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Transmittal Note

SUPPLEMENT TO
ANNEX 13 — AIRCRAFT ACCIDENT AND
INCIDENT INVESTIGATION
(Ninth Edition)

1. The attached Supplement supersedes all previous Supplements to Annex 13 and includes differences notified by Contracting States up to 29 November 2002 with respect to all amendments up to and including Amendment 10.
 2. This Supplement should be inserted at the end of Annex 13, Ninth Edition. Additional differences and revised comments received from Contracting States will be issued at intervals as amendments to this Supplement.
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SUPPLEMENT TO ANNEX 13 — NINTH EDITION

**AIRCRAFT ACCIDENT AND
INCIDENT INVESTIGATION**

Differences between the national regulations and practices of Contracting States and the corresponding International Standards and Recommended Practices contained in Annex 13, as notified to ICAO in accordance with Article 38 of the *Convention on International Civil Aviation* and the Council's resolution of 21 November 1950.

JANUARY 2003

INTERNATIONAL CIVIL AVIATION ORGANIZATION

RECORD OF AMENDMENTS TO SUPPLEMENT

<i>No.</i>	<i>Date</i>	<i>Entered by</i>	<i>No.</i>	<i>Date</i>	<i>Entered by</i>

**AMENDMENTS TO ANNEX 13 ADOPTED OR APPROVED BY THE COUNCIL
SUBSEQUENT TO THE NINTH EDITION ISSUED JULY 2001**

<i>No.</i>	<i>Date of adoption or approval</i>	<i>Date applicable</i>	<i>No.</i>	<i>Date of adoption or approval</i>	<i>Date applicable</i>

1. Contracting States which have notified ICAO of differences

The Contracting States listed below have notified ICAO of differences which exist between their national regulations and practices and the International Standards and Recommended Practices of Annex 13, Ninth Edition, or have commented on their implementation.

The page numbers shown for each State and the dates of publication of those pages correspond to the actual pages in this Supplement.

<i>State</i>	<i>Date of notification</i>	<i>Pages in Supplement</i>	<i>Date of publication</i>
Argentina	6/8/01	1	10/1/03
Australia	1/10/01	1	10/1/03
Belarus	24/9/01	1	10/1/03
Cook Islands	13/10/02	1	10/1/03
Finland	29/4/02	1	10/1/03
France	15/11/01	1	10/1/03
Greece	12/9/01	1	10/1/03
Iraq	7/5/02	1	10/1/03
Jordan	9/12/01	1	10/1/03
Monaco	2/4/02	1	10/1/03
New Zealand	15/3/02	1-2	10/1/03
Portugal	6/5/02	1	10/1/03
Russian Federation	31/5/02	1	10/1/03
Sweden	18/10/01	1	10/1/03
Switzerland	10/7/02	1	10/1/03
United Kingdom	21/8/01	1	10/1/03
United States	14/11/01	1-2	10/1/03
Uruguay	27/8/02	1	10/1/03
Uzbekistan	6/5/02	1	10/1/03

2. Contracting States which have notified ICAO that no differences exist

<i>State</i>	<i>Date of notification</i>	<i>State</i>	<i>Date of notification</i>
Austria	30/4/02	Denmark	29/3/02
Bahrain	21/7/01	Ecuador	7/6/01
Barbados	27/6/01	Egypt	30/7/01
Belgium	25/9/01	El Salvador	9/7/01
Botswana	24/4/02	Eritrea	10/5/01
Canada	22/10/01	Estonia	25/9/01
Chile	25/4/02	Ethiopia	22/4/02
China	28/5/02	Germany	4/7/01
China (Hong Kong SAR)	28/9/01	Ghana	11/6/01
Costa Rica	30/4/02	Guatemala	29/4/02
Cuba	6/5/02	Iceland	6/7/01
Cyprus	8/6/02	India	28/8/01
Czech Republic	19/12/01	Iran (Islamic Republic of)	30/6/02
Democratic People's Republic of Korea	16/7/01	Ireland	25/4/02
		Italy	27/9/01

