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Oversight Manual

Part C
**The Establishment and Management
of a State's Aviation Security Oversight System**

Approved by the Secretary General
and published under his authority

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International Civil Aviation Organization

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FOREWORD

This manual outlines the duties and responsibilities of ICAO Contracting States with respect to the establishment and management of a national civil aviation security oversight system. This manual is directed at high-level government decision makers, as it highlights States' obligations as signatories to the *Convention on International Civil Aviation* (Chicago Convention) signed at Chicago on 7 December 1944, and provides information and guidance on the establishment and management of a State's national civil aviation security oversight system, which may be required to fulfil those obligations.

This manual confines itself to the parameters of a Contracting State's overall security oversight responsibilities, emphasizing the State's commitment to security with respect to the State's aviation activity. Several critical elements have been identified as essential components of a civil aviation security oversight system and should be considered for the effective implementation of a security-related policy and associated procedures. The critical elements of a civil aviation security oversight system presented in this manual include:

- aviation security legislation;
- aviation security programmes and regulations;
- State appropriate authority for aviation security and its responsibilities;
- personnel qualifications and training;
- provision of technical guidance, tools and security-critical information;
- certification and approval obligations;
- quality control obligations; and
- resolution of security concerns.

On becoming parties to the Chicago Convention, Contracting States agree to certain principles and arrangements in order that international civil aviation may be developed in a safe, secure and orderly manner. The development and implementation of an effective and sustainable national civil aviation security oversight system requires that such a system be developed with regard to internationally accepted standards, procedures and practices. Article 37 of the Convention provides that each Contracting State undertakes to collaborate in securing the highest practicable degree of uniformity in regulations, standards, procedures and organization in relation to aircraft, personnel, airways and auxiliary services in all matters in which such uniformity will facilitate and improve air navigation.

With respect to aviation security, it is particularly important to maintain worldwide uniform standards, since the level of protection against acts of unlawful interference deriving from the implementation of security measures as stipulated in the international Standards and Recommended Practices is only as strong as the weakest link in the global aviation network.

The implementation of Standards and Recommended Practices by a Contracting State should be effected through domestic statutes promulgated in that State. Thus, as a first step towards discharging its obligations and responsibilities, a State will require the enactment of a legislative framework referred to as the aviation security legislation.

A legislative framework entails the development and promulgation of civil aviation security laws and regulations consistent with the State's acceptance of the provisions of the Annexes to the Chicago Convention (primarily Annex 17 — *Security — Safeguarding International Civil Aviation Against Acts of Unlawful Interference*), the establishment of a State organization to be designated as the appropriate authority responsible for national civil aviation security, and the establishment of a national civil aviation security programme, essentially the blueprint for a State's national civil aviation security system. This legislative framework should also address the necessary powers, to ensure compliance with the provisions of the national civil aviation security programme.

As the primary source of Standards for the establishment and management of a State's national civil aviation security system, Annex 17 addresses preventive and responsive security measures for which the State's appropriate authority for aviation security is responsible, as well as responsibilities for oversight and quality control measures over all aspects of a State's national civil aviation security system, including responsibilities related to security measures for airports, aircraft, passengers and their cabin and hold baggage, cargo and mail, and standards for the training and qualification of security personnel.

Other Annexes to the Chicago Convention have a bearing on a State's national civil aviation security system, most notably Annex 9 — *Facilitation*, which addresses facilitation of customs and immigration procedures and other border-crossing formalities. Annex 9 impacts the management of a State's national civil aviation security system through the control procedures of government agencies whose function is the security of national borders, for example through the specification of verification measures pertaining to travel documents accompanying passengers and crew.

The fundamental challenge in the establishment and management of a national civil aviation security oversight system is to create a security regime that is highly effective in preventing acts of unlawful interference, but does not unduly inhibit the growth of civil aviation, interfere with its efficiency and productivity, impose excessive costs, create unwarranted operational inconveniences, or intrude unnecessarily into private rights or civil liberties.

In order to keep this manual relevant and accurate, suggestions for improving it in terms of format, content or presentation are welcome. Any such recommendation or suggestion will be examined and, if found suitable, will be included in the next edition of this manual. Regular revision will ensure that this manual remains both pertinent and accurate. Comments concerning this manual should be addressed to:

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Chapter 1

INTRODUCTION

1.1 OBJECTIVES OF THIS MANUAL

This manual has been designed to emphasize the obligations and responsibilities of an ICAO Contracting State for the oversight of its national civil aviation security system, through the establishment and management of a civil aviation security oversight system, and to provide information and guidance for government decision makers in that regard. Taking into account difficulties encountered by many Contracting States in fulfilling their obligations under the Chicago Convention, this manual highlights the critical elements involved in the establishment of an effective civil aviation security oversight system and provides guidance on establishing a system capable of resolving difficulties experienced in implementing security-related international Standards and Recommended Practices (SARPs), primarily those contained in Annex 17 — *Security — Safeguarding International Civil Aviation Against Acts of Unlawful Interference* but also including the security-related provisions of Annex 9 — *Facilitation*.

1.2 ABOUT THIS MANUAL

1.2.1 This manual is one of several aviation security-related guidance materials published by ICAO. As this manual provides guidance on the establishment and management of a civil aviation security oversight system, it appropriately addresses the critical elements involved in the effective establishment, implementation and maintenance of such a system, which forms the foundation of a well-run national civil aviation security system within a State.

1.2.2 Audits conducted under the ICAO Universal Security Audit Programme (USAP) have revealed that not all States are fully implementing the Standards contained in Annex 17. A common deficiency being identified is that many States are not providing effective oversight of aviation security activities at their national airports. The establishment of a comprehensive civil aviation security oversight system is essential if a State is to ensure the effective implementation of its national aviation security requirements, the SARPs contained in Annex 17 and the relevant SARPs contained in Annex 9. This is a fundamental responsibility of all ICAO Contracting States, and one which is critical for achieving the common goal of a globally secure aviation network. To meet this requirement, States should have established appropriate legislation, national policies and a security authority with inspection and enforcement capabilities. The security authority should be legally empowered to conduct ongoing surveillance, identify deficiencies, issue recommendations for their resolution, and compel compliance when necessary.

1.2.3 The need for strong regulatory oversight has become increasingly relevant in recent years as a result of the global trend to privatize airports and government services. In many States, for example, the operational aspects of aviation security programmes, such as passenger and baggage screening, are outsourced to private security companies. Outsourcing is often cost-effective and may provide high levels of security as long as appropriate performance standards have been set that are closely monitored. Where security functions are performed directly by civil service staff, it is equally important that an independent oversight infrastructure provide close governmental control and supervision. In all instances, it is essential that there be controls and accountability at all levels of the security system, and that a clear distinction be made between those regulating and those providing the aviation security services.

1.2.4 Additional guidance material in the *Security Manual for Safeguarding Civil Aviation Against Acts of Unlawful Interference* (Doc 8973 — Restricted) addresses the many operational aspects involved in the day-to-day management of a State's national civil aviation security system.

1.2.5 The legislative obligations, responsibilities and related guidance in this manual have been derived from various sources, including the Chicago Convention, Annex 17, security elements contained in other ICAO Annexes, guidance material published by ICAO to assist Contracting States in the implementation of SARPs, and guidance material published by the United Nations Office on Drugs and Crime, to assist Contracting States to give effect to their obligations under the aviation security conventions. ICAO has long been aware of the difficulties experienced by many Contracting States in establishing a civil aviation security oversight system and has tried to assist them through its aviation security mechanism, its Technical Cooperation Programme and direct Regional Offices and Headquarters involvement.

1.2.6 Audit findings and other sources of information convinced ICAO that the Organization should further assist States by developing security oversight-related guidance material exclusively directed at high-level decision makers and the different levels of supervision of a State's national civil aviation security system.

1.3 REFERENCE DOCUMENTS

The ICAO documents and other documents listed in Appendix A are referred to in this manual or may provide additional guidance material for the establishment and management of a State's civil aviation security oversight system.

1.4 DEFINITIONS

The definitions used in this manual are similar to those found in relevant Annexes to the Chicago Convention, other ICAO documentation (such as the *International Civil Aviation Vocabulary* (Doc 9713) and the *ICAO Security Manual for Safeguarding Civil Aviation Against Acts of Unlawful Interference* (Doc 8973 — Restricted)) or are the definitions intended by the ICAO Aviation Security Audit (ASA) Section. Therefore, when terms are used in this manual, they have the meanings as shown in Appendix B.

1.5 ABBREVIATIONS

Some common abbreviations used in this manual and in aviation security audits are as follows:

| | |
|---------------|--|
| AOSP | Aircraft operator security programme |
| ASA | Aviation security audit |
| ASP | Airport security programme |
| CE | Critical element of a civil aviation security oversight system |
| ICAO | International Civil Aviation Organization |
| ICPO-INTERPOL | International Criminal Police Organization |
| MANPADs | Man-portable air defence systems |
| MRTDs | Machine readable travel documents |
| NCASC | National civil aviation security committee |
| NCASP | National civil aviation security programme |
| NCASTP | National civil aviation security training programme |

| | |
|-------|--|
| NQCP | National civil aviation security quality control programme |
| SARPs | Standards and Recommended Practices |
| SRA | Security restricted area |
| USAP | Universal Security Audit Programme |

Chapter 2

AVIATION SECURITY OVERSIGHT: A STATE OBLIGATION

2.1 AVIATION SECURITY OVERSIGHT CONCEPT AND DEFINITION

“... the future development of international civil aviation can greatly help to create and preserve friendship and understanding among the nations and peoples of the world, yet its abuse can become a threat to the general security ...”

from the Preamble to the *Convention on International Civil Aviation*

2.1.1 Aviation security oversight is defined as a function by means of which States ensure the effective implementation of the security-related SARPs and associated procedures contained in the Annexes to the Chicago Convention (primarily Annex 17, but including the security-related provisions of Annex 9) and related ICAO documents. Aviation security oversight also ensures that the national aviation industry provides security levels equal to, or better than those defined by the SARPs. With respect to aviation security, it is particularly important to maintain worldwide uniform standards, since the level of protection deriving from the implementation of security standards is only as strong as the weakest link in the global aviation network. Lack of aviation security oversight in one State therefore threatens the security of international civil aviation operations.

2.1.2 Global harmonization with regard to the implementation of aviation security standards does not mean that measures should be identical. However, they should be mutually recognized by States as providing equivalent levels of security while leaving room for operational flexibility to accommodate specific environmental and/or situational conditions.

2.1.3 ICAO Assembly Resolution A17-10 requested the ICAO Council, with the assistance of the other constituent bodies of the Organization, to develop and incorporate, as appropriate, the aviation security-related material in the Appendices attached to the Resolution, as Standards, Recommended Practices and Procedures in existing or new Annexes or other regulatory documents or guidance material of the Organization.

2.1.4 Following the work of the Air Navigation Commission, the Air Transport Committee and the Committee on Unlawful Interference, and as a result of the comments received from Contracting States and interested international organizations, Annex 17 SARPs on security were adopted by the ICAO Council on 22 March 1974, pursuant to the provisions of Article 37 of the Chicago Convention.

2.1.5 The ICAO Assembly, in its *Consolidated statement of continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference (Consolidated Statement)*, emphasizes that acts of unlawful interference against civil aviation have become the main threat to its safe and orderly development and constitute a grave offence in violation of international law. In particular, the

ICAO Assembly affirms that aviation security must continue to be treated as a matter of highest priority by ICAO and its Contracting States, and urges States that have not yet done so to become parties to the aviation security conventions.

