



International Civil Aviation Organization

MIDANPIRG/20 and RASG-MID/10 Meetings

(Muscat, Oman, 14 – 17 May 2023)

Agenda Item 6.5: ATM/SAR

**OPERATION OF STATE AIRCRAFT UNDER DUE REGARD OVER THE HIGH SEAS
IN THE MID REGION**

(Iran Islamic Republic)

SUMMARY

This paper presents concern of Iran regarding the safety of civil aviation flying over the high seas and international airspace in respect of loss of separation when due regard is applicable.

Action by the meeting is at paragraph 4.

REFERENCES

- Second High-Level Safety Conference 2015 (HLSC 2015) Planning for Global Aviation Safety Improvement (HLSC/15 – WP/82) (Montreal 2 To 5 February 2015)
- Interim Guidance Material on Civil/Military Cooperation in Air Traffic Management (Second Edition, December 2016)
- Workshop on the Implementation of an Effective Civil – Military Cooperation (Virtual, 27 – 29 April 2021) MIDANPIRG Air Traffic Management Sub-Group (ATM SG/8 – WP/7) (Amman, Jordan, 7 – 10 November 2022)

1. INTRODUCTION

1.1 As a result of thrives in the aviation industry and increases in the number of flights, there is a rise in the number of uncoordinated military aircraft and RPAs flying and operating over the high seas. There have been numerous discussions about the necessity of coordination between civil and military sides; national regulations have been promulgated but additional reinforcement to meet the desired result deem necessary. Taking the real event incidents into consideration the subject of State Aircraft Operations over the high seas deems attention and action.

2. ICAO PRINCIPLES

2.1 The basic principle of freedom of overflight over the High Seas is laid down in Article 87 of the United Nations Convention on the Law of Sea. The rules and regulations regarding international civil aviation operations over the high seas are set out in the Chicago Convention and its supporting documents. The Convention addresses only civil aviation and recognizes the need for States to access all airspace for military purposes.

2.2 Annex 2 — Rules of the Air of the Chicago Convention constitutes rules relating to the flight and maneuvering of an aircraft within the meaning of Article 12 of the Chicago Convention. It applies without exception to high seas airspace. At the same time the Chicago Convention does explicitly exempt State aircraft from its remit. However, Article 3 d) obliges the Contracting States to ensure that State Aircraft "...will have due regard for the safety of navigation of civil aircraft".

2.3 The 2009 ICAO Global Air Traffic Management (ATM) Forum on Civil and Military Cooperation noted that the airspace should be managed as a continuum and a common limited resource with civil and military coordination being imperative. Interoperability of civil and military CNS/ATM systems has been identified as an urgent issue to be pursued (Civil/Military Cooperation in Air Traffic Management, ICAO Circular 330-AN/189).

2.4 Civil and military arrangements and coordination procedures are of vital importance to mitigate the risk of serious incidents involving civil and military aircraft over the high seas. If such arrangements are insufficient; enhanced coordination between States is essential.

2.5 As discussed in Annex 2, Appendix 4 (1.3), an RPA shall not be operated over the high seas without prior coordination with the appropriate ATS Authority.

2.6 In accordance with Annex 11 (2.19.1) the arrangements for activities potentially hazardous to civil aircraft, whether over the territory of a State or over the high seas, shall be coordinated with the appropriate air traffic services authorities in a way that permits the timely manner of information promulgation for the required coordination.

3. DISCUSSION

3.1 Based on Iran CAA reports uncoordinated State aircraft (including but not limited to RPA) enter Tehran FIR over the high seas annually, depriving ATC of knowing of their existence, endangering flights climbing and descending, and accordingly creating a level 3A Hazardous Risk. States have promulgated regulations in this regard all around the world, making the use of transponders and filing flight plans necessary. But even State aircraft belonging to those States fail to comply with their own regulations when flying over Middle East high seas, somewhere that is not even close to their territory. Taking the nature of State Aircraft and RPA Operations into account, and the fact that conducted actions have failed to solve the problem.

3.2 The Middle East region is one of pioneers in development of civil aviation industry; both the evident growth in number of flights and the planned agreements to buy new aircraft demonstrate this issue perfectly. The more complex structure of airspace and nature of flights conducted get, the harder it becomes to lead a safe operation using the current laws and regulations.

3.3 To further elaborate the graveness of this situation we would like to present two cases that have taken place over the high seas at southern part of Tehran FIR:

- a) On December 2019, a civil flight subject to control services by Tehran ACC was cleared to climb to FL300. It received a TCAS/RA while crossing FL210 for the sole reason that a State aircraft, unknown to the ATC, decided to change the course of flight and cross its flight pass without stating anything to the ATC unit in charge.
- b) On February 2021, a flight was asked to maintain FL220 even though it was cleared to climb to FL290, for the sole reason that the ATCO in charge detected an unknown traffic on the radar. The pilot answered with a TCAS/RA report, saying it looked like a drone.
- c) Uncountable numbers of RPAs, Drones and RPVs operate over the high seas located within Tehran FIR without any prior coordination with Tehran Control Centre.

4. ACTION BY THE MEETING

4.1 The meeting is invited to:

- a) note the status of due regard operation over the high seas;
- b) urge States to review and update their National civil and military cooperation procedures to meet the requirement of ICAO Article 3 d) of Chicago Convention and ICAO Doc 10088; and
- c) agree to raise this matter to the attention of the ICAO Council to form a Task Force to ensure the effectiveness of Articles 3 and 12 of the Chicago Convention regarding providing the necessary safety nets for civil aircraft.

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