



Juridicial and Technical Aspects in the Investigation of Aviation Accidents and Incidents in Argentina and Latin America

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"JURIDICAL AND TECHNICAL ASPECTS OF THE INVESTIGATION OF AVIATION ACCIDENTS AND INCIDENTS IN ARGENTINA AND IN LATIN AMERICA"

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Forewords

It can be said that the technical and legal aspects of aircraft accidents and incidents are one of the most complex but less studied chapters of the contemporaneous Air Law. In fact, in all aviation accidents, the tension between the technical issues and legal regulations as well as the discernment of liabilities, becomes dramatically evident since the objective of the investigation has a preventive purpose, meanwhile the civil or criminal procedures mainly lead to apportion blame or liability.

This distinction is clearly made in Section 3.1 of Chapter 3 of Annex 13 of the 1944 Chicago Conventionⁱ **(1)**, through which is established that *“The sole objective of the investigation of an accident or incident shall be the prevention of accidents and incidents. It is not the purpose of this activity to apportion blame or liability”*.

Although the technical and the juridical investigations, like Janus’s faces, pull in opposite directions, they have a common border, upon which little is spoken in specialized fora and whose analysis will be the main object of this paper, since - often - the difference of purposes already mentioned generates an entropy whose vortex turns around the use by Courts and judges of the information contained in the technical report of the investigation. Such a situation and its related weakening effect put in risk the effectiveness of both subsystems: the legal and the technical oneⁱⁱ **(2)**

The Latin America scenario is an example of the situation above described. In Argentina – like in others Latin American countries - the Civil Aviation Code presents many asymmetries with regard to the international standards and practices recommended by ICAO, the most of which still have not been notify according to what is established in article 38 of the 1944 Chicago Conventionⁱⁱⁱ **(3)**. As ICAO practices represent both the minimum standards applicable to civil aviation and the last tendencies in the field, the updating of Argentinean and others Latin American Codes is crucial^{iv} **(4)** Such modernization has to adapt them to current aeronautical demands in order to harmonize the needs of Justice with those proper of the technical investigation of accidents and incidents without placing in risk the flight safety^v **(5)**.

1. Annex 13 to the 1944 Chicago Convention on International Civil Aviation. Origin and objectives.

The Preamble of the 1944 Chicago Convention, signed in Chicago on 7 December 1944, clearly establishes that international civil aviation should be developed in a safe and orderly manner.

What is remarkable in this sentence is the fact that the word *safe* precedes the word *order*. Teleological speaking, and taking into account what is said by art. 31 of the 1969 Vienna Convention on the Law of Treaties^{vi} (6), we think of such order of precedence is not casual but it seeks to highlight a goal itself. Consistently, when article 44.a) deals with the "Objectives" of the Organization, also emphasizes the motto "*safe and orderly*" as the more important targets of the Convention.

Finally, Article 26 of Chapter IV on "Measures to Facilitate Air Navigation" sets down two principles: 1) every time an accident occurs it shall be investigated, and 2) the investigation shall be carried out by the country in which the accident took place. The rule was the source of Annex 13, entitled "Aircraft accident and incident Investigation"^{vii} (7).

2. Necessity and purpose of the investigation of civil aviation accidents

Section 3.1 of Chapter 3 of Annex 13, entitled "Objective of the investigation", determines that "*The sole objective of the investigation of an accident or incident shall be the prevention of accidents and incidents. It is not the purpose of this activity to apportion blame or liability*".

The Argentinean Aeronautical Code, in force since 1967, alludes to the importance of carrying out aircraft accident inquiries not only in Title IX but also in its Preliminary Words (*Exposición de Motivos*)^{viii} (8). The last one recognizes that the high degree of safety and efficiency in air carriage is - to a great extent - consequence of the scrutiny of the causes of the flight accidents. The first one regulates the issue through articles 185 to 190 by establishing that "*Every aircraft accident will be investigated by the aeronautical authority to determine its causes and to establish the measures to avoid its repetition*" (art. 185)

