

Introduction to International Air Law

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Civil Aviation Regulations: An Overview

- What is Air Law and What do you Mean by Regulation and Why Aviation Regulations?
- Kinds of Aviation Regulations
 - 1. National
 - 2. Bilateral
 - 3. Regional and
 - 4. Global or International Regulations

Why Air Law or Aviation Regulations?

- In 2019 Airlines Carried over four billion passengers annually-
- Every day, 1,20,000 flights departed, carrying around 12 Million passengers per day, along with \$18bn worth of trade — but it hasn't possible without Regulations.
- The global Air Transport sector supports 65.5 million jobs and USD 2.7 trillion in global economic activity
- ICAO Which prepares and Regulates the standards AND procedures, which benefit the passengers across the world.
- Aviation industry having 1,303 airlines fly 31,717 aircraft on 45,091 routes between 3,759 airports in airspace managed by 170 air navigation service providers.
- With an open, free-trade approach, the growth in air transport will support some 97.8 million jobs and \$5.7 trillion in economic activity in 2036.
- At any Given Movement 10,000 flights fly on the Skies- All Follow Air Law

National Aviation Regulations

- The aims & objectives of national regulation includes:
- to provide better transport requirements of Country
- To promote tourism sector
- to provide employment and earn foreign exchange
- to meet the needs of the postal system
- to create the conditions for a viable, healthy air transport sector
- to aid in national development
- to serve national defence.
- to meet disaster assistance needs etc.
- **Legislative component** (making of laws, policies, rules and regulations, and these rules for granting or denying of permission etc.)
- **Organizational Component**, Ministry of Civil Aviation and various other agencies like DGCA, Air India, Indian, other private airlines and AAI provides infrastructure
- .

Bilateral Aviation Regulations

- Bilateral regulations are regulations undertaken jointly by two parties or most typically by two states in international civil aviation.
- The main objective of bilateral agreement is the conclusion, implementation or continuance of some kind of intergovernmental agreement or understanding concerning air services between the territories of two countries.
- why bilateral Agreements?
- Failures of Multilateralism
- Art.1 of the Chicago convention.
- Development of bilateral agreements
- The Chicago convention.
- Bermuda I of 1946 bilateral Agreement
- Liberal and open skies type of bilateral agreement

Model Bilateral Agreement

- Salient features of bilateral agreement or
- Bilateral Agreement Consist of
- The Preamble, A definitions article, A grant of rights, A fair and equal opportunity, A designation and authorization, Revocation or suspension of operating authorization, Capacity,
- A tariff, Statistics, Commercial operations or commercial opportunities , An airworthiness, Aviation security, Customs duties, Taxation, User charges
- A consultation , Settlement of disputes , Termination or denunciation etc. are part of the bilateral agreement.

Regional Aviation Regulations

- Growing Importance of Regionalism
- Regionalism and International Law
- Growing Importance of Regionalism in Civil Aviation
- African Civil Aviation Commission (AFCAC)
- Agency for Air Navigation Safety in Africa and Madagascar (ASECNA)
- Arab Civil Aviation Commission (ACAC)
- Central American Corporation for Air Navigation Services (COCESNA)
- European Civil Aviation Conference (ECAC)
- European Organisation for the Safety of Air Navigation (EUROCONTROL)
- Latin American Civil Aviation Commission (LACAC)
- Civil Aviation Regulations in the SAARC Region

Aviation Regulations in EU

- A major landmark was the decision of the European Court of Justice in the *Nouvelles Frontières* case in April 1986, that air transport agreements are subject to the competition rules of the Treaty of Rome, Signed in 1957 by six European Countries.
- The implications of this judgment put considerable pressure upon the European Community (EC), presently European Union (EU), to develop and agree upon an air transport policy.
- In December 1987, the Council of Ministers adopted a package of legal instruments put to them by the Commission and thus took the first step toward a general liberalization of the European air transport industry
- In addition, the European Civil Aviation Conference (ECAC), currently comprised of thirty-three European States, developed two International Agreements on intra-European airfares and capacity sharing.
- The EC and ECAC liberalization measures adopted in 1987 were followed by other regulatory changes, covering further reductions in capacity and tariffs control and additional provisions for freer market process, prior to the completion of a single European market by the end of 1992. The EU third package on air transport regulations became effective on 1 January 1993.

