



International Civil Aviation Organization

**INFORMATION PAPER**

LC/36-IP/1  
25/11/15  
**Revised**  
**(English only)**  
27/11/15

**LEGAL COMMITTEE – 36TH SESSION**

(Montréal, 30 November – 3 December 2015)

**Agenda Item 8: Any other business**

**THE COUNCIL DECISION RELATING  
TO THE OUTCOME OF THE MEETING  
OF THE SPECIAL GROUP TO REVIEW THE APPLICATION  
OF ICAO TREATIES RELATING TO CONFLICT ZONES (SGRAIT-CZ)**

(Presented by the Secretariat)

1. On 10 November 2015, the Council considered the attached working paper, C-WP/14325 – *Report on the Outcome of the Meeting of the Special Group to Review the Application of ICAO Treaties Relating to Conflict Zones (SGRAIT-CZ)*. It endorsed the Conclusions of the Special Group as set out in the Appendix to the paper and agreed that they be brought to the attention of the Legal Committee at its 36th Session (Montréal, 30 November – 3 December 2015) for information purposes.

-----



International Civil Aviation Organization

**WORKING PAPER**

C-WP/14325  
20/10/15

**COUNCIL — 206TH SESSION**

**Subject No. 14: Subjects relating to air navigation**

**Subject No. 16: Legal work of the organization**

**Subject No. 52: Unlawful interference with international civil aviation and its facilities**

**REPORT ON THE OUTCOME OF THE MEETING  
OF THE SPECIAL GROUP TO REVIEW THE APPLICATION  
OF ICAO TREATIES RELATING TO CONFLICT ZONES (SGRAIT-CZ)**

(Presented by the Secretary General)

**EXECUTIVE SUMMARY**

This paper reports to the Council on the outcome of the meeting of the Special Group to review the application of ICAO treaties relating to conflict zones, implementing one of the items of the Work Programme recommended by the Task Force on Risks to Civil Aviation arising from Conflict Zones (TFRCZ).

**Action:** The Council is invited to:

- a) approve the recommendation contained in paragraph 2.3, that the Secretary General identifies, in accordance with the normal ICAO practices and procedures, the most appropriate method of achieving coordination of all elements of the work programme recommended by the Task Force; and
- b) decide whether the Conclusions of the Group shall be referred to the Legal Committee.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objectives <i>Safety and Security and Facilitation</i> , and Supporting Implementation Strategies – Programme Support – Legal and External Relations Services.
<i>Financial implications:</i>	As provided by the Regular Budget and funded by voluntary contributions from States.
<i>References:</i>	C-DEC 203/1 C-WP/14220 State letter SMM 1/4 - IND/15/10 dated 24 March 2015 Doc 7300, <i>Convention on International Civil Aviation</i>

## 1. INTRODUCTION

1.1 In light of the downing of Malaysia Airlines Flight 17 (MH17), the Senior-Level Task Force on Risks to Civil Aviation arising from Conflict Zones (TFRCZ) was established by ICAO and met three times in 2014. The Report presented by the Chairman of the Task Force included a work programme. The Council, during the first meeting of its 203rd Session on 27 October 2014 approved, in principle, the proposed work programme.

1.2 One of the tasks identified in this work programme is to review the application of the provisions relating to conflict zones in the *Convention on International Civil Aviation* (Chicago Convention) and other ICAO treaties, with a view to strengthening the awareness and observance of the obligations under these provisions, and to update relevant guidance material for these provisions, if necessary. For this purpose, the Secretary General decided to establish the Special Group to review the application of ICAO treaties relating to conflict zones. The Group, chaired by Ms. Kate Staples (the United Kingdom), held its meeting in Montréal from 13 to 14 July 2015.

## 2. DISCUSSIONS AND CONCLUSIONS BY THE GROUP

2.1 The Group reviewed on the application in practice of the relevant provisions of the Chicago Convention and other treaties adopted under the auspices of ICAO. It did not focus on ICAO provisions in other regulatory documents, such as Annexes to the Chicago Convention, as these tasks have been or are still being carried out by other bodies of the Organization.

2.2 The Group considered the nature of the responsibilities of States and aircraft operators under the Chicago Convention and the need to enhance the assessment by States and aircraft operators of the risks arising from conflict zones. Among other things, it reviewed the applications of Article 1, 3 *bis*, 9 and 89 of the Chicago Convention. The Group recognized the importance of Article 1 of the Chicago Convention concerning State sovereignty and reiterated the principle of customary international law concerning the non-use of weapons against civil aircraft in flight, as reflected in Article 3 *bis* of the Convention. It also reviewed the context and application of Articles 9 (Prohibited areas) and 89 (War and emergency conditions) and came to the conclusion that at this stage, it has not identified any need to amend the Convention or other treaties, while not excluding that such revisions might be necessary in future.