Similar provisions can be found in the Brazilian Code of Aeronautics, which creates an Aircraft Accident Investigation and Prevention System which involves "*..the manufacturing, maintenance, operation and flight of aircraft, as well as the activities supporting civil aviation facilities in the Brazilian territory*" (art. 86 and 87); the Aeronautical Code of Chile, whose art. 181 indicates that "*The investigation will be made with the purpose of determining the cause of the accident or incident, of adopting the necessary measures to avoid its repetition and ..*"; the Civil Aeronautics Code of Guatemala, which empower the Civil Aviation Head Office "*to investigate and coordinate from the administrative and technical point of view the aircraft accidents and incidents in Guatemala..... [in order] to determine its causes and to establish the measures to prevent its repetition..*"; the Civil Aviation Act of Mexico, whose art. 81 sets down that the Secretariat of Communications and Transport "*...will determine the probable cause of [the accident]..*"; the Civil Aeronautic Act of Peru,

that regulates the topic in Title XV also recognizing that the objective of the investigation of the accident is “..to determine its causes and to establish the measures to avoid their reiteration”; the Aeronautical Code of Uruguay, which reproduces almost the same formula; and the Civil Aviation Act of Venezuela which highlights the goal of “[Approving] norms applicable in the area of the State’s security, and oriented to achieve the uniformity and equality of methods and procedures internationally accepted to improve the security, regularity and efficiency of air navigation” (art. 3.4).

3. Methodology of the Inquiry

The Appendix of Annex 13 on the “Format of the Final Report” indicates the parts in which it is divided, and defines the titles of the Report following the logic methodological sequence of the technical investigation of the aircraft accident or incident. This task supposes an expert knowledge, training and experience in multidisciplinary works that cannot be assumed without a quite solid professional preparation.

This training, knowledge and preparation differs from those skills expected from a judge when resolves the case to the light of the civil and criminal law.

4. Purpose and importance of recorders (FDR and CVR)

Both the Flight Data and the Cabin Voice recorders were specifically installed in aircraft as a technical aid for the investigation of accidents and incidents. In some cases it would have been impossible or very difficult to determine the causes of accidents without counting on the information contained in these recorders.

Section 5.12 of the fifth Chapter, referred to “Investigation”, recommends that – in principle – such information shouldn’t be disclosed “.. for purposes other than accident or incident investigation...”

In Argentina, the Aeronautical Code neither mention them nor legally protects the information may be due to the fact that - at the moment of the sanction of our Code (1967) – the incorporation of both recorders in air carriage was at the first stage. Similar blanks can be seen in other Latin American rules.

5. Asymmetries between the Argentine Aeronautical Code and other Latin American Acts respect to Annex 13

i) Although there is a coincidence between the Argentine Aeronautical Code and Annex 13 on the purposes of the aircraft accident investigation, the Code says explicitly nothing about the importance of not civilly or criminally blaming anybody on the basis of the information gathered by technical investigators^{ix} **(9)**. On the contrary, provisions of Decree 934/70 admit the use of the report to sanction people, at least from the administrative point of view.

The Code also lacks rules imposing the investigation of incidents or what should be done whether the State of occurrence decides not to investigate the accident or the investigation has been carried out superficially.

Once the aeronautical authority arrived at the place of the accident (namely, the Investigation Board of Civil Aviation Accidents – JIAAC in Spanish, depending on the Argentinean Air Force), article 187 establishes that the removal or realisation of the aircraft, its parts or remainders, will be only possible with its previous consent. The first legal inference that can be obtained from this rule is that, in Argentina, the custody of the evidence in case of a plane crash undoubtedly corresponds to the aeronautical authority. Nevertheless, judges usually take control on the FDR and CVR to utilize them as evidence to apportion blame or liability.

For instance, during the investigation of accident of LAPA Air Company, happened on 31 August 1999 in Jorge Newbery Airport, placed in the Buenos Aires city, Criminal Judge ordered the seizure of Flight Data and Cabin Voice recorders. After that, the Judge gave them to the JIAAC with the unique mandate to send the records to the NTSB for their transcription and bring them back to the Judge. The information contained in the CVR was soon published by newspapers and reproduced in television channels, affecting with this behaviour personal rights of the descendants and spouses of those who participated in the dialogues registered by the CVR.

Definition of aircraft accident given by the Argentinean Code does not coincide with Annex 13 – Chapter 1 and, when the Decree 934/70 alludes to the “operation of the aircraft”, does not give a cabal idea of the moment in which such operation starts. For this reason, Argentina has notified to ICAO that in our country the concept of “accident” is broader than the ICAO’s.

ii) Since 1986 Brazil has an Aeronautical Code approved by Act 7565. Its article 94 indicates that *“The facilitation system of air transport, at hands of the Ministry of Aeronautics, aims to study the norms and practices recommended by the International Civil Aviation Organization – ICAO - and to propose to the respective organisms the more suitable measures to implement them in the country, guaranteeing the results and suggesting the necessary amendments for the improvement of the air services”*.

