



WORKING PAPER

LEGAL COMMITTEE – 40TH SESSION

(Montréal, 26 to 30 October 2026)

Agenda Item 2: Consideration of the General Work Programme of the Legal Committee

PROCESSES AND PROCEDURES FOR STATES TO FULFIL THEIR OBLIGATIONS UNDER ARTICLE 12 OF THE CHICAGO CONVENTION

(Presented by the Chairperson of the Article 12 Task Force¹)

1. BACKGROUND

1.1 At its 40th Session (Montréal, 24 September – 4 October 2019), the ICAO Assembly considered working paper A40-WP/101, *Article 12 of the Chicago Convention: Communication Mechanism and Guidelines to Support its Implementation* jointly presented by Brazil and United States and decided to include the Item “Processes and Procedures for States to fulfil their obligations under Article 12 of the Chicago Convention” as a new Item to its General Work Programme. With a view to advance work on this Item, the Article 12 Task Force (A12 TF) was established in May 2021 to examine the implementation of Article 12 and to identify means and mechanisms to support and enhance such implementation.

1.2 Article 12 of the *Convention on International Civil Aviation* (Chicago, 1944 – the “Chicago Convention”) is a foundational provision for the safety and orderly conduct of international civil aviation. It requires Contracting States to ensure that their aircraft comply with the applicable rules for the “flight and maneuver of aircraft” in force wherever such aircraft may be, and to ensure that violations of those rules are subject to prosecution.

1.3 The work of the Task Force responded to concerns expressed by States that, notwithstanding the fundamental importance of Article 12, its implementation is not always efficient in practice. In particular, attention was drawn to practical difficulties in the handling of violations of air navigation regulations, including timely and effective communication between aviation authorities in cases involving foreign aircraft, operators or pilots, and operations over national airspace or the high seas.

2. FINAL REPORT OF THE ARTICLE 12 TASK FORCE

Purpose and nature of the Final Report

2.1 This working paper contains in its **Appendix**, the Final Report of the A12 TF, which is hereby presented to the 40th Session of the Legal Committee for consideration. The Final Report consolidates the Task Force’s work regarding the review and implementation of Article 12 of the Chicago Convention.

¹ Dr. Jonathan Aleck (Australia).

2.2 The Final Report presents the Task Force's analysis on the scope and application of Article 12 of the Chicago Convention; practical issues arising in the handling of possible or alleged violations of the rules of the air; and mechanisms to facilitate cooperation and exchanging information between States. In addition, the Report presents a web-based tool developed under the guidance of the A12 TF that is intended to facilitate communication between aviation authorities and to support the effective implementation of Article 12. Finally, the Final Report includes 30 conclusions that derive from the work of the A12 TF.

2.3 The material contained in the Final Report is informative, interpretative and practical in nature. It is intended to assist States, International Organizations (IOs) and other aviation stakeholders by providing a consolidated reference on Article 12 of the Chicago Convention and the legal and regulatory framework for the implementation of the rules for the flight and manoeuvre of aircraft. The Report does not seek to create new obligations for States or call for amendments of any international air law instruments.

Article 12 Task Force composition and working methods

2.4 The Task Force met six times between November 2021 and May 2026, both virtually and in person. Experts from 21 Member States (Australia, Brazil, Canada, Colombia, China, Finland, France, Ghana, Greece, Ireland, Jordan, Netherlands (Kingdom of the), New Zealand, Oman, Qatar, Republic of Korea, Russian Federation, Singapore, United Arab Emirates, United Kingdom and the United States) as well as three IOs (the African Civil Aviation Commission (AFCAC), the International Air Transport Association (IATA) and the International Federation of Air Line Pilots Associations (IFALPA)) participated in one or more of the meetings of the A12 TF. The Task Force completed its work with support from the ICAO Secretariat, particularly the Legal Affairs and External Relations Bureau (LEB), the Air Navigation Bureau (ANB) and the Administration and Services Bureau in the area of information and communications technology (ADB/ICT).

2.5 The Task Force conducted its work through two subgroups: a Scoping Sub-Group (SSG), concerned with the scope of Article 12 and related legal issues, and a Tools Sub-Group (TSG), concerned with the development of a web-based tool for the exchange of information between States. Its methodology included historical and legal research, consideration of relevant ICAO provisions and documentation, technical consultations with ICAO bodies, and a global legal survey distributed to States and selected IOs.

States experiences and practical implementation issues

2.6 The legal survey completed in 2023, to which 93 States responded, constituted a significant source of empirical information. It examined, inter alia, the legal basis for enforcement, investigative powers, the types of sanctions applied, procedures involving foreign operators or pilots, cases involving State aircraft operating in another State or over the high seas, and the channels by which States communicate with one another in such cases.

2.7 The survey responses revealed diversity in national approaches, reflecting differences in legal systems, administrative arrangements and enforcement practices. At the same time, they identified common practical constraints, particularly delays or gaps in communication and follow-up in cross-border cases. The Final Report therefore proceeds from the premise that improved cooperation and information exchange can yield safety benefits without requiring changes to substantive legal obligations.

3. KEY ELEMENTS COVERED IN THE FINAL REPORT

Scope of Article 12 and the application of Annex 2

3.1 The scope of the expression “rules and regulations relating to the flight and maneuver of aircraft” was one of the principal legal issues considered by the A12 TF. In particular the Task Force considered the question as to whether the relevant rules are confined to Annex 2 – *Rules of the Air*, or whether provisions in other Annexes may also be relevant in particular contexts. The Final Report records the understanding that, under current ICAO practice, Annex 2 — *Rules of the Air* constitutes the core set of rules and regulations relating to the flight and manoeuvre of aircraft for the purposes of Article 12, particularly in respect of operations over the high seas, unless the Council designates other rules as falling within that category. The Report also recognizes that other treaty and ICAO provisions as well as different State practices may be relevant to the implementation of Article 12 in particular operational or legal contexts.

Meaning of “prosecution” and modern enforcement measures

3.2 The Final Report also considers the meaning of “prosecution” in Article 12. While the term may traditionally be associated with criminal proceedings, the Task Force noted that States implement this requirement through a range of legal and administrative mechanisms. In contemporary practice, enforcement may include criminal, administrative, civil or compliance-based measures, provided that the underlying objectives of compliance and accountability are achieved.

Protection principles and safety information

3.3 The Final Report emphasizes that enforcement under Article 12 should be approached in a manner consistent with established ICAO safety principles, including those relating to the protection of safety information, safety reporting and safety management. Particular attention is drawn to the need to ensure that aviation safety information is not used in a manner that would undermine reporting, learning and safety improvement, while recognizing the legitimate enforcement responsibilities of States.

Investigations and evidentiary practices

3.4 Although the terms of reference contemplated recommendations on common investigative procedures and evidentiary practices, the Task Force concluded that it would not be useful or practicable to pursue uniform procedures in this area. That conclusion takes account of State sovereignty, the diversity of national legal systems and the absence of a demonstrated need for detailed common investigative rules.

Exchange of information and the web-based tool

3.5 A central practical finding of the Task Force is that many States do not have a structured means of exchanging information following possible or alleged violations of rules and regulations relating to the flight and manoeuvre of aircraft. Existing ICAO tools were considered but were not found to be suitable for this purpose. The TSG therefore developed a concept for a dedicated secure web-based platform to enable timely notifications and follow-up between the States concerned, with restricted access limited to those involved. Two pilot phases were conducted, one in early 2025 and another in 2026. Overall feedback was positive, with users considering the tool easy to use while identifying possible additional features. The tool developed under the guidance of the Task Force is conceived as facilitative and voluntary, complementary to national processes, and subject to appropriate confidentiality and data protection requirements. The dedicated web-based tool offers a practical means of supporting timely notification and follow-up among and between concerned States. In the view of the Task Force, ICAO is the appropriate

entity to host and administer the tool due to its global membership, neutral institutional role and ability to maintain contact information for designated focal points.

Related mechanisms and continuing avenues for implementation support

3.6 The Final Report further notes that States may rely on other mechanisms, including regional cooperation arrangements, bilateral agreements and safety provisions in air services agreements. It also identifies Annex 6 — *Operation of Aircraft* compliance and notification Standards in foreign operations and the Universal Safety Oversight Audit Programme Continuous Monitoring Approach (USOAP CMA) and related Protocol Questions as possible avenues for reinforcing awareness and implementation of Article 12 in appropriate contexts. Improved cooperation and information exchange among aviation authorities can enhance the effectiveness of Article 12 implementation and contribute to tangible safety benefits while ICAO mechanisms can provide the needed reassurance and support for implementation.

4. CONCLUSIONS AND RECOMMENDATIONS

4.1 The Task Force recommends that the Legal Committee:

- a) take note of the Final Report of the Article 12 Task Force and endorse its conclusions, as a consolidated reference on Article 12 and its implementation and determine, as appropriate, whether it should be made available to States, International Organizations and relevant aviation stakeholders as informative and practical guidance;
- b) support, subject to available resources and in full compliance with applicable confidentiality and data-protection requirements, the operationalization, continued refinement, maintenance and voluntary use of the secure ICAO-administered web-based tool for regulatory notifications and follow-up by States, including its future application as a mechanism to enhance the overall safety of international civil aviation operations;
- c) encourage States to identify and keep current appropriate points of contact for incorporation in the web-based tool and to make use of the tool, as appropriate, and of structured channels for timely communication in cases involving possible or alleged violations of rules for the flight and manoeuvre of aircraft pursuant to Article 12; and
- d) encourage the Secretariat to continue promoting awareness of the relationship between Article 12 implementation, safety reporting, protection of safety information and appropriate enforcement measures, as well as reinforcing implementation of the provision through existing ICAO mechanisms such as the USOAP CMA, where appropriate.

5. ACTION BY THE COMMITTEE

5.1 The Legal Committee is invited to: (a) note the work completed by the Article 12 Task Force and endorse the findings in the related key elements of the Final Report summarized in paragraphs 3.1 to 3.6; (b) consider and endorse as appropriate the conclusions and recommendations set out in paragraph 4.1; and (c) take any other action it deems necessary to conclude the work on this item.

— — — — —



Article 12 Task Force

International Civil Aviation Organization

REPORT OF THE ARTICLE 12 TASK

Montréal, 31 August 2026

Table of Contents

1.	BACKGROUND	3
2.	MANDATE AND ORGANIZATION OF THE A12 TF	3
3.	STATES' EXPERIENCES IN THE IMPLEMENTATION OF RULES AND REGULATIONS PURSUANT TO ARTICLE 12	6
4.	REVIEW OF LEGAL ISSUES IN ARTICLE 12	7
4.1	Basic elements of Article 12	7
4.2	Definition of the rules for the flight and manoeuvre of aircraft	8
4.3	Application of Article 12 in National Territory (Sovereign Airspace)	13
4.4	Application of Annex 2 Standard 3.1.1: Negligent or reckless operation of aircraft	14
4.5	Jurisdiction over aircraft in flight	15
4.6	Definition of high seas	15
4.7	Meaning of the term "prosecution"	18
4.8	Principles of Protection and Exception	19
5.	INVESTIGATIONS	21
6.	PILOTLESS (UNMANNED) AIRCRAFT OPERATIONS	22
7.	WEB-BASED TOOL	23
7.1	Consideration of a Dedicated Tool	23
7.2	Proposed Features of the Tool	23
7.3	Tool pilot	25
8.	OTHER MECHANISMS FOR THE EXCHANGE OF INFORMATION	25
8.1	Regional cooperation	26
8.2	Memorandum of Understanding	27
8.3	<i>Portal for International Pilot Deviations</i>	28
8.4	Safety arrangements under air services agreements	28
9.	ICAO PROVISIONS	29
9.1	Annex 6 Standards for compliance and notification (Standard 3.2, Annex 6, Part I – Operation of aircraft, International Commercial Air Transport — Aeroplanes)	29
9.2	Universal Safety Oversight Audit Programme and Article 12	30
	ATTACHMENT A: LIST OF EXPERTS OF THE ARTICLE 12 TASK FORCE	31
	ATTACHMENT B: LEGAL SURVEY ON THE IMPLEMENTATION BY STATES OF ARTICLE 12 OF THE CHICAGO CONVENTION	33
	ATTACHMENT C: ILLUSTRATIVE RELATIONSHIP BETWEEN ANNEX 2 AND OTHER ICAO ANNEXES OPERATIONALLY RELATED STANDARDS SUPPORTING	50
	THE CONDUCT OF FLIGHT	50
	ATTACHMENT D: CATEGORIZATION OF AIRSPACE UNDER UNCLOS AND THE CHICAGO CONVENTION	52
	ATTACHMENT E: PLATFORM MODEL	53
	ATTACHMENT F: SAMPLE MOU ESTABLISHING A FRAMEWORK FOR MUTUAL SUPPORT IN AVIATION OVERSIGHT AND INFORMATION EXCHANGE	56

REPORT OF THE ARTICLE 12 TASK FORCE**1. BACKGROUND**

1.1 Article 12 of the *Convention on International Civil Aviation* (Chicago, 1944 – “the Chicago Convention”) (Doc 7300/9) provides:

Each contracting State undertakes to adopt measures to insure that every aircraft flying over or maneuvering within its territory and that every aircraft carrying its nationality mark, wherever such aircraft may be, shall comply with the rules and regulations relating to the flight and maneuver of aircraft there in force. Each contracting State undertakes to keep its own regulations in these respects uniform, to the greatest possible extent, with those established from time to time under this Convention. Over the high seas, the rules in force shall be those established under this Convention. Each contracting State undertakes to insure the prosecution of all persons violating the regulations applicable. (emphasis added)

1.2 At the 40th Session of the Assembly (Montréal, 24 September – 4 October 2019), Brazil and United States jointly presented working paper A40-WP/101, *Article 12 of the Chicago Convention: Communication Mechanism and Guidelines to Support its Implementation*, which emphasized that “the implementation of Article 12, while fundamental for ensuring flight safety, is not always effective”. Among the reasons identified, are “the lack of efficient and timely communication mechanisms between Aviation Authorities” as well as that “the current practice for transmitting and receiving the notice of an alleged violation varies among States and can be inefficient”.

1.3 Further to a unanimous recommendation of the Legal Commission, the 40th Session of the ICAO Assembly decided to add “Processes and Procedures for States to fulfill their obligations under Article 12 of the Chicago Convention” as a new Item 3 to the General Work Programme of the Legal Committee. It was highlighted by some States that work on this subject should include consideration of rules of the air violations over the high seas and take into account the concept and principles of “just culture”. At its 39th Session (Montréal, 25 – 28 June 2024), the Legal Committee, following a progress report on the work of the Article 12 Task Force (A12 TF or the Task Force)² presented by the ICAO Secretariat, assigned priority number one to the Item, with the expectation that the said Task Force would complete its work preferably by the next Session of the Legal Committee.

2. MANDATE AND ORGANIZATION OF THE A12 TF

2.1 The A12 TF was established in May 2021, following the issuance of State letter reference LE 4/76-IND/21/5, dated 7 April 2021, seeking the nomination of experts by States and selected International Organizations (IOs) to constitute the A12 TF. State letter LE 4/76-IND/21/5 informed the concerned States and IOs that the A12 TF would undertake a study of the implementation of Article 12 of the Chicago Convention by States and identify the means and mechanisms for States to support and enhance their implementation. The State letter further mentioned that the Task Force would consider the development of ICAO rules, guidance or recommendations aimed at assisting Member States in an effort to support and enhance the implementation of their obligations under Article 12 of the Chicago Convention.³

² See Section 2 below on the establishment, meetings and methodology of the A12 TF.

³ The following States and IOs were initially invited to participate in the A12 TF: Brazil, Cabo Verde, China, Colombia, Congo, Côte d’Ivoire, Cuba, Finland, France, Ghana, Greece, Indonesia, Jordan, Mexico, New Zealand, Oman, Qatar, Republic of Korea, Russian Federation, Singapore, Sudan, United Arab Emirates, United Kingdom, United States, Zambia, African Civil Aviation

2.2 With respect to deliverables, it was expected that the A12 TF would a) develop an effective process to use between civil aviation authorities (CAAs) for the timely and efficient notification and communication of alleged violations; b) develop recommendations of common procedures and best practices regarding the preparation of investigations and enforcement cases, including appropriate evidence and documentation; and c) consider any other relevant issues identified by the Task Force in the course of the study.

2.3 Experts from 21 Member States (Australia, Brazil, Canada, Colombia, China, Finland, France, Ghana, Greece, Ireland, Jordan, Netherlands (Kingdom of the), New Zealand, Oman, Qatar, Republic of Korea, Russian Federation, Singapore, United Arab Emirates, United Kingdom and the United States) as well as three IOs (the African Civil Aviation Commission (AFCAC), the International Air Transport Association (IATA) and the International Federation of Air Line Pilots Associations (IFALPA) participated in one or more of the meetings of the A12 TF. The Task Force had Secretariat support by the Legal Affairs and External Relations Bureau (LEB) as well as the Air Navigation Bureau (ANB) and the Information and Communication Technology Section of the Administration and Services Bureau (ICT/ADB). A list of Experts that participated in one or more meetings of the Task Force is attached in **Attachment A** to this Report.

Meetings

2.4 The A12 TF met six times: First Meeting, Virtual, 23 November 2021; Second Meeting, Montréal, 5 – 6 October 2022; Third Meeting, Muscat, Oman, 20 February 2023; Fourth Meeting, London, United Kingdom, 25 November 2024; Fifth Meeting, Virtual, 16 February 2026; and Sixth Meeting, Nassau, The Bahamas, 25 May 2026.

2.5 During the First Meeting of the A12 TF, Ms. Susanna Metsälampi (Finland) was elected by acclamation as the Chairperson of the A12 TF and Dr. Jonathan Aleck (Australia) as the Vice-Chairperson. During the Fifth Meeting of the A12 TF, Dr. Jonathan Aleck was elected as Chairperson and Mr. David Stoplar (United Kingdom) as Vice-Chairperson of the A12 TF following the withdrawal of Finland and Ms. Metsälampi from the Task Force in October 2025.

Methodology

Subgroups

2.6 The A12 TF established two subgroups to (i) study the scope of Article 12 of the Chicago Convention (the “Scoping Sub-Group (SSG)”); and (ii) consider the development of a web-based tool for the purpose of exchanging information between States (the “Tools Sub-Group (TSG)”).

2.7 The SSG was led by Dr. Jonathan Aleck (Australia) and met virtually four times: First Meeting, 13 April 2023; Second Meeting, 25 April 2024; Third Meeting, 16 October 2024; and Fourth Meeting, 30 October 2025. 34 Experts from Brazil, Canada, China, Ghana, Finland, France, Jordan, Netherlands (Kingdom of the), Russian Federation, Singapore, United Kingdom and United States as well as 4 Experts from IATA and IFALPA participated in one or more meetings of the SSG.

Commission (AFCAC), Central American Aviation Safety Agency (ACSA), Civil Air Navigation Services Organization (CANSO), European Aviation Safety Agency (EASA), International Air Transport Association (IATA), International Federation of Air Line Pilot’s Associations (IFALPA) and the Interstate Aviation Committee (IAC).

