

行政院及所屬各機關出國報告
(出國類別：會議)

參加亞太航協緊急應變年會
暨
參訪新加坡失事調查局報告書

服務機關：行政院飛航安全委員會
出國人職稱：主任委員、飛航安全官、組長
姓名：戎凱、任靜怡、韓若明
出國地區：馬來西亞吉隆坡
出國期間：民國九十三年七月二十日至七月二十四日
報告日期：民國九十三年八月五日

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行政院及所屬各機關出國報告提要 系統識別號 C09303077

出國報告名稱：參加亞太航協緊急應變年會暨參訪新加坡失事調查局報告書

頁數：54 含附件：是否

出國計畫主辦機關：行政院飛航安全委員會

聯絡人：黃佩蒂

電話：(02)2547-5200 分機 154

出國人員姓名：戎凱、任靜怡、韓若明

服務機關：行政院飛航安全委員會

單位：飛航安全組、行政法制組

職稱：主任委員、飛航安全官、組長

電話：(02)2547-5200 分機 111、167、122

出國類別：1 考察2 進修3 研究4 實習5 其他

出國期間：民國九十三年七月二十日至七月二十四日

出國地區：馬來西亞吉隆坡、新加坡

報告日期：民國九十三年八月五日

分類號/目：

關鍵詞：溝通 危機公關 緊急應變 危機管理

內容摘要：

亞太航協 (AAPA) 為加強對亞太地區十七家業者之服務，每年其下屬之緊急應變工作小組均定期舉行緊急應變研討會，往年會議多以中小型座談會方式舉行，本年係第一次以大型研討會方式擴大辦理，計有來自亞太地區之業者、民航局、機場及主管機關約二百二十人參會。

亞太航協之主要角色在代表並為亞太航空業界服務，因此業者之主要利益及航空市場之整體興衰與國際航協息息相關。

會議重點包括增加參與緊急應變計劃之相關位如業者、機場及主管機關彼此瞭解，彙集專家意見，針對面對重大飛安事故之挑戰廣泛交換意見，以期業界對緊急應變之最佳模式及合作建立共識，增進業者對與緊急應變有關之相關機關（構）之角色及功能性瞭解。

年會專題規劃除緊急應變協調合作、緊急應變有關之資訊及媒體處理、重大災難中文化及宗教影響、警方在重大災害收如何協助家屬外，特別規劃並邀請本會主委就有關調查機關之角色、重大事故調查經驗、調查資訊提供、調查機關在緊急應變時扮演之角色、調查法規及如何與業者共同協調處理家屬協助等議題

發表專題。

本次年會選在馬來西亞吉隆坡舉行，在廣泛資訊交流下達到緊急應變年會的主要目的。

本次藉參會之便與馬來西亞民航局局長暨失事調查組主管廣泛交換業務運作經驗並了解目前該國在失事調查作業之近況及計劃，同時順道應新加坡失事調查局陳處長之邀參訪，新加坡失事調查局目前尚屬草創期，年前該局陳處長亦曾至本會參訪，本次參訪雙方無論在標準作業程序異同或調查經驗分享上均互有所得。

本文電子檔已上傳至出國報告資訊網

行政院及所屬各機關出國報告審核表

出國報告名稱：參加亞太航協緊急應變年會暨參訪新加坡失事調查局報告書

出國計畫主辦機關名稱：行政院飛航安全委員會

出國人姓名／職稱／服務單位：

戎 凱／主任委員／行政院飛航安全委員會

任靜怡／飛航安全官／行政院飛航安全委員會

韓若明／行政法制組組長／行政院飛航安全委員會

(等三人)

出國計畫主辦機關審核意見：

- 1.依限繳交出報告
- 2.格式完整
- 3.內容充實完備
- 4.建議具參考價值
- 5.送本機關參考或研辦
- 6.送上級機關參考
- 7.退回補正,原因:
 - (1)不符原核定出國計畫
 - (2)以外文撰寫或僅以所蒐集外文資料為內容
 - (3)內容空洞簡略
 - (4)未依行政院所屬各機關出國報告規格辦理
 - (5)未於資訊網登錄提要資料及傳送出國報告電子檔
- 8.其他處理意見：

層轉機關審核意見：

- 同意主辦機關審核意見
- 全部 部份_____ (填寫審核意見編號)
- 退回補正,原因:_____ (填寫審核意見編號)
- 其他處理意見：

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伍、 與會心得與建議事項

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壹、目的

本會在許多國際性會議中名聲漸響，在主要國際媒體上，因年前之新航事件表現獲得注意，亦有大篇幅報導，雖然本會在業務上與亞太航協較少來往，但近期因飛安事件調查亦必須與國際航空業者及媒體多有接觸，在類似會議中除了對本會有正面宣傳效益外，更可以從大會邀請之媒體代表說明中，了解媒體與調查機構及業者在重大事件報導的角度及其取捨衡量，也因接觸亞太地區業者緊急應變管理人代表，了解業者在重大飛安事故後之策略運作及想法。

如何利用事前完善規劃之緊急應變計劃，將重大事故造成之必然傷害減至最低，是本次大會希望傳遞的重要訊息。

本會過往數次重大事故調查經驗而言，不論在與相關機關之協調溝通、各員在緊急應變之權責及角色扮演差異性上得來的寶貴經驗，確可提供與會人員最佳之「他山之石」，而藉著本次年會大參與者之口耳相傳，亦是成效最佳之文宣。

參訪東南亞失事調查機構一直是本會年度計劃重點項目，不論基於雙方資訊互通、經驗分享或聯繫溝通的立場，本會在與世界主要失事調查機關建立良好關係並陸續開始簽訂合作協議書後，本會在亞洲除澳洲、印尼失事調查局及國大陸之失事調查機關往來較為頻繁，亦應增加與其他地區之失事調查機構之往來及互動，本次與馬來西亞及

新加坡失事調查單位主管會談，無論經由本會簡介或六週年回顧資料
傳達，讓對方對本會調查經驗、立法過程或實驗室能量均有深入了
解，對未來雙方合作或簽訂合作協議書有極大助益。

貳、會議暨參訪日程

緊急應變年會

Day 1

09:00-09:45 Opening

10:15-11:15 Session 1 Cooperative planning for Effective Response:
An Asian Airport & Airlines perspective

