



HLCC 2021-WP/245
SAF/157
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**HIGH-LEVEL CONFERENCE ON COVID-19
(HLCC 2021)**

Montréal, 12 to 22 October 2021

**DRAFT REPORT OF THE SAFETY STREAM
ON AGENDA ITEM 5**

The attached draft report on Agenda Item 5 is presented for approval by the Safety Stream for submission to the Plenary.

Agenda Item 5: Other issues to be considered by the Safety stream***Accident and incident investigation***

5.1 The Safety Stream reviewed HLCC 2021-WP/93-SAF/71, presented by Canada, Cameroon, Colombia, Costa Rica, Dominican Republic, Equatorial Guinea, France, India, Japan, Malaysia, Netherlands, Nigeria, Saudi Arabia, Spain, Ukraine and the United Kingdom and supported by Zambia and the European Union¹ and its Member States, the other Member States of the European Civil Aviation Conference², which discussed the suitability of an investigation framework in Annex 13 — *Aircraft Accident and Incident Investigation* for possible conflict of interest situations, either real or perceived, where the actions of the State of Occurrence caused the downing of a civilian aircraft. The paper also called for an increased level of participation in investigations of States involving citizens that were injured or killed. While noting concerns expressed regarding sovereignty and independence of the investigation, the Safety Stream recognized the benefit of a review of Annex 13 to better address conflict of interest scenarios during investigations. The Safety Stream stressed that a review should address a wide variety of possible conflict of interest scenarios and consider political and legal aspects. In noting that this task was already under consideration for incorporation within the work programme of the Organization, the Safety Stream voiced encouragement for timely referral to an appropriate expert group.

5.2 The Safety Stream reviewed HLCC 2021-WP/65-SAF/46, presented by Colombia and supported by Argentina, Bolivia (Plurinational State of), Brazil, Ecuador, Guyana, Panama, Paraguay, Peru, Suriname, Uruguay and Venezuela (Bolivarian Republic of), which addressed issues concerning the criminalization of aircraft accidents and incidents. The Safety Stream reiterated a need for States to make a distinction between regulations on the investigation of aircraft accidents and incidents, and those on apportioning blame and legal liability, in order to improve trust in the accident and incident investigation process. The Safety Stream noted that the sovereignty of States and the independence of the accident and incident investigation process needed to be protected, if alignment with a regional legal system is considered. In this regard, the Safety Stream recognized the value of a comprehensive diagnosis of legal practices by an appropriate expert group, with an aim to develop guidance on avoiding the criminalization of accident and incident investigations.

5.3 As a result of the discussion, the Safety Stream agreed on the following recommendation:

Recommendation 5/1 — Criminalization of accident and incident investigations

That States:

- a) implement Annex 13 — *Aircraft Accident* provisions and adopt best practices related to the investigation of aircraft accidents and incidents within their legislative systems, making a distinction between the regulations on the investigation of aircraft accidents and incidents and those on issues of liability; and

¹ Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.

² Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Iceland, Republic of Moldova, Monaco, Montenegro, North Macedonia, Norway, San Marino, Serbia, Switzerland, Turkey, Ukraine and United Kingdom.

That ICAO:

- b) consider a comprehensive diagnosis of legal practices with an aim to develop guidance on avoiding criminalization of accident and incident investigations, and to build a relationship between those involved in aviation activities, regional aviation accident investigation organizations, insurance companies and the judicial system.

Universal Safety Oversight Audit Programme — Continuous Monitoring Approach (USOAP CMA)

5.4 The Safety Stream reviewed HLCC 2021-WP/27-SAF/14, presented by Paraguay and supported by Argentina, Bolivia (Plurinational State of), Brazil, Colombia, Ecuador, Guyana, Panama, Peru, Suriname, Uruguay and Venezuela (Bolivarian Republic of)), which described the experience of using remote safety oversight audits during a pandemic and proposed considering remote activities as part of the Universal Safety Oversight Audit Programme — Continuous Monitoring Approach (USOAP CMA) methodologies. The Safety Stream was informed that USOAP CMA activities were conducted remotely and virtually during the COVID-19 pandemic, and recognized that such activities added greater flexibility to the programme in fulfilling its functions, in addition to on-site activities. Noting the complexity of remote and virtual USOAP CMA activities, State cooperation was highly encouraged.

5.5 The Safety Stream reviewed HLCC 2021-WP/101-SAF/79, presented by the Republic of Korea, which proposed supporting Member States in managing their own audit information and developing procedures to manage and protect information collected and generated by the online framework. The Safety Stream was informed that the recommendations of the Group of Experts for a USOAP CMA Structured Review (GEUSR) and USOAP Advisory Group (USOAP-AG) were in alignment with the proposals and that the development of a data management framework was included as part of the on-going consultation to address, *inter alia*, procedures to manage, use and protect relevant information.

