

**Civil Aviation  
Requirements**



**MCAR - SM**  
**Safety Management**

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First Edition

1 July 2017

**Department of Civil Aviation**

**Ministry of Transport and Communications, Myanmar**

FOREWORD

- 1.1 This Civil Aviation Requirement (CAR) is issued in exercise of the powers conferred by Section 5(A)(c) of the Myanmar Aircraft Act (1934) amended 15<sup>th</sup> of October 2013 on the delegated powers from the Ministry of Transport and Communications and Section 4A to perform perform the safety oversight functions in respect of matters specified in this Act or the rules made there under, to support safety management activities and to manage the safety risks.
- 1.2 The requirements in this document are to be used in conjunction with the Procedures for Air Navigation Services - ICAO Abbreviations and Codes (PANS-ABC, Doc 8400).
- 1.3 Guidance material on the organization and operation of Safety Management is contained in the Safety Management Manual (Doc 9859).
- 1.4 The prescribed First Edition of MCAR-Safety Management shall take effect immediately.



Min Lwin  
Director General  
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**Abbreviations**  
*(used in this MCAR)*

ADREP	Accident/incident Data Reporting
AIS	Aeronautical Information Services
ATS	Air Traffic Services
CNS	Communications, Navigation and Surveillance
CVR	Cockpit Voice Recorder
MET	Aeronautical Meteorological Services
PANS	Procedures for Air Navigation Services
SAR	Search And Rescue
SARPs	Standards and Recommended Practices
SDCPS	Safety Data Collection and Processing Systems
SMM	Safety Management Manual
SMP	Safety Management Panel
SMS	Safety Management System
SSP	Sate Safety Programme

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## CHAPTER 1. Definitions

When the following terms are used in the Myanmar Civil Aviation Requirements for Safety Management, they have the following meanings:

**Accident.** An occurrence associated with the operation of an aircraft which, in the case of a manned aircraft, takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, or in the case of an unmanned aircraft, takes place between the time the aircraft is ready to move with the purpose of flight until such time as it comes to rest at the end of the flight and the primary propulsion system is shut down, in which:

- a) a person is fatally or seriously injured as a result of:
  - being in the aircraft, or
  - direct contact with any part of the aircraft, including parts which have become detached from the aircraft,*or*
  - direct exposure to jet blast,

except when the injuries are from natural causes, self-inflicted or inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to the passengers and crew; or

- b) the aircraft sustains damage or structural failure which:
  - adversely affects the structural strength, performance or flight characteristics of the aircraft, and
  - would normally require major repair or replacement of the affected component,

except for engine failure or damage, when the damage is limited to a single engine, (including its cowlings or accessories), to propellers, wing tips, antennas, probes, vanes, tires, brakes, wheels, fairings, panels, landing gear doors, windscreens, the aircraft skin (such as small dents or puncture holes), or for minor damages to main rotor blades, tail rotor blades, landing gear, and those resulting from hail or bird strike (including holes in the radome);  
*or*

- c) the aircraft is missing or is completely inaccessible.

*Note 1.*— For statistical uniformity only, an injury resulting in death within thirty days of the date of the accident is classified, by ICAO, as a fatal injury.

*Note 2.*— An aircraft is considered to be missing when the official search has been terminated and the wreckage has not been located.

*Note 3.*— The type of unmanned aircraft system to be investigated is addressed in Para 5.1 of Annex 13.

*Note 4.*— Guidance for the determination of aircraft damage can be found in Attachment F of Annex 13.

**Aeroplane.** A power-driven heavier-than-air aircraft, deriving its lift in flight chiefly from aerodynamic reactions on surfaces which remain fixed under given conditions of flight.

**Aircraft.** Any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth's surface.

**Helicopter.** A heavier-than-air aircraft supported in flight chiefly by the reactions of the air on one or more power-driven rotors on substantially vertical axes.

**Incident.** An occurrence, other than an accident, associated with the operation of an aircraft which affects or could affect the safety of operation.

**Industry codes of practice.** Guidance material developed by an industry body, for a particular sector of the aviation industry to comply with the requirements of the International Civil Aviation Organization's Standards and Recommended Practices, other aviation safety requirements and the best practices deemed appropriate.

**Operational personnel.** Personnel involved in aviation activities who are in a position to report safety information.

**Safety.** The state in which risks associated with aviation activities, related to, or in direct support of the operation of aircraft, are reduced and controlled to an acceptable level.

**Safety Management System (SMS).** A systematic approach to managing safety, including the necessary organizational structures, accountabilities, policies and procedures.