Kuwait	15/7/01	Senegal	7/5/02
Latvia	22/3/02	Singapore	21/11/01
Lebanon	15/9/01	Slovakia	26/9/01
Lithuania	9/4/02	Slovenia	18/6/01
Malawi	7/5/02	South Africa	12/9/02
Malaysia	7/5/02	Spain	19/9/01
Mexico	7/8/02	Sri Lanka	13/7/01
Namibia	4/7/02	Suriname	12/3/02
Netherlands	7/12/01	Thailand	13/5/02
Niger	29/5/02	The former Yugoslav Republic of Macedonia	29/6/01
Norway	2/10/01	Uganda	30/5/01
Pakistan	6/5/02	United Arab Emirates	19/8/01
Philippines	22/4/02	United Republic of Tanzania	18/7/01
Qatar	25/3/02	Viet Nam	4/4/02
Republic of Moldova	24/9/01	Yemen	27/4/02
Romania	2/10/01	Zambia	5/9/01
Saudi Arabia	20/4/02		

3. Contracting States from which no information has been received

Afghanistan	Dominican Republic	Mauritius
Albania	Equatorial Guinea	Micronesia (Federated States of)
Algeria	Fiji	Mongolia
Andorra	Gabon	Morocco
Angola	Gambia	Mozambique
Antigua and Barbuda	Georgia	Myanmar
Armenia	Grenada	Nauru
Azerbaijan	Guinea	Nepal
Bahamas	Guinea-Bissau	Nicaragua
Bangladesh	Guyana	Nigeria
Belize	Haiti	Oman
Benin	Honduras	Palau
Bhutan	Hungary	Panama
Bolivia	Indonesia	Papua New Guinea
Bosnia and Herzegovina	Israel	Paraguay
Brazil	Jamaica	Peru
Brunei Darussalam	Japan	Poland
Bulgaria	Kazakhstan	Republic of Korea
Burkina Faso	Kenya	Rwanda
Burundi	Kiribati	Saint Kitts and Nevis
Cambodia	Kyrgyzstan	Saint Lucia
Cameroon	Lao People's Democratic Republic	Saint Vincent and the Grenadines
Cape Verde	Lesotho	Samoa
Central African Republic	Liberia	San Marino
Chad	Libyan Arab Jamahiriya	Sao Tome and Principe
Colombia	Luxembourg	Seychelles
Comoros	Madagascar	Sierra Leone
Congo	Maldives	Solomon Islands
Côte d'Ivoire	Mali	Somalia
Croatia	Malta	Sudan
Democratic Republic of the Congo	Marshall Islands	Swaziland
Djibouti	Mauritania	Syrian Arab Republic

Tajikistan	Tunisia	Vanuatu
Togo	Turkey	Venezuela
Tonga	Turkmenistan	Yugoslavia
Trinidad and Tobago	Ukraine	Zimbabwe

4. Paragraphs with respect to which differences have been notified

<i>Paragraph</i>	<i>Differences notified by</i>	<i>Paragraph</i>	<i>Differences notified by</i>
Chapter 1		5.15	Cook Islands New Zealand
Definitions	Argentina	5.16	Cook Islands New Zealand
	Belarus	5.17	Cook Islands New Zealand
	Cook Islands	5.18	Iraq
	New Zealand	5.19	New Zealand United States
	Russian Federation	5.20	United States
	Uzbekistan	5.23	Iraq
Chapter 4		5.25	Australia
4.1	Jordan	5.26	United States Cook Islands New Zealand United States
4.7	Argentina		
Chapter 5			
5.1	Australia		
5.3	Greece	Chapter 6	
5.3.1	Greece	6.2	Sweden United States
5.4	New Zealand	6.3	Cook Islands New Zealand United Kingdom
5.6	Australia	6.4	Jordan
	France		
	Monaco	Chapter 7	
5.7	Jordan	7.1	Australia
5.9	France	7.7	Jordan
	Monaco		
5.12	Cook Islands	Chapter 8	
	Finland	8.2	Cook Islands New Zealand
	France	8.3	Cook Islands New Zealand
	Monaco	8.4	Cook Islands
	New Zealand	8.5	New Zealand
	Portugal		
	Sweden		
	Switzerland		
	United States		
	Uruguay		
5.12.1	France		
	Monaco		
	United States		

CHAPTER 1

Definitions The definition of “accident” in the Argentine regulations reads:

“For the purposes of the application of this Decree, an aircraft accident shall be understood as any event which occurs while the aircraft is operated and which causes the death of or injuries to any person or damage to the aircraft or which causes the aircraft to cause these.”