11:15-11:45 Session 2 Media Response and Coverage of Aviation Accident in Asia
pacific

11:45-12:30 Session 3 The Accident Investigation Authority's Role and its
relationship with Airlines-Dr. Kay Yong, Chairman, Aviation Safety
Council, Taiwan

14:00-15:00 Session 4 The role of diplomatic Services in Emergency response

15:30-16:00 Session 5 The Role of the police in Aviation Emergency Response: An
Asian police Force Perspective

16:00-17:00 Session 6 Legal and Regulatory in Emergency Response in the Asia
Pacific

17:00-17:30 Session 7 Insurance issues in Emergency Response

Day 2

09:15-10:00 Session 8 Hospital Aviation Disaster Management Plan

10:00-10:45 Session 9 Religious and Culture Diversity

11:15-12:00 Session 10 Mourning and Funeral Rites in Buddhism

12:00-12:45 Session 11 Mourning and Funeral Rites in Islam

14:00- 14:45 Session 12 SIA's Experiences in Meeting The Challenges And Cultural
And Religious diversities in Managing An Aircraft Accident

14:45-15:30 Session 13 Airlines Emergency preparedness in Asia Pacific
Planning, training and audits

16:00-17:00 Session 14 Panel Discussion: Airlines Emergency Planning :putting it all
together for effective response

參訪

7/21 08:30-09:00

會見馬來西亞交通部副長暨民航局長

10:00-10:30

與馬來西亞交通部副長暨民航局長及其他參加開幕式貴賓會談

7/22 12:30-13:30

與馬來西亞民航局失事調查組副組長會談

7/24 15:30-18:30

參訪新加坡失事調查局

參、緊急應變年會會議重點摘要

以亞太航協的立場，如何扮演好穿針引線的角色，讓亞太各地業者對市場環境的正認知，在共同的標準下作業以示公允，提供最有效及便利的服務給消費者是其主要的責任，而方法不外是透過一些國際性的會議或文宣傳達。

緊急應變年會也因此扮演舉足輕重的角色，希望透過業者緊急應變主管的參會，能將一些亞太航協所做的，將預劃要執行的及希望業者配合的安排在大會議程中。

一、重大傷亡事件處理

業者在面對重大飛安事故時之緊急應變，應抱持以下三個原則：希望主要達成的工作、如何達成、有那些資源可運用。

重大飛安事件中，業者重點工作之一是繼續正常營運，而緊急應變計劃中，亦應納入該項規劃之作業重點，要維持正常營運同時達成緊急應變之目標，方法其一為：如何尋求外援，外援在那裡、有什麼外援以及接頭者為何人，方有可能在緊急事故發生時啟動該機制。

在搜救打撈階段值得注意的是自願者及義工參與所帶來的影響，工作者必須面對家屬迫切參與及獲得訊息的壓力，讓家屬知道作業的進度及這樣操作的理由以及未來的計劃方能獲得家屬的信任。

家屬服務中心的設立，除了設備外，尚包括聯絡、記錄、接待安

撫、簡報及醫療協調等工作，並應注意溝通與協調等事宜。

二、亞太地區飛安事故發生後之媒體應變

任何危機發生時，媒體溝通技巧至為重要，訊息的提供要迅速、切合重點、具新聞性並達到正面溝通的目的，如何利用 News Wire 與網頁作為與大眾溝通管道，統一聯絡窗口及事先整合提供之資訊，是避免因不良溝通產生誤解的方式。

在新聞溝通工具及技巧運用上，包括對主要訊息之傳達、對提供稿件是否具新聞性之認知，對明顯為宣傳性之新聞稿取用之方便性，對發言人階級之重視，甚至於記者會後之補充資料及時提供方式等均應先行規劃。

本次受邀媒体主講人為亞太地區資深媒體工作者，無論就媒体角度看業者之公關運作、政府機關之政策均有其獨到看法，對媒体而言，其責任在於完整報導事實，至於是否對業者生存、形象或航空界整體發展有任何影響均不在其考量之內。

要減少媒體負面報導必先了解媒體生態，媒體常會因主編想要「頭版或獨家新聞」標題需求，在事故發生後應四處搜尋相關資訊填補版面，業者面對媒體詢問若以“無可奉告”或“不予置評”的塘塞說詞，並不會輕易使得媒體停止追根究底挖掘新聞，適度的主導並提供媒體報導方向是降低傷害的積極做法。

站在業者的角度，所有能說的都無法彌補商譽上所造成的傷害，對媒體不實報導要如何更正更形困難，同樣的情況亦發生在媒體，對大多數從事一般性新聞工作者而言，要做對的、快的、好的、深入的報導必須在平時累積專業，要滿足讀者知的權利，更必須自各個不同角度看問題，因此重大事故之專業報導需依賴地區媒體之專業素養。

三、失事調查主管機關之角色及與業者之互動關係

亞太航協邀請本會主委戎凱博士擔任緊急應變年會「失事調查主管機關之角色及與業者之互動關係」主講人。主要專題內容以政府機關之調查角色、以往重大事故調查經驗及如何與業者共同協調處理家屬協助及提供調查資訊，並討論本會於事故時對緊急應變應扮演之角色，相關法規及後勤支援等。

與會人員均對主委對調查程序及不同單位權責深入淺出的引導及經驗分享印象深刻，對調查法中針對應配合未配合之罰則及未來打撈付費原則亦引起與會者之注意。

重大失事後之緊急應變之角色與權責在失事調查機關與業者間自有不同。無論在初始之現場調查階段，或在後續事實報告蒐集及分析階段皆各有其職責，站在業者角度上，必需配合失事調查單位提供相關協助。

失事調查機關之主要職責，為依標準作業程序執行調查，其緊急

應變一般多有模式可尋，且應變之好壞對一般大眾或家屬之影響較小，反觀業者無論如何執行緊急應變之演練，但可能遭遇情況各有不同，面對家屬及社會大眾對事故之責難，業者或其他機關很難因較好的緊急應變獲得讚賞。而如何處理媒體負面報導對各單位而言更是嚴苛的挑戰。

