

Doc 9734
AN/959



Safety Oversight Manual

Part B **The Establishment and Management** **of a Regional Safety Oversight Organization**

Approved by the Secretary General
and published under his authority

Second Edition — 2011

International Civil Aviation Organization

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Published in separate English, Arabic, Chinese, French, Russian
and Spanish editions by the
INTERNATIONAL CIVIL AVIATION ORGANIZATION
999 University Street, Montréal, Quebec, Canada H3C 5H7

For ordering information and for a complete listing of sales agents
and booksellers, please go to the ICAO website at www.icao.int.

Doc 9734, Safety Oversight Manual
Part B — The Establishment and Management of a
Regional Safety Oversight Organization

Order Number: 9734B
ISBN 978-92-9231-835-2

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AMENDMENTS

Amendments are announced in the supplements to the *Catalogue of ICAO Publications*; the Catalogue and its supplements are available on the ICAO website at www.icao.int. The space below is provided to keep a record of such amendments.

RECORD OF AMENDMENTS AND CORRIGENDA

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FOREWORD

The second edition of this manual provides detailed guidance on the establishment, management and sustainable operation of a regional safety oversight organization (RSOO). This edition of the manual is entitled *The Establishment and Management of a Regional Safety Oversight “Organization”* as opposed to “System”, as was the case with the first edition. It should be made clear that terms such as system or body may be used in a generic sense to address any arrangement for strengthening regional collaboration in the area of safety oversight.

However, notwithstanding the change to the title, the manual continues to use the term “RSOO” in much the same way as it was used in the first edition. The term “RSOO” covers, in a general sense, a number of legal forms and institutional structures that range from highly formalized international intergovernmental organizations, such as the European Aviation Safety Agency (EASA) and the Pacific Aviation Safety Office (PASO), to less institutionalized projects established under the ICAO Cooperative Development of Operational Safety and Continuing Airworthiness Programme (COSCAP). ICAO Assembly resolutions essentially leave it up to each group of States that wishes to establish an RSOO to determine the legal form and institutional structure that best fits the needs and characteristics of their specific region.

The defining characteristics that are common to all RSOOs lie in their uniform mandate, objective and purpose. Specifically, these refer to the expert advisory and consultative service in the area of safety oversight, the provision of technical assistance and the execution of safety oversight functions on behalf of member States. As shall be seen in this manual, although it is left to States to decide on the RSOO that best suits their purpose and region, there are both advantages and disadvantages to the different legal forms and institutional structures that have been adopted by some RSOOs. On the whole, however, it must be said that ICAO supports the transition of less formalized legal forms and institutional structures of, for instance, the COSCAP, to more institutionalized RSOOs established on the basis of formal legal agreements. The latter type of RSOO more expressly commits its member States to the organization, better enables the delegation of tasks and functions to the RSOO and better provides for sustainability. For these reasons, it should be noted that this manual does focus more on this type of RSOO than it does on the COSCAP.

This manual outlines the duties and responsibilities, individually and/or collectively, of ICAO Contracting States to the Chicago Convention with respect to the various options and formats of an RSOO. It addresses a State's obligation to be in conformance with the Convention on International Civil Aviation (hereafter referred to as the Chicago Convention) signed at Chicago on 7 December 1944, which for many States may be more effectively achieved through membership of an RSOO. Pursuant to Article 1 of the Chicago Convention, a State has complete and exclusive sovereignty over the airspace above its territory and, in accordance with Articles 12 (Rules of the air) and 37, has the responsibility for safety oversight of international civil aviation within its borders and in respect of aircraft carrying its registration marks. States are also expected to collaborate to the highest degree to achieve standardization of laws, regulations, procedures and practices. The establishment of a properly resourced RSOO provides those States which individually lack the resources to establish an effective safety oversight system with the means to pool their resources for the purpose of establishing a common regional approach to safety regulation, oversight and enforcement.

ICAO, international organizations, individual States and industry stakeholders have implemented a large number of projects over several decades to improve civil aviation safety in many regions. However, despite these efforts as well as numerous initiatives designed to help States meet their safety oversight responsibilities, a number of States still experience major challenges in developing the capability for effective safety oversight. At the same time, USOAP results indicate a strong statistical correlation between States' safety oversight capabilities and accident rates, which clearly underlines the importance of robust safety oversight capabilities. As identified by the USOAP audits, the main reason why States fail to develop the capability for effective safety oversight is lack of adequate resources, specifically in terms of qualified technical expertise. This has led ICAO to conclude that regional or subregional safety oversight systems are an

effective means of overcoming these deficiencies through shared objectives, strategies and activities. Most importantly, the pooling of resources enables the RSOO to effectively utilize appropriately qualified and experienced personnel.

At the 37th Session of the ICAO Assembly, held in September 2010, delegates expressed strong support for the establishment of RSOOs as a means of strengthening safety oversight capabilities on a regional or subregional basis. The Assembly adopted Resolution A37-8 on regional cooperation and assistance to resolve safety-related deficiencies, in which it recognized that RSOOs have great potential to assist States in complying with their obligations under the Chicago Convention, through economies of scale and harmonization on a larger scale. It directed the ICAO Council to promote the concept of regional cooperation for the purpose of enhancing safety and safety oversight, including the establishment of RSOOs. It further encouraged Contracting States to foster the creation of regional and subregional partnerships to, *inter alia*, participate in, or provide tangible support for, the strengthening and furtherance of subregional and regional aviation safety and safety oversight bodies, including RSOOs.

The second edition of this manual expands on the guidance material in the first edition, to include material based on the experience gained from a number of regional programmes, several of which have resulted in the establishment of an RSOO. A number of RSOOs have already been established throughout the world, and the creation of additional RSOOs is being planned. In view of the diverse range of regional and subregional arrangements for safety oversight, it is intended that this document provides additional guidance material and alternatives for the implementation of various forms of RSOOs, along with greater emphasis on resource allocation and sustainability. Additional reference material and links to various forms of regional arrangements are provided on the ICAO website at www.icao.int/fsix.

