



WORKING PAPER

TWELFTH AIR NAVIGATION CONFERENCE

Montréal, 19 to 30 November 2012

Agenda Item 6.1

TITLE

Proposed Actions to Enhance States' Regulatory Distinction between Commercial and General Aviation

Presented by the International Council of Aircraft Owner and Pilot Associations
(IAOPA)

SUMMARY

Affiliates of IAOPA have identified an international problem concerning the implementation of ICAO's SARPs. Frequently States do not distinguish SARPs written for Commercial Aviation from those written for General Aviation. Similarly international operation SARPs are being unnecessarily applied to domestic operations. ICAO's distinctions between these disparate operations are being ignored.

When IAOPA affiliates, faced with their State's application of SARPs intended by ICAO for Commercial or international aviation, attempt to obtain relief or proportionality for their General Aviation operations, their requests frequently are answered with, "The State is simply applying ICAO SARPs."

Action: The Conference is invited to agree to the recommendation in paragraph 3.

1. INTRODUCTION

- 1.1 Annexes are arranged to consist of Abbreviations and Symbols, a Foreword, Definitions and the SARPs. Presumably these components, together, constitute the intent of the SARPs contained in an Annex and together they form the framework to assure the outcome of that intent. Yet, it appears that many States, for reasons of their own, do not differentiate domestic requirements from those for international operations, do not differentiate Commercial Aviation requirements from General Aviation requirements nor do they seem to adjust the requirements to suit the level of risk of General Aviation operations.

One must ask the question, "Why is the intent of any given ICAO SARP being mis-applied?" Forewords ultimately have no force in law. Is it possible that States simply ignore the advice presented in Forewords for this reason?

2. BACKGROUND

- 2.1 Of particular and most frequent concern to Private Aviation are the provisions in Annex 6 Part II International General Aviation – Aeroplanes. Some States, when challenged on a particular application of a particular Annex 6 Part II SARP, will typically quote an apparently applicable Part I SARP and insist that the State must apply its -- Part I's -- standards to be in conformance with ICAO requirements.

It has become apparent to IAOPA, in dealing with requests for help from its affiliates, that not all State administrators are familiar with the totality of, for example, Annex 6 Part II. A specific lack of familiarity with the Foreword of Annex 6 Part II is apparent. It is clear that this Foreword either is not being referenced or it is being ignored.

Because any given Foreword is the 'umbrella' or philosophy under which the SARPs within its Annex are initially created, it is essential that the Foreword be referenced as a guide in the application of any SARP within that Annex. Failure to adhere to the generalized aim of the Foreword of Annex 6 Part II has resulted in SARPs being improperly applied – to the unnecessary disadvantage of General Aviation.

- 2.2 The fact that ICAO's Universal Safety Oversight Programme does not specifically verify adherence to the principles outlined in the Forewords, an important element of the Annexes, possibly is being overlooked. IAOPA suggests that a question be added to the otherwise objective questions of the audit forms to include a question such as: "How has your administration tailored the application of SARPs to differentiate their application to Commercial Aviation and General Aviation as outlined in the Foreword of Annex 6 Part II under *Level of Safety, Freedom of Action and Responsibility?*"

Failing the ability to modify the audit questions, IAOPA would encourage ICAO, and particularly its Regional Offices, to provide additional training to the relevant CAA individuals concerned with interpreting and applying the SARPs, to be given the necessary training so that they are able to interpret the SARPs in the context of their intent as outlined in the Forewords to the Annexes.

3. CONCLUSION

IAOPA therefore recommends:

- 1.) that Contracting States, as per the Foreword in Annex 6 Part II regarding *Level of Safety, Freedom of Action and Responsibility*, differentially apply SARPs to Commercial and General Aviation operations;
- 2.) that Contracting States, as per the Foreword in Annex 6 Part II regarding *Level of Safety, Freedom of Action and Responsibility*, differentiate SARPs applied to domestic General Aviation operations from SARPs applied to international General Aviation operations; and
- 3.) that ICAO bring up-to-date through a renewed request to Contracting States the status of States' conformance to numbers 1) and 2) above, as required by Annex 15.