



# **Procedures Manual**

## **For**

# **ICAO, Int'l Affairs and Legal Functions**

**Approved by the Director General  
and published under his authority**

**First Edition – 2013**

**Civil Aviation Authority of Nepal**

# Procedures Manual

First Edition 2013

Civil Aviation Authority of Nepal

Head Office

Babar Mahal, Kathmandu

Nepal

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## Record of Revision

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# Foreword

Civil Aviation Authority of Nepal is the aeronautical authority of Nepal. Regulation of civil aviation in Nepal is the primary obligation of CAAN. Implementation of SARPs of the Annexes to the Convention on International Civil Aviation is one of the most important responsibilities of CAAN as specified in Section 5 of the Civil Aviation Authority of Nepal Act, 2053. CAAN has established a dedicated Department to look after the functions relating to the ICAO, International Affairs and Legal matters. All these functions require a proper coordination among various Departments/Units within CAAN and other concerned agencies outside CAAN.

The purpose of this **Procedures Manual for ICAO, Int'l Affairs and Legal Functions** is to elucidate the procedures being followed for the effective accomplishment of these responsibilities. CAAN introduced a Standard Operating Procedure (SOP) to carry out these functions in 2011 and its subsequent Revision was made in 2013. However, the SOP was reviewed and upgraded as a Procedure Manual encompassing the scope relating to the regulatory development, SARPs management, ratification of international Conventions, Air Services Agreement and other legal matters. This Procedure Manual will help to understand the intricacies of the system along with the sequenced flow of various processes involved.

This Procedure Manual is promulgated under the authority of the Director General as envisaged by the Rule 83 of CAAN, Civil Aviation Regulation, 2058 (2002). This Manual supersedes the 'Standard Operating Procedure of ICAO, Int'l Affairs and Legal Functions, 2011 (Revision 2013)'.

Ratish Chandra Lal Suman  
Director General

16 November 2013

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## Chapter-1

### Introduction

#### 1.1 Statutory Provision

Civil Aviation Authority of Nepal (CAAN) is the Aeronautical Authority of Nepal. Section 5 of Civil Aviation Authority of Nepal Act, 2053 (1996) has empowered CAAN for the implementation of Annexes to the Convention of International Civil Aviation. Rule 83 of Civil Aviation Regulation, 2058 (2002) authorizes the CAAN to promulgate requirements, directives and manuals to implement the provisions of SARPs to the Annexes. CAAN is the 'Focal Point' to coordinate with ICAO on behalf of the State and various entities responsible for civil aviation matters in Nepal.

#### 1.2 ICAO, Int'l Affairs and Legal Functions

ICAO matters, International affairs and Legal functions, inter alia, are the key areas of responsibility of CAAN. The performance of CAAN as a regulatory body of civil aviation is the matter of concern to the ICAO and international community. ICAO, International Affairs and Legal Department under the Civil Aviation Safety Regulation Directorate is the responsible unit to look after these functions in CAAN. The functions to be performed by ICAO, Int'l Affairs and Legal Department need proper coordination among different Departments within CAAN as well as other stakeholders of aviation industry.

The major functional areas of ICAO/International Affairs and Legal Department are related to:

- ICAO SARPs management
- Coordination with ICAO and other international agencies
- Regulation development
- International air law instruments
- Air Service Agreement
- Regular legal function like legal advice and judicial functions

*Note: Organisation of Civil Aviation Safety Regulation Directorate is given in Annex-1.*

### **1.3 Objective**

The objective of this Manual is to shape up a framework within which ICAO/International Affairs and Legal Department, in close co-ordination with the concerned departments, will carry out various tasks and responsibilities related to ICAO, International Affairs and Legal matters in congruence with the national legislation and ICAO Annexes.

*Note: The list of departments and organizations responsible for different Annexes to the Convention are given in Appendix-2.*

### **1.4 Duties and Responsibilities**

1. To act as a 'focal point' on ICAO matters making close coordination with the Director General and the Deputy Director General of Civil Aviation Safety Regulation Directorate.
2. To perform tasks relating to the management ICAO State letter on behalf of CAAN.
3. To make inter/intra-departmental coordination to respond to ICAO on the matters of SARPs amendment/adoption.
4. To initiate action regarding the formulation of new legal instruments and amendment of existing one as required.
5. To formulate recommendations regarding ratification/accession of the International Instruments of civil aviation.
6. To co-ordinate with other international agencies on behalf of CAAN as deemed necessary.
7. To participate in SSP implementation function and regulatory audits to be conducted by CAAN as required.
8. To initiate necessary actions regarding the new Air Services Agreements and amendment of existing ASAs on behalf of State Aeronautical Authority.
9. To represent CAAN in Court of Law as required.
10. To advise other Directorates, Departments and units on legal matters with particular reference to aviation law and International legal Instruments.
11. To manage Technical Library at CAAN Head Office.