2.8 The TSG was led by Mr. Astor de Lima Aversa Neto (Brazil) and met virtually twice: First Meeting, 9 April 2024; and Second Meeting, 3 October 2024. 27 Experts from Brazil, Canada, China, Ghana, Finland, France, United Arab Emirates, Netherlands (Kingdom of the), Singapore and United States as well as 4 Experts from IATA and IFALPA participated in one or both meetings of the TSG.

Historical Review

2.9 In order to facilitate its work, the A12 TF had for consideration the results of studies and research conducted by the Secretariat on, among others, the genesis and scope of Article 12 of the Chicago Convention taken from treaty adoption proceedings, including the *Convention Relating to the Regulation of Aerial Navigation*, signed at Paris on 13 October 1919 (Paris Convention 1919) and the Chicago Convention. Key ICAO provisions relating to Article 12 as well as the tools that are currently in use at ICAO for the purpose of sharing information between States were also reviewed.

State Survey

2.10 A legal survey was sent to all Contracting States (State letter LE 4/76-22/116, dated 22 December 2022). Comments were invited from International Organizations including Regional Integration Organizations and Regional Safety Oversight Organizations.⁴ The survey aimed at better understanding the implementation status, challenges and the needs of States regarding Article 12. A total of 93 States (representing almost 50% of ICAO's membership) and one Special Administrative Region (SAR) responded to the survey.

Technical Consultation

2.11 On 17 June 2025, ICAO's Air Navigation Commission (ANC) received a briefing on the ongoing work of the A12TF. The session, presided over by the then President of the ANC, Mr. Junrong Liang, was attended by over 70 participants including ANC Members and A12TF Experts. The briefing was led by Ms. Susanna Metsälampi, the then Chairperson of the A12TF, with contributions from Dr. Jonathan Aleck, the then Vice-Chairperson of the A12TF and Lead of the Scoping Group, as well as the Secretariat.

Tool Development

2.12 Work was undertaken through the TSG to study options and design features for a web-based tool to be developed for the exchange of information between States in relation to implementing Article 12.

⁴ List of International Organizations requested to respond to the survey on Article 12 of the Chicago Convention: Arab Civil Aviation Organization (ACAO), Agency on Aeronautical Safety for Central America (ACSA), African Civil Aviation Commission (AFCAC), Agency for Air Navigation Safety in Africa and Madagascar (ASECNA), Banjul Accord Group Aviation Safety Oversight Organisation (BAGASOO), Civil Air Navigation Services Organisation (CANSO), Civil Aviation Safety and Security Oversight Agency-East African Community (CASSOA-EAC), Central American Cooperation for Air Navigation Services (COCESNA), European Union Aviation Safety Agency (EASA), European Civil Aviation Conference (ECAC), European Organisation for the Safety of Air Navigation (EUROCONTROL), Interstate Aviation Committee (IAC), International Air Transport Association (IATA), International Federation of Air Line Pilots' Associations (IFALPA), Latin American Civil Aviation Commission (LACAC), SADC Aviation Safety Organization (SASO). BAGASOO and CASSOA-EAC subsequently provided information on their current framework for the exchange of safety information.

3 STATES' EXPERIENCES IN THE IMPLEMENTATION OF RULES AND REGULATIONS PURSUANT TO ARTICLE 12

3.1 During meetings of the A12 TF, Experts outlined various challenges and difficulties in implementing Article 12:

- a) Challenges arising from the lack of efficient and timely communication between CAAs were identified as issues of utmost importance.
- b) In cases of violations by a foreign operator or pilot over the State's territory, States reported difficulties in enforcing sanctions, as foreign operators often refuse to pay fines or avoid returning to the State's territory. It was noted that, where such a breach occurs in delegated airspace (that is in cases where the responsibilities for the provision of air traffic services has been delegated from one State to another), identifying the competent authorities and determining the applicable procedure under the Chicago Convention can be a sensitive matter. The enforcement of sanctions against foreign operators for breaches of the rules of the air, especially where such breaches occur in delegated airspace or over the high seas, was identified as a challenge.
- c) States also encountered common challenges related to gathering evidence as well as difficulties arising from the absence of harmonized notification or cooperation procedures for the investigation of an Article 12 violation. Enhanced cooperation and collaboration among States, including through regional groupings and harmonized procedures and practices, were identified as means of facilitating the effective implementation of Article 12.
- d) Regarding prosecution, difficulties in determining the applicable jurisdiction, particularly for violations occurring over the high seas, were highlighted as another challenge in the implementation of Article 12.
- e) With respect to enforcement, the domestic legislation of several Member States provides for criminal and administrative sanctions as well as civil penalties that can be levied on aircraft operators, aircraft owners, airlines, and/or pilots in case of non-compliance with applicable rules and regulations. It was further understood that, in this context, the standards for safety data and safety information protection as well as the principles for the protection of safety data, safety information and related sources set out in Annex 19 — *Safety Management* and the standards for the protection of certain accident and incident investigation records as set out in Annex 13 — *Aircraft Accident and Incident Investigation* to the Chicago Convention are, where relevant, to be appropriately applied.

3.2 The outcome of the legal survey issued to all ICAO Member States and selected IOs (see paragraph 2.10 above) provided further insights, including:

- a) The survey indicates that a significant number of States have implemented Article 12 by establishing rules to ensure compliance with regulations relating to the flight and manoeuvre of aircraft ("rules of the air") over their own territory or in a foreign territory by the operators and flight crew of their national aircraft, as well as compliance with the rules established under the Chicago Convention over the high seas (Annex 2 — *Rules of the Air*). Most of these States have also established mechanisms to ensure the prosecution of violations of the applicable regulations.

- b) It is understood by most States that a variety of enforcement actions may be used to meet the requirement to “insure prosecution” within the meaning of Article 12. Such actions include but are not limited to issuing formal warning, imposing monetary penalties, imprisonment, cancellation or revocation of licenses/certificates, grounding of aircraft, and suspending overflight in national airspace (see further discussions on the meaning of the term “prosecution” in paragraph 4.7 below).
- c) Many States face challenges in obtaining responses or information from another State following the State’s report of alleged violation. Moreover, many States had not established any clear framework or mechanism for exchange of information with other States following a violation of the regulations established under Article 12. There is strong support among responding States for the development of an ICAO web portal for notifying the State of Registry or State of the Operator and/or for sharing enforcement-related information.

The results of the survey are presented in **Attachment B** in this Report.

3.3 USOAP results concerning Protocol Question 7.001 (“Has the State promulgated aviation legislation, without exception, with the applicable provisions of Annex 2 on high seas?”) indicates a rate of effective implementation of 76.03%.⁵

Conclusion 1: Recognizing the importance of aviation safety and the challenges in implementing Article 12 of the Chicago Convention, key issues pertaining to Article 12 include communication gaps between civil aviation administrations (CAAs), difficulties in enforcing sanctions against foreign pilots and operators and for violations over the high seas and evidence gathering following a violation of Article 12 rules and regulations as well as harmonizing processes among States. Enhanced cooperation, the development of effective and expeditious communication and information exchange procedures between States, the adoption of robust domestic legislation as well as the adherence to safety reporting principles in Annex 19 — Safety Management can be used to address the above-mentioned issues.

4. REVIEW OF LEGAL ISSUES IN ARTICLE 12

Scope of Article 12

4.1 Basic elements of Article 12

4.1.1 Article 12 obligates each Contracting State to ensure compliance with the applicable rules and regulations relating to the “flight and maneuver of aircraft” (“Rules of the air”) within its territory or by aircraft of its nationality wherever they may be. For the purposes of Article 12, the obligations of the States concerned consist of the following elements:

- a) **Territorial scope.** The State whose territory is overflown or within which an aircraft operates, is obligated to ensure that all aircraft flying over or operating within its

⁵ Results as of 27 August 2026.

territory comply with the applicable rules and regulations relating to the flight and maneuver of aircraft and to prosecute all persons violating such regulations.

- b) **Nationality.** An aircraft has the nationality of the State in which it is registered (State of Registry) and that State is obligated to ensure that all aircraft carrying its nationality mark, wherever such aircraft may be, comply with the applicable rules and regulations relating to the flight and maneuver of aircraft and to prosecute all persons violating such regulations. This means that, over the high seas, the State of Registry is responsible for enforcing compliance by its national aircraft with the rules for the flight and maneuver of aircraft.

In addition, the responsibilities undertaken by the State of Registry under Article 12 may be transferred to the State of the Operator in accordance with Article 83 *bis* of the Chicago Convention. However, ICAO guidance (namely the *Manual on the implementation of Article 83 bis of the Convention on the International Civil Aviation*, Doc 10059) specifies that the rules of the air set out in the chapters, appendices and attachments of Annex 2 cannot be split between the State of Registry and the State of the Operator. They form a package of responsibilities covering the rules of the air for which one of those two States must be responsible as a whole, including undertaking to ensure the prosecution of all persons violating the regulations applicable.⁶

- c) **Uniformity.** Each State is obligated to keep its own regulations uniform to the greatest possible extent, with those established under the Chicago Convention.
- d) **High seas.** The rules in force over the high seas are those established under the Chicago Convention. A State shall require the operators and pilots of its registered aircraft to comply with the rules of the air contained in Annex 2 over the high seas but may not extend and apply its national regulations to operators and pilots of other States over the high seas.

4.1.2 The text of Article 12 does not specify any processes and procedures that States shall apply in implementing their obligations under this provision. It therefore leaves such matters to the discretion of the States concerned. Moreover, terms such as “rules and regulations relating to the flight and maneuver of aircraft” and “prosecution”, as used in Article 12, may not always be consistently or clearly understood among States in the same way and further clarification is necessary. Furthermore, while there appears to be a measure of consensus on this issue, the extent of the high seas is not defined in the Chicago Convention, leading States to rely on other international treaties, particularly the *United Nations Convention on the Law of the Sea* (Montego Bay, 1982 – “UNCLOS”),² or customary international law.

4.2 Definition of the rules for the flight and manoeuvre of aircraft

Annex 2 — Rules of the Air

4.2.1 The A12 TF considered the meaning and scope of the expression “rules and regulations relating to the flight and maneuver of aircraft” in Article 12. In doing so, it took into account the text of Article 12, the title of the provision (“Rules of the air”), the drafting history of Article 12, the Council’s adoption of Annex 2 — *Rules of the Air* to the Chicago Convention, subsequent Council deliberations

⁶ See *Manual on the Implementation of Article 83 bis of the Convention on International Civil Aviation* (Doc 10059), section 5.3.3 b).

regarding Annex 11—*Air Traffic Services* as well as consultations with the ANC and relevant academic commentary.

4.2.2 The A12 TF was also guided by the customary rules of treaty interpretation reflected in Articles 31 and 32 of the *Vienna Convention on the Law of Treaties* (Vienna, 1969 – the “VCLT”) according to which a treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty as well as its context, in the light of its object and purpose. Furthermore, the Task Force acknowledged the usefulness in line with the VCLT of relying on supplementary means of interpretation including preparatory work for the relevant treaties as well as long standing institutional practice relative to the interpretation and application of the Chicago Convention.

4.2.3 With a view to defining the scope of Article 12 by examining the genesis of the provision, the A12 TF was presented with studies by the ICAO Secretariat pertaining to the drafting history of Article 12 of the Chicago Convention.⁷ The *Travaux Préparatoires* of both the *Convention Relating to the Regulation of Aerial Navigation* (Paris, 1919 – the “Paris Convention 1919”) and the Chicago Convention offer limited insights for determining the intended scope of Article 12 and definition of the rules for the flight and maneuver of aircraft. Although Article 12 of the Chicago Convention appears to draw substantively from Article 25 of the Paris Convention,⁸ no substantive discussion concerning the precise meaning of the expression “rules and regulations relating to the flight and maneuver of aircraft” appears in the available records on the negotiation of both treaties.

4.2.4 There is no doubt that Annex 2 contains rules relating to the flight and manoeuvre of aircraft. When Annex 2 was adopted by the Council in 1948, a specific clause was included in the Council’s resolution to reflect the special character of this Annex and its relation to Article 12 of the Chicago Convention. It was resolved by the Council that “the Rules of the Air Annex constitutes rules relating to the flight and manoeuvre of aircraft within the meaning of Article 12 of the Convention and deviations from these rules may not be made insofar as they relate to flight over the high seas”.⁹

4.2.5 Annex 2 sets out the rules governing the conduct of aircraft in flight, applying without exception over the high seas, and within national airspace except where superseded by domestic regulations.¹⁰ It establishes foundational requirements to ensure safe, orderly, and efficient air navigation, including standardized terminology, the responsibilities and authority of the pilot-in-command, and core operational rules covering collision avoidance, protection of persons and property, and flight plan obligations. Annex 2 also provides globally uniform provisions for visual flight rules (VFR) and instrument flight rules (IFR), as well as essential requirements for communication, air traffic control coordination and compliance, emergency signals, and civil aircraft interception procedures. Together, these provisions create a comprehensive framework for the safe, orderly and efficient conduct of international air navigation.

⁷ Article 25 of the Paris Convention 1919 is as follows: Each contracting State undertakes to adopt measures to ensure that every aircraft flying above the limits of its territory and that every aircraft wherever it may be, carrying its nationality mark, shall comply with the regulations contained in Annex D [Rules as to Lights and Signals. Rules of the Air]. Each of the contracting States undertakes to ensure the prosecution and punishment of all persons contravening these regulations.

⁸ Article 25 of the Paris Convention 1919 state that “Each contracting State undertakes to adopt measures to ensure that every aircraft flying above the limits of its territory and that every aircraft wherever it may be, carrying its nationality mark, shall comply with the regulations contained in Annex D. Each of the contracting States undertakes to ensure the prosecution and punishment of all persons contravening these regulations.”

⁹ ICAO, *Council – Third Session, Minutes of the Twenty-Second Meeting*, 13 April 1948 (Doc 5701, C/672), 24/6/48. p 60, paras 332-334.

¹⁰ See Standard 2.1.1, Annex 2.

Institutional practice

4.2.6 The A12 TF also considered whether the expression “rules for the flight and maneuver of aircraft” could encompass provisions located outside Annex 2.

4.2.7 Particular attention was given to the Council’s discussions in 1950 leading to the adoption of Annex 11 — *Air Traffic Services*. At the time, the Chief of the Legal Bureau said that when “Annex 2 was adopted, although there had been no formal Council decision on the point, the view had been expressed that the Rules of the Air might not be the only ‘rules and regulations relating to flight and manoeuvre of aircraft’ within the meaning of Article 12. At the time, a careful study of the Convention had convinced the Legal Bureau that this view was correct, that the ‘rules and regulations relating to the flight and manoeuvre of aircraft’ were any rules that the Council designated as such and were not limited to the Rules of the Air as set out in Annex 2”.¹¹

4.2.8 During the Council’s discussion, a few interventions queried whether certain Air Traffic Services (ATS) Standards, at least those relating to air traffic control procedures, constituted rules and regulations relating to the flight and maneuver of aircraft within the meaning of Article 12, but the Council decided not to make them mandatory over the high seas. Furthermore, it was raised by the then President of the ANC that a State “which had deviated from certain provisions of [Annex 11] should be able to continue to do so while providing air traffic services over the high seas or in airspace of undetermined sovereignty”.¹² Otherwise, it would have two set of air traffic services regulations: one is applicable to airspace of its own territory and the other to the airspace over the high seas and areas of undetermined sovereignty where it was providing air traffic control services. In this context, one State highlighted that, leaving aside the legal question of whether ATS Standards fell into the rules and regulations relating to the flight and maneuver of aircraft within the meaning of Article 12, making ATS Standards mandatory over the high seas may, as a practical matter, deter a State from providing air traffic service in these areas since such services might have to be provided in accordance with rules differing in some respects from those applicable in its territorial airspace.¹³

4.2.9 The Council’s discussions concerning Annex 11 indicated therefore that the issue was considerably more complex than simply determining whether a particular Standard affected the conduct of flight. The A12 TF considered that the significance of the Annex 11 discussions lies not only in the Council’s decision but also in what that decision reveals about the process contemplated by ICAO practice. It was observed that, although Standards outside Annex 2 may be operationally related to the conduct of flight, the Council did not regard such operational relevance as sufficient in itself for designation as rules relating to the flight and maneuver of aircraft. Rather, the discussions proceeded on the assumption that any extension of the rules for the flight and manoeuvre of aircraft beyond Annex 2 would require a conscious and express decision of the Council. To date, no other Annexes or rules have been so designated by the Council as constituting rules relating to the flight and maneuver of aircraft within the meaning of Article 12 of the Convention.

4.2.10 Also highlighted to the Task Force were the academic writings of Thomas Buergenthal, which appeared to mirror the issue currently under examination, when he described the central question as whether Article 12 makes mandatory over the high seas only the standards contained in Annex 2 or “whether Article 12 also applies to those standards which, while they relate to the flight and manoeuvre of aircraft, are incorporated in one of the other ICAO Annexes”.¹⁴ Buergenthal observed that the Council

¹¹ ICAO, *Minutes of the Second Meeting of the Tenth Session of the Council*, 18 May 1950, (Doc 7037-2, C/814-2), 6/9/50, p 29, para 81.

¹² *Ibid*, p 29, para 77.

¹³ *Ibid*, p 29-30, paras 77-79, 82 and 83.

¹⁴ Thomas Buergenthal, *Law-Making in the International Civil Aviation Organization* (Syracuse University Press, 1969) at 82.

considered this question during its discussions relating to Annex 11 and decided against making Annex 11 standards mandatory over the high seas for the reasons given above in paragraph 4.2.8. He further suggested that this decision may “explain why the Council has not seen fit to apply Article 12 to certain standards found in Annex 6 and Annex 12 which apparently also qualify as rules relating to the flight and maneuver of aircraft”.¹⁵ Similarly, during the Council’s discussion for the adoption of Annex 2, one Council Representative had argued that “some of the provisions of the OPS Standards” might come under the term “the rules and regulations relating to the flight and maneuver of aircraft”.¹⁶

4.2.11 Similar observations have been made by other commentators. Dr. Eugène Pépin concluded that “[t]he only rules so far enacted by the Council of ICAO pursuant to article 12 which are mandatory in the airspace over the high seas are those contained in Annex 2”, notwithstanding indications that broader possibilities may have been contemplated during the Chicago Conference.¹⁷

4.2.12 The Task Force recognized the substantial operational interdependence between Annex 2 and other ICAO Annexes. While Annex 2 may be regarded as constituting the core set of internationally harmonized rules governing the flight and manoeuvre of aircraft, its effective application depends upon a range of Standards, services and supporting requirements contained elsewhere in the Annex system. Those Annexes regulate the services, information, procedures, and infrastructure without which compliance with the Rules of the Air would not be possible in practice. In this regard, Annex 11 — *Air Traffic Services* — provided the most notable operational interface with the Rules of the Air and has been discussed extensively above. Annex 1 — *Personnel Licensing* was also identified to be particularly significant. The licensing requirements contained in Annex 1 establish the qualifications, competencies and privileges necessary for the conduct of flight operations and therefore bear directly upon the safe operation and manoeuvre of aircraft. Compliance with the Rules of the Air necessarily presupposes the competence of flight crew and, where applicable, remote pilots, to exercise the responsibilities assigned to them under Annex 2. Other Annexes similarly contribute to the safe, orderly and efficient conduct of flight, including Annex 3 — *Meteorological Services for International Air Navigation*, Annex 6 — *Operation of Aircraft*, Annex 10 — *Aeronautical Telecommunications*, Annex 12 — *Search and Rescue*, Annex 14 — *Aerodromes*, Annex 15 — *Aeronautical Information Services* and Annex 19 — *Safety Management*. Examples of Standards contained in these other Annexes that are operationally connected to the safe conduct of flight are summarized in **Attachment C**.

