

SYMPOSIUM ON REGIONAL SAFETY AGENCIES



ICAO's Perspectives on RASAs

Livingstone
13 – 15 July 2009

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CONVENTION ON INTERNATIONAL

Article 55

Permissive functions of Council

The Council may:

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Article 65

Arrangements with other international bodies

The Council, on behalf of the Organization, may enter into agreements with other international bodies for the maintenance of common services and for common arrangements concerning personnel and, with the approval of the Assembly, may enter into such other arrangements as may facilitate the work of the Organization.



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2009
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Doc 7300/9

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International Civil Aviation Organization
Organisation de l'aviation civile internationale
Organización de Aviación Civil Internacional
Международная организация гражданской авиации



ICAO ASSEMBLY 10TH SESSION, 1956

Resolution A10-5

- Established a policy framework for ICAO and ECAC
- Focus on Regional Cooperation





OTHER EXAMPLES

- ICAO and ECAC
 - MoU 11 November 1997
- ICAO & ECAC
 - 11 November 1999
- ICAO and LACAC
 - 1 October 1999
- ICAO & AFCAC
 - 5 February 2008





ICAO's CURRENT WORK

EC/ICAO Symposium on Regional Organizations (10-11 April 2008)

- Impact of regional organizations on civil aviation
- Contributions such organizations could make towards ICAO's work





ICAO's CURRENT WORK (cont)

Objectives of EC/ICAO Symposium

- Examine different facets of regional organizations
- Their role in furthering interests of aviation





DISCUSSIONS AT EC/ICAO SYMPOSIUM

- Regional cooperation on regulatory issues
 - Models of oversight organizations
- Removing barriers
- Regional governance and ICAO





CONCLUSIONS OF THE SYMPOSIUM

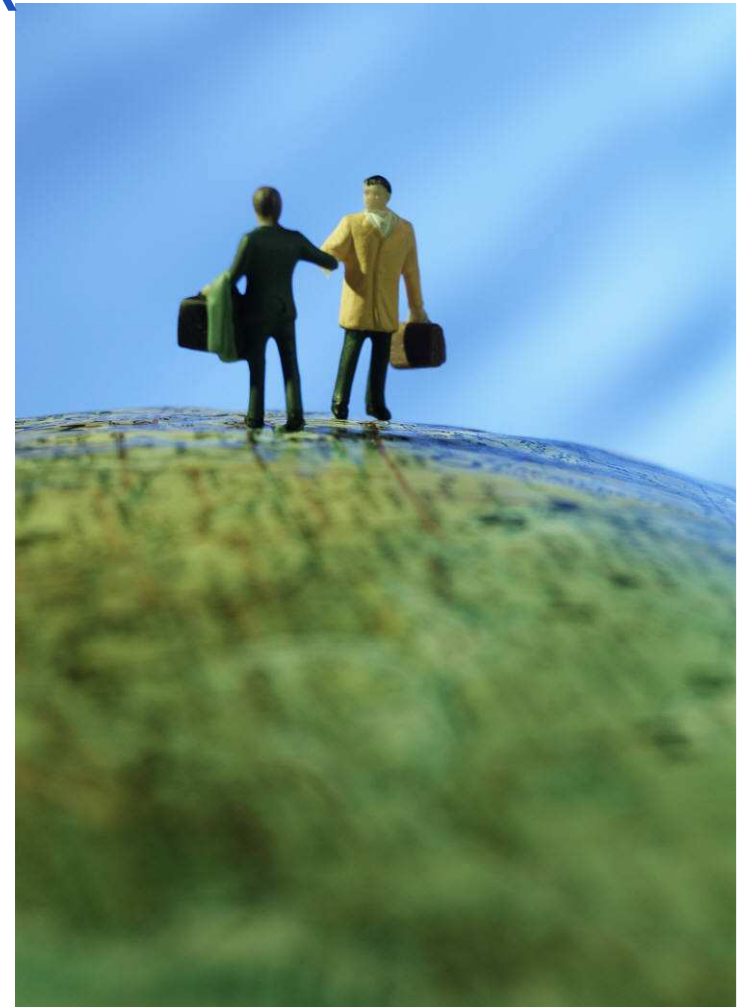
- Global, regional, national initiatives should go hand in hand
- If civil aviation is to be seamless there should be cooperative initiatives at regional level





