



C-DEC 226/16
20/7/22

COUNCIL — 226TH SESSION

SIXTEENTH MEETING

(HYBRID MEETING ON MONDAY, 18 JULY 2022, AT 1000 HOURS)

SUMMARY OF DECISIONS

OPEN MEETING

Adoption of Amendment 48 to Annex 6, Part I

1. The Council considered this item on the basis of C-WP/15422, which presented a proposal from the Air Navigation Commission for Amendment 48 to Annex 6 – *Operation of Aircraft, Part I – International Commercial Air Transport — Aeroplanes*.
2. It was noted that having examined the technical circumstances associated with the implementation of the amendment, the Air Navigation Commission considered that an effective date of 18 November 2022 and a proposed applicability date of 29 December 2022 would be suitable for Amendment 48 to Annex 6, Part I with a delayed applicability of 1 January 2025 for the Standard related to location of an aeroplane in distress.
3. The Council also recognized the unprecedented nature of the COVID-19 pandemic, and its impacts on Member States and the aviation industry. In doing so, the Council agreed that certain implications arising from the COVID-19 pandemic warranted the application of Assembly Resolution A39-22, operative clause 7, which, subject to the adequacy of the verification and validation process, allowed the Council to forego consultation with Member States in such circumstances where the Council deemed urgent action necessary.
4. Following consideration, the Council by 35 votes in favour, no votes against, and no abstentions (one Representative being absent):
 - a) adopted, as Amendment 48 to Annex 6, Part I, the amendment to the Standard as contained in Appendix C to the working paper;
 - b) approved the Resolution of Adoption in Appendix D to the working paper; and
 - c) approved, as part of the said amendment, the amendment to the Foreword of Annex 6, Part 1, as contained in Appendix E to the working paper.

Report into the incident involving Ryanair Flight FR4978 in Belarus airspace on 23 May 2021

5. The Council considered this item on the basis of C-WP/15419, which presented the Report on the fact-finding investigation of the event involving Ryanair Flight FR4978 on 23 May 2021, as prepared by the ICAO Fact-Finding Investigation Team (FFIT).

6. Following consideration, the Council, by a majority decision:

- a) recalled its previous decisions on this matter (C-DEC 223/2, C-DEC 224/3, and C-DEC 225/1, refer), reaffirmed the importance of establishing the facts of what happened and understanding whether there had been any breach by any ICAO Member State of international aviation law, including the *Convention on International Civil Aviation* (Chicago Convention) and its Annexes, and in doing so, reiterated its appreciation to the ICAO Fact-Finding Investigation Team (FFIT) for all their strenuous efforts and the comprehensive analysis undertaken in this regard;
- b) further recalled that the FFIT report had demonstrated that the bomb threat against Ryanair Flight FR4978 on 23 May 2021, was deliberately false and had consequently endangered the safety of an aircraft in flight, while underlining that knowingly communicating false information which endangers the safety of an aircraft in flight is an offence under the *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation* (Montréal Convention 1971), and in this connection, strongly condemned such practices;
- c) noted that in light of the new analysis and findings of the FFIT, a number of senior officials of the Government of Belarus had knowingly participated or were involved in providing information about a false bomb threat to the flight leading to its diversion to land at Minsk Airport;
- d) concluded with grave concern, that based on the facts established by the FFIT, the safety of Ryanair Flight FR4978 was endangered when a false bomb threat was communicated to the flight crew, on the instructions of the senior government officials of Belarus;
- e) reiterated that the aims of the Chicago Convention include the safe and orderly development of international civil aviation and promoting the safety of flight in international air navigation, and that the use of civil aviation by any State for any purpose inconsistent with these aims would contravene the spirit of the Convention, its Preamble and its Article 4;
- f) taking into account the preceding, condemned the actions of the Government of Belarus in committing an act of unlawful interference in this matter that deliberately endangered the safety and security of Ryanair Flight FR 4978 and the lives of all those on board, and which represented a flagrant and serious violation of the Chicago Convention;
- g) requested the Secretariat to:
 - i. communicate the conclusion of the FFIT investigative process as well as the relevant conclusions of the Council discussions, to all Member States by means of a State letter, and by publishing them on the ICAO public website; and
 - ii. prepare a draft Assembly working paper, including text for a proposed Assembly Resolution, to be submitted at the forthcoming 41st Session of the ICAO Assembly for the consideration of Member States in accordance with Article 54 k) of the Chicago Convention, on the understanding that the said

draft Assembly working paper would be presented for approval by the Council at a subsequent meeting of the current session; and

