

## MEMORANDUM OF UNDERSTANDING

*Between*

DEPARTMENT OF INFRASTRUCTURE, TRANSPORT, REGIONAL  
DEVELOPMENT AND LOCAL GOVERNMENT,  
AIRSERVICES AUSTRALIA  
AND  
CIVIL AVIATION SAFETY AUTHORITY

### ARRANGEMENTS FOR AUSTRALIA'S PARTICIPATION IN THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

#### **1. Preamble**

- 1.1 The International Civil Aviation Organization (ICAO) is established by the Convention on International Civil Aviation made in Chicago on 7 December 1944 (the Chicago Convention). The Convention established certain principles and arrangements in order that international civil aviation develop in a safe and orderly manner and that international air transport services be established on the basis of equality of opportunity and operated soundly and economically.
- 1.2 On 1 March 1947 Australia ratified the Convention, thereby becoming a member of ICAO. The Chicago Convention is an approved schedule to the Air Navigation Act 1920, which is administered by the Department of Infrastructure, Transport, Regional Development and Local Government (Infrastructure).
- 1.3 Australia maintains two representatives in ICAO, the Australian Council Representative (ACR) and the Nominee to the Air Navigation Commission (ANC). The latter is also Australia's alternate Council Member.
- 1.4 The Minister for Infrastructure, Transport, Regional Development and Local Government has chief responsibility for Australia's involvement in ICAO.
- 1.5 Infrastructure has the primary role of advising the Minister on the policy, economic, legal, safety and security aspects of civil aviation, including Australia's overall participation in ICAO.
- 1.6 Airservices Australia is responsible for the provision and operation of air route and airway facilities, air traffic services, rescue and fire fighting services and the aeronautical information within Australian administered airspace.
- 1.7 The Civil Aviation Safety Authority (CASA) is responsible for conducting the safety regulation of civil aviation in Australia (and for Australian registered aircraft overseas).

***Note:** The role of the ATSB within the Tripartite is being reviewed in relation to changes from 1 July 2009 when ATSB became a statutory authority. The ATSB will be managed separately by Infrastructure.*

- 1.8 It is agreed that, while Infrastructure has overall responsibility for Australia's involvement in ICAO, nothing in the following will prevent direct contact between Airservices Australia or CASA and Australia's representatives or the ICAO Secretariat on matters falling within the responsibilities of Airservices Australia and CASA.
- 1.9 Noting that Infrastructure, Airservices Australia and CASA each have certain functional aviation responsibilities, the respective roles and responsibilities for achieving Australian objectives in ICAO matters are as set out in Attachment A (including responsibilities for each of the 18 Annexes to the Chicago Convention).

## **2. Primary Responsibilities**

### **Joint Infrastructure, Airservices Australia and CASA Responsibilities.**

- 2.1 The following matters will be decided through joint consultation between Infrastructure, Airservices Australia and CASA:
  - a) The Composition of delegations and preparation of briefing material for Australian attendance at Assembly Meetings, Director General Civil Aviation (DGCA) and other ICAO major meetings,
  - b) The recruitment and selection of the ACR and the Nominee to the ANC,
  - c) Participation within ICAO in the development of Standards, Recommended Practices and Guidance material for the ICAO Annexes is the responsibility of the Agency having the lead role for the particular issue, as identified as such in Attachment A, and
  - d) An appropriate executive officer or equivalent within each agency will be nominated as an initial point of contact for the other agencies with regard to these ICAO related activities. Each agency will advise other agencies immediately of any change to this point of contact.

## **3. Prime Responsibilities of Infrastructure**

- 3.1 The Department is responsible for legal issues involving the Chicago Convention and other treaties, and the foreign relations aspects of issues arising in ICAO. In so far as these issues impact upon the responsibilities of other Government Departments and agencies, and airport owners, Infrastructure is also responsible for liaison with those organisations.

Specifically, Infrastructure is responsible for:

Australia's compliance with treaty obligations under the Chicago Convention (including general oversight of lodgement of differences to Annexes) and other instruments, as well as the preparation of new international legal instruments;

- a. Policy issues relating to:
  - i. Economic regulation, commercial, environmental and security issues relating to civil aviation, including airports; and
  - ii. Financial and administrative aspects of ICAO's operations,
- b. Co-ordination and preparation of briefing material which is predominantly political, economic and legal in content, and co-ordination of Departmental and Inter-departmental briefs (eg briefing by the various areas of the department, the Department of Foreign Affairs and Trade, the Australian Customs Service, Attorney General's Department, airlines etc.),
- c. Coordination of nominations to ICAO Committees, Panels, Study Groups, Planning and Implementation Groups, and
- d. Preparation of advice, in consultation with Airservices Australia, CASA and other departments and agencies on ICAO election issues, including Council elections, elections of the Secretary General of ICAO and President of the Council, as well as any associated issues.

