

MEMORANDUM OF UNDERSTANDING
signed between the Latin American Civil Aviation Commission and
the International Civil Aviation Organization
to promote the establishment of a regional safety oversight system

The Latin American Civil Aviation Commission, with headquarters in Lima, Peru, hereinafter called "LACAC", represented by its President; and

The International Civil Aviation Organization, with headquarters in Montreal, Canada, hereinafter called "ICAO", represented by the President of the Council,

hereinafter referred to as "the Parties",

WHEREAS:

The Convention on International Civil Aviation has as one of its main objectives the safe and orderly development of international civil aviation, the fulfillment of the need of the peoples of the world for safe air transport, and the promotion of flight safety in international air navigation;

ICAO is the international body created by the Convention to handle the implementation and adoption of these principles and provisions and to adopt and amend, as needed, the standards, recommended practices and international procedures concerning personnel licensing, flight operations and aircraft airworthiness, among other matters connected with the safety, regularity and efficiency of air navigation;

ICAO Assembly Resolution A29-13 on the strengthening of safety oversight urges all States that are able to do so to furnish technical co-operation to those requesting it in the form of financial and technical resources, so that the latter States are able to fulfill their responsibility for monitoring the safety of their air carriers;

Article 4 of LACAC by-laws has as a main objective providing the civil aviation authorities of member States with an appropriate structure within which they can discuss and plan all of the measures required for achieving co-operation and for the co-ordination of civil aviation activities;

It is the responsibility of LACAC to promote agreements among the States in the region that will contribute to the best possible implementation of ICAO regional plans and the adoption of ICAO specifications regarding airworthiness, aircraft operations and personnel licensing;

Resolution A12-4 of the XII LACAC Ordinary Assembly, related to safety in the region, among other aspects, urges its member States to support the establishment of a regional multinational mechanism that may meet the needs shared by States concerning the fulfillment of their safety oversight responsibilities;

LACAC maintains close relations with ICAO to ensure the harmonization and co-ordination of its activities with ICAO objectives and plans;

The Conference of Directors General of Civil Aviation on a Global Strategy for Safety Oversight emphasized the need of co-ordinating and harmonizing the principles and procedures of assessing safety oversight at a global level, recognizing at the same time the advantages of following a regional focussing. In that context, the Conference recommended that ICAO promote the establishment of regional mechanisms with a view to achieving the long term support of safety oversight capability at a global level;

AGREE:

To sign the present Memorandum of Understanding to promote the establishment of a regional safety oversight system (hereinafter called "the System") in the American Continent, based on the following:

First. The System will conform to the provisions on safety of the Convention on International Civil Aviation and its Annexes and will be compatible with the ICAO universal safety oversight audit programme (IUSOAP). In a first phase, the Standards and Recommended Practices in Annexes 1, 6 and 8 to the Convention, as well as associated ICAO procedures and guidance material will be considered. The organizational and operational procedures of the System are to be set out in the attached Regulations which shall be agreed upon between the Parties.

Second. The System shall have the following objectives:

- 2.1 To participate in the conduct of audits undertaken by ICAO under the ICAO universal safety oversight audit programme by providing qualified team members in accordance with the selection criteria established by ICAO.
- 2.2 To recommend the necessary measures so that States may overcome the problems detected during the audits and ensure compliance with their safety oversight responsibilities as Contracting States.
- 2.3 To increase the level of civil aviation safety within the region.
- 2.4 To foster, in close co-ordination with ICAO, the harmonization and updating of safety regulations and procedures for civil aviation amongst its participating States.

Third. ICAO shall have the following responsibilities:

- 3.1 To promote a multinational technical co-operation agreement in the form of a trust fund financed by the participating States, that will enable the launching of the System with the required technical, logistic and administrative support.
- 3.2 To manage and co-ordinate the trust fund based on the provisions contained in the complementary trust fund agreement.
- 3.3 To provide, in accordance with the ICAO universal safety oversight audit programme, the necessary technical support for the activities of the System.
- 3.4 To furnish the System with relevant information and documentation.
- 3.5 To determine the review by its auditors of the financial statements of the System as of December 31 of each year.

