



DRAFT

ASSEMBLY — 39TH SESSION

TECHNICAL COMMISSION

Agenda Item 33: Aviation safety and air navigation monitoring and analysis

CONFLICT ZONES

(Presented by Slovakia on behalf of the European Union and its Member States¹ and the other Member States of the European Civil Aviation Conference²; and by EUROCONTROL) and by (to be decided) ...

EXECUTIVE SUMMARY

In its ambition to remain as the world's safest mode of mass transportation, the international civil aviation faces many challenges. One of the challenges is the protection of civil aviation from the risks arising from conflict zones. This paper proposes the Assembly to support and further prioritize the activities of ICAO on the issue of conflict zones. In addition this paper proposes to investigate options for incorporating more specific texts in the ICAO work programme on conflict zones.

Actions: The Assembly is invited to:

- a) Acknowledge and support the ICAO work programme on conflict zones;
- b) Request ICAO to complete the implementation of the work programme items on conflict zones by 2018;
- c) Complement the ICAO work programme on conflict zones by including the actions described in the paragraphs 2.2 and 2.3 of this working paper;
- d) Encourage ICAO to cooperate with IATA for establishing a centralized information sharing framework to provide information concerning conflict zones to States;
- e) Request ICAO to further improve the use of the ICAO conflict zones information repository and support the development of risk assessment at regional level; and
- f) Request ICAO to support the development of Air Traffic Flow Management at regional level to facilitate flying safely by avoidance of conflict zones.

¹ Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and United Kingdom.

² Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Iceland, Moldova, Monaco, Montenegro, Norway, San Marino, Serbia, Switzerland, The former Yugoslav Republic of Macedonia, Turkey and Ukraine.

<i>Strategic Objectives:</i>	This working paper relates to the Safety, Air Navigation Capacity, Efficiency, Security and Facilitation Strategic Objectives.
<i>Financial implications:</i>	The activities referred to in this paper will be undertaken subject to the resources available in the 2017-2019 Regular Programme Budget and/or from extra budgetary contributions.
<i>References:</i>	Convention on International Civil Aviation and its Annexes Information Paper with references to Accident Investigation Report on the MH17 Council WP/14220 and Council WP/14378

1. INTRODUCTION

1.1. The ICAO Secretary General established the Task Force on Risks to Civil Aviation arising from Conflict Zones (TF-RCZ) that developed the work programme with 12 actions, which was discussed and approved in principle in the Council during its 203rd Session (C-DEC 203/1). The Council resolution of 17 July 2014 highlighted in particular the importance of the accident investigation process. The 2015 High-level Safety Conference (HLSC) recognized the necessity to provide accurate and timely information to States and airlines regarding risks to civil aviation arising from conflict zones as a matter of urgency, and the Conflict Zone Information Repository (CZIR) was consequently established in April 2015.

1.2. The actions taken by ICAO in relation to conflict zones overall are welcome and supported. Further information on the subject has since been introduced as a result of the accident investigation on the downing of Malaysian flight MH17 (17 July 2014). The investigation was coordinated by the Netherlands with involvement of an international team with experts from several States - Australia, Malaysia, the Netherlands, Ukraine, United States and the Russian Federation. The investigation report was published on 13 October 2015 (refer to IP XXX for further information on the Final Investigation Report). This report formulated safety recommendations, in accordance with the Annex 13 process, with a view to prevent similar tragedy in conflict zones from recurring in the future

1.3. The safety recommendations contained in the Final Investigation Report³ refer to flight over conflict zones and propose to implement actions at three levels: Airspace management in conflict zones, risk assessment, and operator accountability. These safety recommendations are addressed, respectively, to States, ICAO and operators.

1.4. The work undertaken by ICAO and IATA and the actions taken, notably by ICAO and IATA, on the basis of the Final Investigation Report reflect the important efforts made by the international aviation community, under ICAO leadership, to reduce the risks arising from conflict zones.

2. DISCUSSION

2.1 The work of the TF-RCZ is acknowledged and supported. The implementation of the results of the work should be prioritized with a view to complete necessary actions by 2018 and to publish what is ready as soon as possible.