#### **4. Prime Responsibilities of Airservices Australia**

- 4.1 Airservices Australia is responsible for technical and operational implementation issues of airway and air route facilities, air traffic services, aviation rescue and fire fighting services, and the aeronautical information service. (In so far as these issues impact upon the responsibilities of the airport operators, Airservices Australia is responsible for liaison with airport operators).
- 4.2 The Airservices Australia Library will have the responsibility of distributing, cataloguing and making available all ICAO documents as set out in paragraph 6.5.
- 4.3 Airservices Australia is responsible for coordination and preparation of briefing where the matters are predominantly within Airservices Australia's responsibilities, including consultation with the aviation industry on these matters.

#### **5. Prime Responsibilities of CASA**

- 5.1 CASA is responsible for ICAO issues related to the safety regulation of civil aviation, standard setting, safety promotion and education, entry control and licensing together with safety regulatory oversight of airway and air route facilities, air traffic services, aviation rescue and fire-

fighting services, and the aeronautical information service. (In so far as these issues impact upon the responsibilities of airport operators, CASA is responsible for liaison with the airport operators).

- 5.2 CASA is specifically responsible for coordination and preparation of briefing where the matters are predominantly within CASA's responsibilities, including consultation with the aviation industry on these matters.

## **6. Working Arrangements**

- 6.1 The following working arrangements agreed between Infrastructure, Airservices Australia and CASA for Australia's participation in ICAO will take effect from the date of signature of this MOU.
- 6.2 As the Department of State with the overall responsibility for ICAO matters and compliance with the Chicago Convention, Infrastructure will be the point of formal contact between the Australian Government and ICAO, and will perform the overall policy secretariat and coordination function for Australia on ICAO matters.
- 6.3 Infrastructure will chair and provide the secretariat for a high level committee of senior representatives from Infrastructure, Airservices Australia and CASA. The committee will have responsibility for proactively and strategically managing ICAO issues. A tripartite working group will be formed to manage working arrangements between the three organisations, and implement decisions of the high level committee.
- 6.4 Infrastructure, Airservices Australia and CASA will maintain appropriate arrangements in their organisations for handling documentation to and from ICAO, in accordance with the following provisions:
- 6.5 Airservices Australia will maintain a library of relevant ICAO documents that have been provided without charge in hard copy on behalf of the state. Airservices Australia library will provide the distribution, cataloguing and availability of its catalogue without charge to Infrastructure and CASA on an ongoing basis as part of this Agreement between the three Agencies.
- 6.6 State Letters (received from Montreal) and Regional Letters (received from the Asia Pacific Regional Office) will be monitored via email by each agency.

Where a State Letter requires a response from Australia, the action agency will be determined according to the respective responsibilities for the matters covered in the documentation. The action agency must seek any comments from the other agencies before sending the response direct to the ACR as Australia's coordinated response. The action agency will copy the other agencies in on the response. The Montreal Office will provide agencies with copies of lodged responses.

Where a Regional Letter requires a response from Australia, agencies will provide any comments to Airservices who will send off the official response on behalf of the other agencies. Airservices will seek any comments from the other agencies before sending the response direct to the Asia Pacific Regional Office, copying the other agencies in on the response.

- 6.7 State Letters regarding the adoption of amendments to the Annexes (amendments to Standards and Recommended Practices) and/or their associated operational documents and manuals invoke obligations and rights under the Chicago Convention. The agency responsible for the Annex, as per Attachment A, will manage the preparation of a coordinated response to the State Letter. Notification of differences will be managed in accordance with the differences policy (at Attachment B). The response should be in the format requested by ICAO in the attachment to the State letter.
- 6.8 Where a matter other than a State Letter requires a response from Australia or the ACR requests briefing or instruction, the ACR will provide background information and suggestions, including which agency(s) is responsible. The relevant action agency will consult with other agencies for comment or advice. The action agency should copy the other agencies in on the response.
- 6.9 Infrastructure will maintain a register of State Letters and other ICAO correspondence or documents requiring action.