2.1.6 In its *Consolidated Statement*, the Assembly stresses that the protection of civil aviation against acts of unlawful interference requires continued vigilance and the development and implementation of positive safeguarding actions by the Organization and its Contracting States; that the responsibility for ensuring that security measures are applied by government agencies, airport authorities and aircraft operators rests with Contracting States; that countermeasures for the protection of civil aviation can only be effective through the employment of highly-trained security personnel, in addition to background checks, certification and quality control; and to this end, the Assembly urges all States, on an individual basis and in cooperation with other States, to take all possible measures for the suppression of acts of violence at airports serving international civil aviation, in particular, those required or recommended in Annex 17; and urges Contracting States to intensify their efforts for the implementation of existing SARPs related to aviation security, to monitor their implementation and to take all necessary steps to prevent acts of unlawful interference against international civil aviation.

2.1.7 The terrorist attacks of 11 September 2001 underscored the need for a comprehensive and global strategy for strengthening aviation security worldwide, including the need for States to reaffirm their commitment to complying with ICAO security Standards. Following these events, Assembly Resolution A33-1 directed the ICAO Council and the Secretary General to act urgently to address the new and emerging threats to civil aviation. A key component of the global strategy is the ICAO Aviation Security Plan of Action, addressing the need, in particular, to review, *inter alia*, the ICAO aviation security programme, including a review of Annex 17 and other related Annexes to the Chicago Convention, and to consider the establishment of the ICAO Universal Security Audit Programme (USAP), which includes the conduct of regular, mandatory, systematic and harmonized audits of all ICAO Contracting States, coupled with a follow-up programme to verify the implementation of corrective actions and provide States with assistance in correcting deficiencies identified through the audits and, to this end, the Assembly directed the ICAO Council to convene an international high-level, ministerial conference on aviation security.

2.1.8 During its 166th Session, on the recommendation of the High-level Ministerial Conference on Aviation Security convened in Montreal in February 2002, the ICAO Council adopted an Aviation Security Plan of Action for strengthening aviation security. The Aviation Security Plan of Action provides for, *inter alia*: the identification, analysis and development of an effective global response to new and emerging threats, integrating timely measures to be taken in specific fields, including airports, aircraft and air traffic control systems; strengthening of the security-related provisions in the Annexes to the Chicago Convention; and the establishment of the ICAO USAP.

2.1.9 Subsequent to the adoption of the Aviation Security Plan of Action, ICAO launched the USAP (November 2002), and promulgated Amendments 10 and 11 to Annex 17. Amendment 10 introduced various definitions and new provisions in relation to, *inter alia*, domestic operations, international cooperation related to threat information, the national civil aviation security committee (NCASC), national quality control, in-flight security personnel, protection of the flight crew compartment and the management of responses to acts of unlawful interference. Amendment 11 included provisions to further clarify the wording of existing SARPs so as to facilitate their common interpretation by Contracting States and their ease of auditing under the USAP. The amendment also reinforced the national civil aviation security quality control programme (NQCP) provisions and addressed the role of in-flight security officers, the possibility of a one-stop security concept for passengers and baggage, a risk assessment concept, and Recommended Practices for security for all-cargo operations, general aviation and aerial work operations.

2.1.10 Other Annexes to the Chicago Convention contain provisions pertinent to aviation security, which should be addressed under the national civil aviation security oversight system. Annex 9, in particular,

contains SARPs that have particular relevance to aviation security since they deal with issues such as security controls on arriving and departing aircraft as well as passenger and baggage inspections at border controls and in transit. The implementation and improvement of such procedures, while in the interests of efficiency, directly impact aviation security. The ICAO Assembly, in its *Consolidated Statement*, requested the ICAO Council to ensure, with respect to the technical aspects of aviation security, that the provisions of Annexes 9 and 17 are compatible with and complementary to each other, provided that the effectiveness of security measures is not compromised.

2.2 OVERVIEW OF ICAO CONTRACTING STATES' RESPONSIBILITIES

2.2.1 The Chicago Convention establishes the rights and obligations of all Contracting States and provides for the adoption of international SARPs dealing with the safety, regularity and efficiency of air navigation. The Convention reiterates the fundamental principle that every State has complete and exclusive sovereignty over the airspace above its territory.

2.2.2 Article 37 of the Chicago Convention specifies that States must collaborate in securing the highest practicable degree of uniformity in regulations, standards, procedures and organization in relation to aircraft, personnel, airways and auxiliary services in all matters in which such uniformity will facilitate and improve air navigation. To this end, ICAO has adopted SARPs dealing with practically all aspects of civil aviation operations, including aviation security. However, it is the integration of such SARPs into the national regulations and practices of Contracting States and their timely implementation and amendment that will ultimately achieve safe and secure aircraft operations worldwide.

2.2.3 Article 4 of the Convention provides that each Contracting State agrees not to use civil aviation for any purpose inconsistent with the aims of the Convention. The underlying intent of Article 4 is to prevent the use of civil aviation by States for purposes that may create a threat to the security of other nations.

2.2.4 Article 44 of the Chicago Convention sets out the aims and objectives of ICAO, including the safe and orderly growth of international civil aviation throughout the world, and the promotion of safety in flight. Use of the word "safety" in this context implicitly covers "security" when viewing the Convention in its entirety and given its interpretation by the ICAO Assembly and Council in their Resolutions, background material, and in other ICAO documents. These, and other related articles, enshrine Contracting States' responsibilities for security oversight in the Convention and leave no doubt as to their responsibilities for control and supervision of all its aviation security-related activities.

2.2.5 Article 38 of the Convention specifies that any State which finds it impracticable to comply with any international standard or procedure, or to bring its own regulations or practices into full accord with any international standard or procedure after amendment of the latter, or which deems it necessary to adopt regulations or practices differing from those established by the international standard, shall give immediate notification to ICAO of differences between its own practice and that established by the international standard.

2.3 OVERVIEW OF ICAO CONTRACTING STATES' SECURITY OVERSIGHT OBLIGATIONS

2.3.1 Nature of Contracting State obligations

2.3.1.1 Obligations under the Chicago Convention are imposed upon Contracting States. The civil aviation security SARPs are primarily reflected in Annex 17. First promulgated in 1974, it has since been

expanded and updated many times. Annex 17 requires States to establish an aviation security organization and to develop and implement regulations, practices and procedures to safeguard civil aviation against acts of unlawful interference taking into account the safety, regularity and efficiency of flights. Such regulations, practices and procedures are typically reflected in a State's national civil aviation security programme (NCASP), the establishment of which is also mandated by Annex 17.

2.3.1.2 Annex 17 specifically acknowledges the significance of the facilitation and security-related aspects of Annex 9 to civil aviation security and provides that each Contracting State should, whenever possible, arrange for security controls and procedures to cause a minimum of interference with, or delay to the activities of, civil aviation provided that the effectiveness of these controls and procedures is not compromised. Security and facilitation processes working together should be recognized as a key element in the global aviation security chain; for example, the use of machine readable travel documents (MRTDs) and the identification of persons using biometric systems, if properly integrated, may enhance the overall effectiveness of aviation security.

2.3.2 General obligations of a Contracting State

2.3.2.1 When authorizing or undertaking aviation activity, States incur certain aviation security obligations under the Chicago Convention and its Annexes. For example, according to Annex 17, each Contracting State is obligated to have as its primary objective the safety of passengers, crew, ground personnel and the general public in all matters related to safeguarding against acts of unlawful interference with civil aviation. To meet this objective, a comprehensive organization and legal structure, with clearly defined responsibilities and methods of implementation, need to be established. This manual, together with the *Security Manual for Safeguarding Civil Aviation Against Acts of Unlawful Interference* (Doc 8973 — Restricted), provides guidance on the establishment and management of the foregoing. The regulations for security equipment and systems, and for airport design and layout, also need to be established in accordance with the *Airport Planning Manual* (Doc 9184) and the *Aerodrome Design Manual* (Doc 9157).

2.3.2.2 To achieve a standardized level of security for aviation, States, through their appropriate aviation security authorities, need to establish a comprehensive policy, supported by appropriate legislation, to be implemented by the many entities involved in any civil aviation security structure, for example, aircraft operators, airport operators, providers of air navigation services, law enforcement authorities, providers of security services, and intelligence organizations. This policy is typically contained in the NCASP.

2.3.2.3 To ensure that a State's aviation security system is appropriate to the level and scope of its aviation activity, including the ability to quickly adapt to changes in the level of threat and to implement new SARPs on a timely basis, consideration should be given to the critical elements of a civil aviation security oversight system (critical elements are discussed in more detail at Chapter 3).

2.3.2.4 States should enact legislation that establishes the basic legal authority for the conduct of aviation security activities within each State. Such legislation should identify and assign powers to the appropriate authority for aviation security within the State's administration and provide adequate legal power for such an authority to establish and enforce aviation security rules, regulations and procedures, including, for example, the designation of security restricted areas (SRAs), and the authority to screen and/or search passengers and baggage. States should also enact legislation, where necessary, to give legal force to their obligations as parties to any or all of the aviation security conventions.

2.3.2.5 The appropriate authority for aviation security designated and empowered by a State is responsible for ensuring the implementation of all Annex 17 Standards (and security-related provisions of Annex 9). In addition, as an integral component of a State's civil aviation security oversight system, States are

responsible for developing, implementing and maintaining an NQCP (for security oversight of the aviation security-related industry), to determine compliance with and validate the effectiveness of the NCASP (Annex 17 Standards 3.4.4 to 3.4.7).

2.3.2.6 In addition to the foregoing, the appropriate authority for aviation security may be obligated to exercise responsibility for Recommended Practices contained in Annex 17, including, *inter alia*:

- a) developing a system for the approval of written industry security programmes including, as applicable, operator security programmes for general aviation and aerial work operations (Recommended Practices 3.3.2 and 3.3.3);
- b) ensuring that trainers and training programmes meet defined standards (Recommended Practice 3.1.7);
- c) promoting the research and development of new security equipment, processes and procedures which will better achieve civil aviation security objectives and cooperation with other States in this matter, taking into account Human Factors principles (Recommended Practice 2.5); and
- d) arranging whenever possible for the security controls and procedures to cause a minimum of interference with, or delay to the activities of, civil aviation provided the effectiveness of these controls and procedures is not compromised (Recommended Practice 2.3).

2.3.2.7 The appropriate authority for aviation security should make adequate financial provision for the resources needed to fulfil the foregoing obligations and to ensure the effective implementation of aviation security.

2.3.2.8 Each Contracting State is ultimately responsible for ensuring the implementation of security measures to satisfy the requirements of Annex 17 Standards (and the security-related provisions of Annex 9). However, it is generally considered a State-internal matter to delegate roles and responsibilities to subordinate units or agencies and to specify their functions with regard to civil aviation security. While some delegated functions may be viewed as a standard practice (for example, airport management being charged with the development of an airport security or airport-level quality control programme), the nature of delegated responsibilities may vary given the particularities of each State. The following paragraphs contain examples of best practices of certain Contracting States, which a State/appropriate authority for aviation security may consider when defining and delegating aviation security functions.

2.3.3 Airport management functions

2.3.3.1 Airport management should be charged with the responsibility for all functions pertaining to airport operations, including the coordination of security controls at the airport level. The airport authority may be, or delegate to an individual or office, the authority responsible for the coordination of the implementation of security controls at the airport level as mandated by Annex 17 Standard 3.2.2. The airport authority should also establish an airport security committee to assist with the coordination of the implementation of security controls and procedures as specified in the NCASP and as reflected in the airport security programme (ASP).

2.3.3.2 Consistent with Annex 17 provisions on airport security, the airport authority should:

- a) establish, implement and maintain an ASP to ensure compliance with the requirements of the NCASP, detailing, *inter alia*: the individual security measures in place at the airport, such as measures related to access control, passenger screening, cabin and hold baggage

screening, and security controls for cargo, mail, catering and any other goods departing on passenger flights from the airport; and the organizational structure, including allocating duties and responsibilities for the above measures. The ASP should act as the coordination document for all airport-level security controls, reflecting the roles and responsibilities of all entities implementing security controls at the airport;

- b) keep the ASP up to date and approved by the appropriate authority for aviation security;
- c) conduct oversight over the application of agreed security measures and procedures to promote their effective implementation and maintenance;
- d) maintain effective liaison with other airport departments and relevant law enforcement authorities;
- e) ensure that the activities of airport security personnel and fire and rescue staff are coordinated from a security point of view;
- f) encourage security awareness and vigilance by all persons working at the airport;
- g) promote and require an effective threat/occurrence response capability; and
- h) develop and test the airport contingency plan on a regular basis.

