

CULTURA JUSTA Y DESCRIMINALIZACION DE LA INFORMACION OPERACIONAL Y SUS FUENTES

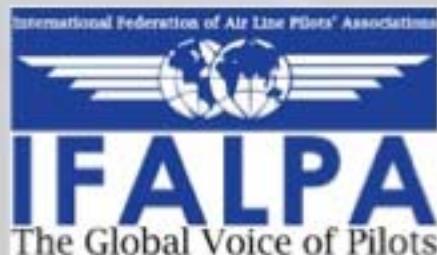


Cap. German Diaz-Barriga Martinez

Mexico, D.F. 14 y 15 de Mayo 2014

IFALPA

International Federation of
Air Line Pilots' Associations



ANTECEDENTES

UNIVERSAL-INTERNATIONAL NEWS

WORST AIR CRASH IN HISTORY

VOICE: ED HERLIHY

AIRBOYD.TV

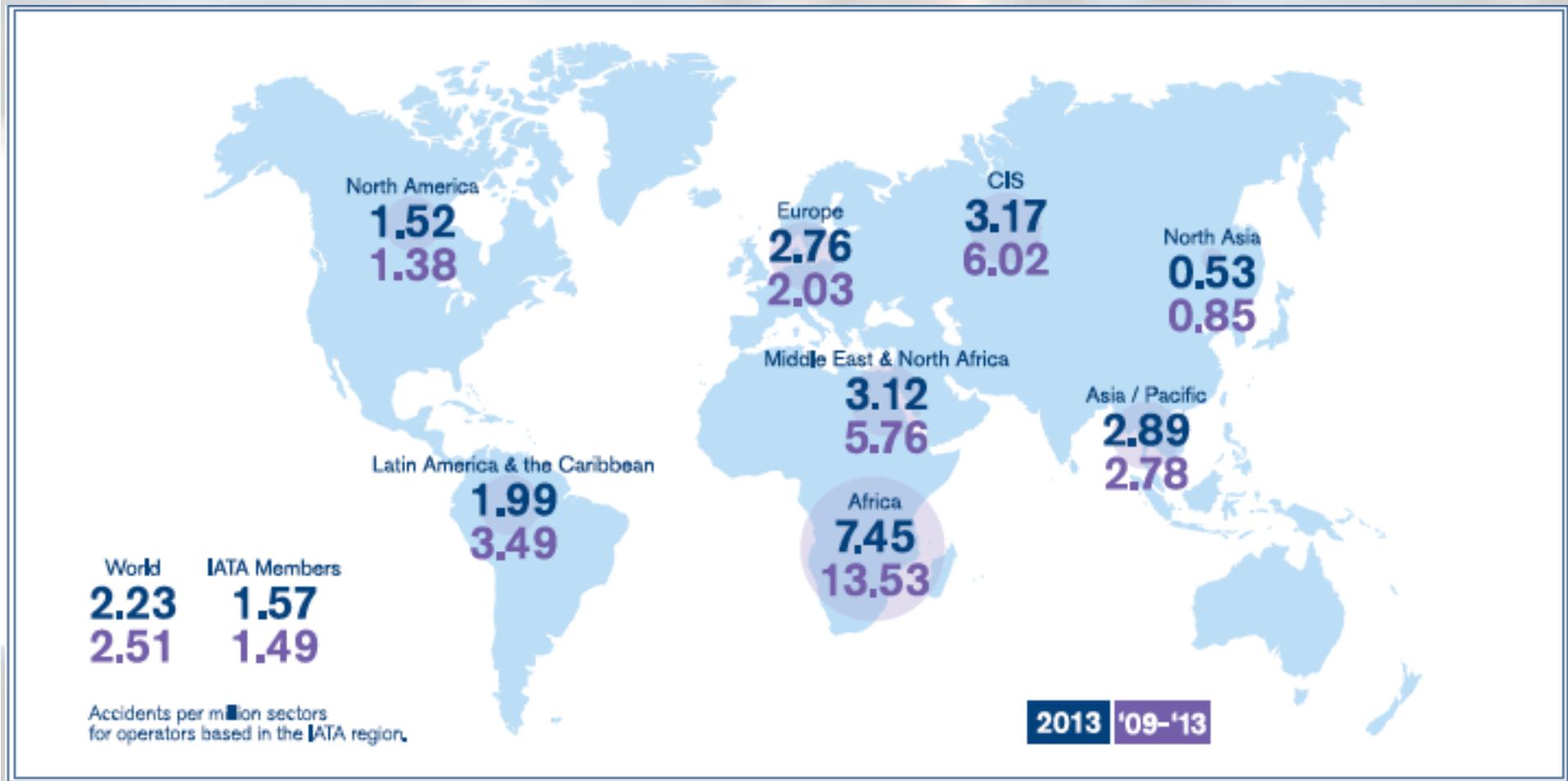
ANTECEDENTES

- La percepcion del Publico y la Industria en general era que en los Accidentes Aereos habia errores y se aceptaba simplemente una explicacion.
- Se hablaba del “Error del Piloto” o demas gente inmiscuida.
- Ahí quedaba todo.
- Pero, hace aproximadamente 4 decadas, la situacion comenzó a cambiar y se cambio el enfoque hacia las circunstancias bajo las cuales el error había sido cometido. Comenzamos a hacer SEGURIDAD REACTIVA.
- ERROR PREVENTION / ERROR RECOVERY