## **Chapter-2**

### **Development of Legal Framework**

#### **2.1 Legislative System in Nepal**

Constitution is the fundamental law of Nepal. Nepal's Parliament has the powers to promulgate Acts for the implementation of various provisions made in the Constitution. The government of Nepal (GoN) can formulate various regulations under the powers given by the Acts. Additionally, autonomous organizations established under the Act (like CAAN) can issue and enforce necessary Requirements, Directives and Manuals exercising the authority of respective regulations.

#### **2.2 Formulation and amendment of Acts**

The Civil Aviation Act, 1959 and Civil Aviation Authority of Nepal Act, 1996 constitute the primary legislative framework for the regulation of civil aviation in Nepal. Formulation and amendment of Act is not a regular process and takes comparatively a very long timeframe. Normally, following procedures are followed for formulation and amendment of civil aviation Acts (ref. Law Drafting Manual, Nepal Law Commission).

##### **2.2.1 Formulation of Act**

1. The proposal of bill is prepared by the Ministry of Culture, Tourism and Civil Aviation (MOCTCA) and forwarded to the Ministry of Law for necessary review and suggestion.
2. Law Ministry sent back the proposal of bill with its comments/suggestion and the MOCTCA submits the proposal bill to the Council of Ministers.
3. After getting consent to the proposal of bill from the Council of Ministers by principle, the MOCTCA forwards the proposal of bill to the Ministry of Law to prepare final draft of bill.
4. The MOCTCA submits the final draft of bill prepared by the Minister of Law to the Council of Ministry for its approval. Council of Ministry by itself or after review from the Bill Committee gives consent to table the bill to the Parliament.

5. The Minister responsible for MOCTCA tables the bill to the Parliament and after the bill is passed by the Parliament it is sent to the President for authentication.
6. After authenticated by the President, bill becomes the Act.

### **2.2.2 Amendment of Act**

The procedure for the amendment of Act is almost same as that of formulation of new Act.

*Note: The formulation and amendment of Act requires a lengthy process of consultation in various steps and a long parliamentary process. Therefore it is not possible to specify the time-frame for the formulation and amendment of Act.*

## **2.3 Formulation and Amendment of Regulations**

Under the power given by the Acts, GoN has promulgated different regulations to implement the provisions made on Acts. These Regulations are the secondary regulation that empowers Director General to promulgate various Requirements, Directives, Circulars, Manuals etc required for the regulation of civil aviation.

The procedures to formulate new regulation or amendment of existing one will be as follows:

1. The concerned department/unit will request 'Focal Point' in written form with justification regarding the need of new regulation or amendment of the existing one.
2. On receiving the request, 'Focal Point' will examine the request on the basis of legal principles, existing regulatory measures and prospective implications.
3. A draft team will be formed consisting of concerned experts from within or outside CAAN to draft the required document.
4. The draft team will prepare the draft document within a period of 1-3 months based on the nature of task.
5. Feedback and suggestion from concerned department/units and stakeholders will be collected on the subject matter.

6. An interaction programme will be conducted for the final comment on the draft document from the concerned stakeholders. If found necessary, comments will be incorporated in the final draft.
7. Final draft will be submitted to the Director General.
8. The Director General will table the final draft before the Board of Directors for its approval.
9. After the approval of the Board of Directors, the draft regulation will be sent to GoN for final approval.
10. The regulation, thus approved, will be applicable on the date as specified in the Regulation.

*Note: The flow chart for the development/amendment of regulation is presented in Appendix-3.*

#### **2.4 Formulation and amendment of Requirements/Directives:**

Provisions made on SARPs to the Annexes to the Convention are enforced through the various Requirements issued by the Director General in most of the cases. The draft work of Civil Aviation Requirements and Directives will be initiated in such a way that it will be congruent with the date as specified in the ICAO State letter.

The procedure to formulate new civil aviation requirements or amendment of the existing one will be as follows:

1. The concerned safety department will initiate the development of new requirements or directives or amendment to existing one.
2. A draft team will be formed within the respective safety department to draft the required document.
3. The draft team will prepare the draft document within the period of 1-3 months based on the nature of task.
4. Feedback and suggestion from concerned stake-holders will be collected on the subject matter.
5. If found necessary, comments from the stakeholders will be incorporated in the final draft.
6. The respective safety department will submit the draft requirements to the 'Focal Point' for its comments.