站在失事調查機關工作人員的角色，必須謹守遊戲規則，因能公開的資訊與媒體所想要的已在共識上有落差，而失事調查單位所傳遞的又都是技術性內容，溝通上已成障礙。溝通策略是需要事前完整規劃並具備危機處理觀念，同時必須因人事時地物之不同隨時調整，即便有立場觀點的差異，但只要不妨礙作業之基本原則，平時建立溝通雙方互信，則可有雙贏的結果。

四、亞太地區緊急應變有關之法制與程序

重大事件發生後業者配合失事調查機關之事件調查程序在提供相關之文件前應保留複本、至於業者在聯營航段中緊急應變之權責上如何分工、打撈罹難者之權責依地區各有不同。

美國及澳洲經由立法案程序已訂有「受難旅客及家屬支援協助法案」，該法案雖屬於非制裁性立法並咸認為係對旅客及航空公司在法律層面上之保障，惟如未符合法案需求，仍可能遭美交通部或NTSB之負面制裁。另，國際民航組織發布 ICAO 285-AN166-Guidance 通告

亦律訂旅客及受難家屬協助之範疇指引。

在理賠上，一般保險公司會協助業者處理，至於期中之理賠條款則並未包括美國之家屬支援法案中，依實際案例一般多會辦理期中理賠款，並由保險公司協助支付後在最後理賠款中扣除，但其金額則應由業者自訂。有關個人物品依規定應予歸還或至少保留 18 個月，另殘骸一般均由失事調查機關保管直至部份或全部發還業者，如進行訴訟者則業者仍應保留。

理賠原則之引用是否適用於華沙或蒙特婁公約規定，必需視旅客行程而定。有關第三者地上物所造成之損害賠償，在亞太地區政府均有規定，而國際民航組織亦正擬修訂 1952 羅馬公約之相關規定。美國在 2003 年立法並要求飛航美國之外籍航空公司納入「家屬協助計劃」中，以上相關法令之要求值得我政府注意。

五、911 事件之山之石

AAPA 人員分享美國針對 TWA, KAL 事件之他山之石，包括航空公司在發生事故三小時即應發布第一份「尚待進一步查證之名單」(Unverified Manifest)，爾後查證後之名單每小時更新一次、強制美籍旅客以英文全名訂位，除留一般聯絡電話外，另須留緊急事件聯絡人與電話。儲備一對一家屬服務人員，施以「壓力管理」訓練。事件後一二天內電話通話量極高，需求 10 萬通以上。

部分航空公司建立『事件動態報告系統』(ICARE) Incident Center Activity REporting System，針對「一對一人員」、罹難者家屬、家屬服務進度等納入資料庫控管。

六、一般航空保險針對航機失事事件承保或非承保對照參考表

承保Covered	非保險範圍Not Covered
Incident/accident related costs	Policy deductible
Search and rescue	Overhaul costs
Reasonable cost that can be attributed directly	Wear & tear
Shipping	Mechanical breakdown
Materials	Betterment contributions
Labour—accident related	Lease/ rent costs
Test flight	Operating costs
Ferry Flight	Business losses
Humanitarian costs	Environmental damage
Wreck remove	Consequential losses
	Depreciation

七、新航經驗

新航在總公司層級每三年作一次演練；各外站一年一次由總公司主導分工演練。

新航、馬航、國泰航空針對緊急應變工作咸有共識稱，挑戰之一為員工未能久任一職；另針對不設站之地點應變益形困難緊急應變演

練之演練時段宜涵蓋事件後一週內之所有可能動靜態事宜，作為演練的預設目標期程。其中對於指揮、管制與通信通訊聯繫內涵，宜先加以想定後推演，並找出缺失。

一對一旅客家屬服務人員之人數需求，新航是以 744 最大酬載量人數約 400 名據以規劃。

肆、新加坡失事調查局參訪記要

一、本會主委在 AAPA 會期間與馬來西亞民航局長 Dr. Kok (郭師傅)

及掌理馬國飛安事故調查之民航局副局長 Mr. Rahman 晤談，馬國之飛航事故調查仍由民航局掌理，事故時參與之人數約 15 人，調查時由民航局之一般事務中獨立出來，此模式與前新加坡之作業方式相似，Mr.Rahman 及 Dr.Kok 對我國事故調查之能力深表讚賞，詢問甚多與調查技術及委託調查相關問題，本會主委表示如該國有此需要，本會願意免費代為解讀記錄器或性能分析等技術服務，並邀請其訪台以增進相互間之了解及互動。

二、本次應新加坡失事調查局處長陳文強邀請順道於七月二十四日參

訪，主要會談內容包括雙方會務運作重點及作業程序、調查程序、失事調查法作業進度、本會目前主要失事調查案進度、本會辦理 ISASI2002 年調查員年會之經驗分享等。

新加坡失事調查局成立源起成因其一，為本會針對 SQ006 失事事件之飛安改善建議「成立獨立超然之失事調查機關」新加坡失事調查局（以下簡稱 AAIBS）迄今近二年，其會址位於樟宜機場第一航廈毗鄰 MOTC（新加坡民航局）。

AAIBS 會址仍處於整理階段，目前人員四員（處長、航務調查員 x1、機務調查員 x2、行政 x1）目前擬再招募調查員二員並以

逐年增加二員成長。AAIBS 今年度預算新幣 90 萬，目前正朝向招募人員後建置調查實驗室。該局位階為內閣下機關而非屬交通部或民航局且已備有調查法源，惟據該局陳處長稱：本會之失事調查標準業程序極具參考價值，對未來其建立其調查程序多有助益。

AAIBS 目前調查人員陸續參與國內外專業訓練，限於人力未來部份專業調查領域（如氣象、航管、人為因素等）會借重民航主管或相關機關人才而不擬自行招募。

AAIBS 即將推動不具名報告制度，承辦人員多方詢問本會 TACARE 報告運作之經驗，AAIBS 不具名報告預計由二名調查人員主辦，僅該二員與處長可參閱未加密前之報告，而其法律亦對報告者有保障條款，新航亦已具相類似之不具名報告並且與 AAIBS 分享。

AAIBS 預計向 ISASI 爭取 2007 調查員年會主辦權，本會已將相關資料備妥供該局參考。

由於新加坡是國際民航組織會員國，針對即將執行與本會有關 Annex 13 之評鑑有較為深入認識。目前 ICAO 限於人力及查核員訓練，是否能依預劃執行系統評估仍有變數，僅知英國失事調查局及澳洲失事調查局已完成評估作業，AAIBS 預期於八月中