**Safety performance.** A State or a service provider's safety achievement as defined by its safety performance targets and safety performance indicators.

**Safety Performance Indicator.** A data-based parameter used for monitoring and assessing safety performance.

**Safety Performance Target.** The planned or intended objective for safety performance indicator(s) over a given period.

**Safety risk.** The predicted probability and severity of the consequences or outcomes of a hazard.

**Serious injury.** An injury which is sustained by a person in an accident and which:

- a) requires hospitalization for more than 48 hours, commencing within seven days from the date the injury was received; *or*
- b) results in a fracture of any bone (except simple fractures of fingers, toes or nose); *or*
- c) involves lacerations which cause severe haemorrhage, nerve, muscle or tendon damage; *or*
- d) involves injury to any internal organ; *or*
- e) involves second or third degree burns, or any burns affecting more than 5 per cent of the body surface; *or*
- f) involves verified exposure to infectious substances or injurious radiation.

**State of Design.** The State having jurisdiction over the organization responsible for the type design.

**State of Manufacture.** The State having jurisdiction over the organization responsible for the final assembly of the aircraft.

**State of the Operator.** The State in which the operator's principal place of business is located or, if there is no such place of business, the operator's permanent residence.

**State safety programme (SSP).** An integrated set of regulations and activities aimed at improving safety.

## **CHAPTER 2. Applicability**

The Requirements contained in this MCAR shall be applicable to safety management functions related to, or in direct support of, the safe operation of aircraft.

*Note 1.*— Safety management provisions are contained in Chapter 3 and relate to a State Safety Programme.

*Note 2.*— Safety management provisions for specified aviation service providers and operators are in Chapter 4 and relate to respective Safety Management System (SMS). Supplementary safety management provisions specific to individual service providers or operators are contained in other MCARs, as referenced in this MCAR.

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## CHAPTER 3. State Safety Management Responsibilities

### 3.1 State Safety Programme (SSP)

3.1.1 SSP shall be established for the management of safety in the Myanmar, in order to achieve an acceptable level of safety performance in civil aviation. The SSP shall include the following components:

- a) State safety policy and objectives;
- b) State safety risk management;
- c) State safety assurance; and
- d) State safety promotion.

*Note 1.*— The SSP established shall ensure to commensurate with the size and the complexity of aviation activities.

*Note 2.*— A framework for the implementation and maintenance of an SSP is contained in Attachment A, and guidance on a State Safety Programme shall be referred to the ICAO Safety Management Manual (SMM) (Doc 9859).

3.1.2 The Acceptable Level of Safety Performance (ALoSP) to be achieved shall be established.

*Note.*— Defining an acceptable level of safety performance should be referred to the ICAO guidance material - Safety Management Manual (SMM) (Doc 9859).

3.1.3 As part of SSP, the following service providers shall require to implement an SMS:

- a) *Approved Training Organizations* in accordance with related MCAR that are exposed to safety risks related to aircraft operations during the provision of their services;
- b) *Operators of aeroplanes or helicopters* authorized to conduct international commercial air transport, in accordance with related MCARs, respectively;

*Note.*— When maintenance activities are not conducted by an approved maintenance organization in accordance with related MCAR, but under an equivalent system as in other MCAR relating to aircraft operations, should be included in the scope of the operator's SMS.

- c) *Approved Maintenance Organizations* providing services to operators of aeroplanes or helicopters engaged in international commercial air transport, in accordance with related MCARs, respectively;
- d) *Air Traffic Services (ATS) providers* in accordance with related MCAR; *and*

*Note.*— The provision of AIS, CNS, MET and/or SAR services, when under the authority of an ATS provider, are included in the scope of the ATS provider's SMS. When the provision of AIS, CNS, MET and/or SAR services are wholly or partially provided by an entity other than an ATS provider, the related services that come under the authority of the ATS provider, or those aspects of the services with direct operational implications, should be included in the scope of the ATS provider's SMS.

- e) *Operators of certified aerodromes* in accordance with related MCAR.

3.1.4 As part of SSP, *International General Aviation Operators* of large or turbojet aeroplanes in accordance with related MCAR, shall implement an SMS.

*Note.*— International general aviation operators should not be considered as service providers in the context of this MCAR.

### 3.2 State Safety Oversight

A safety oversight system shall be established and implement in accordance with Appendix 1.

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## CHAPTER 4. Safety Management System (SMS)

*Note 1.*— Guidance on implementation of an SMS should refer to the Safety Management Manual (SMM) (Doc 9859).