The difference is that although much shorter, the Argentine definition covers more fields in which an accident investigation must be conducted. It is left to the judgement of the official authorities which conduct the investigation whether to conduct an extensive or abridged inquiry.

In any case this definition applies only to aircraft registered in Argentina. On the other hand, ICAO’s regulations are applied for foreign aircraft.

CHAPTER 4

4.7 Accident reporting is mandatory under Argentine regulations. The same is not true for a serious incident with no personal injuries and/or material damage.

The difference lies in the fact that since there is no obligation to report a serious incident with no personal injuries and/or material damage, it may not be reported by whoever is responsible for or knows about it. Consequently the State of Occurrence cannot notify the corresponding Contracting States or ICAO when it has no knowledge of it.

CHAPTER 5

- 5.1 In respect of ultralights and sport aviation, for example, microlights, gyrocopters, gliders and hang gliders, investigations will be conducted only if benefits to future safety are evident and resources allow for such investigation.

Remarks: Australia has limited resources for accident and incident investigation and safety studies including database analysis. It is often the case that investigation of incidents or safety deficiencies involving regular public transport aircraft yield greater future safety benefit than investigation of sport aviation occurrences. Priority is given to the safety of the fare-paying public.

- 5.6 The investigator-in-charge does have unhampered access to ensure the effective conduct of the investigation. However, at times this may be exercised jointly with police or coronial agencies such as when investigating a fatality, meaning that such control is sometimes shared.

Remarks: Australian investigation authorities have a good professional relationship with the police and coronial agencies. In practice, arrangements for control over the investigation of an accident involving fatalities have worked effectively to allow the respective agencies to carry out their responsibilities in relation to the investigation without hindrance to each other and without impacting on the necessary independence of the safety investigator.

- 5.25 Australia will endeavour to comply with the standard to the extent necessary to make the participation effective. However, participation in the investigation will be to the extent necessary to enable the investigator-in-charge to effectively complete the investigation.

Remarks: The current Air Navigation Act (particularly Section 19DA(3)) enables each of the participation aspects of standard 5.25. However, if security or potential misuse of material is at issue, there may be limits placed on access to some material and to detailed deliberations as to analysis, findings and causes.

CHAPTER 7

- 7.1 Australia will comply with the standard for the more complex accidents. However, for some less complex investigations Australia does not prepare a Preliminary Report.

Remarks: The difference arises predominantly in relation to domestic occurrences, particularly those of a less complex nature, where Australia does not prepare a Preliminary Report.

CHAPTER 1

Definitions

Serious injury. An injury which is sustained by a person in an accident or incident resulting in severe or perilous damage to health as well as non-life-threatening damage to health which has severe consequences, and which:

- a) requires hospitalization for more than 48 hours, commencing within seven days from the date the injury was received;
 - b) results in a fracture of any bone (except simple fractures of fingers, toes or nose), dislocations in major joints of the extremities or vertebrae or crushing of soft tissue with compression syndrome;
 - c) involves lacerations resulting severe bleeding, nerve trunk, muscle or tendon damage;
 - d) results in injury to any internal organ, penetrating wounds or eyeball contusions accompanied by visual disturbances;
 - e) involves second or third degree thermal, chemical or other burns irrespective of the area affected, any burns affecting more than 5 per cent of the body surface or burns to the upper respiratory tract; with electrical current impact accompanied by loss of consciousness or respiratory impairment; as well as with third or fourth degree frostbite or general cooling of the organism;
 - f) involves verified exposure to infectious or poisonous substances or injurious radiation;
 - g) results in a medium or severe cerebral or spinal cord concussion or traumatic intracerebral haemorrhage;
 - h) results in termination of pregnancy.
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CHAPTER 1

Definitions The Cook Islands definition of an accident excludes damage confined to helicopter or autogyro rotors and any reference to “Injuries from natural causes”.

CHAPTER 5

5.12 For investigations conducted, no absolute guarantee can be given that the records listed in 5.12 will not be disclosed, but all practical steps will be taken to minimize the extent and occurrence of such disclosures.

