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ASSEMBLY – 35TH SESSION

EXECUTIVE COMMITTEE

Agenda Item 16: Improvement of safety oversight

VIEWS ON THE PROPOSED ICAO UNIFIED STRATEGY TO RESOLVE SAFETY-RELATED DEFICIENCIES

(Presented by 41 Contracting States², Members of the European Civil Aviation Conference)

SUMMARY

This paper expresses the views of ECAC Member States on the proposed unified strategy to assist ICAO Contracting States experiencing difficulties in correcting safety deficiencies. In particular, it highlights those elements in the strategy, seen as significant for its successful implementation. Such elements are the transparency and increased disclosure of audits results and closer co-operation between ICAO and States as well as between individual States. Action by the Assembly is in paragraph 21.

BACKGROUND

1. A35-WP/67 submits to the Assembly a comprehensive report on the implementation of the Universal Safety Oversight Audit Programme (USOAP), progress made and lessons learned, since its inception in 1999, pursuant to Assembly Resolution A32-11. All but seven Contracting States have had an initial audit and, as of July 2004, ICAO has carried-out 153 audit follow-ups. ICAO has successfully taken up the challenges of implementing the programme and audit teams as well as other staff involved should be congratulated for taking it forward.

2. Findings made during the initial as well as follow-up audits have proven that the Programme is a highly valuable tool for evaluating the effective implementation of safety oversight critical elements and SARPs by States. The analysis of the findings from the audit follow-up missions and their comparison to those made during the initial audits for the group of States which have had both, and for which the results have been entered in the ICAO database, is equally useful as are their graphical presentation.

¹ English and French versions provided by ECAC

² Albania, Armenia, Austria*, Azerbaijan, Belgium*, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus*, Czech Republic*, Denmark*, Estonia*, Finland*, France*, Germany*, Greece*, Hungary*, Iceland, Ireland*, Italy*, Latvia*, Lithuania*, Luxembourg*, Malta*, Moldova, Monaco, Netherlands*, Norway, Poland*, Portugal*, Romania, Serbia and Montenegro, Slovakia*, Slovenia*, Spain*, Sweden*, Switzerland, The former Yugoslav Republic of Macedonia, Turkey, Ukraine, United Kingdom*

* Member States of the European Union are indicated with an asterisk in the above list

3. It is encouraging to note that a majority of States in the above group continue to make progress in the implementation of their corrective action plan and in the resolution of safety deficiencies found during the initial audit. Indeed, the decrease [from 29.3 to 13.3 in the average lack of effective implementation of the critical elements reflects such progress. However, as all averages do, they tend to mask that different States have progressed at different pace in their endeavours to resolve safety deficiencies.

4. ECAC Member States are concerned about a significant minority of States, in the analysed group, that have not satisfactorily progressed their respective action plans and are continuing to experience difficulties in their implementation. These concerns are further heightened when noting that eight States have not even submitted a corrective action plan since their initial audits. The reasons for this lack of effective implementation are known and their features are such that they create a potential for this minority to increase.

5. The first phase of the Programme which is aimed at identifying safety oversight shortcomings, by means of audits, has been accomplished. However, the other half of the work remains to be done as long as corrective measures are not taken. This is all the more so crucial as the areas covered by USOAP, i.e., Annexes 1, 6 and 8, come within the scope of Article 33 of the Chicago Convention and its provisions on mutual recognition.

6. ECAC Member States welcome the proposals developed by the Council and contained in A35-WP/63 for a unified strategy to resolve safety-related deficiencies. They wish to submit, for consideration by the Assembly, comments and views below on some of the principles of the strategy, in order to take them further and increase the strategy's effectiveness.

MATTERS FOR CONSIDERATION

7. ECAC Member States see two elements in the strategy as of high significance to yield full benefits from the Programme and its implementation. These are the transparency and increased disclosure of audits results and, secondly, assistance to States in enhancing their safety oversight capabilities.

Transparency and increased disclosure

8. A corner-stone of the Chicago Convention providing the framework for States to develop an aviation system, including its safety features, is the mutual trust between States and recognition of certificates they issue in accordance with the Convention and its Annexes. As rightly indicated in A35-WP/63, this implies that States granting such recognition to a foreign entity are satisfied with the level of adherence to ICAO provisions and safety oversight provided by the State responsible for the entities in question. A direct consequence of this is the need for the widening of the information sharing amongst States which includes the issues of transparency and increased disclosure of USOAP results.

9. In keeping with the above, ECAC Member States suggest that some practical steps could be taken, as described below.

Audit reports

10. ICAO should adopt greater transparency in the release of audit reports and provide States with the full report, presently confidential. ECAC Member States note and welcome the Council decision to this end (cf. WP/63, Revised, para. 5.3). This step would enable States to assess other States' level of

compliance with SARPs (in Annexes 1, 6 and 8) and gain an improved knowledge of identified deficiencies, resulting in a climate of mutual understanding which can only be beneficial to States' bilateral relationships. Summary reports would become superfluous and would be discontinued, resulting in a positive impact on scarce resources.

11. Beside, mention should be made of an initiative by ECAC Directors General to share their full audit reports and to arrange for a collective analysis of their audit results, the purpose being to identify findings common to a large number of ECAC States and, as a second step, to explore the scope for collective solutions to be developed, increasing harmonisation aspects. This initiative is being taken forward by the ECAC task Force on Safety Oversight Issues (SOI).