- h) in accordance with C-DEC 225/1, requested the President of the Council to forward the final report of the FFIT together with the Council's decision thereon, to the United Nations Secretary-General for information and any appropriate further action.

7. It was recorded that one Delegation expressed their reservation in relation to this decision of the Council.

Notes on Articles 54 j), 54 k), 54 n) and 84 of the Chicago Convention

Request of the Republic of Belarus to the ICAO Council for its consideration under Article 54 j) of the Chicago Convention

8. The Council agreed to consider these two items concurrently.

9. The Council considered the first item on the basis of C-WP/15416, which pursuant to C-DEC 225/1, provided an overview of the legal and procedural aspects pertaining to Articles 54 j), 54 k), 54 n) and 84 of the *Convention on International Civil Aviation* (Chicago Convention).

10. The Council considered the second item on the basis of C-WP/15418, which related to the request of the Government of the Republic of Belarus presented in accordance with Article 54 j) of the *Convention on International Civil Aviation* (Chicago Convention).

11. Following consideration, the Council:

- a) agreed to suspend further consideration of this item; and
- b) requested the Secretariat to undertake a comprehensive analysis of previous decisions that had been taken by the Council pursuant to its consideration of similar or related items, and to prepare a paper thereon that would be presented at a subsequent session, on the understanding that the paper would also take into account comments made in the course of the consideration of this item, including in relation to the need to distinguish between State and civil aircraft, in such circumstances.

Order of Business

12. In accordance with the *Rules of Procedure for the Council*, the Council considered a proposal by the Russian Federation for the Order of Business of the meeting to be revised so that the subsequent item "Draft Assembly working paper – Infractions of the Convention on International Civil Aviation by the Russian Federation" (C-WP/15427) was deferred. In this regard, the President of the Council invited Representatives to provide comments to him in writing, in view of the consideration of this item at the subsequent meeting of the Council during the current session.

Draft Assembly Working Paper — Report on the Comprehensive Regional Implementation Plan for Aviation Safety in Africa (AFI Plan)

13. The Council agreed to a proposal by the President of the Council that the necessary authority be delegated to him in order to finalize and approve the draft Assembly working paper for subsequent transmission to the Assembly. In this regard, the President of the Council invited Representatives to provide any comments to him in writing.

Any other business

Calendar of meetings

14. It was recalled that the Seventeenth Meeting of the current session would be scheduled at 1000 hours on Wednesday, 24 August 2022.

Assembly working paper – Measures towards gender equality at ICAO and the global aviation sector by 2030

15. Pursuant to the Council's approval of this Assembly working paper at a previous meeting of the current session (C-DEC 226/9, refers), the Council agreed that the draft Assembly Resolution attached to this working paper be further revised in order to incorporate an additional preambular clause that would make reference to the recent decision by the United Nations General Assembly to adopt a Resolution declaring 24 June as the annual "International Day of Women in Diplomacy".

Migration of e-mail accounts

16. The Council took note that supplementary information pertaining to the migration of Delegation e-mail accounts would be circulated shortly by the Secretariat.

Appointment of Observers to the Committee on Aviation Environmental Protection (CAEP)

17. It was noted that in the absence of comments by 11 July 2022 to the President of the Council's email dated 23 June 2022, Mr. Daniel Chereau had been appointed as an Observer from IATA to CAEP, replacing Mr. Jes Nauckhoff, with effect from 12 July 2022.

18. It was noted that in the absence of comments by 22 June 2022 to the President of the Council's email dated 9 June 2022, Mr. Bernd Hackmann had been appointed as an Observer from UNFCCC to CAEP, replacing Mr. Conor Barry, with effect from 23 June 2022.

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