旬進行預評。

AAIBS 曾於一年前來本會參訪，經由本次主委親自參訪後建立良好互動，本會並提出在其調查實驗室尚未建置完善前可代為解讀之承諾。

伍、與會心得與建議事項

- 一、緊急應變相關單位之溝通協調，為是否能妥善應變之關鍵，惟有事先建立共識、了解 Counterpart 之能與不能、雙方互通需求並於審查作業程序後先行補正，方可消弭因其他相關機關程序影響單位緊急應變之可能性及不利影響。
- 二、失事調查機關在重大事故之緊急應變，雖多可依標準作業程序逕行辦理，惟遇重大失事時可能發生人力短缺、輿情壓力、家屬要求，媒體錯誤報導等情況，仍應於事前針對可能情況通盤規劃，並於事件發生後在相關單位執行其緊急應變時儘可能以協調及協助方式執行。
- 三、家屬協助目前各國執行方式互異，國際民航公約組織亦擬提案要求會員國比照先進國家方式辦理，目前美、法、加、澳等國之家屬協助係以失事調查機關為處理督導及協調單位，我國在 CI611 失事後輿情壓力倍增，家屬對政府應給予人民之協助範圍日益擴大，建議政府在家屬協助及業管單位等議題先行規劃
- 四、本次緊急應變會議多為亞太地區業者，惟藉主委專題報告，讓 220 位參會者對本會業務及失事調查機關在緊急應變之職能有進一步瞭解，無論在文宣或未來與外籍業者之合作上是成功的出擊，未來類似會議建議本會人員多參與並提供專題報告。

五、本次與馬來西亞及新加坡失事調查單位主管會談，無論經由本會簡介或六週年回顧資料傳達，讓對方對本會調查經驗、立法過程或實驗室能量均有深入了解，對未來雙方合作或簽訂合作協議書有極大助益，建議本會未來亦應增加與其他地區之失事調查機構之往來及互動，。

陸、附錄

一、The Accident Investigation Authority's Role and its relationship with


Airlines

二、Legal and Regulatory Issues in Emergency Response in Asia Pacific

三、Insurance Issues in Emergency Response


**The Role of Accident Investigation Authority
and
Relationship with Airlines**

Dr. K...



Outlines


- About ASC
- Roles and Responsibilities
- Lessons Learned



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About ASC (Prologue)

- In 1998, after the China Airlines (AB6) fatal accident near CKS airport, people realized that in order to improve air safety, an independent aviation accident investigation organization was necessary.
- Hence, ASC was established in May 25, 1998 as an Independent Government Agency
- Operate by the Board (5 to 7 members)
- Aviation Accident Investigation Act (effective since June 2, 2004)



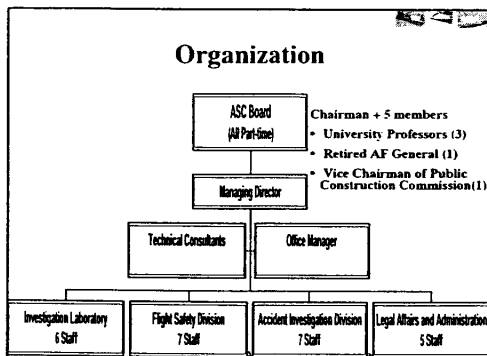
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Mission

- Identification, investigation and determination of causal factors of accidents & serious incidents in civil, state-owned, and ultra-light aircraft
- Sole purpose is to prevent recurrence of accidents & serious incidents, not to apportion blame or liability (ICAO Annex 13)
- Mandatory implementation of safety recommendations
- Pro-active/preventive special projects for safety improvements

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Organization



Report card

- Has investigated 30 cases in both land and water occurrences
- Published 22 reports, issued 228 recommendations
- Flight recorders readouts, simulations, animations, and analysis
- 3D hardware and software reconstructions

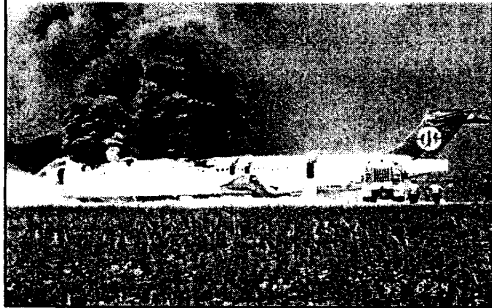
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Few Examples

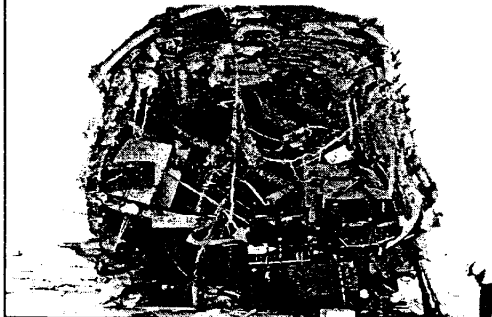
- UNI 873 (MD90) – DG
- SQ006 (B747-400) -- Runway incursion
- CI611 (B747-200) –In-flight breakup
- GE543 (A321) – Runway incursion on joint military/civilian airport

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UNI 873 DG

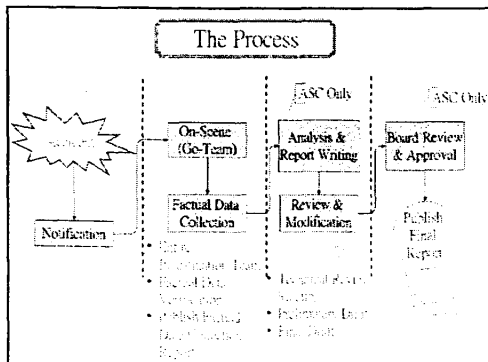


SQ006 Runway Incursion









Roles and Responsibilities

- What does an investigation agency do?
- What are we expecting an airline to do during an investigation ?

