

**ASSEMBLY — 37TH SESSION**

**TECHNICAL COMMISSION**

**Agenda Item 46: Other issues to be considered by the Technical Commission**

**APPENDING OF THE COMMENTS TO THE FINAL REPORT OF THE ACCIDENT INVESTIGATION AND IMPLEMENTATION OF THE SAFETY RECOMMENDATIONS**

(Presented by the Republic of Korea)

**EXECUTIVE SUMMARY**

When a draft Final Report for an aircraft accident investigation is completed, the State conducting the investigation shall send a copy of the draft Final Report to the concerned States and related operator to enable them to submit comments on the draft Final Report. And, if the State conducting the investigation receives comments from the concerned parties, it shall either amend the draft Final Report, or, if not acceptable, append the comments to the Final Report. However, the fact of the appending of comments to the Final Report may be interpreted as that there are significant disagreements between the State conducting the investigation and the concerned foreign parties. If the reasons of this disagreement are related to the technical aspects, especially the safety, of the results of the investigation, the appending only of the not-acceptable comments to the Final Report, would not be the best solution in the interest of safety. Not-agreed safety issues should not remain in the aircraft accident investigation.

Also, after a Final Report is issued, if the concerned foreign parties do not take the preventive action proposed in the safety recommendations with no proper reason, there is no internationally agreed procedure for the State conducting the investigation to take against the concerned foreign parties. In this case, the safety recommendations become useless. Safety recommendations should be taken seriously and implemented.

To improve aviation safety with the lessons learned from accident investigations, new mechanisms aimed to resolve the above-mentioned problems, should be studied and developed with priority.

**Action:** The Assembly is invited to:

- a) review the issues contained in this paper; and
- b) agree that ICAO should develop, with priority, new mechanisms aimed to resolve the issues on the disagreements on the Final Report and implementation of safety recommendations.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objectives E and F by providing States new mechanisms to resolve disagreements in the accident investigation reports and to promote the implementation of the safety recommendations.
<i>Financial implications:</i>	None
<i>References:</i>	Annex 13 – <i>Aircraft Accident and Incident Investigation</i>

## 1. INTRODUCTION

1.1 The results of aircraft accident investigation, including the conclusion, should be correct and fair, and the safety recommendations contained thereto should be fully enough to prevent recurrence of similar aircraft accidents and, therefore, should be seriously considered and implemented by all concerned parties. There shall be no bias or self-righteousness in the Final Report.

1.2 For that purpose, paragraph 6.3, in the Section of RESPONSIBILITY OF THE STATE CONDUCTING THE INVESTIGATION, of Annex 13 — *Aircraft Accident and Incident Investigation* to the Chicago Convention stipulates that the State conducting the investigation shall send a copy of the draft Final Report to the State that instituted the investigation; the State of Registry; the State of the Operator; the State of Design; the State of Manufacture; and any State that participated in the investigation, inviting their significant and substantiated comments on the report as soon as possible.

1.3 The same paragraph also prescribes that if the State conducting the investigation receives comments within sixty days of the date of the transmittal letter, it shall either amend the draft Final Report to include the substance of the comments received or, if desired by the State that provided comments, append the comments to the Final Report. If the State conducting the investigation receives no comments within sixty days of the date of the first transmittal letter, it shall issue the Final Report in accordance with paragraph 6.4 of Annex 13, unless an extension of that period has been agreed by the States concerned.

1.4 Note 2 of the same paragraph shows that comments to be appended to the Final Report are restricted to non-editorial-specific technical aspects of the Final Report upon which no agreement could be reached.

1.5 In paragraphs 6.3.1 and 6.3.2 of Annex 13, the State conducting the investigation is recommended to send a copy of the draft Final Report, through the State of the Operator, to the operator and through the States of Design/Manufacture to the organizations responsible for the type design and the final assembly of the aircraft to enable them to submit comments on the draft Final Report.

