ASSEMBLY — 36TH SESSION

TECHNICAL COMMISSION

Agenda Item 30: Other safety matters

LANGUAGE PROFICIENCY REQUIREMENTS

(Presented by the Council of ICAO)

<table>
<tr><td colspan="2" align="center">EXECUTIVE SUMMARY</td></tr>
<tr><td colspan="2">This paper describes the actions taken to monitor the progress of implementation of the language proficiency requirements. A list of the Organization's activities to support the implementation of the language provisions is provided, including a summary of the outcomes of the Second ICAO Aviation Language Symposium conducted from 7 to 9 May 2007. The paper proposes a draft resolution, to supersede Resolution A32-16, which directs ICAO to establish globally harmonized language testing criteria and urges States to develop an implementation plan for language proficiency requirements including appropriate risk mitigating measures for those States that do not achieve full compliance by the applicability date of the Standard.</td></tr>
<tr><td colspan="2">Action: The Assembly is invited to adopt the draft resolution presented in Appendix A to this working paper pertaining to proficiency in the English language used for radiotelephony communications.</td></tr>
<tr><td>Strategic Objectives:</td><td>This working paper relates to Strategic Objective A by introducing an Assembly Resolution that supports the timely implementation of the language proficiency requirements and introduces procedures to mitigate risks for those States which have not yet implemented the Standard.</td></tr>
<tr><td>Financial implications:</td><td>Additional resources will be required to:
a) establish and implement globally harmonized language testing criteria;
b) collect and analyse data from States concerning their level of implementation of the language proficiency requirements; and
c) post States' language proficiency implementation plans.</td></tr>
<tr><td>References:</td><td>Annex 1
Annex 10
Doc 7300, Convention on International Civil Aviation
Doc 9835, Manual on the Implementation of ICAO Language Proficiency Requirements
Doc 9848, Assembly Resolutions in Force (as of 8 October 2004)
State letter AN 12/44-06/90</td></tr>
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(8 pages)

1.   **BACKGROUND**

1.1   The decision to address language proficiency for pilots and air traffic controllers is long standing and was first made by the 32nd Session of the Assembly in September 1998 (Resolution A32-16 refers) as a direct response to an accident that cost the lives of 349 persons, as well as previous fatal accidents where the lack of proficiency in English was a causal factor. Subsequently, the Air Navigation Commission initiated the development of language provisions in Annex 1 — *Personnel Licensing*, Annex 6 — *Operation of Aircraft*, Annex 10 — *Aeronautical Telecommunications*, and Annex 11 — *Air Traffic Services*. On 5 March 2003, the Council (C-DEC 168/9) adopted Amendment 164 to Annex 1. As of 5 March 2008, the ability to speak and understand the language used for radiotelephony that is currently required for pilots and air traffic controllers will have to be demonstrated based on the ICAO holistic descriptors and language proficiency rating scale (at Level 4 or above). Additionally, since November 2003, Annex 10 has required the availability of English language at all stations on the ground serving designated airports and routes used by international air services.

1.2   During the deliberations on the amendment, the question of the applicability date of 5 March 2008 was raised. As part of the monitoring of the progress of implementation of the new language proficiency requirements a survey was sent to all ICAO regions in November 2005 to which thirty-six States and two international organizations replied.

1.3   The number of responses to the survey was low and the large proportion was from States having English as a first language. While the majority of the respondents had indicated their readiness for the language proficiency requirements the survey was considered to be inconclusive and therefore, a change in the applicability date of 5 March 2008 was not deemed justified, especially when considering the events that led up to the development of the requirements and the safety benefits that would be realized. States were accordingly informed and reminded of the need to take the necessary measures to implement the language proficiency requirements in a timely manner. An updated status of implementation was conducted through a second survey in October 2006. The results of the second survey were reviewed in April 2007. At that time, fifty-nine States had completed in part, or in full, the questionnaire and three States had responded to the State letter without completing the questionnaire. Seven additional responses were received after that time. The results of the survey are summarized below.

	NO. OF STATES WHO HAVE REPLIED INDICATING:		
	FULL IMPLEMENTATION	**PARTIAL IMPLEMENTATION**	**N/A**
Will all pilots with air transport pilot's licence (ATPL) and commercial pilot's licence (CPL) be at least at Level 4?	48	18	
Will air traffic controllers be at least at Level 4?	41	21	
Will aeronautical station operators be at least at Level 4?	22	5	30
Will pilots with private pilot's licence (PPL) be at least at Level 4?	42	12	

1.4   To date, six States have notified differences against the new language proficiency requirements in Annex 1. Over the last three years, fifty-four States were audited under the comprehensive systems approach which included some general questions on the language proficiency requirements. Of the States audited, twenty had not established requirements for aviation personnel to demonstrate their ability to speak and understand the language used for radiotelephony communications

and twenty had not satisfactorily established a plan to implement relevant ICAO provisions to ensure that licence holders would demonstrate their ability to speak and understand the language used for radiotelephony communications at the level required for their licence. It should be noted that some of the States may have progressed the implementation of language proficiency requirements since their audits.

