



INTERNATIONAL CIVIL AVIATION ORGANIZATION
ORGANISATION DE L'AVIATION CIVILE INTERNATIONALE
ORGANIZACIÓN DE AVIACIÓN CIVIL INTERNACIONAL
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Subject: Model clause on aviation safety

Action required: To note

Sir/Madam,

I have the honour to bring to your attention a Resolution and a related model clause on aviation safety that was adopted by the Council of the International Civil Aviation Organization (ICAO) on 13 June 2001, at the eighth meeting of its 163rd Session. The Council Resolution *urges* all Contracting States to insert a clause on aviation safety in their agreements on air services. It also *recommends* that in so doing, Contracting States take into account the model clause on aviation safety as attached to the Resolution. A copy of the Council Resolution and the ICAO model clause on aviation safety are enclosed.

A model clause on aviation safety consists of an article specifically addressing aviation safety which States may incorporate into bilateral or multilateral air service agreements. Such a safety clause would assist States in ensuring that foreign aircraft operating in their airspace and on their airports are operated and maintained in accordance with ICAO Standards. At the same time, a safety clause provides States with a standardized process to address concerns they may have regarding the safe operation of such foreign aircraft. In addition, by drawing attention to the safety aspects of an air service agreement, a safety clause emphasizes the responsibilities of States for providing adequate safety oversight of airline operations.

The ICAO model clause on aviation safety contains no reference to sanctions, or any other penalties for non-compliance, on the basis that air service agreements normally include an article addressing non-compliance issues. The ICAO model clause could be inserted into an air service agreement as drafted, or amended by deleting or adding other provisions which the parties consider would enhance the safety of international air services covered by the agreement.

By emphasizing the need for States to comply with ICAO's safety-related provisions pursuant to the *Convention on International Civil Aviation* (Doc 7300), the widespread use of a safety clause would benefit aviation safety worldwide.

Accept, Sir/Madam, the assurances of my highest consideration.

A handwritten signature in black ink, consisting of a large loop at the top and a series of smaller loops and strokes below it.

R.C. Costa Pereira
Secretary General

Enclosures:

- Attachment A — Resolution adopted by the ICAO Council on 13 June 2001
- Attachment B — ICAO Model Clause on Aviation Safety

**RESOLUTION ADOPTED BY THE ICAO COUNCIL ON 13 JUNE 2001
RELATING TO A MODEL CLAUSE ON AVIATION SAFETY**

Whereas the primary objective of the Organization continues to be that of ensuring the safety of international civil aviation worldwide,

Whereas Article 37 of the Convention requires each Contracting State to collaborate in securing the highest practicable degree of uniformity in regulations and practices in all matters in which such uniformity will facilitate and improve air navigation,

Considering that the rights and obligations of States under the Chicago Convention and under the Standards and Recommended Practices adopted by the Council of ICAO on aviation safety could be complemented and reinforced in cooperation between States,

Considering that the agreements on air services represent the main legal basis for international carriage of passengers, baggage, cargo and mail,

Considering that provisions on aviation safety should form an integral part of the agreements on air services,

Noting that nothing prevents States who incorporate the ICAO model safety clause into their aviation agreements from including any additional, or more restrictive criteria, which the parties agree are necessary for assessing the safety of an aircraft operation.

The Council:

Urges all Contracting States to insert into their agreements on air services a clause on aviation safety, and

Recommends that Contracting States take into account the model safety clause attached to this resolution.

ICAO MODEL CLAUSE ON AVIATION SAFETY

1. 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. Such consultations shall take place within thirty days of that request.
2. If, following such consultations, one Party finds that the other Party does not effectively maintain and administer safety standards in the areas referred to in paragraph 1 that meet the Standards established at that time pursuant to the *Convention on International Civil Aviation* (Doc 7300), the other Party shall be informed of such findings and of the steps considered necessary to conform with the ICAO Standards. The other Party shall then take appropriate corrective action within an agreed time period.
3. Pursuant to Article 16 of the Convention, it is further agreed that, any aircraft operated by, or on behalf of an airline of one Party, on service to or from the territory of another Party, may, while within the territory of the other Party be the subject of a search by the authorized representatives of the other Party, provided this does not cause unreasonable delay in the operation of the aircraft. Notwithstanding the obligations mentioned in Article 33 of the Chicago Convention, the purpose of this search is to verify the validity of the relevant aircraft documentation, the licensing of its crew, and that the aircraft equipment and the condition of the aircraft conform to the Standards established at that time pursuant to the Convention.
4. When urgent action is essential to ensure the safety of an airline operation, each Party reserves the right to immediately suspend or vary the operating authorization of an airline or airlines of the other Party.
5. Any action by one Party in accordance with paragraph 4 above shall be discontinued once the basis for the taking of that action ceases to exist.
6. With reference to paragraph 2 above, if it is determined that one Party remains in non-compliance with ICAO Standards when the agreed time period has lapsed, the Secretary General of ICAO should be advised thereof. The latter should also be advised of the subsequent satisfactory resolution of the situation.

— END —