7. 'Focal Point' will send back the draft requirements with comments or without comments to the respective safety department.
8. The respective safety department will incorporate the comments from 'Focal Point', if any, and prepares the final draft.
9. The respective safety department will submit the final draft to the Director General for approval.
10. The Director General will approve the requirements/directives if found satisfactory.
11. The approved requirements/directives will be applicable on the date as specified in these documents.

*Note: The flow chart for the development/amendment of requirements/directives is presented in Appendix-3.*

## **2.5 Development and amendment of Manuals/Procedures**

1. Manuals, Guidance Material and Procedures relating to the regulatory functions will be developed and amended by the respective safety department and submitted to the Director General for approval. Director General may seek comments from the ICAO, Int'l Affairs and Legal Department before approving it.
2. Manuals and Procedures relating to the operators and service provider organizations will be developed and amended by the respective operators and service providers and submitted to the concerned safety department. The concerned safety department will evaluate the Manuals and Procedures whether it is in line with prevailing regulations. If found appropriate, the Director of the concerned safety department will approve such Manuals and Procedures.

*Note: The flow chart for the development/amendment of manuals/procedures is presented in Appendix-3.*

## **2.6 Adoption of Regulation from another State**

Adoption of regulation from another State may sometimes become necessary due to the lack of experience or benefits of harmonization of regulations. FAA

and EASA regulations are the most common foreign regulations adopted by many States. Following procedures will be followed for adopted regulations:

1. Before adopting regulation of another State, it will be verified that the adopted regulation fully aligns with the corresponding SARPs by referring to the list of differences filed by that State.
2. If it is found that the concerned State has filed the differences for the regulation to be adopted, the regulation will not qualify for adoption.
3. If no difference exists, the regulation will be adopted and customized in the operational context of Nepal.
4. The concerned Department will check the amendments to the adopted regulation and corresponding SARPs to ensure the continued compliance with parent regulation as well as SARPs.
5. If the parent regulation no longer aligns with the SARPs of Annexes the adoption will be discontinued and own set of regulation will be promulgated.
6. In addition, if harmonization on regulation is no longer useful to Nepal, the adoption of such regulations will be discontinued.

## **Chapter-3**

### **Management of ICAO SARPs**

#### **2.1 State obligation to the SARPs**

Implementation of SARPs of the Annexes is ensured through the incorporation of adopted SARPs to the national regulation of the State. When it is impossible to implement the SARPs, filing of difference is the obligation of Contracting State under the provision of Article 38 to the Convention. In this regard adoption of SARPs and filing of differences is an important task of CAAN.

ICAO communicates to the Member States through the State Letters via electronic distribution system. Most of these letters invite comments from States on proposed amendment in SARPs to the Annexes. CAAN is responsible for formulating response to the State Letters.

#### **2.2 Response to ICAO State Letters**

For the effective and timely management of ICAO state letter regarding SARPs, ICAO/Int'l Affairs and Legal Department will act as the 'Focal Point' of CAAN. Nodal officers will be appointed in each department responsible for safety oversight to coordinate with this department on behalf of their respective departments.

The procedures to be followed for forwarding Nepal's response to the State Letters are as follows:

1. Focal Point will disseminate the ICAO State Letter to the related CAAN Departments and other agencies for their information and necessary action.
2. Department responsible for the subject matter of the State Letter will evaluate the State Letter and forward its comments/response to the 'Focal Point'.
3. 'Focal Point' evaluates the comments/ response on the received State Letter and submits to the Deputy Director General.



4. Deputy Director General, after evaluating it submits the comments/response to the Director General for his approval.
5. After approval from the Director General, 'Focal Point' will send comments/response to the ICAO.
6. For the comments/response from the agencies other than CAAN, it will be forwarded to the ICAO. However, Director General may consult with the concerned agency before forwarding their comments/response to the ICAO.

