

# PROCESS FOR RULEMAKING IN VIETNAM (CIVIL AVIATION)

Civil Aviation Authority of Viet Nam  
Legal Affairs Department  
2018

# OVERVIEW OF VIETNAMESE LEGISLATIVE DOCUMENTS

- **Definitions:**
- *Legislative documents* are documents that contain legal normative regulations and the promulgation of which complies with regulations of law on authority, manner, and procedures provided for in the *Law on Promulgation of Legislative Documents*.
- *Normative regulations* are general rules of conduct, commonly binding, and applied repeatedly to agencies, organizations and individuals nationwide or within a certain administrative division, promulgated by the regulatory agencies and competent persons in this Law, and the implementation of which is ensured by the State.

# OVERVIEW OF VIETNAMESE LEGISLATIVE DOCUMENTS

**The system of legislative documents governing civil aviation in Viet Nam:**

- The Law on Civil Aviation of Viet Nam promulgated by the National Assembly prescribes: basic rights and obligations of citizens that must be prescribed by law according to the Constitution, restrictions on human rights and citizenship; crimes and punishments in civil aviation activities;
- Degrees promulgated by the Government prescribe: specific guidelines for articles, clauses, and paragraphs assigned in the Law on Civil Aviation of Viet Nam (most of them are issues related to duties and entitlements of two or more Ministries, ministerial agencies);

# OVERVIEW OF VIETNAMESE LEGISLATIVE DOCUMENTS

**The system of legislative documents governing civil aviation in Viet Nam:**

- Decisions of PM prescribe: operating method of the government and state administration system from central to local government, regulations on working with members of the Government, local governments, and other issues within the competence of the Prime Minister.
- Circulars promulgated by Ministers prescribe: specific guidelines for articles, clauses, and paragraphs assigned in the laws, decrees of the Government, and decisions of the Prime Minister and measures for performing their state management functions (most of ICAO SARPs are requirements in form of Circulars.)

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# **PROCESS FOR PREPARING RULEMAKING**

Step 1: Proposal of Legal Document Formulation

Step 2: Development of Legal Documents

Step 3: Review draft of Legal Document

Step 4: Promulgation of Legal Document

# Step 1: Proposal of Legal Document

- CAAV shall plan annually legal documents formulation programs and send to MOT to review and analyze supporting documents of the program.
- Legal documents formulation programs must be based on: policies of Communist Party and the State, results of legal documents implementation or assessment of social relationships related to policies of the legal documents, needs for state management, socio-economic development; human rights, basic rights and obligations of citizens, relevant international agreements to which Vietnam is a signatory.



## Step 1: Proposal of Legal Document

- Documents supporting the legal documents formulation programs submitted to MOT:
  - Description report, which specifies the necessity of such document; purposes and viewpoints on the legal documents formulation, entities regulated by the documents; targets, contents of proposed policies, solution for implementation thereof, and reasons for choosing such solutions; estimated resources and conditions for ensuring implementation.
  - Report on assessment of impact of proposed policies.
  - The outline of the draft of legal documents.



## Step 2: Developments of legal documents

- Documents formulation program approved by MOT includes: time frame, duties of relevant agencies in drafting and appraising the legal documents.
- DG of CAAV assigns duties for relevant CAAV's department or established a specialized working group to prepare the draft of legal documents which is requested by the CAAV.
- Note:
  - **Law:** Standing Committee of the National Assembly shall establish a Drafting Board and appoint an agency in charge of drafting. In case of the law is submitted by the Government, the Prime Minister shall appoint a Ministry of Transport, which will establish a Drafting Board.
  - **Decree:** Ministry of Transport, which will establish a Drafting Board.

## Step 2: Developments of legal documents

- Duties of the Drafting Board :
  - Consider approving detailed outline of the draft of legal documents;
  - Discuss contents of the draft document, report, description, revision report from other organizations and individuals;
  - Ensure that regulations of the draft is conformable with policies of Communist Party; ensure the constitutionality, legitimacy, and consistency of the draft document with the legal system; ensure the feasibility of the document.

## Step 2: Developments of legal documents

- Duties of the drafting agency:
  - Organize the formulation of the legal document according to the purposes, requirements, scope, and policies provided in the application for legal document formulation.
  - Prepare the draft, description, and documents related to the draft document.
  - Seek opinions about the draft document from relevant agencies, organizations, and individuals (on website,): at least 60 days, and hard copy may be sent to certain stakeholders - must give written responses within 20 days from the receipt of the request )
  - If the drafting agency revises the draft document while it is open for comments, the revised one must be posted.

