



Seventh Regional Aviation Safety Group – Pan America Annual Plenary Meeting (RASG-PA/7)
Willemstad, Curaçao, 11-12 September 2014

Agenda Item 5: Safety Initiatives
5.5 Other Safety Initiatives

SAFETY INFORMATION AND ITS RELATED SOURCES

(Presented by the Secretariat)

EXECUTIVE SUMMARY	
<p>This information paper presents the progress made by ICAO in the development of new and enhanced provisions related to the protection of safety management information and certain accident and incident records, referred altogether as safety information, and their related sources.</p>	
<i>Strategic Objective:</i>	<ul style="list-style-type: none"> • Safety
<i>References:</i>	<ul style="list-style-type: none"> • High-level Safety Conference, Montreal, Canada, 29 March to 1 April 2010 • The 37th Session of the Assembly, Montreal Canada, 28 September to 8 October 2010

1. Introduction

1.1 The High-level Safety Conference (HLSC 2010) (Montréal, 29 March – 1 April 2010) recommended that ICAO establish a multidisciplinary group to progress activities regarding the protection of safety data and safety information, including certain accident and incident records as well as data supporting State safety programmes (SSP) and safety management systems (SMS) (Recommendation 2/4 refers).

1.2 The 37th Session of the Assembly (Montréal, 28 September – 8 October 2010) instructed the Council to consider enhancing, in view of the results of the work of the multidisciplinary group and taking into account the necessary interaction between safety and judicial authorities in the context of open reporting culture, the provisions on the protection of certain accident and incident records with the aim of facilitating the implementation of relevant provisions in Annex 13 — *Aircraft Accident and Incident Investigation* as well as provisions on information gathered through safety management processes with a view to ensure and sustain the availability of information required for the management of safety (Resolutions A37-2 and A37-3 refer).

1.3 The ANC, at the seventh meeting of its 185th Session held on 7 December 2010, agreed to establish a multidisciplinary SIP TF to provide recommendations for new and/or enhanced provisions and guidance materials intended to assure an appropriate level of protection for certain accident and incident records and information gathered through safety management processes.

1.4 In response, the SIP TF developed recommendations for amendments to Annex 19 — Safety Management, addressing various issues associated with the protection of information gathered through safety management processes, and into which relevant provisions of other Annexes had been incorporated recommendations for amendments to Annex 6 — Operation of Aircraft and Annex 13 — Aircraft Accident and Incident Investigation, were also developed addressing the protection of flight recorder recordings and information generated through accident and incident investigations, respectively. With regard to the recommendations on provisions related to Annex 13, the SIP TF further agreed that another appropriate study group, including selected SIP TF participants, under the ICAO Accident Investigation (AIG) Section, be informed of the work of the SIP TF and tasked to consider these recommendations.

1.5 The 38th Session of the Assembly (Montréal, 24 September – 4 October 2013) instructed the Council to take appropriate steps to ensure meaningful progress toward the development of new and/or amended provisions in Annex 13, Annex 19, other Annexes as appropriate, and related guidance material on the protection of certain accident and incident records and information gathered through safety management processes before the next ordinary session of the Assembly, taking into account the findings and recommendations of the SIP TF and further work informed by those findings and recommendations (Resolutions A38-3 and A38-4 refer).

2. Discussion

2.1 Safety Management Information

2.1.1 The ANC, during the seventh and eighth meetings of its 196th Session held on 17 and 18 June 2014, reviewed amendment proposals based on the work of the SIP TF, and authorized the transmission of these proposals to Contracting States and appropriate international organizations for comments.

2.1.2 The proposed amendments enhance legal safeguards intended to assure the appropriate use and protection of information gathered through safety management processes, thereby ensuring its continued availability to support proactive strategies to maintain and improve aviation safety.

2.1.3 The aforementioned proposals aim to:

- a) strike a balance between the need for the protection of safety management information and the need for the proper administration of justice
- b) establish parameters to ensure that safety management information is available to be used for its intended purposes
- c) determine the levels of protection to be afforded to safety management information appropriate to specific circumstances; and

- d) provide necessary flexibility for Contracting States in determining the competent authority to make decisions regarding the disclosure of safety management information for use in judicial, administrative and disciplinary proceedings, as well as to the public

2.1.4 The proposed amendments to Annex 19 are anticipated to be put forward for adoption by the Council in June 2015 and are envisaged for applicability on 10 November 2016 to allow States sufficient time to coordinate with all appropriate authorities.

2.2 Certain Accident and Incident Records

2.2.1 In April 2014, the Group of Experts on Protection of Accident and Incident Records (GEPAIR) was established to finalize the recommendations of the SIP TF addressing paragraph 5.12 and Attachment E to Annex 13; and the use of data, voice and image recordings in Annex 6.

2.2.2 The GEPAIR consists of selected legal experts and aircraft accident and incident investigators, including former members of the SIP TF. The group held one initial meeting in Montréal, Canada, from 17 to 19 June 2014, a second meeting in Paris, France, from 23 to 25 September 2014, and a final meeting to conclude its work is expected at the end of 2014.

2.2.3 The work conducted by the SIP TF and GEPAIR is expected to enhance ICAO provisions and guidance material related to the protection of certain accident and incident records as well as flight recorder recordings, with the aim of facilitating their implementation. The findings and recommendations took into account the importance of mitigating impediments to accident and incident investigations, the sole objective of which is the prevention of accidents and incidents and not the apportionment of blame or liability. The recommendations also considered striking a balance between the need for the protection of records generated through such investigations in the context of an open reporting culture and the need for the proper administration of justice.

2.2.4 The recommendations of the GEPAIR will be presented to the Air Navigation Commission during its 198th Session, which will also take into account the results of the consultation process in ICAO State letter AN8/1-14/47, entitled “Proposal for the amendment of Annexes 6, 13 and 19 relating to the protection of safety information.”

3. Conclusions

3.1 New and enhanced provisions relating to the protection of safety information, in conjunction with the recommendations proposed in Section 3 above, will provide much needed support of proactive safety management activities undertaken by States and service providers and will promote accident and incident investigation objectives. The proposed amendments and those that are under development will clarify critical aspects of the appropriate use of safety information to maintain and improve safety. The new and/or enhanced provisions will provide a means for States to balance the need for the protection of safety information and the need for the proper administration of justice, consistent with the Global Aviation Safety Plan. These benefits will be instrumental to the future enhancement of aviation safety.