



International
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Международная
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航空组织

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Ref.: AN 6/1.2-13/55

19 July 2013

Subject: Proposal for the amendment of Annex 13 relating to independence of accident and incident investigations

Action required: Comments to reach Montréal by 18 October 2013

Sir/Madam,

1. I have the honour to inform you that the Air Navigation Commission, at the fourteenth meeting of its 193rd Session held on 13 June 2013, considered proposals developed by the Secretariat with the assistance of a subject matter expert and the members of the Accident Investigation Methodology Study Group to amend the Standards and Recommended Practices (SARPs) in Annex 13 — *Aircraft Accident and Incident Investigation*, relating to the independence of investigations, and authorized their transmission to Contracting States and appropriate international organizations for comments.
2. The amendment proposal stems from a recommendation by the Safety Management Panel Meeting held from 13 to 17 February 2012, which called for the development of a provision in Annex 13 regarding the independence of the conduct of accident and incident investigation organizations.
3. In examining the proposed amendment, you should not feel obliged to comment on editorial aspects as such matters will be addressed by the Air Navigation Commission during its final review of the draft amendment.
4. May I request that any comments you may wish to make on the amendment proposal be dispatched to reach me not later than 18 October 2013. The Air Navigation Commission has asked me to specifically indicate that comments received after the due date may not be considered by the Commission and the Council. In this connection, should you anticipate a delay in the receipt of your reply, please let me know in advance of the due date.
5. For your information, the proposed amendment to Annex 13 is envisaged for applicability on 10 November 2016.

6. The subsequent work of the Air Navigation Commission and the Council would be greatly facilitated by specific statements on the acceptability or otherwise of the proposal. Please note that, for the review of your comments by the Air Navigation Commission and the Council, replies are normally classified as “agreement with or without comments”, “disagreement with or without comments” or “no indication of position”. If in your reply the expression “no objections” or “no comments” are used, they will be taken to mean “agreement without comment” and “no indication of position”, respectively. In order to facilitate proper classification of your response, a form has been included in Attachment C which may be completed and returned together with your comments, if any, on the proposal in Attachment A.

Accept, Sir/Madam, the assurances of my highest consideration.

A handwritten signature in black ink, appearing to read 'R. Benjamin', with a stylized flourish at the end.

Raymond Benjamin
Secretary General

Enclosures:

- A — Proposed amendment to Annex 13
- B — Rationale
- C — Response form

ATTACHMENT A to State letter AN 6/1.2-13/55

PROPOSED AMENDMENT TO ANNEX 13

NOTES ON THE PRESENTATION OF THE PROPOSED AMENDMENT

The text of the amendment is arranged to show deleted text with a line through it and new text highlighted with grey shading, as shown below:

~~Text to be deleted is shown with a line through it.~~

text to be deleted

New text to be inserted is highlighted with grey shading.

new text to be inserted

~~Text to be deleted is shown with a line through it~~ followed by the replacement text which is highlighted with grey shading.

new text to replace existing text

**INTERNATIONAL STANDARDS
AND RECOMMENDED PRACTICES**

AIRCRAFT ACCIDENT AND INCIDENT INVESTIGATION

**ANNEX 13
TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION**

CHAPTER 1. DEFINITIONS

...

Accident investigation authority. The authority designated by a State as responsible for aircraft accident and incident investigations within the context of this Annex.

...

CHAPTER 3. GENERAL

...

OBJECTIVE OF THE INVESTIGATION

...

INDEPENDENCE OF INVESTIGATIONS

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.

Note.— Guidance on the independence of an accident investigation authority is contained in the Manual of Aircraft Accident and Incident Investigation, Part I — Organization and Planning (Doc 9756) and the Manual on Accident and Incident Investigation Policies and Procedures (Doc 9962).

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Editorial Note.— Renumber subsequent paragraphs.

RATIONALE FOR THE PROPOSED AMENDMENT TO ANNEX 13

Paragraph reference	Rationale
CHAPTER 1. DEFINITIONS	
	<p>The term “Accident investigation authority” was incorporated into Annex 13 in 1981, and adopted by many States into their legislation/regulations. Likewise, the term is used in AIG-related guidance material since 2000. Accordingly, the term is referenced in relevant protocol questions during the International Civil Aviation Organization (ICAO) Universal Safety Oversight Audit Programme (USOAP) audits.</p> <p>The proposed definition results from a review of individual legislation and regulations of some thirty-five States.</p> <p>Defining the term “accident investigation authority” would add clarity to the meaning of the term in ICAO Annexes and AIG-related documentation, and avoid potential misunderstanding.</p>
CHAPTER 3. GENERAL	
3.2, <i>Note</i>	<p>ICAO USOAP audits have identified that some 26.8 per cent of States have not designated in their legislation or regulations a specific agency to conduct aircraft accident and incident investigations. Some States have not been able to implement an effective investigation system due, among others, to a lack of human and financial resources, and lack of appropriate legislation and regulations. The majority of States, 54.4 per cent, have not enacted legislation or regulations to provide for the independence of the accident investigation authority.</p> <p>For States without the required resources to investigate accidents and incidents, the establishment of a regional accident and incident investigation organization (RAIO) may be the most practicable solution to achieve the effective implementation of an investigation and prevention system. The ICAO <i>Manual on Regional Accident and Incident Investigation Organization</i> (Doc 9946) provides guidance to States on how to establish and manage a regional investigation system.</p> <p>The context of “independence” in the proposal is not to imply that the investigation authority would not be administratively supervised and accountable to a government ministry/parliament/congress for its finances, administration, policies and working methods. Rather, “independence” means a situation in which the investigation authority is functionally separate from State</p>

Paragraph reference	Rationale
	<p>aviation authorities and other entities that could interfere with the conduct or objectivity of investigations. Guidance on the independence of an accident investigation authority is provided in relevant AIG-related guidance material.</p> <p>Annex 13 and associated guidance material indicate that the independence of investigations needs to be afforded to both the process followed in investigations and to the accident investigation authority itself. Such “independence” avoids real or perceived conflicts of interest and enhances the credibility of the accident investigation authority.</p>

ATTACHMENT C to State letter AN 6/1.2-13/55

**RESPONSE FORM TO BE COMPLETED AND RETURNED TO ICAO TOGETHER
WITH ANY COMMENTS YOU MAY HAVE ON THE PROPOSED AMENDMENTS**

To: The Secretary General
International Civil Aviation Organization
999 University Street
Montreal, Quebec
Canada, H3C 5H7

(State) _____

Please make a checkmark (✓) against one option for each amendment. If you choose options “agreement with comments” or “disagreement with comments”, **please provide your comments on separate sheets.**

	<i>Agreement without comments</i>	<i>Agreement with comments*</i>	<i>Disagreement without comments</i>	<i>Disagreement with comments</i>	<i>No position</i>
Amendment to Annex 13 — <i>Aircraft Accident and Incident Investigation</i> (Attachment A refers)					

* “Agreement with comments” indicates that your State or organization agrees with the intent and overall thrust of the amendment proposal; the comments themselves may include, as necessary, your reservations concerning certain parts of the proposal and/or offer an alternative proposal in this regard.

Signature: _____ Date: _____

— END —