## Step 3: Appraising draft legal documents

- Law/Decree/PM's Decision: The Ministry of Justice shall appraise the law project or draft Decree before it is submitted to the Government.
- Circular of MOT: The Legal Department of MOT shall appraise the draft circular before it is submitted to the minister.
- The appraisal shall focus on: scope of applicability, regulated entities, the constitutionality, legitimacy, and consistency of the draft decision with the legal system; the compatibility of the draft decision with relevant international agreements, human resources and financial resources to ensure implementation, language, format, and drafting process of the document.

## Step 4: Promulgation/Publication

- Law: The President shall announce a law or ordinance within 15 days from the day on which it is ratified.
- Decree: The Government casts votes on ratification of the draft decree. The Prime Minister signs the decree.
- Circular : a report on the draft circular shall be submitted to Minister to considers promulgating the Circular.

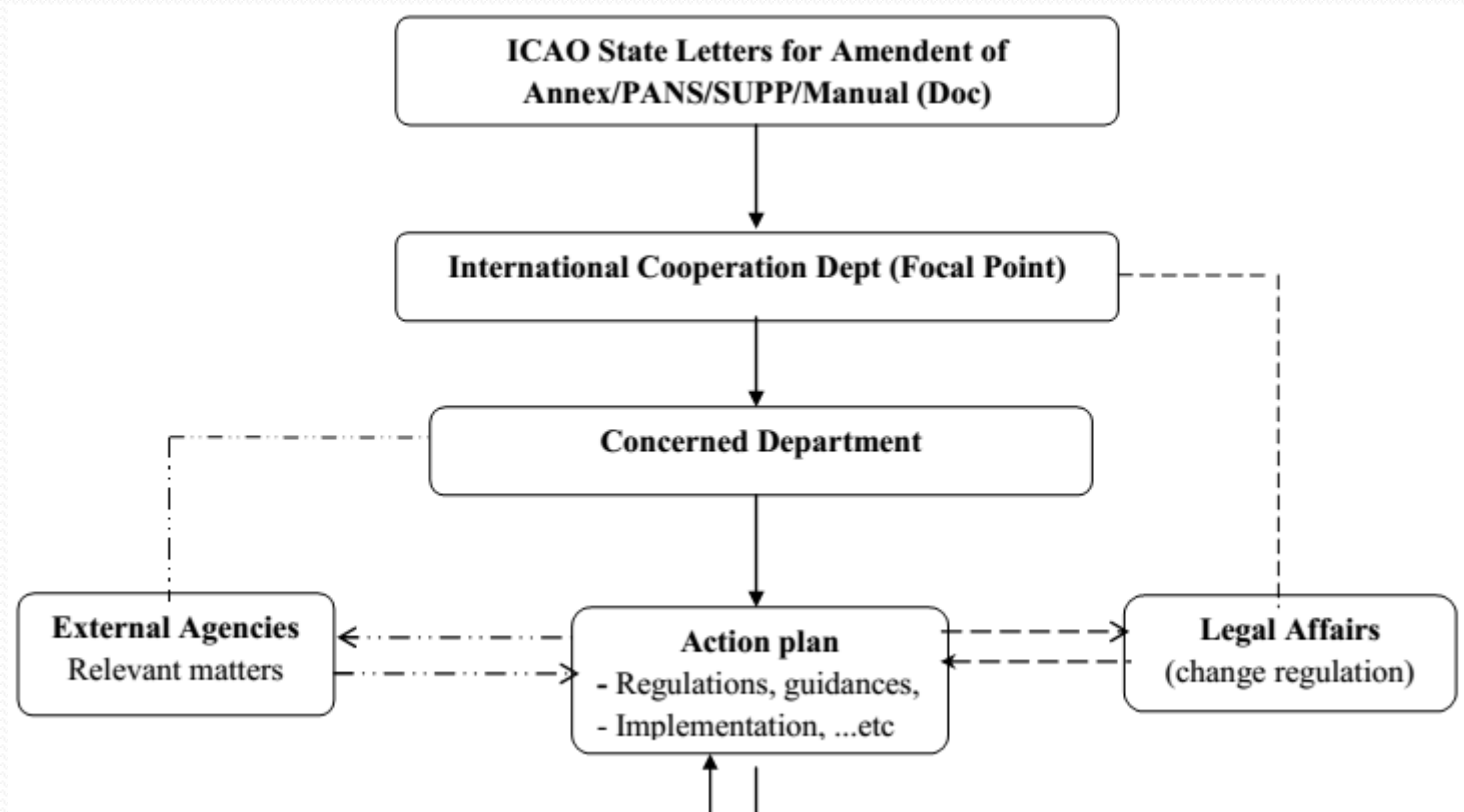
## Step 4: Promulgation/Publication

- The effective date of the whole or part of a legislative document shall be specified in the document. Nevertheless, the effective date is not sooner than 45 days from the day on which it is ratified or signed if it is promulgated.
- Legislative documents are applicable from their effective date.
- Legislative documents must be published on Official Gazette of Socialist Republic of Vietnam, except for those that contain state secrets.