Global Aviation Regulations-Definition, Sources and Dev.

- Definition: Air law may be defined as “the body of rules governing the use of airspace and its benefits for aviation, general public and nations of the world”
- Sources: Sources of International Law, (art.38)
- Sources of International Air Law
- Multilateral Convention, Bilateral Agreements, National Laws, Contracts between States and Airline Companies, Contracts between airline companies ; General Principles of Law

Global Aviation Regulations

Development of Int. Air Law or Aviation Regulations can be Categorized into three parts or three PPPs :

- A. Chicago Regime- General and Technical Regulations- Paris convention 1903, Paris Convention 1910 and 1919, Chicago convention 1944 and other related conventions dealing with the above regulations
- B. Warsaw Regime or The Liability Regime- the Warsaw convention 1929 and other related conventions and protocols dealing with Liability of Civil Aviation
- C. Criminal Air Law Regime or Air Safety and Security Regime, including various International conventions relating to aviation safety and aviation security.

History & Development of Global Aviation Regulations

- **Philosophy of Air Law-** Concept of state Sovereignty in the airspace or Roman Law maxim- *Cujus est solum ejus est usque ad coelum* (Who owns the land owns the skies)
- **Customary Law:** In the early times the questions arose over the rights of balloons to cross national borders safely. Example Paris police regulations on balloons of 1783 and the Hague conferences of 1899 & 1907, which prohibited the discharge of projectiles and explosives from balloons
- **Theories:** Scholars proponent theories on Sovereignty and Jurisdiction- Free Air Theory, Complete Sovereignty Theory, Restrictive Sovereignty Theory and Complete Sovereignty but innocent passage.

Int. Air Law Conventions before the Chicago Regime

- 1903 conference discussed the threat posed by the cross-border balloons to consider international aspects of flight across state boundaries
- 1910 Paris Convention (21 states) state sovereignty in the air space and prohibition of flights across some states.
- 1919 Paris Convention (38 states) discussed the use and misuse of world war I, and laid down concept of state sovereignty in airspace, Issues of Nationality, air worthiness, air safety, licenses to personnel etc.,
- Regional and Private Air Law Conventions: Ex, Ibero-American Convention 1926, Havana Convention of 1928 and the Warsaw Convention of 1929.

Chicago Conference 1944 and Air Law

- Background of Chicago Conference or events led to the emergence Chicago conference
- developments in technology and absence of effective legal regime
- Deliberations of the Chicago conference
- Outcome of the conference includes
 - (1) Interim agreement on Int. civil aviation
 - (2) the convention on Int. civil aviation or popularly known as Chicago convention, 1944
 - (3) Int. Air Service Transit Agreement,
 - (4) Int. Air Transport Agreement,
 - (5) A Standard form of bilateral agreement and
 - (6) A Draft of 12 Technical Annexes

Chicago Conference contd....

- Interim Agreement: Set up PICAQ and worked from 6th June 1945 to 4th April 1947 and it also set up Interim assembly, council and secretariat.
- International Air Services Transit Agreement (IASTA) or Two Freedoms Agreement:
 - (1) the privilege to fly across the territory and
 - (2) the privilege to land for non-traffic purposes
- IASTA or Five Freedoms Agreement
 - (3) the right or privilege to discharge passengers, mail or cargo taken on the home ports
 - (4) the right or privilege to pickup passengers, mail or cargo to be taken to the home ports
 - (5) the right to pickup and discharge passengers mail or cargo to or from any other contracting states

Contd..

- Why Bilateralism?
- Failures of the Multilateralism which led to the emergence of Standard form of Bilateral Agreement
- Draft of 12 technical annexes and now 19 ex. Personnel licensing, rules of the air, metrological services, aeronautical charts, units of measurements in air and ground, operation of aircraft, aircraft nationality and registration, airworthiness of aircraft, facilitation, aeronautical telecommunications, ATS, search & rescue, aircraft accidents, aerodromes, AIS, environment, security, safe transport of dangerous goods and Safety Management Systems
- Advantages of Technical Annexes
- SARPS and Annexes

Chicago Convention 1944

Chicago convention has been divided into four parts, 22 chapters and 96 articles.