*Note 2.*— The term “*service provider*” refers to those organizations listed in Chapter 3, 3.1.3.

### 4.1 General

4.1.1 Except as required in 4.2, the SMS of a service provider shall:

a) be established in accordance with the framework elements contained in Appendix 2; *and*

b) be commensurate with the size of the service provider and the complexity of its aviation products or services.

4.1.2 The SMS of an Approved Training Organization, in accordance with MCAR for personnel licensing, that is exposed to safety risks related to aircraft operations during the provision of its services shall be made acceptable to the civil aviation authority responsible for the organization’s approval.

4.1.3 The SMS of a certified operator of aeroplanes or helicopters authorized to conduct international commercial air transport, in accordance with MCARs for aircraft operations, respectively, shall be made acceptable to the civil aviation authority of the State of the Operator that is Department of Civil Aviation, Myanmar.

*Note.*— When maintenance activities are not conducted by an approved maintenance organization in accordance with MCAR for aircraft operations, but under an equivalent system as in MCARs relating to aircraft operations, should be included in the scope of the operator’s SMS.

4.1.4 The SMS of an approved maintenance organization providing services to operators of aeroplanes or helicopters engaged in international commercial air transport, in accordance with MCARs relating to aircraft operations, respectively, shall be made acceptable to the authority responsible for the organization’s approval.

4.1.5 The SMS of an organization responsible for the type design of aircraft, in accordance with MCAR for Operations, shall be made acceptable to the State of Design.

4.1.6 The SMS of an organization responsible for the manufacture of aircraft, in accordance with MCAR for Operations, shall be made acceptable to the State of Manufacture.

4.1.7 The SMS of an ATS provider, in accordance with MCAR for Air Traffic Services, shall be made acceptable to the civil aviation authority responsible for the provider’s designation.

*Note.*— The provision of AIS, CNS, MET and/or SAR services, when under the authority of an ATS provider, are included in the scope of the ATS provider’s SMS. When the provision of AIS, CNS, MET and/or SAR services are wholly or partially provided by an entity other than an ATS provider, the related services that come under the authority of the ATS provider, or those aspects of their services with direct operational implications, are included in the scope of the ATS provider’s SMS.

4.1.8 The SMS of an operator of a certified aerodrome, in accordance with MCAR for Aerodromes, shall be made acceptable to the civil aviation authority responsible for the aerodrome’s certification.

### 4.2 International general aviation — aeroplanes

*Note.*— Guidance on the implementation of an SMS for general aviation should refer to the Safety Management Manual (SMM) (Doc 9859) and industry codes of practice.

4.2.1 The SMS of an international general aviation operator, conducting operations of large or turbojet aeroplanes in accordance with MCAR for aircraft operations, shall be commensurate with the size and complexity of the operation.

4.2.2 The SMS should as a minimum include:

- a) a process to identify actual and potential safety hazards and assess the associated risks;
  - b) a process to develop and implement remedial action necessary to maintain an acceptable level of safety; *and*
  - c) provision for continuous monitoring and regular assessment of the appropriateness and effectiveness of safety management activities.
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## CHAPTER 5. Safety Data Collection, Analysis And Exchange

*Note.*— The objective of these specifications is to support safety management activities by collection and analysis of safety data and by a prompt and secure exchange of safety information, as part of the SSP.

### 5.1 Safety data collection

#### *Reporting systems*

5.1.1 A mandatory incident reporting system shall be established to facilitate collection of information on actual or potential safety deficiencies.

5.1.2 A voluntary incident reporting system shall be established to facilitate collection of information on actual or potential safety deficiencies that may not be captured by the mandatory incident reporting system.

5.1.3 Subject to Requirement 5.3.1, authorities responsible for the implementation of the SSP should have access to appropriate information available in the incident reporting systems referenced in 5.1.1 and 5.1.2 to support safety responsibilities.

*Note 1.*— Authorities responsible for the implementation of the SSP should include accident investigation authorities.

*Note 2.*— Other safety data collection and processing systems should be established to collect safety information that may not be captured by the incident reporting systems mentioned in 5.1.1 and 5.1.2 above.

### 5.2 Safety data analysis

5.2.1 A safety database shall be established and maintained to facilitate the effective analysis of information on actual or potential safety deficiencies obtained, including that from its incident reporting systems, and to determine any actions required for the enhancement of safety.