In order to keep this manual relevant and accurate, suggestions for improving it in terms of format, content or presentation are welcome. Any such recommendation or suggestion will be examined and, if found suitable, will be included in regular updates to the manual. Regular revision will ensure that the manual remains both pertinent and accurate.

Comments concerning this manual should be addressed to:

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GLOSSARY

The definitions used in this manual are similar to those found in the Annexes to the Chicago Convention and in other ICAO documentation (such as the *International Civil Aviation Vocabulary* (Doc 9713)) or are the definitions used by ICAO's Continuous Monitoring and Oversight (CMO) Section for this document and the USOAP continuous monitoring approach.

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, windcreens, 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 Annex 13, 5.1.

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

Aerodrome. A defined area on land or water (including any buildings, installations and equipment) intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft.

Aerodrome certificate. A certificate issued by the appropriate authority under applicable regulations for the operation of an aerodrome.

Aerodrome manual. A manual that forms part of the safety assurance in an application for an aerodrome certificate, containing material required by a State's certification requirements as well as material for use by aerodrome operational personnel in the execution of their duties.

Aeronautical Information Publication (AIP). A publication issued by or with the authority of a State and containing aeronautical information of a lasting character essential to air navigation.

Note.— The term includes details of aerodrome certification conditions and exemptions/exceptions granted by the State aviation authority in relation to aerodrome certification requirements.

Aeronautical study. A study of an aeronautical problem to identify possible solutions and select a solution that is acceptable without degrading safety.

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.

Air navigation services. Services provided to air traffic during all phases of operations including air traffic management (ATM), communications, navigation and surveillance (CNS), meteorological services for air navigation (MET), search and rescue (SAR) and aeronautical information services (AIS).

Air operator certificate (AOC). A certificate authorizing an operator to carry out specified commercial air transport operations.

Air traffic. All aircraft in flight or operating on the movement area of an aerodrome.

Air traffic service (ATS). A generic term meaning variously, flight information service, alerting service, air traffic advisory service, air traffic control service (area control service, approach control service or aerodrome control service).

Audit. A systematic and objective review of a State's aviation framework to verify compliance with the provisions of the Chicago Convention or national regulation, conformance with or adherence to Standards and Recommended Practices (SARPs), procedures and good aviation safety practices.

Cabin crew member. A crew member who performs, in the interest of safety of passengers, duties assigned by the operator or the pilot-in-command of the aircraft, but who shall not act as a flight crew member.

Certified aerodrome. An aerodrome whose operator has been granted an aerodrome certificate.

Civil aviation authority. The governmental entity or entities, however titled, that are directly responsible for the regulation of all aspects of civil air transport, technical (i.e. air navigation and aviation safety) and economic (i.e. the commercial aspects of air transport).

Commercial air transport operation. An aircraft operation involving the transport of passengers, cargo or mail for remuneration or hire.

Crew member. A person assigned by an operator to duty on an aircraft during a flight duty period.

Dangerous goods. Articles or substances that are capable of posing significant risk to health, safety or property when transported by air.

Note.— *Dangerous goods are classified in Chapter 3 of Annex 18 — The Safe Transport of Dangerous Goods by Air.*

Flight crew member. A licensed crew member charged with duties essential to the operation of an aircraft during a flight duty period.

General aviation operation. An aircraft operation other than a commercial air transport operation or an aerial work operation.

Human Factors principles. Principles which apply to aeronautical design, certification, training, operations and maintenance, and which seek safe interface between the human and other system components by proper consideration to human performance.

Human performance. Human capabilities and limitations that have an impact on the safety, security and efficiency of aeronautical operations.

Inspection. The basic activity of an audit, which involves examination of the specific characteristics of the safety oversight programme of the Contracting State (*Safety Oversight Audit Manual* (Doc 9735)).

Inspector. A person trained and authorized to undertake inspections.

Investigator (of an accident or incident). A person charged, on the basis of his or her qualifications, with the responsibility to participate in the conduct and control of an investigation.

Operations manual. A manual containing procedures, instructions and guidance for use by operational personnel in the execution of their duties.

Operator. A person, organization or enterprise engaged in or offering to engage in the operation of an aircraft, aerodrome or associated aviation activity.

Persona. In legal terms, a person or an association of people or special-purpose funds (e.g. a foundation) having a legal personality and possessing legal capacity.

Public use aerodrome. An aerodrome licensed to be available to all persons on equal terms and conditions for the take-off or landing of aircraft.

Regulation. The giving of authoritative direction to bring about and maintain a desired degree of order.

Note.— *For the purpose of this manual, this term includes but is not limited to instructions, rules, edicts, directives, and sets of laws, requirements, policies and orders.*

Responsibility/accountability. The state of being responsible for an undertaking, person, thing or action and for which an organization or individual or both are liable to be called to account. An ICAO Contracting State and its respective civil aviation authority are ultimately responsible for the implementation of ICAO SARPs within their State. A State may either perform these obligations or, through mutual agreement, have another organization perform and be accountable for these functions; however, the State retains the responsibility under its duties of sovereignty.

Risk analysis/aeronautical study. A mechanism, part of a safety management system, used to assess the risk (combination of event or hazard severity and probability of occurrence) posed by a particular set of circumstances. It is used to compare the outcome of such an analysis against the intended outcome of a particular Standard, Recommended Practice or national requirement so that a solution can be selected that will not degrade safety below that which is intended.

Safety management system (SMS). A systematic approach to managing safety, including the necessary organizational structure, accountability, policies and procedures within the service providers.