EL SISTEMA LEGAL –DIFERENCIAS FUNDAMENTALES

- En el Mundo Judicial no ha ocurrido un cambio similar (todavia).
- En muchos sistemas legales, los Profesionales de la Aviacion (Pilotos, Controladores, Mecanicos etc.), pueden enfrentar Cargos Criminales por encontrarse envueltos en un incidente, en un Accidente o por Reportar alguna situacion anormal en vuelo, aun cuando hayan actuado de acuerdo a los Procedimientos, Normas, Reglamentos y su Experiencia.
- IFALPA defiende a diversas Tripulaciones alrededor del Mundo como por ejemplo la Tripulacion de Asiana en SFO

Total Accident Rate by IATA Region (Eastern-built and Western-built aircraft)



PROS Y CONTRAS

PROS

- Disuacion
- Necesidad de Rendicion de Cuentas / Retribucion

CONTRAS

- Lo mas seguro es que no se revelen los detalles de las causas de un accidente
- La Investigacion Criminal impide una Investigacion real desde el punto de vista del Anexo 13.
- Destruye la Cultura Abierta del Reporte

Capt. Paul Mc. Carthy (IFALPA) ante la camara de Representantes del Congreso de EEUU – 2000:

“It is not by chance that the United States enjoys such an admirable safety record in air transportation.

That we lead the world in this regard is primarily due to two key factors: the dedication to safety by the manufacturers, operators, and the personnel directly involved with flight operations, and the ability of this industry to learn from its errors. The recent trend towards the decriminalization of aircraft accidents is extremely alarming in that it has the potential to cripple industry's ability to learn from incidents & accidents.



If the potential for criminal prosecution of flight crew members does become a realistic possibility, it will end the current cooperative spirit of pilots in accident investigations, to the detriment of aviation safety. If the 'no prosecution' tradition in the United States were to be reversed, the cooperative safety spirit of accident investigations would suffer. Certainly, no lawyer would allow his client to willingly provide incriminating evidence against himself if it were likely to be used in a criminal prosecution of the client. Clearly, this also applies to all others whose testimony is necessary for a better understanding of the events leading to the accident. It is in the public's interest that such information continues to be available to accident investigators.

Criminalization will stanch this information flow."

OACI ANEXO 13

Chapter 3 Paragraph 1

*“The sole objective of the investigation of
an accident shall be the prevention of
accidents and incidents.*

*It is not the purpose of this activity to
apportion blame or liability.”*

SALVAGUARDA DE LA INFORMACION DE UN ACCIDENTE

Chapter 5 paragraph 12

“Data used for aircraft incident/accidents shall not be used for purposes other than the investigation of the incident/accident”

PRINCIPIOS DE EXCEPCION

Attachment E to Annex 13

“Exceptions to the protection of safety information should only be granted by national laws and regulations when there is evidence of a crime, or of reckless, gross negligent or willful misconduct, and an appropriate authority determines that the release of safety information is necessary and outweighs the needs of flight safety”

PROTECCION DE LA INFORMACION DE LAS GRABADORAS

Attachment E to Annex 13

“National laws and regulations should consider ambient workplace recordings required by legislation as privileged protected information”

“So what is needed?

First let us be clear what we are not asking for. We are not seeking to be abrogated of our responsibilities. We are not asking for the freedom to exercise willful misconduct during the course of fulfilling our duty tasking. As professionals, we fully recognize and accept our responsibilities and authority. What we are asking for is protection from overzealous or misinformed individuals or organizations who are attempting to convert legitimate errors and failures into criminal behavior for their personal, political or corporate benefit.”

CONCLUSION: ACUERDOS DE CABALLEROS Y PREDICTIVE SAFETY?

- PROTOCOLOS
- SIMPLES ACUERDOS Y PROCEDIMIENTOS
- JUST CULTURE – Que los Profesionales de la Aviacion no sean castigados por sus errores o sus acciones, a menos que hayan sido con negligencia, a proposito o por descuido.
- FOQA-FDM, AUDITORIAS DE SEGURIDAD, IOSA, REPORTES, etc.

SEGURIDAD PROACTIVA Y PREDICTIVA.