



WORKING PAPER

ASSEMBLY — 41ST SESSION

EXECUTIVE COMMITTEE

Agenda Item 13: Facilitation Programme

ASSISTANCE TO AIRCRAFT ACCIDENT VICTIMS AND THEIR FAMILIES

(Presented by the Republic of Korea)

EXECUTIVE SUMMARY

Traditionally, the aviation authorities of each country have prioritized prevention in their approach towards aircraft accidents. This approach focused on preventing the same accidents from reoccurring. However, although air transportation has a relatively lower accident rate per carrying distance, one single aircraft accident causes significant damage to human life, which in turn causes a tremendous level of pain to the victims as well as their families, and the victims and their families also suffer serious after-effects. Therefore, subsequent relief systems are of more importance than anything else. In this regard, the Republic of Korea devotedly has prepared legislation for prevention as well as after relief systems. Furthermore, although ICAO has made numerous efforts to expand assistance for aircraft accident victims and their families, more States should be actively involved and preparing measures to increase the level of assistance.

Action: The Assembly is invited to:

- a) consider that each State takes appropriate actions to implement Annex 9, especially the clause that facilitates assistance to victims of accidents and their families, and Doc 9998, Doc 9973, which provides further details thereof.
- b) have all Contracting States respectively voluntarily review the existing laws and regulations and consider whether an appropriate level of assistance is being provided to aircraft accident victims and their families.
- c) in regard to such purposes, prepare a meeting at which all Contracting States can share with each other relevant laws, regulations and policies

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objectives: <i>Security and Facilitation</i>
<i>Financial implications:</i>	Not determined.

<i>References:</i>	Annex 9 — <i>Facilitation</i> Annex 13 — <i>Aircraft Accident and Incident Investigation</i> Annex 14 — <i>Aerodromes</i> Doc 10140, <i>Assembly Resolutions in Force</i> (as of 4 October 2019) Doc 9998, <i>ICAO Policy on Assistance to Aircraft Accident Victims and their Families</i> Doc 9973, <i>Manual on Assistance to Aircraft Accident Victims and their Families</i> Doc 9740, <i>Convention for the Unification of Certain Rules for International Carriage by Air</i> , done at Montréal on 28 May 1999 Final Act of the International Conference on Air Law, Montréal, May 1999 Report on ICAO Symposium on Assistance to Aircraft Accident Victims and their Families (AAAVF 2021)
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INTRODUCTION

1.1 Traditionally, the aviation authorities of each country have prioritized prevention in their approach towards aircraft accidents, and preventive measures to respond to aircraft accidents have been improved significantly with progress made in aircraft safety and security industries.

1.2 Although it can be conceded that air transportation is a relatively safe means of transportation as it has a relatively lower accident rate per carrying distance compared to other means of transportation, it causes high death rates and large-scale damages to human life in case of an accident, and it also causes property damage not just to the victims but also their families.

1.3 In this respect, an aircraft accident consequently causes a significant level of pain to the victim as well as the victim's families, and also causes them to suffer severe after-effects. Therefore, subsequent relief systems have more importance than anything else. In particular, international cooperation is essential from the investigation stage of an aircraft accident to the stage of subsequent damage relief.

2. RELEVANT REGULATIONS OF ICAO

2.1 After the publication of the Circ 285, *Guidance on Assistance to Aircraft Accident Victims and their Families* in 2001, ICAO has included relevant information therefrom in the 2005 Annex 9 — *Facilitation*. Accordingly, Annex 9 stipulates that each Contracting State shall prepare laws and regulations to provide assistance to aircraft accident victims and their families.

2.2 In accordance with recommendations from the Twelfth Meeting of the Facilitation Panel (FALP/12) held in July 2021, ICAO Council amended Annex 9 by Amendment 29 in March 2022. Amendment 29 also adopted a new Recommended Practice 8.47 that Contracting States should ensure that each aircraft or airport operator develops plans to provide timely and effective assistance to aircraft accident victims and their families.

2.3 Also, there are Doc 9998, *ICAO Policy on Assistance to Aircraft Accident Victims and their Families* and Doc 9997, *Manual on Assistance to Aircraft Accident Victims and their Families*, which specified certain details to implement Annex 9. Doc 9998 provides for each Contracting State's preparations for the establishment of laws, regulations or policies; plans for assistance to the families; provider of family assistance. Doc 9997 stipulates the preparation of guidelines for encouraging mediation between the parties and setting the scope of participation in assistance.

3. RELEVANT REGULATIONS OF THE REPUBLIC OF KOREA

3.1 In light of the foregoing, the Republic of Korea has legislated assistance for aircraft accident victims and their families by amending the aviation laws on 28 December 2006, and these laws have been succeeded by Article 11 of the *Aviation Business Act*, newly adopted on 30 March 2017. In the Republic of Korea, an air transport business owner is obligated to submit assistance plans for aircraft accidents, which shall include but not be limited to information on the following factors: (i) matters in regard to the establishment and operation of the Aircraft Accident Response Headquarters, (ii) matters in regard to relief assistance and compensation procedures for victims, (iii) matters in regard to identification, confirmation, management, and transfer of deceased's remains and articles left behind by the deceased, (iv) matters in relation to providing notification and assistance to victims' families.