## **7. Audits**

- 7.1 The three agencies recognise that ICAO regularly conducts audits of Australia's safety and security systems. The Office of Transport Security will be responsible for handling all transport security related audits. Working arrangements for agencies involved in the audit of safety related Annexes are detailed as follows:

An interagency USOAP working group, chaired by Infrastructure, will meet quarterly to review actions in relation to Australia's findings from the February 2008 comprehensive systems audit. The group will comprise of members from Infrastructure, CASA, Airservices Australia, Australian Transport Safety Bureau (ATSB), Bureau of Meteorology (BOM) and the Australian Maritime Safety Authority (AMSA).

Responsibilities of the working group will include:

- a) Overseeing implementation of Australia's Corrective Action Plan,
- b) Ensuring Australia's online audit data is kept up to date including state activity information,
- c) Implementing the policy and procedures for the notification of differences (as per Attachment B),
- d) Providing updates, at least every 6 months, to the High Level Committee (refer to paragraph 6.3) including implementation of the Corrective Action Plan (CAP), and
- e) Updating the DGCA Directory.

## **8. Administration of ICAO Representation**

- 8.1 There will be a joint Infrastructure, Airservices Australia, CASA selection process for Australian representation on the Council with the understanding that the recommendation of the selection committee will require the endorsement of each Agency Head. However, as per paragraph 6.2, in the event that the committee is unable to reach agreement, final decision will rest with Infrastructure.
- 8.2 Aviation regulatory policy and/or aviation technical expertise will form the major basis for selection, with more emphasis placed on aviation regulatory policy capability for the ACR. Aviation technical expertise is the essential criterion for Australia's Nominee to the ANC.
- 8.3 Duty statements, selection criteria and selection procedures will be constructed in consultation with the Montreal Office and agreed between Infrastructure, Airservices Australia and CASA.
- 8.4 The successful candidate will be employed by Infrastructure under the Public Service Act 1999. Salaries as well as terms and conditions of employment will be managed by Infrastructure in consultation with agencies.
- 8.5 The general expectation is that the appointee will be from Infrastructure, Airservices Australia or CASA, but this would not rule out the selection of an external candidate.
- 8.6 The ACR is responsible for recruitment and management of Locally Engaged Staff (LES) in consultation with the DFAT Ottawa post, as per the Department's Service Level Agreement (SLA) with DFAT for the provision of services including payments of salary to LES.

## **9. ICAO Meetings/Panels/Working Groups**

- 9.1 The composition of delegations to major ICAO conferences and other ICAO meetings, as well as nomination of members of committees, panels and study groups will be the subject of consultation between Infrastructure, Airservices Australia and CASA. Nomination from Australia would normally be sought through a State Letter (see paragraph 6.6 above). The nomination would generally come from the agency committed to that particular ICAO Committee, Panel etc and would primarily reflect the current responsibilities of Infrastructure, Airservices Australia, CASA and other agencies as per Attachment A. Other agencies may nominate an Adviser to support the Panel member, where appropriate. Where two agencies are nominated as being responsible for an Annex, agencies will consult on representation and the position Australia will take prior to attendance.
- 9.2 Infrastructure will maintain a list of ICAO Committees, Panels, Working Groups, etc, identifying Australian representation and current agency commitments. Representation is subject to change on agreement between the agencies. The agency responsible for the activity is also responsible for proposing any changes to their commitments, as reflected in the list, to the other agencies once a need for change is identified so that Australia is in a position to advise ICAO of a replacement without delay. Following consultation with the other agencies, the action agency will be responsible for notifying the ACR.
- 9.3 The Australian representative at an ICAO meeting is required to prepare a report within one month following attendance at the meeting. The detailed report should be addressed to the home agency, but a summary should be circulated to the other agencies and the Montreal Office for information.
- 9.4 Australian Panel members will also prepare, by the end of each year, a brief of activity undertaken by the Panel during the year and proposed activities and key outcomes for the following year. These reports should be circulated for information to all agencies and the ACR.
- 9.5 The Department will seek these reports and provide advice to the High Level Committee of ICAO activities on an annual basis.

## **10. Expenses and General Administration**

Financial management processes are outlined in Attachment C.

- 10.1 The Tripartite will develop a statement of expectations to be agreed by the High Level Committee. This document is to be used to ensure Australia's capability to maximise its influence in international aviation policy. The Montreal Office will then use the statement to prepare an annual work plan. This in turn will be used to finalise the annual budget for the Montreal Office. It should be noted that the Montreal Office provides advice on budget preparation but that financial control is

exercised by Infrastructure. The Montreal Office will be required to report against the Work Plan on a six monthly basis.

