Taiwan's quest for meaningful participation in the International Civil Aviation Organization

April 2011

Current situation

Taiwan has had no direct contact with the International Civil Aviation Organization (ICAO) since it was excluded from the organization in 1971, four decades ago now. In order to ensure the safety of international air transport within the Taipei Flight Information Region (Taipei FIR), Taiwan's civil aviation authority has nevertheless followed, to the best of its abilities, the rules established by the Convention on International Civil Aviation (Chicago Convention). In order to comply with ICAO standards, Taiwan has to seek information from indirect channels, such as:

➢ Subscription to the IHS AV-DATA services, through which some, but not all, ICAO annexes and related information are available.

➢ Obtaining part of ICAO information from attending international conferences, out-sourcing services and international friends.

Taiwan's difficulties

➢ <u>Untimely information</u>

Formulating ICAO Standards and Recommended Practices (SARPs) is a lengthy process that often takes years. Many Contracting States involved in the process, especially members of the ICAO Council, are kept well-informed through technical cooperation and regional meetings. As such, they have ample time to prepare to make adjustments when new SARPs are concluded. All Contracting States are notified of new measures as soon as the ICAO Secretariat publishes relevant information, if not earlier. Taiwan, however, is always absent from the deliberating

process and information loop, and remains in the dark as to the background and context of any new policies or decisions: as a result, Taiwan usually only knows "what", but not necessarily "why".

Although the subscription to IHS AV-DATA services gives the Civil Aeronautic Administration (CAA) of Taiwan's Ministry of Transportation and Communications (MOTC) access to certain ICAO documents, Taiwan has to first wait for ICAO to publish information. It has to then wait further for IHS to be given authorization to distribute the information and make it available for download. As such, compared with its counterparts in other countries, the CAA is left with a very limited amount of time to make adjustments before new rules come into effect, which often results in delays. Indeed, by being kept out of the information loop, Taiwan's operations are between six months to a year behind the international norm, which hinders its ability to provide safe and efficient air transport services.

A telling example is the Performance-Based Navigation (PBN) program. At the 36th Session of the ICAO Assembly in 2007, all Contracting States were urged to formulate PBN implementation plans by 2009. Regional States were able to participate in the PBN Task Force that the ICAO Asia and Pacific (APAC) Office subsequently established. A Regional PBN implementation plan was developed in September 2008, with short-term goals set for between 2008 and 2012, and medium-term goals set for between 2013 and 2016. The plan is to define the requirements and promote the standards of both the Area Navigation (RNAV) and the Required Navigation Performance (RNP) systems for en-route and terminal operations in the Asia Pacific.

Taiwan was not invited to attend any of the Asia Pacific PBN Task Force meetings and remained in the dark until 2009, when it received related information from neighboring countries. Although Taiwan was eventually able to complete related work, implementation lagged behind

the region. This stands in contradiction to one of ICAO's Strategic Objectives (Safety – Enhance global civil aviation safety), which is to ensure the timely implementation of ICAO provisions.

➢ Incomplete Information

Incomplete ICAO information also creates difficulties for Taiwan's efforts to comply with ICAO Standards. Most ICAO documents and meeting minutes concerning civil aviation security (such as security manuals, state letters and task force meeting minutes) are confidential or restricted, and are not available from IHS AV-DATA services. This makes it difficult for Taiwan to even be aware of new security measures, much less implement them smoothly.

An example was the introduction of enhanced security measures on liquids, aerosols and gels (LAGs) in cabin luggage starting March 2007. This confidential policy was formulated by ICAO and its members in October 2006, and Taiwan had no information until its CAA officials were asked to comment on the issue during an overseas trip in late December 2006. Due to the absence of timely and detailed information, confusion over the definition of LAGs and whether empty containers larger than 100ml were allowed onboard led to complaints by passengers. In the end, it was Taiwan's airlines and their overseas branch offices that eventually transmitted the necessary security guidance back to the CAA to help clear up the confusion.