*Note: The flow chart for the response to ICAO State Letters is presented in Appendix-4.*

### **2.3 Adoption of ICAO SARPs**

Being one of the Contracting States, Nepal is obliged to implement SARPs to the ICAO Annexes as practicable as possible. Following procedures will be followed for the adoption of ICAO SARPs:

1. Upon receiving the proposal for the new or amendment to the SARPs, 'Focal Point' will send the State letter to the concerned department/external agencies for their response.
2. The concerned department is responsible to coordinate the subject matter within the department as well as seek stake holders' view and suggestions if required.
3. The concerned department will evaluate the proposed amendment of SARPs in terms of existing differences if any, necessity of new regulation to be developed or no action required in case of existing regulation being enough to comply.
4. The concerned department will submit *its* formal comments in ICAO standard format to the 'Focal Point' within the specified time frame.
5. 'Focal Point' will evaluate and submit the comments to the Deputy Director General.
6. The Deputy Director General will submit the response/comments to the Director General for his approval. However, the Deputy Director General may call the NAST meeting for consultation on the matter, if deemed necessary.
7. After getting approval from the Director General, 'Focal Point' will forward the agreement or disagreement (with or without comments) as received to ICAO.

8. In case of adoption of SARPs, the concerned department will be advised to
  - a) notify any disapproval with justification
  - b) notify any differences and compliances
9. After getting response from the concerned department in accordance to (8) the Focal Point will follow the procedure as outlined in (5) and (6).
10. After getting approval of Director General the 'Focal Point' will forward the response to the ICAO.
11. In case of compliance, the concerned department will be advised to initiate necessary action for issuance or amendment of regulations.

*Note: The adoption process of amendments to the PANS will be same as that for the SARPS.*

## **2.4 Filing of Differences to the SARPs**

The primary purpose of reporting of differences is to promote safety and efficiency in civil aviation by ensuring that those concerned are made aware of all national regulations and practices in so far as they differ from those prescribed in the ICAO Standards. It is not the purpose of filing of differences to avoid or ease the compliance of SARPs.

1. Departments responsible for Annexes will evaluate the corresponding regulation to identify the differences, if any, to the SARPs.
2. Existing differences to the SARPs of an Annex will be evaluated for its possibility to comply.
3. While determining the new differences, concerned department will assess the SARPs and evaluate the related safety risk of non-compliance and recommend required safety measures to mitigate the risk.
4. If the difference is filed as outlined in 3.2.2, the concerned department will forward the differences so filed to the AIM Department for its publication in AIP.
5. The AIM Department will publish the difference as outlined in (4) above before the applicability date.

*Note: The flow chart relating to the management of ICAO SARPs and its timeline is presented in Appendix-5 and Appendix- 6 respectively.*

## **Chapter-4**

### **Miscellaneous**

#### **4.1 Air Services Agreement**

The ICAO/International Affairs and Legal Department, on behalf of CAAN, will deal with the matters related to bilateral ASAs and MOUs. The procedure, in this regard, will be as follows:

1. Conduct regular evaluation of ASAs and MOUs concluded between Nepal and other countries.
2. Conduct discussions with industry stakeholders on the matter of ASAs and find out the issues to be addressed through ASAs and MOUs.
3. Advise higher authority regarding the necessary actions to be taken so as to address the identified issues in the particular ASAs and MOUs.
4. Participate in the meeting related to bilateral ASAs.
5. Assess and monitor the implementation status of ASAs and MOUs in Nepal and report to the Deputy Director General and the Director General.

#### **4.2 Ratification of the International Conventions**

Nepal, a signatory to the Chicago Convention, is obliged for the formulation and development of various legal instruments of international civil aviation in harmonization with the international norms and standards. It is, therefore, expected that Nepal ratifies/accedes to such International instruments. The procedure, in this regard will be as follows:

1. When a request from ICAO is received to ratify or to accede a Convention or Protocol, this Department will examine the Convention/Protocol in detail in consultation with all the stakeholders and experts and will prepare the view of CAAN.
2. Thereafter, CAAN will send its formal view to the MOCTCA to initiate the process of ratification of / accession to the Instrument.

3. After obtaining approval from the GoN, as the case may be, the instruments of Ratification/Accession are deposited with the depositary for that instrument.
4. After ratification of/accession to the Convention/Protocol, CAAN will initiate for the formulation of required domestic legislation.

### **4.3 International Relations matters**

1. This Department is responsible to make necessary coordination with concerned International organization and agencies on behalf of CAAN.
2. Other Directorates and Departments of CAAN will provide a copy of each correspondence made with international agencies to this Department.

### **4.4 Legal Advice**

1. This Department will provide advice to the Director General and other Directorates in the conflicting legal issues as requested.
2. This Department is responsible for the representation of CAAN in court of law as and when required.