2.3.3.3 In order to further ensure the effective implementation of Annex 17 requirements, the airport authority may also be assigned responsibility for, *inter alia*:

- a) developing, implementing and maintaining a quality control programme and performing quality control functions over all airport-level security activities which the authority is responsible for coordinating;
- b) developing, implementing and maintaining a security training programme for airport staff to ensure the correct implementation of the NCASP (in accordance with the requirements of the national civil aviation security training programme (NCSTP)), which should be submitted to the appropriate authority for aviation security for review and approval prior to implementation;
- c) being a member of the airport planning and design team;
- d) recommending security features for incorporation into plans for the modification of existing airport facilities and for new construction in accordance with Annex 17 Standard 3.2.4 and Annex 14 requirements;
- e) ensuring that all persons granted unescorted access to airport SRAs are subject to background checks; and
- f) within the limits as may be prescribed by national legislation, managing responses to acts (and attempted acts) of unlawful interference such as:
 - 1) maintaining a record of all occurrences of unlawful interference affecting airport operations, including bomb threats, and of all weapons and dangerous devices detected in the passenger screening process;

- 2) collecting and transmitting to the appropriate authority for aviation security all pertinent information related to an aircraft which has been unlawfully seized and diverted; and
- 3) commencing enquiries as soon as it is known or suspected that an aircraft which last departed from the airport has been involved in an act of unlawful seizure or an accident which may have been caused by an act of sabotage.

2.3.3.4 The airport authority should be assigned staff as part of an airport aviation security unit to assist with the implementation of the measures, controls and procedures listed in paragraphs 2.3.3.2 and 2.3.3.3, as well as with the prevention of unauthorized entry into the airside and restricted areas and installations.

2.3.4 Airport tenant functions

Airport tenants include individuals or businesses granted a licence or other legal document by the airport management to conduct business operations at that airport. Examples may include concessionaires, cargo operators, catering and maintenance facilities. Airport tenants may be assigned aviation security responsibilities for, *inter alia*:

- a) ensuring the control of access through their facility to the airport airside or airport SRAs in compliance with national aviation security regulations and the ASP;
- b) applying appropriate physical security measures to items stored and/or passing through their facility into airport SRAs;
- c) contingency planning consistent with their responsibilities under the airport contingency plan;
- d) developing, where appropriate, a quality control programme, and performing quality control functions over activities within their sphere; and
- e) ensuring that their employees are adequately informed of the security requirements at the airport, providing those with direct security responsibilities with appropriate training, and providing their staff with security awareness training.

2.3.5 Aircraft operator functions

2.3.5.1 Aircraft operators have a responsibility to the travelling public and staff for the security of their operations, which normally includes the protection of aircraft and may include the security of baggage, cargo, mail, food service/catering, maintenance and ramp access areas. Operators should also comply with any security regulations that the State may promulgate.

2.3.5.2 Consistent with Annex 17 provisions, aircraft operators should be charged with the establishment, implementation and maintenance of a written aircraft operator security programme (AOSP), which will detail how the relevant national policy regulations and requirements included in the NCASP will be implemented. AOSPs should be submitted to the appropriate authority for aviation security for review and approval prior to their implementation.

2.3.5.3 In accordance with a State's NCASP and regulations, aircraft operator security measures to be incorporated in an AOSP should include procedures related to aircraft security checks and searches, aircraft access and contingency planning.

2.3.5.4 Other aircraft operator security measures which may be mandated by a State's NCASP and regulations for incorporation in an AOSP (with details contained in or referenced in the ASP) may include procedures related to the following:

- a) passenger and hold baggage reconciliation;
- b) screening of passengers, cabin and hold baggage;
- c) security of aircraft operator catering stores and supplies;
- d) security of aircraft cleaning operations;
- e) security of cargo and mail (including company mail and company material);
- f) security of ground maintenance operations;
- g) recruitment and training of security staff/handling agents; and
- h) incident reporting.

2.3.5.5 In order to effectively implement their security programmes, aircraft operators may be required to develop, implement and maintain an operator security training programme for their staff, to ensure the correct implementation of their responsibilities under the NCASP, in accordance with requirements stipulated in the NCASTP. In addition, aircraft operators may be charged with the development, implementation and maintenance of a quality control programme and the performance of quality control functions over activities within their sphere. Ideally, both programmes should be submitted to the appropriate authority for aviation security for review and approval prior to implementation.

2.3.6 Law enforcement authority functions

2.3.6.1 Various law enforcement authorities (for example, national, provincial, local, airport, immigration), in the context of aviation security, may be assigned responsibilities for:

- a) prevention and detection of crimes at civil aviation facilities;
- b) random surveillance and patrol of some or all airport terminal areas and airport perimeters;
- c) random surveillance/screening of arriving and departing passengers (and their baggage) for persons who may pose a threat to civil aviation;
- d) contingency planning with the appropriate authority for aviation security and airport authorities for responses to and control of acts of hijacking, sabotage, bomb or other threats, attacks against civil aviation facilities, and civil disorder, etc.;
- e) command and control of major incidents and emergencies, for example, hostage negotiation and the provision of rapid armed response capability for major incidents at the airport(s);
- f) explosive device disposal;
- g) reporting on criminal conduct incidents, confiscated prohibited items, threats, unauthorized access attempts, etc.; and

- h) initial and recurrent training of appropriate police personnel in aviation security practices and procedures pertinent to their operations.

2.3.6.2 Law enforcement personnel assigned to aviation duties should be prepared to work closely with the appropriate authority for aviation security, the civil aviation authority (if different from the latter authority) and airport management, in accordance with applicable regulations, the NCASP and ASPs. As with other entities implementing security measures, law enforcement entities should develop, implement and maintain written procedures to ensure the consistent implementation of their assigned responsibilities.

2.3.7 Intelligence agency functions

In accordance with the NCASP, State intelligence agencies may be required to cooperate with law enforcement and foreign/international intelligence agencies in the collection and dissemination of information related to threats of criminal acts, particularly as related to the State's civil air transportation system. Such agencies may also be required to develop a secure system for sharing relevant information with the appropriate authority for aviation security and other concerned entities.

2.3.8 National armed forces functions

The national armed forces, as applicable, may be assigned responsibilities for:

- a) bomb detection and disposal services, armed intervention, patrol and other armed support functions at an airport, and specialist training;
- b) access control and other security functions at a civil airport facility if it is a joint tenant at that facility or if the military area is adjacent to that facility; and
- c) aviation security threat assessment and dissemination, as applicable.

2.3.9 Border control agency functions

States may empower the authority charged with border control functions (for example, immigration) with the responsibility for implementing applicable Annex 9 SARPs and other regulations and procedures relevant to, *inter alia*, the:

- a) verification of the legitimacy of an individual's request to enter the State;
- b) promotion and utilization of MRTDs and, where applicable, biometrics in accordance with the ICAO blueprint;
- c) seizure and removal from circulation of fraudulent, falsified or counterfeit travel documents;
- d) reporting and clearance of arriving and departing aircraft engaged in scheduled and non-scheduled flights;
- e) provision of sufficient information to aircraft operators and advance notice of the removal of an inadmissible person or a deportation, to permit the implementation of necessary precautions to ensure the security of the flight; and

- f) provision of direct transfer areas, to accommodate passengers connecting between international flights without proceeding through full customs and immigration formalities.

2.3.10 Other government department/ministry functions

Depending on a State's particular government structure, other government departments/ministries which may be assigned aviation security-related functions may include: the interior; external relations/foreign affairs; health; justice; customs; postal authorities; and the communications authority. All or some of these entities may work closely with the appropriate authority for aviation security to ensure the safe operation of aviation activity within the State.

2.3.11 Regulated agent functions

A regulated agent should provide security controls that are accepted or required by the appropriate authority for aviation security with respect to cargo and mail, which may include the screening of cargo and mail in accordance with requirements outlined in the NCASP and associated regulations, and the provision of appropriate security awareness training to staff members of the agent. To this end, a written regulated agent security programme, indicating how cargo and mail are processed and submitted to security measures, should be required to be submitted for review and approval by the appropriate authority for aviation security.

2.3.12 Contingency planning functions

In addition to the functions described above, government departments, law enforcement agencies, national armed forces, airport tenants, regulated agents, etc., may be assigned the responsibility for preparing contingency plans consistent with the State and/or airport contingency plan(s), as applicable; issuing staff instructions; installing communications systems and undertaking training, to respond to an act of unlawful interference that may adversely affect the security of civil aviation in the State.

2.4 GOVERNMENT APPROACH TO CONTROL AND SUPERVISION

2.4.1 Balanced approach between government entities

2.4.1.1 The structure of a State civil aviation security oversight system is an internal matter; however, it is considered preferable that the authority responsible for the management of State aviation security policy be, within the State organization, responsible for the management of aviation policy as a whole. In many States, this is the national civil aviation authority or the ministry or department of transport. However, while the appropriate authority for aviation security is responsible for developing and coordinating the allocation of responsibility for the implementation of the NCASP, it should not attempt to assume the entire implementation responsibility itself, to the exclusion of other State authorities which also have security-related roles in aviation, for example, customs, immigration, law enforcement, intelligence or national armed forces, since the scope of aviation security may be larger than one authority can manage.

2.4.1.2 While supervision and control of the NCASP remains with the appropriate authority for aviation security, ultimately, a balanced government approach to the establishment, coordination and maintenance of a viable civil aviation security oversight system may best address aviation security needs within a State.

2.4.1.3 A balanced government security oversight system is one in which government entities share responsibility for the prevention of acts of unlawful interference against civil aviation. This relationship should be established in the primary aviation security legislation, regulations and requirements, and put into practice as a matter of policy and methodology of the appropriate authority for aviation security (aviation security management policy). The sharing of implementation responsibilities should, however, be understood within the context that the appropriate authority is charged with the ultimate responsibility for ensuring the effective implementation of the NCASP, and thus would have to be appropriately empowered to undertake this responsibility as indicated in paragraph 2.3.2.4.

2.4.1.4 Due to the numerous government departments and agencies likely to be involved in aviation security, and given the complexity of the industry, it is important that coordination be facilitated between the key players. This is achieved in part, by means of the State's NCASC, as required by Annex 17, consisting of senior government officials and often senior representatives of the aviation industry, the latter acting as consultants to the government. The NCASC is discussed in more detail in part 3.4.4.

2.4.2 Characteristics of an effective State aviation security oversight system

2.4.2.1 The characteristics of an effective State security oversight system include:

- a) a coordinated approach to the formulation, timely and accessible publication and implementation of aviation security legislation, requirements, and guidance to industry. This should include the manner in which security oversight is conducted, such as:
 - 1) adopting a systematic approach to auditing, inspecting, surveying and testing to ensure that all aspects of the aviation security system are considered, not just isolated elements, activities or disciplines;
 - 2) employing risk management/assessment strategies to assist in the effective use of resources; and
 - 3) coordinating with other agencies where overlapping or adjoining interfaces, such as security and safety or security and facilitation, exist;
- b) a well-balanced allocation of responsibility between State entities for civil aviation security;
- c) economic justification for the use of State resources;
- d) continued State supervision of the aviation security activities of airport and aircraft operators and service providers without unduly inhibiting the effective direction and control of their own organization; and
- e) the cultivation and maintenance of harmonious relationships, including communication and consultation between the State and the civil aviation security industry, while maintaining effective and clearly separate functional roles. Communication should include the promulgation to industry of requirements to be met for the granting of certificates or other approvals, together with associated guidance material.

