



International Civil Aviation Organization

MIDANPIRG/20 and RASG-MID/10 Meetings

(Muscat, Oman, 14-17 May 2023)

Agenda Item 6.5: ATM/SAR

CMC/FUA IMPLEMENTATION

(Presented by the Secretariat)

SUMMARY

This paper presents update from the CMC/FUA Action Group.

Action by the meeting is at paragraph 3.

REFERENCES

- MIDANPIRG/19 & RASG-MID/9 Report (Riyadh, Saudi Arabia, 14-17 February 2022)
- ATM SG/8 Report (Amman, Jordan, 07 – 10 November 2022)
- ICAO DOC 10088 (Manual on Civil-Military Cooperation in Air Traffic Management)

1. INTRODUCTION

1.1 The meeting may wish to recall MIDANPIRG/18 Decision 18/31:

MIDANPIRG DECISION 18/31: MID CMC/FUA ACTION GROUP

That, the MID CMC/FUA Action Group:

- a) *review the newly published ICAO Doc 10088, in order ensure that the regional requirements related to Civil Military Cooperation and implementation of FUA Concept, including State aircraft operations under Due Regard over the high seas, are covered; and*
- b) *if necessary, draft, by 30 September 2021, complementary guidance.*

1.2 The MIDANPIRG/19 meeting noted the progress made by the CMC/FUA Action Group, and noted the identified challenges related to CMC/FUA implementation in the Region, and the need to raise awareness on different subjects, including:

- State aircraft operations under Due Regard in particular over the high seas;
- CMC/FUA implementation;
- Drones-Airspace management applications;
- GNSS/GPS interference; and
- NMAC reports between Civil and Military aircraft.

1.3 Based on the above, the MIDANPIRG/19 meeting agreed to the following Decision, to replace and supersede the MIDANPIRG/18 Decision 18/31:

MIDANPIRG DECISION 19/19: MID CMC/FUA ACTION GROUP

That,

- a) the MID CMC/FUA Action Group develop region specific complementary procedures for ICAO Doc. 10088, in order to ensure that the regional requirements related to Civil Military Cooperation and implementation of FUA Concept are addressed, including State aircraft operations under Due Regard in particular over the high seas, are covered;*
- b) the outcome of the MID CMC/FUA AG, be presented to ATM SG/8 meeting, for review.*

2. DISCUSSION

Regarding CMC/FUA except over high seas

2.1 CMC/FUA Action Group has reviewed ICAO Guidance Material, Doc 10088 (Manual on Civil-Military Cooperation in Air Traffic Management) and agreed that this manual with the outlines will fully met States needs and requirement to develop their National Civil and Military Cooperation/Flexible Use of Airspace plan. In this respect, the first workshop related to the implementation of Doc 10088 has been successfully conducted by ICAO from 15 -17 May 2022 in Tehran - Iran.

Due Regard over high seas

2.2 Article 3 a) of the Chicago Convention expressly excludes state aircraft from its scope of applicability. Articles 3 b), c) and d) further clarify the definition and scope of application of the Articles of the Chicago Convention, extracted below:

- a. this Convention shall be applicable only to civil aircraft and shall not be applicable to state aircraft.
- b. aircraft used in military, customs and police services shall be deemed to be state aircraft.
- c. no state aircraft of a contracting State shall fly over the territory of another State or land thereon without authorization by special agreement or otherwise, and in accordance with the terms thereof.
- d. the contracting States undertake, when issuing regulations for their state aircraft, that they will have due regard for the safety of navigation of civil aircraft.

2.3 Pursuant to Article 3 d) of the Chicago Convention, ICAO urges States to consider the safety of navigation of civil aircraft when issuing regulations for their state aircraft. Regulations for state aircraft, and particularly military aircraft, established by States with the support of their military aviation authorities, must take into account the civil aviation dimension. States' publication of their national regulations will enhance the awareness of all stakeholders on how due regard for the safety of navigation of civil aircraft is applied by its state aircraft.

2.4 Based on Resolution A40-4, Appendix I, the regulations and procedures established by Member States to govern the operation of their state aircraft over the high seas shall ensure that these operations do not compromise the safety, regularity and efficiency of international civil air traffic and that, to the extent practicable, these operations comply with the rules of the air in Annex 2.

2.5 When establishing the regulations and procedures mentioned in Resolving Clause 2 (item 2.5), the State concerned should coordinate the matter with all States responsible for the provision of air traffic services over the high seas in the area in question.

2.6 Based on DOC 10088 para 2.2, State aircraft may have a requirement to train and operate over the high seas. These flights, which vary in purpose, may originate from ships. The flight patterns required to achieve mission objectives mean that, in certain cases, these types of operations cannot be safely integrated with civil aircraft operations. Because it is not possible for airspace access to be denied for civil aircraft in high seas airspace, the military flights should operate with due regard for the safety of navigation of civil aircraft in accordance with Article 3 d) of the Chicago Convention.

2.7 States, which have accepted the responsibility for the provision of ATS in the airspace over the high seas, recognize that aircraft cannot be denied access to this airspace, although operational restrictions might apply for air traffic control service reasons. States therefore should have airspace management procedures in place to facilitate this. Annex 11 — Air Traffic Services, provides for activities potentially hazardous to civil aircraft, whether over the territory of a State or over the high seas, to be coordinated with the appropriate air traffic services authorities. Furthermore, States establish procedures to enable the organization or unit conducting or identifying activities potentially hazardous to civil aircraft to contribute to the safety risk assessment in order to facilitate consideration of all relevant safety-significant factors. This coordination would be effected early enough to permit timely promulgation of information regarding the activities in accordance with Procedures for Air Navigation Services — Aeronautical Information Management (PANS-AIM, Doc 10066).

3. ACTION BY THE MEETING

3.1 The meeting is invited to:

- a) agree that the ICAO Doc. 10088 is sufficient for the region to be develop States national CMC at this stage;
- b) encourage States to develop national Civil and Military Cooperation and Flexible Use of Airspace procedure based on guidelines published in ICAO Doc 10088; and
- c) ICAO MID, in cooperation with the international ORGs, conducts a seminar to raise awareness to all stakeholders regarding the CMC implementation in particular operations of due regard aircraft over high seas in line with Article 3 d) of the Chicago Convention.