4.2.13 As a matter of operational practice and systemic design, Annex 2 is therefore not self-contained. Notably, some of the provisions of Annex 2 themselves require strict compliance with other rules of great importance to the safety of aircraft.¹⁸ The Annex itself recognizes this operational interdependence through references to provisions contained in other Annexes, most commonly by way of Notes which provide factual information or cross-references which, while they do not constitute part of the Standards, are relevant to the application of particular Standards.¹⁹ In a limited number of cases, Annex 2

¹⁵ Ibid, at 84.

¹⁶ ICAO, *Council – Third Session, Minutes of the Twenty-Second Meeting*, 13 April 1948 (Doc 5701, C/672), 24/6/48, p 57, para 306.

¹⁷ Dr. Eugène Pépin has argued that “[t]he only rules so far enacted by the Council of ICAO pursuant to article 12 which are mandatory in the airspace over the high seas are those contained in annex 2, although the documents of the Chicago Conference would seem to indicate that the authors of the Convention had more ambitious intentions.” (emphasis added). See Eugène Pépin, *The Law of the Air and the Draft Articles Concerning the Law of the Sea Adopted by the International Law Commission at Its Eighth Session*, Official Records of the United Nations Conference on the Law of the Sea, Volume I (Preparatory Documents), Geneva, 24 February to 27 April 1958, A/CONF.13/4, p 68-69, para 36, online: <https://legal.un.org/diplconf_records/1958_los/docs/english/vol_1/a_conf13_4.pdf>. See also Francis Schubert, *The Law of Air Navigation Services* (Edward Elgar Publishing, 2024) at 297-298.

¹⁸ Ibid.

¹⁹ These notes are given to the following Standards in Annex 2: 2.2, 3.7.1 (Annex 11), definition of “*Instrument approach procedure*”, 3.2, 3.2.3, 3.2.6.2 (Annex 6), 3.2.2.7.2, 4.2 to Appendix 1 (Annex 14), 3.2.3 (Annex 8) and 1 to Appendix 1 (Annex 12), 3.7.2 (Annex 17).

Appendix

Standards themselves directly reference provisions contained in other Annexes, principally in relation to remotely piloted aircraft systems (RPAS).²⁰ The Task Force nevertheless emphasized that operational interconnectedness should be distinguished from formal designation. While numerous SARPs contained in other Annexes support, enable or facilitate compliance with the Rules of the Air, no Annex other than Annex 2, and no provision outside Annex 2, has been formally designated by the Council as constituting rules relating to the flight and manoeuvre of aircraft that are mandatory over the high seas and apply over national territory subject to the filing of differences and applicable national law

Consultation with ANC

4.2.14 The ANC was invited to provide feedback to the A12TF on several key issues namely: the technical interpretation of “rules for the flight and maneuver of aircraft”; whether provisions in other Annexes such as Annexes 1, 6, and 11 could arguably be such rules; and the potential value of incorporating Universal Safety Oversight Audit Programme (USOAP) Protocol Questions (PQs) to establish whether States are enforcing regulations by prosecuting the violations, maintaining mechanisms for exchanging information, and responding to requests for cooperation in enforcement. Another point raised was whether during the development of standards, there is an explicit consideration of whether they fall within the scope of Article 12. The Commission noted the complexity of interpreting the term “rules and regulations for the flight and maneuver of aircraft” and whether its scope extends beyond Annex 2 to include rules in other Annexes. The ANC offered to give further consideration to this matter before expressing a more definitive view.

4.2.15 In its subsequent reply, the ANC acknowledged the significance of the issues raised but expressed difficulty in providing advice with potential legal implications. Consequently, the ANC declined to offer technical input on matters that may involve legal interpretation, preferring instead to defer such considerations to legal experts.

Practical implications

4.2.16 The A12 TF noted that, notwithstanding any views regarding the theoretical scope of the expression “rules and regulations relating to the flight and manoeuvre of aircraft”, there was broad agreement that Annex 2 constitutes the core body of such rules for the purposes of Article 12. The Task Force further recognized that Standards contained in other Annexes may support, enable or condition the conduct of flight and may be reflected in operational rules applicable in national airspace. However, the Task Force distinguished between such operational relevance and the separate question whether those standards have been designated by the Council as rules relating to the flight and manoeuvre of aircraft within the meaning of Article 12. Moreover, the Task Force noted the legal and practical challenges associated with identifying additional rules relating to the flight and manoeuvre of aircraft beyond those contained in Annex 2. These include the absence of agreed legal criteria for such identification, questions regarding the authority competent to make such determinations, and the consequences that would follow in respect of differences, implementation, enforcement and prosecution. The Task Force considered that extending the scope of Article 12 beyond Annex 2, without clear legal guidance or express Council designation, could create uncertainty for Contracting States and complicate the administration of the Article 12 regime.

²⁰ These standards related to RPAS include: 2.2 (Annex 6, Part IV), 2.3 (Annex 1), 2.1, 2.2 in Appendix 4 (Annex 8), 3.2 p) in Appendix 4 (Annex 16), 3.2 q) in Appendix 4 (Annex 17). It should be noted that RPAS-specific Standards operationalizing Annex 2, Appendix 4 provisions, were adopted for: (i) the issuance of remote pilot licences in 2018 (Amdt 175 to Annex 1); (ii) the issuance of RPAS certificates of airworthiness in 2021 (Amendment 108 to Annex 8); and (iii) the issuance of remotely piloted aircraft systems (RPAS) operator certificates (ROC) in 2024 (State letter AN 11/61.1-24/37. Other standards include 3.6.5.2 (Annex 10).

4.2.17 The A12 TF also noted that, whereas it is generally accepted that no differences may be filed in respect of the Standards contained in Annex 2 as they apply over the high seas, States have already notified differences to provisions contained in other Annexes, including certain provisions that may be operationally connected with the conduct of flight. In this context, the Task Force discussed the impracticability of retrospectively identifying provisions outside Annex 2 that should be regarded as rules relating to the flight and manoeuvre of aircraft for the purposes of Article 12. The Task Force therefore favoured a pragmatic approach emphasizing the application of Annex 2 and did not seek, at this stage, to define or identify additional provisions outside Annex 2 as falling within the scope of Article 12. Such an approach preserves legal certainty while avoiding the difficult prospect of retrospectively determining which provisions outside Annex 2 might properly be captured by that expression.

Conclusion 2: Having regard to the practice of the Organization, including the Council's adoption of Annex 2 in 1948 and its consideration of Annex 11 on 18 May 1950, the rules and regulations relating to the flight and manoeuvre of aircraft within the meaning of Article 12 of the Convention are currently those contained in Annex 2 to the Chicago Convention. The Council can at any time designate rules in other Annexes as relating to the flight and manoeuvre of aircraft, which would also be applicable without exception over the high seas.

4.3 Application of Article 12 in National Territory (Sovereign Airspace)

4.3.1 A foundational distinction under the Chicago Convention is that between airspace subject to State sovereignty and airspace over the high seas. The Convention provides that every State has “complete and exclusive sovereignty over the airspace above its territory” (Article 1) and defines that territory as land areas and the territorial waters adjacent thereto under the State's sovereignty (Article 2). For coastal States, the outer limit of the airspace above territorial waters represents the extent of their national sovereignty.²¹ This distinction underpins numerous provisions of the Chicago Convention and is reflected in the application of Article 12.

4.3.2 Within sovereign airspace aircraft are required to comply with the rules and regulations applicable in the territory concerned. This reflects the broader framework established by the Chicago Convention which recognizes the authority of States to regulate aircraft operations within their own territory, provided such laws are applied without distinction as to nationality and are implemented consistently with the Chicago Convention. Articles 11 and 12 operate together in this regard establishing both the obligation of compliance and the objective of maintaining the greatest possible degree of uniformity.

4.3.3 The Chicago Convention contemplates that the application of operational rules within national airspace may not be identical in all respects among Contracting States. Pursuant to Article 38 of the Chicago Convention, States may notify differences between their national regulations and Standards contained in Annex 2. Many States have done so to date in relation to their national airspace. The notifications by at least 50 Contracting States cover a wide range of Annex 2 Standards and definitions. While many notified differences are terminological or editorial, a substantial proportion relate to operational requirements affecting how flights are conducted, including rules governing airspace use, weather and visibility minima, obstacle clearance, flight planning and reporting procedures, and communications. Accordingly, the practical application of the operational rules governing flight within national territory may differ from State to State to the extent reflected in the notified differences.

²¹ Nicholas Grief, *Public International Law in the Airspace of the High Seas* (Martinus Nijhoff Publishers, 1994) p 61.

Appendix

4.3.4 By contrast, airspace over the high seas is not subject to the sovereignty of any State and the regulation of flight in the airspace of the high seas is outside the regulatory power of any State.²² To avoid a regulatory vacuum in that airspace, Article 12 in the third sentence provides that “over the high seas, the rules in force shall be those established under this Convention”, which may be supplemented or complemented by the legal rules of the State of Registry in relation to aircraft carrying its nationality mark in such airspace, insofar as those rules are not inconsistent with ICAO’s rules of the air over the high seas. This is commonly understood as the Convention’s mechanism for ensuring that uniform international rules, principally those developed through ICAO’s standard-setting machinery, apply where no territorial legal order operates by virtue of sovereignty.²³

4.3.5 The Chicago Convention itself further contemplates a range of other operational measures affecting the conduct of flights within national territory. These include prescribed routes or special authorizations for safety reasons and special regimes for pilotless aircraft (Article 8 – Pilotless aircraft), as well as restrictions or prohibitions on overflight over specified areas for reasons of military necessity or public safety (Article 9 - Prohibited areas). Such measures are implemented through domestic legal frameworks and operate as part of the regulatory regime applicable to aircraft within sovereign airspace.

4.3.6 Accordingly, Article 12 differentiates between the airspace over the high seas and national airspace. Over the high seas, the Convention itself supplies the applicable operational rules, primarily through Annex 2. In light of the legal jurisdiction of States of Registry in relation to their aircraft in the airspace over the high seas, certain States in their domestic laws recognize the prevailing status of Annex 2 to the extent of any inconsistency with their respective national rules. As an example of that, it is prescribed that a provision of Annex 2 is taken not to be inconsistent with a provision in their national rules to the extent that the provisions are capable of operating concurrently.²⁴

Conclusion 3: In national airspace, aircraft operators are required to comply with the laws and regulations in force in the territory concerned, including domestic operational requirements through which the State has implemented Annex 2 and any other measures adopted in accordance with the Chicago Convention. While the Chicago Convention seeks to promote the greatest possible degree of international uniformity in such rules, it recognizes the sovereign authority of each State to regulate the operation of aircraft within its territory, subject to compliance with the applicable Annexes. Accordingly, national operational requirements may differ among States, including where differences from Annex 2 have been notified pursuant to Article 38 of the Chicago Convention.

4.4 Application of Annex 2 Standard 3.1.1: Negligent or reckless operation of aircraft

4.4.1 When read in conjunction with Article 12 of the Chicago Convention, Standard 3.1.1 of Annex 2 performs an important safety function. Article 12 obliges Contracting States to ensure compliance and address violations of the applicable rules and regulation supporting the safe conduct of flight operations. Standard 3.1.1 of Annex 2 stipulates that “[a]n aircraft shall not be operated in a negligent or reckless manner so as to endanger life or property of others”.

4.4.2 Standard 3.1.1 operates by reference to the *effect* of conduct on the safety and orderliness of flight, rather than requiring compliance with a specific procedural or technical requirement. Therefore, the Standard is capable of addressing situations in which actions, omissions or operational failures result in

²² Ibid, p 61-62. See also Kay Hailbronner, “Freedom of the Air and the Convention on the Law of the Sea” (1983) 77 AJIL 490, at 491.

²³ See Michael Milde, *International Air law and ICAO*, 3rd ed (Eleven International Publishing, 2016) p 40.

²⁴ *Australian Civil Aviation Safety Regulations*, 1998, Part 91, 91.015 “Application of Part 91—Australian aircraft over the high seas”.

the negligent or reckless operation of an aircraft, irrespective of the particular circumstances giving rise to that conduct.

Conclusion 4: Standard 3.1.1 of Annex 2 is relevant where acts or omissions result in or contribute to negligent or reckless operation of an aircraft so as to endanger life or property. In applying that Standard, the conduct in question may be assessed by reference its effect on the safe operation of the aircraft.

4.5 Jurisdiction over aircraft in flight

4.5.1 Article 4 of the *Convention on Offences and Certain Other Acts Committed on Board Aircraft* (Tokyo, 1963 – the “Tokyo Convention 1963”) (Doc 8364) enumerates specified circumstances in which criminal jurisdiction may be exercised by States other than the State of registration in relation to aircraft in flight in the context of that Convention. Among these, Article 4 (d) expressly permits the exercise of such jurisdiction where the offence consists of a breach of that State’s national rules or regulations governing the flight or manoeuvre of aircraft:

“A Contracting State which is not the State of registration may not interfere with an aircraft in flight in order to exercise its criminal jurisdiction over an offence committed on board except in the following cases: [...] d) the offence consists of a breach of any rules or regulations relating to the flight or manoeuvre of aircraft in force in such State”.

4.5.2 This provision reflects the Tokyo Convention’s role in facilitating the effective enforcement of aviation safety and air navigation regulations, consistent with the framework envisaged under Article 12 of the Chicago Convention.

4.5.3 The *Travaux Préparatoires* of the Tokyo Convention 1963 provides explicit confirmation of this linkage.²⁵ The preparatory work demonstrates that Article 4 (d) was deliberately drafted against the background of Article 12 of the Chicago Convention and was intended to operate in harmony with it. In this context, Article 4 (d) presupposes the existence of a recognizable and legitimate body of rules or regulations governing flight or manoeuvre, as contemplated under Article 12, and enables States to give effect to those rules through the exercise of criminal jurisdiction in appropriate cases. The provision thereby facilitates the effective application of Article 12 and international obligations relating to air navigation and safety and serves to maintain coherence between both Conventions.

Conclusion 5: Article 4 (d) of the Tokyo Convention 1963 facilitates the effective implementation of Article 12 of the Chicago Convention and international obligations relating to air navigation and safety and serves to maintain coherence between both Conventions.

4.6 Definition of high seas

High seas

4.6.1 Airspace over the high seas, as opposed to the airspace over State’s territory, is not subject to the sovereignty of any State, and, according to Article 12, the rules therein force, are those established under the Convention. At the time of the adoption of the Chicago Convention in 1944, the high seas were

²⁵ *Twelfth Session of the ICAO Legal Committee (Munich, 18 August – 4 September 1959)*, Volume II, Documents, Part I-B (Doc 8111-LC/146-2), Secretariat commentary on the draft Convention adopted by the Sub-committee, p 24, 31, para 7.5. See also *International Conference on Air Law (Tokyo, August-September 1963)*, Volume I, Minutes (Doc 8565-LC/152-1), Eleventh Meeting, p 111-112, para 7.

Appendix

defined by customary international law. Developments of the law of the sea, especially the adoption of the UNCLOS introduced certain elements relating to the high seas.²⁶ Notably, UNCLOS provides for the concept of the Exclusive Economic Zone (EEZ) with a specific legal regime, which is distinct and separate from that of the high seas. In light of the study of the issue of the implications of the UNCLOS to international air law instruments, the Legal Committee, at its 29th Session (Montreal, 4 – 15 July 1994), considered the conclusions of a Secretariat Study²⁷ and a Rapporteur's Report in respect of the EEZ, and recognized that the EEZ did not appear to have implications for civil aviation.²⁸ As summarized in the Rapporteur's report, "without ambiguity, the same right of freedom of navigation is enjoyed by aircraft over the EEZ as is enjoyed by aircraft over the high seas, which is the plain meaning of Articles 58 and 87 of UNCLOS. It would follow that, as a consequence of Articles 58 and 87 of UNCLOS, the Rules of the Air applying over the EEZ are to be identical with those applying over the high seas."²⁹ For the avoidance of doubt, the airspace over the EEZ is not part of the sovereign or national airspace of any State. The graphic reproduced in **Attachment D**, while not authoritative, provides a useful illustration of the categorization of airspace under UNCLOS and the Chicago Convention.

4.6.2 UNCLOS also makes a direct reference to the Rules of the Air, namely at its Article 39 (3) (a) which provides that an "[a]ircraft in transit passage shall [...] observe the Rules of the Air established by the International Civil Aviation Organization as they apply to civil aircraft". The Rules of the Air as adopted by the Council of ICAO will have mandatory application to civil aircraft exercising transit passage over straits used for international navigation and UNCLOS leads to a conclusion that the States bordering the strait cannot file a difference to Annex 2 — *Rules of the Air* under Article 38 of the Chicago Convention with respect to aircraft exercising transit passage in the airspace over the straits. Consequently, the ultimate legislative jurisdiction with respect to the Rules of the Air, applicable to civil aircraft exercising transit passage through the airspace above straits used for international air navigation, lies with the Council of ICAO.³⁰ For straits of 24 nautical miles or less, the waters forming such straits constitute territorial seas of the States bordering the straits, and the airspace above such waters are sovereign airspace, although the exercise of such sovereignty by the States bordering the straits is subject to the rules of UNCLOS and other rules of international law.³¹

4.6.3 The Chicago Convention does not contain a definition of the territorial sea and for this purpose, States would rely on the provisions of Article 3 of UNCLOS which reflect established customary international law that "[e]very State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines [...]".³² That being said, it was also noted that certain States that are not party to the UNCLOS³³ may also recognize the 12 nautical miles-limit through the adoption of domestic legislation. This is the case, for example, of the United States which by Presidential

²⁶ Article 86 of the UNCLOS defines the high seas as "all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a state, or in the archipelagic waters of an archipelagic state".

²⁷ See LC/29-WP/8-1, *United Nations Convention on the Law of the Sea - Implications, if any, for the application of the Chicago Convention, its Annexes and other international air law instruments – Secretariat Study*.

²⁸ *Report of the 29th Session of the Legal Committee, Montreal, 4 – 15 July 1994* (Doc 9630-LC/189) at 8-1.

²⁹ See LC/29-WP/8-3, *United Nations Convention on the Law of the Sea – Implications, if any, for the application of the Chicago Convention, its Annexes and other international air law instruments – Report by the Rapporteur (Mr. A.W.G. Kean (United Kingdom))*, at 10, para 33.

³⁰ See LC/29-WP/8-1, *United Nations Convention on the Law of the Sea – Implications, if any, for the application of the Chicago Convention, its Annexes and other international air law instruments – Secretariat Study*, para 9.7.

³¹ Article 34, UNCLOS.