5.15 No absolute guarantee can be given that the information required can be provided to other States.

Remarks: All practicable steps will be taken to assist the investigating State.

5.16 No authority exists for authorities in the Cook Islands to seize such flight recorders or flight recorder records.

Remarks: All practicable steps will be taken to assist the investigating State.

5.17 No absolute guarantee can be given that the information required can be provided to other States.

5.26

Remarks: All practicable steps will be taken to assist the investigating State.

CHAPTER 6

6.3 The consultation period of 60 days might unreasonably delay publishing a final report. Typically, interested parties are given 21 days to comment on the draft final report, but this period may be extended on request.

The Chief Investigator might append to the final report submissions from other States in part or in full, if required.

CHAPTER 8

8.2*, 8.3 A voluntary incident reporting system has not been established.

8.4* An electronic database for such analysis has not been established.

*Recommended Practice

CHAPTER 5

- 5.12 Finnish legislation is not in compliance with paragraph 5.12 (disclosure of records). During an investigation most records are treated as confidential but, once the investigation is completed, such confidential treatment expires, however, with some exceptions (e.g. private medical information). All practical steps will be taken to minimize the disadvantages caused by any disclosure.

Remarks: Disclosure of documents — ADDITIONAL INFORMATION

In Finland official documents shall be public unless specially otherwise provided. For this reason documents gathered in an investigation can be kept confidential only to a limited extent.

Everyone shall have the right of access to an official document that is public. The parties also have access under certain conditions to the contents of a document which is not public, if it may influence or may have influenced the consideration of their matter.

As to accident investigation the Act on the Openness of Government Activities (21 May, 1999/621) states as follows

“Section 24 Secret official documents

Unless specifically otherwise provided, the following official documents shall be secret:

.....

8) documents concerning readiness for accidents and emergency conditions, civil defence and the investigation of accidents, if access would breach or compromise safety, the realisation of civil defence or readiness for emergency conditions, compromise the investigation of accidents or violate the rights of the victims or the memory of victims or cause distress to persons closely involved with them, unless the granting of access is necessary for the purpose of carrying out an official task.”

In respect to investigations of an international character, the following information can be kept secret (24 §):

“(2) the documents, other than those referred to in subparagraph (1), concerning the relationship of Finland with a foreign state or an international organisation; documents concerning a matter pending before an international court of law, an international investigative body or some other international institution; as well as documents concerning the relationship of the Republic of Finland, Finnish citizens, Finnish residents or corporations operating in Finland with the authorities, persons or corporations in a foreign state, if access to such documents could damage or compromise Finland’s international relations or its ability to participate in international co-operation;”

Cockpit voice recorders. The parts of the recording that are of importance for the investigation will be transcribed. Transcripts are public documents. Voice recordings are not filed by the Accident Investigation Board.

FDR-recordings or the readouts cannot be kept secret.

Statements taken from persons by the investigation authorities are public. If they contain matters which, by law, should be kept secret, to this extent they are made public. Only a certain part of the document can be secret and access shall be granted to the public part of the document. The working notes of the investigator(s) are not public.

Medical or private information regarding persons involved in the incident can be protected. However, every individual shall have the right of access to information contained in an official document and pertaining to themselves, with certain restrictions.

CHAPTER 5

- 5.6 In France, in accordance with Recommendations 5.4.1, an investigation separate from any investigation conducted under the provisions of this Annex is conducted when the judicial authority deems that there is a possible criminal offence. The law, in conformity with Standard 5.10, does establish the relationship between the two investigations and allows the investigator-in-charge unhampered access to the wreckage and all relevant documents so as to be able to perform the necessary examinations and work without delay. However, it does not grant him/her total control over the wreckage and documents, the latter of which generally remain under the control of the judicial authority.
- 5.9 In France only the judicial authority may decide to have an autopsy performed. The law does not presently require a systematic autopsy in the case of an aviation accident, but it does stipulate that physicians connected with the civil aviation accident investigation branch shall have access to the results of the autopsy when one is performed.
- Remarks:* The autopsy of persons who died in an aviation accident is requested when it appears such as to provide useful information to the investigation.
- 5.12 In France the possibility following an accident of a judicial investigation, separate from any investigation conducted under the provisions of this Annex in conformity with Recommendation 5.4.1, implies that certain records, and in particular the flight recorders, are then used separately by the persons in charge of the two investigations. The records held by the judicial authority are dealt with pursuant to the provisions which govern this type of investigation (Criminal Procedure Code).
- 5.12.1 In France one or several interim reports may be published prior to the final report, in particular in the case of major accidents for which the complete investigation may be long. Records relevant to an understanding of the accident or incident may be included in these interim reports, without awaiting the publication of the final report.
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CHAPTER 5

