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ASSEMBLY — 39TH SESSION

TECHNICAL COMMISSION

Agenda Item 33: Aviation safety and air navigation monitoring and analysis

CONFLICT ZONES

(Presented by Slovakia on behalf of the European Union and its Member States[1] and the other
Member States of the European Civil Aviation Conference[2], by EUROCONTROL; and by
Australia and Malaysia)

REVISION NO. 1

EXECUTIVE SUMMARY
In its ambition to remain as the world's safest mode of mass transportation, the international civil aviation faces many challenges. One of the challenges is the protection of civil aviation from the risks arising from conflict zones. This paper proposes the Assembly to support and further prioritize the activities of ICAO on the issue of conflict zones. In addition this paper proposes to complement the ICAO work programme on conflict zones with additional actions.
Actions: The Assembly is invited to: a) acknowledge and support the ICAO work programme on conflict zones;   b) request ICAO to complete the implementation of the work programme items on conflict zones by 2018;   c) complement the ICAO work programme on conflict zones by including the actions described in the paragraphs 2.2 and 2.3 of this working paper;   d) request ICAO to explore options to ensure that States and operators are provided with timely information relating to conflict zones as described in paragraphs 2.4 and 2.5 of this paper;   e) invite ICAO to support the development of risk assessment at regional level; and   f) request ICAO to support the development of Air Traffic Flow Management at regional level to facilitate flying safely by avoidance of conflict zones.
Strategic Objectives:	This working paper relates to the Safety, Air Navigation Capacity and Efficiency and Security and Facilitation Strategic Objectives.

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[1] Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and United Kingdom.

[2] Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Iceland, Moldova, Monaco, Montenegro, Norway, San Marino, Serbia, Switzerland, The former Yugoslav Republic of Macedonia, Turkey and Ukraine.

Financial implications:	The activities referred to in this paper will be undertaken subject to the resources available in the 2017-2019 Regular Programme Budget and/or from extra budgetary contributions. Furthermore, with a view to absorb some of the costs possibly induced by the actions requested, the Netherlands are willing to put additional resources at the disposal of ICAO Secretariat (Seconded National Expert).
References:	Doc 7300, *Convention on International Civil Aviation* A39-WP/297-TE/126, Actions taken to prevent the risks to civil aviation arising from flying over or nearby conflict zones; C-WP/14220, Report from the senior-level Task Force on Risks to civil aviation arising from Conflict Zones C-WP/14378, Progress report on the coordinated work programme recommended by the Task Force on Risks to Civil Aviation arising from Conflict Zones (TF RCZ)

1.   **INTRODUCTION**

1.1.   The ICAO Secretary General established the Task Force on Risks to Civil Aviation arising from Conflict Zones (TF-RCZ) that developed the work programme with 12 actions, which was discussed and approved in principle in the Council during its 203rd Session (C-DEC 203/1). The Council resolution of 17 July 2014 highlighted in particular the importance of the accident investigation process. The 2015 High-level Safety Conference (HLSC) recognized the necessity to provide accurate and timely information to States and airlines regarding risks to civil aviation arising from conflict zones as a matter of urgency, and the Conflict Zone Information Repository (CZIR) was consequently established in April 2015.

1.2.   The actions taken by ICAO in relation to conflict zones overall are welcomed and supported. Further information on the subject has since been introduced as a result of the accident investigation on the downing of Malaysian flight MH17 (17 July 2014). The investigation was coordinated by the Netherlands with involvement of an international team with experts from several States - Australia, Malaysia, the Netherlands, Ukraine, United States and the Russian Federation. The Final Investigation Report was published on 13 October 2015[3]. This report formulated safety recommendations, in accordance with the Annex 13— *Aircraft Accident and Incident Investigation* process, with a view to prevent similar tragedy from recurring over or nearby conflict zones in the future.

1.3.   The safety recommendations contained in the Final Investigation Report refer to flight over conflict zones and propose to implement actions at three levels: Airspace management in conflict zones, risk assessment, and operator accountability. These safety recommendations are addressed, respectively, to States, ICAO and operators.

1.4.   The work undertaken by ICAO and IATA and the actions taken, notably by ICAO and IATA, on the basis of the Final Investigation Report reflect the important efforts made by the international aviation community, under ICAO leadership, to reduce the risks arising from conflict zones.

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[3] More information on the Final Investigation Report is available in A39-WP/297-TE/126

2.   **DISCUSSION**

2.1   The work of the TF-RCZ is acknowledged and supported. The implementation of the results of the work should be prioritized with a view to complete necessary actions by 2018 and to publish what is ready as soon as possible.