2.4.2.2 While it stems from general international law that any obligation for a Contracting State derived from the Chicago Convention or from its Annexes should be implemented, in practice, such implementation may be effected through whatever internal arrangements are in place, including the delegation of certain

functions to entities such as airports or other service providers, whatever their legal status is in municipal law. Following the trend of privatizing airports and air navigation services, a number of States have in the past adopted a policy of outsourcing operational aviation security activities to other government agencies or private entities. While outsourcing may, in some instances, provide a cost-effective alternative to State-run security services, governments cannot avoid their obligations under the Chicago Convention on the grounds that they have privatized certain aviation security functions. At all times, Contracting States remain responsible for ensuring compliance, by privatized entities, with the security standards contained in Annex 17 and the other Annexes to the Chicago Convention. In the event that a State continues to outsource the responsibilities contained in its security programmes, it should ensure that appropriate close governmental controls and supervision are in place.

2.4.2.3 It is equally important that an independent oversight infrastructure provide close governmental control and supervision where security functions are performed directly by civil service staff or airport operators. In those States where the State is both the regulatory authority and an aerodrome operator, aircraft operator, air traffic service provider, or other service provider or operator, to avoid any potential conflict of interest, there should be a clear separation of authority and responsibility between the State regulatory authority and any State-run operator or service provider. All approval, certification and continued surveillance procedures should be followed as though the operating agency was a non-governmental entity.

2.4.2.4 In accordance with Annex 17, Contracting States shall ensure that the persons implementing security controls possess all competencies required to perform their duties and are appropriately trained according to the requirements of the NCASP. States shall also ensure that background checks are performed on any persons implementing security controls, including employees recruited by airport tenants and any persons granted unescorted access to airport SRAs. Due to the need for a high level of trust in security personnel, consideration should be given to performing more stringent background checks of these persons, over and above those required for the issuance of SRA passes.

2.4.2.5 When establishing the various quality control oversight functions, States need to ensure that a proper system of checks and balances is maintained. They should retain effective control of all aviation security quality control functions (i.e. audits, inspections, surveys and tests). Such functions should not be delegated to non-government entities; otherwise aviation personnel, commercial operators, aviation service providers, aerodrome operators, etc., will in effect be regulating themselves, rather than being effectively monitored by inspectors and auditors of the appropriate authority for aviation security. In the event that a State elects to delegate any or all aviation security quality control functions to operators, such functions should be undertaken by an independent department within the organization, reporting directly to the senior official of the appropriate authority for aviation security, the operator personnel conducting such functions should comply with stringent quality control guidelines developed by the appropriate authority for aviation security, and all reports emanating from such audits, inspections, surveys and tests should be provided to the appropriate authority, which should retain the right to oversee the entire process.

2.5 STATE COMMITMENT TO AVIATION SECURITY

2.5.1 The Chicago Convention sets out certain principles and arrangements in order that international civil aviation may be developed in a safe, secure and orderly manner. Since the Chicago Convention came into force in 1947, commercial civil aviation has increasingly become the target of acts of unlawful interference, contributing to expanded aviation security challenges and complexities faced by States. This has, in turn, required that States' commitment to aviation security increases at the same rate.

2.5.2 States' implementation of effective and sustainable civil aviation security oversight systems in accordance with Annex 17 SARPs and their becoming parties to and, where applicable, enacting the

provisions of, the aviation security conventions have become an increasingly urgent matter due to a number of factors, such as:

- a) new and emerging threats to civil aviation, including misuse of aircraft as weapons, suicide attacks in the air and on the ground, electronic and computer-based attacks, chemical and biological attacks, misuse of nuclear or other radioactive materials, and attacks that make use of man-portable air defence systems (MANPADs); and
- b) ICAO ASA findings of extensive aviation security-related deficiencies.

2.5.3 In addition to ICAO's adoption of the Aviation Security Plan of Action (see paragraph 2.1.8), the ICAO Assembly in its *Consolidated Statement*:

- a) urges Contracting States which have not yet done so to become parties to the aviation security conventions and directs the Secretary General to provide assistance requested by States encountering any difficulties in becoming parties to these instruments;
- b) reaffirms that aviation security must continue to be treated as a matter of highest priority by ICAO and its Contracting States, calling upon all States to confirm their resolute support for the established policy of ICAO by applying the most effective security measures individually and in cooperation with one another, to suppress acts of unlawful interference and to punish the perpetrators of any such acts; and
- c) emphasizes the importance of a collective approach to aviation security by urging all States that have the means to do so to increase technical, financial and material assistance to countries in need of such assistance and to improve aviation security through bilateral and multilateral efforts. Such coordinated assistance is symptomatic of a renewed commitment by ICAO and its Contracting States to maximize the use of global resources dedicated to the prevention of acts of unlawful interference against civil aviation.

2.5.4 Ultimately the most effective means of deterring acts of unlawful interference is the inter-reliance by and among States on their national legislation and national airport security systems. States with similar interests should collectively agree to enhance airport security and impose penalties uniformly on offenders. States are also encouraged to share intelligence information related to aviation security with the International Criminal Police Organization (ICPO-INTERPOL) and other law enforcement organizations, as well as with States with similar interests. The achievement of consistent practices and procedures between States enhances security generally, assists the implementation of security by operators and improves the travelling public's perception of and confidence in security.

2.5.5 In order to promote the consistent implementation by States of aviation security practices and procedures, Annex 17 requires States to cooperate in the development and exchange of information concerning NCASPs, NCASTPs and NQCPs, as necessary. For example, States may make available to other States, upon request, appropriate written portions of their NCASP that contain national policy directives only, rather than specific operational details. Operational documents that directly support the NCASP, such as airport/aircraft operator aviation security and training programmes and national contingency plans, may be attached as appendices to the NCASP and may then be distributed under strict control only to those persons cleared to receive them. Portions of the NCASP, without these sensitive appendices attached, may then be disseminated to a greater number of organizations within the State as well as to other States.

2.5.6 States should adopt protective measures for the NCASP and other aviation security information, such as threat information, in keeping with their national policies regarding the security of classified information

to ensure that such information is not misused or disclosed to unauthorized persons. Such protective measures should also be applied to security information shared by other States or to information that affects the security interests of other States, to ensure that inappropriate use or disclosure is avoided.

Chapter 3

CRITICAL ELEMENTS OF A CIVIL AVIATION SECURITY OVERSIGHT SYSTEM

3.1 GENERAL CONSIDERATIONS

3.1.1 ICAO Contracting States, in their effort to establish and implement an effective civil aviation security oversight system, need to consider the critical elements (CEs) for aviation security oversight. The introduction of critical elements to safety oversight systems, from which the critical elements of a civil aviation security oversight system have been derived, have already been proven to be effective in enhancing States' capabilities for safety oversight and are expected to similarly contribute to aviation security oversight. Critical elements are required for the effective implementation of security-related policy and associated procedures. States are expected to implement security oversight critical elements in a way that assumes shared responsibility among government entities, with a management role provided by the appropriate authority for aviation security. The effective implementation of the critical elements is an indication of a State's capability for security oversight.

3.1.2 ICAO has identified and defined the following critical elements of a State's civil aviation security oversight system:

CE-1. Aviation security legislation. The provision of a comprehensive and effective legal structure, consistent with the environment and complexity of the State's aviation security activity, to implement the provisions of Annex 17 and relevant security-related provisions contained in other Annexes to the *Convention on International Civil Aviation*, and to effect the implementation of the State's aviation security requirements.

CE-2. Aviation security programmes and regulations. The provision of adequate programmes and regulations to address, at a minimum, national requirements emanating from the aviation security legislation and providing for standardized implementation procedures, equipment and infrastructures (including security management and training systems) in conformance with the Standards and Recommended Practices of Annex 17 and security-related provisions contained in other Annexes to the *Convention on International Civil Aviation*.

Note.— Throughout this manual, the term "regulations" is used in a generic sense to include what may be variously considered by States as instructions, rules, edicts, directives, sets of laws, policies, requirements and orders, etc., enforceable in the State. The specific status given to a regulation when it is applied within the State and the penalty assigned in the event of non-compliance are matters for the judgement of individual States, taking into account their responsibilities under the Chicago Convention.

CE-3. State appropriate authority for aviation security and its responsibilities. The designation of an appropriate national authority for aviation security matters supported by appropriate technical and non-technical staff and provided with adequate financial resources. The State appropriate authority must have security regulatory functions, objectives and policies.

The responsibilities of the appropriate authority include the development and maintenance of an effective NCASP, NCASTP and NQCP, the promulgation of regulations necessary to carry out national aviation security policies, the allocation of tasks and the coordination of responsibilities between government agencies.

CE-4. Personnel qualifications and training. The establishment of minimum knowledge and experience requirements for the technical personnel performing State aviation security oversight and regulatory functions and the provision of appropriate training to these personnel to maintain and enhance their competence at the desired level. The training should include initial and recurrent training. This element also includes the provision of training to the aviation industry on the implementation of applicable aviation security requirements, measures and procedures.

Note.— The technical personnel may be from an organization engaged by the appropriate authority to provide State oversight functions on its behalf.

CE-5. Provision of technical guidance, tools and security-critical information. The provision of technical guidance (including processes and procedures), tools (including facilities and equipment) and security-critical information, as applicable, to the technical personnel to enable them to perform their security oversight functions in accordance with established requirements and in a standardized manner. This element also includes the provision of technical guidance by the appropriate authority to the aviation industry on the implementation of applicable regulations, instructions and programmes.

CE-6. Certification and approval obligations. The implementation of processes and procedures to ensure that personnel and organizations performing an aviation security activity meet the established requirements (for example, certification of screeners, approval of security programmes) before they are allowed to conduct the relevant activity.

CE-7. Quality control obligations. The implementation of processes, such as audits, inspections, surveys and tests, to proactively ensure that aviation security entities continue to meet the established requirements and operate at the level of competency and security required by the State. This includes the monitoring of designated personnel who perform security oversight functions on behalf of the appropriate authority.

CE-8. Resolution of security concerns. The implementation of processes and procedures to resolve identified deficiencies impacting aviation security. This includes the ability to: analyse security deficiencies; provide recommendations to prevent reoccurrence; track the rectification of identified deficiencies, including any follow-up procedures to ensure the effective implementation of corrective actions; and take remedial action when appropriate.

3.2 AVIATION SECURITY LEGISLATION (CE-1)

3.2.1 General requirements

3.2.1.1 Aviation security legislation refers to laws enacted by a legislative body or authority, for example, a parliament, in the form of a statute or code. Primary legislation differs from secondary legislation which is normally prepared and/or enacted by a ministry or department within the government of a State, for

example, regulations detailing the operational requirements of individuals and entities with aviation security responsibilities. Operational regulations are discussed in part 3.3.

3.2.1.2 Adherence to their obligations under the Chicago Convention and, where applicable, the aviation security conventions, requires States to implement the requirements of the conventions, of Annex 17 and of other Annexes containing security-related provisions, in their aviation security legislation. The method of implementing such requirements will depend upon a State's own legal system. Each State that is party to the Chicago Convention and, where applicable, to one or more of the aviation security conventions, should determine what is the most appropriate implementation technique of the conventions while using the provisions of the conventions as a support, and respecting their prescriptions, particularly concerning the criminalization of acts. It is up to each State to determine the technique which best responds to its needs and that is perfectly compatible with its legal system. For example, if the ratification of the pertinent conventions is a peremptory obligation, the legal framework may be implemented either by the amendment of a special section of the State's Penal Code (especially in the case of the aviation security conventions) or by the adoption of autonomous laws containing the elements required by the conventions.

