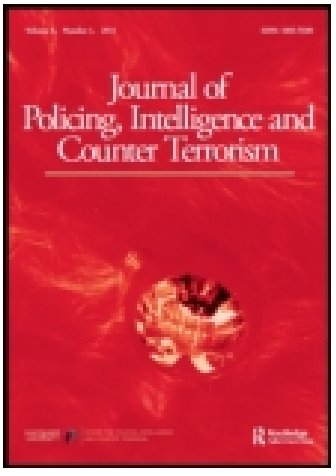

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South Pacific Civil Aviation Safety and Security Through Regionalism: New Initiatives for the Pacific Aviation Safety Office

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ABSTRACT

This article examines the existing civil aviation safety and security apparatus in the Pacific region, looking at the International Civil Aviation Organisation (ICAO), and the Pacific Aviation Safety Office (PASO). It argues that the current system of compliance monitoring through auditing and capacity building in the Pacific region is unsystematic and thus ineffective. Pacific Island Countries rely on access to air transport routes for tourism and trade, mainstays of Pacific Island economies that promote economic development and reduce poverty. However, Pacific Island Countries have difficulty meeting ICAO international civil aviation safety and security standards because they lack the resources and technical expertise necessary to implement the standards contained within their legislation. PASO, a regional organisation, which was established to centralise regulatory oversight of civil aviation under the Chicago Convention, is beset by financial and organisational difficulties. PASO must therefore secure alternative funding, or restructure so it no longer operates on a cost recoverable basis. This article discusses two alternative operational frameworks. The first is based on the Pacific maritime security model for auditing and capacity building; the Secretariat of the Pacific Community's Regional Maritime Program (SPC-RMP). This is rejected in favour of a second model based on the International Air Transport Association's (IATA) Operational Safety Audit (IOSA) program. The rationale for this is discussed.

Introduction

The establishment of a set of global civil aviation safety and security standards is an important achievement in the international civil aviation landscape; however in practice the oversight of this framework in the Pacific has been unsystematic.

Across the region threat levels have been assessed as medium (www.asio.gov.au, 2010). Yet this is not a reason for complacency. At this time, the existence of a strong regional safety and security apparatus is important in order to protect the people of Australia and the Pacific Islands from future attacks. Air transport routes are an integral part of the world economy, and have supported a rapid increase in world trade (Onidi, 2008). Air transport systems are essential for trade and tourism, which promote economic growth and reduce poverty (ADB, 2005). The largest potential for air transport growth lies in developing markets, including in the Pacific region. In 2008 the world gross domestic product (GDP) grew at approximately 3.2%. Australia and New Zealand's economies grew at 2.1 % and 0.3% respectively, whereas the aggregate economy of the Asia and Pacific regions grew at 5%, with developing countries in the Asia and Pacific regions growing at 7.7%. Asia and Pacific airlines accounted for 29% of the total air traffic volume (passenger, freight and mail) (ICAO, 2008).

In order for air transport systems to support economic growth in the Pacific region, it is important that the Pacific civil aviation system meets international safety and security standards (ADB, 2005). However developing markets, such as in the Pacific region, keenly suffer the effects of resource deficiency, lack of training and political support (Onidi, 2008). Most Pacific Island Countries face severe financial limitations and shortages of skilled personnel which seriously inhibit the ability of Pacific Island Countries in particular to meet international civil aviation safety and security standards, owing to which they may be denied access to air transport routes (ADB, 2005).

Developing countries, according to Guillame (2008), judge that in terms of security risks, they are unlikely targets for terrorism. With limited resources they choose not to spend money on updating their civil aviation safety and security capabilities. Szyliowicz (2004) argues that there are too few professionals with experience in the area of transportation security to oversee the restructure of the transportation security apparatus in the region. This is especially true in the Pacific where many national and regional transportation security bodies are staffed with people who have little or no experience in the field.

If they cannot meet international standards, Pacific Island Countries run the risk that their aircraft will be blacklisted from flying over the sovereign airspace of other countries (Guillame, 2008), or that the weakened Pacific civil aviation safety and security system may be exploited for unlawful acts. Interruption to air transport systems would impose a high cost on the Pacific economy, and a significant risk to Australia's economic and social wellbeing and the wellbeing of Pacific Island Countries (ADB, 2005).

This article examines the existing civil aviation safety and security apparatus in the Pacific region, looking first at the International Civil Aviation Organisation (ICAO) and Pacific Aviation Safety Office (PASO). It argues that the current system of compliance monitoring through auditing, inspections and capacity building in the Pacific region is unsystematic and thus ineffective. It discusses two alternative frameworks. The first is based on the Pacific maritime security model for auditing and capacity building; the Secretariat of the Pacific Community's Regional Maritime

Program (SPC-RMP). This is rejected in favour of a model based on the International Air Transport Association's (IATA) Operational Safety Audit (IOSA) program. The rationale for this is discussed.

