



**WORKING PAPER**

**FIFTH MEETING OF THE ALLPIRG/ADVISORY GROUP**

(Montreal, 23 – 24 March 2006)

**Agenda Item 2.2: Roles of ICAO, planning and implementation regional groups (PIRGs) and States**

**STATES' REPRESENTATION IN PLANNING AND  
IMPLEMENTATION REGIONAL GROUPS**

(Presented by the Secretariat)

**SUMMARY**

Over the last decade, Air Navigation Service Providers (ANSP) represent more and more States in the work of PIRGs. At the same time, more ANSPs are becoming corporate entities with various amounts of government involvement. This could lead to some conflicts of interest at times. This working paper puts forward a proposal to reduce the possibilities of such variances, while maintaining the necessary operational expertise within the PIRGS.

Action by ALLPIRG/5 is in paragraph 4.

**1. INTRODUCTION**

**1.1 Resume**

1.1.1 The first Planning and Implementation Regional Group (PIRG) to be established was the North Atlantic Systems Planning Group (NAT SPG) and the second one was the European Air Navigation Planning Group (EANPG). Both Groups were established in the same time frame (mid 60's early 70s) with the primary task to manage the Regional Air Navigation Plans (ANPs). At that time, the expertise in the area of air navigation required to perform the work of the NAT SPG and of the EANPG resided with States' officials.

1.1.2 Over the past years, a number of States have separated their regulatory functions from the service provision. As a result, in a significant number of States expertise in the area of air navigation rests mainly with the service providers, and in some instances, States are meanwhile regularly represented in the EANPG and the NAT SPG by an employee of the service provider. Initially, most Air Navigation Service Providers (ANSPs) were entities of the State' (governmental) structure or at least fully owned by the State; however, the trend is to corporatize the ANSPs to the extent that in some instances, the State own only minority shares of the ANSP, if any.

1.1.3 The change in the organisation of regulatory functions and service provision in many States has resulted in a revised working environment for the two PIRGs. At the same time, the focus areas of ICAO have changed over the years. Assembly Resolution A29-13 reaffirms that individual State's responsibility for safety oversight is a **given** and Assembly Resolution A35-7 recognises that the improvement of the safety of international civil aviation on a worldwide basis requires the active collaboration of all stakeholders. This paper analyses the situation in light of the changes and invites considerations on the future role and responsibilities of those that represent States in the work of the PIRGs.

## 1.2 History

1.2.1 To illustrate the changes, a short history of the establishment of the NAT SPG is provided as background. The EANPG could have been used as a model as well. The NAT SPG was established by the approval of the ICAO Council on 15 April 1965 (54/20) of Recommendation 4/1 of the special North Atlantic Meeting, Montreal, 23 February - 20 March 1965 (reproduced in Appendix A hereto), which specified within its sub-paragraphs the composition, terms of reference and method of operation of the Group.

1.2.2 Modifications of the NAT SPG membership were made on 18 June 1981, when Council (103/12) agreed to the inclusion of Iceland and Portugal, on 23 November 1990, when Council (131/9) agreed to the inclusion of Denmark, on 14 May 1992 when the Kingdom of the Netherlands withdrew its membership and on 24 February 1993 when the Council (138/4) agreed to the inclusion of Norway.

1.2.3 Representatives sent by Canada, Denmark, France, Iceland, Ireland, Norway, Portugal, the United Kingdom and the United States are Members of the NAT SPG. Representatives sent by the Russian Federation and Spain as well as Observers from IATA, IACA, IFALPA, IAOPA, IBAC, IFATCA, and Inmarsat are invited to participate in the work of the NAT SPG as observers.

1.2.4 When the Group was established, all States operated their "flag carrier" and their international aerodromes and provided air navigation services over their territories and over such areas of undetermined sovereignty as decided by Air Navigation Meetings. As the work of the Group would encompass all aspects of the air navigation system, it addressed issues related to the main Provider States<sup>1</sup> as well as the main User States<sup>2</sup>.

---

1 A Provider State being defined as a State whose territories or dependencies are located partially or wholly within the geographical area of applicability Regional Air Navigation Plan or Regional Supplementary Procedures.

2 A User State being defined as a State located outside the area of applicability Regional Air Navigation Plan or Regional Supplementary Procedures:

- a) which has notified ICAO that aircraft on their register or aircraft operated by an operator whose principal place of business or permanent residence is located in such States, operate or expect to operate in the area: or
- b) which provide facilities and services affecting the area.