3.2 Also, the Republic of Korea requires not only air transport business owners but also the government to prepare assistance systems for aircraft accident victims' families. In other words, the Republic of Korea government has established disaster and safety management systems at national and local government levels in order to preserve national territory from various types of disasters and protect citizens' lives and properties. It has also enacted the "Framework Act on the Management of Disasters and Safety" in order to regulate prevention, preparation, response, and reconstruction measures in relation to disasters, activities to ensure safety, and other matters necessary for the disaster and safety management.

3.3 Moreover, the national and state governments of the Republic of Korea have the responsibility to protect citizens' lives and properties, make efforts to prevent disasters and reduce damages, and establish and implement plans to respond to and reconstruct, in a swift manner, to disasters. In this connection, the Prime Minister-led "Central Safety Management Committee" has been established in order to act as the governing body of the safety management. The "Regional Committees" have also been established in different state region.

3.4 With that being said, the Central Headquarters to Respond to Disaster Safety shall be established in the Ministry of Government Administration and Home Affairs. The Central Headquarters shall manage and coordinate matters in relation to prevention, preparation, response, and reconstruction. In the interest of efficiency, regional headquarters shall be established within the relevant local governments.

3.5 In light of the foregoing, the Korean government has enacted laws in regards to enforcement to serious accidents on January 27, 2022, which is not only limited to or focused to aircraft accidents, but includes all kinds of serious accidents. This new law indicates that the Korean government has been successful in not only establishing assistance systems for accident victims and their families but also in putting in place strict legislation in order to prevent such accidents beforehand, in the case where an accident is caused by a defect in design, manufacturing, installation and management of a transportation method used for public transportation and the accident causes "more than 1 death, more than 10 injuries that require more than two months of treatment, or more than 10 injuries that require more than three months of treatment" (hereafter, "serious public accident"), the law regulates that the business owner as well as the chief executive shall be responsible for the accident. Thus, the chief executives of airlines in Korea are obligated to regularly inspect safety and security in accordance with applicable laws, prepare procedures to improve deficiencies, and carry out their duties in good faith in order to prevent serious public accidents.

4. EACH STATE'S ACTION AND ICAO'S RECENT EFFORTS

4.1 A review of the Compliance Checklist (CC) in the Electronic Filing of Differences (EFOD) system of the Annex 9 Standards and Recommended Practices (SARPs) related to assistance to aircraft accident victims and their families as contained in Annex 9, Chapter 8, Section I, showed a low implementation rate. In parallel, it was established that insufficient knowledge of the existing relevant ICAO guidance, namely, Doc 9998, ICAO Policy on Assistance to Aircraft Accident Victims and their Families and Doc 9973, Manual on Assistance to Aircraft Accident Victims and their Families, is leading to a low level of implementation by some States of the related SARPs.

4.2 In December 2021, ICAO organized the first Symposium on Assistance to Aircraft Accident Victims and their Families (AAAVF 2021) hosted by the government of Spain. This event has seemingly presented an opportunity for Contracting States to come together and join a medium for international cooperation and devised a method for implementation of such cooperation. In particular, AAAVF 2021 has confirmed that some Contracting States do not have rules or policies for assisting aircraft victims and families. This demonstrates the level of assistance for aircraft accident victims and their families still needs to increase.

4.3 In accordance, ICAO Council has identified 30 recommendations from AAVCF 2021 Symposium. Following a proposal made by the Air Crash Victims' Families' Federation International (ACVFFI), the Council has officially designated February 20 as the international day for commemorating air crash victims and their families. 20 February 2022, was the first commemoration day.

4.4 Furthermore, there were presentations and debates on relief assistance for aircraft accident victims and their families at Session 5 "Current Issues in Aviation Law and Practice" of the 2022 ICAO Legal Seminar. This seminar was hosted by the Republic of Korea Government.

5. CONCLUSION

5.1 As it has been confirmed that some Contracting States do not have sufficient information on Annex 9, Doc 9998, and Doc 9973, ICAO and Contracting States should (i) share relevant information with each other, (ii) share relevant documents with each other, and (iii) host symposiums, conferences and seminars regionally so that all Contracting States can implement relief systems for aircraft victims and their families.

5.2 In particular, each Contracting State will need to share the fact that in March 2022, ICAO Council revised Annex 9 via Amendment 29, in accordance with the recommendations from the Twelfth Meeting of the Facilitation Panel (FALP/12). FALP/12 was recently held in July 2021.

5.3 From 2023 to 2025, a symposium is to be held annually on February 20th on the topic of relief system for aircraft accident victims and families, and each Contracting State's sharing of status quo such as legislative enacted is certain to be of significant value.

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