



A37-WP/394  
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5/10/10

## **ASSEMBLY — 37TH SESSION**

### **REPORT OF THE TECHNICAL COMMISSION ON AGENDA ITEM 25**

(Presented by the Chairman of the Technical Commission)

The attached report on Agenda Item 25 has been approved by the Technical Commission. Resolution 25/1 is recommended for adoption by the Plenary.

*Note.— After removal of this covering sheet, this paper should be inserted in the appropriate place in the report folder.*

(6 pages)

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**Agenda Item 25: Follow-up of the High-level Safety Conference (2010)**

**25.1: Implementation of the High-level Safety Conference (2010) Recommendations**

25.1.1 The Commission reviewed A37-WP/74, presented by the Council, containing a report on the action being taken on the implementation of the recommendations made by the High-level Safety Conference (HLSC 2010). The working paper provided information on the outcome and milestone associated with each of the actions as well as their financial implications.

25.1.2 All the delegates who took the floor on the subject supported the action taken by the Council. Many delegates stressed the importance of the development of the new Safety Annex and indicated the willingness of their States to be involved in its development.

25.1.3 The Commission, having reviewed the information provided in A37-WP/74, endorsed the Declaration, Conclusions and Recommendations made by HLSC 2010 and the action thereon taken by the Council and the Air Navigation Commission.

**25.2 Safety initiatives arising from recent accidents**

25.2.1 The Commission reviewed A37-WP/73, presented by the Secretary General, providing a report on action taken on the recommendations framed by the HLSC 2010 on Agenda Topic 3.2 (Safety initiatives arising from recent accidents). These recommendations address three major topics: improving access to flight data necessary to support accident and incident investigations; improvement of surveillance, flight monitoring and communications of aircraft operating in oceanic/remote areas, including the provision of timely and adequate search and rescue services in search areas; and a review of existing requirements on flight deck activities, checklist and standard operating procedure design.

25.2.2 The Commission reviewed A37-WP/245, presented by the Interstate Aviation Committee (IAC) on the implementation of continuous flight data transmission by satellite to support search and rescue and accident investigation. The paper invited the Assembly to support the concept and to request ICAO to develop the supporting SARPs.

25.2.3 There was broad support for the action taken by the Council following the HLSC 2010 Recommendation on the subject. One delegation expressed concern with the planned 2018 applicability dates for upgrading the operating life and range of underwater locator devices (ULBs) and suggested a 2015 applicability date. Another delegation indicated its support, in principle, for the measure, but stressed that the development of SARPs should be based on safety management principles and including a risk assessment, and should be comprehensive, technically feasible and allow for universal acceptance.

25.2.4 Regarding the transmission of flight data, it was suggested that the Council also examine the possibility of making full use of existing technologies in the short term as well as consideration of retrofit issues.

25.2.5 The Commission noted the report, endorsed the planned ICAO activities contained therein and urged States and other stakeholders to take the measures called for in the recommendations. It also asked the Council to take into consideration the proposal contained in WP/245, comments made on the applicability date of the ULB SARPs, the possibility of speeding up the work and the need to follow a risk-based approach.

### 25.3 Sharing of safety information

25.3.1 The Commission reviewed A37-WP/60, presented by the Council and proposing in the form of a draft Assembly Resolution a set of high-level principles for the development of a Code of Conduct on the use and sharing of safety information, in accordance with Recommendation 2/3 of the HLSC 2010.

25.3.2 The Commission reviewed A37-WP/81 presented by Belgium on behalf of the European Union and its Member States and by the other States Members of the European Civil Aviation Conference and by EUROCONTROL. The paper provided the views of Europe on ICAO safety priorities, with particular consideration on the conclusions of the HLSC 2010. The paper also proposed an Assembly resolution on transparency and addressed in more detail HLSC 2010 recommendations with respect to a new State Safety Management Annex, aviation personnel competency and runway safety.

25.3.3 The Commission reviewed A37-WP/103, presented by the United States, on the transparency of safety data, stressing the importance for ICAO to provide the list of States having a significant safety concern (SSC) to the traveling public in an appropriate format. The paper also requested ICAO to post existing USOAP results in a more prominent location on the ICAO website, together with a clear explanation of the significance of these results, allowing the traveling public to make informed travel decisions.

25.3.4 The Commission reviewed A37-WP/122, presented by Australia, on the terms of reference for a multidisciplinary group on the protection of safety information. The paper presented a set of principles and suggested that they be taken into account when developing the terms of reference for the multidisciplinary group.

25.3.5 The Commission reviewed A37-WP/124 Revision No. 1, presented by AFCAC on behalf of 53 African States, on principles for the Code of Conduct. The paper proposed that the Code of Conduct apply to every legal person and stressed that it should include statements on the nature, scope and methods for the exchange of safety information, as well as levels of access to the information and the purpose for which the information may be used. The African States also expressed their interest in participating in the Task Force to be established to develop the Code of Conduct.

25.3.6 The ensuing discussion focused on two major issues: the provision of information to the public so they can make informed travel decisions and the development by ICAO of a Code of Conduct on the use and sharing of safety information.