Service provider. An organization, serving operators and other providers, that is part of the aviation activity and is functionally separated from its regulator.

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

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

State of Occurrence. The State in whose territory an accident or incident occurs.

State of Registry. The State on whose register the aircraft is entered.

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

State safety programme (SSP). An integrated set of regulations and activities aimed at improving safety. The SSP supports the implementation of SMS by the service providers.

Subsidiary legislation. Legislation arising from primary legislation.

LIST OF ACRONYMS AND ABBREVIATIONS

AGA	Aerodromes, air routes and ground aids
AIR	Airworthiness
ALoS	Acceptable level of safety
ANSP	Air navigation service provider
AOC	Air operator certificate
CAA	Civil aviation authority
CAST	Commercial aviation safety team
CEO	Chief executive officer
CIS	Cooperative inspectorate scheme
CMA	Continuous monitoring approach
CMO	Continuous monitoring and oversight
COSCAP	Cooperative Development of Operational Safety and Continuing Airworthiness Programme
CSA	Comprehensive systems approach
DGCA	Director General of Civil Aviation
EASA	European Aviation Safety Agency
ECCAIRS	European coordinated centre for accident and incident reporting systems
ED	Executive director
EEA	European Economic Area
EFTA	European Free Trade Association
ESSI	European strategic safety initiative
EU	European Union
GASP	Global aviation safety plan
GNP	Gross national product
GSI	Global safety initiative
ICAO	International Civil Aviation Organization
IFFAS	International Facility for Aviation Safety
IMS	Integrated management system
IT	Information technology
LOU	Letter of Understanding
MOC	Memorandum of Cooperation
MSA	Management service agreement
OPS	Operations
PAAST	Pan-American aviation safety team
PASO	Pacific Aviation Safety Office
PEL	Personnel licensing
QMS	Quality management system

RAIO	Regional accident and incident investigation organization
RASG	Regional aviation safety group
RAST	Regional aviation safety team
RBM	Results-based management
RSOO	Regional safety oversight organization
RSP	Regional safety programme
SARPs	Standards and Recommended Practices
SMM	Safety management manual
SMS	Safety management system
SRM	Safety risk management
SSP	State safety programme
SWOT	Strengths, weaknesses, opportunities, threats
TAC	Training administrative coordinator
TCP	Technical Cooperation Programme
USOAP	Universal Safety Oversight Audit Programme
USP	Unified strategy programme

PUBLICATIONS

The following ICAO publications are referred to in this manual and provide additional guidance material for the certification and surveillance of air transport operators.

Conventions and Related Acts

Convention on International Civil Aviation (Doc 7300)

Annexes to the Convention on International Civil Aviation

Annex 1 — Personnel Licensing

Annex 2 — Rules of the Air

Annex 3 — Meteorological Service for International Air Navigation

Annex 4 — Aeronautical Charts

Annex 5 — Units of Measurement to be Used in Air and Ground Operations

Annex 6 — Operation of Aircraft

Part I — International Commercial Air Transport — Aeroplanes

Part II — International General Aviation — Aeroplanes

Part III — International Operations — Helicopters

Annex 7 — Aircraft Nationality and Registration Marks

Annex 8 — Airworthiness of Aircraft

Annex 10 — Aeronautical Telecommunications

Volume I — Radio Navigation Aids

Volume II — Communication Procedures including those with PANS status

Volume III — Communication Systems

Volume IV — Surveillance and Collision Avoidance Systems

Volume V — Aeronautical Radio Frequency Spectrum Utilization

Annex 11 — Air Traffic Services

Annex 12 — Search and Rescue

Annex 13 — Aircraft Accident and Incident Investigation

Annex 14 — Aerodromes

Volume I — Aerodrome Design and Operations

Volume II — Heliports

Annex 15 — *Aeronautical Information Services*

Annex 16 — *Environmental Protection*

Volume I — *Aircraft Noise*

Volume II — *Aircraft Engine Emissions*

Annex 17 — *Security*

Annex 18 — *The Safe Transport of Dangerous Goods by Air*

Assembly Resolutions

Assembly Resolutions in Force (as of 8 October 2010) (Doc 9958)

Manuals and Circulars

Airport Economics Manual (Doc 9562)

ICAO's Policies on Charges for Airports and Air Navigation Services (Doc 9082)

ICAO's Policies on Taxation in the Field of International Air Transport (Doc 8632)

International Civil Aviation Vocabulary (Doc 9713)

Manual on Air Navigation Services Economics (Doc 9161)

Manual on Regional Accident and Incident Investigation Organization (Doc 9946)

Safety Management Manual (SMM) (Doc 9859)

Safety Oversight Audit Manual (Doc 9735)

Safety Oversight Manual (Doc 9734)

Part A — *The Establishment and Management of a State's Safety Oversight System*

Training Manual (Doc 7192)

Other Manuals

Global Aviation Safety Roadmap

Part 1 — *A Strategic Action Plan for Future Aviation Safety*

Part 2 — *Implementing the Global Aviation Safety Roadmap*

Chapter 1

INTRODUCTION

1.1 OBJECTIVES OF THE MANUAL

1.1.1 The objective of Part B of the *Safety Oversight Manual* is to provide guidance for States wishing to establish and/or participate in an RSOO. Establishing an RSOO, as well as ensuring its sustainability, entails the adoption of a regional strategy, bringing together the efforts of member¹ States, international and regional organizations, and other aviation stakeholders.

1.1.2 The audits conducted under the ICAO Universal Safety Oversight Programme (USOAP) and other ICAO missions have determined that many Contracting States have not established effective safety oversight, thereby creating the risk for unsafe conditions. The establishment of effective safety oversight by the State requires both a high-level government commitment and an adequate level of resources. Without political commitment, a Contracting State cannot fully fulfil its aviation safety-related responsibilities. However, in the case of many States, even if the State is fully committed to resolving its safety oversight deficiencies, low levels of aviation activity within the State and competing demands on public resources may severely limit the level of funding available to national aviation safety and safety oversight bodies.