ICAO and PASO

The transportation industry generally, and the civil aviation transportation system specifically, lack geographic boundaries, making them easily accessible. To ensure they remain thus is to commit to a level of safety and security that protects the system from disruption, passengers from harm, and economic and trade routes from damage (Downey & Menzies, 2002). Aviation safety and security must be recognised as issues that necessitate both regional and international responses (George & Whatford, 2007). In the Pacific region there are two primary civil aviation organisations. The International Civil Aviation Organisation (ICAO), an international organisation and specialised agency of the United Nations, is responsible for setting an international legal framework that enhances the safety and security of international civil aviation. The Pacific Aviation Safety Office (PASO) is a regional organisation which provides advice and technical assistance to member States as requested, using the domestic legislation of each State as the basis for assessing State compliance. Most Pacific Island Countries have amended their domestic legislation to comply with ICAO standards; however not all Pacific Island Countries have the resources to implement the standards contained in their legislation (http://www.icao.int, 2004, para. 1 & 2).

Through Annexes to the *1944 Convention on International Civil Aviation* (Chicago Convention), ICAO adopts international civil aviation safety and security "standards and recommended practises", which all ICAO member States must meet (Chicago Convention, 1944, Art 37). Compliance with ICAO standards is mandatory, however compliance with recommended practises, although desirable is not mandatory. Whereas deviation from ICAO standards must be reported by member States, deviation from recommended practises does not (Diedriks-Verschoor & Butler, 2006). There are 18 Annexes to the Convention. *Annex 17*, which covers aviation security, is chiefly concerned with the administration and coordination of a State's aviation security program, and also technical measures for protecting the security of international air transport. States must make certain that the security programs implemented by their air carriers harmonise with the security programs of the airports they operate out of (www.icao.int, para. 2 & 3).

ICAO undertakes a rolling series of safety and security audits and follow-up audits over a four year period. The ICAO training centre in Auckland is run by the New Zealand Aviation Security Service, which has received accreditation from ICAO to run ICAO training courses for the region (www.avsec.govt.nz, 2009). As of 2008, initial safety audits had been conducted in eight Pacific member States; The Cook Islands, Fiji, Kiribati, the Marshall Islands, the Federated States of Micronesia, Nauru, Palau, Papua New Guinea, Samoa and Tonga. Follow up audits had been conducted in Cook Islands, Fiji, Palau, Papua New Guinea, Samoa and Tonga (http://

www.icao.int, 2008). The results of security audits are protected (Huang, 2009) and information about the degree to which member States' aviation security oversight systems comply with ICAO standards is available only to ICAO members on a restricted website. However, ICAO publishes the findings of safety audits in a report that is made available to other ICAO members (Diedriks-Verschoor & Butler, 2006), and also publically on the ICAO website.

The following is an example of an enactment of a safety regulation in a Pacific State in the area of primary aviation legislation. Following the initial audit by ICAO, in 2002 Palau adopted its own *Civil Aviation Regulations* based on the US Federal Aviation Administration (FAA) model. ICAO considered that Palau had made significant progress, although it had not established procedures for implementing amendments to ICAO standards and recommended practises, or for addressing the differences identified between Palau's practises and ICAO standards (http://www.icao.int Palau_en_exec[1].pdf, 2008, para. 1).

Responsibility for the implementation of ICAO standards rests with member States, of which there are 190. By accepting the Chicago Convention, member States agree to adopt into their domestic legislation the relevant regulations. Although many Pacific member States have adopted into their domestic legislations, ICAO safety and security standards, most do not have the experience, resources, or technical expertise to meet the standards contained within the legislation (ADB, 2005). Member States who do not meet the regulatory standards required by ICAO run the risk of being denied access to international trade and tourism routes, and are vulnerable to unlawful acts, including terrorism (PICASST, 2004, Art 2).

The ICAO regional office in Bangkok collaborates with PASO in various initiatives, for example, by convening a Quality Control Workshop in Tonga for Pacific member States that are members of PASO and the Cooperative Aviation Security Programme – Asia Pacific (CASP-AP). CASP-AP aims to achieve compliance among participating States in the Asia-Pacific region with ICAO security standards, and to create a cooperative structure for coordinating training for civil aviation security personnel. From the Pacific region, Fiji and Kiribati are members (http://casp-ap.com, 2008, para. 1).

PASO, a Pacific Island initiative, was created in 2005 with a US $1.5 million loan from the Asian Development Bank (ADB) guaranteed by the governments of Kiribati, Papua New Guinea, Samoa, and Vanuatu. Pursuant to Article 3 of *The Pacific Islands Civil Aviation Safety and Security Treaty* (PICASST), "the ... obligations for the regulatory oversight of civil aviation under the [Chicago] Convention will be met in a regional and collaborative manner" (PICASST, 2004, Art 3). Article 4(1) states that "the mechanism used to meet the obligations in Article 3, will be the establishment of a centralised technical advisory organisation known as the Pacific Aviation Safety Office (PASO)" (PICASST, 2004, Art 4(1)).