³² This is subject to other relevant provisions, in particular Articles 7 (Straight baselines) and 15 (Delimitation of the territorial sea between States with opposite or adjacent coasts) on UNCLOS.

³³ As at 1 July 2026, there are 172 Parties to the UNCLOS. Among them, 169 are ICAO Member States. ICAO Member States not Parties to the UNCLOS are: Afghanistan, Andorra, Bhutan, Burundi, Central African Republic, Colombia, Democratic People's Republic of Korea, El Salvador, Eritrea, Ethiopia, Iran (Islamic Republic of), Israel, Kazakhstan, Libya, Peru, South Sudan, Syrian Arab Republic, Tajikistan, Türkiye, Turkmenistan, United Arab Emirates, United States, Uzbekistan and Venezuela (Bolivarian Republic of).

Proclamation of 27 December 1988 (no 5928) extended the breadth of the territorial sea of the United States from 3 nautical miles to 12 nautical miles from the baselines of the United States.

Conclusion 6: For the purpose of Article 12 of the Chicago Convention, the high seas begins from the outer limit of the territorial sea of a State, and with regard to the breadth of the territorial sea, States should apply Article 3 of UNCLOS which reflects established customary international law that “[e]very State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines [...]”.

Air Defence Identification Zone (ADIZ)

4.6.4 The rules of air with which the aircraft of Contracting States to the Chicago Convention must comply over the high seas are contained in Annex 2. Additional rules governing flight over the high seas have been imposed by a number of States unilaterally through the establishment of an air defence identification zone (ADIZ). The ADIZ constitutes a form of State practice aimed at the early identification of aircraft approaching national airspace. These zones, which often extend beyond the limits of State sovereign airspace and well out over the high seas, have been generally created as a preventive measure to enhance the protection of national security by making the entry of aircraft subject to such early identification requirements. The first ADIZ was established in the 1950s, and there are currently more than 20 active ADIZs globally.³⁴ Information pertaining to ADIZ procedures can usually be found in aeronautical information publications (AIPs). There is no publicly available consolidated list of ADIZs.³⁵ Typically, the material concept of an ADIZ requires aircraft crossing the zone to identify themselves at an early stage by filing a flight plan which shall include information on the estimated time and points of ADIZ entry and providing position reports on the time and altitude of passing each designated reporting points, and in the event of non-compliance, may be subject to interception.

4.6.5 The notion of an ADIZ was introduced into ICAO technical rules by the Council, which gave the following definition of the term in Annex 15 — *Aeronautical Information Services*: “[s]pecial designated airspace of defined dimensions within which aircraft are required to comply with special identification and/or reporting procedures additional to those related to the provision of air traffic services”. Other than a definition contained therein, the only mention of ADIZ in ICAO Annexes requires States to publish the details of their ADIZ in their aeronautical information publication (AIP) and aeronautical charts (Annex 15 and Annex 4 — *Aeronautical Charts*). There are no other ICAO Standards or procedures related to the establishment or operation of an ADIZ.

4.6.6 While there are no provisions in Annex 2 which make it compulsory for aircraft to respect an ADIZ, some provisions contained therein are relevant in the implementation of an ADIZ by States concerned. Annex 2 contains rules regarding flight plan submission (Standard 3.3.1.2 (d)) and position report (Standard 3.6.3) required by relevant ATS Authority. Annex 2 also contain provisions relating to interception procedures (Standard 3.8.1), which shall be respected by the States concerned when such States make their national laws regarding interception of civil aircraft in case of non-compliance within an ADIZ. Further information and guidance for States in the implementation of an ADIZ is provided in Chapter 9 of *ICAO Manual on Civil-Military Cooperation in Air Traffic Management* (Doc 10088).

Conclusion 7: The air defence identification zone (ADIZ) practice does not alter the application of Annex 2 over the high seas; however, it can have practical implications

³⁴ States establishing ADIZ (still active) include Argentina, Australia, Bangladesh, Brazil, Canada, China, Cuba, Finland, Greece, India, Indonesia, Iran (Islamic Republic of), Japan, Myanmar, Pakistan, Panama, Peru, Poland, Republic of Korea, Sri Lanka, Thailand, United States, Uruguay. See Stephanie Stipsits, *Air Defence Identification Zones and Maritime Frontier Disputes: Legal and Political Issues* (Koninklijke Brill BV), Chapter 3, at 23.

³⁵ *Manual on Civil-Military Cooperation in Air Traffic Management*, First Edition, 2021 (Doc 10088), paras 9.1-9.3, Ch 9.

therein on how aircraft comply with the rules of the air by conditioning to access to national airspace by advance identification requirements which can extend beyond the territorial seas.

Violations occurring over the high seas

4.6.7 The A12 TF considered the operational and legal aspects of State's obligations in the context of Article 12, particularly regarding which State is responsible for taking action when a potential contravention of the rules of the air occurs, including in areas such as the high seas where territorial sovereignty is not engaged. The issue was recognized as central to the practical implementation of Article 12, which obliges Contracting States to ensure that their national aircraft comply with the rules of the air and that appropriate action is taken in respect of violations, regardless of where they occur.

4.6.8 For a violation of the rules of flight and maneuver by an aircraft in airspace over the high seas, there was general agreement that, in practice, the States accepting the responsibility for providing air traffic services may have access to the relevant air traffic data and can provide factual information to support any investigation or enforcement action taken by the State of Registry in accordance with Article 12 of the Convention and Annexes 13 and 19 provisions. It was also recognized that while the State responsible for providing air traffic services on those portions of high seas may proactively initiate the coordination process, follow-up action often falls under the State of Registry or the State of the Operator, which exercises jurisdiction over the aircraft, the operator and/or the pilot involved. Cooperation between these States is essential to ensure that Article 12 obligations are met. It was noted that such coordination already occurs informally between civil aviation authorities of States concerned, often through bilateral channels, and that the forthcoming information-sharing tool could also facilitate this process.

Conclusion 8: Where potential violations of the rules of the air occur over the high seas, effective implementation of Article 12 depends on cooperation among States rather than territorial jurisdiction. Implementation is enabled when the State that has accepted responsibility to provide air traffic services initiates reporting and coordination, with the State of Registry and/or State of the Operator conducting appropriate follow-up action, supported by established coordination channels and information-sharing mechanisms.

4.7 Meaning of the term “prosecution”

4.7.1 The term “prosecution” is commonly understood to mean criminal prosecution. The A12 TF observed that, linguistically and in practice, the term can be read more broadly, reflecting a modern approach to enforcing the rules of the air through actions beyond exclusively conventional criminal prosecution and punitive measures such as by imposing pecuniary or custodial penalties. It was acknowledged that there could be different meanings assigned for that term in the various language versions of the Chicago Convention. For example, the word “prosecution” is often translated in French by “poursuivre” which is not necessarily linked to the imposition of criminal penalties but can also relate to carrying on an investigation that may lead to the imposition of administrative sanctions. Forms of other actions used by States to achieve compliance and deal with violations include various administrative sanctions and certificate actions.

4.7.2 As one example of enforcement actions, the Government of Canada has provided policy guidance on its legislation implementing the Article 12 obligation with regard to ensuring compliance and prosecution of violations. The guidance recognizes the fact that “voluntary compliance” with the

regulations is the most progressive and effective approach to achieving aviation safety.³⁶ It is assumed for that purpose that most people are rational, responsible, law-abiding citizens in their own right and self-interest, and share an interest and commitment to the aviation community. However, those individuals in the aviation community who are less motivated by such factors as common sense, personal and civil responsibility, pride and professionalism, and especially safety, will become the focus for enforcement action. Thus, the aviation enforcement policy put forward by the Government of Canada provides “oral counselling” for minor violations where there is no threat to aviation safety and in circumstances where such counselling is inappropriate, an inspector should complete a Detection Notice form as the first step in the initial enforcement process, and forward it to the respective Regional Aviation Enforcement Office.

4.7.3 Other actions under that enforcement policy can consist of informing the offenders of their right to have penalties reviewed by an independent quasi-judicial body separate from the Ministry responsible for international civil aviation; and encouraging open communication between alleged offenders and enforcement inspectors, especially in cases where there may be mitigating circumstances. In cases involving an alleged violation of the regulations, an investigation will take place to ascertain whether or not the violation has occurred. Once the investigation has determined that the violation has occurred, an appropriate penalty will be considered, taking into account the seriousness of the violation. Depending on the seriousness of the violation, responsive action may include: oral counselling, a monetary penalty, a document suspension, and criminal prosecution. In case of repeated and deliberate violations where aviation safety is jeopardized, actions may include increased monetary penalties, suspension of aviation documents, court-imposed fines, jail terms and forfeiture of aircraft.

Conclusion 9: Having regard to some regulations, policies and procedures of States on the implementation of Article 12, the term ‘prosecution’, as used in Article 12, need not be limited to criminal prosecution and can include other enforcement actions or other regulatory measures.

Conclusion 10: In addition to criminal prosecution, the nature, form and operation of enforcement actions and other regulatory measures States may take in a manner consistent with their obligations under Article 12 include the following:

- a) pecuniary or custodial penalties;*
- b) civil fines;*
- c) administrative sanctions or penalties;*
- d) variation, suspension or revocation of certificates or licenses;*
- e) remedial training or other corrective measures;*
- f) oral or written counselling;*
- g) warning letters; and*
- h) forfeiture of aircraft.*

4.8 Principles of Protection and Exception

4.8.1 It was highlighted by some States in the Legal Commission’s discussions during the 40th Session of the Assembly that work on this subject should take into account the “just culture” concept.³⁷ It is noted that ICAO has deliberately chosen not to use the term “just culture” within its SARPs. Rather than introducing specific terminology or definitions, Annex 19 — *Safety Management* establishes principles for

³⁶ See Government of Canada, *Aviation offences and enforcement*, online: <<https://tc.canada.ca/en/aviation/aviation-accidents-investigations/aviation-offences-enforcement>>.

³⁷ The term “just culture” is defined in the European Union laws as “a culture in which front-line operators or other persons are not punished for actions, omissions or decisions taken by them that are commensurate with their experience and training, but in which gross negligence, wilful violations and destructive acts are not tolerated.” See Regulation (EU) No 376/2014 on the reporting, analysis and follow-up of occurrences in civil aviation.

Appendix

the protection of safety data, safety information and related sources. This approach acknowledges the diversity of national legal systems and consequently, affords States the flexibility to determine how the principles of protection of safety data, safety information and related sources are applied in accordance with their respective legal and regulatory frameworks.

4.8.2 Annex 19 describes the protective framework as a reporting environment where employees and operational personnel may trust that their actions or omissions that are commensurate with their training and experience will not be punished is fundamental to safety reporting.³⁸ This protective framework does not extend to an act or omission where “there are facts and circumstances reasonably indicating that the [...] act or omission [is] considered, in accordance with national laws, to be conduct constituting gross negligence, wilful misconduct or criminal activity”.³⁹

4.8.3 While the principles of protection and exception have been applied in Annex 6 — *Operation of Aircraft*,⁴⁰ Annex 13 — *Aircraft Accident and Incident Investigation*⁴¹ as well as Annex 19, the way the related provisions have been drafted takes into account the historical context. However, one challenge identified was that States authorities, particularly those on the prosecution side (e.g. prosecutors, attorneys general and judges), are not familiar with or informed about the developments concerning the principles of protection and exception within the aviation industry, stressing the need for efforts to raise educational awareness in this respect.⁴²

4.8.4 The objective of protecting safety data, safety information and their related sources in Annex 19 is to ensure their continued availability, with a view to using it for maintaining or improving aviation safety, while encouraging individuals and organizations to report safety data and safety information. The principles of protection are not intended to relieve sources of their safety related obligations or interfere with the proper administration of justice. States are not prevented from using safety data or safety information to take any preventive, corrective or remedial action that is necessary to maintain or improve aviation safety. The principles of exception set out the circumstances in which a departure from those protective principles may be permissible.⁴³

4.8.5 While data and information can come from various sources, reporting of safety data and safety information by individuals and organizations in the aviation system is fundamental to safety

³⁸ See Annex 19, Recommendation 5.3.2, Note 1.

³⁹ See Annex 19, Appendix 3, 3a).

⁴⁰ Standard 3.3.6 of Annex 6 states: “States shall not allow the use of recordings or transcripts of CVR, CARS, Class A AIR and Class A AIRS for purposes other than the investigation of an accident or incident as per Annex 13, except where the recordings or transcripts are: a) related to a safety-related event identified in the context of a safety management system; are restricted to the relevant portions of a de-identified transcript of the recording; and are subject to the protections accorded by Annex 19; b) sought for use in criminal proceedings not related to an event involving an accident or incident investigation and are subject to the protections accorded by Annex 19; or c) used for inspections of flight recorder systems as provided in Section 7 of Appendix 8. *Note.— Provisions on the protection of safety data, safety information and related sources are contained in Appendix 3 to Annex 19. When an investigation under Annex 13 is instituted, investigation records are subject to the protections accorded by Annex 13.*”

⁴¹ Standard 5.12 of Annex 13 states: “The State conducting the investigation of an accident or incident shall not make the following records available for purposes other than accident or incident investigation, unless the competent authority designated by that State determines, in accordance with national laws and subject to Appendix 2 and 5.12.5, that their disclosure or use outweighs the likely adverse domestic and international impact such action may have on that or any future investigations: a) cockpit voice recordings and airborne image recordings and any transcripts from such recordings; and b) records in the custody or control of the accident investigation authority being: 1) all statements taken from persons by the accident investigation authority in the course of their investigation; 2) all communications between persons having been involved in the operation of the aircraft; 3) medical or private information regarding persons involved in the accident or incident; 4) recordings and transcripts of recordings from air traffic control units; 5) analysis of and opinions about information, including flight recorder information, made by the accident investigation authority and accredited representatives in relation to the accident or incident; and 6) the draft Final Report of an accident or incident investigation.”

⁴² Annex 19 — *Safety Management*, Fourth Edition, 2018, Standard 5.3.4.

⁴³ Ibid, Appendix 3. See also *Safety Management Manual*, Fourth Edition, 2018 (Doc 9859), para 7.2.6.

management. Effective safety reporting systems help to ensure that people are and remain willing to report their errors and experiences, so that States and service providers have access to the relevant data and information necessary to address existing and potential safety deficiencies and hazards. This assurance is provided by creating an environment in which people can be confident that safety data and safety information will be used exclusively for maintaining and improving safety, unless one of the principles of exception applies.⁴⁴

***Conclusion 11:** In considering the use of enforcement measures, due regard should be given to the protection of the safety data and their related sources, including principles of protection and exception set out in Annexes 6, 13 and 19. This includes ensuring that enforcement approaches support effective safety reporting, information sharing, and continuous improvement of safety performance.*

5. INVESTIGATIONS

5.1 While the terms of reference envisaged the development of recommendations on common investigative procedures and evidentiary practices, the A12 TF notes, based *inter alia* on the results of the State survey, that no gaps, deficiencies, or operational needs were identified in this area. It is acknowledged that national investigative and enforcement systems are well-established and functioning effectively.

5.2 Furthermore, investigative and enforcement processes are grounded in domestic legal frameworks that vary in evidentiary requirements, institutional arrangements, procedural safeguards and judicial traditions. This diversity, together with the outcomes of the State survey, which did not indicate challenges attributed to the absence of ICAO guidance, demonstrates that States do not consider the lack of harmonized procedures to be problematic. Consequently, the feasibility and expected added value of developing standardized investigative procedures at the international level are inherently limited.

5.3 The role and design of Annex 13 and Annex 19 are instructive references in this regard. Both Annexes are intentionally framed at a high level, establishing objectives, institutional roles and safeguards rather than prescribing detailed investigative methods or evidentiary rules. Annex 13 is directed at ensuring the independence and safety-focused purpose of accident and incident investigations and at protecting investigation records and safety information. It does not regulate enforcement action, standards of proof, or the conduct of administrative, civil or criminal proceedings. Annex 19 similarly focuses on system-level safety management and the protection of safety data and related sources, with the express aim of preserving reporting and safety culture. Taken together, Annexes 13 and 19 articulate what must be protected and why, by establishing safety-centred objectives, institutional independence and information-protection principles, but they do not define how investigations or enforcement processes should be conducted at the national level, nor do they provide a basis for harmonising investigative or evidentiary practices across differing domestic legal systems.

5.4 Neither Annex provides, nor is intended to provide, a normative basis for harmonized investigative procedures or evidentiary practices. Developing prescriptive guidance in the area of investigation and evidentiary practices would risk encroaching upon domestic legal processes and would depart from the policy orientation and regulatory approach followed in Annexes 13 and 19, particularly where safety information may be important in enforcement or prosecutorial contexts. In that light, such prescriptive work would exceed the practical and institutional limits of the existing ICAO framework.

⁴⁴ See *Safety Management Manual*, Fourth Edition, 2018 (Doc 9859).

5.5 In light of these considerations, and mindful of the sovereignty of States and the integrity of their national legal systems, as well as the absence of demonstrated operational need the Task Force concludes that developing ICAO guidance on investigative procedures would neither be practicable nor beneficial.

Conclusion 12: The development of common investigative procedures or evidentiary practices need not be pursued further, as such work would be neither useful, desirable nor practicable, given the long-standing and well-established diversity of domestic legal systems and investigative and evidentiary approaches, which are not amenable to meaningful harmonization at the international level.

6. PILOTLESS (UNMANNED) AIRCRAFT OPERATIONS

6.1 Article 12 applies to all aircraft, unmanned and manned. Considering the broad range of operations and types of pilotless (unmanned) aircraft, it is the type of Remotely Piloted Aircraft (RPA) engaged in international IFR operations for which ICAO develops SARPs (i.e. certificated RPA), with the overall goal of integrating the international RPAS operations into the airspace. For this purpose, amendments to several Annexes, such as Annex 1, Annex 2, Annex 8, Annex 10 and a new Part IV of Annex 6⁴⁵ have been adopted, with more technical provisions still under development. Specifically, Annex 2 contains a provision (Standard 3.1.9) which states that “[a] remotely piloted aircraft shall be operated in such a manner as to minimize hazards to persons, property or other aircraft and in accordance with the conditions specified in Appendix 4”. Therefore, for international RPAS operations over the high seas, Annex 2 provisions, in particular its Appendix 4 titled “Remotely piloted aircraft systems” shall apply without exception.

6.2 For unmanned aircraft other than certificated RPA, due to the increasing number of their operations over the high seas and the associated safety and legal concerns, there is urgent need for the development of an interim solution to enable States to lawfully authorize such operations, pending and subject to the adoption of interim and more enduring provisions. The Assembly during its 42nd Session urged the Council to develop and adopt, ideally before the end of 2026, an interim framework which would be outcome-based, consistent with the intent of, and compliant with, the Chicago Convention, such as through acceptable means of compliance.⁴⁶ It was further recognized that, in the meantime, States have both the obligation and the prerogative to develop and implement more immediate measures to ensure compliance with applicable requirements, pending the adoption of interim and ultimately enduring provisions.⁴⁷ In the legal field, the Secretariat Study Group on Legal Issues related to Pilotless Aircraft (“SSG-LIPA”) has been conducting legal analysis of the application, interpretation or implementation of provisions of the Chicago Convention to pilotless aircraft engaged in international air navigation, including operations over the high seas.