1.1.3 The audit results and other sources of information have therefore convinced ICAO that for many States a viable means of ensuring effective safety oversight is through the pooling of resources for the purpose of establishing an RSOO. ICAO is committed to assisting Contracting States to establish and manage RSOOs and to provide the related guidance material. This becomes all the more relevant given the role that RSOOs are expected to play in recently introduced programmes, such as the ICAO USOAP continuous monitoring approach (CMA) audit process, regional aviation safety groups (RASGs) and the development of regional and subregional safety programmes to support safety programmes at the State level, and safety management systems at the level of industry. Through effective participation in these programmes, RSOOs will be even more instrumental in strengthening the safety oversight systems of their member States and in the implementation of risk mitigation strategies and processes within their respective regions and subregions.

1.1.4 The challenges of implementing ICAO SARPs have been recognized by many international forums. The Directors General of Civil Aviation Conference on a Global Strategy for Safety Oversight (2006), the 36th Session of the ICAO Assembly (2007), the EC-ICAO Symposium on Regional Organizations (2008), the ICAO Council Group on Regional Bodies (2009), the High-Level Safety Conference (2010), and the 37th Session of the ICAO Assembly (2010) have all promoted the establishment of regional mechanisms for the sharing of aviation safety resources and harmonization of regional safety policies and procedures to achieve a sustainable safety oversight capability at a global level.

1.2 ABOUT THE MANUAL

1.2.1 Part A of this manual — *The Establishment and Management of a State's Safety System* outlines the duties and responsibilities of ICAO Contracting States to the Chicago Convention with respect to aviation safety

1. For the purposes of this manual, "member" State denotes a State belonging to an RSOO, and "Contracting" State denotes a State that is signatory to the Chicago Convention.

oversight and identifies eight critical elements that are considered to be essential components of a safety oversight system, as follows:

- Critical Element 1: Primary aviation legislation;
- Critical Element 2: Specific operating regulations;
- Critical Element 3: State civil aviation system and safety oversight functions;
- Critical Element 4: Technical personnel qualification and training;
- Critical Element 5: Technical guidance, tools and the provision of safety-critical information;
- Critical Element 6: Licensing, certification, authorization and approval obligations;
- Critical Element 7: Surveillance obligations; and
- Critical Element 8: The resolution of safety concerns.

1.2.2 With respect to Critical Element 3, i.e. the State civil aviation system and safety oversight functions, the lack of an adequate safety oversight organization and a sufficient number of adequately qualified, experienced and trained technical staff are amongst the most common deficiencies identified in many of the audited States. States that are otherwise unable to harness the resources required for setting up an effective safety oversight mechanism on a national basis are encouraged to pool their resources with other States in the subregion for the purpose of establishing an RSOO.

1.2.3 Chapter 2 of this manual covers the need for a regional strategy for the establishment of an RSOO and the steps to be taken in its development. It proposes the adoption of a project management method as one approach to the development of an RSOO in order that account is taken of the needs of member States and that proper control is maintained over the cost and scheduling of the development process. Chapter 3 presents the various factors that are relevant to determining the most suitable legal framework for an RSOO, bearing in mind that its legal foundation should in part, correspond to its objectives. Chapter 3 also presents a number of options derived from the experience gained through already established RSOOs. Chapter 4 outlines the factors that need to be taken into consideration in determining the best organizational structure for an RSOO. Furthermore, it outlines, in detail, the duties and responsibilities of the RSOO's governing body and the different staff positions within an RSOO.

1.2.4 Chapter 5 provides detailed guidance on various alternatives for financing an RSOO. The chapter covers ICAO's current policies on user charges and taxation and their relevance for the funding of RSOOs. It also offers different forms and sources of funding for RSOOs and concludes with a practical approach for establishing sustainable funding solutions. Chapter 6 reviews performance-driven or results-based management (RBM) strategies and quality management systems (QMS) to enhance the effectiveness of an RSOO. It also introduces the concept of an integrated management system (IMS) that some RSOOs have applied in order to meet a diverse range of management requirements and standards related to safety and quality. Chapter 7 covers the implementation of a regional safety programme (RSP), applying the concepts developed for the implementation of a State safety programme (SSP) to similar requirements at the level of a region or subregion. Chapter 8 covers the training programme of an RSOO in terms of training policies and objectives and training programmes, process and requirements. It also provides guidance on the maintenance of training records, training evaluations and competence requirements.

1.2.5 There are four appendices to this manual. Appendix A provides an example of an actual RSOO agreement document. Appendix B presents examples of the organizational structures of three existing RSOOs. Appendices C and D provide a sample table of contents from an RSOO policy and procedures manual and a training policy and procedures manual, respectively.

Chapter 2

THE ESTABLISHMENT OF A REGIONAL SAFETY OVERSIGHT ORGANIZATION

2.1 THE NEED TO DEVELOP AN RSOO

2.1.1 The Convention on International Civil Aviation (Chicago Convention) and its Annexes allocate responsibility for aviation safety to individual Contracting States. Each State bears responsibility for the continuing airworthiness of aircraft; safe and efficient aircraft operations; the licensing and/or certification of personnel; and safe air traffic flow within its airspace, including the provision of air traffic services and an adequate aerodrome infrastructure. Without full awareness and observance of these international obligations by Contracting States, aviation safety may be compromised. However, in spite of a large number of initiatives over several decades, by ICAO, other international organizations, individual Contracting States and industry stakeholders, to improve civil aviation safety in many regions, a number of States have failed to establish the capability for effective safety oversight.