3.2.1.3 In accordance with national doctrines, certain States only ratify a treaty once they have promulgated legislation allowing them to fulfil all their legal obligations. This may be the case concerning national ratification, in other words the constitutional process through which a State accepts the obligations derived from an agreement. This may also be the case when the ratification has been notified to the designated depositary of the treaty. If, in some States, a ratified treaty has the same status as domestic law, it is possible that a law needs to be promulgated to implement the necessary elements that do not appear in the treaty, for example, empowering the appropriate authority for aviation security to administer the NCASP or providing for the application of severe penalties for offences committed under the aviation security conventions.¹

3.2.1.4 However implemented, aviation security legislation should provide for the establishment of a national aviation security system which enables the government and its administration to proactively supervise and regulate civil aviation security activities.

3.2.1.5 Aviation security legislation should set out the parameters of responsibility and accountability inherent in a State's aviation security system, including:

- a) designating the authority who will be responsible for administration of the NCASP and empowering that authority to develop, implement and maintain the NCASP consistent with the provisions of Annex 17, to issue regulations necessary to carry out the national programme, and to respond rapidly to meet any increased security threat;
- b) establishing the necessary powers for the appropriate authority for aviation security to allocate the various responsibilities for aviation security between the relevant organizations of both State and industry;
- c) requiring airports, aircraft operators, other operators and providers of air navigation services to comply with the provisions of the NCASP;
- d) authorizing audits, inspections, surveys, tests and investigations by the appropriate authority for aviation security to determine compliance with relevant legislation and to monitor the effectiveness of the NCASP;

1. Guidance on the provision of an adequate legal framework within a State may be found in publications of the United Nations Office on Drugs and Crime (from which paragraphs 3.2.1.2 and 3.2.1.3 were derived), primarily dealing with the implementation of the aviation security conventions.

- e) authorizing and assigning responsibility for the screening of persons and goods and permitting the establishment of access control points to control the movement of persons and vehicles entering, circulating and parking within the airside and SRAs;
- f) authorizing the refusal of transportation by air to those persons deemed to be a threat to the safety of any flight;
- g) providing powers to the authority performing police functions and to security authorities to issue fines against, and to arrest and detain offenders;
- h) providing for authority to search and access persons, baggage and property;
- i) providing for authority to issue emergency directions, including the evacuation of aircraft, aerodromes or other aviation facilities, the detention of aircraft or diversion thereof to alternate landing sites, if there is a perceived immediate threat to aviation security, to any aircraft, aerodrome or other aviation facility, or to the safety of the public, passengers or crew members;
- j) authorizing and assigning responsibility for the provision of national security/armed forces officers suitably trained to respond to suspected incidents of unlawful interference and suspected unlawful activity, and in the questioning of suspected persons; and
- k) defining acts of unlawful interference in line with the aviation security conventions, establishing jurisdiction in relation to those offences, and prescribing severe penalties for the commitment of such acts, in accordance with the laws of the State.

3.2.1.6 In order to assist in the implementation and enforcement of the policies contained in the NCASP, it is also important for States to insert into their relevant legislation provisions:

- a) related to the carriage of firearms by passengers in the cabin of an aircraft and in their baggage;
- b) related to travel by persons in custody or who have been subject to administrative procedures;
- c) which convey the legal authority for the conduct of background checks to confirm a person's identity and previous experience, including any criminal history, to determine an individual's suitability to implement security measures and be granted unescorted access to an SRA. Such legislation should also state any disqualifying offences; and
- d) related to the financing of security, including any security fees, as applicable.

3.2.2 Requirements of the aviation security conventions

The Tokyo (1963), The Hague (1970) and Montreal (1971) Conventions and the Protocol Supplementary to the Montreal Convention (1988) are international air law instruments that seek to, *inter alia*, establish jurisdiction for a number of specific offences related to aircraft, airports serving international civil aviation and other aviation installations (referred to generally as "acts of unlawful interference against civil aviation"). States that have become parties to one or more of the aviation security conventions, or intend to do so, should, through existing legal instruments such as a national criminal code, and/or through dedicated

aviation security legislation, introduce and define the acts that, when committed unlawfully and intentionally, are considered criminal offences and make them punishable by severe penalties in accordance with the aviation security conventions.

3.3 AVIATION SECURITY PROGRAMMES AND REGULATIONS (CE-2)

3.3.1 General requirements

3.3.1.1 The State aviation security laws, regulations and programmes should be in conformity with the relevant Annexes to the Chicago Convention (primarily Annex 17). Annex provisions are designed to provide the minimum aviation security requirements to be met by all Contracting States, regardless of the size and complexity of their civil aviation activity. Individual States are then responsible for developing equivalent regulations, rules and programmes containing sufficient details to ensure that satisfactory compliance will result in the desired level of aviation security, taking into consideration specific national needs. This responsibility includes the development of a process for the timely amendment of aviation security regulations, programmes, practices and procedures, as necessary, especially in response to a change in the level of threat directed against a State's civil aviation system and also when changes are introduced to relevant Annexes (primarily Annex 17).

3.3.1.2 Annexes to the Chicago Convention, which specify international requirements covering civil aviation operations, set out SARPs, to achieve uniformity and to facilitate incorporation into national regulations. Authorization and approval of civil aviation security organizations and programmes are governed by a State's own laws and regulations. In discharging its responsibilities in this respect, however, the State has an obligation to collaborate in securing the highest practicable degree of uniformity in regulations, programmes, practices and procedures, as required by Article 37 of the Convention.

3.3.1.3 Given the differences inherent in the legal frameworks of States, it is inevitable that States implement the provisions of Annex 17 and the aviation security-related SARPs of other Annexes in different ways, but with the same end in view. However, while legislative systems naturally vary, it is important that aviation security regulations, programmes, measures and procedures are expressed in a form that permits simple and rapid amendment, commensurate with a State's threat assessment, which may fluctuate given various changing factors.

3.3.1.4 State regulations and programmes should be written in such a way that they may be understood by the staff of the appropriate authority for aviation security in the execution of their day-to-day activities and by the staff of other entities with aviation security responsibilities, for example, airport management and aircraft operators, who need to understand the regulatory requirements contained in the NCASP.

3.3.2 Adapting or adopting regulations and programmes from other States

A Contracting State always has the option of adopting, upon request, portions of another Contracting State's NCASP and/or regulations, as appropriate, to meet its requirements for regulations. Even though the adoption of another State's regulations and/or programmes may have some advantages, such as consistency in implementation of aviation security practices and procedures, it should be done only after ensuring that the regulations and/or programmes have been updated to include all Annex 17 SARPs and those of other relevant Annexes with regard to aviation security matters. The complexity of the other State's aviation environment

should also be considered. A State with a limited aviation environment should be careful not to place undue burden on its aviation community and its oversight staff by adopting excessively restrictive regulations. A preferred alternative would be to adapt the regulations and/or programmes to meet the aviation environment of the State while still maintaining harmony with other States.

3.3.3 The national civil aviation security programme

3.3.3.1 The appropriate authority for aviation security should be empowered by the aviation security legislation to develop national civil aviation security policy and to ensure that the policy is implemented. To this end, the designated authority should promulgate regulations, practices and procedures to fulfil Annex 17 requirements and the aviation security requirements of other Annexes to the Chicago Convention. Typically such regulations, practices and procedures are reflected within the NCASP.

3.3.3.2 Each Contracting State is required to establish, implement and maintain a written NCASP and make the appropriate parts of it available to all airport and aircraft operators, and other entities with a role to play in the implementation of the programme. The objective of the NCASP is to ensure the safety of passengers, crew, ground personnel and the general public in all matters related to safeguarding against acts of unlawful interference with civil aviation. The NCASP is intended to permit a State to describe its methods of compliance with Annex 17 SARPs and security-related SARPs of other Annexes, by focusing on national policy directives rather than operational details, which would be more appropriately contained in, for example, the appendices to the NCASP and airport and aircraft operators' security programmes.

3.3.3.3 Each NCASP is unique to a State. The NCASP may be a single written document containing current aviation security requirements and procedures in effect in that State. Alternatively, the NCASP may consist of more than one document reflecting State requirements and procedures emanating from various laws, regulations and programmes, in which case the State would benefit greatly from the development of a matrix of compliance with relevant Annex 17 SARPs and security-related provisions of Annex 9. Regardless of its format, the NCASP should always reflect amendments to Annex 17 and other relevant Annexes, and be capable of being rapidly adapted to meet any increased security threat.

3.3.3.4 The NCASP should reflect the allocation of the specific responsibilities of the various entities involved in aviation security. Because of the inevitable division of responsibility for aviation security within a State, the NCASP, if it is to be effective, should have clearly defined, unambiguous responsibilities assigned to each entity. Such entities include the appropriate authority for aviation security, airport management and tenants, aircraft operators, law enforcement authorities, national armed forces, border control authorities, and other entities, as appropriate. Specific responsibilities should cover, for example, the obligation of airport and aircraft operators to develop security programmes and security training programmes which should be submitted for review and approval to the appropriate authority for aviation security prior to implementation.

3.3.3.5 The NCASP should address preventive aviation security policies related to aircraft, airports, air navigation facilities, passengers, baggage, cargo, mail and catering stores and supplies. Measures should cover, for example: the handling and screening of passengers, aircraft crew, airport staff and baggage; the designation of, and measures to prevent unauthorized access to, airside and airport SRAs; the protection of aircraft and air navigation facilities; appropriate security controls for cargo and mail; the authorized carriage of weapons on board aircraft; in-flight security officers; persons in custody and under administrative control; and aircraft catering supplies and stores.

3.3.3.6 A State's reactive measures to acts of unlawful interference, or threats thereof, should also be addressed in the NCASP or related national documentation. Specific responsibilities in this regard for, *inter alia*, preparing contingency plans, issuing staff instructions, installing communication systems and undertaking

training, to respond to an act of unlawful interference occurring in, or affecting the State, should be allocated to government departments, law enforcement agencies, national armed forces, aircraft operators, airport management and tenants.

3.3.3.7 Standards and qualifications in the selection and training of personnel who are expected to perform security functions throughout the aviation industry, including security personnel acting on behalf of the appropriate authority for aviation security, should be regulated by the State, reflected in the NCASP and described in detail in the NCASTP, which may be incorporated as an appendix to the NCASP. The NCASTP should be designed to ensure the effectiveness of the NCASP and to reflect State policy on aviation security training requirements for all personnel with aviation security functions. The programme should specify, *inter alia*: administrative directives related to aviation security training; guidance on instructional practices; curriculum outlines; course syllabi; in-service training requirements; aviation security awareness training requirements; guidance as to reference material; and sources of training assistance, including the global network of ICAO aviation security training centres, aviation security training packages and standardized training packages. The programme is also useful as guidance material for airport management and aircraft operators in the development of their own training programmes, which should be subject to approval by the appropriate authority for aviation security.

3.3.3.8 States should also establish an NQCP to determine compliance with and validate the effectiveness of the NCASP. To this end, States should ensure that personnel carrying out security audits, inspections, surveys, tests and investigations are afforded the necessary authority to carry out these tasks, obtain information and enforce actions against violators of specific regulations, directives and/or instructions. Such actions should include issuing notices of deficiencies, requesting corrective actions, imposing fines, etc.

3.3.3.9 Specifications for coordination and communication within the State national civil aviation security system should be incorporated into the NCASP. This includes, *inter alia*, the establishment of the NCASC for the coordination of aviation security activities at a national level, to ensure the implementation of security-related SARPs and the regular adjustment of the NCASP to meet the needs of State policy and changes in threat. An airport security committee should also be established at each airport serving civil aviation to assist the airport-level appropriate authority in the role of coordinating the implementation of security controls and procedures to reflect policies specified in the NCASP and the ASP. State aviation security policy and procedures with regard to news media communications, communication and cooperation with other States and ICAO, and the exchange of threat information should also be reflected in the NCASP.

