



**International Civil Aviation Organization**

**NINTH MEETING OF THE  
COMMUNICATIONS/NAVIGATION/SURVEILLANCE AND  
METEOROLOGY SUB-GROUP OF APANPIRG  
(CNS/MET SG/9)**

Bangkok, Thailand, 11–15 July 2005

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**Agenda Item 10: ICAO Warning Systems**

**ENSURING PROVISION OF ANNEX 3 WARNING SERVICES  
FOR FLIGHT INFORMATION REGIONS**

(Presented by New Zealand)

**SUMMARY**

This paper reviews the relationship between States under the Chicago Convention with particular regard to the contingent provision of meteorological warning information for flight information regions that, from time to time and for various reasons, are not sufficiently covered by the responsible State.

**1. INTRODUCTION**

1.1 From time to time the Meteorological Watch Offices (MWO) in some States are not able or willing to provide sufficient oversight of meteorological conditions in their respective Flight Information Regions (FIR) or to take action on information received, or on their own initiative, to issue meteorological warning information such as SIGMET and more particularly, VA SIGMET.

1.2 In some States the issue of aerodrome forecasts (TAF) for international operations can also be compromised for a number of reasons.

1.3 In some States the lack of capacity to meet their Annex 3 responsibilities is acute and long term.

1.4 This paper recognises that this situation is not conducive for the safe conduct of international air navigation. It is also recognised that an underlying but important component of the Chicago convention is the concept of international community and mutual assistance. This paper therefore explores some possible solutions to the issues set out above.

**2. BACKGROUND**

2.1 The Convention on International Civil Aviation 1944 (the Convention) established the International Civil Aviation Organisation ("ICAO"). Individual countries who are signatories to ICAO are referred to as Contracting States.

2.2 For the purposes of this paper, some of the key parts of the Convention include:

- The promotion of safety of flight in international air navigation: Article 44(h).
- The ICAO Assembly has the power to decide on any matter that is referred to it by the Council: Article 49(c).
- The Convention does not prevent Contracting States from pooling their air resources on any routes or in any regions: Article 77. More generally, Article 83 provides that any Contracting State may make arrangements that are not inconsistent with the provisions of the Convention.
- Article 37 of the Chicago Convention states that ICAO shall adopt international standards and procedures (“SARPs”) regarding safety, regularity and efficiency of air navigation. SARPs are designated as Annexes to the Chicago Convention: Article 54(l).
- Article 28 of the Chicago Convention states that each Contracting State undertakes, so far as it may find practicable, to provide in its territory meteorological services in accordance with the standards and practices recommended or established from time to time.

2.3 A Contracting State’s general meteorological obligations are set out in Annex 3. The objective of Annex 3 is stated to be (Chapter 2.1.1):

- The objective of meteorological service for international air navigation shall be to contribute towards the safety, regularity and efficiency of international air navigation.

2.4 The objective is to be achieved by the supply of meteorological information to specified users for the performance of their respective functions (Chapter 2.1.2).

2.5 However, it is up to each Contracting State itself to determine the specific meteorological service that it will provide. That determination of services must be made in accordance with (Chapter 2.1.3)

- The provisions of Annex 3; and
- Due regard to regional air navigation agreements.

2.6 That determination shall include meteorological service over international waters and other areas that lie outside the Contracting State’s territory (Chapter 2.1.3). In order for the Contracting State to practically provide the meteorological information, the Contracting State designates a “meteorological authority”, which provides the meteorological information on behalf of the Contracting State.<sup>1</sup>

2.7 A Contracting State may have the responsibility to issue TAF and SIGMET through that State’s Meteorological Watch Office (MWO).

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<sup>1</sup> The details of the Meteorological Authority must be included in the Contracting State’s aeronautical information publication, in accordance with Annex 15, Appendix 1, GEN 1.1.

### **3. THE KEY QUESTIONS**

3.1 The specific concern is that some Contracting States are not issuing the prescribed meteorological products (TAF, SIGMET, VA SIGMET etc) for their respective FIR or are not meeting the prescribed standards for such products.

3.2 However, neighbouring or regionally close Contracting States, which have highly developed infrastructure, could issue some or all of the required meteorological products (TAF, SIGMET, VA SIGMET etc) on behalf of the Contracting States unable to do so.