### **4.5 Technical Library Management at CAAN Head Office**

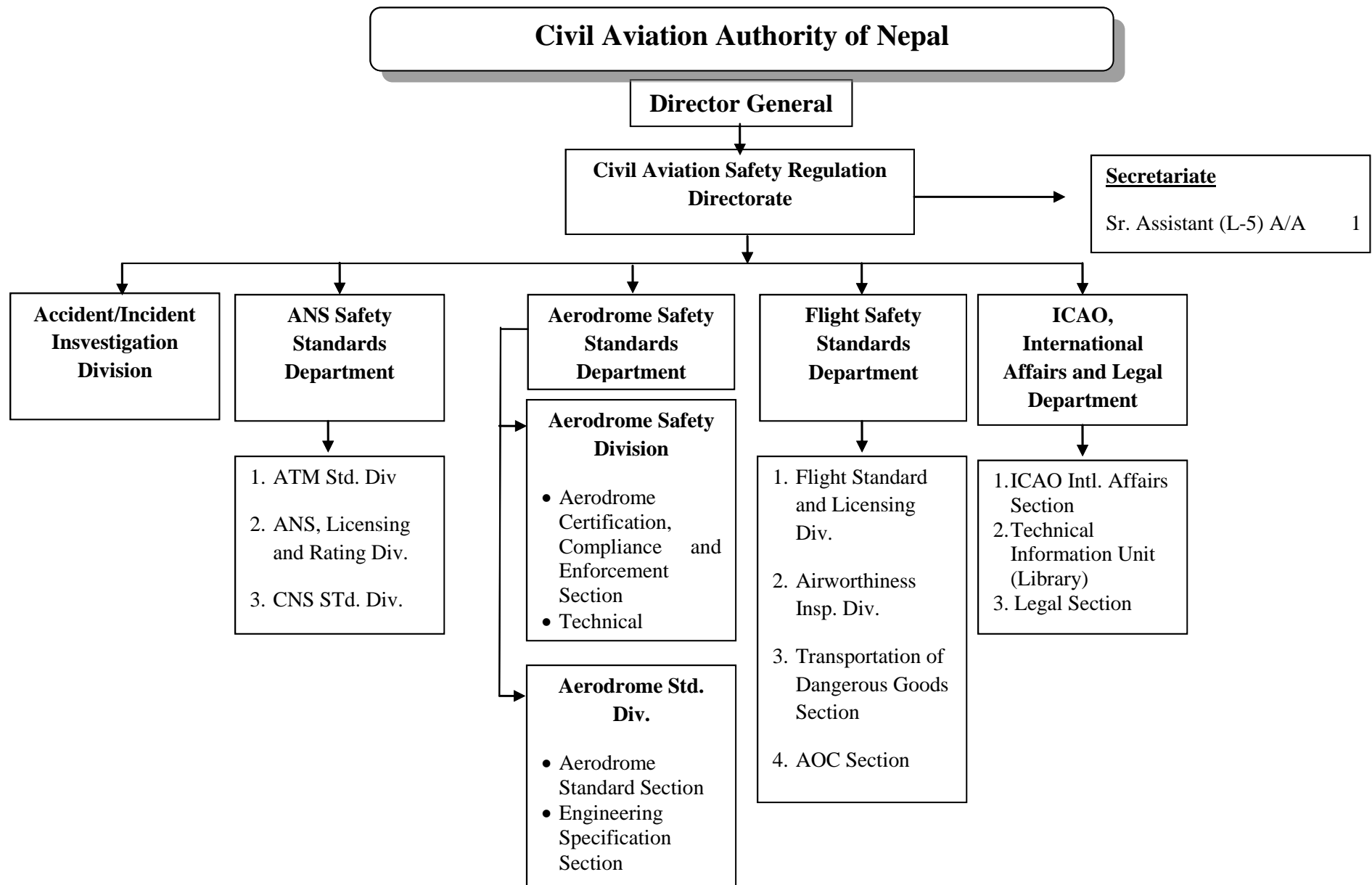
This Department is responsible for the management of technical library at CAAN Head Office. The library will be equipped with current ICAO publications as well as other necessary documents relating to civil aviation. All the publications of CAAN as well as legislative instruments of Nepal will be made available in the library.

### **4.6 Inter-departmental Coordination**

As per the nature of functions to be performed by this Department, it requires a close coordination and harmonious relationship between this Department and other concerned Departments of CAAN. So, this Department will organize interaction programmes to maintain continuous communication among all concerned Departments on regular basis.