25.3.7 With regard to the provision of information to the public, several delegates recalled that the HLSC 2010 had requested the Council of ICAO to investigate how SSCs could be provided to the public in a usable form and called for timely action on the subject. Other delegates, while supporting the

principle of greater transparency, felt that ICAO should proceed with caution in order to ensure that there would be no unintended negative consequences. It is to be recalled that HLSC 2010 Recommendation 2/3 was adopted by the Council of ICAO and is being actioned.

25.3.8 There was unanimous support for the development of a Code of Conduct on the sharing of information. There were, however, diverging views on the scope and the nature of the Code. Due to time constraints, there was consensus that there would be no resolution of this subject in the Technical Commission. It was therefore suggested by the Secretariat that this subject be addressed by the task force on the Code of Conduct, to be established next month. The Code of Conduct on the use and sharing of safety information will be developed as a matter of urgency.

25.3.8 Therefore, the Commission submits, for adoption by the Plenary, the following resolution and requests that all papers and discussions related to this subject that were presented at this Assembly and during the High-level Safety Conference, be made available to the Task Force developing the Code of Conduct.

**Resolution 25/1: Principles for a code of conduct on the sharing and use of safety information**

*Whereas* ensuring the safety of international civil aviation is the responsibility of Member States both collectively and individually;

*Whereas* the Convention and its Annexes provide the legal and operational framework upon which Member States can build a civil aviation safety system based on mutual trust and recognition, requiring that all Member States fulfil their obligations in implementing the Standards and Recommended Practices (SARPs) and in adequately performing safety oversight;

*Recalling* that mutual trust between States, as well as public confidence in the safety of air transportation is contingent upon access to adequate information regarding the implementation of international SARPs;

*Recalling* that transparency and the sharing of such information are fundamental tenets of a safe air transportation system and that one of the objectives of sharing information is to ensure a consistent, fact-based and transparent response to safety concerns at the State and at the global levels;

*Recognizing* that the safety information in the possession of individual States, aviation industry and aviation organizations regarding the existence of operational hazards has the potential to provide a clearer perspective on existing and emerging areas of risk and the opportunity for timely interventions to improve safety when shared and acted upon collectively;

*Recognizing* that there is a need to develop principles of confidentiality and transparency to ensure that safety information is used in an appropriate, fair and consistent manner, solely to improve aviation safety and not for inappropriate purposes, including for the purpose of gaining economic advantage; and

*Mindful* that the use of such information for other than safety-related purposes may inhibit the provision of such information, with an adverse effect on aviation safety;

*The Assembly:*

1. *Instructs* the Council to develop a Code of Conduct for the Sharing and Use of Safety Information based on the following principles, among others
  - a) Member States will collect and share relevant and appropriate safety information to ensure that they can effectively discharge their individual and collective responsibilities for the safety of international civil aviation;
  - b) Member States will utilize safety information to assist in ensuring that operations under their oversight are conducted in full compliance with applicable SARPs and other regulations;
  - c) Member States, aviation industry and aviation organizations will ensure that shared safety information is used in an appropriate, fair and consistent manner, solely to improve aviation safety;
  - d) Member States, aviation industry and aviation organizations will use caution in disclosing information, keeping in mind equally the need for transparency and the possibility that such disclosure may inhibit the future provision of such information; and
  - e) Member States receiving safety information from another State, will agree to provide levels of confidentiality and uphold principles for disclosure equivalent to those provided by the State generating the information.

#### 25.4 Development of ICAO SARPs

25.4.1 The Commission reviewed A37-WP/114, presented by New Zealand, proposing that impact assessments be required in the development of new SARPs. This paper recalled the recommendation on this issue in the Directors General of Civil Aviation Conference on a Global Strategy for Aviation Safety (2006). It recommended, in the form of a draft Assembly resolution that ICAO, following the HLSC recommendation on the subject, implement a regulatory impact assessment process to explain and document the context and justification related to proposals for new SARPs. The proposed process attempts to consolidate and codify the principles and practices within ICAO. The resolution, however, was not supported for adoption.

25.4.2 Some States suggested that a phased implementation approach might be preferable, for example:

Phase 1 – SARPs to be accompanied by a problem statement and some relevant safety data and analysis;

Phase 2 – SARPs to be issued with a simple risk impact assessment summarizing the problem analysis, the options considered, the safety impact and a qualitative comparison of options; and

Phase 3 – SARPs to have a full risk impact assessment including problem analysis, the options available, the safety and cost impacts, and a qualitative comparison of the available options.

25.4.4 In view of the discussion, the recommendations made on the subject by the Directors General of Civil Aviation Conference on a Global Strategy for Aviation Safety (2006) and the High-level Conference (2010) as well as the action already taken by the Council on the subject, the Commission agreed that:

- a) an impact assessment is required when new SARPs are proposed; and
- b) the Council should continue its work on the feasibility study and, based on the results of the study, decide how ICAO could allocate its resources to support an impact assessment process.

25.5 Information papers were provided by: Australia (A37-WP/289), United States (A37-WP/315), the African Civil Aviation Commission (AFCAC) (A37-WP/140) and the Airports Council International (ACI) (A37-WP/313).

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