1.5   In June 2007, the Council considered a report on the status of implementation of the language proficiency provisions as well as options concerning the applicability date. As a result of the ensuing discussion it was decided to retain the applicability date of 5 March 2008. Recognizing that some States would not meet the applicability date, the Council developed the draft resolution presented in Appendix A to this paper.

2.   **ICAO ACTIVITIES SUPPORTING THE
        IMPLEMENTATION OF THE LANGUAGE
        PROFICIENCY REQUIREMENTS**

2.1   Since 2003, several steps have been taken to assist States with the implementation of these requirements. The first edition of the *Manual on the Implementation of ICAO Language Proficiency Requirements* (Doc 9835) and the training aid entitled *ICAO Language Proficiency Requirements – Rated Speech Samples* were produced. The second edition of Document 9835 is presently under development. To date, eleven regional seminars were conducted. Two ICAO Aviation Language Symposia were conducted in September 2004 and in May 2007 respectively.

2.2   The Second ICAO Aviation Language Symposium was attended by 221 participants from sixty-two States and eight international organizations. While some participants were from State authorities, many of the participants were from air operators, air navigation service providers and language training and testing entities. During the Symposium, concerns were expressed to suggest that some Contracting States were encountering difficulties in implementing the language proficiency requirements including the establishment of language training and testing capabilities. Some support was expressed for ICAO to establish a system for the endorsement of language testing as a means to identify testing services that meet harmonized ICAO criteria. Several participants also requested clarification on the steps States should take if they did not implement the requirements by 5 March 2008.

2.3   During the Symposium, speakers presented a variety of approaches used to implement the requirements. Best practices in language training and testing were described and a variety of testing and training models presented, as well as ongoing and potential regional initiatives.

3.   **RECOMMENDATIONS**

3.1   It is widely recognized that implementation of the language provisions is resource intensive. Since the language provisions have become effective, several States have invested considerable resources and efforts to comply with the provisions by 5 March 2008. While some States may not be compliant by March 2008, the applicability date establishes a milestone that helps to retain the focus required to implement the safety Standards related to language proficiency as soon as practicable.

3.2   Understanding the consequence of non-compliance is important in order to take appropriate action. A negative impact on safety would be considered the most serious consequence of non-compliance. In addition, the multilateral recognition of pilots' licences provided for under Article 33 of the *Convention on International Civil Aviation* (Doc 7300) could also be impacted when a State is unable to meet the minimum Standards prescribed in Annex 1. Transparency and regular communications

among Contracting States would be the best means of mitigating the potential impact. It should be noted that the Convention provides for the means to deal with situations such as this and to ensure the continuity of international civil aviation. In the case of flight crew licences, and in application of Articles 33, 39 and 40 of the Convention, those pilots that do not meet the operational Level 4 requirements would require permission from other States to operate in the airspace under their jurisdiction. In all cases, including those of States where air traffic controllers are not yet compliant, States should notify ICAO of the differences in accordance with Article 38 of the Convention and ensure that these differences are indicated in their Aeronautical Information Publication (AIP). They will also have to endorse the personnel licences in accordance with Article 39 of the Convention.

3.3   States that may not be in a position to comply with the language proficiency requirement by the applicability date should also provide information on their implementation plans and interim measures taken to mitigate risk. It is important for safety purposes that each State has sufficient information to make a proper risk analysis. This analysis will be required in order to allow an aircraft with pilots who may not meet the language proficiency requirement to fly in the airspace under the jurisdiction of another State. This analysis will also be required for States to authorize their operators to fly in the airspace under the jurisdiction or responsibility of another State that may not be compliant. The purpose of the risk analysis is to ensure that the lack of language proficiency is minimized as a potential causal factor of incidents and accidents. This step will not only help to eliminate or mitigate risk, but to actually strengthen a Standard that could otherwise be ignored by some States. To this end and pending acceptance by the Assembly, it is planned to provide guidance on the development of implementation plans by the end of October of this year and to conduct seminars in each ICAO Region as soon as practicable.

3.4   During its deliberations in June 2007, the Council recognized that a single, universally applicable aviation language proficiency test, although desirable, would be inappropriate. However, the Council supported the development of globally harmonized language testing criteria. The implementation of such criteria could effectively be achieved through the establishment of an ICAO endorsement mechanism for aviation language testing. The Council recognized, however, that budgetary resources would be required to establish an ICAO endorsement mechanism for aviation language testing.

3.5   It is therefore proposed that Resolution A32-16 be superseded by the draft resolution as presented in Appendix A. Appendix B provides guidance on the development of an implementation plan including the types of interim measures that should be taken to mitigate risk.