3.3 There are then three key questions:

Can States formally issue meteorological information on the behalf of other States for their airspace/FIR, do they need any formal agreement to do this and if so what form should this take?

Is there a need to amend Annex 3 to achieve this international functionality?

Are there any other legal aspects to this thinking that need to be considered?

### **4. INTERNATIONAL LAW**

4.1 Much of the applicable international law is outlined above. In addition, however, is Chapter 3.4 of Annex 3 which sets out:

3.4 Meteorological watch offices

3.4.1 A Contracting State, having accepted the responsibility for providing air traffic services within a flight information region or a control area, shall establish one or more meteorological watch offices, or arrange for another Contracting State to do so.

3.4.2 A meteorological watch office shall:

- a) maintain watch over meteorological conditions affecting flight operations within its area of responsibility;
- b) prepare SIGMET and other information relating to its area of responsibility;
- c) supply SIGMET information and, as required, other meteorological information to associated air traffic services units;
- d) disseminate SIGMET information ...

4.2 Also relevant is Chapter 9.1.4 of Annex 3 which provides as follows:

“9.1.4 Where necessary, the meteorological authority of the State providing service for operators and flight crew members shall initiate coordinating action with the meteorological authorities of other States with a view to obtaining from them the reports and/or forecasts required.”

### **5. ANALYSIS**

5.1 The provisions of Annex 3 to the Convention clearly contemplate that a Contracting State, having accepted the responsibility for providing air traffic services within a flight information region or a control area, may arrange for another State to establish a MWO for that area.

5.2 A question arises as to whether the Contracting States that are not issuing the prescribed meteorological products (TAF, SIGMET, VA SIGMET etc) for their respective FIR have “accepted the responsibility for providing air traffic services within a flight information region or a control area”.

5.3 It needs to be kept in mind that it is up to each Contracting State itself to determine the specific meteorological service that it will provide (Chapter 2.1.3). Also, according to Article 28 of the Convention each Contracting State undertakes “so far as it may find practicable” (emphasis added) to provide in its territory meteorological services in accordance with the standards and practices recommended or established from time to time.

5.4 If the Contracting State in question has accepted such responsibility then they are free to “arrange” for another Contracting State to establish a MWO to cover its FIR(s). It is not essential that a formal agreement be put in place to do so however, in order to specifically identify obligations, it would be highly desirable. There is no need for any amendment of Annex 3 to allow other Contracting States to establish MWOs.

5.5 At the meteorological authority level it is permissible for “co-ordinating action” to be taken so that reports and/or forecasts can be obtained (Chapter 9.1.4). Such coordinating action would not extend however to one State actually performing the obligations of another.

5.6 Further thought needs to be given to the potential liability of a Contracting State that has agreed to establish a MWO in the area of responsibility of another State for the provision of incorrect forecasts/information. Presumably this issue would be dealt with in the formal agreement between the two States.

## **6. CONCLUSION**

6.1 Annex 3 contemplates that a Contracting State, having accepted the responsibility for providing air traffic services within a flight information region or a control area, may arrange for another Contracting State to establish a MWO for that area for the purposes of providing some or all of the requisite MWO meteorological information (TAF, SIGMET, VA SIGMET etc).

6.2 If a contracting State does not provide the meteorological information services to which it has given an undertaking as a signatory to the Convention and has not arranged for another Contracting State to provide that information on its behalf, then it is in breach of the Convention.

6.3 The unilateral provision of meteorological information by a State for the FIR of another Contracting State, whether or not the responsible Contracting State is providing the requisite MWO meteorological information, is wholly outside the gambit of the Convention.

6.4 Annex 3 does not need to be amended to enable one Contracting State to arrange for another Contracting State to establish a MWO for the area of responsibility of the responsible State. It is not necessary for this to be achieved through formal agreement although it would be highly desirable.

6.5 Further analysis may be required regarding the potential liability of a Contracting State that has agreed to establish a MWO in the area of responsibility of another State for the provision of meteorological information. Presumably this issue would be dealt with in the formal agreement between the two States.

## **7. ACTION BY THE MEETING**

7.1 The meeting is invited to

(a) Note the content, and

(b) Exchange views on the various matters discussed in this paper.

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