Article 7(b) states that PASO is to "provide any party upon request with advice and technical assistance relating to the regulatory oversight of civil aviation safety and security by that Party, using as a basis the standardised rules and procedures under that Party's legislative frameworks" (PICASST, 2004, Art 7). PASO's responsibilities

include the establishment of a regional inspection program with a minimum required annual inspection plan, and training and capacity building activities (ADB, 2005). The Treaty also articulated the responsibilities of contracting Parties toward PASO. These included meeting their annual financial contributions and ensuring that fees charged by PASO for its services were paid promptly (PICASST, 2004, Art 5(a,f)).

PICASST recognised the importance of international air transport to Pacific Island trade and tourism industries, and the risk that poor safety and security compliance records would jeopardise the continuation of international services. The Treaty also recognised the difficulties Pacific Island Countries experience meeting their obligations under the Chicago Convention (PICASST, 2004, Preamble).

Although Article 7(d) of PICASST specifically states that PASO must prepare both an annual budget and annual report, there is currently no annual or financial reporting available for the organisation (ADB, 2009). PASO has never produced an Annual Report. As PASO relies heavily on the ADB loan, this point should be addressed. ADB and the Organisation for Economic Cooperation and Development (OECD) have joint leadership roles in the Anti-Corruption Initiative for Asia-Pacific. In the Pacific region the Cook Islands, Fiji, Palau, Papua New Guinea, Samoa and Vanuatu participate in the Initiative. One of three pillars of the Anti-Corruption Action Plan for Asia and the Pacific is *developing effective and transparent systems for public service*, under which accountability and transparency is addressed, including the importance of measures and systems to promote fiscal transparency (ADB, 2004). ADB emphasises the importance of public access to information as a precondition for enabling citizens to scrutinise public administration in participant countries (ADB, 2004).

At project inception in 2005, it was predicted that within five years PASO would be financially independent, with costs being met through payment of fees by airlines, airports, and the CAA of member States on a cost recoverable basis (ADB, 2005). PASO receives money from various sources including from Australia, New Zealand, ADB, and from member States on a subscription and fee-for-service basis. Under-utilisation of PASO services has meant that PASO relies heavily on the proceeds from the ADB loan and consequently it is likely the loan will be depleted much faster than anticipated (ADB, 2009).

In 2005, the *ADB Report and Recommendations of the President to the Board of Directors on the Proposed ADB Loan* forecasted that the membership base of PASO would expand, enabling it to grow in scope, widening its base of operations, and decreasing the unit cost of service provision due to the effects of economies of scale (ADB, 2005). PASO membership increased from 8 to 13 States between 2005 and 2008, however not enough to decrease the unit cost of service provision. In fact, PASO has experienced difficulty securing payment from its member States, both of annual subscription fees and fees for services rendered.

Two issues are at play: First, PASO is the first attempt by Pacific Island Countries to establish a regional organisation on a self-financing basis without on-going donor grants, and; Second, Pacific Island Countries have been unable to pay for the services PASO provides.

The second point is important. The ability of PASO to answer its organisational challenges is irrelevant within the current operating environment if Pacific Island Countries cannot afford its services. However, currently PASO relies on precisely this income in order to stay operational. Logically, PASO needs to secure alternative funding or restructure so that it does not operate on a cost recoverable basis. This paper presents two alternative frameworks below.

As well as these two organisations, various countries with interests in the Pacific region, such as Australia, New Zealand, and the United States also audit Pacific Island Countries that are Last Ports of Call/Departure for commercial air services entering or exiting their airspace, and conduct capacity building activities to assist Pacific Island Countries meet international standards where they are unable to do so. The efforts of the organisations tasked with this job, and of those conducting capacity building activities in the region are not formally coordinated. In 2005 the ADB described the system of civil aviation safety and security oversight in the Pacific region as "fragmented", stating that governments and international organisations needed to increase the level of cooperation to support regulatory reform. It described the responsibilities of PASO as including the harmonisation of updated legislative and regulatory frameworks in member States (ADB, 2005).

Australia in the Pacific region

In the Pacific region, Australia engages with a range of Pacific Island Countries to share best practise and technical advice on international aviation safety and security standards and practises (Department of Infrastructure, 2008-2009). This satisfies the long-term regional strategic objective of strengthening the Pacific transport apparatus in order to mitigate the risk that vulnerabilities in the Pacific aviation system may be exploited for unlawful acts (PICASST, 2004, Preamble).

As the Australian Government's transport security regulator, the Office of Transport Security (OTS) is responsible for the prevention of transport security incidents in Australia and the improvement of Australian transport security interests overseas. OTS monitors compliance with international regulatory standards of Pacific Island Countries that are Last Ports of Call for commercial airplanes entering Australia (Department of Infrastructure, 2008-2009).