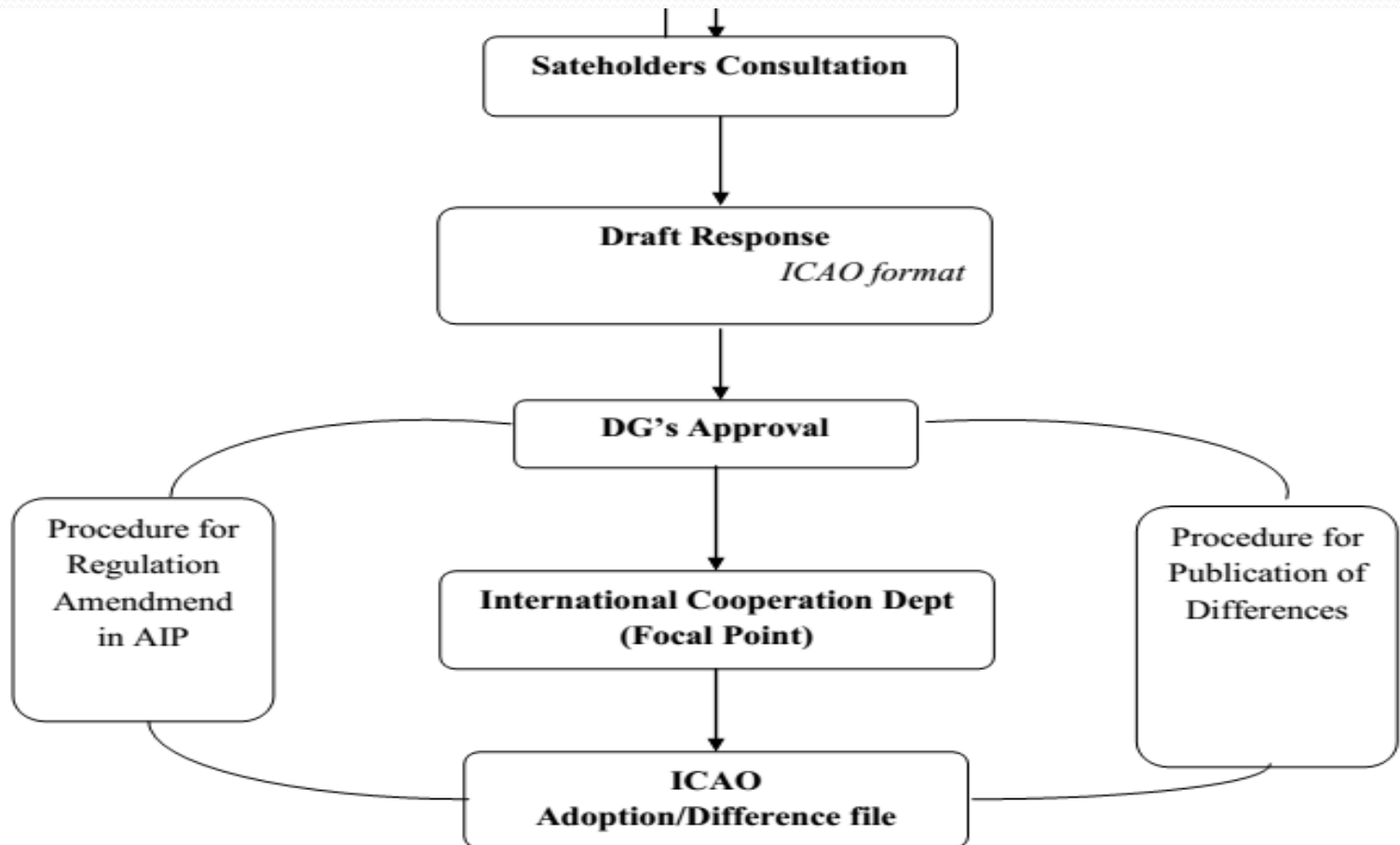
# IMPLEMENTATION ICAO SARPS IN VIETNAM



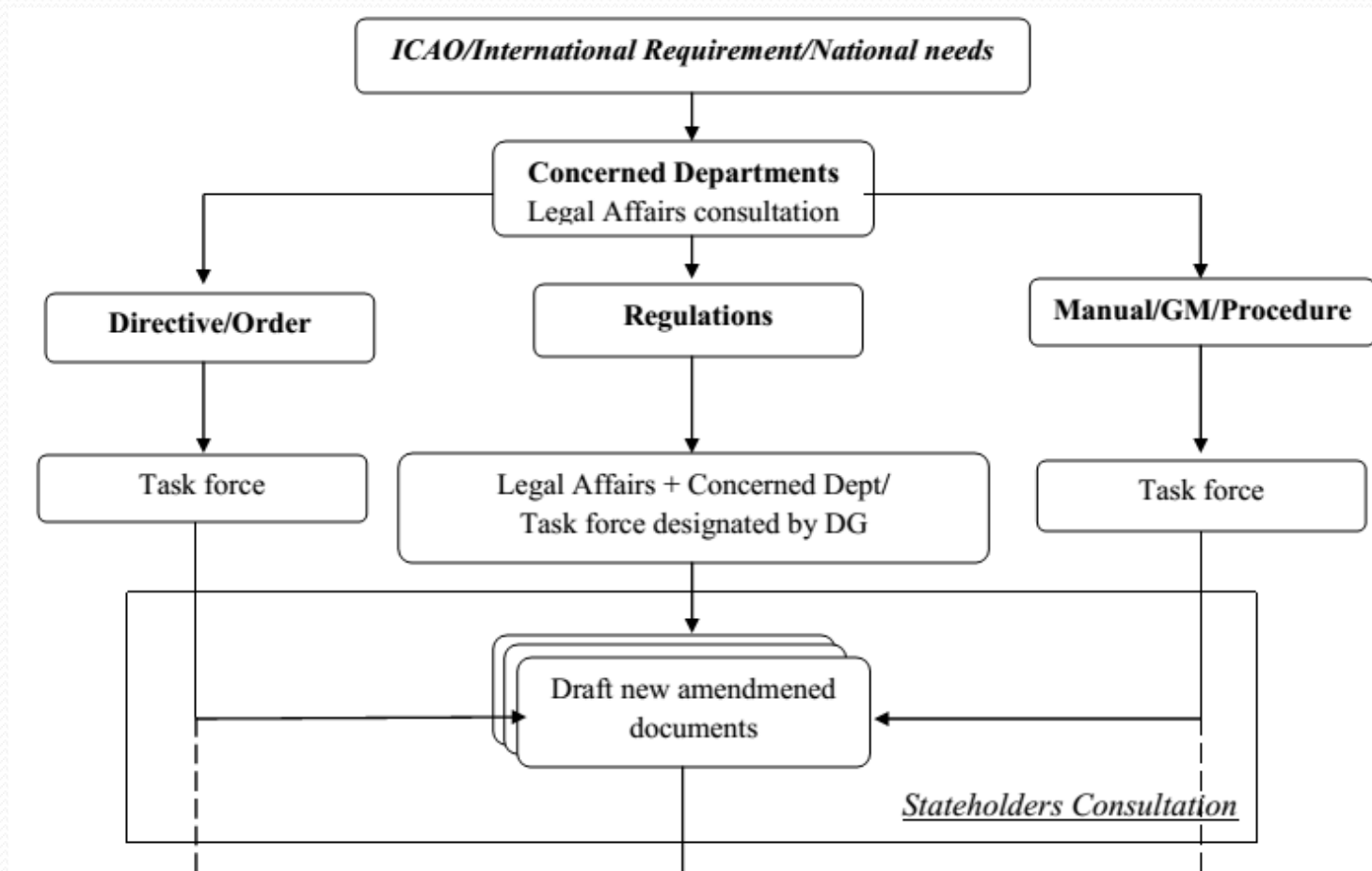
# MANAGEMENT OF ICAO STATE LETTER



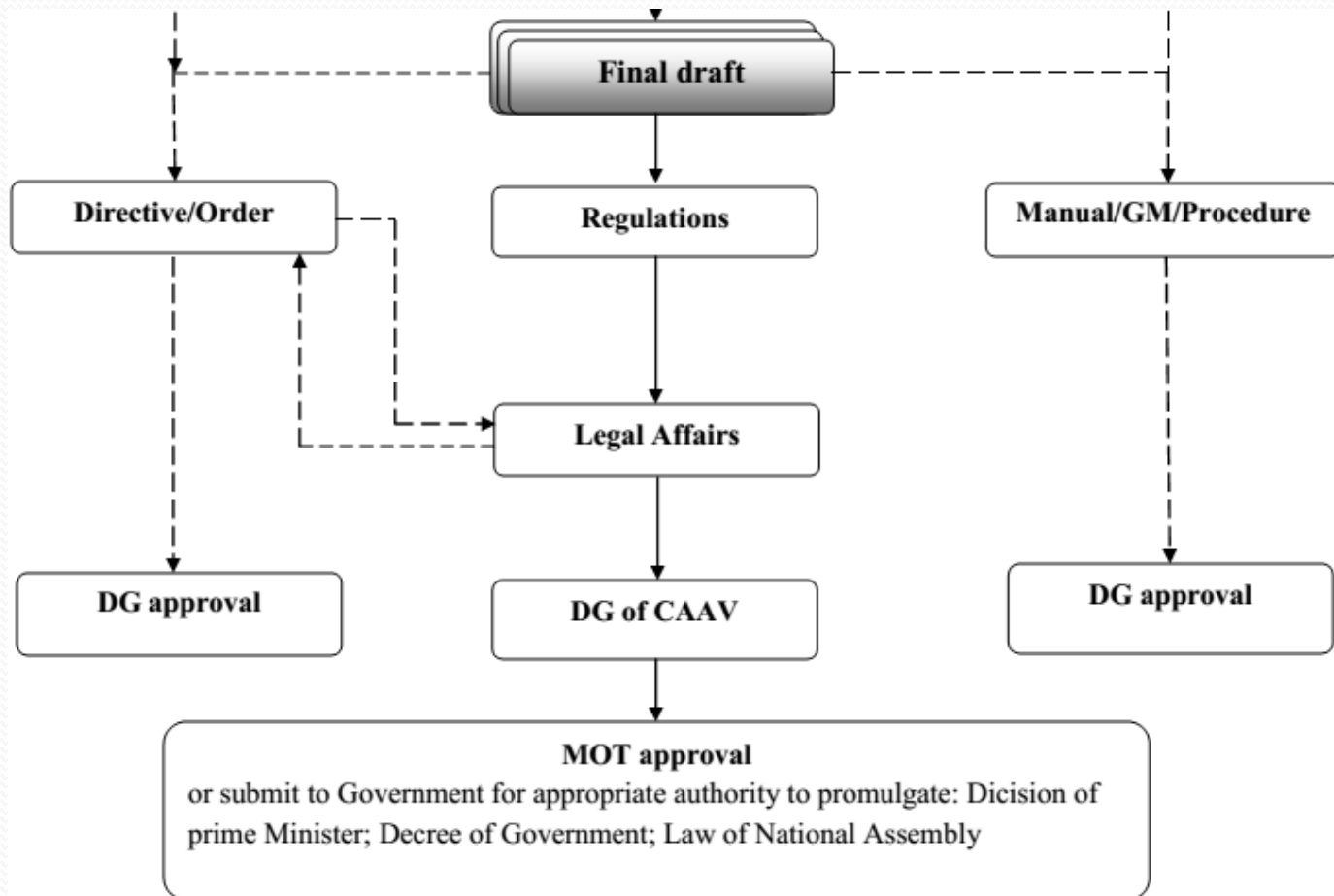
# MANAGEMENT OF ICAO STATE LETTER



# PROMULGATION/AMENDMENT OF AVIATION REGULATIONS



# PROMULGATION/AMENDMENT OF AVIATION REGULATIONS



# ICAO STATE LETTERS DISTRIBUTION

<b>Annex</b>	<b>Subject</b>	<b>Distribution</b>
1.	Personnel Licesing	PEL (FSSD) & ANS
2.	Rules of Air	ANS
3.	Meteoorological Service for International Navigation	ANS
4.	Aeronautical Charts	ANS/AIS
5.	Units of Measurement to be used in Air and Ground Operations	ANS
6.	Operation of Aircraft	OPS/AIR
7.	Aircraft Nationality and Registration Marks	AIR
8.	Airworthiness of Aircraft	AIR
9.	Facilitation	ATD
10.	Aeronatical Telecommunications	ANS
11.	Air Traffic Services	ANS
12.	Search and Rescue	SAR
13.	Aircraft Accident and Incident Investigation	AIG
14.	Aerodrome	AGA
15.	Aeronautical Information Services	ANS/AIS
16.	Emvironment Protection	EVN/AGA
17.	Security	AVSEC