*Note.*— The term “safety database” may refer to a single or multiple database(s) and may include the accident and incident database. Provisions on an accident and incident database are included in MCAR for Aircraft Accident and Incident Investigation. Additional guidance on a safety database should also be referenced to the Safety Management Manual (SMM) (Doc 9859).

5.2.2 Following the identification of preventive actions required to address actual or potential safety deficiencies, these actions should be implemented and a process to monitor implementation and effectiveness of the responses should also be established.

*Note.*— Additional information on which to base preventive actions may be contained in the Final Reports on investigated accidents and incidents.

5.2.3 The database systems should use standardized formats to facilitate data exchange.

*Note.*— An ADREP-compatible system should be used.

### 5.3 Safety data protection

*Note.*— Attachment B contains legal guidance for the protection of information from safety data collection and processing systems.

5.3.1 A voluntary incident reporting system shall be non-punitive and afford protection to the sources of the information.

*Note 1.*— A non-punitive environment should be fundamental to voluntary reporting.

*Note 2.*— The voluntary reporting of events that could affect aviation safety by adjusting their applicable laws, regulations and policies, as necessary should be facilitated and promoted.

*Note 3.*— Guidance related to both mandatory and voluntary incident reporting systems is contained in the Safety Management Manual (SMM) (Doc 9859).

5.3.2 Recommendation.— States should not make available or use safety data referenced in 5.1 or 5.2 for other than safety-related purposes, unless exceptionally, an appropriate authority determines in accordance with their national legislation, the value of its disclosure or use in any particular instance, outweighs the adverse impact such action may have on aviation safety.

#### **5.4 Safety information exchange**

5.4.1 If, in the analysis of the information contained in its database, such information identifies safety matters considered to be of interest to other States, that should be forwarded such safety information to them as soon as possible.

5.4.2 The establishment of safety information sharing networks among users of the aviation system should be promoted and the free exchange of information on actual and potential safety deficiencies should be facilitated.

*Note.*— Standardized definitions, classifications and formats are needed to facilitate data exchange. Guidance material on the specifications for such information-sharing networks are available from ICAO.

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**APPENDIX 1.**  
**State Safety Oversight System**  
(See Chapter 3, 3.2)

*Note 1.*— Guidance on the critical elements of a system that enables to discharge the responsibility for safety oversight should be referenced in the Safety Oversight Manual, Part A, The Establishment and Management of a State's Safety Oversight System (Doc 9734).

*Note 2.*— The term “relevant authorities or agencies” should be used in a generic sense to include all authorities with aviation safety oversight responsibility which may be established by the civil aviation authority as separate entities, such as: Civil Aviation Authorities, Airport Authorities, ATS Authorities, Accident Investigation Authority, and Meteorological Authority.

*Note 3.*— MCARs for Operations should be included with the provisions specific to the safety oversight of air operators.

*Note 4.*— Within the context of this appendix the term “service provider” refers to those organizations listed in Chapter 3, 3.1.3.

**1. Primary aviation legislation**

- 1.1 A comprehensive and effective aviation law shall be promulgated, consistent with the size and complexity of the Myanmar aviation activities and with the requirements contained in the Convention on International Civil Aviation, that enables the civil aviation authority to regulate civil aviation and enforce regulations through the relevant authorities or agencies established for that purpose.
- 1.2 The aviation law shall provide personnel performing safety oversight functions access to the aircraft, operations, facilities, personnel and associated records, as applicable, of service providers.

**2. Specific operating regulations**

- 2.1 The Regulations shall be promulgated to address, at a minimum, national requirements emanating from the primary aviation legislation, for standardized operational procedures, products, services, equipment and infrastructures in conformity with the Annexes to the Convention on International Civil Aviation.

*Note.*— The term “regulations” is used in a generic sense and includes but is not limited to instructions, rules, edicts, directives, sets of laws, requirements, policies and orders.

**3. State system and functions**

- 3.1 Authorities or relevant agencies shall be established, as appropriate, supported by sufficient and qualified personnel and provided with adequate financial resources. Each of the authority or agency shall have stated safety functions and objectives to fulfil its safety management responsibilities.
- 3.2 The necessary measures should be taken, such as remuneration and conditions of service, to ensure that qualified personnel performing safety oversight functions are recruited and retained.
- 3.3 Personnel performing safety oversight functions shall be provided with guidance that addresses ethics, personal conduct and the avoidance of actual or perceived conflicts of interest in the performance of official duties.
- 3.4 A methodology shall be used to determine staffing requirements for personnel performing safety oversight functions, taking into account the size and complexity of the aviation activities.