Fourth. It shall be the responsibility of LACAC:

- 4.1 To foster an agreement among States of the American Continent for the implementation and participation in the System.
- 4.2 To inform the participants in the System about the status of safety in the States, so that they may take appropriate measures.
- 4.3 To urge the States participating in the System to urgently take proper steps to overcome the problems that may be detected as a result of the audits as referred to in the objectives of the System contained in the second paragraph of this Memorandum.
- 4.4 To arrange, on request by ICAO, for the required experts to be made available by the States participating in the System for audit missions under the leadership of ICAO.

Fifth. General provisions:

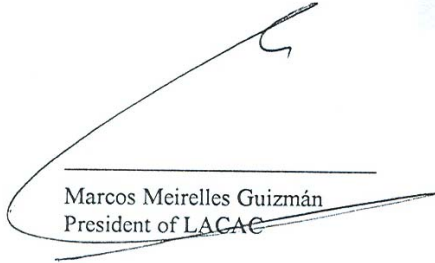
- 5.1 The personnel assigned to the System shall neither request nor shall they receive instructions with regard to the performance of their functions from any authority other than ICAO or the System in accordance with ICAO rules as well as with the Regulations attached hereto. Such personnel participating in the audits undertaken by ICAO under the ICAO universal safety oversight audit programme shall be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity as ICAO team members.
- 5.2 This Memorandum of Understanding shall be construed in keeping with the provisions of the by-laws and the Convention that govern the activities of LACAC and ICAO, respectively.
- 5.3 This Memorandum of Understanding shall enter into effect after being signed by the Parties and its duration shall be indefinite.

- 5.4 Either Party, ICAO or LACAC, may propose amendments to this Memorandum of Understanding. All amendments shall be examined by the Parties concerned and shall require approval by both Parties, ICAO and LACAC, to enter into effect.
- 5.5 Any difference or dispute concerning the interpretation or the application of this Memorandum of Understanding shall be resolved by negotiation between the Parties concerned.
- 5.6 This Memorandum of Understanding may be terminated by either Party through notice given to the other at least one year in advance.

Done at Montreal this first day of October, one thousand nine hundred and ninety-eight.

Signed on behalf of LACAC:

Signed on behalf of ICAO:



Marcos Meirelles Guizmán
President of LACAC



Assad Kotaite
President of the Council

REGULATIONS OF THE REGIONAL SAFETY OVERSIGHT SYSTEM

Article 1 MISSION

The Regional Safety Oversight System, hereinafter called "the System", created by virtue of the Memorandum of Understanding signed by the Latin American Civil Aviation Commission and the International Civil Aviation Organization, has the mission of participating in the implementation of the ICAO universal safety oversight audit programme by providing qualified experts in the areas of personnel licensing, operation of aircraft and airworthiness of aircraft, for the purpose of conducting safety oversight audits under the leadership of ICAO, and recommending corrective measures as appropriate to help States overcome the problems that may be detected and that will ensure compliance with their responsibilities for safety oversight.

Article 2 HEADQUARTERS AND DURATION

The System shall have as its headquarters the ICAO Regional Office in Lima; it shall be governed by the provisions of these Regulations and its duration shall be indefinite.

Article 3 PARTICIPANTS

Participation in the System shall be open to States that are members of the Latin American Civil Aviation Commission and to other States of the American Continent that wish to adhere through their respective authorities.

