

**Committees on Foreign Affairs, Infrastructure and the Environment,
and Security and Justice,
House of Representatives, States General of the Netherlands
Hearing on the MH17 Disaster**

**Written Testimony of:
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Good afternoon distinguished members of the House of Representatives. Thank you for the opportunity to appear before you to discuss the important topic of ensuring the safety and security of civil flights over conflict zones and, in particular, the International Air Transport Association's response to the recommendations of the Dutch Safety Board.

The men and women of IATA share the shock, sadness, and anger expressed by the Dutch people and so many around the world following the 17 July 2014 tragic shooting down of Malaysia Airlines Flight 17 (MH17) en route from Amsterdam to Kuala Lumpur.

Airlines do not knowingly put their customers and employees in harm's way. The airline industry depends on States to ensure that the airspace over their respective territories is safe and secure or, if not, that airlines are well informed of the actual risks.

In this case, as the Dutch Safety Board found in its excellent report, from April until 17 July, no state prohibited operations through Ukrainian airspace "or explicitly warned of particular threats in the airspace in the eastern part of Ukraine as a result of the conflict." With national intelligence services watching and photographing developments on the Russia-Ukraine border and keeping a close eye on hostilities within Ukrainian territory, it is reasonable to think that the availability of sophisticated anti-aircraft weaponry within Ukraine had been known, or at least suspected. In fact, shortly after the downing of MH17, media reported that intelligence agencies had this critical information. That raises a fundamental question: Why was the civil aviation community left oblivious to the presence of anti-aircraft weaponry and the grave threat to civil aircraft it represented?

In answering this question, we cannot avoid the conclusion that the loss of MH17 was, in the largest sense, the consequence of an institutional failure.

Within days of the tragedy, IATA, in partnership with the Civil Air Navigation Services Organisation (CANSO) and Airports Council International (ACI) called on the International Civil Aviation Organization (ICAO) to set up a task force to find ways to ensure that civil aircraft—instruments of peace—are never again targeted by weapons of war. The Task Force was convened quickly and produced a report that contained important recommendations.

Among the most important was a call to “reinforce the obligation on states to monitor the safety of airspace they control and to issue warnings or notices to close airspace where there is significant risk.” Not surprisingly, this was one of the principal recommendations of the Dutch Safety Board as well. IATA and the airline industry wholeheartedly concur in this recommendation and urge the Dutch government to use the diplomatic resources at its disposal to drive the international community toward the establishment of unequivocal obligations in this regard.

On 13 January 2016, IATA submitted its response to the Dutch Safety Board’s findings and recommendations. IATA fully supports the efforts of the Dutch Safety Board to understand the root causes behind the downing of MH17 and to ensure they are not repeated, most importantly by ensuring that States strengthen the mechanisms for monitoring and maintaining the safety of their airspace.

IATA and its members continue to work tirelessly to safeguard our customers, employees and aircraft from harm throughout the nearly 100,000 flights undertaken by airlines every day across the world. Operators and regulators alike know that risk can never be eliminated entirely. The objective must be to reduce risk to the lowest attainable level. Thus, airlines have developed proven approaches to effective risk mitigation. Moreover, airlines have cultivated effective information sharing partnerships between themselves and made significant investments to develop mechanisms and methodologies to evaluate, assess, and exchange threat information across communities of interest.

Additionally, all 260 IATA Members and approximately 140 non-IATA airlines hold IATA Operational Safety Audit (IOSA) registration. IOSA is an important, proactive and robust mechanism which includes an assessment of airlines’ Security Management Systems (SeMS). IOSA compliance is also documented through a publicly accessible registry and has been updated to include conflict zone risk management practices as part of its assessment.

Helping airlines assess potential dangers is the responsibility of governments around the globe. There can be no walls between government and industry when it comes to sharing critical information to keep our passengers and crews safe and secure. If an agency of government has information which relates to the safety of international aviation, it must find a way to share that information so that airline operators can use it. It is essential that governments create “fail-safe” channels to make threat information available to civil aviation authorities and industry.

As we pursue solutions to the challenges identified as a result of the loss of MH17, we must ensure the appropriate measures of effectiveness are in place to drive international focus. Compiling and centralizing threat information is a critical next step. IATA supports ICAO’s establishment of a repository of information on conflict zones and other safety- and security-related issues. The functionality of this repository can be further enhanced by an internationally-agreed definition of the term “conflict zone”. This concept will provide States and airspace users with a common understanding of the risk such zones may present and on any measures to be put in place to avoid these risks.

Additionally, IATA has urged the United Nations to define new obligations on States with regard to the design, manufacture and deployment of modern anti-aircraft weaponry and incorporate them into international law. Now that non-State actors have become a significant force in

hostilities around the world, it is essential that States have an affirmative legal obligation to control more effectively the deployment of weaponry capable of destroying commercial aircraft in flight.

IATA salutes the Dutch Safety Board on the magnitude of its contribution to our understanding of the facts surrounding the destruction of MH17 and the measures necessary to prevent any repetition of the tragedy. In the main, the industry supports the Board's recommendations. If there are any points of difference, they are with regard to (1) the assumption by the DSB that airlines have the tools to perform reliable assessments of the safety of a particular country's airspace without significant input from State security authorities; (2) the suggestion that airlines can reliably inform passengers in real time of their use of airspace over a conflict zone, and (3) the proposal that IATA establish a platform for the exchange of information developed by airlines about the safety of airspace over conflict zones.. We look forward to explaining and discussing with you the industry's reservations about these recommendations.

In conclusion, the aviation industry attaches the highest priority to safeguarding our customers and colleagues from harm as we transport them around the world. Safety and security are and always will be our top priorities. But we cannot overstate the importance of a single overarching principle: Maintaining and monitoring the safety and security of the airspace through which airlines fly are the responsibilities of the States which, pursuant to the very first article of the Chicago Convention, have "complete and exclusive sovereignty of the airspace" above their territory. Simply put, the devastating loss of life on 17 July 2014 was attributable to an utter failure of states to discharge these most fundamental of obligations.

The Dutch Safety Board has rightly called for a clarification and reinforcement of these obligations in international law. IATA and the airline industry wholeheartedly support that recommendation. If States will attach the appropriate measure of importance to these obligations, we can be confident that commercial aviation henceforth will be fully protected from the dangers attributable to hostilities.

We thank you for the opportunity to appear before you today and sincerely appreciate your time and attention. We look forward to your questions.