Nevertheless, the set of articles related to administrative infractions also includes violations of *“... rules, norms or international clauses or acts”* (article 302.II.m). Such infractions will be weighed by an Aeronautical Judgment Board, whose creation is endorsed to the Ministry of Aeronautics by article 322. The application of administrative sanctions does neither prevent nor prejudice the infliction of civil sanctions by other authorities (article 293), but if along with the administrative infliction a crime is detected, the aeronautical authority will immediately forward the file to the police or the judicial authority (article 291. § 1°). Notwithstanding all this, until now Brazil did not communicate any asymmetry between its national law and the international norms. Consequently, and taking in mind art. 37 and 38 of the Chicago Convention, such silence must be interpreted at the international level in the sense that Brazil fulfils them perfectly^x **(10)**.

iii) From 1990 the Republic of Chile has a new Aeronautical Code approved by Act 18916. Title XI - compounded by two articles - is devoted to the investigation of aircraft accidents and incidents. Article 181 establishes that *“the aeronautical authority shall carry out the administrative investigation of those aircraft accidents and incidents that take place on national territory...., without prejudice to faculties that correspond to the competent tribunals”*.

Reading the first part of the article it seems to confirm the independence of the technical investigation – called here “administrative” -, irrespective of that performed by Justice. However, the second part of the norm throws some doubts on this interpretation, because here it is indicated that *“The investigation will be made with the purpose of determining the cause of the accident or incident, of adopting the necessary measures to avoid its repetition and of blaming people for the infractions”*.

iv) A new Civil Aviation Act was approved in Guatemala by Decree 93-2000. Its article 5 specifies that *“For the activities foreseen in this Act, the Government of Guatemala adopts the international norms of the International Civil Aviation Organization”*, and article 117 determines that *“The investigation of aircraft accidents and incidents will be subjected to the norms and procedures established in international treaties ratified by Guatemala and its aim is the prevention of them”*. Nevertheless, when the investigation of aircraft accidents and incidents is regulated in Title XIV, formed by articles 116 and 117, the first of which entitles the Head Office *“to investigate and coordinate from the administrative and technical point of view the aircraft accidents and incidents in Guatemala.... [in order] to determine its causes and to establish the measures to prevent its repetition, and if necessary sanctioning the infractors”*. Accordingly, article 129 of Title XV stipulates that *“If during the investigation of an accident or an infraction...the Civil Aviation Head Office discovers the commission of an infraction, illicit act or crime, it will forward the pertinent documentation and other elements of evaluation to the competent authority”*.

v) With the last amendment introduced on January 1998, the Mexican Civil Aviation Act regulates the topic addressed in this paper from articles 79 to 82 of Chapter XVI, entitled “Accidents and Search and Rescue Activities”. The first remarkable note of this legislation is its nature of being of public interest (article 1). In harmony with this feature the international norms and treaties are beneath the national Law (article 4). The investigation shall be carried out by the Secretariat of Communications and Transport (article 81) *“...with hearing of the interested parties”*, adding that *“...it will determine the probable cause of [the accident] and, if necessary, it will impose penalties...”*. As in most part of the already analyzed Latin American legislations, this norm is in frank contradiction with what is stipulated in Annex 13. Nevertheless, Mexico is listed among the countries about which ICAO never received a notification detailing with the asymmetries between its norms and the international ones^{xi} (11).

vi) Peru, Uruguay and Venezuela are other examples of the inconsistencies between Latin American Air Laws and ICAO rules.

6. Proposals to update the investigation of accidents and incidents in the Argentinean Aeronautical Code

In order to be consistent with ICAO rules, the Argentinean Aeronautical Code should be updated in the following aspects:

- 1°) the definition of accident and incident;
- 2°) to make clear that the Objective of the Investigation is not to apportion blames or responsibilities;
- 3°) to protect the information and statements made by crew, cabin crew, witnesses, passengers, manufacturers, operators or any other person, with the exclusive purpose of preventing futures accidents or incidents and of improving the Flight Safety;
- 4°) in order to protect the flight recorders prohibit their diffusion in any media. Apparently, Argentina – like other Latin American States – has forgotten that flight recorders are installed in aircraft with the object to facilitate the investigation of accidents and incidents, and consequently they don't have to be used for purposes other than the flight safety;
- 5°) to eliminate any kind of sanctions as a result of the investigation;
- 6°) to investigate not only accidents but also incidents;
- 7°) to make obligatory the investigation of those accidents or incidents involving Argentinean aircraft to the extent they are not investigated in the State of occurrence;
- 8°) to implement an obligatory system of notification of incidents;
- 9°) to create a data base on accidents and incidents;
- 10°) to interchange the information on operational safety with other States.

