Session 12

Independent Investigation Authority

SEMINAR ON AIRCRAFT ACCIDENT INCIDENT INVESTIGATION
11-15 AUGUST 2014
Independent Investigation Unit

- ICAO’s expectation
- Independence of accident investigation authority
- Models of investigation authority
ICAO’s Expectation
ICAO Expectation

- Has the State formally designated in its legislation a specific agency, commission, board or other body within the State to conduct aircraft accident and serious incident investigations?
- Does the legislation or regulations provide for the independence of the accident investigation authority in charge of conducting aircraft accident and incident investigations?
ICAO Expectation (Cont’d)

- Does the State have its own appropriately qualified personnel identified and charged with aircraft accident and serious incident investigation duties?

- Does the State have sufficient human resources to meet its national and international obligations related to aircraft accident investigations?
ICAO Expectation (Cont’d)

- If the State does not have its own appropriately qualified personnel, does the State have arrangements (e.g. MoU) with other States or with regional organisations to obtain the necessary personnel in an expeditious manner in the event of an accident?
Independence of Accident Investigation Authority
Independence of Investigation Authority

- **Standard 5.4** – The accident investigation authority shall have independence in the conduct of the investigation and have unrestricted authority over its conduct, consistent with the provisions of this Annex.

- ICAO expects States to have appropriate legislation on aircraft accident investigation and that such legislation must establish an accident investigation authority (or commission, board or other body).
Accident Investigation Authority

- Must be objective and impartial
- Should be able to withstand political or other interference or pressure
- Independent from civil aviation administration, judicial authority, aviation service providers
Proposed Annex 13 amendments

- ICAO State Letter 2013/55 dated 19 July 2013 [Ref. AN 6/12-13/55] proposed a new standard:

**Standard 3.2** - States shall establish an accident investigation authority that is independent from State aviation authorities and other entities that could interfere with the conduct or objectivity of an investigation”
Models of Investigation Authority
Independent Investigation Authority

- Permanent bureau/branch/unit in a Ministry
- Permanent board/commission/committee not part of any Ministry
- Investigation authority may be reporting to:
  - President
  - Parliament/Congress (e.g. US)
  - Ministry of Transport (e.g. Singapore, UK)
  - Another Ministry (e.g. Canada)
Alternative Investigation Arrangement

- ICAO recognises that it may not be practical for some States to establish a permanent accident investigation authority.

- Alternatives:
  - An investigation unit in CAA
  - Ad-hoc investigation commission set up by Minister using essentially CAA staff
  - Ad-hoc investigation commission set up by Minister using essentially non-CAA staff
  - Public inquiry
  - Regional accident/incident investigation organisation
Investigation Unit in CAA

- Perception of non-independence.
- To alleviate -
  - Clear terms of reference for the unit, including freedom of investigation action
  - DG of CAA making it known that the investigators in the unit have the freedom to act
  - Investigation reports going direct to Ministry or Parliament or President
  - Involvement of neutral party/parties or external investigation experts
    (e.g. from a regional pool or from States with which MoUs were signed)
Example of Clear Terms of Reference for Investigation Unit in CAA

CAA officer appointed as an Investigator shall:

- Be relieved from all encumbrances and obligations that may arise from his regular employment with the CAA
- Have complete freedom to act as an independent person for the purposes of the investigation devoid of the need to paying allegiance, loyalty or affinity to the CAA
- Be assured that no legal or administrative or any other form of action will be taken by the CAA against him, affecting his present or future career status with the CAA for any of the legitimate investigation work performed
Example of Clear Terms of Reference for Investigation Unit in CAA (Cont’d)

The CAA shall not require the officer to disclose or divulge any of the matters, sources or information connected with or incidental to, the conduct of the investigation, during or after the investigation.

DG of CAA shall issue a letter to the officer confirming the above.
Ad-hoc Investigation Commission
Using Essentially CAA Staff

- Experts seconded from the CAA may fear retribution

- To alleviate -
  - Clear terms of reference for the commission, including freedom of investigation action
  - DG of CAA making it known that the investigators seconded from CAA have the freedom to act
  - Involvement of neutral party/parties or external investigation experts
    (e.g. from a regional pool or from States with which MoUs were signed)
Ad-hoc Investigation Commission Using Essentially Non-CAA Staff

- Commission members may not be familiar with aviation industry and Annex 13
- To alleviate -
  - Involvement of neutral party/parties or external investigation experts
    (e.g. from a regional pool or from States with which MoUs were signed)
Public Inquiry

- Expensive.
- Inquiry board members may not be familiar with aviation industry and Annex 13.
- Not practical for routine investigation
- To alleviate -
  - Involvement of neutral party/parties or external investigation experts
    (e.g. from a regional pool or from States with which MoUs were signed)
Regional Accident / Incident Investigation Organisation

- ICAO encourages States to foster regional aviation safety groups
- Regional arrangements may include aircraft accident and incident investigation matters

For reference –

Manual on Regional Accident and Incident Investigation Organisation (Doc 9946)
One-man Investigation Unit in Ministry

- Long term secondment of a CAA staff to Ministry, to be trained to be very familiar with Annex 13
  - Responsible for investigation
  - Form and manage investigation team
  - Direct investigation and exercise quality control
  - Ensure all Annex 13 international protocols are met
Duties for the Investigation Unit

Other than investigation:

- Update investigation legislation
- Put in place investigation procedures
- Ensure adequate investigation logistics
- Plan for investigator resources (secondment from CAA, enlisting neutral parties in the State, MoU with regional pool and other States for external investigation experts)
- Coordination with other agencies and other States
- Advise Ministry on investigation related matters
- End -

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