- 10.2 Agencies will hold monthly telephone hook-ups with the Montreal Office to discuss issues of both a strategic and administrative nature.
- 10.3 A short report highlighting emerging ICAO issues will be provided by the ACR to all Agencies one week prior to the monthly Tripartite meeting. Agencies will provide a report of the same nature to the ACR two weeks after each monthly Montreal Phone hook-up.
- 10.4 The ACR and Nominee to the ANC may be called upon by any agency to undertake tasks in addition to their normal ICAO duties, such as attending conferences etc, or representational duties with the United States Federal Aviation Administration (US FAA) or US Department of Transportation. Care should be taken to ensure that these tasks do not adversely affect the ability of the office to meet its responsibilities and the requesting agency should keep the other agencies informed of the extent of the additional tasks. Where the additional task is clearly outside the functions of Australia's representation in Montreal, the requesting agency shall consult with the other agencies over how any additional costs (eg, air fares and travel) are to be met.
- 10.5 Infrastructure will send a secure mail bag to Montreal on behalf of all three agencies on an as required basis.

**11. Contact with ICAO**

- 11.1 All agencies should work through the ACR or keep the office fully informed of any direct dealings with the ICAO Secretariat or Regional Office. This requirement does not apply to routine or working level contact with the Secretariat/Regional Office on Panel or Working Group matters.

**12. Date of Effect and Review**

- 12.1 This MOU enters into effect on the date of the last signature below and will be reviewed by the Tripartite at a minimum every three years, or whenever major structural or administration changes may impact on its operation.

		
Secretary Department of Infrastructure, Transport, Regional Development and Local Government	Chief Executive Officer Airservices Australia	Director of Aviation Safety Civil Aviation Safety Authority
Date <b>01 SEP 2009</b>	Date <b>01 SEP 2009</b>	Date <b>01 SEP 2009</b>

## ATTACHMENT A

### ANNEXES TO THE CHICAGO CONVENTION

Respective Departmental, Airservices Australia and CASA responsibilities for ICAO Annexes are set out below. These are the prime responsibilities only – does not account for “shadow” arrangements or provision of technical/policy advice by another agency.

<b>Annex</b>	<b>Description</b>	<b>Agency Responsible</b>
1	Personnel Licensing (licensing of flight crews, air traffic controllers and aircraft maintenance personnel)	CASA
2	Rules of the Air (rules relating to the conduct of visual and instrument flights)	CASA
3	Meteorological Service for International Air Navigation (provision of meteorology services for international air navigation and reporting of meteorology observations from aircraft)	Airservices Australia (BOM)
4	Aeronautical Charts (specifications for aeronautical charts for use in international aviation)	Airservices Australia
5	Units of Measurement to be used in Air and Ground Operations (dimensional systems to be used in air and ground operations)	Airservices Australia (BOM) CASA
6	Operations of Aircraft (specifications which will ensure in similar operations throughout the world a level of safety above a prescribed minimum): Part 1 International Commercial Air Transport – Aeroplanes Part 11 International General Aviation – Aeroplanes Part 111 International Operations – Helicopters	CASA
7	Aircraft Nationality and Registration Marks (requirements for registration and identification of aircraft)	CASA
8	Airworthiness of Aircraft (certification and inspection of aircraft according to uniform procedures)	CASA
9	Facilitation (requirements relating to facilities, services and arrangements for the entry and departure of aircraft, passengers and cargo)	Infrastructure
10	Aeronautical Telecommunications (standardisation of communications systems) Vol 1 radio navigation aids Vol 11 communications procedures Vol 111 digital data and voice communications Vol 1V surveillance radar and collision avoidance systems	Airservices Australia/ CASA
11	Air Traffic Services (establishment and operation of air traffic control, flight information and alerting services)	Airservices Australia/ CASA
12	Search and Rescue (organisation and operation of facilities and services necessary for search and rescue)	Infrastructure (AMSA)

13	Aircraft Accident Investigation	Infrastructure ( <i>ATSB</i> )
14	Aerodromes (specifications for the design and equipment of aerodromes) Vol 1 Aerodrome Design and Operations Vol 11 Heliports	CASA
15	Aeronautical Information Services (methods for the collection and dissemination of aeronautical information required for flight operations)	Airservices Australia
16	Environmental Protection: Vol 1 Aircraft Noise (specifications for aircraft noise certification, noise monitoring and noise exposure units for land use planning) Vol 11 Aircraft Engine Emissions	Infrastructure
17	Security – (Safeguarding International Civil Aviation Against Acts of Unlawful Interference)	Infrastructure
18	The Safe Transport of Dangerous Goods By Air (specifications for the labelling, packaging and shipping of dangerous goods)	CASA

## ATTACHMENT B

### **POLICY AND PROCEDURES FOR NOTIFYING DIFFERENCES TO ICAO SARPS**

#### PREAMBLE:

Preparatory work undertaken prior to the February 2008 ICAO safety audit of Australia highlighted a number of issues with the way we handle the filing of differences to ICAO SARPs. As a result of this, policy and procedures were developed around the notification of differences to ICAO.