## **2. RESPONSIBILITIES OF STATES AND OF SERVICE PROVIDERS**

2.1 It has long been recognised that an essential foundation of cooperation is a harmonised regulation framework to ensure that uniform standards and security and safety management practices are systematically applied and that cooperation is not hindered by legal or other constraints. The PIRGs play an essential role in establishing this cooperation. They agree on the necessary facilities, services and procedures that are required to ensure that the highest levels of safety are being achieved. They also agree on collaborative implementation programmes and regulatory processes.

2.2 As indicated in paragraph 1.1.3, the States have the responsibility for regulation and oversight. The ANSPs have the responsibility for the implementation of facilities, services and procedures. Implementation requires financial, human, technological resources and commitment. The ANSPs have to budget for implementation in accordance with their individual business and internal regulatory plans. There may be occasions when the two objectives conflict, either in the timeframe or the business objective of the ANSP itself. This is particularly the case when it comes to airspace policy.

2.3 Considering that the vast majority of technical skills were transferred from the State ANS entities to the corporatized ANSPs, the States have effectively delegated the technical responsibility for items in the remit of the PIRGs. This amounts to, in some instances, representatives of corporatized and consequently business driven companies being members of a PIRG. This in itself is not necessarily prejudicial to the effective functioning of the PIRG, but it must be realised that there are instances when the business objectives of the ANSP may conflict with the collective goals as expressed in paragraph 2.1 above. PIRG membership could then be perceived by the nominated employee of a corporatized company as a lever to achieve business objectives.

2.4 There have been instances where business objectives have been put ahead of other considerations because of budgetary constraints or technological preferences. Again, this in itself is not necessarily prejudicial to an effective regional planning and implementation process, but this activity must be carried out in the context of a clearly defined framework. The modern ANSPs evolved over the last decade as an outreach of the States' responsibilities. When the terms of reference of the NAT SPG were agreed to in 1965, it was agreed that: "States designate suitably qualified experts to participate on their behalf in the work of a North Atlantic Systems Planning Group". At the time, it was not envisaged that corporatized ANSPs would through the mere availability of expertise effectively replace the State control of air navigation service provision.

2.5 ICAO, at its first Assembly, had envisaged its working relation with international organizations and other bodies as well as with private/corporatized international organizations. Assembly Resolutions 1-10 and 1-11, which are reproduced at Appendix B hereto, refer respectively. No such arrangements exist for the relationship between ICAO and corporatized ANSPs. International organisations and private/corporatized international organisations are invited to participate in the work of ICAO as observers whereas in many instances, PIRG members, who are supposed to represent the views of the Contracting States, come from corporatized ANSPs and may not necessarily represent the States' views.

## **3. RECOMMENDATIONS**

3.1 As has been indicated above, the participation of corporatized ANSPs is not prejudicial to the effective work of the PIRGs. In fact, their presence is important because they have the responsibility, under the authority of the State entity responsible for civil aviation, to implement the agreed facilities and services. What is required is a formal mechanism to ensure that members of the PIRGS represent their States and not their individual business interests.

3.2 Participation in a RAN meeting required a letter of accreditation from all States participating in the meeting. It is therefore proposed that similar provisions regarding accreditation at formal ICAO meetings be imposed on all PIRGs as well as their management groups. This would ensure that ICAO was carrying out its functions within the limits of the Chicago Convention and relevant Assembly Resolutions and provide the States with the assurance that this was being done. It would also permit the participation, as members of the PIRGs, of representatives from corporatized ANSPs. This last point is crucial as the ANSP has the technical knowledge as well as the responsibility to implement agreed facilities and services and should therefore be part of the decision making process.

3.3 Accordingly, ICAO should develop a mechanism whereby a State, responsible for the provision of air navigation services in airspace for which it has the oversight responsibility, when nominating a representative as a member of a PIRG, or its working structure, do so on the basis of a letter of accreditation from the State concerned to the ICAO Regional Office responsible for the support of the PIRG. This letter would clearly express that the nominated person(s) would represent the nominating State and has been authorised to voice the State's official position including the acceptance of subsequent responsibilities and obligations. Accordingly, ALLPIRG is invited to agree to adopt the following conclusion:

**Draft Conclusion 5/x – States' Representation in Planning and Implementation Regional Groups**

That ICAO implement a process whereby all States, when appointing their representation to a Planning and Implementation Regional Group as well as its management groups or sub-groups, issue an official accreditation to the ICAO Regional Office serving the Group.