*Note.*— In addition, MCARs relating to aircraft operations, should be required the State of the Operator to use such a methodology to determine its inspector staffing requirements. Inspectors are a subset of personnel performing safety oversight functions.

**4. Qualified technical personnel**

- 4.1 The minimum qualification requirements for the technical personnel performing safety oversight functions shall be established and provided for appropriate initial and recurrent training to maintain and enhance their competence at the desired level.
- 4.2 A system for the maintenance of training records shall be implemented.

**5. Technical guidance, tools and provision of safety-critical information**

- 5.1 The appropriate facilities, comprehensive and up-to-date technical guidance material and procedures, safety-critical information, tools and equipment, and transportation means, as applicable, shall be provided to the technical personnel to enable them to perform their safety oversight functions effectively and in accordance with established procedures in a standardized manner.
- 5.2 The technical guidance shall be provided to the aviation industry on the implementation of relevant regulations.

**6. Licensing, certification, authorization and/or approval obligations**

- 6.1 The documented processes and procedures shall be implemented to ensure that personnel and organizations performing an aviation activity meet the established requirements before they are allowed to exercise the privileges of a licence, certificate, authorization and/or approval to conduct the relevant aviation activity.

**7. Surveillance obligations**

- 7.1 The documented surveillance processes shall be implemented, by defining and planning inspections, audits, and monitoring activities on a continuous basis, to proactively assure that aviation licence, certificate, authorization and/or approval holders continue to meet the established requirements. This includes the surveillance of personnel designated by the Authority to perform safety oversight functions on its behalf.

**8. Resolution of safety issues**

- 8.1 The documented process shall be used to take appropriate corrective actions, up to and including enforcement measures, to resolve identified safety issues.
- 8.2 The identified safety issues shall be resolved in a timely manner through a system which monitors and records progress, including actions taken by service providers in resolving such issues.

**APPENDIX 2.**  
**Framework for a Safety Management System (SMS)**  
(See Chapter 4, 4.1.1)

*Note 1.*— Guidance on the implementation of the framework for an SMS is contained in the Safety Management Manual (SMM) (Doc 9859).

*Note 2.*— Within the context of this appendix, the term “service provider” refers to those organizations listed in Chapter 3, 3.1.3.

This appendix specifies the framework for the implementation and maintenance of an SMS. The framework comprises four components and twelve elements as the minimum requirements for SMS implementation:-

1. Safety policy and objectives
  - 1.1 Management commitment and responsibility
  - 1.2 Safety accountabilities
  - 1.3 Appointment of key safety personnel
  - 1.4 Coordination of emergency response planning
  - 1.5 SMS documentation
2. Safety risk management
  - 2.1 Hazard identification
  - 2.2 Safety risk assessment and mitigation
3. Safety assurance
  - 3.1 Safety performance monitoring and measurement
  - 3.2 The management of change
  - 3.3 Continuous improvement of the SMS
4. Safety promotion
  - 4.1 Training and education
  - 4.2 Safety communication

**1. Safety policy and objectives**

**1.1 Management commitment and responsibility:**

The service provider shall define its safety policy in accordance with international and national requirements. The safety policy shall:

- a) reflect organizational commitment regarding safety;
- b) include a clear statement about the provision of the necessary resources for the implementation of the safety policy;
- c) include safety reporting procedures;
- d) clearly indicate which types of behaviours are unacceptable related to the service provider’s aviation activities and include the circumstances under which disciplinary action would not apply;
- e) be signed by the accountable executive of the organization;
- f) be communicated, with visible endorsement, throughout the organization; and
- g) be periodically reviewed to ensure it remains relevant and appropriate to the service provider.

## 1.2 *Safety accountabilities*

The service provider shall:

- a) identify the accountable executive who, irrespective of other functions, has ultimate responsibility and accountability, on behalf of the organization, for the implementation and maintenance of the SMS;
- b) clearly define lines of safety accountability throughout the organization, including a direct accountability for safety on the part of senior management;
- c) identify the accountabilities of all members of management, irrespective of other functions, as well as of employees, with respect to the safety performance of the SMS;
- d) document and communicate safety responsibilities, accountabilities and authorities throughout the organization; and
- e) define the levels of management with authority to make decisions regarding safety risk tolerability.

## 1.3 *Appointment of key safety personnel*

The service provider shall appoint a safety manager who is responsible for the implementation and maintenance of an effective SMS.

## 1.4 *Coordination of emergency response planning*

The service provider shall ensure that an emergency response plan is properly coordinated with the emergency response plans of those organizations it must interface with during the provision of its products and services.