In the Pacific region, Australia's primary concern is that Pacific Island Countries meet the international safety standards set by ICAO, and that Australia's Last Ports of Call (LPOC) meet its domestically legislated safety standards. In 2008-2009, Australia conducted nine LPOC aviation security assessments based on *Annex 17* of the Chicago Convention, and 23 LAGs (Liquid, Aerosols and Gels) assessments including return visits to non-compliant countries (Department of Infrastructure, 2008-2009). Recognising that most Pacific Island Countries do not have the resources or expertise necessary to comply with ICAO standards, Australia does this by developing and administering capacity building activities in the region. The results of the LPOC assessments in 2008-2009, for example, directly informed Australia's

capacity building activities in East Timor, Indonesia, the Philippines and Vietnam (Department of Infrastructure, 2008-2009). In the Pacific region, Australia and New Zealand conducted a joint aviation security capacity building activity in the Solomon Islands. This provided for the installation of security screening equipment and also training for airport security staff at Honiara International Airport (Department of Infrastructure, 2008-2009).

The case for an alternative model

In the maritime sector, Pacific Island Countries have succeeded in administering the needs of the Pacific region's maritime safety and security sector more efficiently than in the aviation sector. The United Nations specialised agency, the International Maritime Organisation (IMO), develops and maintains a comprehensive regulatory framework for shipping including for safety and maritime security, updates existing legislation and develops and adopts new regulations. *The International Convention for the Safety of Life at Sea* (SOLAS) is a key IMO Convention. Chapter X1-2 of SOLAS (Special Measures to Enhance Maritime Security) entered into force in 2004. Regulation X1-2/3 contains the ISPS Code, an amendment which incorporates minimum security arrangements for ships, ports, and government agencies (www.imo.org, para. 1 & 2).

The Pacific region is the only region in the world to approach administration of the ISPS Code in a collaborative manner. All member States of the Secretariat of the Pacific Community (SPC) submit to security external auditing and training by the Pacific Islands Maritime Association (PacMA), an arm of SPC's Regional Maritime Program (RMP) that is the implementing agency for IMO projects in the region, to ensure compliance with IMO STCW95 and ISPS Code requirements. SPC-RMP is part of the Marine Resources Division, which also includes the Oceanic Fisheries Programme and the Coastal Fisheries Programme. It provides technical capacity supplementation and training, and advice on maritime issues, assisting member States to comply with the international maritime security regime and other regulatory requirements, and further developing the region's peer networks (www.spc.int, 2006, para. 1 & 2). PacMA is the principle interactive forum and key advisory body for national government agencies responsible for maritime affairs within the Pacific region (SPC, 2009). This ensures that the coordinating structure for maritime safety and security in the Pacific is centralised. It is of benefit to Pacific Island Countries because:

- It ensures that the capacity building activities of different countries do not overlap, minimising human and financial resource wastage;
- The program is administered by Pacific Island Countries rather than 'outsiders' like Australia, furnishing it with legitimacy in the region, and enabling 'buy-in' by participants.
- SPC is a large organisation with a portfolio that spans multiple sectors including health, development, and the environment, and RMP has credibility in the region.

Unlike SPC-RMP in the maritime sector, there is no umbrella regional aviation safety and security apparatus to formally coordinate compliance and capacity building activities for the various countries and organisations with an interest in civil aviation safety and security in the Pacific region. Because of this the Pacific region continues to experience difficulty administering its aviation safety and security needs.

SPC has met with more success than PASO in securing funding for regional projects. SPC has a wide donor base, which includes the European Union, UN Population Fund, Global Environment Facility, Asia Development Bank, and the Global Fund to Fight AIDs, Tuberculosis, and Malaria. In 2008 these donors contributed XPF 8, 021, 101 (European Union); XPF 83, 608 (Global Environment Facility); XPF 2, 712, 221 (ADB); XPF 334, 604 (Global Fund to Fight AIDs, Tuberculosis, and Malaria). However, the ability of SPC to source funding may be a function of the breadth of its portfolio (SPC, 2008).

The 2009 PASO budget was premised on four operational changes:

- An increase in member State utilisation of PASO services to 70% of the minimum required annual inspection schedules;
- An increase in service fees and variable annual subscription rates according to the level of aviation activity of member States;
- An increase of the hosting grant provided by the Government of Vanuatu;
- Anticipated grant income from other sources.

According to the ADB Midterm Review Mission Report, unless all four budget components could be satisfied, PASO would have to dramatically increase its fees, source immediate funding from alternative donors, or cease operations (ADB, 2009). This being the case, fiscal transparency, including the publication of an annual or financial report, is critical in order to assure donors that appropriated funds are used in the manner in which they are intended.