5.3 Not applicable.

5.3.1

Remarks: AIP Greece, Volume I, SAR, 0-1, 1.1.1: “The Search and Rescue area covers an area coinciding with the Athinai FIR. In accordance with the Regional Plan, approved by the Council of the ICAO, Greece is recognized as the only provider State to assume responsibility of search and rescue within Athinai FIR.”

CHAPTER 5

- 5.18 A representative of the State of Registry is allowed to attend the investigation as an observer.
5.23

CHAPTER 4

4.1 Jordan will report on accidents and some serious incidents.

CHAPTER 5

5.7 Will be applied to all accidents and some serious incidents.

CHAPTER 6

6.4 Reports will be sent, as appropriate, to the States mentioned in 6.4.

CHAPTER 7

7.7 Jordan will make a commitment to make available information on a number of serious incidents.

CHAPTER 5

- 5.6 The wreckage must remain under the control of the judicial authority.
 - 5.9 Autopsies are performed only upon the request of the judicial authority.
 - 5.12 The records held by the judicial authority, including those from the flight recorders, must be dealt with in accordance with the Criminal Procedure Code.
 - 5.12.1 Interim reports may be published, as required.
-

CHAPTER 1

Definitions The New Zealand definition of an accident excludes damage confined to helicopter or autogyro rotors and any reference to “Injuries from natural causes”.

CHAPTER 5

5.4 The Civil Aviation Act provides that the Minister of Transport is responsible for ensuring that New Zealand’s obligations under Annex 13 are implemented. The Minister has delegated this function to the Civil Aviation Authority (CAA). This function is separated by statute from the functions of the Director of Civil Aviation. The accident investigation function is contained within the CAA structure and reports to the Director.

New Zealand has also established an independent accident investigation body, the Transport Accident Investigation Commission (TAIC). Certain accidents and serious incidents are investigated by TAIC. TAIC investigates accidents and incidents which have, or are likely to have, significant implications for transport safety, or may allow TAIC to establish findings or make recommendations which may increase transport safety.

The CAA may utilize any report supplied by TAIC to assist with its investigation and reporting obligations under Annex 13.

5.12 For investigations conducted by the New Zealand CAA, no absolute guarantee can be given that the records listed in 5.12 will not be disclosed, but all practical steps will be taken to minimize the extent and occurrence of such disclosures.

For investigations conducted by the TAIC, certain records are protected from disclosure, as set out in Part 3 of the Transport Accident Investigation Commission Act 1990, which does not include all those records listed in 5.12.

5.15 No absolute guarantee can be given that the information required can be provided to other States.

Remarks: All practicable steps will be taken, however, to assist the investigating State.

5.16 No authority exists for authorities in New Zealand to seize such flight recorders or flight recorder records.

Remarks: All practicable steps will be taken, however, to assist the investigating State.

5.17 No absolute guarantee can be given that the information required can be provided to other States.

Remarks: All practicable steps will be taken, however, to assist the investigating State.

5.19 New Zealand reserves the right to select suitable advisers from those nominated by the operator.

Remarks: Experience has demonstrated that some nominees are not appropriate.

5.26 No absolute guarantee can be given that the information required can be provided to other States.

Remarks: All practicable steps will be taken, however, to assist the investigating State.

CHAPTER 6

- 6.3 The consultation period of 60 days might unreasonably delay publishing a final report. Typically, interested parties are given 21 days to comment on a draft final report, but this time may be extended on request.

The TAIC might append to the final report submissions from other states in part or in full, if requested.