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Notification & On-Scene (1wk~6mth)

ASC

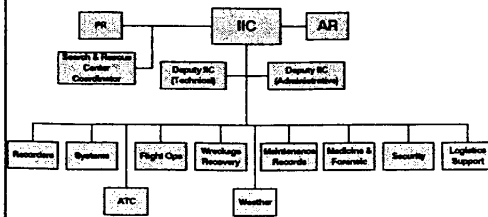
- Launch a go-team and assign PIC
- Notify the states of manufacture & operator
- Scene survey & recover flight recorders
- Recorders readout
- Interview key personnel
- Organization meeting
- Press release & press conference when necessary (press only, absolutely no probable cause speculation)
- Commence factual data collection

Airline

- Immediate notification
- Preserve flight recorders data
- Assist in wreckage handling
- Assist in arranging personnel interviews
- Form a core team to join the investigation team
- Prepare data relevant to the accident aircraft and crew

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CI611 Team Organization Chart



Total : 47

Two Locations : Taipei (ATC, Flight Ops, etc.)
and Makung (On-scene)

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Factual Data Collection (3mth~1yr)

<p><u>ASC</u></p> <ul style="list-style-type: none"> ■ Collect factual data and conduct interviews ■ Instigate necessary flight simulations and lab tests ■ Prepare group reports and factual data collection report ■ Factual data verification meeting ■ Publish factual data collection report (www.asc.gov.tw) <ul style="list-style-type: none"> ■ Press release / conference if necessary 	<p><u>Airline</u></p> <ul style="list-style-type: none"> ■ Provide all data required by the group chairman ■ Arrange and participate in all flight simulations, lab tests ■ Factual data review and verification
--	---

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Analysis & Report Writing (3mth~1yr)

<p><u>ASC</u></p> <ul style="list-style-type: none"> ■ Conduct analysis & report writing with own consultants ■ Hold technical review meetings when necessary ■ Prepare preliminary draft report (CAT 1 only) ■ Prepare final draft 	<p><u>Airline</u></p> <ul style="list-style-type: none"> ■ Prepare supplementary data as requested ■ Participate in technical review meetings ■ Review and provide comments of the draft reports
---	---

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Aviation Accident Investigation Act

- Articles 28~32
 - "Penalties in obstructing interviews, fail to provide assistance, notify within allowable time, disclose investigation information"

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Differences in Emergency Response

Investigators

- Every investigation is an emergency
- Must follow standard procedure
- Play information provider's role in family assistance
- Media handling crucial but less pressure
 - Facts & process only
- Impact to other investigations and accident prevention

Airlines

- Very infrequent (hopefully never), but must be well prepared
- Every case is different (Guidelines only)
- Rescue and family assistance number 1
- Media handling crucial with great pressure
 - Only background information
- Impact to service schedules and other regular activities

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Lessons Learned

- Communication between the head quarter & on-site (operator)
- Communication between the ARF & Investigation Authority
- Lack of central information center & designate spokesperson
 - (separate technical/family assistance/S&R information)

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Lessons Learned

- Confusions in the understanding of overall Search & Rescue Operation
- Difficulties in providing adequate timely & correct information to family members and the public

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**Lessons Learned
(Family Assistance)**

- Do not understand the differences in role play among various organizations(both government & airlines)
AND THEY DON'T CARE
- Family members try to be part of S&R /Recovery and Investigation processes
- Conflict between body & wreckage recovery


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**Recovery Cost
(who should pay ??)**

- NTSB pays all investigation/salvage expenses
--- TWA800/UA811/EGA990
- BEA/ATSB/AAIB-do not have explicit rules (but occasionally pay the recovery costs)
- TSB-general statement in internal working process to pay the salvage cost - Swiss Air 111
- AAIB-operator shall pay expenses of all salvage services
- ICAO/AIG working group/EU proposed establishment of international investigation fund in underwater salvage


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Family Assistance in Taiwan

- Government is the on-scene commander in the 1st 72 hours
- Operator provide all logistic & cost to family members
- Other organizations participate in assisting family members
- No official guidelines
 - ASC is considering adding the role of family assistance coordinator-- NTSB


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Lessons Learned

- Victims ID & autopsy
- Conflicts among family, investigators, Airlines
- Family members use media to meet their demands
- Difficulties in providing continuous & consistent investigation information
- Conflict between investigation & liability


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Mutual understanding for better relationship

- *Knowing your counterpart's needs, concerns, working pattern*
- *Build up professionalism (a core team)*
- *Active participation in an investigation process to protect your own interest*


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"Let's all work together to maintain a constant and vigilant effort to keep transportation safe , make the agencies such as ASC becomes obsolete someday soon"


AAPA Aviation Emergency Response Conference 2004

**AAPA Aviation Emergency Response Asia Pacific 2004:
Working Together Towards Best Practices**
Kuala Lumpur, Malaysia
20-22 July 2004

Session 6: **Legal and Regulatory Issues in Emergency
Response in Asia Pacific**

Speaker: **David Clark**
Partner, Beaumont and Son

ASSOCIATION OF
ASIA PACIFIC
AIRLINES

Beaumont and Son *Specialists in Air Law*

ASSOCIATION
OF ASIA-PACIFIC AIRLINES

AVIATION EMERGENCY RESPONSE
CONFERENCE 2004

20-22 JULY 2004
KUALA LUMPUR

Beaumont and Son *Specialists in Air Law*

**LEGAL AND REGULATORY ISSUES
IN EMERGENCY RESPONSE IN
THE ASIA-PACIFIC REGION**

Presentation by
David Clark – Partner
Singapore

1. Legal Issues in Emergency Response

a) Issues arising immediately after an air accident:

- i) Police, emergency and Security Services.
- ii) Official accident investigation.
 - Chicago Convention on International Civil Aviation 1944 – Annex 13.

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SINGAPORE

ii) Official accident investigation.

- States in which the aircraft is registered, operated, designed or manufactured have the opportunity to appoint representatives to participate in the investigations.
- Investigators will take all original documents relating to the aircraft, its operation and maintenance. The airline should try to ensure it takes a copy of everything before it is handed over.

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ii) Official accident investigation.

- The airline will need to have available clear copies of the passenger manifests and all passenger ticket coupons, e-ticket records and PNRs.

iii) Code Share Flight. Who does what?

- Most Code Share Agreements provide for the operating/actual carrier to deal with claims with the exception of those in respect of any contracting/marketing carrier's flight/ cabin crew, which are dealt with by the contracting/marketing carrier.

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iv) Wreckage retrieval and handling.

- State authorities will usually undertake this task but often airline's insurers will appoint specialist aviation loss adjusters/aircraft surveyors to arrange for storage and disposal, if necessary. Increase in danger of biohazard from composite materials used in aircraft manufacture such as carbonfibre.