³ performed by the Netherlands, Ukraine, UK Malaysia Australia USA , Russian Federation.

2.2 In addition, the ICAO work programme on conflict zones should be complemented with the following items:

- The responsibilities of States for closure of their own airspace when safety can not be assured and dissemination of information relating to risks to aviation arising from use of weaponry on the ground may need to be clarified, and consideration should be given to the need for measures, including SARPs if appropriate, to ensure that these responsibilities are better formulated;
- In accordance with safety management principles, operators and States should conduct a proper safety and or security risk assessment to ensure the safety of civil aviation operations taking into account the risks arising from conflict zones, and these principles should be set out in guidance or in SARPS as appropriate;
- All information that is, or could be pertinent to an accident investigation, should be retained by ICAO Contracting States so it can remain available for the investigation, even if the State is not the State of occurrence under Annex 13;
- Taking into account the experience of Ukraine and the Netherlands regarding the delegation of the accident investigation, [the relevant Panel] should review the provisions of Annex 13 to establish how best to clarify the responsibilities of a State of occurrence of an accident and of the State to which the conduct of the investigation is delegated; and
- The type of information and documents to be used to distribute information about conflict zones to airspace users and to ICAO should be updated. The status of the ICAO Conflict Zone Information Repository (CZIR) should also be addressed in ICAO SARP's.

2.3 Under the Chicago Convention, States are the sovereign authority over their airspace. By ratifying the Convention, States have the right to prohibit uniformly the aircraft of other States from flying over certain areas of their territories as deemed necessary for reasons of military necessity or public safety. States' responsibilities for the safety of their airspace should be better defined and could get a more prominent place within the ICAO legal framework. Clarity should be provided on determining under which cases the airspace should be closed. This proposal has been supported by the TF CZR and the Legal Committee of the Council. Consideration should be given to update SARPs on this subject as soon as possible. The Special Group which was convened to review the application of ICAO treaties relating to conflict zones did not exclude that such revisions might be necessary in future. ICAO is invited, no later than 2018, to assess the need for an amendment of the Convention with a view to ensure that States will close their airspace over conflict zones when safety cannot be assured.

2.4 IATA and ICAO should be encouraged to continue cooperating, notably on the issue of including the work on conflict zones in the IOSA approach. Furthermore ICAO coordination with IATA on opportunities to establish a centralized industry information sharing framework/system is supported. This initiative would facilitate effective collection and dissemination of information regarding operational risks associated with operations over or near conflict zones.

2.5 The CZIR should be further supported. Several States are capable to disseminate information, while also information from stakeholders, like for instance airlines, in particular via IATA, and air navigation service providers, could be included. ICAO should also establish mechanisms to reduce the time between reception of information and publication via the repository to the bare minimum to facilitate immediate informing of airspace users.

2.6 States should also inform other States directly when they have relevant information about threats within foreign airspace. Such an initiative has been launched in Europe to look at the collection and sharing of information at regional level. Other States and regions are invited to act in a similar manner and to feed the ICAO CZIR repository with their information.

2.7 Avoiding conflict zones by using alternative airspace is a key task of Air Navigation Service Providers (ANSPs) and air traffic flow management (ATFM) units. More work should be done on making information available and encouraging the establishment of operational arrangements for flying safely avoiding conflict zones. ICAO is invited to encourage and to facilitate this by bringing States and industry together at the right geographical level to address problems for ATFM caused by conflict zones

2.8 In the years to come the way aviation is dealing with conflict zones has to be developed. ICAO is asked to use the ICAO oversight and continuous monitoring approach to monitor this development and share best practises.

3. CONCLUSION AND RECOMMENDATIONS

3.1 The Assembly is invited to request ICAO to:

- a) Acknowledge and support the ICAO work programme on conflict zones;
- b) Request ICAO to complete the implementation of the work programme items on conflict zones by 2018;
- c) Complement the ICAO work programme on conflict zones by including the actions described in the paragraphs 2.2 and 2.3 of this working paper;
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