5.6 HLCC 2021-WP/37-SAF/24, Revision No. 1, presented by Peru, supported by Argentina, Bolivia (Plurinational State of), Brazil, Chile, Colombia, Ecuador, Guyana, Panama, Paraguay, Suriname, Uruguay and Venezuela (Bolivarian Republic of), and HLCC 2021-WP/100-SAF/78, Revision No.1, presented by the Republic of Korea, addressed the effective implementation and evolution of USOAP and, in particular, the integration of traditional USOAP CMA activities with the State safety programme (SSP) implementation assessments (SSPIAs). The Safety Stream recognized the benefit of integrating these activities in the long term while maintaining different methodologies of these activities. The Safety Stream noted that the proposals were in alignment with the relevant recommendations and advice of GEUSR and USOAP-AG on the evolution of the SSPIA, and agreed that these be referred to the consultation platform, as recommended by the USOAP-AG, for their consideration in the continuous evolution of the USOAP.

5.7 As a result of the discussion, the Safety Stream agreed on the following recommendation:

**Recommendation 5/2 — Universal Safety Oversight Audit Programme (USOAP)
Continuous Monitoring Approach (CMA)**

That States:

- a) cooperate with ICAO and, as much as practicable, accept Universal Safety Oversight Audit Programme — Continuous Monitoring Approach (USOAP CMA) activities,

including those activities conducted remotely or virtually, in order to facilitate the smooth functioning of the programme;

That ICAO:

- b) continue the evolution of the USOAP CMA in line with the recommendations and advice of the Group of Experts for a USOAP CMA Structured Review (GEUSR), USOAP Advisory Group (USOAP-AG), and innovations resulting from the management of the pandemic;
- c) implement the recommendations of the GEUSR and USOAP-AG including the development of a data management framework for USOAP-CMA, which contains, inter alia, procedures to use, manage and protect relevant information; and
- d) integrate State safety programme (SSP) implementation assessments (SSPIAs) with traditional USOAP CMA activities, making use of the consultation platform proposed by the USOAP-AG.

GANP and other safety and air navigation related-matters

5.8 The Safety Stream reviewed HLCC 2021-WP/66-SAF/47, presented by Bolivia and supported by Argentina, Ecuador, Guyana, Panama, Paraguay, Peru, Suriname and Venezuela, which proposed limiting the Global Air Navigation Plan (GANP) metrics to the measurement of capacity and efficiency, and leaving safety metrics to the Global Aviation Safety Plan (GASP). The Safety Stream was reminded that the sixth edition of the GANP, endorsed at the 40th Session of the ICAO Assembly, defined performance ambitions in 11 Key Performance Areas (KPA), where the Aviation System Block Upgrades (ASBU) and Basic Building Blocks (BBB) Frameworks contributed to all performance areas, including safety. Moreover, the Safety Stream also noted that ICAO was working on the development of the safety KPA in the GANP, as requested by the Thirteenth Air Navigation Conference (AN-Conf/13), to provide a link between the GANP and the GASP and avoid overlap and duplication of safety performance measurements. The Safety Stream acknowledged the need for performance metrics that measure safety as well as capacity and efficiency in the GANP, while emphasizing the need to avoid duplication or overlap with the GASP.

5.9 The Safety Stream reviewed HLCC 2021-WP/76-SAF/55, presented by Colombia and supported by Argentina, Bolivia (Plurinational State of), Brazil, Chile, Ecuador, Guyana, Panama, Paraguay, Peru, Suriname, Uruguay and Venezuela (Bolivarian Republic of), which highlighted the significant contribution to safety of national air navigation plans. Furthermore, the paper highlighted the importance of collecting, analyzing and sharing data and information to facilitate performance management, not only for safety, but also in a holistic manner for the 11 KPAs in the GANP. The Safety Stream agreed to consider developing provisions for the harmonization of performance management at national, regional and global levels in such areas as governance, quality, architecture and confidentiality. In this regard, and noting that provisions for the governance of safety data and safety information were already under development, the Safety Stream agreed to bring the proposals to the attention of the appropriate expert groups.

5.10 The Safety Stream reviewed HLCC 2021-WP/59-SAF/44, presented by Civil Air Navigation Services Organisation (CANSO), which outlined the economic impact of the COVID-19 pandemic on the aviation industry and how it had forced the re-evaluation of strategic priorities. The Safety Stream noted the impact of traffic reductions on the capital expenditures of air navigation services providers (ANSPs), which may risk the achievement of the GANP vision. In order to ensure continuous progress in the evolution of the

air navigation system, the Safety Stream agreed on the development of a fresh approach focused on regional and global prioritization to achieve the vision and performance ambitions outlined in the GANP.