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APPENDIX A

DRAFT RESOLUTION TO SUPERSEDE
RESOLUTION A32-16

A36-xx:	**Proficiency in the English language used for radiotelephony communications**

Whereas to prevent accidents, ICAO introduced language provisions to ensure that air traffic personnel and pilots are proficient in conducting and comprehending radiotelephony communications in the English language, including requirements that the English language shall be available on request at all stations on the ground serving designated airports and routes used by international air services;

Recognizing that the language provisions reinforce the requirement to use ICAO standardized phraseology in all situations for which it has been specified;

Recognizing that Contracting States have made substantial efforts to comply with the language proficiency requirements by 5 March 2008;

Recognizing that some Contracting States encounter considerable difficulties in implementing the language proficiency requirements including the establishment of language training and testing capabilities;

Recognizing that some Contracting States will require additional time to implement the language proficiency provisions beyond the applicability date;

Whereas in accordance with Article 38 of the Convention any Contracting State which finds it impracticable to comply in all respects with any international standard or procedure is obliged to give immediate notification to ICAO;

Whereas in accordance with Article 39 b) of the Convention any person holding a license not satisfying in full the conditions laid down in the international standard relating to the class of license or certificate held, shall have endorsed on or attached to the license all the particulars in which this person does not satisfy such conditions; and

Whereas pursuant to Article 40 of the Convention no personnel having certificates or licences so endorsed shall participate in international navigation, except with the permission of the State or States whose territory is entered;

The Assembly:

1. *Urges* the Contracting States to use ICAO standardized phraseology in all situations for which it has been specified;

2. *Directs* the Council to support Contracting States in their implementation of the language proficiency requirements by establishing globally harmonized language testing criteria;

3. *Urges* Contracting States that are not in a position to comply with the language proficiency requirement by the applicability date to post their language proficiency implementation plans including their interim measures to mitigate risk, as required, for pilots, air traffic controllers and aeronautical station operators involved in international operations on the ICAO website as outlined in accordance with the Associated Practices below and ICAO guidance material;

4. *Directs* the Council to provide guidelines to States on the development of implementation plans, including an explanation of the risk mitigation measures so as to enable Contracting States to post their plans as soon as practicable, but prior to 5 March 2008;

5. *Urges* Contracting States to waive the permission requirement under Article 40 of the Convention, in the airspace under their jurisdiction for pilots who do not yet meet the ICAO language proficiency requirements, for a period not exceeding three years after the applicability date of 5 March 2008, provided that the States which issued or rendered valid the licences have made their implementation plans available to all other Contracting States;

6. *Urges* Contracting States not to restrict their operators, conducting commercial or general aviation operations, from entering the airspace under the jurisdiction or responsibility of other States where air traffic controllers or radio station operators do not yet meet the language proficiency requirements for a period not exceeding three years after the applicability date of 5 March 2008, provided that those States have made their implementation plans available to all other Contracting States;

7. *Urges* Contracting States to provide data concerning their level of implementation of the Language Proficiency Requirements when requested by ICAO;

8. *Requests* the Council to submit to the next ordinary session of the Assembly a report regarding the implementation of the ICAO language proficiency requirements; and

9. *Declares* that this resolution supersedes Resolution A32-16.

Associated Practices

Contracting States that are not able to meet the language proficiency requirements by 5 March 2008 should:

1. Develop implementation plans for the language proficiency requirements that include the following:

a)   a timeline for adoption of the language proficiency requirements in their national regulations;

b)   a timeline for establishment of language training and assessment capabilities;

c)   a description of a risk based prioritization system for the interim measures to be put in place until full compliance with the language proficiency requirements is achieved;

d)   a procedure for endorsing licences to indicate the holders' language proficiency level; and

e)   designation of a national focal point in relation to the English language proficiency implementation plan;

2.   Make their language proficiency implementation plans available to all other Contracting States by posting their plans on the ICAO website as soon as practicable, but prior to 5 March 2008;

3.   Notify ICAO of differences to the language proficiency Standards and Recommended Practices; and

4.   Publish differences to the language proficiency requirements in relation to the provision of air navigation services in their Aeronautical Information Publications.

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APPENDIX B

**GUIDELINES FOR THE DEVELOPMENT OF A LANGUAGE PROFICIENCY
IMPLEMENTATION PLAN**

Language Proficiency Implementation Plan
1) **Establish a plan to assess level of language proficiency**
2) **Establish a language training and assessment plan**
3) **Establish procedures for licence endorsement**
4) **Establish interim measures** (As required, until full compliance of language proficiency requirements not to exceed three years beyond the applicability date)

Interim Measures	
Pilots	**Air Traffic Controllers**
Priority 1 - Multi-pilot Operations	• Conduct risk assessment for staffing each facility • Establish risk mitigation measures that ensure that sufficient qualified controllers at least at Level 4 work on a given sector or in a given facility • Document risk mitigation measures • Advise ICAO when compliance will be achieved
• Conduct risk assessment • Establish and document risk mitigation measures (e.g. advise that one of the pilots at the controls will be at least at ICAO Operational Level 4) • Advise ICAO when compliance will be achieved	
Priority 2 – Single Pilot Operations (Private and Commercial)	
Conduct risk assessment and consider permitting VFR operations that do not require two-way radiotelephony communications for a period not exceeding three years beyond the applicability date of ICAO Operational Level 4	

5)	**Post implementation plan on the ICAO website**
6)	**File differences with ICAO and document differences in the AIP, as appropriate**
7)	**Align national regulations and provide timeline for adoption of language proficiency requirements**
8)	**Nominate a national focal point on their language proficiency implementation plan**

— END —