

Airline Family Assistance & The Role of Station Personnel in Foreign Accidents

The Aviation Symposium Webinar Series

June 25, 2015



Presenters



Mark Dombroff



Deborah Thompson



The Accident

- On June 24, 2015 at 7:00 am local time, a wide-body aircraft operated by a US carrier, Nimbus Airlines, crashed near Berlin Tegel Airport (TXL)
- The flight had taken off from Washington Dulles (IAD) Airport where Nimbus Airlines is headquartered.
- Early reports are that the aircraft crashed seven (7) miles short of the runway and is on fire.



The Accident

- The aircraft is reported to have had 165 passengers, including three infants. In addition, there was a crew of 12.
- CNN is reporting there have been numerous deaths and injuries.
- Nimbus Airlines has five (5) employees at Tegel and relies upon a ground handling company to support its operation.



ICAO Annex 13

- The International Civil Aviation Organization (“ICAO”) is the United Nations civil aviation agency that sets international standards and regulations necessary for safe, regular, efficient air transport, and serves as the medium for cooperation in all fields of civil aviation among the 187 Contracting States, i.e. country.
- Article 26 of the Convention on International Civil Aviation states that, in the event of an accident to an aircraft of a contracting State occurring in the territory of another contracting State, and involving death or serious injury, or indicating serious technical defect in the aircraft, **the State in which the accident occurs will institute an inquiry** into the circumstances of the accident, in accordance, so far as its law permits, with ICAO procedures. (See also 49 C.F.R. 831.2(a)(3)).



ICAO Annex 13

- The State of Registry, the State of the Operator, the State of the aircraft design and the State of the aircraft manufacturer are each entitled to appoint an accredited representative to participate in the accident investigation. ICAO Annex 13, Section 5.18. Each accredited representative is entitled to appoint one or more advisors, proposed by the Operator, to assist. ICAO Annex 13, Section 5.19.
- When there is an accident involving an international civil aviation flight, Annex. 13 of the International Civil Aviation Convention sets forth the rules on notification, investigation, and reporting of the accident. (See FAA Order 8020.11B, p. 8, ¶ 342 August 16, 2000; FAA Order 8020.11C, pp. 1-8, 7-1).



ICAO Annex 13

- The NTSB and FAA may participate in foreign accident investigations upon request by the State in which the accident occurred. (See FAA Order 8020.11B, ¶ 340, August 16, 2000; FAA Order 8020.11C, pp. 7-1 – 7-2.
- The NTSB is responsible for investigating accident/incidents involving civil aircraft that occur outside the United States when the accident/incident is not in the territory of another country (i.e., international waters). 49 C.F.R. § 831.2(a)(1).



ICAO Annex 13

- If the incident/accident involves a civil aircraft of the United States, notify the local field office of the NTSB “immediately and by the most expeditious means available.” (See 49 C.F.R. §§ 830.1(a) & 830.5).
 - The notification must include, to the extent then available: the type, nationality and operator of the aircraft; name of the owner and operator of the aircraft; name of the pilot in command; date and time of the accident; last point of departure and intended point of landing; position of aircraft with reference to some easily defined geographical point; number of persons aboard; number killed, and number seriously injured; nature of the accident, the weather, and extent of damage to the aircraft; and a description of any explosives, radioactive materials and other dangerous articles aboard. (See 49 C.F.R. § 830.6).



ICAO Annex 13

- Notify the Foreign Service Post (U.S. Embassy or Consular Office) for the consular district in which the accident occurs, and the nearest office of the civil aeronautics administration for the country in which the accident occurs. (See 22 C.F.R. § 102.8). The U.S. State Department is required to notify next of kin of U.S. victims. (See 22 U.S.C. § 5503).
- Notify the Managing Director of Overseas Citizen Services, Bureau of Consular Affairs, U.S. Department of State immediately if the operator is a U.S. certificated air carrier or foreign air carrier and the accident flight was to or from the United States – 202.647.1512 (U.S. Dept. of State Operations Center). (See 14 C.F.R. § 243.11).



ICAO Annex 13

- Notify the Casualty Assistance Office of each respective service if any military or government personnel were aboard the aircraft.
 - Army: 800.626.3317
 - Navy: 800.368.3202
 - Air Force: 800.433.0048
 - Marines: 800.847.1597
- Notify U.S. Postal Service if the aircraft was carrying U.S. mail.



ICAO Annex 13

- Notify your Insurance Broker and Underwriters. Aviation insurance policies typically require immediate notification in the event of an accident.
- Notify Corporate Security. Corporate security personnel should be advised of the accident so that security can be ensured at key corporate facilities because the press may seek access to corporate offices and key personnel immediately after an accident. Security at the “situation room,” accident site, and on-site facilities is especially crucial.



ICAO Annex 13

- Notify Environmental Programs Department. The airline/company environmental programs department should be notified of the accident in order to evaluate for a possible fuel spill or hazardous cargo situation.
- Notify code share partners
- Notify next of kin
- Notify Outside Counsel. Outside counsel should be notified and advised to stand by as legal questions arise and employee interviews are requested.



Coordinate With Headquarters Response Team

- Ensure both investigatory and family assistance teams are in motion.
- Ensure logistics such as accommodations and transportation for response teams are arranged.
- Coordinate with the Public Relations Department on initial communications.
- Coordinate with inside and outside counsel for initial team briefings.



Representation for Employees

- All persons interviewed should be entitled to legal representation. An airline/company should not allow any employee to be interviewed by investigating personnel without adequate preparation and legal representation. Outside counsel may be best suited to this task.



Protect/Preserve Wreckage

- In a foreign accident, the State where the accident occurred is responsible for protecting the evidence and maintaining safe custody of the aircraft and its contents for such a period as may be necessary for purposes of the investigation. (ICAO Annex 13 § 3.2).
- Protection of evidence will include preservation of any evidence that may be removed or destroyed. (ICAO Annex 13 § 3.2).



Special Considerations

- Time Zone Differences
- Staffing at Station
- Language Issues
- Code Share Partners
- Airport Authorities
- Cultural Issues



Special Considerations

- Monetary Resources
- Hotel Space
 - Survivors/Families
 - Crew
 - Company Personnel
- Family Assistance Resources
- Security
- Legal Assistance



Special Considerations

- Criminal Investigation
- Civil Litigation
- Dealing with the Media