5.11 The Safety Stream reviewed HLCC 2021-WP/147-SAF/113, presented by the United Arab Emirates (UAE) on behalf of the Member States of the Arab Civil Aviation Organization (ACAO), which noted an increase in incident reports associated with flight crew -related communications lapses with a return to operations post-pandemic and called for the enhancement of crew resource management/human factors (CRM/HF) training for flight crew. The Safety Stream agreed that a comprehensive approach towards flight crew training required enhanced CRM training, including cross-discipline communications. Noting existing CRM-related provisions and ongoing work of the Organization concerning enhanced HF training, the Safety Stream agreed that the proposals would be brought to the attention of the appropriate expert group.

5.12 The Safety Stream reviewed HLCC 2021-WP/152-SAF/116, presented by UAE and supported by ACAO Member States, which discussed the status of actions outlined in the Assembly Resolution A40-27 *Innovation in Aviation*, and highlighted the need to accelerate innovation initiatives for ICAO, CAAs and the industry. The Safety Stream recognized that one of the best ways to recover quickly and confidently from a crisis is to innovate, evolve their business, and build up resilience. Noting that ongoing work of ICAO was consistent with the proposals, the Safety Stream agreed to refer these to the appropriate groups of the Organization.

5.13 The Safety Stream reviewed HLCC 2021-WP/97-SAF/75, presented by Japan, which highlighted the importance of the effective implementation of aircraft tracking and location of an aeroplane in distress in accordance with Annex 6 — *Operation of Aircraft*, Part I — *International Commercial Air Transport — Aeroplanes*. The Safety Stream, noting the ongoing efforts of the Organization to support the implementation of the said ICAO provisions, encouraged States to share their contact details in the ICAO OPS Control Directory. The Safety Stream also recognized the need for additional training of relevant agencies involved in responding to incidents, and encouraged States to conduct exercises, which expose search and rescue (SAR) personnel- to elements of the global aeronautical distress and safety system (GADSS).

5.14 The Safety Stream reviewed HLCC 2021-WP/30-SAF/17, presented by International Air Transport Association (IATA), the International Business Aviation Council (IBAC), the International Coordinating Council of Aerospace Industries Associations (ICCAIA), the International Federation of Air Line Pilots' Associations (IFALPA) and RTCA, which discussed the potential interference from imminent 5G deployment in the frequency bands adjacent to the Radio Altimeter band (4.2-4.4 GHz) to the Radio Altimeters, which are mandated safety-critical aircraft systems used to determine an aircraft's height above terrain. The Safety Stream, while noting a minor error with regard to the deployment of 5G in the United Kingdom (UK), recalled the actions already undertaken by ICAO through State Letter 2021/22 and in Assembly Resolution 38-6.

5.15 Information Papers provided by Canada and the International Association of Institutes of Navigation (IAIN) (HLCC 2021-WP/150-SAF/114), Australia, Canada, France, Germany, Jordan, Morocco, Netherlands, New Zealand, Republic of Korea, Spain, Switzerland, Ukraine, United Kingdom, United States, CANSO, IATA, IFALPA and IFATCA (HLCC 2021-WP/219-SAF/143), China (HLCC 2021-WP/119-SAF/92 and HLCC 2021-159-SAF/120), Colombia (HLCC 2021-WP/141-SAF/107), Indonesia (HLCC 2021-WP/81-SAF/59, Revision No.1), United Arab Emirates (HLCC 2021-WP/145-SAF/111), United States (HLCC 2021-WP/200 and -SAF/135 and HLCC 2021-WP/226-SAF/150), Airport Council International (ACI) (HLCC 2021-WP/229-SAF/151) and Interstate Aviation Committee (IAC) (HLCC 2021-WP/170-SAF/130) were noted.

5.16 As a result of the discussion, the Safety Stream agreed on the following recommendation:

Recommendation 5/3 — COVID-19 impact on the Global Air Navigation Plan (GANP)

That ICAO:

- a) facilitate discussions on a regional basis in order to build consensus around prioritization and in consideration of a financially constrained industry; and
- b) identify critical paths and other opportunities to leapfrog technology.

Recommendation 5/4 — Global aeronautical distress and safety system (GADSS)

That States:

- a) provide ICAO with their air traffic services (ATS) unit's surveillance information and operational contact required for the implementation of the global aeronautical distress and safety system (GADSS); and
- b) implement GADSS setup training and include the GADSS in search and rescue (SAR) exercises.

Recommendation 5/5 — Mitigating the risk of 5G implementation to safety-critical radio altimeter functions

That States:

- a) consider, as a priority, public and aviation safety when deciding how to enable cellular broadband/5G services;
- b) consult with aviation safety regulators, subject matter experts and airspace users, to provide all necessary considerations and regulatory measures to ensure that incumbent aviation systems and services are free from harmful interference; and

That ICAO:

- c) continue coordinated aviation efforts, particularly at the International Telecommunication Union (ITU), to protect radio frequency spectrum used by aeronautical safety systems.

— END —