2.1.2 Several Contracting States audited by ICAO either have not promulgated primary aviation legislation and/or operating regulations, or their existing aviation legislation and regulatory requirements are out of date. As a consequence, they fail to provide the necessary legal foundation for civil aviation to function effectively. With respect to institutional structure, many Contracting States have not granted the civil aviation authority (CAA) sufficient autonomy and authority for the regulation and oversight of civil aviation activities. Experience shows that CAAs are more successful when they are autonomous and have adequate resources to ensure independence and sustainability. A consistent and adequate budget is essential to ensure the recruitment and retention of qualified personnel. However, in several States, even if there is the commitment to establish an autonomous CAA, the level of aviation activity within the State may not be sufficient to generate the funding required to sustain an effective safety oversight capability.

2.1.3 As identified by USOAP audits, the most common reason a State fails to establish an effective safety oversight capability is its inability to provide the required financial and human resources. There is often an insufficient number of qualified personnel available for States to fulfil their safety oversight responsibilities. In addition, due to a lack of financial resources, training may not be adequate to ensure the currency and competency of technical personnel.

2.1.4 Furthermore, the scope or volume of oversight activities may not warrant full-time technical experts, or the State remuneration structure may not support the appropriate financial compensation of such experts. Low levels of aviation activity coupled with competing demands for State resources may result in inadequate allocation of resources for a State's aviation safety oversight activities and programmes. In regions where these problems occur, States may therefore consider that the most viable solution is for them to pool their resources for the establishment of a regional system that can conduct safety oversight tasks and functions on their behalf. This has led ICAO to conclude that regional or subregional safety oversight organizations are an effective means of overcoming these deficiencies through shared objectives, strategies and activities. Most importantly, the pooling of resources enables the RSOO to attract, recruit and retain appropriately qualified and experienced personnel.

2.1.5 For several States, apart from the pooling of resources, cooperation through the establishment of an institutionalized regional body also enables the harmonization and standardization of safety oversight requirements. Pursuant to Article 37 of the Chicago Convention, each Contracting State undertakes to collaborate in securing the highest practicable degree of uniformity in regulations, standards, procedures and organization in relation to aircraft,

personnel, airways and auxiliary services in all matters in which such uniformity will facilitate and improve air navigation. For several States, the most effective method of attaining this goal and ensuring that they have a common voice with respect to the implementation of international standards is through membership of an RSOO.

2.1.6 Success in the establishment and sustained operation of an RSOO is dependent on the commitment of its member States to the terms and conditions contained in the RSOO's governing document. This extends to the need to maintain a well-defined balance between the responsibilities of member States and those of the RSOO. The uniform application by Contracting States of the provisions contained in the ICAO SARPs is recognized as necessary for the safety and regularity of international civil air transportation. It is the obligation of each State to approve and maintain regulations and the supporting procedures in order to implement the ICAO SARPs within the State. The RSOO may assist its member States by developing a generic set of civil aviation legislation and regulations for member States to adapt and use to harmonize their own national legislation and regulations. In this fashion, safety oversight within a specific region is considerably facilitated through the harmonization of regulations. In similar fashion, the RSOO may develop a set of implementing standards and procedures in support of the harmonized regulations.

2.1.7 In other cases, where the region concerned has a common legislative body, member States of an RSOO have gone a step further from harmonization and have adopted common civil aviation requirements. Such is the case in Europe where the civil aviation law, or Basic Regulation (Regulation (EC) 216/2008), was adopted by the European Parliament and the Council of the European Union, under the Treaty establishing the European Community (EC). The Basic Regulation established the European Aviation Safety Agency (EASA) as an RSOO with its own legal personality and the authority to implement European Union aviation safety laws with shared enforcement and oversight powers with the European Commission and European Union member States. EASA develops proposals for common implementing rules for adoption by the European Commission and may, itself, adopt non-binding regulatory material for giving effect to the Basic Regulation and the implementing rules. Under the Community institutional system, implementation of community law is primarily the responsibility of member States. Licensing, certification, authorization and approval tasks required by the Basic Regulation and its implementing rules are therefore to be executed at the national level. In certain clearly defined cases, however, EASA is also empowered to conduct certification and approval tasks.

2.1.8 Under the Chicago Convention, only the State has responsibility for safety oversight, and this responsibility may not be transferred to a regional body. Thus, although the State may delegate specific safety oversight tasks and functions to an RSOO, such as inspections for the certification of an operator, the State must still retain the minimum capability required to carry out its responsibilities under the Chicago Convention. States must always be able to properly and effectively monitor the safety oversight functions delegated to the RSOO.

2.1.9 A strategy should therefore include a comprehensive analysis of the modalities for the management and supervision of the RSOO. States need a system for monitoring identified aviation safety deficiencies and the timely application of well-defined corrective measures. The States also require a process to monitor the activities of the RSOO in order to ensure its effectiveness. Collaboration between the State CAA and the RSOO is essential in order to ensure that the needs of the State are supported by the RSOO and for the State to ensure that the RSOO is effectively accomplishing its mandate.

2.1.10 Thus, right from the outset, States within a specific region need to decide on the legislative and regulatory framework that will govern aviation safety with respect to whether it will be based on the adoption of a harmonized or common set of requirements. They then need to determine the role to be played by their RSOO in relation to the development, adoption, promulgation and enforcement of civil aviation legislation and regulations and the development of implementing standards, procedures and other guidelines. These are some of the important considerations that must be made in devising a strategy for the establishment and maintenance of an RSOO.

2.1.11 Use of a harmonized or common set of civil aviation legislation and regulations and procedures does not constitute, in any way, the use of less stringent standards. On the contrary, the aim is to standardize the criteria to be implemented by RSOO member States to achieve compliance with international provisions. As a result, the level of air transport safety in the region should be significantly raised. Standardization will also improve the safety oversight

capability of States by harmonizing training and providing a broader expertise base throughout the region. Furthermore, it will have an overall positive impact on aviation operations in the region since cooperation between aviation entities, and the free flow of aviation services, personnel and products will be greatly facilitated by the existence of a harmonized or common set of regulations.