7. Parts of the Technical Report that could be used.

In order to avoid that the action of justice prevents the action of the technical investigation, but also in order to avoid that an absolute confidentiality on the results of the technical investigation impairs the action of justice, certain parts of the Technical Report should be of free public access^{xii} **(12)** (for instance, those that indicate which were the causes of the accident, and which are the recommendations to prevent similar occurrences)^{xiii} **(13)**.

8. Privileged Information: its definition and use.

The Argentinean legal order lacks the idea of Privileged Information, a legal construction accepted by the USAs' legislation, therefore the statements of witnesses made with preventive purposes before the Civil Aviation Accident Investigation Board are used in judicial processes to apportion blame or liability.

The goal of determining which data are privileged is to protect the information provided during the investigation of an accident or incident with the purpose of improving this task and of not impairing the future inquiries. For instance, 49 USCA § 1441(e) stipulates that *“No part of any report or reports of the National Transportation Safety Board relating to any accident or the investigation thereof, shall be admitted as evidence or used in any suit or action for damages growing out of any matter*

mentioned in such report or reports". Since it is Privileged Material, the judge is specially entitled to review the report privately to determine whether some of its elements or parts can be disclosed in the process^{xiv} **(14)**

It is remarkable to recall here that the concept of "Privileged Information" has been incorporated by unanimity in the SICOFAA Aircraft Accidents Investigation Manual of the American Air Forces Cooperation System (SICOFAA, in Spanish)^{xv} **(15)**. This precedent can be a starting point for the future legal trends and jurisprudence in Latin America.

9. Necessity of having a harmonic legislation in the Latin American countries

Having analyzed the legislation of eight Latin American countries^{xvi} **(16)**, two constant are observed: on one hand, a set of asymmetries between their provisions and the ICAO rules, not yet notified to the international organism. This behaviour has to be seen as a failure to perform articles 37 and 38 of the 1944 Chicago Convention. On the other hand, there is also certain lack of homogeneity in domestic regulations of the investigation of civil aviation accidents. Both problems, together with the existence of some legal lagoons in the matter, lead us to propose the harmonization and integral treatment of the subject in all Latin American States as soon as possible.

10. Binding value of the ICAO's Annexes.

As a result of the diplomatic conference held in Chicago between November and December of 1944 with the main objective of elaborating an agreement upon international civil aviation, a Final Act composed by five Appendices was approved, the Second of which contained the text of the 1944 Chicago Convention, and the Fifth one a project of twelve Ordinances dealt with technical issues of international civil aviation^{xvii} **(17)** Such 12 Ordinances are mentioned in art. 54.l) of Chicago Convention as "*international standards and recommended practices, for convenience designate them as Annexes to this Convention*".

Consequently, the most interesting question that here prevails is to discern whether those twelve Ordinances were included as part of the Chicago Treaty and, in such a case, which are their binding parts^{xviii} **(18)**. Finally, it is also relevant to inquire whether there is any legal difference between the first twelve Ordinances and the subsequent six technical Annexes elaborated by the ICAO Council^{xix} **(19)**, like Annex 13 approved seven years later.

In general, and according to the dominant opinion of contemporary authors, it could be held that they are the so-called norms of International Regulation Law. Taking care of the ontological differences, they resemble the decrees approved by public administration of any State with the intention of regulating the rights and obligations contained in the laws dictated or approved by the national Parliament.

The previous considerations point out that the Annexes do not have the same legal nature of Chicago Convention, but they have a binding nature derived from the above

mentioned articles 37 and 38. Hence, their binding nature would be based on the *good faith* principle, which is unanimously considered by publicists as *ius cogens*, that is to say, as a peremptory norm which is part of the international “public order”. Once the State communicates the asymmetry (and here it is necessary to emphasize that such a notification is a *pacta sunt servanda* obligation), ICAO immediately distributes the news to other members notifying that there is a country where the international recommended norm does not prevail or prevails with the communicated modifications. By communicating the asymmetry such State can oppose its national rule towards other members. All this contributes, indeed, to good international faith. Therefore, in case of breach, the derived legal consequences lack the severity of the case where the breach of a substantive legal norm could be detected. For that reason the Chicago Convention does not indicate any specific sanction against the defaulting State. This omission debilitates both the effectiveness of article 38 and the proclaimed target of reaching the highest possible degree of uniformity within the regulations in order to facilitate and improve the safety of air navigation (article 37)^{xx} (20).