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iv) *Wreckage retrieval and handling*

- Investigators will take over responsibility for and possession of the wreckage for the purposes of their investigation.
- Authorities may ask the airline to pay.

v) Public relations. Statements to media.

- Need to be careful. Can have legal consequences.

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S 17 17 14 S

1 *Legal Issues in Emergency Response (cont'd)*

b) Medium term issues.

i) To whom to direct claims?

- The airline will initially be the focus.
- Usually insurers will appoint lawyers to assist the airline in handling claims. With the airline, the lawyers will appoint local lawyers to assist with advice and handling of claims.

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i) *To whom to direct claims?*

- The airline will need to provide as much information regarding the background of the passengers as possible.

ii) Interim/Advance payments.

- Not required under the USA *Foreign Air Carrier Family Support Act of 1997* if it applies (in any accident occurring in the United States - including their Commonwealth Territories, such as Guam).

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S 17 17 14 S

ii) *Interim/Advance payments.*

- Expected under Australian Department of Transport and Regional Services (DOTARS) Aviation and Airports Policy (Family Assistance Code).
- As a practical matter, whether required or not, it is thought that in most cases an interim/advance payment should be made, the amount to be determined after discussion between the airline, the insurers and lawyers handling the claims. Offset against final compensation.

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iii) *Personal effects.*

- Baggage and property belonging to the passengers remains their property and must be accounted for.
- If USA *Foreign Air Carrier Family Support Act 1997* applies, airline must return the personal effects of passengers which are in their control, if requested to do so by the families and retain unclaimed personal effects of passengers for 18 months.

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ATTORNEYS AT LAW

iii) *Personal effects.*

- If the Australian *Family Assistance Code* applies, after obtaining clearance from the Police and the Coroner, the airline is responsible for returning passengers' personal effects and baggage to the passenger, or family.

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ATTORNEYS AT LAW

1. *Legal Issues in Emergency Response (cont'd)*

c) Long term issues.

- i) The official accident investigation may continue for several years. Airline representatives (usually from engineering/maintenance and/or Flight Safety depending upon circumstances of the accident) should participate, and are entitled to do so. The airline should liaise with their insurers' representatives to keep them apprised of developments.

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A.M.C. 7043

c) Long term issues.

- ii) Wreckage storage and disposal.
 - As mentioned earlier, usually the investigating authorities will take custody of the wreckage. At some stage, they will formally release all or parts, of it, to the airline.
 - If litigation in certain jurisdictions (eg. USA), wreckage may have to be retained and stored.

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A.M.C. 7043

ii) *Wreckage storage and disposal.*

- Eventually wreckage will have to be disposed of carefully to ensure that no components which may have been damaged in the accident find their way back on to the market and installed on another aircraft.

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AND SON
A.M.C. 7043

iii) Handling claims by passengers/their families.

- In most cases, such liabilities as the airline may have to compensate injured passengers, or the families of deceased passengers, will be covered under the airline's insurance policy.
- Where insurers have appointed lawyers to assist in the handling of claims, they, working with the airline's legal department (where it has one) will deal with these claims, working with local legal correspondents as and where necessary.

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S 17 117 143

2. Compensation / Liability issues. Impact of the Warsaw and Montreal Conventions

a) What airlines need to know.

i) In actual emergency response terms, not very much. In almost every case, claims will be covered by either of these Conventions, where the fundamental provisions are the same:

- The airline will have a liability to compensate passengers for death or bodily injury and loss of/damage to their baggage.
- In many cases, airlines have waived liability limits for death or bodily injury of passengers.

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AND SUN
S 17 117 143

a) *What airlines need to know*

- Where an airline has not waived the liability limits, the appropriate liability needs to be established in each case and this will depend upon the carrier's General Conditions of Carriage for Passengers and Baggage and the legal regime applying to the particular contract of carriage of each individual passenger (either Warsaw Convention/ Hague Protocol, Montreal Convention 1999, or when neither of these apply, the General Conditions of Carriage).

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S 17 117 143

a) *What airlines need to know.*

- ii) So assuming that lawyers appointed by the airline's insurers are involved at an early stage, they will advise and guide the airline as to the legal issues.

b) *What issues need to be addressed by the airlines.*

- i) Whilst some 53 states have ratified the Montreal Convention 1999, only Japan and New Zealand in the Asia-Pacific Region have done so.

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b) *What issues need to be addressed by the airlines.*

In most cases therefore, the Warsaw Convention will still apply, but remember the Convention applies where a passenger travels from and returns to a state party to the Convention. In the case of Montreal, those states include the USA, Japan and the original 15 EU states.

So in establishing, which regime is to apply, the airline will need to look at the full passenger ticket routing and/or PNR.

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b) *What issues need to be addressed by the airlines.*

The airline will normally be an initial point of contact with surviving passengers, or the relatives of deceased passengers. As much detailed information of the passengers, and their relations (names, dates of birth, addresses, relationships to one and another) should be obtained.

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b) *What issues need to be addressed by the airlines.*

What is not currently an issue, but may become one where the Montreal Convention comes into force in the state from which an airline operates, are the provisions in Article 28 for the making of advance payments where required by national law. The making of such payments should be left to the discretion of the airline and its insurers, and a, perhaps arbitrary and unrealistic, amount should not be set by local legislators.

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3. Third Party damages: Impact of the Rome Convention 1952

a) The Convention is not in force in any Asia-Pacific state, but most states have in place domestic legislation with similar principles:

- Strict liability on the part of an aircraft operator for damage done to third parties (people and property) on the ground by an aircraft in flight, or something falling from it.
- Under the Rome Convention, liability is limited by reference to the MTOW of the aircraft, but this limit is not incorporated in the domestic legislation of most states.

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Solicitors

3. Third Party damages: Impact of the Rome Convention 1952 (cont'd)

b) The ICAO Legal Committee has produced a draft Convention on damage caused by foreign aircraft to third parties, which is intended to replace the Rome Convention 1952.

c) In the case of Third Party damage occurring in the USA, *The Vision 100 – Century of Aviation Reauthorisation Act* (passed on 12th December 2003) imposes a number of obligations on foreign air carriers, which must comply by filing a complete and appropriately amended Family Assistance Plan with the Department of Transportation and NTSB, by 11th March 2004.