REQUESTS OF ICAO

- Develop MOUs or framework agreements
- Maintain regular dialogues with ROs
- Encourage political will
- Adopt formal policy on regional governance





REQUESTS OF ICAO

- Update guidance on Doc 9734 and on R500s
- Ensure there are no legal loopholes re integration of regional civil aviation bodies into the system





ICAO's Response

- Council establishes multidisciplinary group
- Terms of reference
 - Develop modes of assistance
 - Explore best practices
 - Recommend cooperative methods
 - Explore ways as to how regional oversight bodies can play an active role





- Abuja Air Transport Symposium (28 – 30 April 2008)
- States' reliance on ICAO's leadership
- Focus on ICAO assistance on a regional basis





CONCLUSIONS OF THE WORKING GROUP

- a) ICAO should enhance its cooperation with regional organizations and regional civil aviation bodies and vice-versa, both in the technical and economic fields;
- b) ICAO should ensure that the interests of States which do not belong to regional civil aviation bodies should not be jeopardized or compromised in the context of a);
- c) while ICAO encourages the activities of States and regional civil aviation bodies in facilitating the implementation of SARPs, States ultimately remained responsible for their obligations under the Convention on International Civil Aviation, notwithstanding whatever arrangements States may conclude with their regional civil aviation bodies;
- d) ICAO should encourage States to form regional civil aviation bodies in regions where they do not exist;
- e) since almost all regional civil aviation bodies have their own Constitutions, these Constitutions should recognize the need for increased cooperation with ICAO and ICAO should actively seek such an inclusion;





CONCLUSIONS OF THE WORKING GROUP

- f) cooperation could include assignment of tasks related to oversight, accident investigation, sharing of information and the conduct of training in collaboration with ICAO;
- g) ICAO should, where appropriate, initiate periodic meetings with regional civil aviation bodies;
- h) ICAO could set up a panel that includes members from ICAO and each regional body on a selective basis. This panel could recommend and monitor issues of cooperation, including cooperation between the various regional organizations;





CONCLUSIONS OF THE WORKING GROUP

- i) ICAO should define the role that regional organizations and regional civil aviation bodies would play in working closely with ICAO;
- j) ICAO should adopt a policy with regard to cooperation with regional organizations and regional civil aviation bodies; and
- k) ICAO should ascertain the role to be played by the regional offices in coordinating ICAO cooperation with such bodies. Consideration should be given to providing appropriate resources in regional offices where necessary.





FURTHER WORK OF THE GROUP

- Develop ICAO policy re regional governance
- Develop ICAO policy re cooperation with regional bodies
- Develop framework on agreements
- ICAO regional offices role with regard to regional bodies





LEGAL ASPECTS

- What is an agency?
 - A consensual relationship
 - created by contract or law
 - Principal grants authority to agents
 - To act on behalf of
 - or under the control of the principal
 - To deal with a third party





WHO IS THE PRINCIPAL?

- The State or States

WHAT ROLE DOES ICAO PLAY?

- That of organization empowered by the State(s) to carry out audits and report





ARTICLE 54 (j) OF THE CHICAGO CONVENTION

j) Report to contracting States any infraction of this Convention, as well as any failure to carry out recommendations or determinations of the Council;





THEREFORE,

- ICAO's position with regard to RASAs is
 - Total cooperation with regional governance as determined by States
 - Through carefully formulated policy
 - With no abdication nor delegation of ICAO's responsibilities





ICAO POLICY ON REGIONAL GOVERNANCE

- Regional governance is a state prerogative
- ICAO acts to the extent of its empowerment
- RASAs will have delegated authority of States
- States cannot delegate responsibility





ICAO POLICY (cont.)

- ICAO can assist in the oversight process
 - Res A1-10
 - Informal working arrangements
 - To manage and/or offer ICAO expertise
 - Advise, technical, logistical support





IMPLEMENTATION OF ICAO POLICY ON REGIONAL GOVERNANCE

MOU

- Constitutes an Agreement?
Or understanding regarding arrangements?

Exchange of Letters (Proposals)

- “Shall” rather than “Will”





CONCLUSIONS

- MOU or Exchange of Notes does not constitute legally binding agreement
- Therefore RASAs will retain legally binding agreement with States
- RASAs should work closely with regional aviation bodies