**4. ACTION BY ALLPIRG**

4.1 ALLPIRG is invited to:

- a) note the information presented; and
- b) endorse the draft conclusion in paragraph 3.3 above.

— — — — —

## APPENDIX A

### EXTRACT FROM THE SPECIAL NORTH ATLANTIC REGIONAL AIR NAVIGATION MEETING (1965)

#### Recommendation 4/1: North Atlantic Systems Planning Group

That, in order to ensure continuity in systems planning in the North Atlantic Region between successive North Atlantic Regional Meetings:

- a) *The governments of Canada, Ireland, France, the Netherlands, the United Kingdom and the United States be invited to designate suitably qualified experts to participate on their behalf in the work of a North Atlantic Systems Planning Group with the following terms of reference:*

*“To continuously study, monitor and evaluate the system in the light of changing traffic characteristics, technological advances and updated traffic forecasts, to the end that the North Atlantic Regional Plan may be adjusted on a timely, evolutionary basis. Throughout this work the group shall give close attention to the effectiveness of any suggested changes in relation to their costs.”*

- b) *Proposals by States for amendment of the North Atlantic Regional Plan that may be developed as a result of studies undertaken by the Group, be submitted for consideration by other North Atlantic States, either at ICAO North Atlantic Regional Meetings convened for the purpose, or by correspondence in accordance with established procedures.*
- c) *The Group work with the flexibility and informality required to reduce to a minimum the administrative burden imposed on States and on ICAO.*
- d) *The Group may invite, as and when it considers necessary or desirable, the co-operation and participation of other States and of public or private international organizations.*
- e) *The Group meet approximately once a year and at least once every eighteen months either at the ICAO Paris Office, the ICAO Headquarters or elsewhere at the invitation of a State and pursue its work by correspondence between successive meetings.*
- f) *All States of the North Atlantic Region be kept informed of the progress of work in the Group and be encouraged, as well as the international organizations concerned, to submit suggestions to assist the Group in its task*
- — — — —



## APPENDIX B

### RELATED ASSEMBLY RESOLUTIONS IN FORCE

#### RELATIONS WITH INTERNATIONAL ORGANIZATIONS AND OTHER BODIES

##### A1-10: Relations with public international organizations

*Whereas* there is a number of public international organizations whose activities affect or are affected by those of this Organization; and

*Whereas* the work of the Organization and the advancement of international civil aviation will be enhanced by close cooperation with such organizations;

*Now therefore, this Assembly:*

1. *Authorizes* the Council to make appropriate arrangements with public international organizations whose activities affect international civil aviation, particularly with regard to technical collaboration, exchange of information and documents, attendance at meetings, and such other matters as may promote effective cooperation, provided that such arrangements can be implemented without any increase in the approved budget of the year in question;
2. *Suggests* that such arrangements may, with advantage, be established through informal working arrangements rather than formal agreements wherever practicable;
3. *Requests* the Council to report to the next Assembly on the nature and scope of each arrangement entered into pursuant to this resolution.

##### A1-11: Relations with private international organizations

*Whereas* there is a number of private international organizations whose activities affect, or are affected by, those of the International Civil Aviation Organization; and

I the work of the Organization and the advancement of international civil aviation may be enhanced by cooperation with such other bodies;

*Now therefore this Assembly:*

##### A. Resolves

1. That the Council is hereby authorized in the exercise of its discretion to make appropriate arrangements with private international organizations whose activities affect international civil aviation. and
  - a) which have a wide and well-established international representation and possess a governing international body having a permanent character and authorized representatives;
  - b) whose aims and objectives are not in conflict with the general principles laid down in the Convention on International Civil Aviation;

2. That the extent of the cooperation provided for by any such arrangements shall be governed by the degree to which specific matters within the respective responsibilities of the two organizations are of interest to both;

3. That cooperation, in respect of those matters in which both organizations have a common interest, may be in the following forms or in such other forms as may appear desirable to the Council:

- a) exchange of information and documentation;
- b) reciprocal representation and participation in the work of technical meetings, committees or working groups;

4. That participation in the work of the Organization must necessarily be on a non-voting basis, provided that such arrangements can be implemented without any increase in the approved budget for the year in question;

B. *Suggests* that such arrangements may, with advantage, be established through informal working arrangements rather than formal agreements wherever practicable;

C. *Requests* the Council to report to the next Assembly on the nature and scope of any arrangement entered into pursuant to this resolution.

— END —