The Aviation Implementation Group (AIG) approved the Australian Policy and Procedures for filing of differences on the 17<sup>th</sup> July 2008.

- (a) Australia will file all differences against ICAO standards.
- (b) Australia will also file differences against those ICAO Recommended Practices that are considered to form an integral part of the implementation of a standard or have a potentially significant safety and/or security impact.
- (c) As required in Annex 15, and in the absence of any further guidance from ICAO, Australia will publish all filed differences to the SARPS in the Aeronautical Information Publication (AIP) together with those differences to the Procedures for Air Navigation Services (PANS) that are considered significant or important for the conduct of operations within Australian airspace.
- (d) In relation to notifying ICAO of differences and/or to responding to ICAO State Letters advising of amendments to Annexes, the following procedures will apply:
  - (i) The agency designated as responsible for the Annex or subject matter will have primary carriage of identifying and proposing differences to the SARPS to be notified to ICAO. The designated agency will also be responsible for proposing a form of advice to ICAO regarding amended Annexes.
  - (ii) A proposal for notifying differences and/or responding to amendments to Annexes will include justification for differences consistent with the policy. The proposed notification or response will also advise of continuation or amendment to existing differences in relation to the subject Annex. The proposed notification or response will be circulated to relevant agencies for comment and agreement.
  - (iii) The agreed Australian notification of differences and/or response to Annex amendments will be forwarded to the Australian ICAO Office by the Department's International – ICAO Section, with a copy to agencies. The Australian ICAO Office will formally notify ICAO of the difference and/or response to an Annex amendment.

- (iv) The International - ICAO Section will maintain a record of notified differences, which will be regularly reviewed in consultation with relevant agencies and the Australian ICAO office, at least on an annual basis.
- (v) Details of notified differences will be made available to Airservices Australia for publication in the AIP or AIP SUP.

**FINANCIAL MANAGEMENT ARRANGEMENTS**

Finance of the Montreal Office will be administered as follows:

- 1) The ACR has the responsibility of managing all expenses in relation to the Australian Montreal Office with the exception of salaries. The terms of any lease agreement or contract arrangements which are to be paid by the Commonwealth must be copied to all Agencies prior to being signed.

Details such as lease term, conditions and termination clauses etc are to be agreed to by all Agencies.

- 2) Infrastructure will meet the payment of Australia's contribution (annual assessment) as a member of ICAO.
- 3) The funding of the full costs of maintaining the Australian presence at ICAO in Montreal (ie, office expenses, official hospitality, agreed salaries and allowances of the ACR, the Nominee to the ANC and locally engaged staff) will be shared between Infrastructure, Airservices Australia and CASA in equal proportions.
- 4) Infrastructure will draft the projected budget in consultation with agencies and the ACR before obtaining high level committee approval on the final projected budget.
- 5) Any additional expenses over \$5,000 will require a formal submission to be reviewed by the Tripartite, with approval by the high level committee.
- 6) Infrastructure will make overseas payments on behalf of the Australian Mission in Montreal, payments will include mission rent and utilities for the ICAO office and education allowance as required.
- 7) Infrastructure will keep full accounting details of all ICAO related expenditure.
- 8) Infrastructure will provide indicative figures of quarterly reconciliations to agencies prior to issuing invoices for quarterly expenses.
- 9) Infrastructure will provide quarterly reconciliation reports to agencies for review and approval of the costs via email at Tripartite level.
- 10) Once agreement has been reached, Infrastructure will generate an invoice to CASA and Airservices for their share of joint ICAO expenses.
- 11) Infrastructure will also provide year to date expenses and projections to agencies and to Montreal Office quarterly to enable agencies and MO to track expenditure.

**Note:** *The costs of participation in ICAO meetings (Assemblies, Committees, Panels, Study groups, Conferences etc) by staff of the respective agencies will be borne by the home agency. The functions of these groups are outlined in paragraph 9.1.*