2.2 A STRATEGY FOR ESTABLISHING AN RSOO

2.2.1 It is important that States wishing to establish an RSOO commit themselves, at the very beginning of the process, to a strategy that is well defined in terms of the intended purpose and objectives of the organization they wish to establish. The strategy should therefore include a comprehensive analysis of the needs of the States involved and of the region or subregion as a whole, and of the benefits to be derived from establishing an RSOO. Such an analysis will help to define the scope of objectives and related activities of the RSOO. In this respect, the emphasis should be on those activities that have an impact on regional safety oversight and that contribute towards developing an effective aviation safety oversight framework and associated mechanisms.

2.2.2 In general, the scope of activities of an RSOO will depend on the needs of its member States, the established priorities and the level of resources devoted to the RSOO. A balance therefore has to be maintained between, on the one hand, the needs and priorities of States and, on the other hand, the level of resources that are made available for both the establishment and sustained operation of the RSOO. In practice, this often means that a strategy is adopted whereby the scope of activities to be carried out by the RSOO during its initial phase of operation is limited to the harmonization of flight safety legislation and regulations and the conduct of related oversight and not other matters such as those related to the licensing of personnel and the certification and surveillance of operators and aircraft. As the RSOO becomes more established, and its competencies and funding are strengthened, the scope may be widened to include other areas of safety oversight, such as the certification and surveillance of aerodromes and air navigation facilities and even security oversight.

2.2.3 States need to focus on those activities that demonstrate a higher impact on regional safety oversight and contribute towards developing an effective aviation safety oversight framework. However, it is also important that, in developing a strategy, consideration should be given to the contribution of an RSOO to the improvement of the wider economic, social and environmental sectors of its member States. ICAO and other international bodies may assist in the formulation of the strategy and the establishment of a regional arrangement.

2.2.4 In order to determine the needs of States with respect to their safety oversight systems, a gap analysis can be carried out, using the results of the ICAO USOAP audits and other audits and sources of information. The ICAO USOAP audits in particular have generated a lot of information on the safety oversight status of States. These audits show that a significant number of Contracting States are experiencing problems in implementing ICAO SARPs, recruiting qualified and experienced personnel and, in general, fulfilling their safety oversight obligations. Since the ICAO SARPs are designed to ensure, *inter alia*, a minimum level of safety for international civil aviation, the lack of implementation of the SARPs threatens the safety of civil aircraft operations.

2.2.5 The adoption of a strategy that includes the conduct of a gap analysis will also help to determine the level of authority that member States wish to delegate to their RSOO with respect to the different tasks and functions to be carried out. As such, right from the outset, and given the political, social and economic characteristics of the region, States need to decide on the legislative and regulatory framework that will govern aviation safety at the regional level. This will involve a number of choices, such as whether the requirements governing safety oversight in each State should be based on a common regulatory structure for the region or on harmonizing the different sets of national legislation and regulations adopted and promulgated by each State. This, in turn, will determine the role to be played by the RSOO in the development, adoption, promulgation, implementation and enforcement of the applicable provisions and the development of supporting standards, procedures and guidance material.

2.2.6 Decisions on the needs to be served by the RSOO, its objectives and the level of authority to be delegated by member States will also have an impact on the form and size of the organization. Existing RSOOs have taken a variety of forms, ranging from a relatively loose association of CAAs that have agreed to cooperate in the development and implementation of requirements and procedures, to an intergovernmental organization with regulatory and, to some extent, enforcement authority. The form that an RSOO takes will primarily be determined by the needs of its members, the level of available resources, the scope of activities, the level of authority delegated by member States and, in certain cases, the legislative framework already established by the group or community of States creating the RSOO. In order for all these factors to be taken into account, it is important that the establishment of an RSOO is preceded by a thorough analysis of the need for an RSOO and a clear definition of its mandate.

2.2.7 In addition, for an RSOO to be effective, its development should follow a well-structured process or method which will ensure that stakeholders' expectations are carefully considered in relation to the RSOO's objectives. In general terms, a strategy for the establishment of an RSOO should empower member States to determine their own priorities within a regional perspective and also enable the securing of donor support for the establishment and later implementation of an effective safety oversight system. Furthermore, the strategy should address concerns about the need to maintain cost and scheduling control over the establishment and management of the RSOO.

2.2.8 The key objective of a regional strategy is to improve the effectiveness of regional cooperation by ensuring that the targeted priorities reflect genuine critical needs that can be met in a more cost-effective manner, through a joint and cooperative use of resources. In responding to the needs of any specific region, the strategy adopted for establishing an RSOO should therefore aim to:

- a) prioritize the effective and efficient implementation of safety oversight;
- b) pool human and financial resources;
- c) address regional and external factors and constraints more effectively as a collective body;
- d) strengthen cooperation and collaboration among member States with respect to the collection, analysis and sharing of safety data and information within the region;
- e) supplement shortfalls in the scope of national or bilateral safety interventions;
- f) provide support to industry in order to ensure it demonstrates compliance with regulatory requirements;
- g) identify and support the development of best practices within the region;
- h) demonstrate, as a responsible regional organization, improved regional solidarity;
- i) ensure the objectivity and independence of inspectors; and
- j) develop the capability for drafting and amending civil aviation legislation and regulations, procedures and other guidance material as well as for producing clearer standards, based on international requirements and adapted to regional environmental factors and aviation industry needs.

2.3 RSOO DEVELOPMENT PROCESS

2.3.1 Effective implementation of an RSOO requires a firm commitment at the highest level of government and the active involvement of aviation safety stakeholders, including industry. A strong regional partnership and cooperation are two of the prerequisites needed to develop and integrate efforts to improve regional aviation safety oversight.