3.3.3.10 Apart from Annex 17, other Annexes of the Chicago Convention will have a bearing on State aviation security policy and should be reflected in the NCASP, primarily Annex 9, which attempts to balance the sometimes conflicting goals of aviation security with passenger convenience and aircraft operator efficiency. For example, while States should secure the cooperation of aircraft and airport operators in ensuring that satisfactory facilities and services are provided for the rapid handling and clearance of passengers, crew, baggage, cargo and mail at airports serving civil aviation, such facilities and services need to be flexible and capable of expansion, to meet increased security measures during higher threat situations.

3.3.3.11 Annex 9 SARPs also impact State regulations for the evaluation and acquisition of security equipment and systems, and for airport design and layout. When formulating aviation security policy, it is recommended that States take into account ICAO's contemporary facilitation strategy, which supports the objective of raising the level of general security through the standardization of travel documents (universal implementation of MRTDs is one of the objectives of the ICAO Aviation Security Plan of Action, exemplified by the mandatory issuance of ICAO-standard MRTDs by all Contracting States no later than 1 April 2010), the rationalization of border clearance systems and procedures, and the promotion of international cooperation to address security problems related to passengers and cargo.

3.4 STATE APPROPRIATE AUTHORITY FOR AVIATION SECURITY AND ITS RESPONSIBILITIES (CE-3)

3.4.1 Establishment of a State appropriate authority for aviation security, and its responsibilities

3.4.1.1 For States to properly fulfil their obligations as provided for in the Chicago Convention, it is clear that appropriately organized, funded and empowered civil aviation security systems should be established and structured, to effectively fulfil the tasks that States are expected to undertake. States should establish an appropriate and practical organization and employ the necessary personnel to carry out the various functions of a national aviation security authority. Since aviation activity and State requirements differ, so do their respective civil aviation security systems, and it is not reasonable or practical to suggest a one-size-fits-all model for the guidance of States. For example, in some larger States where the aviation security authority is the civil aviation authority, such States may feel it necessary and efficient, as well as effective, to carry out security-related functions at the regional offices (where applicable) as well as at the headquarters office. In such cases there should be processes to ensure effective management and communication with the main office, necessary access to the library and other common documents, as well as standardization, taking account of any appropriate regional differences. It should be noted, however, that while the scope of authority and responsibility for a civil aviation security system may vary from State to State, whatever the size of the aviation security authority, States should always ensure that a proper system of checks and balances is maintained.

3.4.1.2 In deciding upon the required organizational structure, States should assess their responsibilities as outlined in Annex 17 and associated guidance material, keeping in view the size and complexity of the aviation activity in the State. Typically, States establish a security policy and regulatory section, among other sections, within the appropriate authority for aviation security, which is capable of effectively allocating State resources for the secure operation of aircraft in normal operating conditions and for a rapid response to meet any increased security threat. The terms of reference for the section may include, *inter alia*:

- a) responsibility for establishing, producing, promulgating and frequently reviewing the NCASP, to ensure that the programme continues to meet the State's obligations and is consistent with government policy;
- b) defining and allocating tasks within government policy guidelines for the implementation of the NCASP, between agencies, aircraft operators, airports and others concerned;
- c) reviewing and ensuring the adequacy of security programmes produced by airports, aircraft operators, cargo operators and others, as applicable;
- d) developing, promoting, producing and disseminating suitable training materials for individuals involved in the implementation of the NCASP;
- e) developing national standards and recommendations related to the specifications and evaluation methodology of security equipment and systems and to airport design, to adapt airports to security requirements; and
- f) coordinating security measures and procedures with appropriate organizations and agencies.

3.4.1.3 In keeping with the necessity of maintaining a proper system of checks and balances in the aviation security system, States may establish another section within the appropriate authority for aviation

security to be responsible for the development, implementation and maintenance of the NQCP, to determine compliance with and validate the effectiveness of the NCASP. The quality control section would, *inter alia*: conduct audits, inspections, surveys, tests and investigations of the security standards and operating procedures of airports, aircraft operators and providers of security services; report any deficiencies in security measures; and recommend and/or enforce procedures for their correction (see parts 3.8 and 3.9).

3.4.2 Staffing requirements

3.4.2.1 To effectively fulfil its responsibilities, the State civil aviation security oversight system should be properly organized and staffed with qualified personnel capable of accomplishing the wide range of required duties involved in aviation security oversight. Furthermore, personnel should be provided conditions of service and remuneration consistent with their education, aviation security knowledge and experience, comparable to the personnel of the operator whose activities they will inspect and supervise.

3.4.2.2 All personnel authorized by the State to ensure the maintenance of competency and to conduct surveillance or aviation security oversight functions, as applicable, should be provided with appropriate credentials identifying them as aviation security inspectors/auditors employed by the State authorities, with the right to unhindered access to inspect aircraft, documents, aerodromes, air traffic services and other relevant facilities, as well as normally restricted civil aviation-related sites.

3.4.2.3 The cost of recruiting and retaining qualified aviation security personnel who satisfactorily meet the requirements of the profession represents a significant financial commitment and may require revisions to long-standing policies and regulations regarding remuneration for qualified aviation security personnel. In order to recruit and retain appropriately qualified personnel who combine professionalism and integrity, it is essential that State authorities become competitive employers. Furthermore, States should have appropriate recruitment policies, terms of employment and practices in place.

3.4.2.4 States should avoid delegating inspection activities to non-government entities to compensate for insufficient State inspectorate personnel and resources. This would amount to aviation personnel, commercial operators, aviation service providers, aerodrome operators, etc., in effect regulating and controlling themselves, rather than being effectively monitored by inspectors of the appropriate authority for aviation security.

3.4.3 Establishment of service providers

3.4.3.1 The need for strong regulatory oversight has become increasingly relevant in recent years as a result of the global trend to commercialize airports and other aviation services. In many States, for example, the operational aspects of aviation security programmes, such as passenger and baggage screening, are outsourced to private security companies, or de facto outsourced to commercialized airport and aircraft operators. While the Chicago Convention does not prohibit outsourcing certain services related to aviation per se, an aviation security system, and the obligation to secure aircraft operations, always remains a State obligation.

3.4.3.2 Outsourcing may be cost-effective and provide high levels of security as long as appropriate performance standards have been set and there is strong government oversight of the contracts. Whether outsourced to a government and/or private entity or international organization, it is essential that controls and accountability be established at all levels of the security system, and a clear distinction made between those providing and those regulating the aviation security services.

3.4.4 Coordination and cooperation between entities responsible for civil aviation security implementation

3.4.4.1 Due to the large number of government departments and agencies likely to be involved in aviation security activities within a State, and given the complexity of the industry, coordination should be facilitated between the key players. This may be achieved by means of the NCASC.

3.4.4.2 The NCASC should be a standing committee which meets regularly, acting under the authority of the government. Participants should be senior government officials and senior representatives of the aviation industry (aircraft operators, airport authorities, etc.), the latter acting as consultants to the government. Those most likely to be represented are ministries, departments and/or agencies for civil aviation, law enforcement, internal security, external relations, national armed forces, immigration, customs, postal services, emergency services, intelligence, etc. If a national facilitation committee has been established, it is recommended that its chair be a member of the NCASC, to ensure consistency in programme implementation and to consider the possible effects of security measures on day-to-day aviation operations. Consideration should also be given to including members on an ad hoc basis from organizations which represent principal groups of employees in the civil aviation industry, such as technical and cabin crew, airport and aircraft operator ground staff and air traffic control staff. Terms of reference for the NCASC should be detailed in the NCASP.

3.4.5 Cooperation with other States

3.4.5.1 In order to promote the consistent implementation by States of aviation security practices and procedures, States should cooperate with other States in the development and exchange of information concerning NCASPs, NCASTPs and NQCPs, as necessary, and establish and implement procedures to actively share threat information in accordance with Annex 17 SARPs. In addition, it is recommended that States exchange information on the research and development of new security systems and equipment or improvements in existing systems and equipment, and share intelligence with ICPO-INTERPOL and other law enforcement organizations and with States having common interests. States with common interests should collectively agree to enhance civil aviation airport security and impose penalties uniformly on offenders. It is also recommended that, if requested by another State, States share, as appropriate and consistent with their sovereignty, the results of the audits carried out by ICAO under the USAP and the corrective actions taken by the audited State. States should notify ICAO in the event that audit information is shared.

3.4.5.2 In order to give effect to some or all of the obligations and recommendations in paragraph 3.4.5.1, States may wish to include, in their bilateral and regional agreements on air transport, a clause dealing with cooperation and the coordination of civil aviation security issues, taking into account the model clause developed by ICAO, provided in the *Security Manual for Safeguarding Civil Aviation Against Acts of Unlawful Interference* (Doc 8973 — Restricted). International arrangements should also be reviewed to ensure, *inter alia*, that requests from other States for additional security measures with respect to a specific flight are met as far as may be practicable (for example, accommodating the travel of armed personnel, in-flight security officers, etc.), that relevant information is transmitted to States if there are reasons to believe that there is a possibility for an aviation security offence to be committed, and that legal assistance is afforded to other States in connection with criminal proceedings brought with respect to aviation security convention offences.

3.4.5.3 It is recommended that States which are not yet parties to the aviation security conventions take into account the ICAO model agreement for bilateral or regional cooperation in the field of aviation security, provided in the *Security Manual for Safeguarding Civil Aviation Against Acts of Unlawful Interference* (Doc 8973 — Restricted). The agreement provides a framework for cooperation by the parties in the prevention of, and management during and in the aftermath of, acts of unlawful interference with civil aviation, and establishes

measures to alleviate the consequences of such acts. The model agreement may also serve to complement or reinforce existing obligations between States under multilateral conventions on aviation security.

3.5 PERSONNEL QUALIFICATIONS AND TRAINING (CE-4)

3.5.1 Qualification of security oversight personnel

3.5.1.1 The tasks and activities involved in regulating and supervising aviation security-related activities include a wide range of complex evaluations, inspections, audits, analyses and interventions, reviews of personnel qualifications, and the ability to assess the effectiveness and efficiency of established aviation security systems. Effective implementation of these tasks requires the intervention of technical staff who are appropriately trained and highly qualified.

3.5.1.2 The satisfactory execution of the various functions of the aviation security regulating authorities and inspectorates depends to a large extent on the qualifications, experience, competence and dedication of individual inspectors and auditors. In addition to the vital importance of technical competency in performing approval, certification, authorization and surveillance functions, it is critical that security oversight personnel possess a high degree of integrity, be impartial in carrying out their tasks, be tactful, have a good understanding of human nature and possess good communication skills. Considering the specialized and sensitive nature of aviation security, it is vitally important that the qualifications, previous experience and personal characteristics of each person to be assigned approval, certification, authorization and surveillance duties be verified and carefully evaluated before selections are made.

3.5.1.3 It is also important that personnel charged with approval, certification and surveillance functions possess excellent knowledge of international practices and procedures related to aviation security, a thorough understanding of the NCASP and how it is applied to the operator's security programmes and operations being examined, knowledge of the assessed threat as it is applied to the State and location being examined, and exceptional knowledge of security technologies and techniques. The qualifications of a civil aviation security inspector should, at a minimum, match the qualifications of those who are being inspected.

3.5.1.4 The departments and/or sections within the appropriate authority for aviation security with aviation security oversight responsibility should be organizationally competent. Depending upon the size of a State's aviation activity, this may require a team of inspectors with a mix of disciplines, for example, passenger operations, cargo operations, perimeter access, etc. As a team, they should be as knowledgeable, qualified and experienced in the appropriate areas of qualification and experience as the organization being inspected.

3.5.2 Training of security and security oversight personnel

3.5.2.1 The appropriate authority for aviation security should establish a training policy which will specify, *inter alia*, the minimum professional qualifications for security personnel performing oversight functions in the State. The appropriate authority for aviation security should also develop and implement the NCASTP (see paragraph 3.3.3.7), which should detail the security and administrative training necessary for, *inter alia*, security oversight personnel to effectively accomplish their duties and responsibilities, and all levels of staff responsible for the implementation of security measures and for training those who implement such measures.