Article 4 FUNCTIONS

The functions of the System shall be:

- a) To establish and implement a safety oversight programme in the participating States in close co-ordination with the ICAO universal safety oversight audit programme, with a view to maintaining and/or ensuring fulfillment of their responsibilities emanating from the Convention on International Civil Aviation and its respective Annexes. Initially, it will consider the Standards and Recommended Practices of Annexes 1, 6 and 8 to the Convention, the associated ICAO procedures and guidance material, and the regulations and procedures that are adopted by the System for implementation by its members in compliance with the said ICAO rules, including rules regarding transparency of audit results;
- b) To propose uniform regulations and procedures in the areas of Personnel Licensing, Aircraft Operations and Airworthiness, compatible with relevant ICAO Standards and Recommended Practices, associated procedures and guidance material, leading to the harmonization and adoption of such regulations and procedures by the participating States;
- c) To promote the provision of advice and assistance required by participating States to implement and apply ICAO Standards and Recommended Practices, associated procedures and guidance material in a co-ordinated and uniform manner;
- d) To participate in the conduct of audit missions under the leadership of ICAO by making the required experts available through LACAC. These experts must have been trained by ICAO and selected under this Organization's criteria;
- e) To recommend the necessary measures to overcome the problems that may be detected as a result of the audits, and assist in their implementation;
- f) To develop other related activities as may be required and that are within its capacity.

**Article 5
STRUCTURE**

System functions shall be performed by a General Board, a General Co-ordinator and a Technical Committee.

**Article 6
GENERAL BOARD**

- a) The General Board shall be comprised of a representative from each participating State, preferably who has the responsibility of managing the civil aviation safety in his/her respective State. It shall meet at least once a year in ordinary meetings, called by its President, who will be elected from its members for a period of one year. The President could be re-elected for equal and succeeding periods.
- b) Notwithstanding the above, the General Board may hold extraordinary meetings, duly called by its President on his/her own initiative, or as requested by a single majority of its members or by the General Co-ordinator.
- c) The first ordinary meeting of the General Board will be called by the President of LACAC once the System is established.

**Article 7
FUNCTIONS OF THE GENERAL BOARD**

The functions of the General Board shall be:

- a) To facilitate the conduct of mandatory, regular and harmonized audits under the ICAO universal safety oversight audit programme, the formulation and adoption of corrective measures, and the adequate dissemination of the corresponding information;
- b) To establish the number of experts required to integrate the Technical Committee and approve the terms and conditions for such assignments;
- c) To provide experts from the System to be trained by ICAO in accordance with Article 4 d) of these Regulations;
- d) To approve the annual programme of activities of the System;
- e) To examine and approve the annual budget and the financial regime;
- f) To examine and approve the expenditures and accounts;
- g) To examine and approve the annual reports of the Technical Committee and the annual report on the activities of the System;
- h) To propose amendments to these Regulations, when necessary;
- i) To agree on the withdrawal of one or more States from the System based on the analysis that shall be developed by the Technical Committee for such cases;
- j) To agree on the liquidation of goods and assets of the System, in the event of the termination of the System;
- k) To consider any other matter within the scope of the System that has not been specifically assigned to any of its other bodies.

**Article 8
GENERAL CO-ORDINATOR**

The ICAO Representative at the ICAO Regional Office in Lima, headquarters of the System, will be in charge of the general co-ordination of the System, and shall receive the technical and logistic support from the ICAO

Regional Offices concerned (Lima and Mexico) and from the Technical Committee as needed, in accordance with relevant ICAO procedures and guidelines, as well as with these Regulations and other procedures of the System.

Article 9 FUNCTIONS OF THE GENERAL CO-ORDINATOR

The functions of the General Co-ordinator shall be:

- a) To co-ordinate with the participating States the implementation of the annual programme of activities, including audit missions;
- b) To co-ordinate with the President the meetings of the General Board and act as Secretary of such meetings;
- c) To provide guidance to the experts assigned to serve on the Technical Committee;
- d) To co-ordinate and direct the Technical Committee meetings and the implementation of its programme of activities;
- e) To exchange such information as is necessary with the participating States and bodies concerned;
- f) To prepare an annual report of the activities of the System and submit it to the General Board;
- g) To co-ordinate with the States the designation of experts and their participation in the audits;
- h) To keep updated the lists of Civil Aviation Authorities, of the candidates nominated to serve on the Technical Committee, and of the available experts;
- i) To perform such other functions within the scope of the activities of the System as are entrusted to him/her.