Conclusion 13: The progress on this topic by SSG-LIPA will continue to be monitored, with a view to assessing the implications of their work on the implementation of Article 12.

⁴⁵ Most of RPAS related SARPs in Annexes 1, 2, 8 and 10 apply as of 26 November 2026, while Annex 6, Part IV has been postponed from 26 November 2026 to 21 November 2030. See C-WP/15794, *Adoption of Amendment 1 to Annex 6, Part IV*, presented by the President of the Air Navigation Commission to 237th session of the Council.

⁴⁶ A42-WP/696, Report of the Technical Commission on Agenda Item 24, 29 September 2025, paragraph 24.92.

⁴⁷ Ibid.

7. WEB-BASED TOOL

7.1 Consideration of a Dedicated Tool

7.1.1 A majority of States responding to the States survey (75%) have not established a framework or mechanism with other States to ensure the timely exchange of information following a violation of the regulations established under Article 12 of the Chicago Convention. However, a lower percentage (20%) have in fact established such a framework while the rest of the States did not provide a response. This outcome from the survey could reflect a lack of efficient and timely communication mechanisms between aviation authorities.

7.1.2 A web-based tool can provide a framework to facilitate the timely exchange of information between States following a possible or alleged violation of the regulations established under Article 12 of the Chicago Convention. In this connection, nearly all States (82%) that responded to the survey were of the view that it was desirable or necessary for ICAO to develop a web portal for sharing compliance and enforcement information, 12% did not take a position and 4 States were of the view that there was no need to develop such an ICAO web portal.

7.1.3 The A12 TF considered existing tools that are currently in use at ICAO for the purpose of exchanging information. These included, the ICAO Aviation Security Point of Contact (PoC) Network, Safety Management Implementation (SMI) website, Online Airworthiness Information Network as well as the Safety Recommendations of Global Concern (SRGC). None of which was found suitable. Furthermore, the A12 TF also considered the appropriateness of using the ICAO DGCA Directory by requesting States to transmit the contact details of a focal point for Article 12 matters. That possibility was also not pursued by the Task Force.

7.1.4 The development of a new tool was pursued through the work of the TSG, which considered the features and scope of the use of a web-based tool.

7.2 Proposed Features of the Tool

The type of information to be shared

7.2.1 The process and methods that CAAs would use to determine which type of information needs to be shared within an enforcement-related framework was also considered by the A12 TF. It was underscored that making such information available would enable States to understand each other's actions, with a view to ensuring that they fulfill their obligations appropriately.

7.2.2 This notwithstanding, there are challenges inherent to the dissemination of enforcement-related information as this may, in certain cases, compromise the interests of affected individuals or affect the outcome of the relevant enforcement process. Because there does not now appear to be a consensus as to the nature and substance of enforcement-related information that can effectively be shared on a multilateral basis, there is limited scope for actively pursuing processes and methods for doing so at this time. In this regard, it was outlined that sensitive or proprietary information should only be exchanged directly between designated points of contact of the States concerned. The A12 TF further outlined the importance of developing guidance on these issues.

Conclusion 14: Immediate steps can and should be taken to identify the most appropriate points of contact within civil aviation administrations (CAAs) to which enforcement-related

inquiries under Article 12 can be made, and through which relevant information can appropriately be provided, on a bilateral basis.

Conclusion 15: Points of contact within CAA's to whom requests for compliance and enforcement-related information related to action of the kind contemplated by Article 12 may be directed can be made available to Member States through a web-based tool.

Conclusion 16: Further consideration can be made to identify the nature and content of compliance and enforcement-related information related to the exercise of such powers by States pursuant to their obligations under Article 12 that can more readily be shared on a multilateral or regional basis, subject to such protections as may be applicable in national law under Annexes 13 and 19.

7.2.3 The A12TF considered the nature of the mandatory information which should be included on the tool (i.e. “sending State”, “receiving State” and date of event), and underscored that, in certain situations, not all the information can be shared among States (i.e. “what, where, when and how”). In particular, consideration was given to the need for some of the information on the tool to be made publicly available while respecting the principles for the protection of safety information. For example, information pertaining to a violation of the rules of the air committed by a pilot and/or operator could be made publicly available on the platform, but the identity of the pilot and/or operator is not to be disclosed. Such information could be presented in a de-identified and aggregated manner to be used for aviation safety purposes. Some States publish enforcement actions on their website in a form and style that is suitable for sharing and could be adopted as appropriate for the purposes of Article 12 information.⁴⁸

7.2.4 With respect to the application of the principles of protection and exception, it was pointed out that States may be reluctant to share information with other States even if that information is encrypted. It was agreed that any information shared on the tool should only be made available to the States concerned directly with the possible or alleged violation of the regulations established under Article 12 of the Chicago Convention. Also, the A12 TF stressed the need for clarity with respect to the nature of the information comprising a rule of the air violation and its origin.

7.2.5 At a minimum level, the web tool should contain a feature which would allow the State receiving the communication to provide a response to the Sending State, [as well as a mechanism to track the status of the process following a notification from a Sending State]. In this regard, it could be useful to have a specified timeline for a receiving State to provide a response following the notification of a violation of the regulations established under Article 12 of the Chicago Convention by the Sending State through the tool. The need to have a common understanding about what would trigger the “closing” of such an event between the States concerned is also highlighted. It was also understood that “closing” does not necessarily mean that an issue is resolved or completed but it could also mean that information is provided or satisfactory action taken.

7.2.6 A user guide would assist States in using the tool.

7.2.7 ICAO would be the most appropriate entity to host the tool being well positioned to obtain contact information from Member States. While acknowledging that there would necessarily be some cost implications for the tool's host (e.g. establishment of the tool and its maintenance), the A12 TF has not made any assessment of that cost. ICAO's role would be to maintain the website and ensure full-time access by authorised users and updating the user information. Member States would ensure that their points of contact remain current by promptly notifying ICAO of any changes. With a view to maintain the currency

⁴⁸ An example from Australia can be found at <https://www.casa.gov.au/search-centre/recent-enforcement-actions>.

of the focal point list, ICAO could request from time-to-time States to confirm or update their designated focal points. Furthermore, concerns have been expressed with regard to the security features of the tool as well as data protection issues in case sensitive personal information is stored in the tool.

7.3 Tool pilot

7.3.1 From 20 February to 6 March 2025, Focal Points from the A12 TF and the Secretariat were invited to test a pilot version of the tool. Four States and the Secretariat tested the tool, submitting eight forms (six of type “Notification” and two of type “Response”). Feedback was received from one State as well as the Secretariat. In this connection, it was reported that the tool is relatively user-friendly as it allows for simple communication that conveys the minimum necessary information to notify another State of a potential aviation violation. It was also outlined that maintaining an up-to-date focal point list may be challenging (depending on the platform’s final location), however the list itself is a valuable resource. Several suggestions were made with a view to improving the tool.

7.3.2 The second pilot version of the Tool has been developed and made available on the ICAO platform to address the functionalities identified in the first pilot and facilitate more participation. The main features and functionalities of the Tool are as follows:

- a) It contains a list of Point of Contact (PoC) designated by Member States.
- b) Member States can send a notification to another State. Supporting documents can be attached along when the notification is sent. After a notification is submitted the platform will automatically: generate a unique Event Number; save the notification content on a SharePoint list; and send an email to the notified Member States.
- c) The receiving Member State can send a response to the State that sent a notification. The Event Number should be provided when the response is sent. After the response is submitted, the content of the response is saved to a SharePoint list and an email will be sent to initially notifying Member States.
- d) Security access to the notification and response contents is automatically granted to the Member States concerned, only these States can view the content of the notification and the response.

7.3.3 From 14 March to 30 April 2026, designated Focal Points from the A12 TF were invited to test a second pilot version of the tool. 6 States tested the tool, submitting 8 forms (5 type “Notification” and 3 of type “Response”). Feedback was received from one State as well as the Secretariat. The feedback appreciated the inclusion of a feature for attaching documents and suggested several additional features to allow editing, improving visibility and closure of the process. Confidentiality of the submissions and regular updating of Focal Points were highlighted for consideration.

7.3.4 A visual illustration of the platform model of the tool is attached in the **Attachment E**.

Conclusion 17: *The primary objective of the tool is to facilitate the timely exchange of information with other States concerned about a possible or alleged violation of the rules and regulations relating to the flight and manoeuvre of aircraft.*

Conclusion 18: *The tool will be a facilitative mechanism and not binding.*

Conclusion 19: *The information exchanged should be kept confidential and access restricted to the States concerned.*

Conclusion 20: *The tool can include a mechanism to track appropriately the status of the process following a notification from a Sending State.*

Conclusion 21: *A user guide for the tool should be prepared.*

Conclusion 22: *The minimum information should correspond to the information requested by the tool in required fields, being information which is necessary to enable the receiving State to recognize and evaluate the request in the notification. Additional information may be provided separately at the discretion of the receiving State.*

Conclusion 23: *States should endeavour to provide an initial response to a notification through the tool within a reasonable period, preferably within 30 days of receipt. Where a receiving State is unable to respond within that period, it should inform the notifying State as soon as practicable and where possible indicate an alternative timeframe for response.*

Conclusion 24: *The concept of “closure” of a notification within the tool should be understood as an administrative status relating to the exchange of information between States and should not be interpreted as indicating that any related investigation, enforcement action or judicial process has been concluded. Further consideration may be given to the criteria and procedures for recording closure within the tool, such as whether by consensus between the notifying State and the receiving State or by confirmation of the notifying State only.*

Conclusion 25: *Any future use of de-identified and aggregated information for broader aviation safety purposes should be subject to appropriate safeguards for confidentiality.*

Conclusion 26: *ICAO is the appropriate entity to host and administer the tool due to its global membership, neutral institutional role and ability to maintain contact information for designated focal points. While the pilot version has been developed using existing ICAO information technology infrastructure, future enhancements, administration and maintenance of the tool may entail additional resource implications that would require further assessment*

8. OTHER MECHANISMS FOR THE EXCHANGE OF INFORMATION

8.1 Regional cooperation

8.1.1 As an example of regional collaboration, it should be outlined that EU Member States have a common regulatory framework for aviation safety, extended through agreements also to some other partner States. A harmonized approach to regulatory activities with regard to aviation safety is strengthened by standardization activities carried out under the remit of EASA, and regular meetings and correspondence between Member States, both at a high level (Directors General) and on a technical and/or operational level.

8.1.2 The basic legal instrument at the EU level is Regulation (EU) 2018/1139 (“Basic Regulation”), as well as implementing acts and delegated acts adopted under it, serve as tools for

transposing safety rules and standards adopted under the Chicago Convention.⁴⁹ More specifically it is stated that national aviation safety authorities, as well as the EU Commission and EASA, shall exchange any information available to them which is relevant to the other parties for the performance of their tasks under the Basic Regulation. Also, authorities of EU Member States entrusted with the investigation of civil aviation accidents and incidents, or with the analysis of occurrences, shall be entitled to access that information for the performance of their tasks. To facilitate the exchange of civil-aviation-related information, an electronic repository of information has been established and is managed by EASA to ensure the effective cooperation between national aviation safety authorities and EASA, concerning the exercise of their tasks relating to certification, oversight and enforcement pursuant to the Basic Regulation. The repository of information features a central database, a communication infrastructure and a user access interface for the issue, query and access to the information stored in the repository.⁵⁰

8.1.3 The principles of protection and exception are incorporated in the EU safety legislation.⁵¹ It provides that the source of information shall be protected in accordance with the applicable law on the protection of the source of information relating to civil aviation safety.⁵² This, however, shall not apply in cases of willful misconduct or in cases where there has been a manifest, severe and serious disregard of an obvious risk and profound failure of professional responsibility to take such care as is evidently required in the circumstances, causing foreseeable damage to a person or property, or which seriously compromises the level of civil aviation safety.⁵³

8.1.4 The Banjul Accord Group Aviation Safety Oversight Organization (BAGASOO) and the Civil Aviation Safety and Security Oversight Agency (CASSOA) indicated that existing frameworks for exchanges of safety information, although they were not specifically designed for the Article 12 implementation, were established among their respective Partner States. These frameworks could further be leveraged for Article 12 related exchanges. The roles of RSOOs are elaborated in ICAO Doc 9734, *Safety Oversight Manual*, Part B, The Establishment and Management of the Regional Safety Oversight Organization.

8.2 Memorandum of Understanding

8.2.1 In the States survey, three States had indicated that they had in place Memorandum of Understanding (MoU) arrangements with other States for the purpose of exchanging information following a violation of the rules of the air. The template Cooperation Agreement used by the Estonian Transport Administration (TRAM) is an example of such an MOU which establishes a structured framework for mutual support in aviation oversight and information exchange (see sample attached in the **Attachment F**).

8.2.2 The scope of cooperation includes, but is not limited to, the use of expert inspectors from the partner authority, the raising of findings based on shared information, and the mutual exchange of safety data and audit outcomes. Specific areas of information exchange include non-compliance findings, remote

⁴⁹ See Articles 62, 72 and 74 of Regulation (EU) 2018/1139 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency.

⁵⁰ Commission Implementing Regulation (EU) 2023/2117 of 12 October 2023 laying down the necessary rules and detailed requirements for the functioning and management of a repository of information pursuant to Regulation (EU) 2018/1139 of the European Parliament and of the Council.

⁵¹ See Regulation (EU) 2018/1139, Regulation (EU) No 376/2014 on Occurrence Reporting and Regulation (EU) No 996/2010 on Accident Investigation.

⁵² For example, when the information is provided by a natural person, the source of such information shall not be revealed and personal details of that source shall not be recorded together with the information provided. Without prejudice to applicable national criminal law, States shall refrain from instituting proceedings in respect of unpremeditated or inadvertent infringements of the law which come to their attention only because the information about those infringements have been provided in the framework of the Regulation (EU) 2018/1139. See Article 73 (1)-(2) of Regulation (EU) 2018/1139.

⁵³ See Article 73 (2) of Regulation (EU) 2018/1139.

Appendix

operations, base openings and closures, wet-lease arrangements, group operations, and safety-related data such as SAFA/SACA reports and occurrence data. The agreement also covers changes affecting cross-border service provision, including legal status, certification, and safety performance monitoring of air navigation service providers.

8.2.3 In terms of enforcement, the agreement outlines procedures for issuing and withdrawing safety directives and other enforcement measures, particularly where cross-border air traffic services are impacted. It emphasizes consultation between authorities and the need for verification of restored safety levels before withdrawing directives.

8.3 *Portal for International Pilot Deviations*

8.3.1 As another example of a mechanism, Brazil and the United States have agreed to use the Federal Aviation Administration's (FAA) *Portal for International Pilot Deviations* (PIPD). Through the platform, States exchange information regarding possible deviations committed by pilots from one State operating in the other State's airspace. For instance, the Brazilian Civil Aviation Authority (ANAC) uses the information made available on the platform to assess certain operational safety aspects, such as whether the event indicates any deficiencies in pilot training or their ability to communicate in English in aeronautical communications. It should be emphasized that the focus of these assessments is not punitive but aimed solely at improving operational safety. Likewise, FAA inspectors responsible for a case may request ANAC's support in identifying the pilot or obtaining their contact information through PIPD. After ANAC's evaluations, a summary of the actions taken by ANAC can be communicated to the FAA through the platform itself. Since April 2022, fourteen cases have been reported by the FAA to ANAC using the PIPD system. The FAA also uses the PIPD bilaterally with the CAAs from Canada, France, Panama, Mexico, and the Republic of Korea.

8.4 Safety arrangements under air services agreements

8.4.1 Bilateral air services agreements and in particular safety clauses contained in those agreements provide an established framework for cooperation and information exchange between States on matters relating to compliance with SARPs including rules of the air. ICAO's Template Air Services Agreements (TASAs) on which bilateral air services agreements are modelled⁵⁴ reflect long-standing State practice in this area and include safety provisions through which contracting States reaffirm their obligations under the Convention and its Annexes and commit to cooperation through consultations between the States authorities.

8.4.2 The aviation safety clause in the ICAO Template Air Services Agreement (Article 8) provides that each Party "may request consultations at any time concerning the safety standards maintained by the other Party in areas relating to aeronautical facilities, flight crew, aircraft and the operation of aircraft" and further envisages consultation and cooperation between the Parties where safety concerns arise, including through the exchange of relevant information between authorities and implementation of corrective actions with the parties reserving the right to suspend operating authorizations granted to the other party. The notes to the clause explain that "[t]he foregoing model clause on safety developed by ICAO, provides a standardized process for Parties to an agreement to address safety concerns. It is intended to ensure that aircraft operated by, or on behalf of, designated airlines in the other Party's territory are operated and maintained in accordance with ICAO Standards and Recommended Practices". These provisions are expressly designed to facilitate dialogue and mutual assistance between States, while operating within their respective legal and regulatory frameworks. In the same vein, the *Manual of*

⁵⁴ See *Policy and Guidance Material on the Economic Regulation of International Air Transport Fourth Edition*, 2017, (Doc 9587), Appendix 1.

Procedures for Operations, Inspection, Certification and Continued Surveillance (Doc 8335) includes guidance on such a model aviation safety clause.

8.4.3 The A12 TF observed that such bilateral safety clauses are well suited to supporting the practical implementation of Article 12, particularly in cases where alleged violations of the rules for the flight and manoeuvre of aircraft have cross-border elements. By establishing clear channels for authority-to-authority communication, these clauses enable States to exchange factual and regulatory information, seek clarification, and better understand the actions taken by other States in response to violations.

8.4.4 It was understood that there also exist other stand-alone bilateral safety enforcement arrangements to promote compliance with, and enforcement of, domestic law and regulations and international standards for the operation of civil aircraft as applicable in their respective areas. The cooperation includes, inter alia, reciprocal consultations and information exchanges on investigative and enforcement actions related to alleged violations of safety related laws or regulations as applicable. Sufficient safeguards for the protection of the security of the information about such alleged violations are required to be in place.

Conclusion 27: Bilateral aviation safety clauses in ASAs and bilateral safety arrangements illustrate a practical and flexible means of supporting the implementation of Article 12, providing another mechanism reinforcing cooperation and transparency between States in relation to compliance with the rules of the air.

Conclusion 28: The mechanisms identified, namely, regional cooperation frameworks, structured information sharing arrangements, bilateral and multilateral reporting tools, and coordinated oversight practices supported by appropriate legal protections provide States with effective means to strengthen the implementation of Article 12 of the Chicago Convention. By adopting and actively using such mechanisms, States can improve their ability to identify and address instances of non-compliance, facilitate timely exchange of critical safety information, and foster a cooperative safety culture that supports aviation safety globally.

9. ICAO PROVISIONS

9.1 **Annex 6 Standards for compliance and notification (Standard 3.2, Annex 6, Part I – Operation of aircraft, International Commercial Air Transport — Aeroplanes)**

9.1.1 Operators must ensure that their personnel, especially pilots and other flight crew members, are familiar with and comply with the laws, regulations, and procedures of any State in which they operate. Pilots must understand the rules relevant to their duties, including those related to airspace, aerodromes, and navigation facilities. Other flight crew members must also be aware of the rules pertinent to their roles. If a State identifies non-compliance or a serious safety issue involving a foreign operator with that State's territory, it must promptly notify the operator and, if warranted, the State of the operator and the State of Registry. Where appropriate, the notifying State should also engage in consultations with these States regarding the operator's safety standards.

