

ICAO Legal Opinion

Upon review of the proposed Addendum to Programme Document RSA97902 Phase V, it is observed that such a commitment on ICAO's part to "recognize oversight assistance provided by the COSCAP-SA" will place ICAO in a potential actual or perceived conflict of interest in view of ICAO's role in the USOAP-CMA.

While States may lawfully delegate safety oversight functions within the confines of the Chicago Convention, the concept of ICAO "recognition" of services or assistance performed by delegated entities gives rise to legal issues (including conflicts of interests concerns) which are currently under consideration by the Secretariat within the context of the proposed Global Aviation Safety Oversight System (GASOS). However, definitive Secretariat guidance in this regard is still pending the outcome of the Ad-Hoc Legal Advisory Group that was formed to study these matters in light of the foregoing,

I am unable to endorse the proposed Addendum for the Secretary General's approval and signature as requested.