Although PASO is a Pacific initiative, Australian and New Zealand membership of the organisation comes with the expectation from Pacific Island Countries that they will continue to support it. In the event that PASO collapses it is likely that Australia and New Zealand would share the financial burden, and the responsibility for PASO inspection and compliance activities would return to New Zealand (ADB, 2005). The countries guaranteeing the PASO ADB start-up loan are unlikely to afford loan repayments in the event that PASO collapses, and New Zealand and Australia have provided funds for specific projects only rather than on an ongoing basis. PASO does not have the legal authority to enforce the legal norms contained within PICASST because Article 2 recognises that "each Party has complete and exclusive sovereignty over its airspace and responsibility for aviation safety and security regulatory oversight within its territory" (PICASST, 2004, Art 2). According to the principle of sovereignty there is no higher legal authority than the State, hence there is no means through which an international or regional organisation can enforce a particular course of action by member States.

ICAO, whose formative years followed World War II, also recognises as a fundamental organisational tenet, respect for national sovereignty. ICAO members are responsible for meeting ICAO standards, or filing differences between State practise

and ICAO standards. Although ICAO members consent to be bound by the norms contained in the Chicago Convention (by becoming signatories to it), ICAO cannot enforce these norms because the principle of sovereignty underpins membership of the organisation, and enforcement action would impinge on this fundamental right (Jackson, 2006). Participation in the ICAO system is voluntary, and within the ICAO framework, relations have developed bilaterally (Onidi, 2008).

PASO has yet to perform, in the aviation sector, the function that PacMA performs for SPC in the maritime sector. Currently, SPC does not have an equivalent aviation program, however PASO would benefit from the patronage of such an organisation. The birth of such a partnership would require large scale commitment by both SPC and PASO, as it would it be imprudent for SPC to absorb PASO without PASO first resolving its operational challenges. The relationship between SPC and PASO could mirror the relationship between SPC and PacMA. SPC members would submit to external inspections by PASO which would have a training and capacity building function similar to PacMA in the maritime sector. Through PacMA, SPC audits and coordinates capacity building activities in the Pacific region, centralising the two primary facets of maritime (and also aviation) security under one roof. SPC believes the benefit of PacMA to the Pacific maritime community is its strengthening of local expertise and capacity through training, and its promotion of links between Pacific Island Countries by collaborating with organisations such as the Pacific International Maritime Law Association (PIMLA), the Pacific Women in Maritime Association (PacWIMA), and the Pacific Countries Ports Association (PCPA) (SPC, 2008). PASO could be an equivalent arm of an SPC aviation program.

The establishment of an integrated maritime and aviation compliance monitoring system under SPC would promote the development of a holistic and integrated approach to transportation security in the Pacific region. One of SPC's strengths is its focus on human resource capacity building, which is an essential element of any long term strategy in the Pacific region and one of the central components of the Pacific Plan, which SPC implements (www.spc.int, 2006, para. 23-25). This is especially important as the inability of Pacific Island Countries to implement ICAO standards has been attributed, in part, to the lack of local training and expertise (ADB, 2005). Thus, PASO would exist as an arm of a regional body with a more comprehensive portfolio, and thus a wider base from which to draw funding.

However, there are some similarities between the financial challenges faced by PASO and SPC. SPC's budget is divided into core and non-core components. Core income is drawn from assessed annual membership contributions, and such things as bank interest, project management fees, and other sundry income. Non-core funding is in the form of voluntary member contributions which are allocated to specific projects. In the past SPC has been particularly good at securing non-core funding, which in 2007 was more than four times the amount of money it received in core funds (SPC, 2007). In contrast, SPCs core budget has remained stable for many years, with late and non payment of annual fees a problem with some member States. This has placed strain on SPCs corporate infrastructure which has expanded as SPC has expanded, and relies on core funds to cover the cost of corporate support services. In 2007, staff and operating costs comprised 68% of SPCs annual expenditure, whereas training and field work, which draws on non-core funding, comprised just 18% (SPC, 2007).

In 2008 SPC members' total contribution to core income was XPF 8, 221, 832. Non members did not contribute to SPC's core income. Members' contribution to non-core income was XPF 18, 668, 287, whereas non-members contribution to non-core income was XPF 24, 477, 292 (SPC, 2008).

Underlying this is the need either to source additional external funding, or to increase assessed annual membership contributions in order to cover the increasing cost of corporate support services. Hence, although the subsumption of PASO under SPC would broaden PASO's scope and reach and provide a central point for the coordination of capacity building activities, it would not solve the financial challenges that PASO experiences under the current system. SPC too has difficulty securing payment from member States, and a small pool from which to support SPC's corporate infrastructure. The incorporation of PASO would place yet more strain on this system. It is for this reason that the alternative presented below, is considered to be preferable.