The Audit Finding and Differences Database (AFDD)

12. ICAO should be requested to analyse in greater detail data collected during audits and stored in the AFDD. It would be helpful to provide States with individual rates for the lack of effective implementation in each (of the five) audited areas and in respect of each (of the eight) safety oversight critical elements. From this information, it would be possible to evaluate individual States' capability to ensure effective implementation of SARPs and to carry-out its safety oversight function. Possibly, such an evaluation could be performed by ICAO and included in audits reports by means of text specifying individual areas where the audited States do not have the oversight capability. States would be in a better position to take informed decisions and appropriate measures regarding specific foreign operators flying into their airports.

13. The earlier mentioned ECAC initiative being taken forward by the SOI Task Force also includes this aspect for non-ECAC States, the purpose being to follow an harmonised approach in the analysis of USOAP audits (initial and follow-up) Summary reports and to take a collective ECAC view on the matter.

Article 54j) of the Convention

14. This Article requires the Council to "report to Contracting States any infraction of this Convention, as well as any failure to carry-out recommendations or determination of the Council". Accordingly the Council could be invited, within the ambit of this Article, to set a procedure under which all Contracting States would be notified about any significant/major shortcomings regarding compliance with ICAO safety-related SARPs by an individual State.

15. In keeping with the Council's suggestions in WP/63 (para. 5.6 refers), ECAC Member States have taken a similar initiative and approved recently a procedure, the so-called "SAFA¹ Alert Procedure", to keep themselves informed about additional conditions placed by an individual ECAC State upon access to its airports by a foreign aircraft or airline. In addition, this alert procedure provides a mechanism to evaluate the scope for these conditions to be extended to all ECAC airports, if found necessary from SAFA findings.

16. Beyond the three above steps, the Assembly should consider, how to widen the sharing of information. In this respect, some proposals are presented by the Council in WP/63 and suggest that links could be provided between the ICAO secure web site and the safety web sites of other credible organisations. ECAC Member States support the principle of the proposal, as they see merit in increasing synergies between the various "audit/assessment" programmes run by different entities and, equally, in

¹ The ECAC Safety Assessment of Foreign Aircraft Programme

avoiding duplication. When considering the practicalities of the proposal, ECAC Member States draw attention to the following issues:

- a) the need to select judiciously information to supplement that arising from USOAP. The availability of too much information of varying nature and importance may overshadow real issues and become counterproductive, weakening the Programme outputs.
- b) the demand on the ICAO's resources should be of an acceptable level. Priority should be given to assisting States in the implementation of corrective actions and, therefore, resources should be deployed accordingly.

Assistance to States

17. This element of the proposed strategy is possibly the most challenging one from an implementation standpoint. The Council should be complimented for submitting to the Assembly a range of possible ways forward. The proposals and suggestions are non-exhaustive and not mutually exclusive. ECAC States see merit in ICAO promoting those actions dealing with increased partnership between ICAO and States as well as between individual States. Co-operative arrangements, either regional or sub-regional, should be pursued as they have potential to increase the cost-effectiveness of an oversight system, which by its feature is resource intensive (e.g., skilled manpower). Increased co-ordination between the parties concerned and judicious management of resources are essential, including their priority use in areas giving the most cause of concern and/or putting at high risk the safety of operations. Such areas may relate to States (there are 8) which have not been in a position to develop an action plan, or those (about 30) which, although having developed such a plan have not implemented it.

18. ICAO could, as far as these States are concerned, provide direct support, for example by developing with them an action plan and devoting resources. ICAO should develop a detailed plan on this matter regarding the means and methods envisaged, containing an implementation schedule, and submit it to the ICAO Council. The ICAO Secretariat, depending on available resources particularly in the regional offices and on the individual situations of States concerned, would be responsible for selecting the first States and the action to be taken, and the Council would be regularly informed of progress. An agreement would be proposed to States concerned whereby, in exchange for this assistance, they would make a number of realistic commitments, the implementation of which would also be monitored by the Council.

19. The implementation of the new comprehensive systems approach should be delayed with regard to the States concerned. Those States should devote themselves to correcting identified deficiencies before they invest their insufficient resources and skills in the preparation, which requires a great deal of work, of an audit, now broadened within the framework of the new approach.

20. More importantly, ICAO could assist in the development of long-term solutions for implementing sustainable and effective safety oversight systems. ICAO could be instrumental in promoting the establishment of regional safety oversight organisations, as this avenue is likely to be more cost effective and sustainable than individual State-based solutions. ICAO could play a catalyst-role and bring together donor organisations and recipient entities. It could possibly go one step further and arrange for the provision of expertise and the management of project implementation. Among the mechanisms which merit exploration, there is of course the International Financial Facility for Aviation Safety established under the auspices of ICAO.

ACTION BY THE ASSEMBLY

21. ECAC Member States invite the 35th Session of the ICAO Assembly to take into consideration the views expressed in this paper and to request the Council and the Secretary general to:

- a) set a procedure, within the ambit of Article 54j) of the Chicago Convention, under which all Contracting States would be notified about any significant shortcomings regarding compliance with ICAO safety related SARPS by an individual State;
- b) develop specific assistance mechanisms, within the existing legal framework, for States not in a position to develop an action plan or, having developed such a plan, not having implemented it;
- c) facilitate the sharing of relevant safety-related information among States and interested parties;
- d) make the full final reports of the ICAO auditing teams available to the other Contracting States on the ICAO secure website;
- e) Provide access, through the use of the ICAO secure website, to the Audit Findings and Differences Database, including reports on the status of implementation of States' corrective action plans and individual rates, for the lack of effective implementation in each of the audited areas and in respect of each of the safety oversight critical elements.

— END —