11. Amendments to Annex 13 which make the protection of the information more effective.

Although Chapter 3 of Annex 13 clearly establishes that the purpose of the investigation is not to apportion blame or liability, later in Chapter 5, entitled “Investigation”, in Parr. 5.10 entitled “Coordination - Judicial Authorities”, in Parr. 5.11 on “Informing aviation security authorities”, and in Parr. 5.12 on “Non-disclosure of records”, it is placed in the hands of justice the last decision to reveal them at national and/or international level.

This ambiguity allows that certain information can be used for aims other than the prevention of future accidents or incidents, leaving the final and unquestionable decision to the criterion of Justice, whose function is mainly devoted to apportion blame or liability.

In order to fulfil with the objectives of the investigation (Chapter 3), the following are our proposals of amendments so as to improve the above quoted paragraphs:

Parr. 5.10, as amended: (proposals are in bold letter, highlighting that Note 2 should be considered as a norm instead of a method)

The State conducting the investigation shall recognize the need for coordination between the investigator-in-charge and the judicial authorities. Particular attention shall be given to evidence which requires prompt recording and analysis for the investigation to be successful, such as the examination and identification of victims and read-outs of flight **data and voice recorders (FDR and CVR)** recordings. **They shall be given without delay to the investigator-in-charge, since any unjustified or illegal retention would impede the investigation process and seriously affect the flight safety. All this shall be done in order to avoid that the security of other passengers, crew and goods may be directly affected.**

Possible conflicts between investigating and judicial authorities regarding the custody of flight **data and voice** recordings **(as well as another element related to the**

investigation of the causes of the accident) shall be resolved by an official of the judicial authority carrying them under temporary custody, in the understanding that the main custody corresponds to the authorities in charge of the investigation, unless a more important legal interest demonstrates to proceed otherwise.

Note 1.- (remains unchanged).

Parr. 5.11, as amended – Informing aviation security authorities (proposals are in bold letter)

If, in the course of an investigation it becomes known, or it is suspected, that an act of unlawful interference was involved, **according to the definition given in the respective international treaties enforce**, the investigator-in-charge shall immediately initiate action to ensure that the aviation security authorities of the State(s) concerned are so informed. **All the information and facts related to the unlawful interference shall be made available to the security authorities; the rest of the information shall be addressed according to the recommended in Parr. 5.12.**

Parr. 5.12, as amended - Non-disclosure of records (proposals are in bold letters)

The State conducting the investigation of an accident or incident, **wherever it occurs**, shall not make the following records available for purposes other than accident or incident investigation:

- a) all statements taken from persons by the investigation authorities in the course of their investigation;
- b) all communications between persons having been involved in the operation of the aircraft;
- c) medical or private information regarding persons involved in the accident or incident;
- d) cockpit voice recordings and transcripts from such recordings;
- e) opinions expressed in the analysis of the information, including flight recorder information, **since the installation of flight data and voice recorders is exclusively for the investigation of accidents and incidents, or for other studies related to the flight safety; and**
- f) any privileged information obtained during the investigation.**

5.12.1 These records shall be included in the final report or its appendices only when pertinent to the analysis of the accident or incident. Parts of the records not relevant to the analysis shall not be disclosed.

The appropriate authority for the administration of justice in the State that investigates the accident or incident shall be entitled to use the records mentioned in points a) **to f)** when determines, **based on founded reasons**, that their disclosure outweighs the adverse domestic and international impact such action may have on that or any future investigation.

12. The technical investigation of unlawful interference (Opinion of an Accident Investigator).

Paragraph 5.11 of Annex 13 previously analyzed, establishes that in case of evident or suspected act of unlawful interference, the investigator-in-charge shall immediately initiate action to ensure that the aviation security authorities of the State(s) concerned are so informed.

But it is not clear which is the future relation of the investigator with the security authorities and which kind of protection shall be given to the records protected under parr. 5.12.

Also should be considered that the flight safety needs to take prompt action and usually justice times do not take care of such necessity.

12.1 Proposal of amendments to Annex 17

Annex 17^{xxi} (21), defines security as “*A combination of measures and human and material resources intended to safeguard civil aviation against acts of unlawful interference*”, but there is no recommendation to the States to undertake an inquiry to prevent as soon as possible similar acts of interference.