Conclusion 29: The compliance and notification requirements in ICAO provisions such as those in Standard 3.2 Annex 6 (Operation of aircraft, Part I – International Commercial Air Transport — Aeroplanes) reinforce the effectiveness of Article 12 by promoting operator and crew awareness of applicable national requirements and facilitating the exchange of information between States where non-compliance is identified. These

mechanisms support the consistent application and enforcement of the rules and regulations contemplated by Article 12.

9.2 Universal Safety Oversight Audit Programme and Article 12

9.2.1 The following USOAP PQs relate to Article 12 specifically to the adoption or establishment of regulations:

7.001 Has the State promulgated primary aviation legislation in compliance, without exception, with the applicable provisions of Annex 2 on high seas airspace?

7.009 Has the State promulgated specific operating regulations to transpose the ANS-related provisions of Annexes 2, 3, 4, 5, 10, 11, 12 and 15?

9.2.2 While noting that the 2024 Edition of USOAP PQs has not made any amendments to the said PQs nor included new PQs in relation to Article 12 of the Chicago Convention,⁵⁵ it was considered whether amendments were required to the existing PQs relating to Article 12 or whether additional PQs on that subject should be developed. It was noted for instance that the current PQs cover the State's obligations to establish regulations but do not extend to their implementation, including compliance and enforcement.

9.2.3 The following PQs concern compliance by a foreign operator with the laws, regulations and procedure of a State (Standard 3.2 of Annex 6 refers):

4.448 Is a formal surveillance programme implemented to verify that foreign air operators comply, on a continuing basis, with international standards, AOCs and corresponding operations specifications?

4.450 Does the surveillance programme include ramp inspections of aircraft operated by AOC holders and foreign air operators, based on risk?

9.2.4 In this connection, the A12 TF expressed the view that USOAP and Protocol Questions are possible avenues for reinforcing awareness and implementation of Article 12.

Conclusion 30: *The USOAP mechanisms should be continually reviewed with a view to promoting awareness of Article 12 and reinforcing its implementation through appropriate avenues, including Protocol Questions.*

— — — — —

⁵⁵ The 2024 edition of the PQs, in English, is now posted on the USOAP CMA online framework (OLF) (<https://www.icao.int/usoap>) under the heading "CMA Library". See ICAO, Electronic Bulletin, EB 2024/22, dated 9 October 2024.

ATTACHMENT A**LIST OF EXPERTS OF THE ARTICLE 12 TASK FORCE****STATES/ENTITIES****PARTICIPANTS**

Australia

Aleck, J.

Brazil

Avila, J. W.
Barbosa, A. B.
Braga A.S.
Neto, A. L.
Pontes, M. G. C.
Watanabe, Y.

Canada

Day, M.-C.
MacVannel, G.
Thachet, J.

Colombia

Caceido, L. E.
García, D. M. R.

China

Cai, Y.
Lei, A.
Meng, Q.F.
Wang, L.
Zhao, J.

Finland

Lähteenmäki-Riistama, K.
Metsälämpi, S.

France

Correia, V.

Ghana

Agbevey, E.
Thompson, S.

Greece

Karachaliou, A.
Koryfidou, E.

Ireland

Tyrrell, W.

Jordan

Al-Akhras, W
Abughoush, B.
Odeh, A.

STATES/ENTITIES

PARTICIPANTS

Netherlands (Kingdom of the)

Beumkes, K.E.
Cambridge, M.
Viergever, A.

Oman

Al Busaidi, A. K.
Al-Ruqaishi, M.

Qatar

Alhammadi, I.
Augustin, J. V.

Russian Federation

Batalov, A.
Korsakov, A.

Singapore

Lim, G.
Tan, S. H.
Tan, S. T.
Wong, D.

South Korea

Yu, P. K.

United Arab Emirates

Al Blooshi, I.
Al Maazmi, N. I.
Asker, M. B.
Sonjani, M.

United Kingdom

Stoplar, D.

United States

Dominik, C.
Klang, J.
Landon, J.
Ohannesian, M. R.
Serrao, J. E.
Weingold, B.

AFCAC

Vieira, V.

IATA

MacIntosh, L.
Munisami, I.
Xie, X.

IFALPA

Ariel, G.
Ball, C. J.
Wells, J.

ATTACHMENT B

LEGAL SURVEY ON THE IMPLEMENTATION BY STATES
OF ARTICLE 12 OF THE CHICAGO CONVENTION

1. INTRODUCTION

1.1 The 40th Session of the ICAO Assembly (Montréal, 24 September – 4 October 2019) added “*Processes and Procedures for States to fulfill their obligations under Article 12 of the Chicago Convention*” as a new Item 3 to the General Work Programme of the Legal Committee. The Article 12 Task Force (A12 TF) was then established in April 2021 to undertake work on this item. The overall objective of work under this item is to conduct a study on the implementation of Article 12 of the *Convention on International Civil Aviation* (Chicago, 1944 – “the Chicago Convention”) (Doc 7300/9) by States as well as to identify the means and mechanisms for States to support and enhance their implementation.

1.2 Following its Second Meeting, the A12 TF also decided to conduct a States’ survey to better understand the implementation status, challenges and the needs of States regarding this provision.

1.3 The survey questionnaire was issued to all ICAO Member States by State letter LE 4/76 – 22/116 of 22 December 2022 in order to solicit responses from States by 31 March 2023. Additional time was allowed for completion of the survey up to 15 May 2023 (EB 2023/16 LE 4/76, 31 March 2023).

1.4 Responses to the survey questionnaire are analysed in this Report to determine the extent to which Member States have implemented their obligations arising from Article 12 of the Chicago Convention, the measures they have established to fulfil those obligations and the experiences and challenges encountered.

1.5 The outcomes of the survey and the report containing the analyses of the responses will provide the basis for further deliberations in the A12 TF and its groups on the means to enhance the implementation of Article 12 obligations.

1.6 A copy of the survey questionnaire is provided in the **Annex**.

2. ISSUES UNDER CONSIDERATION

2.1 Article 12 of the Chicago Convention provides that:

Each contracting State undertakes to adopt measures to insure that every aircraft flying over or maneuvering within its territory and that every aircraft carrying its nationality mark, wherever such aircraft may be, shall comply with the rules and regulations relating to the flight and maneuver of aircraft there in force. Each contracting State undertakes to keep its own regulations in these respects uniform, to the greatest possible extent, with those established from time to time under this Convention. Over the high seas, the rules in force shall be those established under this Convention. Each contracting State undertakes to insure the prosecution of all persons violating the regulations applicable. (emphasis added)

Appendix

2.2 Under Article 12, the State of Registry has the responsibility for ensuring that the aircraft carrying its nationality mark complies with the rules and regulations relating to the flight and manoeuvre of aircraft in force wherever such aircraft may be as well as for the prosecution of all persons violating these regulations.

2.3 ICAO has adopted several Standards and Recommended Practices (SARPs) concerning Article 12 of the Chicago Convention which can be found in Annex 2 – *Rules of the Air*, in Annex 6 – *Operation of Aircraft* and Annex 11 – *Air Traffic Services*. Moreover, at the time of adopting Annex 2 – *Rules of the Air*, the Council, at the 22nd Meeting (Part III) of its Third Session (15 April 1948), resolved that “the Rules of the Air Annex constitutes rules relating to the flight and manoeuvre of aircraft within the meaning of Article 12 of the Convention and deviations from these rules may not be made in so far as they relate to flight over the high seas.”

2.4 The USOAP Programme contains the following two protocol questions in relation to Article 12: (i) 7.001 Has the State promulgated primary aviation legislation in compliance, without exception, with the applicable provisions of Annex 2 on high seas airspace? and (ii) 7.009 Has the State promulgated specific operating regulations to transpose the ANS-related provisions of Annexes 2, 3, 4, 5, 10, 11, 12 and 15?

2.5 During its 40th Session, the ICAO Assembly considered A40-WP/101, *Article 12 of the Chicago Convention: Communication Mechanism and Guidelines to Support its Implementation*, which highlighted that “the implementation of Article 12, while fundamental for ensuring flight safety, is not always effective.” Amongst the reasons identified therein are “the lack of efficient and timely communication mechanisms between Aviation Authorities” as well as that “the current practice for transmitting and receiving the notice of an alleged violation varies among States, and can be inefficient.” In addition, it was highlighted by some States that the work on this item should include consideration of rules of the air violations over the high seas and take into account the *just culture* concept.

2.6 At its meetings held between November 2021 and February 2023⁵⁶, the A12 TF experts exchanged experiences on the implementation of Article 12, discussed the scope of Article 12 and related legal issues and made arrangements for the conduct of future work. In addition to the survey, the A12 TF decided to establish a Scoping Group to study the scope of Article 12 and related legal issues and a Tools Group to consider the development of tools for exchange of air law regulatory compliance and enforcement information.

3. RESPONSES TO THE SURVEY

3.1 A total of 93 States (representing almost 50% of ICAO’s membership) and one Special Administrative Region (SAR) responded to the survey (see the list in **Appendix B**) as of 26 December 2023. References to “States” in this report means States responding to the Survey, unless the context otherwise requires.

3.2 International organizations (IOs)⁵⁷ with a potential interest or involvement in issues pertaining to the implementation of Article 12 of the Chicago Convention were also requested to provide information or comments, but none responded.

⁵⁶ Since its establishment, the A12 TF met three times: First Meeting (Virtual, 23 November 2021), Second Meeting (Montréal, 5 – 6 October 2022) and Third Meeting (Muscat, Sultanate of Oman, 20 February 2023).

⁵⁷ Arab Civil Aviation Organization (ACAO); Agency on Aeronautical Safety for Central America (ACSA); African Civil Aviation Commission (AFCAC); Agency for Air Navigation Safety in Africa and Madagascar (ASECNA); Banjul Accord Group Aviation Safety Oversight Organisation (BAGASOO); Civil Air Navigation Services Organisation (CANSO); Civil Aviation Safety and

3.3 Establishment of laws or regulations for the implementation of Article 12

3.3.1 Most States (94%) have established laws or regulations for compliance with Article 12 and the prosecution of violations. In most cases, this took the form of a legislative instrument as part of the States' civil aviation regulations or as part of the State's criminal code or a combination of both which encompasses all legal, civil and administrative actions. 92% of States have established laws or regulations to ensure compliance with *Rules of the Air* over their territory or in a foreign territory. A lesser yet still high percentage of States (83%) have also established rules to ensure compliance with the rules of the Chicago Convention over the high seas and 86% of States have national laws providing for the prosecution of all persons violating the applicable regulations. Additionally, 51% of States provided links to their regulations (a list of those States is provided in **Appendix C**).

3.3.2 While a few States did not provide a response to this question (5 States), one State indicated that it did not establish rules for the implementation of Article 12. That State did not indicate its reason(s) for not having established such rules.

3.4 Enforcement mechanisms when prosecuting a violation of the rules of the air

3.4.1 Regarding States' enforcement mechanisms when prosecuting a violation of the rules of the air, some of the mechanisms identified in the survey include imposing fines or imprisonment, initiating administrative investigations, suspension or cancellation or downgrade of certificates or licenses, remedial training as well as verbal counselling. 55% of States' national legislations use all of criminal prosecution, civil/administrative penalties, and regulatory/licensing actions to deal with violations.

3.4.2 Further information on the applicable mechanisms in their national legislation was provided by 54 States. The general view expressed by those States is that the appropriate mechanism applicable to each violation depends on a variety of factors including; (i) technical investigations, which are initiated to determine the causes of each infringement to consequently determine the appropriate action, (ii) the seriousness of the grounds on which the actions are based, and (iii) the gravity of the violation committed, which are considered by special committees or public prosecution channels for review and determination.

3.4.3 72% of States provide for criminal prosecution with the majority of States indicating that criminal prosecution outcomes typically include fines or imprisonment, with varying amounts of fines and term of imprisonment (State responses varied from a term of one day to 25 years). A few States (4) disclosed that in some cases there may be fines in addition to imprisonment.

3.4.4 Most States (84%) specified that their national legislations provide for civil/administrative penalties in cases of violations of the rules of the air. Several States cited initiating administrative investigations or proceedings conducted by either their national aviation authorities or by their law enforcers to determine the appropriate action necessary in each case. A high number of States indicated that civil/administrative penalties include suspension, cancellation or downgrade of certifications or licenses. One State specified that administrative penalties could take many forms including administrative monetary penalties, remedial training, and verbal counselling, with two States pointing to letters of warning as a way

Security Oversight Agency (CASSOA); Civil Air Navigation Services Organisation (COCESNA); European Union Aviation Safety Agency (EASA); European Civil Aviation Conference (ECAC); European Organisation for the Safety of Air Navigation (EUROCONTROL); Interstate Aviation Committee (IAC); International Air Transport Association (IATA); International Federation of Air Line Pilots' Associations (IFALPA); Latin American Civil Aviation Commission (LACAC); SADC Aviation Safety Organization (SASO).

Appendix

of addressing violations and encouraging future compliance. One State indicated that in some cases, violations may face civil penalties as well as cancellation or revocation of certificates/license simultaneously. Only one other State indicated that criminal investigations and administrative penalties may be applied simultaneously. It is important to note here that the meaning of “prosecution” within this survey’s context refers to the application of any of the enforcement mechanisms and does not necessarily mean conducting criminal legal proceedings.

3.4.5 Lastly, 78% of States responded that regulatory/licensing actions are taken in cases of violations of the rules of the air. A large number of States elaborated on these measures by referring to the suspension, cancellation or revocation of operating certificates and/or licenses. One State provided that its national procedure includes issuing a warning to the operator, limiting, or banning further operations, issuing a conditional fine as well as a conditional orders of suspension. As an example of regional mechanisms, two States who are Member States of the European Union (EU) referred to EU Regulations that require each State’s authorities to initiate procedures whenever non-compliance is detected. It is important to note here that the categorization of civil/administrative penalties and regulatory/licensing differ from one State to another which clarifies why similar actions are discussed in both sections (see the list in **Appendix C**).

3.5 **Actions taken by States in the case of a violation of the rules of the air**

3.5.1 On actions taken in cases of violations by a foreign operator over the State’s territory, some States (19) shared that they would firstly notify the relevant foreign regulatory authority through a formal notice of the committed violation. A copy of such notification form can possibly be provided to be used for guidance and as a reference for other States.

3.5.2 Additionally, various States (18) indicated that a violation by a foreign operator would involve criminal proceedings and subsequent prosecution if necessary while an equal number of States pointed to monetary penalties in the form of fines as a possible action that could be imposed. Other common actions cited by States include cancellation or revocation of licenses/certificates, grounding of aircraft, and totally or partially suspending overflight in national airspace. Two other States cited issuing a formal warning while two others indicated that the case will be forwarded to the foreign competent authority which is the operator’s State of registration to handle the violation. A small number of States (4) indicated that two or more concurrent actions may be taken, depending on the violation.

3.5.3 A large number of States (31%) indicated that they do not have delegated administrative responsibilities over airspace. Those States (17%) that do have such responsibilities indicated that their national regulations are equally applicable to the designated international airspace (the actions that would be taken by States in accordance with their national legislations are outlined in 3.4 above). 11% of States indicated that the State where the aircraft is registered is the responsible authority to take charge of the violation. One State shared that under its law, all the concerned parties are afforded the responsibility to choose to accept jurisdiction for administering the related mechanisms in relation to the violation. The remaining States did not provide specific information on this matter of delegated administrative responsibilities over airspace.

3.5.4 A number of States (16) responded that the appropriate action for violations committed by an operator of their State in another State’s territory is determined by their own national law, in effect that national operators must comply with national legislation wherever they operate. One State pointed out that this is the case unless oversight of such an aircraft was transferred to another State by way of an Article 83 *bis* agreement. A few States (5) indicated that the appropriate action should be taken by the State where the violation has occurred. One State cited that it cannot initiate punitive procedures due to the “Principle of

Territoriality”⁵⁸ and therefore is limited to continuous supervision of the operator committing the violation. A different approach was expressed by another State specifying that the State where the violation has occurred has the authority to choose the applicable regime while another State shared that its national legislation would apply as long as the appropriate action does not conflict with the rules of the State where the violation has occurred. The actions that would be taken by States in accordance with their national legislations are outlined in 3.4 above.

3.5.5 A large number of States (32%) indicated that in cases where their national operator commits a violation over international airspace, the action taken would be in accordance with national laws and legislation. One State explained that although it would not be able to initiate punitive procedures owing to the Principle of Territoriality, the violation would be investigated within their State in order to identify the cause behind the violation to consequently take necessary actions; three other States similarly indicated that they would firstly carry out an investigation into the violation before taking an enforcement action. One other State shared that its civil aviation authority would firstly conduct a due diligence investigation and secondly communicate and liaise with the State of Registry to agree on a course of action in response to the violation. The remaining number of States did not provide a response to this question.

3.6 Challenges and difficulties encountered following violations of the rules of the air

3.6.1 Many States (32%) encountered challenges relating to obtaining pertinent evidence, data or information from another State, 14% reported facing difficulties in providing evidence, pertinent data or information gathered by their State to another State, and 24% were met with challenges obtaining a response or following up actions by another State on the State’s report of an alleged violation. A lower percentage of States (9%) encountered all three challenges and a higher percentage of States (28%) reported facing no challenges at all. Some States (10%) reported other challenges, including: difficulties faced with coordinating actions with other States in responding to a violation; difficulties with prosecuting a violation and/or enforcing regulatory licensing actions in foreign countries; inconsistency between national legislation; States that have not ratified relevant treaties; and lack of implementation of rules and procedures.

3.6.2 Other challenges that were cited by two States include difficulty in obtaining certified or official copies of pertinent documents that could be utilised by States in enforcement actions. Two other States referred to the lack of harmonised international mechanisms for the exchange of information as well as the absence of a common legal framework amongst States. One State indicated that challenges were faced due to differing and strict data protection laws, however, that State also shared that it entered into Memorandum of Understanding with some States to facilitate the exchange of information in a simpler manner. Copies of such Memorandum of Understanding could possibly be used as a template to provide further guidance to other States.

3.6.3 Solutions or best practices in addressing the above challenges could be devised or identified as part of the work of the Task Force.

3.7 Exchange of information and application of *just culture* principles

3.7.1 A majority of States (78%) responded that they had not experienced any divergence of views with respect to the exchange of information with another State regarding the application of just culture principles or the protection of safety information in accordance with Annex 13 – *Aircraft Accident*

⁵⁸ The Principle of Territoriality is a principle emerging from public international law which allows a sovereign State to exercise exclusive jurisdiction over individuals and other legal persons/entities within its territory. The rights associated with the Principle of Territoriality include the right to arrest and prosecute individuals for criminal offences committed within that State’s territory.

Appendix

and Incident Investigation and Annex 19 – *Safety Management*. Some States (8%) experienced a divergence of views with another State in regard to the aforementioned, while the rest of the States did not provide a response.

