

Use of Flight Recorders

NOTE

This paper is an update to, and supersedes 23POS11, of the same name.

BACKGROUND

IFALPA acknowledges the contribution of Flight Recorders to accident and serious incident investigation, conducted by the relevant State Investigation Authorities in accordance with ICAO Annex 13. These investigations have formed the foundation of the current high level of aviation safety.

Annex 13, para. 5.12 provisions concerning the protection of accident and incident investigation records, which state as follows:

*5.12 The State conducting the investigation of an accident or incident shall not make the following records available for purposes other than accident or incident investigation, **unless** the competent authority designated by that State determines, in accordance with national laws and subject to Appendix 2 and 5.12.5, that their disclosure or use outweighs the likely adverse domestic and international impact such action may have on that or any future investigations:*

- a) cockpit voice recordings and airborne image recordings and any transcripts from such recordings; and*
- b) records in the custody or control of the accident investigation authority*

The sub-paragraph then goes on listing these records.

POSITION

Whilst IFALPA supports the intention of the above paragraph, the Federation believes that the qualifying text starting with "unless" should be removed. There can be no circumstances in which onboard recordings are made available for purposes other than accident or incident investigation. Furthermore, the records should be protected with national laws.

There have been multiple examples of misuse of such data; from ending up published by media, to serving as evidence in litigation cases. IFALPA fully agrees with the Annex 13 Note that states that the disclosure or use of those records in criminal, civil, administrative, or disciplinary proceedings, or their public disclosure, can have adverse consequences for persons or organizations involved in accidents and incidents, likely causing them or others to be reluctant to cooperate with accident investigation authorities in the future.

The Federation further believes that Flight Recorders should be subject to the following additional requirements:

- They should not become a tool to monitor and/or check the judgment, performance, or ability which a particular pilot demonstrates or has demonstrated during the course of a flight.
- Their use should be governed by an agreement between the relevant Pilot Association and their Authorities/Airlines and should also be regulated by legislation.
- In the case of an accident or serious incident the original recording media should be permanently retained for review should new evaluation technology become available.
- Recordings and transcripts should not be made available to any person outside the investigation at any time either during the investigation or after it is completed. If pertinent to the analysis of the accident, a carefully worded summary of the CVR transcript may be made available as part of the final report.
- As any increase in CVR duration results in exposing the flight crew to an increased risk of misuse, the information contained in the CVR should be limited to recording the current sector only. IFALPA believes that a performance-based duration is a much better option than any arbitrary number of hours of recording time.