INTERNATIONAL CIVIL AVIATION ORGANIZATION

Second Meeting of the Africa-Indian Ocean Aviation System Planning and Implementation Group (AASPG/2)

Livingstone, Zambia, 2 - 6 November 2026

Agenda item 4: Implementation of the objectives, targets and indicators for safety and air navigation, including the priorities set out in the regional aviation safety and air navigation plans

Bilateral agreements on the delegation of responsibility for the provision of ATS in geographically exceptional portions of adjacent airspace

(Presented by the Democratic Republic of the Congo.)

SUMMARY	
This information paper addresses the need for the States concerned in the AFI region to conclude bilateral agreements on the delegation of responsibility for the provision of ATS in geographically exceptional portions of adjacent airspace. The action to be taken is in paragraph 3.	
REFERENCE(S)	-Chicago Convention, Articles 1, 5, 6 and 9b; - AFI Regional Air Navigation Plan; -Annex 11 Chapter 2 §2.1.1 - Doc 9958 Resolutions of the Assembly in force, Part II Air Navigation, Appendix M.
Strategic Objectives	*A - Every flight is safe and secure* *C – Aviation delivers Seamless, Accessible, and Reliable Mobility for All*

1 INTRODUCTION

1.1. This working paper addresses the technical and legal aspects of the delegation of responsibility for the provision of air traffic services (ATS) in geographically exceptional portions of adjacent airspace, as well as the need to frame the modalities of such delegation through agreements between the States concerned.

1.2. The approach aims to ensure the continuity, efficiency and safety of the provision of air navigation services in areas where geographical or operational considerations justify a different organisation of the limits of airspace and the provision of ATS, while preserving the sovereignty of the States concerned.

2. DISCUSSION

2.1 Article 1 of the Convention on International Civil Aviation enshrines the principle of the complete and exclusive sovereignty of States over the airspace above their territory. However, geographical, technical and operational considerations may lead to a delimitation of the areas intended for the provision of air traffic services (ATS) which does not coincide with the territorial borders of States.

2.2 In this regard, point 3 of Appendix M to ICAO Assembly Resolution A36-13 specifies that, where ATS airspace is to encompass territories or parts of territories of two or more States, an agreement on this subject must be negotiated between the States concerned. This provision underlines the importance of an appropriate treaty framework for cross-border arrangements for the provision of ATS, without prejudice to the sovereignty of the States concerned.

2.3 For example, the Democratic Republic of the Congo, whose geographical area is 2,345,410 km², has an airspace under the jurisdiction of the Kinshasa FIR, the area of which is estimated at approximately 2,235,842 km², according to the FIR/UIR map used for air navigation. This results in a gap of 109,568 km² between the geographical area of the national territory and that of the airspace allocated to the Kinshasa FIR. In view of the importance of this discrepancy, it is appropriate that this issue be the subject of in-depth reflection within the framework of this forum of high aeronautical expertise in our region in order to examine its current and future technical and legal implications.

2.4 While technical, geographical and operational constraints may explain some of the disparities between national territorial boundaries and the configuration of airspace intended for the provision of air navigation services, it remains necessary to examine the legal framework applicable to these situations. In this regard, the relevant provisions of Chapter 2 of Annex 11 to the Chicago Convention provide for the possibility for the States concerned to agree, by agreement, to delegate to another State the responsibility for providing ATS in a specified portion of their airspace. Such a mechanism would make it possible to reconcile the sovereignty requirements of States with the technical and operational requirements related to the provision of air traffic services.

2.5 A particularly illustrative case of this problem concerns the portion of the airspace located above the Katanga pedicle in the DRC, but for which the provision of ATS is currently provided by the ATS agencies under the authority of the Simon Mwansa Kapwepwe International Airport in Zambia. Although the particular geographical configuration of this portion of airspace may justify, from an operational point of view, the current organization of the provision of ATS, the formalization of this situation by an agreement between the States concerned appears necessary in order to clarify the respective responsibilities and to guarantee an appropriate legal framework for the provision of these services. To this end, in accordance with the recommendations of the AASPG/1, bilateral discussions between the Democratic Republic of Congo and the Republic of Zambia should begin in the coming days.

2.6 By extrapolation, similar situations could exist in other parts of the Africa-Indian Ocean region where geographical or operational considerations have led to a particular organisation of the provision of ATS. It therefore seems appropriate to examine this issue at regional level, with a view to identifying the situations concerned and to derive, if necessary, the conclusions or decisions necessary to promote the signing of appropriate agreements between the States concerned, and thus strengthen the continuity, efficiency and safety of air navigation in the AFI region.

3 ACTION BY THE MEETING

3.1 The meeting is invited to:

a) take note of the information provided in this document;
b) to encourage States to implement consistently the provisions of Annex 11 relating to the delegation of the provision of air traffic services over a portion of sovereign airspace.