CHAPTER 8

- 8.2* New Zealand has not established a voluntary incident reporting system. Reporters may request confidentiality when reporting under the mandatory reporting system and the CAA has established Rules governing the removal of such information from records.
- 8.3

- 8.5* The database established by the CAA of New Zealand uses advanced coding taxonomies that are not always directly compatible with the ICAO ADREP database.

Remarks: All practical steps will be taken to cross refer data to the appropriate ICAO database coding tables where possible.

*Recommended Practice

CHAPTER 5

5.12 No absolute guarantee can be given that the records will not be disclosed for other than accident investigation purposes, as Portuguese legislation determines its disclosure to the Portuguese Courts, whenever the judicial authority considers that their disclosure outweighs the adverse effects on the investigation process.

All practical steps will be taken to minimize the extent and occurrence of such disclosures.

CHAPTER 1

Definitions “Accident”. Aircraft accidents are not linked to situations in which a person is seriously injured as a result of being in the aircraft, or a person outside the aircraft is fatally injured as a result of direct contact with any part of the aircraft, including parts which have become detached from the aircraft, or direct exposure to jet blast.

Reason for the difference:

The Russian Federation applies different principles to the classification of aviation occurrences. In addition to accidents and incidents, extreme occurrences are subject to investigation.

Extreme occurrence: an occurrence associated with the operation of an aircraft, but not related to an accident, which results in one of the following:

- a) death of any person on board the aircraft as a result of the deliberate or negligent actions of the victim or another person, the death not being associated with the operation of the aircraft;
- b) death of any person entering an aircraft without authorization and hiding in an area that is not accessible to passengers and crew members;
- c) death of a crew member or passenger as a result of exposure to adverse environmental conditions following an off-aerodrome forced landing;
- d) death or injury leading to the death of any person outside the aircraft that occurs as a result of direct contact with the aircraft, its components or its jet blast;
- e) destruction or damage to the aircraft on the ground involving loss of structural integrity or degradation of performance as a result of natural disasters or violation of maintenance, storage or transport procedures; and
- f) theft of an aircraft on the ground or in flight, or seizure of that aircraft for the purpose of theft.

Serious injury as a result of being in an aircraft is investigated as a serious incident.

Definitions “Serious injury” also includes:

- a) dislocation of major joints and vertebrae and crushing of soft tissue;
- b) penetrating injury and contusion to the eyeball, accompanied by disturbed vision;
- c) burns to the upper respiratory tract;
- d) injury due to electric shock, accompanied by loss of consciousness and disruption of breathing;
- e) third- and fourth-degree frostbite or hypothermia;
- f) injury resulting in moderate to severe concussion to the brain and spinal cord, trauma-induced intro-cranial bleeding;
- g) injury resulting in miscarriage.

CHAPTER 5

5.12 This paragraph is inconsistent with the constitutional Freedom of Information in Sweden.

CHAPTER 6

6.2 This paragraph is inconsistent with the constitutional Freedom of Information in Sweden.

CHAPTER 5

- 5.12 Swiss legislation requires that all documents be made available to judicial authorities and aviation authorities.

CHAPTER 6

- 6.3 United Kingdom law requires that comments on draft final reports be received within 28 days unless an extension of that time is granted.

Remarks: The 28-day period for comments is laid down in the United Kingdom Civil Aviation (Investigation of Air Accidents) Regulations 1996.

CHAPTER 5

- 5.12 Full exchange of information is vital to effective accident investigation and prevention. The United States supports, in principle, measures that are intended to facilitate the development and sharing of information.
- 5.12.1 The laws of the United States require the determination and public reporting of the facts, circumstances and probable cause of every civil aviation accident. This requirement does not confine the public disclosure of such information to an accident investigation. However, the laws of the United States do provide some protection against public dissemination of certain information of a medical or private nature.

Also, United States law prohibits the disclosure of cockpit voice recordings to the public and limits the disclosure of cockpit voice recording transcripts to that specific information which is deemed pertinent and relevant by the investigative authority. However, United States Courts can order the disclosure of the foregoing information for other than accident investigation purposes. The standard for determining access to this information does not consider the adverse domestic or international effects on investigations that might result from such access.