1.6 Paragraph 6.10 of Annex 13 describes, in the Section of the RESPONSIBILITY OF A STATE RECEIVING OR ISSUING SAFETY RECOMMENDATIONS that a State which receives safety recommendations shall inform the proposing State, within ninety days of the date of the transmittal correspondence, of the preventive action taken or under consideration, or the reasons why no action will be taken.

## 2. DISCUSSION

### 2.1 Appending of the comments to the Final Report

2.1.1 Despite all efforts to achieve the best results of the aircraft accident investigation by the State conducting the investigation, in the course of coordination on the draft Final Report as required by the provisions of the Annex 13, the mutual agreement on the factual information, results of analysis, conclusions or intended safety recommendations may not be reached between the State conducting the investigation and the State of Registry; the State of the Operator; the State of Design; the State of Manufacture; the State that participated in the investigation; the operator; and the organizations

responsible for the type design or the final assembly of the aircraft.

2.1.2 If the issues contained in the comments are simple and minor in nature, they may be easily adjusted by mutual coordination between the concerned parties. However, if the coordination fails and agreement is not reached on the serious nature of the comments, the only solution is to append the comments from the other parties to the Final Report, in accordance with the provisions of the Annex 13.

2.1.3 However, the existence of disagreement on the draft Final Report between the concerned parties and the fact that, as the results, the comments from the other parties are appended, in some cases, may be interpreted in several different ways. One of these cases is that the quality of the results of the investigation, especially the conclusions and/or intended safety recommendations parts, is so weak that it is not reasonable and not acceptable in the interest of safety. This kind of problem may be generated by insufficient number of qualified investigators; not matured techniques; improper investigation procedures; biased and slanted view; lack of investigation experience; etc. Another case may be that the issues are engaged with non-technical matters, including political reason or interests of the concerned parties.

2.1.4 As far as the reasons of the disagreement are related to the technical aspects, especially the safety, of the results of the investigation, this issue should be carefully considered not only by the concerned parties but also by the whole international aviation community, because the poor investigation cannot define and determine the exact causes of the accident, and, as a result, the safety recommendations thereto may not be on the right course.

2.1.5 In the case of 2.1.4 above, the sole action required in Annex 13, that is the appending of the comments from the other concerned parties to the Final Report, would not be the best solution for the prevention of accident recurrence. Basically, there should be no disagreement in technical aspect, at least, between the State conducting the investigation and the other concerned parties.

2.1.6 But, if the reasons of the disagreement are engaged with other matters, such as political reason or interests of the other concerned parties, the appending of the comments from the other concerned parties to the Final Report would be a proper solution.

## 2.2 **Implementation of the safety recommendations**

2.2.1 In case of the safety recommendations, after a Final Report is issued, if the other concerned States, operator or the organizations responsible for the type design or the final assembly of the aircraft do not take appropriate preventive action proposed in the safety recommendations with no proper reason, there is no internationally agreed procedure for the State conducting the investigation to take against the concerned foreign parties. In this case, the safety recommendations become useless, and it is obviously contrary to the purpose of the issuance of safety recommendations which are aimed to prevent recurrence of similar accidents by taking preventive action.

## 3. **CONCLUSION**

3.1 As described in 2.1.4 and 2.1.5 above, current provisions of Annex 13 which require the appending only of the not-acceptable comments from the other States, the operator or the organizations responsible for the type design or the final assembly of the aircraft, to the Final Report, is becoming insufficient in the interest of aviation safety. Not-agreed issues of a technical nature, especially relating to safety, should not remain in the aircraft accident investigation.

3.2 If the safety recommendations are not implemented, or partially implemented, as mentioned in 2.2.1 above, by the concerned parties with no proper reasons, there is no other way for the State conducting the investigation to force its implementation. Safety recommendations should be strictly implemented for aviation safety.

3.3 To improve aviation safety with the lessons learned from aircraft accident investigations, new mechanisms aimed to resolve the problems of 3.1 and 3.2 above should be studied and developed with priority under the auspices of ICAO.

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