2.2   In addition, the ICAO work programme on conflict zones should be complemented with the following items:

a)   the responsibilities of States and mechanisms for closure of their own airspace (partially or totally) where airspace cannot be safeguarded and dissemination of information relating to threats to aviation arising from conflict zones need to be clarified; and consideration should be given to the need for measures, including SARPs if appropriate, to ensure that these responsibilities are better formulated and realized through appropriate mechanisms. The investigation report and the ICAO State letter AN 13/4.2-14/59 (24 July 2014) also emphasized the importance of coordination between civil and military authorities within States. We appreciate that ICAO has included this in its work programme;

b)   in accordance with safety and security management principles, airline operators and States should conduct a proper safety and security risk assessment to ensure safe and secure civil aviation operations taking into account the risks arising from conflict zones; such requirement should be set out in SARPS or in guidance as appropriate;

c)   all information that is, or could be pertinent to an accident investigation, should be retained by ICAO Contracting States so it can remain available for the investigation, even if the State is not the State of occurrence under Annex 13;

d)   taking into account the experience of Ukraine and the Netherlands regarding the delegation of the accident investigation, we welcome that the ICAO Accident Investigation Panel is reviewing the provisions of Annex 13 to establish how best to clarify the responsibilities of a State of occurrence of an accident and of the State to which the conduct of the investigation is delegated; and

e)   information about conflict zones should be disseminated to airspace users and States as outlined in paragraph 2.4 and 2.5 and relevant principles should be embedded in ICAO SARPs.

2.3   Under the Chicago Convention, States are the sovereign authority over their airspace. By ratifying the Convention, States have the right to prohibit uniformly the aircraft of other States from flying over certain areas of their territories as deemed necessary for reasons of military necessity or public safety. As indicated in paragraph 2.2 States' responsibilities for closing their airspace for safety purposes should be clarified, including through changes in the ICAO legal framework if appropriate. Clarity should notably be provided on determining in which cases the airspace should be closed. This proposal has been supported by the TF CZR and the Legal Committee of the Council. Consideration should be given to update SARPs on this subject as soon as possible. In relation to the issue of the application of ICAO treaties relating to conflict zones, the Council noted (C-DEC 207/7) that this had been considered by the Legal Committee but was not at this stage incorporated in its General Work Programme. In this connection, it was understood that should there be developments arising from the current work being undertaken by the Secretariat in this area, this issue would then be reconsidered. In the future, when the work of the work programme on Conflict zones will be completed, ICAO should be invited to reconsider adding this issue to the Work Programme of the Legal committee.

2.4   Risk assessment is key for airlines when developing their flight plans. IATA and ICAO are encouraged to continue cooperating, notably on the issue of including the work on risk assessment for conflict zones in the IOSA approach. IATA can play an important role to coordinate the formulation of the

needs of airlines for adequate information and discuss with States and ICAO if and how clarification of ICAO provisions can be instrumental for that.

2.5   Many airlines do not have adequate capabilities to collect all the necessary information for making informed risk assessments and rely primarily on information made available by States and the airline industry in general. Timely dissemination of information remains vital. During its review of the ICAO Conflict Zone Information Repository on 17 June 2016, the Council made it clear that more discussion is needed about the availability of information related to conflict zones and the responsibilities for dissemination of that information. A wide scope of options should be explored, including possible solutions that are independent of ICAO, and presented to the Council for further consideration as soon as possible. The options should, inter alia, clarify remaining points of difference between States including with respect to roles and responsibilities for the development and distribution of threat information; the scope of threat information that is shared at a global level; the target audience for the information; and the operational requirements that will readily allow airline operators to make informed risk assessments when flying in or near conflict zones.

2.6   In addition, States should inform other States directly when they have relevant information about threats within foreign airspace. An initiative supporting such information sharing has been launched in Europe to facilitate the collection and sharing of information at regional level. Other States and regions are invited to act in a similar manner and to share the information with ICAO.

2.7   Avoiding conflict zones by using alternative airspace areas is a key task of Air Navigation Service Providers (ANSPs) and air traffic flow management (ATFM) units. More work should be done on making information available and encouraging the establishment of operational arrangements for flying safely by avoiding conflict zones. ICAO is invited to encourage and to facilitate this by bringing States and industry together at the right geographical level to address problems for ATFM caused by conflict zones.

2.8   In the coming years, the way States and the aviation industry are dealing with conflict zones should evolve with an ongoing focus on seeking to reduce related risks. ICAO should take this into account when performing oversight and continuous monitoring approach activities and facilitating the sharing of best practises.

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