

INTERNATIONAL CIVIL AVIATION ORGANIZATION
**Third Meeting of the APIRG Airspace and Aerodrome Operations Sub-Group
(AAO/SG3), Virtual Meeting, 3 to 5 August 2020**
Agenda Item 3: Planning and Implementation
OVERFLIGHT CLEARANCE PERMISSION
(Presented by IATA)

SUMMARY
<p>Requirement for overflight clearance are based on the Chicago Convention of 1944 and the basic principles of International Law. Every State has, to the exclusion of other States, the unilateral and absolute right to permit or deny entry into the area recognized as its territory and similar right to control all movements within such territory. Further guidance is provided in Chapter 2 of the ICAO Annex 9-Facilitation to the Chicago Convention. However, there is a need to improve efficiency and facilitation of OVFC permissions and States are encouraged to implement several options based on APIRG Conclusion 22/36. The Concept of ‘File n Fly’ is recommended. Alternatively, a simplified and standardized OVFC permissions requirements would suffice.</p>
<p>REFERENCE(S): ICAO Annex 9, Chicago Convention 1944, APIRG Conc. 22/36</p>
<p>Related ICAO Strategic Objective(s): Safety and Economic Development of Air Transport</p>

1. INTRODUCTION

1.1 Requirement for overflight clearance: The Chicago Convention 1944 and the basic principles of International Law; Territorial Sovereignty: Every State has, to the exclusion of other States, the unilateral and absolute right to permit or deny entry into the area recognized as its territory and similar right to control all movements within such territory.

1.2 Article 1: convention affirm the sovereignty of States over airspace above its territory. “every State has complete and exclusive sovereignty over the airspace above its territory.”

1.3 Article 2 defines the area of application i.e. land areas and territorial waters. “the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or mandate of each State.”

1.4 Article 3 refers to the jurisdiction of coastal States to 12 miles. Article 3 of the Law of the Sea Convention extends the jurisdiction of coastal States to 12 miles

1.5 Article 6 prohibits scheduled operations “except with special permission or authorization of the States in accordance with the terms established by the State” in whose territory an aircraft wishes to fly

1.6 Article 15 of the Chicago Convention states that: “No fees, dues, or other charges shall be imposed by any contracting State in respect solely of the right of transit over or entry into or exit from its territory of any aircraft of a contracting State or persons or property thereon”. Some States directly impose fees on the OVFC process or cause the process to attract fees by implementing long and inefficient processes. This should not be the case.

2. DISCUSSION

2.1 International Air Transit Agreement (IATA): States that have signed International Air Services Transit Agreement (IATA) have relief from the requirement for the need to request overflight clearance permit. Article I section 1 states that; each contracting State shall grant other contracting States the privilege to fly across its territory and; landing for non-traffic purposes. IATA forms be basis of ‘File n Fly’ concept.

2.2 Additionally, Bilateral and multilateral agreements can provide a platform to implement ‘File n Fly’ if the States are not signatories to IATA and deliberations and signing of the agreements include OVFC permission.

2.3 States should develop a standardized and yet simple format to be used as an application tool to be forwarded to an automatic self-generating permit approval number. The email address should be dedicated for such purpose. This automatic process should generate OVFC permit within ‘a few’ minutes of receipt of request from the airline.

2.4 In case any additional request may be needed by the State, a follow up email (automated) by the State should be sent to the airline requesting for such information (if not normally available in ICAO FPL) and the airline shall be obliged to provide such information for the continuation of the permit.

3. ACTION BY THE MEETING

3.1 The meeting is invited to:

- a) Take note of the working paper
- b) Projectized the development of OVFC permission in AAO SG processes
- c) Recommend ‘File n Fly’ implementation program for APIRG endorsement
- d) Recommend simplified & standardized approval process for APIRG endorsement