➢ System incompatibility

Given the lack of direct contact with ICAO, Taiwan has had to rely on assistance from the United States government to undertake audits and get its ability to adhere to international SARPs recognized. However, the scope of the US and the ICAO audit systems are different, which means that Taiwan can neither ensure every standard adopted in the Taipei FIR

is in line with ICAO standards, nor be included in the process of integrating the different systems.

Aviation safety

The US Department of Transportation's Federal Aviation Administration (FAA) dispatches personnel to conduct International Aviation Safety Assessment (IASA) audits of the CAA. These gauge the ability of the CAA to implement and enforce international SARPs for aircraft operations and maintenance, as regulated in Annexes 1, 6 and 8 of the Chicago Convention. However, the more comprehensive ICAO Universal Safety Oversight Audit Program (USOAP) consists of mandatory, systematic and harmonized safety audits on personnel licensing, aircraft operation, airworthiness, air traffic services and aerodromes, as regulated in Annexes 1, 6, 8, 11 and 14 of the Chicago Convention. Most Asia Pacific States have undergone USOAP audits, and have developed corrective action plans based on the ICAO audit reports.

The FAA, EU Commission, ICAO and International Air Transportation Association (IATA) signed a Memorandum of Understanding at the 37th ICAO Assembly in September 2010, agreeing to participate in Global Safety Information Exchange (GSIE) to share data with ICAO acting as coordinator so as to improve aviation safety worldwide. To prevent gaps in the global civil aviation network, Taiwan should be included in this key mechanism.

Security

In response to the 911 terrorist attack, ICAO launched the Universal Security Audit Program (USAP) in November 2002 to better determine the degree of compliance of Contracting States in implementing security SARPs, as stipulated in Annex 17 to the Chicago Convention. The

feedback from the two tiers (national and airport) of audits greatly assists the Contracting States in enhancing the implementation of security SARPs and in developing corrective action plan.

On the other hand, the US Transportation Security Administration (TSA) regularly dispatches auditors to examine the security measures of American air carriers and foreign airlines operating air transportation services within or to the United States. These experts are also invited to conduct audits in Taiwan to ensure that international standards are met. However, the scope of the TSA audits differs from that of the USAP, so Taiwan's complete compliance with ICAO's SARPs is often questioned.

➢ Limited information exchange

The Chicago Convention authorizes Contracting States to formulate reservations to the Annexes to the Convention, with such reservations to be listed in appendixes of the Annexes. As Taiwan is not an ICAO member, it cannot use such appendixes to inform Contracting States of its reservations. Moreover, ICAO often conducts surveys among Contracting States on such topics as airports and civil aviation to update related information. Taiwan's being denied access to ICAO restricts the exchange of information between Taiwan and ICAO Contracting States.

➢ ICAO's failed plans for the Taipei FIR

The fact that Taiwan is unable to attend ICAO's regional and technical meetings makes it unable to implement ICAO's plan for the Taipei FIR. Taiwan's aviation authority is consulted neither before nor during meetings regarding the Taipei FIR. Worse yet, Taiwan is never informed of any conclusion of such meetings. For instance, in 2006 the ICAO formulated two "most direct routings" that were to traverse the Taipei FIR and published them in the "Asia and Pacific Regions Air Navigation Plan" (Doc 9673). Taiwan only indirectly learned about them from the IATA afterwards. As the implementation of these routings requires

coordination and cooperation between the Taiwan's CAA and ICAO on technical details, the lack thereof leaves ICAO's plans unfulfilled.

Taiwan's requests and goals

The Taipei FIR is an indispensable link in East Asia's air traffic network. <u>Taiwan hopes to be invited to ICAO's meetings as an observer so as to ensure that Taiwan can be kept informed of the formulation of the ICAO's regulations and standards, including the underlying rationale thereof</u>. As an observer, Taiwan would be able to gather sufficient and accurate information, so that its CAA could revise its national civil aviation regulations and comply with the international standards in a comprehensive and timely manner. Taiwan's participation will substantially boost ICAO's pursuit of "safe, regular, efficient and economical air transport," as promulgated in Article 44 of the Chicago Convention. Committed to international civil aviation affairs, Taiwan seeks to attain the highest level of safety in its air space and remains ready to contribute to the global aviation network.