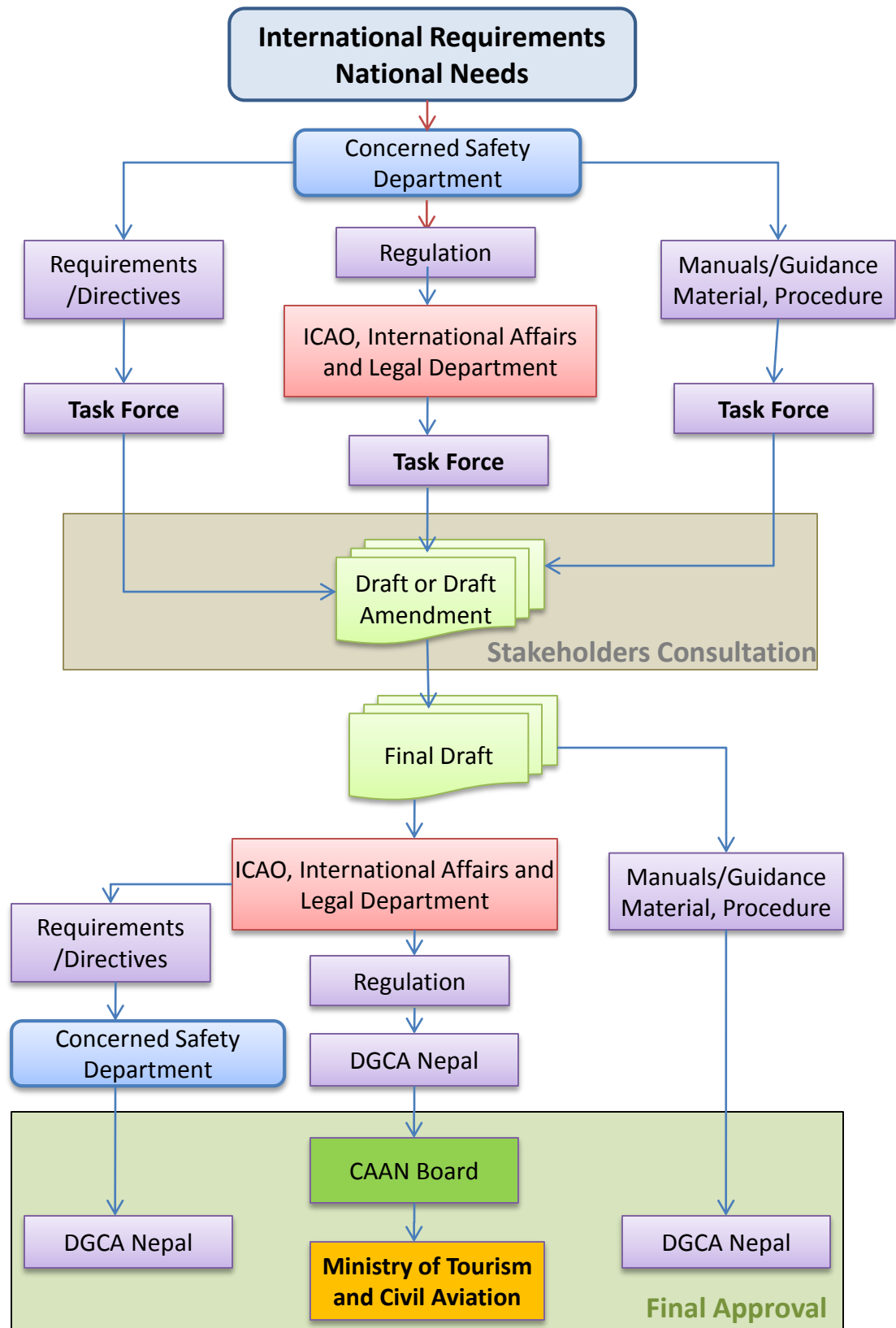
# Appendix-1



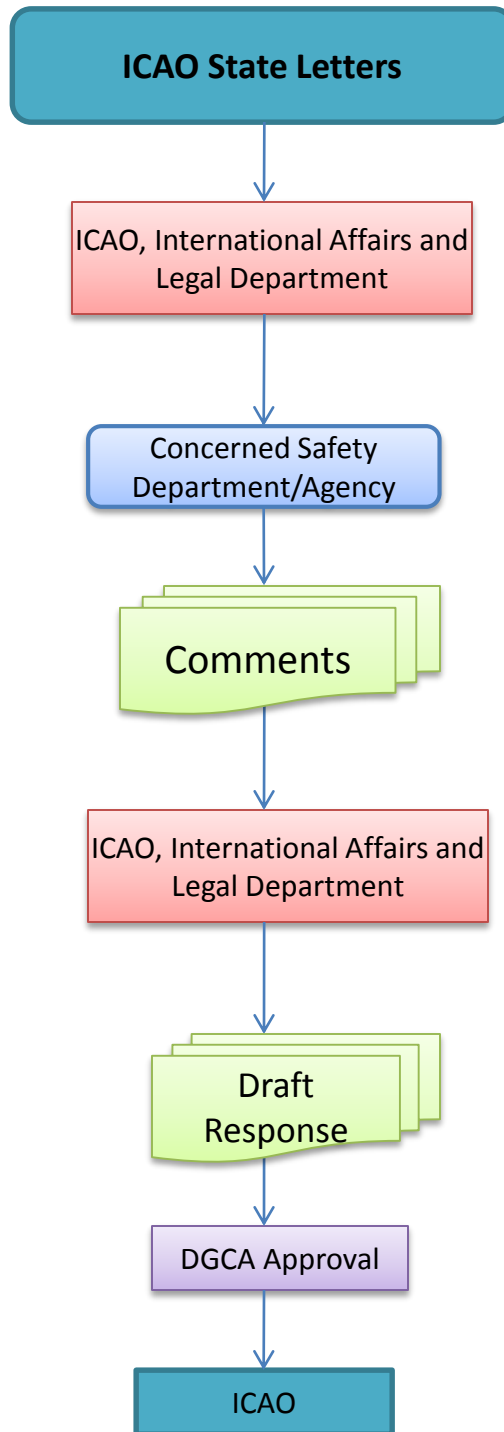
## Entities Responsible for ICAO Annexes

<b>S.N.</b>	<b>Annexes</b>	<b>Entities</b>
Annex 1	Personnel Licensing	Flight Safety Standards Department
Annex 2	Rules of the Air	ANS Safety Standards Department
Annex 3	Meteorological Services for International Air Navigation	Department of Hydrology and Meteorology
Annex 4	Aeronautical Charts	ANS Safety Standards Department
Annex 5	Unites of Measurement	ANS Safety Standards Department
Annex 6	Operation of Aircraft	Flight Safety Standards Department
Annex 7	Aircraft Registration	Flight Safety Standards Department
Annex 8	Airworthiness of Aircraft	Flight Safety standards Department
Annex 9	Facilitation	Facilitation Department
Annex 10	Aeronautical Telecommunications	ANS Safety Standards Department
Annex 11	Air Traffic Services	ANS Safety Standards Department
Annex 12	Search and Rescue	ANS Safety Standards Department
Annex 13	Aircraft Accident and Incident Investigation	Ministry of Culture, Tourism and Civil Aviation
Annex 14	Aerodromes	Aerodrome Safety Standards Department
Annex 15	Aeronautical Information Services	ANS Safety Standards Department
Annex 16	Environmental Protection	Flight Safety Standards Department
Annex 17	Security	Aviation Security Department
Annex 18	The Safe Transport of Dangerous Goods by Air	Flight Safety Standards Department
Annex 19	Safety Management	Flight Safety Standards Department/ANS Standards Department/Aerodrome Standards Department