A second alternative

Following 9/11, airports in the USA experienced difficulty implementing new safety measures and operating at the level mandated by international and domestic law. Funding available to airports was not commensurate with the cost of implementing the new measures (Johnson & Nath, 2004). The International Air Transport Association (IATA) Operational Safety Audit (IOSA) program was established to minimise the cost of auditing at a time when safety audit requirements were increasing. Since 2001 audit requirements have become progressively more burdensome as the USA and other countries tightened their own safety regulations, and increased the safety requirements for airlines entering and exiting their respective airspaces. Globally, this has resulted in a system wherein airlines are audited by organisations with sundry and competing auditing requirements, varied auditing standards and auditor qualifications, and an inefficient use of resources because audit results are rarely shared (Hodgkinson, 2005). This is challenging for large airlines, but also hinders the ability of minor operators in less developed countries to meet the rigorous safety standards required of them if they wish to operate in countries like the United States, or closer to home, Australia and New Zealand.

In the USA, IOSA was recognised by the FAA in 2004 as an acceptable audit program for US airlines who are required to audit their code-share partner airlines. IOSA developed an internationally recognised, standardised audit checklist, accredited and standardised auditors, and in doing so reduced the overall unit cost of auditing to IATA member airlines (Hodgkinson, 2005).

Audits are conducted according to an audit agreement between the audited airline, the IATA, and the Audit Organisation (AO). Audit results are entered into an IATA database, and the audited airline is registered as an IOSA Operator for a two year period (Hodgkinson, 2005). An interested party can apply for access to audits on the IATA database in order to satisfy its own requirement for an audit of that airline. Audit sharing is key to the IOSA program. IATA is the warden of all IOSA Audit Reports (IAR), which are stored on the IOSA database. However, once entered into

the database, the IAR is the exclusive property of the audited airline. Equally, the audited airline undertakes not to share the results of the audit, formally or informally, with any party outside of the terms agreed upon with IATA (Hodgkinson, 2005).

An interested party must submit in writing, an application for access to an audit, which is granted only with the consent of the audited airline (Hodgkinson, 2005). IATA took particular care to designate the relationship between the audited airline and the AO as one of a contract "principle" (airline) receiving and paying for audit "services" (by the AO). In this way the issues of liability that would otherwise arise when an airline conducts safety reviews of its code-share partners were overcome. Additionally, because the audited airline pays for the services of the AO, IATA has limited obligations according to the agreement (Hodgkinson, 2005).

The IOSA program provides a model for compliance monitoring that PASO could emulate. However it is important to note the following:

- IATA performs safety audits of its member airlines to assess their compliance with IATA safety standards, which were developed to harmonise with ICAO standards;
- ICAO is the international organisation responsible for conducting safety and security audits of member States to assess the degree to which they comply with the international standards contained in the Chicago Convention;
- PASO is a regional organisation, which inspects Pacific member States as requested to assess the degree to which they meet ICAO standards and to conduct capacity building activities.

As there are key differences between PASO inspections, IOSA safety audits, and ICAO safety and security audits, the following comparison is to highlight the benefit to PASO of reproducing some aspects of the IOSA program. As such, it is concerned only with the structure of the IOSA program, not the focus of IATA audits (that is, whether for safety or security).

Unlike PASO and ICAO which train and maintain their own inspection and audit staff, IATA accredits AOs that provide auditing services on behalf of IATA to determine the degree to which member airlines conform to the IOSA standards and recommended practices (Hodgkinson, 2005). Another key difference is that ICAO and PASO members are States, whereas IATA members are airlines (www.iata.org, para. 1).

Although IOSA was intended to synchronise with the ICAO audit program there are several points of difference. The responsibility for the implementation of ICAO standards rests with member States. If a State is unable to adhere to the standards set by ICAO it must notify ICAO of the difference between the State's safety or security practices, and the standards set by ICAO. Article 38 says:

> "Any State which finds it impracticable to comply in all respects with any such international standard ... or which deems it necessary to adopt regulations or practices differing ... from those established by an international standard, shall give immediate notification to the International Civil Aviation Organization of the differences between its own practice and that established by the international standard". (Chicago Convention, 1944, Art 38).

ICAO has received criticism for its inability to enforce safety and security standards. The Convention does not anticipate a situation where a member State both fails to meet ICAO standards, and fails to notify the organisation (Huang, 2009). Prior to the implementation of the ICAO audit programs few States filed differences, and the gap in reliable information is a major security concern (Huang, 2009). However, IATA membership is conditional upon participation in the IOSA program. Failure to participate results in termination of IATA membership (IATA, 2009).

Prior to an ICAO audit, ICAO and the member State sign a Memorandum of Understanding (MOU), wherein the State agrees to be audited by ICAO. By signing an MOU a State consents to be audited, and as such, the mandatory nature of the audit program is not seen to impinge on that State's sovereignty. Bilateral MOUs have been signed by all member States and ICAO (Huang, 2009).

Following the audit, a report is submitted by ICAO to the audited State outlining the areas where its safety or security practices do not meet ICAO standards. The State is expected to develop a corrective action plan that forms the basis of the follow-up audit, which assesses the degree to which the member State has succeeded in changing its practices to meet those of ICAO (Huang, 2009).