## 1.5 *SMS documentation*

1.5.1 The service provider shall develop an SMS implementation plan, formally endorsed by the organization, that defines the organization's approach to the management of safety in a manner that meets the organization's safety objectives.

1.5.2 The service provider shall develop and maintain SMS documentation that describes its:

- a) safety policy and objectives;
- b) SMS requirements;
- c) SMS processes and procedures;
- d) accountabilities, responsibilities and authorities for SMS processes and procedures; and
- e) SMS outputs.

1.5.3 The service provider shall develop and maintain an SMS manual as part of its SMS documentation.

## **2. Safety risk management**

### 2.1 *Hazard identification*

2.1.1 The service provider shall develop and maintain a process that ensures that hazards associated with its aviation products or services are identified.

2.1.2 Hazard identification shall be based on a combination of reactive, proactive and predictive methods of safety data collection.

### 2.2 *Safety risk assessment and mitigation*

The service provider shall develop and maintain a process that ensures analysis, assessment and control of the safety risks associated with identified hazards.



### **3. Safety assurance**

#### **3.1 *Safety performance monitoring and measurement***

3.1.1 The service provider shall develop and maintain the means to verify the safety performance of the organization and to validate the effectiveness of safety risk controls.

3.1.2 The service provider's safety performance shall be verified in reference to the safety performance indicators and safety performance targets of the SMS.

#### **3.2 *The management of change***

The service provider shall develop and maintain a process to identify changes which may affect the level of safety risk associated with its aviation products or services and to identify and manage the safety risks that may arise from those changes.

#### **3.3 *Continuous improvement of the SMS***

The service provider shall monitor and assess the effectiveness of its SMS processes to enable continuous improvement of the overall performance of the SMS.

### **4. Safety promotion**

#### **4.1 *Training and education***

4.1.1 The service provider shall develop and maintain a safety training programme that ensures that personnel are trained and competent to perform their SMS duties.

4.1.2 The scope of the safety training programme shall be appropriate to each individual's involvement in the SMS.

#### **4.2 *Safety communication***

The service provider shall develop and maintain a formal means for safety communication that:

- a) ensures personnel are aware of the SMS to a degree commensurate with their positions;
- b) conveys safety-critical information;
- c) explains why particular safety actions are taken; and
- d) explains why safety procedures are introduced or changed.

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**ATTACHMENT A.**  
**Framework for State Safety Programme (SSP)**  
 (See Chapter 3, 3.1.1)

This attachment introduces a framework for the implementation and maintenance of an SSP. An SSP is a management system for the management of safety by the State. The framework includes the four components as established in Chapter 3, 3.1.1, of this MCAR and its related eleven elements as outlined hereunder. The implementation of an SSP is commensurate with the size and complexity of the State's aviation system and necessitates coordination among the authorities responsible for individual elements of civil aviation functions in the State. The SSP framework introduced in this attachment, and the SMS framework specified in Appendix 2, must be viewed as complementary, yet distinct, frameworks. This attachment also includes a brief description of each element of the framework.

*Note.*— Within the context of this attachment the term “service provider” refers to those organizations listed in Chapter 3, 3.1.3.

1. State safety policy and objectives
  - 1.1 State safety legislative framework
  - 1.2 State safety responsibilities and accountabilities
  - 1.3 Accident and incident investigation
  - 1.4 Enforcement policy
2. State safety risk management
  - 2.1 Safety requirements for the service provider's SMS
  - 2.2 Agreement on the service provider's safety performance
3. State safety assurance
  - 3.1 Safety oversight
  - 3.2 Safety data collection, analysis and exchange
  - 3.3 Safety-data-driven targeting of oversight of areas of greater concern or need
4. State safety promotion
  - 4.1 Internal training, communication and dissemination of safety information
  - 4.2 External training, communication and dissemination of safety information

**1. State safety policy and objectives**

**1.1 State safety legislative framework**

The State has promulgated a national safety legislative framework and specific regulations, in compliance with international and national standards, that define how the State will conduct the management of safety in the State. This includes the participation of State aviation organizations in specific activities related to the management of safety in the State, and the specific regulations are periodically reviewed to ensure they remain relevant and appropriate to the State.

**1.2 State safety responsibilities and accountabilities**

The State has identified, defined and documented the requirements, responsibilities and accountabilities regarding the establishment and maintenance of the SSP. This includes the directives to plan, organize, develop, maintain, control and continuously improve the SSP in a manner that meets the State's safety objectives. It also includes a clear statement about the provision of the necessary resources for the implementation of the SSP.