3.5.2.2 The appropriate authority for aviation security should be prepared to finance initial training for its security oversight personnel and recurrent training for maintaining competency and for upgrading knowledge

and capability. State aviation security oversight personnel represent the appropriate authority for aviation security and, as such, require the continuous development of their knowledge and skills related to their respective responsibilities. This development should be accomplished through periodic training and refresher courses in all the disciplines they are responsible for overseeing. Participation in seminars and workshops organized by ICAO and international and regional aviation security-related organizations may also enable State security oversight personnel to acquire knowledge and to share experience with experts from other Contracting States. Additional training, such as courses in report writing, supervisory training, etc., may also assist security oversight personnel in improving their effectiveness and efficiency.

3.5.2.3 Training of State aviation security oversight personnel should not be limited to strictly professional elements, such as the maintenance of competency and currency. In particular, it is essential that aviation security inspectors and auditors are also provided with training on subjects such as applicable aviation security regulations, inspector and/or auditor skills, duties and responsibilities, and appropriate authority procedures for the implementation and enforcement of requirements. It is also imperative that States maintain detailed training and qualification records of their security personnel.

3.6 PROVISION OF TECHNICAL GUIDANCE, TOOLS AND SECURITY-CRITICAL INFORMATION (CE-5)

3.6.1 The effectiveness of a civil aviation security oversight system and the implementation of national and international standards need to be supported by guidance material, to provide security oversight personnel with instruction on how to accomplish their specific functions. This element also includes the provision of technical guidance by the appropriate authority to the aviation industry on the implementation of applicable regulations, instructions and programmes. ICAO has developed and published technical guidance material to assist States in implementing the provisions of Annex 17 and other relevant Annexes. Examples of ICAO guidance material include this manual, the *Security Manual for Safeguarding Civil Aviation Against Acts of Unlawful Interference* (Doc 8973 — Restricted), the *Manual on Human Factors in Civil Aviation Security Operations* (Doc 9808), and the *Training Manual* (Doc 7192). The Implementation of international and national aviation security regulations is enhanced through the availability of such guidance material.

3.6.2 States also need to develop and publish their own guidance material to assist their security oversight personnel in the implementation of national regulations, procedures and practices. Guidance material should be developed to assist staff working in aviation security-related activities throughout the industry. ICAO material may be fruitfully utilized in the preparation of such national guidance. Examples of State technical guidance include material on the recruitment, selection, training and certification of aviation security staff, and guidance for airport and aircraft operator staff charged with the development of their security training programmes (relevant portions of the NCASP and the NCASTP may be useful in this regard).

3.6.3 An inspector's handbook is a useful tool that should be developed and provided to inspectors assigned to verify compliance with various aspects of aviation security. Inspectors and staff should be provided with adequate tools to enable the effective accomplishment of their tasks, such as adequate offices, telephones and other communication facilities, as well as transportation, as applicable.

3.6.4 To foster security in the aviation environment, the supply and speedy dissemination of security-critical information, such as security directives and advisories, are essential. Sharing of information among concerned entities in a timely manner would enhance States' capability to minimize risk and mitigate threats. Sharing security-related incident investigation reports would also enhance the global knowledge of aviation security threats among national security organizations, contributing towards the strengthening of their respective aviation security systems.

3.7 CERTIFICATION AND APPROVAL OBLIGATIONS (CE-6)

3.7.1 The appropriate authority for aviation security should be responsible for the establishment of a certification and approval system for aviation security operations (private or semi-government), aviation security screening personnel, aviation security programmes and aviation security training programmes emanating from aircraft operators, airport management, etc. The essential functions of the system involve the development of standards required for such certification and approval, as the case may be, in accordance with Annex 17 SARPs and aviation security-related provisions in other Annexes. Such standards should include, for example, criteria for background checks, selection procedures, required competencies, and standards of performance for aviation security screening personnel, and should be set out in the NCASP. Standards should be clearly delineated if aviation security measures and controls are to be applied properly and effectively. In particular, the appropriate authority should ensure that all ASPs and AOSPs meet the requirements of the NCASP, and that persons carrying out screening operations are certified according to the requirements of the NCASP and NCASTP, in order that performance standards may be consistently and reliably achieved.

3.7.2 The continued validity of aviation security certificates and approvals depends on the operator's or individual's demonstration of the continued maintenance of the standards demonstrated during the initial approval and/or certification process. States should therefore establish a system for both the approval and/or certification and the continued surveillance of the operator, individual and service provider, as the case may be, to ensure that the required standards and competencies of operation and performance are maintained.

3.8 QUALITY CONTROL OBLIGATIONS (CE-7)

3.8.1 A key component in the successful application of aviation security measures in a State is ensuring that controls are regularly applied in a manner that provides effective security. The appropriate authority for aviation security should therefore develop and implement an NQCP and a system of quality control measures to maintain the continuing effectiveness of the NCASP.

3.8.2 The appropriate authority for aviation security should be given authority and responsibility by the State for exercising continued surveillance over aviation security operations to ensure that the implementation of security measures is compliant with the NCASP. To achieve this objective, the authority should be empowered to conduct audits, inspections, surveys and tests, analyse security measures, identify security deficiencies and issue notices thereof, make recommendations for rapid and effective corrective actions, grant, suspend, revoke or terminate certificates or other approvals and issue fines as appropriate (see part 3.9).

3.8.3 Criteria for quality control functions are contained within the NQCP, which is comprised of the structure, responsibilities, processes and procedures that promote and establish an environment and culture of continuing improvement and enhancement of aviation security. The appropriate authority for aviation security is responsible for the development, implementation and maintenance of this programme.

3.8.4 The objectives of the NQCP include determining compliance with and validating the effectiveness of the State NCASP and ensuring that:

- a) the implementation of State security measures is regularly subjected to verification of compliance with the NCASP. The priorities and frequency of monitoring should be determined on the basis of risk assessment carried out by the relevant authorities;
- b) all persons implementing security controls possess all competencies required to perform their duties, are appropriately trained according to the requirements of the NCASP and that appropriate records are maintained up to date;

- c) relevant standards of performance are established, and initial and periodic assessments are introduced to maintain those standards;
- d) persons carrying out screening operations are certified according to the requirements of the NCASP and NCASTP;
- e) security audits, inspections, surveys and tests are conducted on a regular basis to verify compliance with the NCASP and to provide for the rapid and effective rectification of any deficiencies;
- f) acts of unlawful interference are investigated; and
- g) security controls and procedures are reviewed and re-evaluated, and that necessary action is taken in a timely fashion to remedy weaknesses, so as to prevent recurrence of an act of unlawful interference.

3.8.5 Personnel implementing the NQCP should be afforded the necessary authority to obtain information to carry out these tasks and to enforce corrective actions. To this end, formal procedures should be established under the NQCP and associated regulations, empowering personnel to, *inter alia*:

- a) inspect an aircraft registered or operating in the State for the purpose of evaluating any security procedure;
- b) inspect any part of any airport in the State;
- c) inspect any land or area outside the airport used by businesses that operate at the airport, or enter SRAs, and subject any property found within such land or areas to tests;
- d) investigate and test the effectiveness of security measures and procedures;
- e) require an aircraft operator, airport manager or occupier of land outside the airport used for business purposes connected with the airport to provide information relevant to the audit, inspection, survey, test or investigation;
- f) enter any land, facility or building for the purpose of inspecting an airport or aircraft operator, or land outside an airport occupied for business purposes connected with the airport or aircraft operator;
- g) take into an airport, airside area or any designated SRA, and use, any equipment necessary to carry out their duties including, for example, radios, cameras, recording devices (both audio and video) and specially authorized restricted or prohibited articles such as weapons, replica weapons or simulated explosive devices;
- h) ask questions about aviation security of any person they consider may assist them in assessing the standard of security or the implementation of security procedures;
- i) issue notices and/or recommendations as appropriate; and
- j) enforce corrective actions.

These powers should be made to apply equally to air navigation installations, in so far as activities are related to relevant Standards in Annex 17 or in other relevant Annexes.

3.8.6 Since there is a wide disparity in the size and complexity of aircraft and airport operations in different States, quality control measures should be tailored to fit each State's particular aviation environment.

3.8.7 The NQCP should be supplemented by the establishment of a confidential reporting system for analysing security information provided by sources such as passengers, crew, ground personnel, etc. In addition, a process to record and analyse the results of the programme should be established, to contribute to identifying the causes and patterns of non-compliance and verifying that corrective actions have been implemented and sustained.

3.8.8 Security stakeholders throughout the civil aviation industry should be required to develop, implement and maintain their own internal quality control measures, including the promulgation of quality control programmes and the performance of associated functions. Such measures should be monitored by the appropriate authority for aviation security.

3.8.9 Persons and entities responsible for the management, setting of priorities and organization of the NQCP should operate independently from persons and entities responsible for the implementation of measures under the NCASP, to avoid the perception of conflict of interest, and to ensure that designated personnel who perform aviation security oversight functions are, in turn, also subject to surveillance.

3.9 RESOLUTION OF SECURITY CONCERNS (CE-8)

3.9.1 The resolution of identified aviation security concerns is the critical element at the core of all aviation security oversight activities. A good aviation security oversight system will provide for the identification of deficiencies and for the rapid and effective implementation of appropriate corrective actions to resolve any identified deficiency.

3.9.2 Should the implementation of the NQCP and related inspection and/or audit reports reveal that the entity responsible for the implementation of security controls is unable to meet or maintain the required security standards, the inspector or auditor, on behalf of the appropriate authority for aviation security, should promptly advise the entity of the deficiency observed. Once the cause of the deficiency has been determined, the appropriate authority for aviation security should provide deadlines for corrective actions to be taken and initiate appropriate follow-ups to determine the effectiveness of the corrective actions. If the deficiency is not corrected within the deadline, the authority may choose to take positive actions, such as temporarily imposing fines, suspending or withdrawing the certificate, approval and/or authorization for the entity to conduct the aviation security business, etc.

3.9.3 In a well-established and managed national quality control system, analysis of the various inspection and/or audit reports will indicate a pattern of weaknesses or deficiencies and will often also identify causes and possible remedies.

3.9.4 In view of the new and emerging threats to civil aviation, there is a continuing need to review the scope of inspections and/or audits and related techniques and procedures, to better evaluate specific areas of potential threat and to ensure the effective use of the inspectorate's resources under the appropriate authority for aviation security.

3.9.5 The investigation of acts of unlawful interference, or threats thereof, plays a crucial role in the identification of security-related deficiencies. Procedures should be in place to evaluate such an incident, should one take place, and security measures should be revised as appropriate. As soon as possible after each occurrence of an act of unlawful interference or threat thereof, a review and analysis should be conducted by the appropriate authority for aviation security. Results should be made available to all aviation

security participants, along with the recommendations of the appropriate authority for improvements and the correction of identified aviation security deficiencies. States should issue a report to ICAO on all acts of unlawful interference and, whenever appropriate, copies of the report should be provided to other States which may have an interest.

3.9.6 The effective resolution of security issues is highly dependent on the authority vested in the appropriate authority for aviation security. As such, the resolution of security concerns may only be successful in situations clearly supported by and linked to the aviation security legislation and regulations. Technical guidance and procedures should be available for the security inspectors, auditors and individuals assigned with enforcing aviation security legislation and regulations. Such guidance should be provided to those assigned to perform the aforementioned tasks prior to carrying out any quality control functions, to avoid inconsistent extremes of actions by authority personnel.

APPENDICES

Appendix A

REFERENCES

The following documents are either referred to in this manual and/or provide additional guidance material to assist States with the establishment and management of their civil aviation security oversight systems.