Article 10 TECHNICAL COMMITTEE

The Technical Committee shall be composed of experts complying with ICAO requirements in Personnel Licensing, Aircraft Operations and Airworthiness in a number to be determined by the General Board and selected in consultation with ICAO and in accordance with Article 4 d) of these Regulations. The duration of their contracts shall be one year, renewable, of which the first three months will be a probationary period.

Article 11 FUNCTIONS OF THE TECHNICAL COMMITTEE

The Technical Committee shall have the following functions:

- a) To plan and develop a permanent programme for safety oversight in participating States, with the purpose of verifying compliance with their safety related obligations, in accordance with the ICAO universal safety oversight audit programme and as per the relevant provisions of the Convention on International Civil Aviation, its Annexes, and procedures;
- b) To propose regulations and procedures as may be needed with regard to personnel licensing, aircraft operations and airworthiness, as mentioned in Article 4 b) of these Regulations, with a view to achieving their harmonization;
- c) To participate in audits of States in the System, as per the programme approved by ICAO and the General Board;
- d) To recommend to participating States the uniform adoption and application of the harmonized regulations and procedures;

- e) To facilitate the dissemination of the harmonized regulations and procedures;
- f) To determine the assistance required by Civil Aviation Administrations regarding safety;
- g) To prepare on a yearly basis the programme of activities and the budget of the System for approval by the General Board;
- h) To set up such sub-committees and groups of experts as deemed necessary;
- i) To examine the reports of the sub-committees and of the groups of experts that have been set up, and to decide on the issues submitted for its consideration;
- j) To analyze the audit reports prepared by the groups of experts;
- k) To give its opinion with respect to amendments to these Regulations, when requested by the General Board;
- l) To analyze and report to the General Board on the consequences of the withdrawal of one or more States from the System;
- m) To propose to the General Board the liquidation of System's goods and assets in the event of the termination of the System.

Article 12 ICAO SUPPORT

- a) The System shall be managed by ICAO through a trust fund agreement to be entered into by the participating States and ICAO, as provided for in the third paragraph of the Memorandum of Understanding;
- b) ICAO shall give the System technical and logistic support and such information and documents as it may need, and shall monitor its activities using the regular means available to it;
- c) At the request of LACAC or of any of the participating States, ICAO shall propose the most appropriate course of action for those activities required which the System is not able to implement;
- d) ICAO shall arrange for the review by its auditors of the financial statements of the System as of December 31 of each year, and forward their reports to the General Board through the General Co-ordinator;
- e) Any expenses incurred by ICAO from the activities described above and which exceed normal ICAO support to its Contracting States, shall be covered in accordance with the relevant provisions of the complementary trust fund agreement, the details of which will be arranged by the Parties.

Article 13 FINANCIAL STRUCTURE

The System shall be financed with the contributions from the participating States, as established in an agreement between such States for the implementation of the System, on the basis of an annual budget of its operating costs, to be approved by the General Board no later than September 30 of the year immediately prior to the year of its application. The budget shall also include the annual amount (in US dollars) of the contributions set for the participating States, which are to be deposited into a trust fund account that ICAO shall open in the name of the System.

Article 14 CONCILIATION

Any difference or dispute concerning the interpretation or the application of these Regulations shall be resolved by negotiation between the parties concerned.

**Article 15
AMENDMENTS**

- a) Either Party, ICAO or LACAC, may propose amendments to these Regulations.
- b) As far as LACAC is concerned, any State member of the General Board may propose amendments to these Regulations. All amendments shall be examined by the General Board and approved by an expanded meeting of the LACAC Executive Committee which could be attended by all States forming part of the System.
- c) Any amendment proposed by ICAO or LACAC shall require approval by both Parties to enter into effect.

**Article 16
ENTRY INTO FORCE**

These Regulations shall enter into force once formally approved by the Parties and once the System is established.

