



## ASSEMBLY — 36TH SESSION

### TECHNICAL COMMISSION

#### Agenda Item 26: Recognition of certificates and licences issued by other States

#### RECOGNITION OF CERTIFICATES AND LICENCES ISSUED BY OTHER STATES

(Presented by the Council of ICAO)

#### EXECUTIVE SUMMARY

This paper presents issues related to operations by foreign operators and the need for safety oversight of such operations. It proposes the adoption of an Assembly Resolution on State's admission and surveillance of operations by foreign operators and on the recognition as valid of the air operator certificate issued by another State.

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

- a) note the information contained in this working paper; and
- b) adopt the Resolution contained in the appendix to this working paper relating to the surveillance of foreign operators and to the recognition as valid of the air operator certificates issued by other States.

<i>Strategic Objectives:</i>	This working paper will further Strategic Objective A1 by proposing the adoption of a policy statement on the surveillance of foreign operators.
<i>Financial implications:</i>	No additional resources required.
<i>References:</i>	Doc 9848 – <i>Assembly Resolutions in Force (as of 8 October 2004)</i> Doc 9866 – <i>Directors General of Civil Aviation Conference on a Global Strategy for Aviation Safety</i>

## 1. INTRODUCTION

1.1 There has been a proliferation of new requirements under which operators from a State must submit detailed operational information to other States and sometimes obtain operations specifications from those States, prior to operating into their territory. The process involved differs widely from State to State and expends considerable resources of both the national civil aviation authorities and the operators. Such requirements illustrate the difficulties associated with the recognition as valid by a State of the air operator certificate (AOC) issued by another State. They constitute an impediment to efficiency and increase the complexity of flight operations, training programmes and documentation. Article 16 of the *Convention on International Civil Aviation* (Doc 7300) enables States to exercise their surveillance responsibilities regarding aviation operations conducted in their territory by foreign operators, using surveillance methods and inspections, without additional certification.

1.2 The International Civil Aviation Organization (ICAO) has developed Standards, material and procedures to help States assess the safety level of foreign operators, by facilitating access to the reports of the Universal Safety Oversight Audit Programme (USOAP), by requiring, since 2006, the aircraft to carry a certified true copy of the AOC with its operations specifications and by proposing ICAO Standards for certification and continued safety oversight of commercial operators.

## 2. PRESENTATION OF ISSUES

2.1 The proposed Assembly Resolution in the appendix addresses the recognition by a State of the AOC of foreign operators and the surveillance of their operations within its territory. It would encourage actions leading to safety improvements and is proposed as a new resolution, A36-xx, *State Recognition of the Air Operator Certificate of Foreign Operators and Surveillance of their Operations*.

2.2 As the United Nations' specialized agency responsible for setting international Standards for civil aviation, ICAO has been called upon to play a leadership role in developing global strategies for the regulation and oversight of aviation safety. The *Convention on International Civil Aviation* (Doc 7300) and its Annexes provide the legal and operational framework for Contracting States to build and maintain a civil aviation safety system based on mutual trust and recognition. Article 33 of the Convention provides for the recognition as valid, by other Contracting States, of certificates of airworthiness, certificates of competency and licences issued by a Contracting State, provided the requirements under which they are issued are equal to or above the minimum Standards established pursuant to the Convention. A Standard for a similar recognition as valid of the AOC issued by another State was introduced in Annex 6 — *Operation of Aircraft* in 2006 and the reinforcement of this new Standard is a key aspect of the proposed Resolution for consideration by the Assembly.

2.3 Assembly Resolution A35-7, *Unified strategy to resolve safety-related deficiencies*, reminded Contracting States, inter alia, of the need for surveillance of all aircraft operations, including foreign aircraft within their territory and to take appropriate action when necessary to preserve safety. There is a need for States to provide or ensure adequate safety oversight. This is not limited to oversight of their own aircraft operators, but should also include surveillance of those foreign aircraft operators that operate in their airspace. In the latter case, States need to satisfy themselves that such foreign operators are subject to proper oversight, by their own States. For States to fulfil their safety oversight obligations, they need to analyse all relevant information, including that contained in audit reports, to identify those States that do not meet ICAO requirements.

