

# Pilots' Responsibilities when Accepting Air Traffic Control Clearances

ICAO Annex 2, paragraph 2.4 specifies:

"The pilot-in-command of an aircraft shall have final authority as to the disposition of the aircraft while in command."

ICAO Annex 6, Part I, paragraph 4.5.1 specifies:

"4.5.1 The pilot-in-command shall be responsible for the safety of all crew members, passengers and cargo on board when the doors are closed. The pilot-in-command shall also be responsible for the operation and safety of the aeroplane from the moment the aeroplane is ready to move for the purpose of taking off until the moment it finally comes to rest at the end of the flight and the engine(s) used as primary propulsion units are shut down.

This concept must always be in the forefront of pilots' minds during all aspects of operations including when receiving an air traffic control clearance, instruction, or authorization ("clearance"). Pilots must determine whether they are able to safely execute all aspects of any clearance received prior to accepting and executing that clearance. Pilots are obligated to inform air traffic control (ATC) if they are unable to accept a clearance as given. Pilots are also obligated to obtain an amended clearance at any time they are no longer able to execute a clearance that was previously accepted.

Pilots should be aware that any responsibility ATC assumes by issuing a clearance to a flight does not in any way transfer safety responsibility away from the pilot-in-command. More appropriately, pilots should view ATC responsibilities as, at most, additional assistance in maintaining a safe operation.

This briefing leaflet provides two examples of consequences not always apparent with regard to the acceptance of two types of clearances. It should be noted that this briefing leaflet refers to ICAO procedures and that national or regional procedures might differ, sometimes providing less protection than the ICAO provisions.

### **“Maintain own separation”**

During daylight VMC conditions below FL100, controlled flights including departing and arriving flights, could be instructed to maintain their own separation from another aircraft. If accepted, this clearance requires the pilot to determine and maintain a safe distance from the designated aircraft. More appropriately, pilots should treat this as the removal of all ATC separation responsibility from the designated aircraft. Many factors may affect what the pilot considers to be a safe distance both in lateral and vertical distances. Pilots are required to maneuver their aircraft as necessary to avoid operating in such proximity to other flights as to create a collision hazard.

Though not readily apparent, safe separation includes accounting for the effects of the preceding aircraft’s wake vortices.

Achieving and maintaining a safe distance from another aircraft is very difficult without specific tools being introduced onto the flight deck. IFALPA has policy which currently discourages the pilot-in-command in accepting ATC instructions to maintain their own visual separation because the risk of collision is increased. This policy has recently been further strengthened, stating that pilots are not to accept ATC instructions to maintain their own separation until tools are provided that assist pilots in consistently identifying and mitigating the increased risks of collision and wake turbulence upset during this type of operation.

### **“Resume own navigation”**

During many operations, there are instances that require ATC to vector a flight off of a published route. As stated previously, the pilot-in-command is always responsible for the safe operation of the aircraft, but, in this case, ATC must assume a complementary responsibility in addition to that of the pilot-in-command for terrain/obstacle clearance while executing the off-route clearance, because the pilot might not have adequate information about the minimum altitude along the track to be flown.

The PANS-ATM requirement on ATC that the controller shall issue clearances such that the prescribed obstacle clearance will exist at all times (while executing the off route clearance) in no way alleviates the flight crew’s responsibilities. The flight crew must maintain a constant awareness of their position and relevant terrain and obstacles during the off-route vector.

As before, the flight crew is obligated to refuse the vector clearance if they believe the safety of flight would be in doubt. Even when pilots have Minimum Vectoring Altitude charts in their route documentation it is often challenging to determine in which sector the aircraft is or will be during the vectoring or direct routing. Pilots should remain vigilant of potential infringements of the minimum obstacle clearance requirements when being vectored.

When ATC is ready to return the aircraft to a published route, pilots may receive vectors to a point along the route followed by, “...resume own navigation.” Some States allow their ANSPs to issue clearances to “resume own navigation” direct to a point on a route or instrument

procedure and consider the controller's responsibility to assure adequate terrain and obstacle clearance ending with this clearance.

For the reason highlighted above, ATC clearances shall ensure safe terrain/obstacle clearance until the aircraft is established on the published route and the flight crew resumes their own navigation on the cleared route where they have valid information on the applicable minimum safe altitude again. Again, the flight crew must evaluate the flight path back to the route and ensure that it is safe. Otherwise, the flight crew is obligated to request alternative instructions.

These issues and the lack of clarity as to when ATC's additional assistance begins and ends is being discussed and reviewed for a change to the provisions in PANS-ATM and PANS-OPS which highlight and reinforce the imperative to **achieve** the minimum obstacle clearance during all operations. IFALPA believes that the risk of pilots being unable to cross-check the minimum altitude during vectoring must be mitigated by special emphasis on correct and safe altitude clearances by air traffic controllers.