**1.3 Accident and incident investigation**

The State has established an independent accident and incident investigation process, the sole objective of which is the prevention of accidents and incidents, and not the apportioning of blame or liability. Such investigations are in support of the management of safety in the State. In the operation of the SSP, the State maintains the independence of the accident and incident investigation organization from other State aviation organizations.

#### 1.4 *Enforcement policy*

The State has promulgated an enforcement policy that establishes the conditions and circumstances under which service providers are allowed to deal with, and resolve, events involving certain safety deviations, internally, within the context of the service provider's SMS, and to the satisfaction of the appropriate State authority. The enforcement policy also establishes the conditions and circumstances under which to deal with safety deviations through established enforcement procedures.

### **2. State safety risk management**

#### 2.1 *Safety requirements for the service provider's SMS*

The State has established the controls which govern how service providers will identify hazards and manage safety risks. These include the requirements, specific operating regulations and implementation policies for the service provider's SMS. The requirements, specific operating regulations and implementation policies are periodically reviewed to ensure they remain relevant and appropriate to the service providers.

#### 2.2 *Agreement on the service provider's safety performance*

The State has agreed with individual service providers on the safety performance of their SMS. The agreed safety performance of an individual service provider's SMS is periodically reviewed to ensure it remains relevant and appropriate to the service providers.

### **3. State safety assurance**

#### 3.1 *Safety oversight*

The State has established mechanisms to ensure effective monitoring of the eight critical elements of the safety oversight function. The State has also established mechanisms to ensure that the identification of hazards and the management of safety risks by service providers follow established regulatory controls (requirements, specific operating regulations and implementation policies). These mechanisms include inspections, audits and surveys to ensure that regulatory safety risk controls are appropriately integrated into the service provider's SMS, that they are being practised as designed, and that the regulatory controls have the intended effect on safety risks.

*Note.*— Guidance on the implementation of this element should refer to the ICAO Document - Safety Management Manual (SMM) (Doc 9859).

#### 3.2 *Safety data collection, analysis and exchange*

The State has established mechanisms to ensure the capture and storage of data on hazards and safety risks at both an individual and aggregate State level. The State has also established mechanisms to develop information from the stored data, and to actively exchange safety information with service providers and/or other States as appropriate.

#### 3.3 *Safety-data-driven targeting of oversight of areas of greater concern or need*

The State has established procedures to prioritize inspections, audits and surveys towards those areas of greater safety concern or need, as identified by the analysis of data on hazards, their consequences in operations, and the assessed safety risks.

### **4. State safety promotion**

#### 4.1 *Internal training, communication and dissemination of safety information*

The State provides training and fosters awareness and two-way communication of safety-relevant information to support, within the State aviation organizations, the development of an organizational culture that fosters an effective and efficient SSP.

#### 4.2 *External training, communication and dissemination of safety information*

The State provides education and promotes awareness of safety risks and two-way communication of safety-relevant information to support, among service providers, the development of an organizational culture that fosters an effective and efficient SMS.

**ATTACHMENT B.**  
**Legal Guidance for the Protection of**  
**Information from Safety Data Collection and Processing Systems**  
(See Chapter 5, 5.3)

**1. Introduction**

- 1.1 The protection of safety information from inappropriate use is essential to ensure its continued availability, since the use of safety information for other than safety-related purposes may inhibit the future availability of such information, with an adverse effect on safety. This fact was recognized by the 35th Session of the ICAO Assembly, which noted that existing national laws and regulations in many States may not adequately address the manner in which safety information is protected from inappropriate use.
- 1.2 The guidance contained in this attachment is therefore aimed at assisting States enact national laws and regulations to protect information gathered from safety data collection and processing systems (SDCPS), while allowing for the proper administration of justice. The objective is to prevent the inappropriate use of information collected solely for the purpose of improving aviation safety.
- 1.3 Because of the different legal systems in States, the legal guidance must allow States the flexibility to draft their laws and regulations in accordance with their national policies and practices.
- 1.4 The guidance contained in this attachment, therefore, takes the form of a series of principles that have been distilled from examples of national laws and regulations provided by States. The concepts described in these principles could be adapted or modified to meet the particular needs of the State enacting laws and regulations to protect safety information.
- 1.5 Throughout this attachment:
- a) safety information refers to information contained in SDCPS established for the sole purpose of improving aviation safety, and qualified for protection under specified conditions in accordance with 3.1 below;
  - b) inappropriate use refers to the use of safety information for purposes different from the purposes for which it was collected, namely, use of the information for disciplinary, civil, administrative and criminal proceedings against operational personnel, and/or disclosure of the information to the public;
  - c) SDCPS refers to processing and reporting systems, databases, schemes for exchange of information, and recorded information and include:
    - 1) records pertaining to accident and incident investigations, as described in Annex 13, Chapter 5;
    - 2) mandatory incident reporting systems, as described in Chapter 5, 5.1, of this Annex;
    - 3) voluntary incident reporting systems, as described in Chapter 5, 5.1, of this Annex; and
    - 4) self-disclosure reporting systems, including automatic data capture systems, as described in Annex 6, Part I, Chapter 3, as well as manual data capture systems.