Contracting States of a specific region can enhance their aviation safety oversight capability by working together in the performance of safety oversight tasks. It is important that States wishing to establish an RSOO within an overall regional safety system commit themselves, at the very beginning of the process, to a strategy that is well defined in terms of the intended purpose and objectives of the organization they wish to establish. For the successful implementation of a regional safety strategy, it is crucial that its goals incorporate State safety priorities. An RSOO should relate to, complement, supplement and strengthen national CAA safety programmes.

2.3.2 In order for an RSOO to be effective, its development should follow a well-structured process or method. The application of a structured project management method is one way of ensuring that the establishment of the RSOO is predicated upon a proper planning process that takes account of the expectations of all stakeholders with respect to the RSOO's objectives. It would also provide for effective monitoring and control through all the different phases of development, in particular in relation to costs, timescales and the benefits to be derived from the RSOO. For this purpose, various project management methods may be used of which two of the most widespread are the Project Management Institute's (PMI) Project Management Body of Knowledge (PMBOK), used in North America, and the second edition of the PRoject IN Controlled Environments (PRINCE2), which is predominantly used in Europe. In some cases, these two methods have been successfully integrated to form a single hybrid method for developing and managing projects.

2.3.3 Adopting a project management method for the development of an RSOO would entail the appointment of a project manager and team that would carry out the daily work needed for developing the framework of the RSOO. The project team could meet, on a regular basis, with a task force or committee composed of State representatives so as to ensure that States play an active role in the development of the RSOO. The committee would review reports and other documents developed by the project team prior to their submission for approval by the governing body for the project. This arrangement would also ensure an exchange of information and feedback between States and the project team essential for the successful establishment of the RSOO.

2.3.4 One of the first steps in committing to the establishment of an RSOO is approving the process or steps that need to be taken in its development. Typically, this can be done by the signing of an agreement (either a Memorandum or Letter of Understanding) by all the parties involved in the project. In the case of States, the agreement should be signed by the most senior representatives of the State, as determined by constitutional requirements, thus demonstrating political commitment at an appropriate level of government. The agreement should outline the benefits of an RSOO and the responsibilities of the different parties involved in its establishment, provide justification for its establishment and list any constraints that may affect the project. The agreement should also identify the project deliverables, including the legal, organizational and financial frameworks of the organization, and supporting documents such as regulations, procedures, handbooks and other guidance material. An example of an actual contract, in the form of a Letter of Understanding, can be found in Appendix A.

2.3.5 Planning for the RSOO should, from the outset, involve the carrying out of feasibility studies and safety oversight audit reviews during which relevant data and information are collected from States on the nature and level of aviation activity in the region, the safety oversight capabilities of the States and their accident and incident record. The information and data will be used to carry out different sorts of analyses, including an analysis of the strengths, weaknesses, opportunities and threats prevalent in the region to be served by the RSOO. In addition, as mentioned earlier, a gap analysis or an analysis of stakeholders' needs should be performed in order to refine the scope of RSOO activities. A financial analysis to determine availability of resources within the region, a cost/benefit and risk analysis may also be carried out. The planning phase assists in managing the expectations of States and stakeholders in terms of the responsibilities and authority of the RSOO.

2.3.6 The objectives of an RSOO are to support the licensing, certification, authorization, approval and surveillance of civil aviation activities within its member States and improve aviation safety within the region. The aim of following a structured project management approach in the establishment of the RSOO is to ensure that, ultimately, the RSOO meets its objectives. At the same time, however, the full functionality of the RSOO will always principally depend upon the availability of resources and the commitment of member States.

2.3.7 Ultimately, the development of an RSOO in accordance with a well-structured method ensures that a number of fundamental guiding principles are applied, including the need to:

- a) take into account the requirements and inputs of the RSOO's member States via the conduct of a gap analysis and a review of safety oversight audit results;
- b) take into account regional environmental factors, including political, legal, economic and social factors, through the conduct of a SWOT analysis and other types of evaluation such as impact and risk analyses;
- c) ensure compliance with ICAO provisions and international best practices;
- d) provide a formal legal basis for the RSOO;
- e) provide for the separation of safety oversight and aircraft accident investigation functions, as well as of service provision and safety oversight functions, and ensure that inspections carried out in member States are not subject to political or other forms of interference or pressure;
- f) ensure that an effective and efficient organizational structure is developed at minimum cost; and
- g) enable a level of funding for the RSOO that will provide for the sustainability of operations without being entirely dependent on donor support.

2.3.8 The RSOO should have a clearly defined mission statement that reflects its objectives and mandate as contained in the agreement document. The mission statement will depend on the duties and responsibilities agreed upon for the RSOO for the provision of advice and assistance to member States. The mission statement should contain elements to enable member States to implement an effective and efficient safety oversight system. In addition, the mission statement should provide for the implementation of common procedures and documentation relating to safety oversight and requiring member States to standardize their processes and procedures for licensing, certification, authorization, approval and surveillance of the aviation industry as applicable to the mandate of the RSOO and on the basis of international obligations.

2.3.9 A regional arrangement for safety oversight requires an effective and efficient institutional structure that, at a minimum, should be composed of legal, organizational and financial frameworks and a business model that provides for sustainable funding. Chapter 3 therefore addresses the RSOO's legal framework, and Chapter 4 addresses matters relating to the organizational structure of an RSOO. Chapter 5 considers the financial arrangements that can be put in place in order to ensure adequate funding for the RSOO's establishment and its long-term sustainability.