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Solicitors

3. *Third Party damages: Impact of the Rome Convention 1952 (cont'd)*

The additions to the Plan are assurances to be given by the carrier that it will, in the event of one of its aircraft being involved in a surface incident causing significant damage to non-Government owned property:

- i) Write to the property owner about the issue of liability for the damage and how the owner should go about obtaining compensation.

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3. *Third Party damages: Impact of the Rome Convention 1952 (cont'd)*

- ii) Tell the property owner to contact his/her property insurer to obtain authoritative information about coverage and compensation.
- iii) Tell the property owner to keep photographic and/or other records of the damage as soon as access to the site can be obtained.

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4. **The Impact of Family Assistance Legislation/The ICAO Code of Contact on Airline Response from a Legal Perspective**

- a) As indicated earlier, at present there exists family assistance legislation only in the USA and a code in Australia (The Family Air Carrier Family Support Act 1997 in the USA and the DOTARS Family Assistance Code in Australia). In addition, ICAO published Circular 285-AN166 ~~Guidance on Assistance to Aircraft Accident Victims and their Families~~, the objective of which being to provide guidance on the types of family assistance that

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4. *The Impact of Family Assistance Legislation/The ICAO Code of Contact on Airline Response from a Legal Perspective (cont'd)*

may be provided to aircraft accident victims and their families and the avenues available for providing that assistance. Taking each in turn:

b) *The Foreign Air Carrier Support Act 1977*

- The Act imposes upon foreign carriers operating flights to and from the USA much the same requirements for family assistance as are imposed upon US airlines under the Aviation Disaster Family Assistance Act.

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b) *The Foreign Air Carrier Support Act 1977*

Foreign carriers operating flights into or out of the United States must file a Family Assistance Plan which commits the airline to do a number of things. All carriers have filed appropriate plans. The handling of major accidents in the USA will therefore be in accordance with the filed plan, although the legislation imposes no sanction for failing to do so.

As a practical matter, failure to comply with any of the matters detailed in the Plan will lead to sanctions by the DOT and/or NTSB, the ultimate sanction being withdrawal of the carrier's permit to operate flights into the USA.

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b) *The Foreign Air Carrier Support Act 1977*

DOTARS-Family Assistance Code

The Code is a refinement of the US Family Assistance Act requirements in terms of the obligations it imposes upon air carriers and establishes the minimum standard for airline responding to the needs of victims and their families in the event of a serious accident. The standards are applicable to "airlines operating to/from and within Australia" and its objective is to provide guidance and the development of the Family Assistance Plan by all regular public transport and charter

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- DOTARS-Family Assistance Code

operators providing passenger services to/from or within Australia. All affected operators had to provide a written assurance to DOTARS by the 31st December 2002, that such a Plan had been developed, and arrangements central to its operation were in place.

Adoption of the Code was voluntary and remains so.

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- DOTARS-Family Assistance Code

The Code applies to "victims" of aircraft accidents, who are not limited to those merely on board, but also to Third Parties on the ground. The Code establishes a minimum standard expected of airlines operating in Australian territory and the Family Assistance Plan of Australian international airlines should provide similar assistance to victims and/or families of victims in the event that an accident in a foreign country.

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- DOTARS-Family Assistance Code

Thus, in the event of an accident, failure to comply with the various matters required to be addressed under the Family Assistance Plan is unlikely to result in legal sanction. However it is in the interest of the carriers, and their insurers, that the basic requirements are followed since failure to do so is likely to impact on eventual claims by passengers, their families and/or Third Parties.

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SPECIALISTS

✓

- DOTARS-Family Assistance Code

c) ICAO Circular 285-AN166-Guidance on Assistance to Aircraft Accident Victims and their Families.

- The Circular is a lengthy document, running to nearly 100 pages. It constitutes a useful guide to "best practice" on the part of airlines, and Governments, in their response to relatives of those killed in aircraft accidents. It is however simply a guide, at this stage, with no legal force.

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REASONS
AND NOTES
SUBJECTS

AAPA Aviation Emergency Response Asia Pacific 2004:
Working Together Towards Best Practices
Kuala Lumpur, Malaysia
20-22 July 2004

Session 7: **Insurance Issues in Emergency Response**

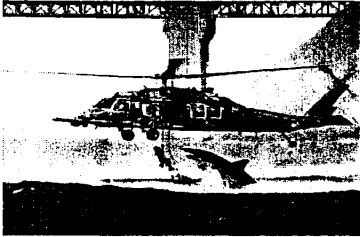
Speaker: **Ian Crowe**
Executive Director, Willis

ASSOCIATION OF
ASIA PACIFIC
AIRLINES



Willis
Emergency Response Planning and
Insurance Issues
AAPA Conference July 2004
Ian Crowe

Emergency Response Now!



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- 13,000 associates offices world wide
- 20% of the world's top 2003 companies are Willis clients
- Annual revenue US\$1.9 billion
- Knowledge-based consultant - 40% of major account revenue is from "value added" consultancy services

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Willis Aerospace

- 300+ staff
- 18 dedicated offices
- 250 airline clients
- 250 airport & related services clients
- 130 manufacturing clients
- 42 space clients
- One third of market share



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Willis Aerospace Offices



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Willis Aerospace Services

- ☎ Providing specialist support for over 15 years
- ☎ Consultants drawn from all areas of aviation
- ☎ Providing an integrated range of risk management and aviation consulting services to help you meet your business objectives
- ☎ The only broker to bring industry specialists in-house
- ☎ Providers of ERP development, training and accident simulation scenarios

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Accidents do happen



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Issues to Consider

- 2000 - a major accident every 14 days
- 2004 - a major accident every 28 days
- In situations where there is no fire, 95% of victims survive
- Accidents close to an airport produce high survival rates
- Accident locations are unpredictable

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In the event of a major accident

- Three things will happen immediately:
- Extreme media attention
 - Requests for information
 - An investigation will be launched

Does your plan deal with these issues?

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Accidents and the Media



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Accident time line - accident time + 1 Hour

Reuters: Boeing 747 plane crashes in Taiwan 17 injured

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Time + 8 hours

Taiwan: Fatalities Reported in Boeing 747 Crash.

