

**54th CONFERENCE OF
DIRECTORS GENERAL OF CIVIL AVIATION
ASIA AND PACIFIC REGIONS**

*Ulaanbaatar, Mongolia
07 — 11 August 2017*

**AGENDA ITEM 3: AVIATION SAFETY AND
AIR NAVIGATION**

**GUIDANCE MATERIAL IN REGARD TO PRIMARY
AVIATION LEGISLATION**

(Presented by Bangladesh)

SUMMARY

This Discussion Paper is presented to provide this meeting, a Spotlight on the necessity of having Guidance Material in regard to primary aviation legislation.

GUIDANCE MATERIAL IN REGARD TO PRIMARY AVIATION LEGISLATION

1. INTRODUCTION

1.1 In this year, Bangladesh has Promulgated 02 Primary Aviation Acts namely:

- Civil Aviation Act 2017 (Promulgated on July 2017)
- Civil Aviation Authority Act (Promulgated on Feb 2017)

1.1.1 Bangladesh had been working on this since last couple of years. During the work, it was strongly felt that there are hardly any straight-forward, comprehensive, precise and elaborate Guidelines about the content, preparation, arrangement or frame work of Primary Aviation Legislation - though this is lined-up as the first Audit area in USOAP in terms of how the PQs are organized. Needless to mention about the significance of the subject matter as Legislation is the source for all authority and backbone for any State safety oversight entities.

2. DISCUSSION

2.1 A modern Primary Aviation Legislation is the “Power House” and The Key to effective safety oversight by a state. Having realized that, Bangladesh, being a state desperately looking a “starting point” for its potential Aviation sector, worked over couple of years to promulgate aforesaid two Acts on Aviation. It was not an easy journey and in fact, hurdles were all around. Availability of specific subject matter experts (Aviation Law) and definite guideline, were the primary impediments. We had to consult with numbers of references including the followings:

- Doc 7300 for Related Articles;
- Doc 9734 Part A (where only clause 3.2 basically speaks about it very briefly)
- Number of states Aviation related Legislations;
- All the PQs related to Audit area - 1 (which was basically a backtracking the needs of USOAP in LEG area and incorporating those in Primary Legislation) etc.

2.2 Now, a state, having lack of resources yet upholding a strategy to carry themselves forward for effective safety oversight in aviation finds her in a challenging situation because of proper references. Not all states have their own Aviation Law experts – that needs a process for HRD. Bangladesh has her own Aviation Law experts recently but situation was even challenging at the starting point once we had none.

2.3 Upholding the spirit of NCLB, this might be call of time to work to ease up the challenges faced by countries those are still behind in respect to promulgate a Standard Aviation Legislation. There are 27 PQs in the LEG Audit area on which states are being accessed for their Implementation status in terms of EI – but there is insufficient references available to work with. Point to note is, We have total 08 Audit Areas and 06 out of this 08 USOAP audit areas has dedicated Annexes/Docs where SARPs/GM are available to comply with. On top of that Primary Aviation Legislation is the 1st amongst 08 Critical Elements (CE).

2.4 Bangladesh appreciates the fact that, the Primary Legislative framework is variable state to state and state’s Primary Aviation Legislation usually revolves around that framework. But, it is also true that, LEG is the only Audit area that hits 06 other areas and ICAO has established **common minimum** standard for all contracting states i.e. SARPs (as a form of Annexes).Trailing that fact, it might be beneficiary for Global Aviation Safety Oversight Platform if they have a common Datum Principles for Aviation related Legislation. States still working on framing Primary Aviation Legislation or states looking for a guideline to amend any clause of their existing Legislation should have a definite common starting point of work and similar mindset of legal support behind their Safety consciousness.

2.5 Bangladesh thinks, the following Work plan might be useful to assist Contracting States regarding Primary Aviation Legislation area:

- A Working Group (WG) can be formed to study the matter combining states.
- A thorough study should be done by the WG on How to establish a common baseline requirement for any Aviation related Primary Legislation and a Legislative platform for all. States that falling behind should have a easy path to establish Aviation Legislation and it is better once we can create an one stop solution.
- Tracking the example of Annex 19 (Separate SARPs for SMS-SSP), WG might study the feasibility of having a separate group of SARPs (as a form of fresh Annex) for Legislative framework for the states. Alternates may be to amend any of existing Annexes (i.e. Annex -2 – which upholds Article 12, 37 and 38and incorporate new Standards. If not, promulgating a dedicated ICAO DOC (GM) on Aviation Legislation may be considered. In any of the above cases may be, a “Pamphlet” for Primary Aviation Legislation should be incorporated as attachment as a reference (not as an obligatory element) for states to frame Aviation Legislation.

3. ACTION BY THE CONFERENCE

3.1 The Conference is invited to:

- a) Discuss the subject matter and should it deemed necessary or significant, to formulated appropriate steps (i.e. forming WG or Study); and
- b) Note the information in this paper.

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