2.3 The Group noted, after receiving briefings from various bureaus of ICAO's Secretariat, that work was progressing in different ICAO bodies to review applicable Annexes to the Chicago Convention and relevant guidance material, such as Circular 330 (*Civil/Military Cooperation in Air Traffic Management*) and the *Manual Concerning Safety Measures Relating to Military Activities Potentially Hazardous to Civil Aircraft Operations* (Doc 9554), pursuant to the work programme identified by the Task Force with a view to strengthening the framework in relation to risks to civil aviation arising from conflict zones. The Group encouraged this work to continue and emphasized the importance of coordinating all elements of the work programme and ensuring that interested parties be kept informed on progress. The Group recommended that the Secretary General identify the most appropriate method of achieving such coordination in accordance with normal ICAO practices and procedures.

2.4 Further, the Group highlighted the importance of ratifying the *Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation* (Beijing Convention, 2010) in addition to the *Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation* (Montréal Convention, 1971). The Summary of the Meeting by the Group is set out in the Appendix. It was decided that the conclusions of the Group be reported to the Council and, if the Council so decides, be referred to the Legal Committee.

2.5 The Group stated that if its conclusions need to be reviewed in light of the developments arising for the work programme recommended by the Task Force, it would be willing to assist further if requested.

## APPENDIX

# SPECIAL GROUP TO REVIEW THE APPLICATION OF ICAO TREATIES RELATING TO CONFLICT ZONES

## Summary of the Meeting

Montréal, 13 – 14 July 2015

### INTRODUCTION

During the course of the meeting, delegates considered:

1. The general approach to the task set by the Council and noted that the remit of the Group was to focus on the application in practice of the relevant provisions of the *Convention on International Civil Aviation* (Chicago Convention) and other treaties;
2. The nature of the responsibilities of States and aircraft operators under existing provisions of the Chicago Convention, in particular Articles 1 and 9 (and a number of associated Annexes and Standards And Recommended Practices (SARPS)), and the need to enhance the assessment by States and aircraft operators of the risks arising from conflict zones;
3. The extent of work already carried out as part of the work programme identified by the Senior-Level Task Force on Risks to civil aviation arising from Conflict Zones; and
4. The value of understanding the package of measures being taken forward in that work programme and the progress made thus far in respect of delivering each work item.

### SUMMARY OF CONCLUSIONS

The Group:

1. Recognizes the importance of Article 1 of the Chicago Convention;
2. Recognizes that at this stage, it has not identified any need to amend the Chicago Convention, in particular Articles 1, 3 *bis*, 9 and 89, or other treaties, while not excluding that such revisions might be necessary in future;
3. Understands that work is underway to review applicable Annexes to the Chicago Convention and relevant guidance material (such as *Civil/Military Cooperation in Air Traffic Management* (Circular 330) and the *Manual Concerning Safety Measures Relating to Military Activities Potentially Hazardous to Civil Aircraft Operations* (Doc 9554)) pursuant to the work programme identified by the Task Force, with a view to strengthening the framework in relation to risks to civil aviation arising from conflict zones. The Group encourages this work to continue and emphasizes the importance of coordinating all elements of the work programme and ensuring that interested parties are kept informed on progress. The Group recommends that the Secretary General identify the most appropriate method of achieving such coordination in accordance with normal ICAO practices and procedures; and

4. Highlights the importance of ratifying the *Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation* (Beijing Convention, 2010) (Doc 9960) in addition to the *Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation* (Montreal Convention, 1971) (Doc 8966).

## **SUGGESTED NEXT STEPS**

The following procedural/process steps are suggested as a way of moving forward and providing to the ICAO Council a package of material that is complete, comprehensive, and designed to help prevent events, such as the tragic downing of Malaysia Airlines Flight MH17, which occurred as a result of risks to civil aviation arising in conflict zones.

### **STEP ONE**

Report the Conclusions of the Group to the ICAO Council and thereafter to the Legal Committee if the Council so decides.

### **STEP TWO**

The Group understands that work is underway to review applicable Annexes to the Chicago Convention and relevant guidance material such as Circular 330 and Doc 9554 pursuant to the work programme identified by the Task Force. Should the Legal Affairs and External Relations Bureau establish that the Group's Conclusions need to be reviewed in light of developments arising from the work programme, a working paper would then be presented by the Secretariat to the ICAO Council for its consideration. The Council would consider the action to be taken, bearing in mind the willingness of the Special Group to assist further, if requested.

— END —