Safety audits are conducted at the governmental level, while security audits are conducted at both the governmental and airport level. Unlike its safety audits, and the IOSA audits, ICAO security audit reports undergo classification and are subject to physical controls. Disclosure of poor audit results, or of security breaches by member States constitutes a security risk in the eyes of ICAO (Huang, 2009).

Many States, airlines, and airports are reluctant to agree to audit sharing in both principle and practice because of the security implications associated with this. Information placed in the public domain is a security risk to the airline, organisation, or State in question (George & Whatford, 2007). Audit results, good or bad, contain areas for improvement, and bad audit results may result in a loss of confidence in and business to that country.

Recommendations

Inherent in the conception of PASO is the idea is that it is uneconomical for member States to employ and train their own inspectors because Pacific Island Countries are too small to warrant the creation of full time, in-country inspection teams, but nor can Pacific Island Countries pay for PASO services. As it is currently configured, PASO cannot survive without these payments.

PASO should remain a focal point for the coordination of inspection and capacity building activities in the Pacific region to help Pacific Island Countries meet ICAO safety and security standards, but one solution to the problem of a lack of local expertise is to outsource the inspection function to accredited inspectors in the same way IATA accredits AOs for safety audits of its member airlines. Australia, New Zealand and other countries operating in the Pacific region have their own inspection teams that could be accredited by PASO. This would eliminate the cost to PASO of maintaining its own full time inspection team, and reduce the funding that is need

in order to run the organisation on a fee for service basis by eliminating the cost to PASO of conducting inspections, and of maintaining a full time inspection team.

PASO should be the custodian of the reports generated as the result of inspections and use the results to target and coordinate capacity building activities in the region. As PASO inspections are undertaken with the view to assisting member States to meet ICAO standards, it is necessary only that information from the inspections be used by PASO to inform regional capacity building activities, not that the results be made public. The information gathered by conducting inspections should remain the property of the member State, just as IOSA audit results remain the property of member airlines. Therefore, States could request access to inspection results, but would gain access to them only with the expressed consent of the State wherein the inspection had been undertaken.

If its membership base continued to expand, PASO would have a wider pool of funding from which to draw, in the form of membership fees. However, the accreditation of external inspection teams would eliminate a significant portion of income, so it would need to source alternative funding, including from ongoing donor grants. Were PASO to become the organisation *formally* responsible for coordinating capacity building initiatives in the region it could, perhaps more successfully, secure funding from countries like Australia, New Zealand and the United States for specific capacity building activities that were complementary to the countries' Pacific development and security priorities, and which the countries could be involved in. This would eradicate the wastage in the current system resulting from the lack of coordination of different countries' capacity building activities. Additionally, the formal coordination of capacity building activities would enable Australia, New Zealand and the United States to better target the funds each expends on capacity building in the region. PASO would have to establish, according to its responsibilities under Article 7(d) of PICASST, an annual and financial reporting system, such that PASO could guarantee a level of fiscal transparency and financial management that would be acceptable to potential donors.

While regional in the basic sense of the word, today PASO is not truly cooperative. Nor is it self-sustaining, efficient, or supported by its members. The proposed alterations would administer to the aviation safety and security needs of Pacific Island Countries, at minimal cost to PASO, which would take on a coordinating function for capacity building activities, but would no longer be constrained by member States that have hitherto paid intermittently for its services. Accredited inspection teams that would operate independently of PASO would share responsibility for inspecting member States. This would ease the burden on inspectors in the event that member States were late to pay, as accredited inspection teams would also have income from other sources.

Conclusion

There is little academic research available on aviation safety and security in the Pacific. Indeed, there has been minimal effort by bodies such as PASO, ICAO, NZ CAA

and OTS to homogenize civil aviation safety and security auditing and compliance standards across the Pacific region. To do so would require an unprecedented level of cooperation. This would benefit Pacific Island Countries who rely on civil aviation for trade and tourism but are unable to meet international standards without the support afforded by a truly regional approach.

This paper outlined the current system of civil aviation safety and security oversight in the Pacific region, and proffered two alternatives. The first approach was based on the model of safety and security oversight in the maritime sector; SPC-RMP. However this model was discounted because it did not resolve the challenges to PASO of exacting on-time payment from member States for its services. A second model, based on the IATA audit program was proffered as a more desirable alternative because it would provide a focal point for the formal coordination of capacity building activities in the Pacific region, and minimise the cost to PASO of maintaining a regional inspection team.

It is of little operational import to Australia whether PASO or another organisation performs an inspection and compliance function in the Pacific region. However the collapse of a system of regionally administered civil aviation safety and security would be costly, both politically and financially, to Australia and New Zealand, and in particular to Pacific Island Countries.

Fostering a sense of community that is inherent in a truly regional approach is important for Australia and Pacific Island Countries. Doing so will promote shared responses to regional issues, which in turn will lead to habits of cooperation that promote peace and stability more generally (Rolfe, 2008).