2.4 On 13 June 2001, the ICAO Council (C-DEC 163/8) adopted a Resolution urging all Contracting States to insert a clause on aviation safety in their agreements on air services, and recommending that, in doing so, Contracting States take into account the model clause on aviation safety as attached to the Resolution.

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## APPENDIX

### DRAFT RESOLUTION A36-xxx – State Recognition of the Air Operator Certificate of Foreign Operators and Surveillance of their Operations

*Whereas* the Convention and its Annexes provide the legal and operational framework for Contracting States to build a civil aviation safety system based on mutual trust and recognition, requiring that all Contracting States fulfil their obligations in implementing the Standards and Recommended Practices as far as practicable and in adequately performing safety oversight;

*Whereas* Article 37 of the Convention requires each Contracting State to collaborate in securing the highest practicable degree of uniformity in regulations and practices in all matters in which such uniformity will facilitate and improve air navigation;

*Recalling* that recognition as valid of certificates and licences of other Contracting States is governed by Article 33 of the Convention and applicable Standards;

*Recalling* that ultimate responsibility for safety oversight rests with Contracting States, who shall continuously review their respective safety oversight capabilities;

*Whereas* the primary objective of the Organization continues to be that of ensuring the safety of international civil aviation worldwide;

*Recalling* Assembly Resolution A35-7, which, *inter alia*, urged Contracting States to share critical safety information and reminded them of the need for surveillance of all aircraft operations;

*Recalling* the Directors General of Civil Aviation Conference on a Global Strategy for Aviation Safety in 2006, that called upon States to base the recognition as valid of certificates and licences of other States exclusively on safety considerations and not for the purpose of gaining economic advantage; and recommended, *inter alia*, that:

- a) ICAO should develop guidelines and procedures to assist States in securing the highest practicable degree of uniformity in the recognition of certificates and licences as valid and in the surveillance of foreign aircraft operations in their territory;
- b) States should establish operating rules, in accordance with the Convention and on a non-discriminatory basis, governing the admission and surveillance of foreign air operators within their territories;
- c) States should include a safety clause in their bilateral air service agreements based on the model safety clause developed by ICAO;

*Whereas* the Convention establishes the basic principles to be followed by governments to ensure that international air transport services may be developed in an orderly and harmonious manner and it is therefore one of the purposes of ICAO to support principles and arrangements in order that international

air transport services may be established on the basis of equality of opportunity, sound and economic operation, mutual respect of the rights of States and taking into account the general interest;

*Recognizing* that the non-harmonization of operational requirements and measures governing admission of air operators from other States may have a detrimental impact on the safety, efficiency and regularity of their operations; and

*Recognizing* that the uncoordinated development of national policies and programmes for the surveillance of air operators from other States could hinder the role of international civil aviation in socio-economic development;

*The Assembly:*

1. *Reminds* Contracting States of the need for exercising safety oversight of their operators in full compliance with applicable SARPs, as well as assuring themselves that foreign operators flying in their territory receive adequate oversight from their own State and taking appropriate action when necessary to preserve safety;

2. *Urges* all Contracting States to establish requirements and procedures for the authorization and surveillance of operations by an operator certificated by another Contracting State, and to take appropriate action when necessary to preserve safety;

3. *Urges* all Contracting States to insert into their bilateral agreements on air services a clause on aviation safety, taking into account the model clause attached to the Resolution adopted by the Council on 13 June 2001;

4. *Urges* Contracting States to recognize as valid the Air Operator Certificate issued by other Contracting States for the purpose of flight over their territories, including landings and take-offs, provided that the requirements under which the certificate was issued are equal to or above the minimum applicable Standards specified in Annex 6;

5. *Calls* upon ICAO to continue to develop guidelines and procedures to verify the conditions for recognition as valid of certificates and licences, in keeping with Article 33 of the Convention and applicable Standards;

6. *Urges* Contracting States to establish operating rules governing the admission of foreign air operators within their territories, in accordance with the Convention and on a non-discriminatory basis, and in harmonisation with ICAO Standards, guidelines and procedures, having due regard to the need to minimize the cost and burden to the Contracting States and to the operator;

7. *Urges* Contracting States to refrain from unilateral implementation of specific operational requirements and measures governing admission of operators from other Contracting States which would adversely affect the orderly development of international civil aviation.