Of the 159 passengers and 20 crew on board of Flight 006, some fatalities have now been reported. The specific number of casualties and fatalities has yet to be confirmed. We understand there were 75 passengers who are unaccounted for, 68 passengers who are injured, and 16 passengers who are now confirmed at this moment as being uninjured.

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Time + 15 hours

Reuters: Nearly 100 people were feared dead last night after a Boeing 747 jumbo jet carrying 179 passengers and crew crashed in flames as a typhoon hurtled towards Chiang Kai-shek international airport in Taiwan.

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Time + 1 day

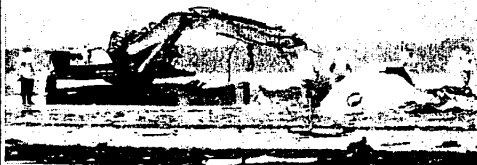
Reuters: Questions arise as to why the plane attempted to take off in the windy and wet weather. Typhoon Xangsane, with winds reaching 90 mph (144 km/h), was approaching Taiwan when the plane crashed.

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Time + 8 Days

Reuters: Investigators confirm that crane ripped open Boeing 747 jet



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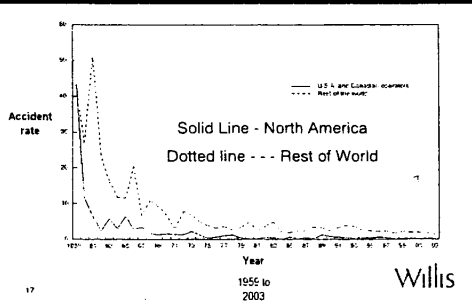
Information required

- Date of Accident
- Aircraft Type and Registration
- Location of the Accident
- Amount of Damage to Aircraft
- Fatalities or Injuries
- Third Party Damages

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Operators Accident Rates – North America and Rest of World



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2004 Loss Summary

Airline	Fatalities	Net Profit	Liabilities	Total
Flash Airlines	148	\$ 22,825,000	\$ 77,730,000	\$ 101,255,000
Austrian Airlines	0	\$ 7,000,000	\$ -	\$ 7,000,000
Texas Airlines	1	\$ 5,350,000	\$ -	\$ 5,350,000
Kish Airlines	43	\$ 3,000,000	\$ -	\$ 3,000,000
Deutsche Lufthansa	0	\$ 14,000,000	\$ -	\$ 14,000,000
Austral Liness Aeress S.A.	0	\$ 6,000,000	\$ -	\$ 6,000,000
South African Airways	0	\$ 5,200,000	\$ -	\$ 5,200,000
Emirates	0	\$ 9,000,000	\$ 50,000	\$ 9,050,000
Centurion Air Cargo	0	\$ 12,000,000	\$ -	\$ 12,000,000
Turkish Airlines	0	\$ 18,750,000	\$ -	\$ 18,750,000
American Eagle	0	\$ 6,800,000	\$ -	\$ 6,800,000

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Why this reduction in fatalities?

- Training
- Improvements in aircraft design, materials and systems specification
- Speed and attitude of impact
- Terrain
- Near Airport (80% of all accidents occur within 1 km of an airport)
- Effective airline and airport E R Plans

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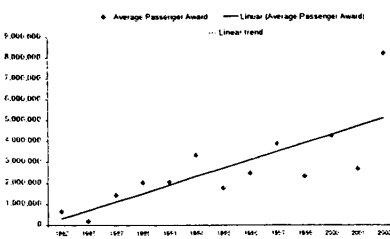
Aircraft Fire



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Passenger Awards



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To maintain or improve this trend


- By new or newer aircraft
- Modify current systems
- Have a good plan and practice it
- And don't crash

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Why Buy Insurance? "to get your claim paid"

But also

- For peace of mind
- To remove uncertainties
- As a legal requirement
- As a contractual requirement
- To protect your balance sheet



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Insurance - What is the coverage?

<p><i>Covered</i></p> <ul style="list-style-type: none"> Incident/accident related costs Search and rescue Reasonable costs (that can be directly attributable) Shipping Materials Labour (accident related) Test flight Ferry flight (subject to policy) Humanitarian costs Wreck removal 	<p><i>Not covered</i></p> <ul style="list-style-type: none"> Policy Deductible (separate policy) Overhaul costs Wear & tear Mechanical breakdown (separate policy) Betterment/contributions Lease/rent costs Operating costs Business losses Environmental damage Consequential losses Depreciation
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Smaller Aircraft Various depending on type

• Turbo Props	US\$ 100,000	(F50/ATR42/ATP)
• Narrow Body Jets	US\$ 500,000	(B707/B727/B737/DC9)
• Hybrid Jets	US\$ 750,000	(A320/B757/B737-400)
• Wide Body Jets	US\$ 1,000,000	(B747/B777/A340/B767)

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Other considerations

- Dealing with Investigations, lawyers and loss adjusters
- Consideration of local customs
- Reliable cost estimates
- Constant communication with all parties

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What Insurance says

- Act as if you are uninsured
- Best practice
- Avoid hazards
- Take precautions
- Be aware of others

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Suggested Equipment for ERP Planners

- Three T.V. screens
- Conference calling facilities
- Separate communication room with six televisions
- Room where press conferences can be given
- Power supplies laptop/computer ports and modems
- Rostering considerations
- Catering provisions
- Whiteboards with checklists distributed around room
- The airline should have a copy of the airport local emergency plan
- Copy of plan from their co-charming partners
- Ensure correct power supplies including uninterrupted power supplies (UPS)

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- ✓ Clocks with world times
- ✓ Say 50 telephone lines coming
- ✓ Call centre is manned by a pool of volunteers
- ✓ Ideally volunteers have language skills
- ✓ One day training is given
- ✓ Passenger Enquiry Forms
- ✓ Passenger Information Card
- Two passports for go team
- Go bag – pre packed
- Grab bags to provide mobile ticketing facility, the grab bags contain tickets and baggage I.D. tags
- Outstation training undertaken
- Airline and police representatives always available

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The Management of Accident Risk - In Summary

Aviation insurance covers catastrophic loss.

No coverage for other risks such as

- Perception of airline safety
- Loss of reputation
- Loss of customers
- Impact on brand and corporate credibility
- Reduction in share price

These issues need to be managed and a good ERP practiced regularly will achieve this

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