Chapter 3

THE LEGAL FRAMEWORK OF A REGIONAL SAFETY OVERSIGHT ORGANIZATION

3.1 RELEVANT FACTORS FOR AN RSOO'S LEGAL FRAMEWORK

3.1.1 In accordance with ICAO Assembly Resolution A37-8 an RSOO should foster collaboration on the part of its member States to develop solutions to common problems in building State safety oversight capabilities. An adequate legal framework should therefore include an agreement acceptable to all potential member States, which meets their common operational safety oversight needs. In this respect, the objective and purpose of an RSOO should, at the very least, include expert advisory and consultative services in safety oversight matters and the provision of technical assistance. The execution of safety oversight functions on behalf of member States may also be an objective of the RSOO. In States where human and financial resources are insufficient to perform efficient safety oversight, all three of these activities are central to the purpose of the RSOO. In particular, the execution of safety oversight functions on behalf of member States by the RSOO provides the best dividend in terms of efficiency and the effective use of resources.

3.1.2 Execution, by an RSOO, of certain tasks and functions on behalf of its member States requires delegation of authority to the RSOO. Delegation of authority by a member State to its RSOO does not legally require the RSOO to be structured in a specific way and involves only the delegation of functions, not responsibilities. Under the Chicago Convention, safety oversight remains the responsibility of the State even if the associated tasks and functions are delegated to another entity.

3.1.3 When developing a legal and institutional framework for an RSOO, it is however important to bear in mind not only the needs of member States and the objectives and purpose to be served by the RSOO, but the best framework for enabling delegation of authority to the RSOO by member States and for obtaining the firm commitment of States to the RSOO and its long-term sustainability. As will be seen in 3.2, certain options for the development of legal and institutional frameworks provide for these factors better than others.

3.2 OPTIONS FOR THE DEVELOPMENT OF AN RSOO'S LEGAL FRAMEWORK

3.2.1 Several factors, some of which are particular to the region or subregion to be served by the RSOO, will influence the legal form of the RSOO. Apart from the needs of the member States themselves, factors related to the economic and political context of the region and the constitutional foundation of member States will undoubtedly have an impact on the type of RSOO that is to be established. With respect to already established RSOOs, the options tend to range from relatively informal arrangements, such as the ICAO COSCAP projects, to fully-fledged regional intergovernmental organizations, which have been established on the basis of much more formal multilateral treaties and agreements.

COSCAP project/programme documents and the Memorandum of Cooperation (MOU/MOC)

3.2.2 At present, COSCAPs are set up as cooperative subregional projects under the auspices of ICAO with the objective of improving aviation safety, including aircraft accident prevention, and enhancing the safety oversight capabilities of member States. In general, their mandate allows for the provision of those services that define an RSOO, i.e. the provision of expert advisory and consultative services and technical assistance in safety oversight matters and the execution of safety oversight functions on behalf of their members.

3.2.3 The institutional structure of a COSCAP is laid down in either a project or programme document that contains details on the objectives of the project, its governance in terms of the establishment of a steering committee, sources of funding and the respective duties and responsibilities of all the parties, including the member States and ICAO. The project/programme document is, in some cases, preceded by a Memorandum of Understanding that is signed by all the member States and declares the intent to establish a COSCAP. In other cases, the project document/programme document may be appended to a Protocol Agreement or to an MOC signed by States, or their representative body, and ICAO. In some instances, the project/programme document will include a clear objective for transitioning the COSCAP into a more formalized safety oversight body.

3.2.4 There are cases where, with respect to the COSCAP, no binding agreement was initially established between the member States, and the project/programme document did not provide for the establishment of a more formalized body. Efforts have subsequently been made to strengthen the legal and institutional framework of the COSCAP through the signing of an Institutional Framework Agreement or MOC. The MOC enables the COSCAP to perform the functions of an RSOO more effectively and provides a means of securing more sustainable funding.

3.2.5 Therefore, even COSCAPs may, to some degree, differ from each other in terms of their legal framework and institutional structure, depending on the characteristics of the regions in which they are established. Irrespective however of the differences, all COSCAPs essentially remain projects that depend on ICAO for managerial and administrative services that may typically include the preparation of staff contracts, the opening of bank accounts and financial management. The COSCAP can function only in association with ICAO, does not have a legal personality and therefore cannot conclude agreements with other entities, such as funding agencies, in its own right. The project/programme documents and MOCs on which COSCAPs are based are relatively informal agreements that allow for some flexibility, but they are less binding with respect to internal approvals since they do not provide for the firm legal obligations that derive from more formal agreements.

3.2.6 The MOC has been described as a document that expresses a convergence of will between the parties, indicating an intended common line of action. It is often used in cases where parties do not imply a legal commitment or in situations where the parties cannot conclude a legally enforceable agreement. In this respect, it most often precedes a more formal institutionalizing agreement. Such was the case with the thirteen member States of the Caribbean Community (CARICOM) that in 2001 established the Regional Aviation Safety System (RASOS) on the basis of an MOC. This paved the way for the signing of a much more binding agreement by Heads of State that provided for the transitioning of RASOS to the Caribbean Aviation Safety and Security Oversight System (CASSOS), as an institution of the Community with full legal personality.

3.2.7 There are other examples where informal, less binding agreements, such as MOCs, served as the basis for establishing RSOOs and were then followed up by the subsequent conclusion of more formalized agreements or treaties. One such example is the COSCAP for the Banjul Accord Group of States (COSCAP-BAG) that later evolved into the Banjul Accord Group Aviation Safety Oversight Organization (BAGASOO). In the case of Latin America, a COSCAP was created in 1995, which evolved, with the signing of an MOU between the Latin America Civil Aviation Commission and ICAO, into the creation of the Regional Cooperation System on Safety Oversight in Latin America (SRVSOP). A further example is the European Joint Aviation Authorities (JAA) that later led to the establishment of the European Aviation Safety Agency (EASA). The Cyprus Arrangements that were signed in 1990 had the same purpose