18.	Safe Transportation of Dangerous Goods by Air	OPS
19.	Safety Management	ARMSC

# ICAO SARPS MANAGERMENTS TIMELINE

No	Focal point Int Dept	Legal Affairs	Concerned Dept	DG/AIS	Timelines
<b>Part 1: Action on State letters</b>					
1.1	Distribution of State Letter to concerned Dept and Legal Dept				ASAP normally within 5 days after receiving the letter
1.2		Review State Letter relating to SARPs for formulation legal documents procedures (if any). (Part 2: Regulation formulation/amendment)	1. Review the State Letter and evaluate: - proposed amendments of SARPs for any point of agreement of disagreement - notified adoption of SARPs for: + any point of disapproval + any difference or compliance. 2. Forwards its evaluation to Legal Dept and/or to concerned external agencies for consultations.		Within 15 days after receiving State Letter

## ICAO SARPS MANAGERMENTS TIMELINE

No	Focal point Int Dept	Legal Affairs	Concerned Dept	DG/AIS	Timelines
1.3			Evaluate responses of the concerned Dept and external Agencies (if any) and submit final response to the DG via concerned DDG for approval.		At least 10 days before deadline date specified in the letter
1.4				DG Approval	
1.5	State response made to ICAO				After getting approval from DDG and before deadline date specified in the letter



# ICAO SARPS MANAGERMENTS TIMELINE

No	Focal point Int Dept	Legal Affairs	Concerned Dept	DG/AIS	Timelines
<b>Part 2: Regulation formulation/amendment</b>					
2.1	Focal Point notifies concerned Dept and Legal Dept the Letters on adoption amended SARPs				ASAP (within 5 days)
		Coordinate with concerned Dept to prepare dossier of legal document formulation proposal which will be submitted to MOT	1. Form draft team (legal staff + qualified staff of concerned Dept + Stakeholder if required) 2. Draft legal document (regulations) 3. Stakeholder Consultation 4. Forward draft regulation to Legal Dep		According to the nature of subject and plan registered to MOT (normally within 30-90 days after
		1. Evaluates the draft regulation and review of: - Amended regulation ensuring all Annex provisions are addressed. - Final response to amended Annex and identified differences to be filed to ICAO. 2. Submit to DDG for approval of DG			Within 5 days after receiving the draft regulation

# ICAO SARPS MANAGERMENTS TIMELINE

No	Focal point Int Dept	Legal Affairs	Concerned Dept	DG/AIS	Timelines
				DG Approval	According to plan registered to MOT (Normally before the day 23 <sup>rd</sup> of the months that the draft regulation to be submitted to MOT
	1. NCMC ensures data updated in CMA. 2. Focal Point closes action on amendments as completed		Update online CMA (CC/EFOD)		Before deadline specified in the letter.

# ICAO SARPS MANAGERMENTS TIMELINE

No	Focal point Int Dept	Legal Affairs	Concerned Dept	DG/AIS	Timelines
<b>3. Filling of Differences</b>					
3.1			Finalizing comparions SARPs and new/amended regulations and identied differences.		10 days after promulgation of new/amended regulations.
3.2			Notifies to AIS section to file difference		
				Publish the differenc es	As per the AIRAC Cycle in November



**THANK YOU!**