*Note.*— Information on safety data collection and processing systems can be found in the Safety Management Manual (SMM) (Doc 9859).

**2. General principles**

- 2.1 The sole purpose of protecting safety information from inappropriate use is to ensure its continued availability so that proper and timely preventive actions can be taken and aviation safety improved.
- 2.2 It is not the purpose of protecting safety information to interfere with the proper administration of justice in States.
- 2.3 National laws and regulations protecting safety information should ensure that a balance is struck between the need for the protection of safety information in order to improve aviation safety, and the need for the proper administration of justice.
- 2.4 National laws and regulations protecting safety information should prevent its inappropriate use.
- 2.5 Providing protection to qualified safety information under specified conditions is part of a State's safety responsibilities.

### 3. **Principles of protection**

- 3.1 Safety information should qualify for protection from inappropriate use according to specified conditions that should include, but not necessarily be limited to, whether the collection of information was for explicit safety purposes and if the disclosure of the information would inhibit its continued availability.
- 3.2 The protection should be specific for each SDCPS, based upon the nature of the safety information it contains.
- 3.3 A formal procedure should be established to provide protection to qualified safety information, in accordance with specified conditions.
- 3.4 Safety information should not be used in a way different from the purposes for which it was collected.
- 3.5 The use of safety information in disciplinary, civil, administrative and criminal proceedings should be carried out only under suitable safeguards provided by national law.

### 4. **Principles of exception**

Exceptions to the protection of safety information should only be granted by national laws and regulations when:

- a) there is evidence that the occurrence was caused by an act considered, in accordance with the law, to be conduct with intent to cause damage, or conduct with knowledge that damage would probably result, equivalent to reckless conduct, gross negligence or willful misconduct;
- b) an appropriate authority considers that circumstances reasonably indicate that the occurrence may have been caused by conduct with intent to cause damage, or conduct with knowledge that damage would probably result, equivalent to reckless conduct, gross negligence or willful misconduct; or
- c) review by an appropriate authority determines that the release of the safety information is necessary for the proper administration of justice, and that its release outweighs the adverse domestic and international impact such release may have on the future availability of safety information.

### 5. **Public disclosure**

- 5.1 Subject to the principles of protection and exception outlined above, any person seeking disclosure of safety information should justify its release.
- 5.2 Formal criteria for disclosure of safety information should be established and should include, but not necessarily be limited to, the following:
  - a) disclosure of the safety information is necessary to correct conditions that compromise safety and/or to change policies and regulations;
  - b) disclosure of the safety information does not inhibit its future availability in order to improve safety;
  - c) disclosure of relevant personal information included in the safety information complies with applicable privacy laws; and
  - d) disclosure of the safety information is made in a de-identified, summarized or aggregate form.

### 6. **Responsibility of the custodian of safety information**

Each SDCPS should have a designated custodian. It is the responsibility of the custodian of safety information to apply all possible protection regarding the disclosure of the information, unless:

- a) the custodian of the safety information has the consent of the originator of the information for disclosure; *or*
- b) the custodian of the safety information is satisfied that the release of the safety information is in accordance with the principles of exception.

## 7. **Protection of recorded information**

Considering that ambient workplace recordings required by legislation, such as cockpit voice recorders (CVRs), may be perceived as constituting an invasion of privacy for operational personnel that other professions are not exposed to:

- a) subject to the principles of protection and exception above, national laws and regulations should consider ambient workplace recordings required by legislation as privileged protected information, i.e. information deserving enhanced protection; and
- b) national laws and regulations should provide specific measures of protection to such recordings as to their confidentiality and access by the public. Such specific measures of protection of workplace recordings required by legislation may include the issuance of orders of non-public disclosure.

— **END** —