References

Abeyratne, R. (2002). The role of civil aviation in securing peace. *International Journal on World Peace*, 19(2), 53-82.

About ASIO. (n.d.). Retrieved April 30, 2010 from http://www.asio.gov.au/About-ASIO/FAQs.html.

About Us. (n.d.). Retrieved April 30, 2010 from http://www.iata.org/about/Pages/index.aspx.

Asian Development Bank. (2004). *Anti-corruption policies in Asia and the Pacific: the legal and institutional frameworks for fighting corruption in twenty-one Asian and Pacific countries.* Manilla, Philippines: Asian Development Bank.

Asian Development Bank. (2005). *Report and recommendation of the President to the Board of Directors on a proposed loan and technical assistance grant to the Pacific Aviation Safety Office for the establishment of the Pacific Aviation Safety Office Project.* Manilla, Philippines: Asian Development Bank.

Asian Development Bank. (2009). *Midterm review mission report*. Manilla, Philippines: Asian Development Bank.

Background. (2008). Retrieved April 27, 2010 from http://casp-ap.com.

Chicago Convention on International Civil Aviation, Annex 17 (n.d.). Retrieved April 27, 2010 from www.icao.int/eshop/pub/anx_info/an17_info_en.pdf.

Department of Infrastructure, Transport, Regional Development and Local Government. (2008-2009). *Annual report*.

Diedriks-Verschoor, I., & Butler, M. (2006). *An introduction to air law*. The Netherlands: Kluwer International.

Downey, M., & Menzies, T. (2002). Countering terrorism in transportation: Our failed piecemeal approach to security must be replaced with a layered, well-integrated system. *Issues in Science and Technology*, 18(4), 58-64.

George, B., & Whatford, N. (2007). Regulation of transport security post 9/11. *Security Journal*, 20(3), 158-171.

Guillame, G. (2008). ICAO at the beginning of the 21st century. *Air and Space Law*, 33(4-5), 313-317.

Hanson, F. (2003). Promoting a pacific pacific: A functional proposal for regional security in the Pacific Islands. *Melbourne Journal of International Law*, 4(1), 254-299.

Hodgkinson, D. (2005). IOSA: The revolution in airline safety audits (IATA operational safety audit). *Air and Space Law*, 30(4-5), 302-330.

Huang, J. (2009). Aviation safety: ICAO and obligations erga omnes. *Chinese Journal of International Law*, 8(1), 63-79.

ICAO Sub-Regional Aviation Security Training Centre. (2009). Retrieved January 8, 2010 from http://www.avsec.govt.nz/Industry-Related-Documents/ICAO-Sub-regional-Aviation-Security-Training-Centre.

ICAO Flight Safety Information Exchange. (2008). Retrieved April 23, 2010, from http://www.icao.int/fsix/auditRep1.cfm.

International Air Transport Association. (2009). *Annual report*.

International Civil Aviation Organisation. (2008). Doc. 9916, Annual Report of the Council.

Jackson, J. (2006). *Sovereignty, the WTO and changing fundamentals of international law*. New York: Cambridge University Press.

Johnson, V., & Nath, A. (2004). Introduction: Terrorism and transportation security. *The Review of Policy Research*, 21(3), 255-261.

Maritime Security. (n.d.). Retrieved, April 27, 2010 from http://www.imo.org.

Onidi, O. (2008). A critical perspective on ICAO. *Air and Space Law*, 33(1), 38-45.

Rolfe, J. (2008). Regional security for the Asia-Pacific: Ends and means. *Contemporary Southeast Asia*, 30(1), 99-118.

Regional Maritime Programme. (2006). Retrieved April 23, 2010, from http://www2008.spc.int/maritime/index.php?option=com_content&task=view&id=14&Itemid=34.

Secretariat of the Pacific Community. (2007). *Secretariat of the Pacific Community annual report*. Noumea, New Caledonia: Secretariat of the Pacific Community.

Secretariat of the Pacific Community. (2008). *Secretariat of the Pacific Community corporate plan 2007-2012*. Noumea, New Caledonia: Secretariat of the Pacific Community.

Secretariat of the Pacific Community. (2009). *SPC and the Pacific Plan Jan 06-June 09 achievements, challenges and target*. Noumea, New Caledonia: Secretariat of the Pacific Community.

Strategic Objectives of ICAO. (n.d.). Retrieved April 30, 2010, from http://www.icao.int/icao/en/strategic_objectives.htm.

Szyliowicz, J. (2004). International transportation security. *The Review of Policy Research*, 21(3), 351-369.

The Pacific Islands civil aviation safety and security treaty (PICASST). (2004). Retrieved August 26, from http://www.forumsec.org/userfiles/file/PICASST%20Text%20 (5%20signatures).pdf

United Nations. (1944). *Doc 730, Convention on international civil aviation*.