Remarks: The “Independent Safety Board Act of 1974” defines the duties of the Safety Board regarding accident investigation and sets forth very specific requirements for public access to information held by the Board. The requirements of U.S. law provide significantly more public access to most investigation records than is provided in Annex 13, Amendment 10; however, public access to cockpit voice recordings and transcripts from such recordings is significantly different and more restrictive than the provisions of Annex 13, Amendment 10. (United States Code (USC) Title 49 § 1114 and § 1154)

- 5.19 The United States may find it necessary to accept a limited number of advisors appointed to assist the accredited representative and to exercise discretion in determining whether the skills and expertise of the advisor(s) are appropriate for the conduct of the aircraft accident or incident investigation.
- 5.20

Remarks: Logistics and efficiency of the investigation process may require some restriction on the number of direct participants. (Title 49 Code of Federal Regulations (CFR) Part 831)

- 5.25 h) Investigative procedures observed by the United States allow full participation in all progress and investigation planning meetings; however, deliberations related to analysis, findings, probable causes and safety recommendations are restricted to the investigative authority and its staff. However, participation in these areas is extended through timely written submissions, as specified in paragraph 5.25 i).

Remarks: Deliberations related to National Transportation Safety Board (NTSB) analysis reports, and drafts of findings, causes and safety recommendations are solely NTSB internal activities that result in “For Official Use Only” work products. Such activity is protected from Freedom of Information Act (FOIA) requests. (Title 49 CFR § 831.14, USC Title 5 § 552 and 49 CFR § 801.54)

- 5.26 b) The United States supports, in principle, the privacy of the State conducting the investigation regarding the progress and the findings of that investigation. However, the laws of the United States facilitate the public disclosure of information held by United States government agencies and United States commercial business. Notwithstanding any other provision of law, regarding “Foreign Investigations”, neither the Board, nor any agency receiving information from the Board, shall release records pertaining to an investigation until the State conducting the investigation issues its Final Report, or two years following the date of the accident, whichever occurs first. The standard for determining public access to information requested from a United States government agency or a commercial business does not consider or require the expressed consent of the State conducting the investigation.

Remarks: The “Freedom of Information Act” (FOIA) provides that any person has the right of access to federal agency records, except to the extent that such records may be protected from disclosure by specific

or special exclusions. Although some accident investigation information may qualify for exclusion as “For Official Use Only” work products, or as products of “Foreign Investigations”, the thrust and structure of the FOIA provides neither a broad based nor an open ended exclusion for information or documents on the overall progress and the findings of an accident investigation. (USC Title 5 § 552 and USC Title 49 § 1114)

CHAPTER 6

- 6.2 The United States supports the principle of not circulating, publishing or providing access to a draft Report of any part thereof, or any documents obtained during the investigation, unless such a report or document has already been published or released by the State that conducted the investigation. However, the laws of the United States facilitate the public disclosure of information held by government agencies and commercial business. The United States government may not be able to restrict public access to a draft Report or any part thereof on behalf of the State conducting the investigation. However, regarding “Foreign Investigations”, neither the Board, nor any agency receiving information from the Board, shall release records pertaining to an investigation until the State conducting the investigation issues its Final Report, or two years following the date of the accident, whichever occurs first. The standard for determining public access to information requested from a United States government agency or a commercial business does not consider or require the expressed consent of the State conducting an investigation.

Remarks: The “Freedom of Information Act” (FOIA) provides that any person has the right of access to federal agency records, except to the extent that such records may be protected from disclosure by specific or special exclusions. Although some accident investigation information may qualify for exclusion as “For Official Use Only” work products, or as products of “Foreign Investigations”, the thrust and structure of the FOIA provides neither a broad based nor an open ended exclusion for documents obtained during an investigation, a draft report, or parts thereof. (USC Title 5 § 552 and USC Title 49 § 1114)

CHAPTER 5

5.12 The Aeronautical Authority must give all information to the legal authorities in cases where in its opinion an aeronautical crime may have been committed.

Likewise, all available information must be provided to the legal authorities upon their request.

CHAPTER 1

Definitions “Accident”. An accident is characterized by the death of any person on board the aircraft whether or not he or she is a passenger or crew member.

Bodily injury to persons not on board the aircraft is not considered to be a defining characteristic of an accident. Serious bodily injury is not considered to be a defining characteristic of an accident.