3.8 Establishment of a framework for the timely exchange of information following violations

3.8.1 A majority of States (75%) have not established a framework or mechanism with other States to ensure the timely exchange of information following a violation of the regulations established under Article 12 of the Chicago Convention. However, a lower percentage (20%) have in fact established such a framework while the rest of the States did not provide a response. This could reflect the lack of efficient and timely communication mechanisms between aviation authorities. As an example of a multilateral framework, some EU Member States cited the requirement to exchange information with other States within the EU and other Member States of the European Union Aviation Safety Agency (EASA) by referring to Article 72 of the Regulation (EU) 2018/1139 and Article 15 of the Regulation (EC) No 216/2008 of the European Parliament on common rules in the field of civil aviation.

3.9 ICAO web portal for sharing compliance and enforcement information

3.9.1 Nearly all States (82%) were of the view that it was desirable or necessary for ICAO to develop a web portal for sharing compliance and enforcement information, 12% did not take a position and 4 States were of the view that there was no need to develop such an ICAO web portal.

3.10 Kind of information to be provided on ICAO web portal

3.10.1 Altogether, 61% of States were of the view that both contact information on focal points and status of a reported violation are important information to be shared on a web portal. When addressing the two types of information separately, 78% supported the sharing of contact information and 66% supported status reports.

3.10.2 Additional insight into the kind of information that could be made available on the web portal was provided by seven States. One State shared the view that an ICAO web portal is desirable only if information relating to non-compliance by service providers that are under the supervision of another State will be uploaded onto the web system and only if this information will be visible to the State that uploaded it and the State to which it is addressed, not by any State or individual with access to the web portal. Another State was of the view that the information on the web portal should be harmonised and should comply with general data protection rules. One other State shared that it is desirable to make available for all ICAO Member States a dedicated page to include comprehensive summaries of all reported cases in relation to Article 12 and Annex 2, without referring to specific States or operators, to raise awareness and continuously improve the safety of international civil aviation.

3.11 Other general information or remarks

3.11.1 One other State suggested that a comprehensive gap analysis of the ICAO Annexes and related Guidance Material should be performed in order to assess whether Article 12 has been fully implemented by the existing ICAO framework of requirements and guidance to assist States. This State explained that the outcome of this gap analysis should provide information on the roles of the parties concerned and the existing mechanisms in place and the remaining gaps in the system that need to be addressed. The results of the survey may provide proven best practices and information on differences between States.

3.11.2 ICAO Circular 95 - *The Continuing Airworthiness of Aircraft in Service*, which was developed to facilitate sharing continuing airworthiness information between the State of Design, the State of Manufacture, and the State of Registry, was cited by one State in suggesting that a similar framework could be considered for enforcement of the rules of the air so as to facilitate the exchange of information between States. As a web-based tool, the said document was launched with a view to provide online means for Member States to update information that they are requested to share in a timely manner, this framework, if developed, can provide useful means by which States could ensure the timely exchange of information amongst key parties.

3.11.3 One State highlighted the need for an international standard on violations of the rules of the air committed by a foreign operator in international airspace where another State has delegated administrative responsibility.

4. CONCLUSIONS

4.1 **Establishment of Rules:** A substantial number of States have implemented Article 12 by establishing rules to ensure compliance with the rules and regulations for the flight and maneuver of aircraft (“*rules of the air*”) over State territory or in a foreign territory, compliance with the rules established under the Chicago Convention over the high seas (Annex 2 – *Rules of the Air*) and means by which to ensure prosecution of violations of the related regulations. Further enquiry may be needed to understand the circumstances of those States that have not established rules.

4.2 **Enforcement Mechanisms:** It is understood by most States that a variety of enforcement actions can be used to meet the requirement to “insure prosecution” within the meaning of Article 12. Such actions include issuing formal warning, monetary penalties, imprisonment, cancellation or revocation of licenses/certificates, grounding of aircraft, and suspending overflight in national airspace.

4.3 **Implementation Challenges:** In practice, many States encountered challenges relating to obtaining a response or data from another State on the State’s report of an alleged violation. A mechanism to facilitate timely and sufficient provision of information and evidence from another State could be useful in this regard. The application of *just culture* principles does not generally appear to be a concern for most States.

4.4 **Web portal for exchange of information:**

4.4.1 Most States were of the view that an ICAO web portal would be a useful tool for sharing compliance and enforcement information to further assist States with implementation of Article 12. This is significant given the finding that for most States there is not a bilateral or multilateral mechanism, or framework for timely exchange of information. Such a portal would contain both contact information on focal points and status updates of a reported violation. But it is still to be defined what kind of status information would be provided.

4.4.2 However, the web portal would only be desirable for some States if information relating to non-compliance by service providers that are under the supervision of another State is uploaded onto the web system. Moreover, this information should only be visible to the State that uploaded it and the State to which it is addressed, and not by any State or individual with access to the web portal. Another suggestion was to make available for all ICAO Member States a dedicated page to include comprehensive summaries of all reported cases in relation to Article 12 and Annex 2, without referring to specific States or operators, to raise awareness and continuously improve the safety of international civil aviation.

Appendix

4.5 **Scope of Article 12:** It is important to note here that the survey did not expressly solicit the views and understanding of States about the scope of Article 12, which remains a matter for the A12 TF to study further.

4.6 **Future Work:** Therefore, it is envisaged that future work could comprise:

4.6.1 Developing guidance material to potentially include:

- (i) elaborating the scope of Article 12 and what comprises the “rules established under the Convention”;
- (ii) elaborating the understanding of what to “insure prosecution” entails including the inventory of potential actions for that purpose;
- (iii) identifying solutions or best practices to address the other implementation challenges cited by States; and
- (iv) highlighting some of the implementation mechanisms or tools shared by the States, such as providing copies of formal notices of the committed violations by the State of occurrence to another State and Memorandum of Understanding templates on the exchange of enforcement information; and

4.6.2 Deciding on an appropriate tool, to facilitate the exchange of enforcement information, and its content.

— — — — —

APPENDIX A

QUESTIONNAIRE ON THE IMPLEMENTATION BY STATES OF ARTICLE 12
OF THE CHICAGO CONVENTION

Note: Replies to this survey are intended to be purely indicative and to be used only for the purposes of study. They do not entail a binding commitment by a State in respect of its future position on this subject.

Respondent

Name of State: _____

Contact person (name, position, organization, address):

1. Has your State established laws or regulations for the implementation of Article 12 of the Chicago Convention in order to insure: *(select as applicable)*
 - ☐ compliance with the rules and regulations for the flight and manoeuvre of aircraft (“*rules of the air*”) over your State’s territory or in a foreign territory;
 - ☐ compliance with the rules established under the Chicago Convention over the high seas (Annex 2 – *Rules of the Air*); and
 - ☐ prosecution of all persons violating the regulations applicable.

Please provide a reference and/or link to the regulations.

2. When prosecuting a violation of the rules of the air, does your State’s enforcement mechanism provide for: *(select as applicable)*
 - ☐ criminal prosecution;
 - ☐ civil/administrative penalties; and
 - ☐ regulatory/licensing action.

Appendix

Please describe the applicable mechanism.

3. Please describe what kind of actions would be taken by your State in the case of a violation of the rules of the air:

(a) by a foreign operator over your State's territory

(b) by a foreign operator in international airspace in which your State has delegated administrative responsibilities

(c) by an operator of your State in another State

(d) by an operator of your State in international airspace

4. Following a *rules of the air* violation of the kind described in question 3 above, has your State encountered any challenges or difficulties in: (*select as applicable*)

- ☐ obtaining pertinent evidence, data or information from another State;
- ☐ providing the evidence, pertinent data or information gathered by your State to another State;
- ☐ getting a response or follow up action by another State on your State's report of an alleged violation; and
- ☐ other challenge or difficulty, please describe as appropriate:

5. With respect to the exchange of information has your State experienced any divergence of views with another State with regard to the application and effects of just culture principles or the protection of safety information in accordance with Annex 13 – *Aircraft Accident and Incident Investigation* and Annex 19 – *Safety Management*?

Yes

No

If your answer is yes, please describe any such difficulties.

6. Has your State established a framework/mechanism for the timely exchange of information with other States following a violation of the regulations established under Article 12 of the Chicago Convention?

Yes

No

If your answer is yes, please describe such framework/mechanism.

7. Do you consider it desirable or necessary for ICAO to develop a web portal for sharing compliance and enforcement information?

Yes

No

No Position

8. What kind of information would you consider to be suitable in order to be provided on a web portal for sharing compliance and enforcement information between States

- ☐ contact information on focal points;
- ☐ status of a reported violation; and
- ☐ other information, please specify as appropriate. _____

9. Any other general information or remarks.

APPENDIX B

LIST OF RESPONSES TO STATE LETTER LE 4/76 – 22/116
OF 22 DECEMBER 2022

States

Special Administrative Region
(SAR)

- | | |
|----------------------------|----------------------------------|
| 1. Albania | 49. Japan |
| 2. Angola | 50. Kuwait |
| 3. Argentina | 51. Kyrgyzstan |
| 4. Armenia | 52. Luxembourg |
| 5. Australia | 53. Madagascar |
| 6. Austria | 54. Mauritania |
| 7. Azerbaijan | 55. Mauritius |
| 8. Bahrain | 56. Mexico |
| 9. Bolivia | 57. Moldova |
| 10. Bosnia and Herzegovina | 58. Morocco |
| 11. Botswana | 59. Nepal |
| 12. Brazil | 60. Netherlands (Kingdom of the) |
| 13. Bulgaria | 61. North Macedonia |
| 14. Burkina Faso | 62. Norway |
| 15. Cabo Verde | 63. Panama |
| 16. Canada | 64. Papua New Guinea |
| 17. Cambodia | 65. Paraguay |
| 18. Chad | 66. Peru |
| 19. Chile | 67. Philippines |
| 20. Colombia | 68. Poland |
| 21. Costa Rica | 69. Qatar |
| 22. Cote d'Ivoire | 70. Republic of Korea |
| 23. Croatia | 71. Romania |
| 24. Cuba | 72. Russian Federation |
| 25. Czechia | 73. Sao Tome and Principe |
| 26. Denmark | 74. San Marino |
| 27. Dominican Republic | 75. Saudi Arabia |
| 28. Ecuador | 76. Sierra Leone |
| 29. El Salvador | 77. Singapore |
| 30. Equatorial Guinea | 78. Slovenia |
| 31. Eritrea | 79. South Africa |
| 32. Estonia | 80. Spain |
| 33. Eswatini | 81. Sri Lanka |
| 34. Ethiopia | 82. Suriname |
| 35. Fiji | 83. Sweden |
| 36. Finland | 84. Switzerland |
| 37. France | 85. Tanzania |
| 38. Gabon | 86. Thailand |
| 39. Gambia | 87. Togo |
| 40. Ghana | 88. United Arab Emirates |
| 41. Greece | 89. United Kingdom |
| 42. Guinea Bissau | 90. United States |
| 43. Honduras | 91. Uruguay |

1. China, (Hong Kong, SAR)

44. Hungary
45. Indonesia
46. Iran
47. Ireland
48. Jamaica

92. Venezuela (Bolivarian Republic of)
93. Zimbabwe

— — — — —

APPENDIX C

LINKS TO STATES' NATIONAL LAWS

States	Links to States's National Laws
1. Albania	https://qbz.gov.al/eli/fz/2012/116/18d2a9ff-b3b1-4fde-8ef2-b065eec340d6
2. Armenia	https://www.arlis.am/DocumentView.aspx?DocID=109070 https://www.arlis.am/DocumentView.aspx?DocID=186486 https://www.arlis.am/DocumentView.aspx?DocID=185735
3. Australia	https://www.legislation.gov.au/Details/C2021C00060 https://www.legislation.gov.au/Details/F2022C01214 https://www.legislation.gov.au/Details/F2021C01179 https://www.legislation.gov.au/Details/C2018C00156 https://www.legislation.gov.au/Details/C2022C00324 https://www.legislation.gov.au/Details/C2023C00023 https://www.legislation.gov.au/Details/C2016C00936 https://www.casa.gov.au/search-centre/manuals-and-handbooks/enforcement-manual
4. Austria	https://eur-lex.europa.eu/legal-content/DE/TXT/?uri=CELEX%3A02012R0923-20230126&qid=1679048009546 SERA.1001 https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10011306
5. Bahrain	https://www.mtt.gov.bh/sites/default/files/caa_law.pdf
6. Bulgaria	https://www.caa.bg/en/category/246/2537
7. Chile	https://www.bcn.cl/leychile/navegar?idNorma=260998 https://www.bcn.cl/leychile/navegar?idNorma=200642
8. Colombia	https://www.aerocivil.gov.co/normatividad/RAC/RAC%20%2091%20-%20Reglas%20Generales%20de%20Vuelo%20y%20%20Operaci%C3%B3n.pdf https://www.aerocivil.gov.co/normatividad/RAC/RAC%20%2013%20-%20R%C3%A9gimen%20%20Sancionatorio.pdf
9. Costa Rica	https://www.dgac.go.cr/wp-content/uploads/2020/11/ALCANCE-DIGITAL-N---300-A-LA-GACETA-N---271-de-la-fecha-12-11-2020-RAC-20-42591-MOPT.pdf
10. Cote d'Ivoire	https://www.anac.ci/anac/web/
11. Croatia	EUR-Lex - 32012R0923 - EN - EUR-Lex (europa.eu)
12. Cuba	https://www.iacc.gob.cu/marco-legal-regulatorio
13. Czechia	https://www.zakonyprolidi.cz/cs/1997-49 https://www.easa.europa.eu/en/document-library/easy-access-rules/easy-access-rules-standardised-european-rules-air-sera https://aim.rlp.cz/predpisy/predpisy/dokumenty/L/L-2/index.htm
14. Denmark	https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02012R0923-20230126 https://www.trafikstyrelsen.dk/lovlisteside/luftfart-love-og-regler/2017/okt/bestemmelser-om-lufttrafikregler https://www.trafikstyrelsen.dk/lovlisteside/luftfart-love-og-regler/2017/okt/bestemmelser-der-supplerer-sera-forordningen https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02012R0965-20230109 https://www.trafikstyrelsen.dk/lovlisteside/luftfart-love-og-regler/2021/jan/bl-5-50-bestemmelser-om-luftfartoejsoperatoerer-som-ikke-er-omfattet-af-eu-air-ops

15. Ecuador	https://www.aviacioncivil.gob.ec/wp%20%80%90content/uploads/downloads/2019/07/12%E2%80%90RDAC%E2%80%909091%E2%80%90N.E%E2%80%90Enmienda%E2%80%90Original%E2%80%9010%E2%80%90Junio%E2%80%902019.pdf
16. El Salvador	https://www.aac.gob.sv/ley-organica-de-aviacion-civil/ https://www.aac.gob.sv/regulaciones-2/ https://www.aac.gob.sv/aip/
17. Eswatini	https://www.eswaaa.co.sz/regulationandcompliance/documents/regulations/RulesoftheAirandAirTrafficControl-2011.pdf
18. Fiji	https://www.laws.gov.fj/Acts/DisplayAct/612 https://www.laws.gov.fj/Acts/DisplayAct/857
19. Finland	https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32018R1139 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32012R0923 https://www.finlex.fi/fi/laki/ajantasa/2014/20140864 https://www.finlex.fi/fi/laki/ajantasa/2017/20170320 https://www.finlex.fi/fi/laki/ajantasa/1889/18890039001
20. France	https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32012R0923
21. Ghana	https://www.gcaa.com.gh/web/wp-content/uploads/2018/directives/GCA_AIR_NAVIGATION_SERVICES_DIRECTIVES/PART_19_RULES_OF_THE_AIR.pdf
22. Greece	https://www.kodiko.gr/nomothesia/document/260972/nomos-1815-1988
23. Honduras	http://ahac.gob.hn/Descargas/Departamentos/Asesoria%20Legal/ley-y-sus-reformas-para-publicacion.pdf http://ahac.gob.hn/Descargas/Departamentos/Asesoria%20Legal/reglamento-ley-aeronautica-civil.pdf http://ahac.gob.hn/Descargas/Biblioteca%20Tecnica/Regulaciones%20Aeronauticas/rac-02-revision-02.pdf
24. Hungary	https://njt.hu/jogszabaly/1995-97-00-00 https://www.easa.europa.eu/en/document-library/easy-access-rules/easy-access-rules-standardised-european-rules-air-sera
25. Ireland	https://www.iaa.ie/docs/default-source/publications/legislation/statutory-instruments-(orders)/irish-aviation-authority-(standardised-rules-of-the-air)-order-2019-(si-266-of-2019).pdf?sfvrsn=15b500f3_8
26. Kuwait	https://kas2.dgca.gov.kw/kasd/aviation-safety-department/primary-law/ https://kas2.dgca.gov.kw/kasd/aviation-safety-department/kuwait-civil-aviation-safety-regulations-kcasr/ https://kas2.dgca.gov.kw/kasd/wp-content/uploads/2022/02/Reg-Cir-2022-02-NPA-2022-01-KCASR-26-Online.pdf
27. Luxembourg	https://legilux.public.lu/eli/etat/leg/loi/1948/01/31/n1/jo https://legilux.public.lu/eli/etat/leg/rgd/1961/07/27/n1/jo https://legilux.public.lu/eli/etat/leg/rgd/1985/06/28/n3/jo
28. Mauritius	https://civil-aviation.govmu.org/Documents/Legislation/civilact74.pdf https://civil-aviation.govmu.org/Documents/Legislation/Regulation/reg-2007-amds.pdf https://civil-aviation.govmu.org/Documents/Regulatory/Air%20Navigation%20Services/1.%20MCAR%20ATS%20(2).pdf
29. Mexico	https://www.diputados.gob.mx/LeyesBiblio/pdf_mov/Ley_de_Aviacion_Civil.pdf https://www.diputados.gob.mx/LeyesBiblio/regley/Reg_LAC.pdf https://mxafacmy.sharepoint.com/personal/alejandro_magallon_afac_gob_mx/_layouts/15/onedrive.aspx?id=%