Independently whether deaths or damage were caused by an accident or criminal attack, certainly the Aviation Safety must be improved. Therefore, Annex 17 would have to be updated consistently with Annex 13 to carry out a technical investigation with the purpose of making Safety Recommendations to improve both safety and security with the object that future passengers, crew and cargo fly safely.

ICAO should recommend that the State of occurrence shall undertake a technical investigation through which the task of Justice, Security and Investigation Board is co-ordinated.

13. Conclusions.

It is evident that justice is increasingly hampered the investigation of aircraft accidents and incidents.

This interference affects the readiness and quality of the technical investigation. We believe that, taking into account the strong pressures exerted by victims, insurances companies and the media -, this problem will increase.

Although there are countries that have legislation consistent with Annex 13, other States do not have appropriate rules protecting the investigation from Justice. Thus the risk of interference is real. This is worsened by the lack of a more precise international legislation (ICAO's Annex 13).

Modern aviation is mainly international, and then nobody is free from this problem, since the investigation of accidents is made on the basis of the particular legislation of the country of occurrence.

Particularly for the Latin American countries, inspired in different legal roots than other regions, there is not a strong safeguard for the use of the information gathered by investigators for other purposes.

Also the technical investigation – in co-ordination with the task of Justice, Security and Investigation Board – should be performed for the acts of unlawful interference (ICAO's Annex 17), since independently of how the accident happened or who carried out the act of unlawful interference, which is endangered is the flight safety and security of passengers, crew, cargo, and third parties on the surface.

Under this background, we think that ISASI has an important role to generate the appropriate improvements.

14. Recommendations

- 1°. Annex 13 should be amended to improve the safeguard of records.
- 2°. With the assistance of ISASI, Latin American countries should adapt their legislation to Annex 13.
- 3°. ISASI may propose to ICAO the above detailed amendments.

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^{iv} Ortiz, L. – Capaldo, G.: *Can Justice Use Technical and Personal Information Obtained Through Aircraft Accident Investigations?*, Journal of Air Law & Commerce, Vol. 65 – Issue 2, Spring 2000 (pp. 263/277).

^v Conclusions of the “*I Jornadas Nacionales para Jueces y Fiscales Federales sobre Aspectos Técnicos y Jurídicos de la Investigación de Accidentes de Aviación*”, Faculty of Law of the University of Buenos Aires, 7-8 September 2000.

^{vi} As general rule of interpretation, article 31 of the 1969 Vienna Convention, determines that “*A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose*”.

^{vii} The last amendment of Annex 13 was made in July 2001 (Ninth edition) and entry into force three month later, in November 2001.

^{viii} Código Aeronáutico de la República Argentina (Aeronautical Code, Argentina), Act 17285/67 as amended by Acts 19.620, 20.509/73 and 22.390.

^{ix} Ortiz, L.: *Legislación sobre investigación de accidentes en la Argentina*, Seminario sobre Investigación de Accidentes e Incidentes: dos perspectivas regionales. Santa Cruz de la Sierra, Bolivia, 2-5 April 2001.

^x Capaldo, G.: op. cit., see footnote 2.

^{xi} Capaldo, G.: op. cit., see footnote 2.

^{xii} Capaldo, G.: *El Derecho Aeronáutico en la investigación de accidentes aéreos: perspectivas desde el Código Aeronáutico argentino y su probable reforma*”, Comunicación Científica a la Sexta Ponencia sobre “Investigación de Accidentes Aéreos” – Instituto Iberoamericano de Derecho Aeronáutico, del Espacio y de la Aviación Comercial, Madrid 23-25 October 2001.

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^{xiv} Matthewson, Charles: *It is a privilege*, Flying Safety, October 1994, and May 1995.

^{xv} Ortiz, L. – Capaldo, G.: *Accidentes e incidentes de aviación. Algunos aspectos técnicos y jurídicos*, Revista Aeroespacio – Nov/Dic 2000. See also footnotes 3 and 5.

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^{xvii} Primavera, Joaquín: *Uma questao prévia: Vigoram os Anexos da ICAO na ordem jurídica Interna portuguesa*, in Na data do 50º Aniversário da Convencao de Chicago de 1944.

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^{xviii} The difference between Norm and Recommended Practice (or Standard) was settled for the very first time in Resolution A1-31 of the ICAO’s General Assembly.

^{xix} Capaldo, G.: op. cit., see footnote 13.

^{xx} Capaldo, G.: op. cit., see footnote 13.

^{xxi} Annex 17 to the Convention on International Civil Aviation – Security, Seventh Editio – April 2002.