ICAO DOCUMENTS

Conventions and Related Acts

Convention on International Civil Aviation (Doc 7300)

Convention on Offences and Certain Other Acts Committed on Board Aircraft (Doc 8364)

Convention for the Suppression of Unlawful Seizure of Aircraft (Doc 8920)

Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Doc 8966)

Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Doc 9518)

Convention on the Marking of Plastic Explosives for the Purpose of Detection (Doc 9571)

Annexes to the Convention on International Civil Aviation

Annex 2 — Rules of the Air

Annex 6 — Operation of Aircraft

Part I — International Commercial Air Transport — Aeroplanes

Annex 8 — Airworthiness of Aircraft

Annex 9 — Facilitation

Annex 11 — Air Traffic Services

Annex 13 — Aircraft Accident and Incident Investigation

Annex 14 — Aerodromes

Volume I — Aerodrome Design and Operations

Annex 17 — Security — Safeguarding International Civil Aviation Against Acts of Unlawful Interference

Assembly Resolutions

Assembly Resolutions in Force (as of 8 October 2004) (Doc 9848)

Manuals and Circulars

Aerodrome Design Manual (Doc 9157)

Aircraft Operations (Doc 8168)

Airport Planning Manual (Doc 9184)

Guidance Material on the Legal Aspects of Unruly/Disruptive Passengers (Cir 288)

Human Factors in Civil Aviation Security Operations (Doc 9808)

Human Factors Training Manual (Doc 9683)

ICAO's Policies on Charges for Airports and Air Navigation Services (Doc 9082)

Machine Readable Travel Documents (Doc 9303)

Manual on the Implementation of the Security Provisions of Annex 6 (Doc 9811)

Security Audit Reference Manual (Doc 9807 — Restricted)

Security Manual for Safeguarding Civil Aviation Against Acts of Unlawful Interference (Doc 8973 — Restricted)

Training Manual (Doc 7192)

Procedures for Air Navigation Services (PANS)

ATM — Air Traffic Management (Doc 4444)

UNITED NATIONS OFFICE ON DRUGS AND CRIME — TECHNICAL ASSISTANCE TOOLS

Checklist of offences and jurisdictions set forth in the universal instruments relating to terrorism and Security Council resolution 1373, 2001

Guide for the Legislative Incorporation and Implementation of the Universal Anti-Terrorism Instruments, 2006

Legislative Guide to the Universal Anti-Terrorism Conventions and Protocols, 2003

Model Law on Extradition, 2004

Appendix B

DEFINITIONS

The definitions used in this manual are similar to those found in relevant Annexes to the Chicago Convention, other ICAO documentation (such as the *International Civil Aviation Vocabulary* (Doc 9713) and the *Security Manual for Safeguarding Civil Aviation Against Acts of Unlawful Interference* (Doc 8973 — Restricted)), or are the definitions intended by the ICAO Aviation Security Audit Section. Therefore, when the following terms are used in this manual, they have the meanings as shown hereunder:

Acts of unlawful interference. Acts of unlawful interference as defined in Annex 17 and acts against the safety of civil aviation as expressed in the aviation security conventions.

Aerial work. An aircraft operation in which an aircraft is used for specialized services such as agriculture, construction, photography, surveying, observation and patrol, search and rescue, aerial advertisement, etc.

Aerodrome. A defined area on land or water (including any buildings, installations and equipment) intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft.

Aircraft. Any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth's surface.

Aircraft security check. An inspection of the interior of an aircraft to which passengers may have had access and an inspection of the hold for the purposes of discovering suspicious objects, weapons, explosives or other dangerous devices, articles and substances.

Aircraft security search. A thorough inspection of the interior and exterior of the aircraft for the purpose of discovering suspicious objects, weapons, explosives or other dangerous devices, articles or substances.

Air navigation services. Services provided to air traffic during all phases of operations including air traffic management, communication, navigation and surveillance, meteorological services for air navigation, search and rescue and aeronautical information services.

Airside. The movement area of an airport, adjacent terrain and buildings or portions thereof, access to which is controlled.

Air traffic. All aircraft in flight or operating on the movement area of an aerodrome.

Air traffic service. A generic term meaning variously, flight information service, alerting service, air traffic advisory service, air traffic control service (area control service, approach control service or aerodrome control service).

Audit (ICAO USAP). A systematic and objective review of a State's aviation security system to verify compliance with Annex 17 Standards.

Background check. A check of a person's identity and previous experience, including where legally permissible, any criminal history, as part of the assessment of an individual's suitability to implement a security control and/or for unescorted access to a security restricted area.

Baggage. Personal property of passengers or crew carried as either manual or hold baggage on an aircraft by agreement with the operator.

Bomb threat. A communicated threat, anonymous or otherwise, which suggests, or infers, whether true or false that the safety of an aircraft in flight or on the ground, or any airport or civil aviation facility or any person may be in danger from an explosive or other item or device.

Cabin crew member. A crew member who performs, in the interest of safety of passengers, duties assigned by the operator or the pilot-in-command of the aircraft, but who shall not act as a flight crew member.

Cargo. Any property carried on an aircraft other than mail, stores and accompanied or mishandled baggage.

Catering stores. All items, other than catering supplies, associated with passenger in-flight services, for example newspapers, magazines, headphones, audio and video tapes, pillows and blankets, amenity kits, etc.

Catering supplies. Food, beverages, other dry stores and associated equipment used on board an aircraft.

Certification. A formal evaluation and confirmation by or on behalf of the appropriate authority for aviation security that a person possesses the necessary competencies to perform assigned functions to an acceptable level as defined by the appropriate authority.

Commercial air transport operation. An aircraft operation involving the transport of passengers, cargo or mail for remuneration or hire.

Crew member. A person assigned by an operator to duty on an aircraft during a flight duty period.

Facilitation. The efficient management of a necessary control process, with the objective to expedite clearance of persons or goods and prevent unnecessary operational delays.

Flight crew member. A licensed crew member charged with duties essential to the operation of an aircraft during a flight duty period.

General aviation operation. An aircraft operation other than a commercial air transport operation or an aerial work operation.

Human Factors principles. Principles which apply to design, certification, training, operations and maintenance and which seek safe interface between the human and other system components by proper consideration to human performance.

Human performance. Human capabilities and limitations which have an impact on the safety, security and efficiency of aeronautical operations.

Inadmissible person. A person who is or will be refused admission to a State by its authorities.

International airport. Any airport designated by the Contracting State in whose territory it is situated as an airport of entry and departure for international air traffic, where the formalities incident to customs, immigration, public health, animal and plant quarantine and similar procedures are carried out.

Mail. Dispatches of correspondence and other items tendered by and intended for delivery to postal services in accordance with the rules of the Universal Postal Union.

Operations manual. A manual containing procedures, instructions and guidance for use by operational personnel in the execution of their duties.

Operator. A person, organization or enterprise engaged in or offering to engage in the operation of an aircraft, aerodrome or associated aviation activity.

Pilot-in-command/Aircraft commander. The pilot responsible for the operation and safety of the aircraft during flight time.

Regulated agent. An agent, freight forwarder or any other entity who conducts business with an operator and provides security controls that are accepted or required by the appropriate authority in respect of cargo or mail.

Regulation. The giving of authoritative direction to bring about and maintain a desired degree of order.

Note.— For the purpose of this manual, this term includes instructions, rules, edicts, directives, sets of laws, requirements, policies, orders, etc.

Sabotage. An act or omission, intended to cause malicious or wanton destruction of property, endangering or resulting in unlawful interference with international civil aviation and its facilities.

Screening. The application of technical or other means which are intended to identify and/or detect weapons, explosives or other dangerous devices, articles or substances which may be used to commit an act of unlawful interference.

Note.— Certain dangerous articles or substances are classified as dangerous goods by Annex 18 and the associated Technical Instructions for the Safe Transport of Dangerous Goods by Air (Doc 9284) and must be transported in accordance with those instructions. In addition, the Security Manual for Safeguarding Civil Aviation Against Acts of Unlawful Interference (Doc 8973 — Restricted), provides a list of prohibited items that must never be carried in the cabin of an aircraft.

Security. Safeguarding civil aviation against acts of unlawful interference. This objective is achieved by a combination of measures and human and material resources.

Security audit. An in-depth compliance examination of all aspects of the implementation of the national civil aviation security programme.

Security control. A means by which the introduction of weapons, explosives or other dangerous devices, articles or substances which may be used to commit an act of unlawful interference can be prevented.

Security equipment. Devices of a specialized nature for use, individually or as part of a system, in the prevention or detection of acts of unlawful interference with civil aviation and its facilities.

Security inspection. An examination of the implementation of relevant national civil aviation security programme requirements by an airline, airport, or other entity involved in security.

Security programme. Measures adopted to safeguard civil aviation against acts of unlawful interference.

Security restricted area. Those areas of the airside of an airport which are identified as priority risk areas where in addition to access control, other security controls are applied. Such areas will normally include,

inter alia, all commercial aviation passenger departure areas between the screening checkpoint and the aircraft, the ramp, baggage make-up areas, including those where aircraft are being brought into service and screened baggage and cargo are present, cargo sheds, mail centres, airside catering and aircraft cleaning premises.

Security survey. An evaluation of security needs including the identification of vulnerabilities which could be exploited to carry out an act of unlawful interference, and the recommendation of corrective actions.

Security test. A covert or overt trial of an aviation security measure which simulates an attempt to commit an unlawful act.

Service provider. An organization, serving operators and other providers, that is part of the aviation activity and is functionally separated from its regulator.

Travel document. A passport or other official document of identity issued by a State or organization, which may be used by the rightful holder for international travel.

— END —

ICAO TECHNICAL PUBLICATIONS

The following summary gives the status, and also describes in general terms the contents of the various series of technical publications issued by the International Civil Aviation Organization. It does not include specialized publications that do not fall specifically within one of the series, such as the Aeronautical Chart Catalogue or the Meteorological Tables for International Air Navigation.

International Standards and Recommended Practices are adopted by the Council in accordance with Articles 54, 37 and 90 of the Convention on International Civil Aviation and are designated, for convenience, as Annexes to the Convention. The uniform application by Contracting States of the specifications contained in the International Standards is recognized as necessary for the safety or regularity of international air navigation while the uniform application of the specifications in the Recommended Practices is regarded as desirable in the interest of safety, regularity or efficiency of international air navigation. Knowledge of any differences between the national regulations or practices of a State and those established by an International Standard is essential to the safety or regularity of international air navigation. In the event of non-compliance with an International Standard, a State has, in fact, an obligation, under Article 38 of the Convention, to notify the Council of any differences. Knowledge of differences from Recommended Practices may also be important for the safety of air navigation and, although the Convention does not impose any obligation with regard thereto, the Council has invited Contracting States to notify such differences in addition to those relating to International Standards.

Procedures for Air Navigation Services (PANS) are approved by the Council for worldwide application. They contain, for the most part, operating procedures regarded as not yet having attained a sufficient degree of

maturity for adoption as International Standards and Recommended Practices, as well as material of a more permanent character which is considered too detailed for incorporation in an Annex, or is susceptible to frequent amendment, for which the processes of the Convention would be too cumbersome.

Regional Supplementary Procedures (SUPPS) have a status similar to that of PANS in that they are approved by the Council, but only for application in the respective regions. They are prepared in consolidated form, since certain of the procedures apply to overlapping regions or are common to two or more regions.

The following publications are prepared by authority of the Secretary General in accordance with the principles and policies approved by the Council.

Technical Manuals provide guidance and information in amplification of the International Standards, Recommended Practices and PANS, the implementation of which they are designed to facilitate.

Air Navigation Plans detail requirements for facilities and services for international air navigation in the respective ICAO Air Navigation Regions. They are prepared on the authority of the Secretary General on the basis of recommendations of regional air navigation meetings and of the Council action thereon. The plans are amended periodically to reflect changes in requirements and in the status of implementation of the recommended facilities and services.

ICAO Circulars make available specialized information of interest to Contracting States. This includes studies on technical subjects.

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