



International Civil Aviation Organization
The Fifth Meeting of South China Sea Traffic Flow Review Group
(SCSTFRG/5)

Singapore, 18-21 April 2017

Agenda Item 2: Review of the current and planned CNS/ATM capabilities and identifying associated reduced horizontal separation

Air Traffic Management Over the High Seas

(Presented by Malaysia, Thailand)

SUMMARY

This paper presents the case for the responsibility to provide air traffic management services over international waters be delegated to adjacent coastal states that offer better surveillance and communications capabilities. It recommends using existing communication and surveillance facilities to offer more efficient services that would enable the industry to reap benefits from what is available today within the South China Sea airspace as opposed to waiting for technological advancements and shared resources.

1. INTRODUCTION

1.1 National airspace is subject to the sovereignty of a State. This includes airspace above the territorial seas, internal waters, archipelagic waters and land territory of a State. Territorial sea claims up to a maximum distance of 12 nautical miles from a coastal State's baseline drawn in accordance with international law is also internationally recognised as sovereign territory. International airspace is therefore any airspace that is not subjected to the sovereignty of a State. All States enjoy the rights, freedoms, and lawful uses of international airspace recognized under these laws.

2. DISCUSSION

2.1 Under the Chicago Convention, each State has complete and exclusive sovereignty over the airspace above its territory. Assembly Resolution A37-15 states that a State which delegates to another State the responsibility for providing air traffic services within airspace over its territory does so without derogation of its sovereignty. Both the delegating and the providing State can reserve the right to terminate any such agreement at any time (Doc 10022 Assembly Resolutions in Force, as of 4 October 2013).

2.2 Under established international law, no State has sovereignty over international airspace. As such, international airspace should be treated as a shared resource among all users. The allocation of this international airspace to coastal states through Regional Air Navigation Meetings is merely the assignment of responsibilities to provide ATM and alerting services within a designated airspace and are established on the basis of technical and operational considerations that focus on safety, efficiency and economy for both providers and users of the services. The entrusted state is a custodian of that airspace and should manage the assigned airspace in consultation with all stakeholders.

2.3 The SCS-TFRG's focus is the South China Sea, wherein most FIRs were established in 1974. The political and socioeconomic conditions have undergone tremendous change. Today, all states have excellent QTPs and CNS infrastructure for ATM. The services being provided in the SCS Area does not fully leverage on the excellent infrastructure already available today. (Attachments refer)

3. ACTION BY THE MEETING

3.1 The meeting is invited to:

- a) note the information contained in this paper; and
- b) As an interim measure, encourage the delegation of responsibilities for the provision of ATM and Alerting Services on specific airways to states that can provide the best service.
- c) Propose for appropriate action be initiated to review the management of the international airspace within the SCS.