## Development /Amendment of Regulation

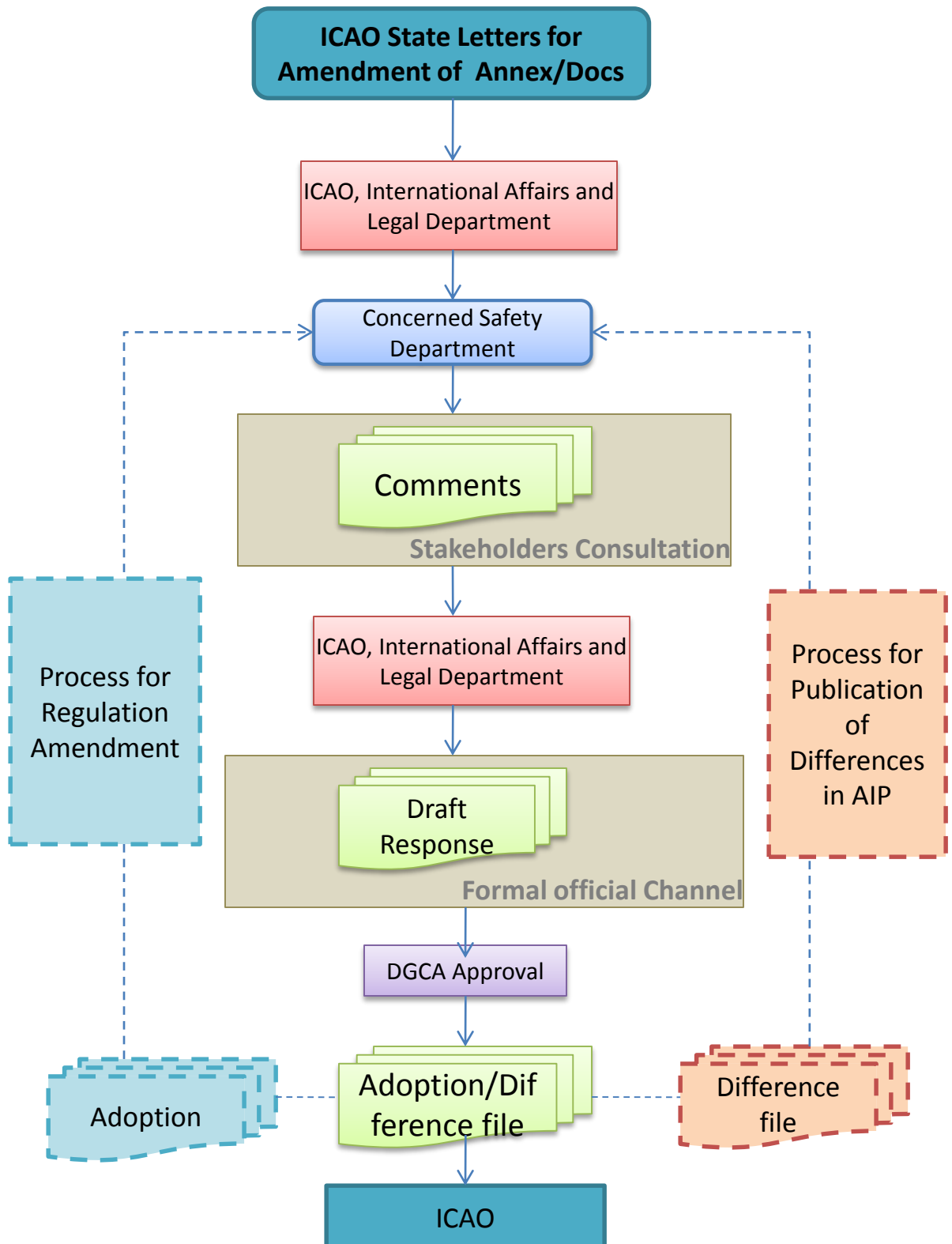


## Response to ICAO State Letters





## Management of ICAO SARPs/PANS



## ICAO SARPs Management Timeline

S. No.	Focal Point	Concerned Department*	Dy. General Aviation Regulation	Director Civil Safety	Director General	AIS Department	Timeline
<b>1. Action on State Letter</b>							
1.1	Distribution of State Letter via e-mail to the respective Safety Departments						Within 7 days after receiving the State Letter
1.2		1) Review the State Letter and evaluate the a) proposed amendment of SARPs for any points of agreement or disagreement b) notified adoption of SARPs for: - any point of disapproval - any difference or compliance 3) Forward its formal response to Focal Point					Within 30 days after receiving the e-mail
1.3	Evaluate response and submit to DDG for approval process						Within 5 days of receiving the response from Safety Department
1.4			Submission of final response to Director General for approval				Within 5 days after submitted by the Focal Point
1.5					Approval		Within 5 days after submitted by the DDG
1.6	State Response made to ICAO						Within 3 days after approval from DG

<b>2. Regulation Development</b>						
2.1	Focal Point notifies safety department the decision of DG					Within 3 days from the approval of DG as specified in 1.6
2.2		a) Form draft team b) Stake-holder consultation, if required c) Forward draft regulation to Focal Point for approval process				Within 30 days after receiving the notification from Focal Point
2.3	Evaluates the draft regulation, and submit to DDG for approval of DG					Within 7 days after receiving of draft regulation
2.4			Evaluates and submit to DG for approval			Within 5 days after submitted by Focal Point
2.5				Approval		Within 5 days after submitted by DDG
<b>3 Filing of Differences</b>						
3.1	Focal Point notifies safety department the decision of DG					Within 5 days from the approval of DG as specified in 1.6
3.2		Notify to AIS Department to file differences				Within 21 days from the date of notification
3.3					Publishes the differences	As per the AIRAC Cycle in November

*\*Department responsible for Annexes to Convention, as outlined in Appendix-2.*