Appendix

	2Fpersonal%2Falejandro%5Fmagallon%5Fafac%5Fgob%5Fmx%2FDocuments%2FCIRCULAR ES%2Fco%2Dav%2D20%2D2%2D07%2Dr2%2Epdf&parent=%2Fpersonal%2Falejandro%5F magallon%5Fafac%5Fgob%5Fmx%2FDocuments%2FCIRCULARES&ga=1
30. Moldova	file:///C:/Users/latu/Downloads/06_CT-RA_ru_am.04%20(1).pdf https://www.legis.md/cautare/getResults?doc_id=136064&lang=ro#
31. Morocco	https://www.aviationcivile.gov.ma/reglementation/navigation-aerienne/
32. Norway	https://lovdata.no/dokument/SF/forskrift/2016-12-14-1578?q=forskrift%20om%20lufttrafikkregler https://lovdata.no/dokument/NL/lov/1993-06-11-101?q=luftl https://lovdata.no/dokument/NL/lov/1993-06-11-101?q=luftfartsloven https://lovdata.no/dokument/NL/lov/1993-06-11-101?q=luftfartsloven https://lovdata.no/dokument/NL/lov/1993-06-11-101?q=luftfartsloven
33. Papua New Guinea	https://casapng.gov.pg/ https://casapng.gov.pg/civilaviationrules/
34. Paraguay	http://www.dinac.gov.py/Seguridad_Operacional/docs/DINAC_R2_ReglamentodelAire_Res_1103-2021.pdf
35. Peru	https://www.gob.pe/institucion/mtc/normas-legales/395507-27261-ley-de-aeronautica-civil https://www.gob.pe/institucion/mtc/informes-publicaciones/320208-rap-91-reglas-de-vuelo-y-operacion-general https://www.gob.pe/institucion/mtc/normas-legales/355498-361-2011-mtc-02-reglamento-de-infracciones-y-sanciones-aeronauticas
36. Qatar	https://www.caa.gov.qa/en-us/AviationLaw/Pages/15-2002-Amended-2018.aspx https://www.caa.gov.qa/ar-qa/CivilAviationRegulations/RegulationMaterials/Air%20Safety%20Regulations/Qatar%20Rules%20of%20the%20Air/Qatar%20Civil%20Aviation%20Regulation%20-%20Qatar%20Rules%20of%20the%20Air.pdf
37. Republic of Korea	https://casapng.gov.pg/civilaviationrules/
38. Saudi Arabia	https://gaca.gov.sa/web/en-gb/page/laws-regulation
39. Sierra Leone	https://www.slcaa.gov.sl/
40. Singapore	www.sso.agc.gov.sg
41. Slovakia	https://www.policija.si/images/stories/Legislation/pdf/AviationAct.pdf https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:281:0001:0066:EN:PDF
42. Spain	https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C:2012:326:TOC https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2004:096:TOC https://eur-lex.europa.eu/legal-content/ES/TXT/PDF/?uri=CELEX:02012R0923-20220127&from=EN https://www.boe.es/buscar/pdf/1960/BOE-A-1960-10905-consolidado.pdf https://www.boe.es/buscar/pdf/2002/BOE-A-2002-1097-consolidado.pdf https://www.boe.es/buscar/act.php?id=BOE-A-2018-15406 https://www.boe.es/buscar/pdf/1964/BOE-A-1964-21509-consolidado.pdf https://www.boe.es/buscar/pdf/1995/BOE-A-1995-25444-consolidado.pdf https://www.boe.es/buscar/pdf/2003/BOE-A-2003-13616-consolidado.pdf
43. Sri Lanka	https://www.caa.lk/images/Civil_Aviation/CAAct10of2010.pdf https://www.caa.lk/images/Civil_Aviation/ANR_Scan_Part_I.pdf

	https://www.caa.lk/images/Civil_Aviation/11_264_33_civil_aviation_iInterim_regulations_no_0_f_2001_28_11_2002.pdf https://www.caa.lk/images/stories/pdf/implementing_standards/sn026.pdf
44. Sweden	EUR-Lex - 32012R0923 - EN - EUR-Lex (europa.eu) swedish-aviation-act.pdf (transportstyrelsen.se)
45. Switzerland	https://www.fedlex.admin.ch/eli/cc/2015/326/fr https://www.fedlex.admin.ch/eli/cc/1950/471_491_479/fr
46. Tanzania	https://www.tcaa.go.tz/page?p=Regulations&mn=14&token=db9dba12761871b00fe8280d689e275e80ad3b8adebc942ed6179f291c36e66837
47. Togo	https://anac-togo.tg/IMG/pdf/LOI-N%C2%B02016-011-PORTANT-CODE-DE-LAVIATION-CIVILE.pdf
48. Hong Kong, SAR	https://www.elegislation.gov.hk/hk/cap448C

ATTACHMENT C

ILLUSTRATIVE RELATIONSHIP BETWEEN ANNEX 2 AND OTHER ICAO ANNEXES
OPERATIONALLY RELATED STANDARDS SUPPORTING

THE CONDUCT OF FLIGHT

Annex	Application to flight operations	Rules
Annex 1 – <i>Personnel Licensing</i>	Establishes the qualifications, knowledge, skill, experience and medical fitness requirements for pilots, air traffic controllers, flight engineers, maintenance personnel and other aviation personnel. Licensed personnel are responsible for decisions and actions that directly affect the conduct, control and safety of flight operations. Pilot competency, training and licensing requirements are fundamental prerequisites for the safe execution of the Rules of the Air and compliance with operational procedures.	Pilot licensing requirements, ratings, competency standards, recurrent training, language proficiency requirements, medical certification and licensing standards for air traffic controllers.
Annex 3 - <i>Meteorological Service for International Air Navigation</i>	Provides meteorological information necessary for flight planning, route selection, fuel planning, aircraft performance calculations, hazard avoidance and operational decision-making.	Forecasts, SIGMETs, volcanic ash advisories, tropical cyclone advisories, meteorological observations.
Annex 6 – <i>Operation of Aircraft</i>	Establishes requirements governing aircraft operations, operational control, dispatch, flight preparation, crew qualifications, fuel planning and operating procedures.	Flight planning, operational control systems, minimum equipment requirements, operational procedures.
Annex 10 – <i>Aeronautical Telecommunications</i>	Provides communications, navigation and surveillance systems necessary for implementation of Annex 2 procedures and compliance with ATC instructions.	Voice communications, CPDLC, navigation aids, surveillance systems, distress communications.

Annex	Application to flight operations	Rules
Annex 11 – <i>Air Traffic Services</i>	Establishes the framework for provision of air traffic services that support the safe, orderly and expeditious flow of air traffic. Closely linked to Annex 2 because aircraft operate in accordance with ATC clearances and instructions issued pursuant to ATS procedures.	Air traffic control services, flight information service, alerting service, ATS routes.
Annex 12 – <i>Search and rescue</i>	Provides mechanisms for assisting aircraft and persons in distress and supporting emergency flight situations.	Search and rescue coordination, emergency response arrangements, rescue coordination centres.
Annex 14 – <i>Aerodromes</i>	Establishes aerodrome infrastructure, visual aids and operational conditions necessary for safe aircraft movements.	Runway markings, lighting systems, obstacle limitation surfaces, aerodrome operational requirements.
Annex 15 – <i>Aeronautical Information Services / Aeronautical Information Management</i>	Provides aeronautical information used in planning and executing flight operations.	AIPs, NOTAMs, aeronautical charts, terrain and obstacle data.
Annex 19 – <i>Safety Management</i>	Establishes safety management principles designed to identify and mitigate operational risks that may ultimately affect aircraft operations.	Safety management systems, safety risk management, safety assurance processes.

ATTACHMENT D

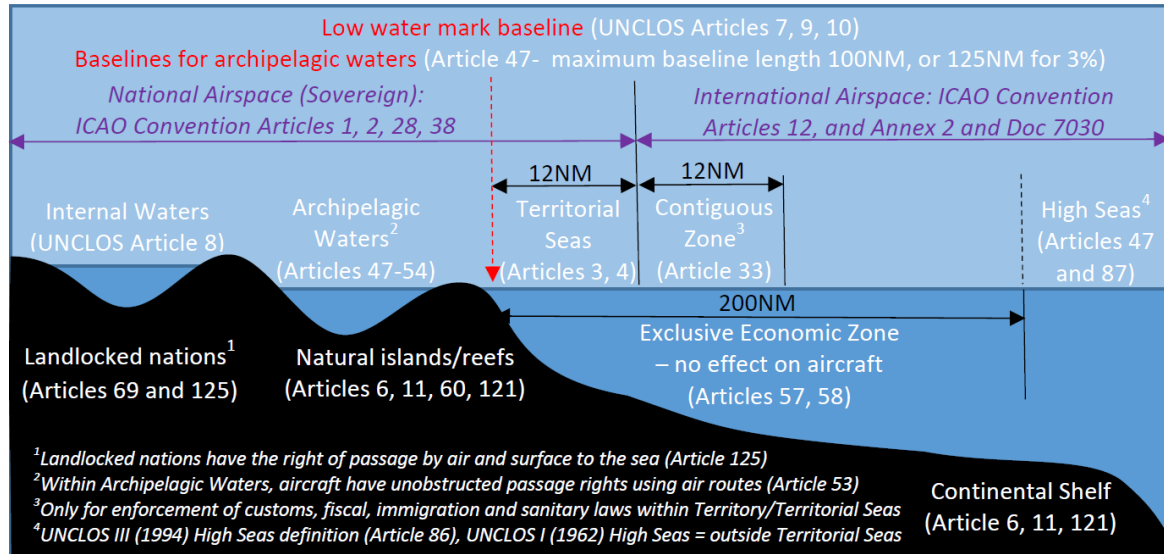
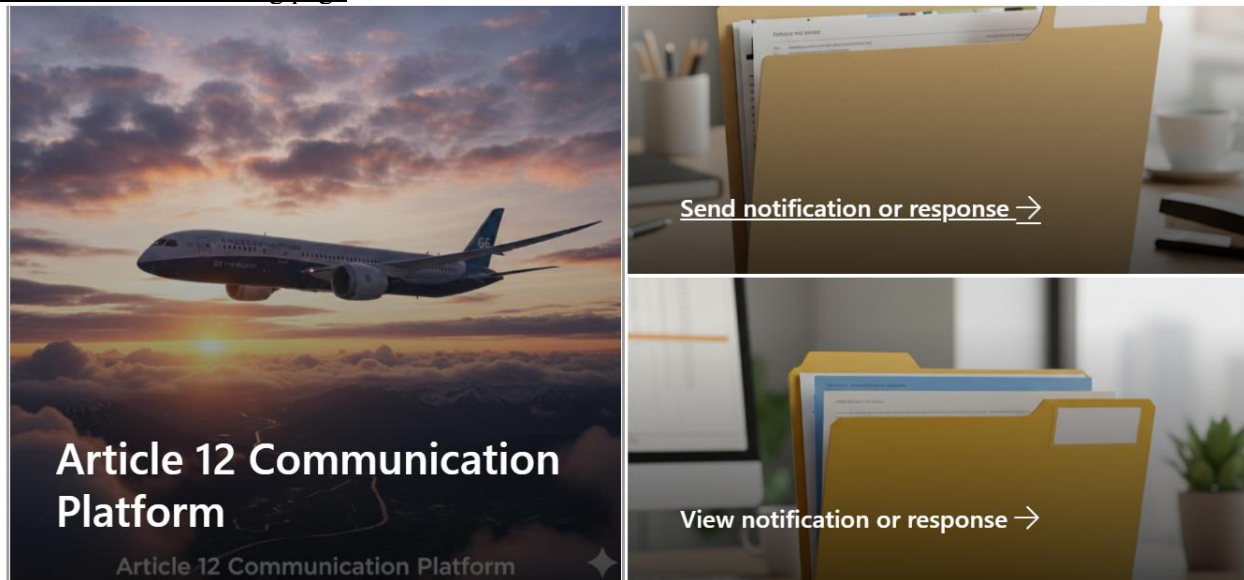
CATEGORIZATION OF AIRSPACE UNDER UNCLOS AND THE
CHICAGO CONVENTION

Figure 1: Maritime and Airspace Volumes as Defined by UNCLOS (white/red = UNCLOS, purple = CC)

Source: Originally developed as ATM/SG/6-Flimsy 6 submitted to the Sixth Meeting of the Air Traffic Management Sub-Group (ATM/SG/6) of the Asia Pacific Air Navigation Planning and Implementation Regional Group (APANPIRG) (2018).

ATTACHMENT E
PLATFORM MODEL

Article 12 Tool Landing page



Notification layout

✓ Action *

Notification

T Subject

Enter value here

≡ Summary

Enter value here

✓ Notifying_State

—

✓ Notified_State

—

📎 Attachments

[Add attachments](#)

Save

Cancel

Response layout

New item

New Item

✓ Action *

Response

① Event_Number

Enter a number

≡ Actions_Taken

Enter value here

📎 Attachments

[Add attachments](#)

Save

Cancel

ATTACHMENT F**SAMPLE MOU ESTABLISHING A FRAMEWORK FOR MUTUAL SUPPORT IN AVIATION
OVERSIGHT AND INFORMATION EXCHANGE****Cooperation Agreement for support the mutual exchange of information and oversight
activities between Estonian Transport Administration and ...**

Estonian Transport Administration (TRAM) and ... hereinafter jointly referred to as the “Competent Authorities” hereinafter referred to as the “Contracting Parties”,

Considering the necessity to establish cooperation in support of oversight in the meaning of Article 62 paragraphs 1 and 9 of the Regulation (EU) 2018/1139⁵⁹ (the Basic Regulation),

Have amended the Agreement (hereinafter referred to as “The Agreement”) signed [date] and agreed as follows:

1. Purpose and conditions of The Agreement

1.1. The purpose of The Agreement is to establish a framework setting of the cooperation between Competent Authorities in support of oversight activities and mutual exchange of information.

1.2. Both Competent Authorities are to ensure a high and uniform level of aviation safety through the establishment and maintenance of cooperative relationships and to ensure compliance with the Basic Regulation and the delegated and implementing acts adopted pursuant thereto.

1.3. Each Competent Authority undertakes its own oversight program according to national arrangements and in line with the EU legislation.

1.4. Both Competent Authorities include in their oversight scope activities performed by persons or organisations established or residing in Parties Member State on the basis of the safety priorities, as well as of past oversight activities.

1.5. The Competent Authority responsible for the oversight is the Competent Authority with Safety Oversight Responsibility and Accountability of persons and organisations certified, authorised by or having made declarations to that competent authority. Specifically, in ATM/ANS domain, the respective ANSP agreements shall be taken into account.

1.6. Where appropriate, a Competent Authority involves inspectors as experts (Experts) of the other Competent Authority in its oversight activities. The Experts shall participate in the oversight activities as observers within the limits of their competence. Before taking any action, any observations must be forwarded to the inspectors in charge of supervision.

⁵⁹ Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91

2. Scope of The Agreement

- 2.1. Both Competent Authorities can use the following means in oversight activities (the list is not exhaustive):
- 2.1.1. the Experts in oversight activities of the other Competent Authority;
 - 2.1.2. raise of findings for certified or approved organisations or persons of the Competent Authority based on information received from the other Competent Authority, taking into account the identified hazards and their possible consequences in operations;
 - 2.1.3. mutual exchange of information on findings, inspections or audits; and performed follow-up actions, related to the audits and inspections performed with the participation of The Experts of the other Competent Authority.
- 2.2. Both Competent Authorities exchange safety data and safety information in the mutual interest, in particular on the following (list is not exhaustive):
- 2.2.1. findings of non-compliances with an indication of the level of the finding;
 - 2.2.2. information about remote operations conducted within the territory of a Competent Authority's Member State;
 - 2.2.3. bases located within the territory of the Competent Authority's Member State (opening/closing of bases);
 - 2.2.4. information on wet-leases (e.g. long-term wet-lease agreements between EU operators that result in a prolonged operation outside the territory of the Competent Authorities Member States);
 - 2.2.5. information on group operations, e.g. multiple AOCs within a single holding in both Member States are streamlining operations and aim to operate under one Operations Manual;
 - 2.2.6. sharing of safety data and safety information between Competent Authorities, e.g. data on SAFA/SACA, occurrences data, service providers' information;
 - 2.2.7. mutual exchange of all necessary information and assisting the other Competent Authority on implementation of appropriate safety measures to prevent accidents, incidents and high-risk occurrences;
 - 2.2.8. any change or modification of the legal status of the air navigation service providers under its supervision affecting cross border service provision;
 - 2.2.9. any change, amendment or revocation of the certificates of the air navigation service providers under its supervision affecting cross border service provision;
 - 2.2.10. any limitation of competence or equivalent measures imposed on air navigation service providers and safety related obligations in the designation acts affecting cross border service provision;
 - 2.2.11. safety related information gathered within monitoring of safety performance affecting cross border service provision;
 - 2.2.12. proposed new functional systems or changes to existing functional systems affecting cross border service provision;
 - 2.2.13. reports received in the format of European Coordination Centre for Accident and Incident Reporting Systems (ECCAIRS) concerning the incidents and occurrences relevant to the cross-border service provision, to be able to monitor, measure and identify risk performance in a comparable way.

2.3 Cooperation on safety directive delivery or appropriate enforcement measures delivery for ANS/ATM oversight:

2.3.1. If one Competent Authority decides to issue a safety directive as required by Commission Implementing Regulation (EC) 2017/373 or to issue appropriate enforcement measures as required by Regulation (EC) 550/2004 of the European Parliament and of the Council of the 10 March 2004 as amended by regulation (EC) 1070/2010 on the provision of air navigation services in the single European sky Article 7 (7) and if the situation has an impact on air traffic service in the cross border area or on the interface between ANSPs, the responsible Competent Authority for issuing safety directive shall consult with the other Competent Authority. The final responsibility for the decision remains with the Competent Authority responsible for issuing safety directive.

2.3.2. Before withdrawing a safety directive, the Competent Authority shall verify that the level of safety has been restored, through safety regulatory audits, desktop reviews, safety occurrences reviews, or any other adequate measures. If the verification process confirms that the unsafe condition no longer exists, the responsible Competent Authority shall inform the other Competent Authority about the withdrawal of the safety directive together with its rationale and the effective date of withdrawal.

2.3.3. In the case of the enforcement measure, the Competent Authorities shall cooperate on the handling of cases involving non-compliance with the applicable common requirements.

3. Exchange of information

3.1. All communications affecting the execution of the Agreement shall be made via the respective Heads of Departments/Units of both Competent Authorities.

3.2. Both Competent Authorities agree on the meetings to be held – on-site meetings, or meetings held by using any other appropriate technical facilities (eg teleconferencing).

3.3. All information to be shared between the Competent Authorities shall be in the English language as requested.

4. Cost, accountability and liability

4.1. If it is not agreed differently in writing, each Competent Authority bears any costs related to secondment of its inspectors and other related activities (daily allowances, accommodation, transport etc) for joint inspections.

4.2. If one Competent Authority requests participation of Experts of the other party, the costs for such participation shall be borne by the Competent Authority requesting such tasks.

4.3. Point 4.1 does not cover any liability charges.

4.4. The Competent Authority shall exonerate the other from all civil liability arising from loss, damage or bodily injury suffered by its staff as a result of the performance of the present The Agreement or as a result of the performance of another written specific agreement, where such loss, damage or bodily injury is not due to gross negligence or deliberate omission or wrongful act on the part of the other Competent Authority or its staff.

5. Entry into force and validity

- 5.1. The Agreement shall enter into force and shall be valid for an indefinite period, when signed by both Competent Authorities.
- 5.2. This Agreement is done in two, duly signed originals in the English language.
- 5.3. The Agreement shall remain effective until either one Competent Authority provides the other with a written notification to the effect of its termination. The Agreement may be terminated immediately if the Competent Authority's consent in writing to immediate termination or by either Competent Authority by giving six (6) months written notice to the other Competent Authority.
- 5.4. The Agreement or Annex shall be reviewed regularly. The Agreement has the following annex: Annex – „List of Experts available for oversight activities”.
- 5.5. The Agreement may be amended subject to mutual written agreement of the Competent Authorities.

6. Signatures and date of signature

[Name] Director General	
Estonian Transport Administration Valge 4, 11413 Tallinn, Estonia	

“.....” [date]
..... [date]

“.....”

— END —