- Part 1 Air navigation art. 1-42 Covering six chapters including the schedule and non-schedule flights
- Part II International Civil Aviation Organization (ICAO) Structure, powers and functions of the ICAO are covered under articles 43-66
- Part III Int. Air Transport regulations and their implementations are covered under articles 67-79
- Part IV Final Provisions including the authentic languages, signature, ratification, amendments etc. are covered under articles 80-96.

Chicago Convention & Annexes

- Chicago has unique feature of having various technical annexes and which proved successful so far.
- Final Act of the Chicago Convention contains 12 Technical Annexes (Now 19)
- These Annexes did not requires signature. It covers different fields of aviation, being technical in nature.
- The aim of most of the annexes is to promote progress in flight safety, particularly by guaranteeing satisfactory minimum standards of training and safety procedures and by ensuring uniform international practices.

CHAPTER-VI: Adoption and Implementation of Annexes

- Articles 37-42 deal with Adoption and implementation of International Standards and Recommended Practices (SARPs) in international civil aviation. The adoption and departures of international standards, procedures, endorsement of certificates and licenses and their validity, recognition of airworthiness etc. are covered in this chapter.
- Article 37: Adoption of international Standards and procedures.
- Article 38: Departures from international standards and Procedures.
- Article 39: Endorsement of Certificates and Licenses.
- Article 40: Validity of endorsed certificates and licenses.
- Article 41: Recognition of existing standards of airworthiness.
- Article 42: Recognition of existing standards of competency of personnel.

Article 54 and 90 of Chicago Convention

- ❖ The annexes are adopted by the Council of ICAO as prescribed by the Convention.
- ❖ Article 54 (1) of which prescribes, as one of the mandatory functions of the Council that the Council shall adopt international standards and recommended practices, for convenience, designate them as Annexes to the Convention and notify ICAO member States of all action taken.
- ❖ Chapter XX of Article 90 Adoption & amendment of Annexes
- ❖ Adoption of the Annexes by council will be by vote of 2/3 of the council – Art 54 (1)
- ❖ Council shall immediately notify all contracting states of coming force of any Annexes or amendment thereto

SARPs

- ICAO's standards are binding by member States.
- “A Standard is defined as any specification for physical characteristics, configuration, material, performance, personnel or procedure, the uniform application of which is recognized as necessary for the safety or regularity of international air navigation and to which Contracting States will conform in accordance with the Convention; in the event of impossibility of compliance, notification to the Council is compulsory under Article 38 of the Convention.”
- Recommended practices are viewed as merely desirable; member States need not notify the Council of their intent to comply, although they are so encouraged.
- “A Recommended Practice is any specification for physical characteristics, configuration, material, performance, personnel or procedure, the uniform application of which is recognized as desirable in interest of safety, regularity or efficiency of international air navigation, and to which Contracting States will endeavor [sic] to conform in accordance with the Convention. States are invited to inform the Council of non non- compliance. compliance.”

The Process of Adopting SARPS

- Proposed technical SARPS are reviewed first by the Air Navigation Commission.
- Proposed SARPS are “vetted ” to States for comment and consultation.
- The Council approves new SARPS by a two two-thirds majority.
- They circulated to member States four months before the Effective Date.
- A majority of States can veto the SARPS by registering their disapproval .
- States also may “opt out ” by registering their differences.
- After the Effective Date, the Secretariat issues the SARPS.
- States are expected to comply except to the extent they have registered differences.

State Duties

- Under Article 12 of the Chicago Convention, it is the responsibility of every member State to keep its own regulations uniform “to the greatest possible extent” with the Standards and Recommended Practices promulgated by ICAO.
- Under Article 37, States are obliged to “collaborate in securing the highest practicable degree of uniformity ” in their domestic law, regulations and procedures with SARPs.
- But if they find it “impracticable to comply ”, under Article 38, they are to notify ICAO of differences between their own practices and those established by the SARPs

PANS & SUPPS

- ICAO also issues Procedures for Air Navigation Services [PANS] and Regional Supplementary Procedures [SUPPS]. Still another form of rule-making that has been employed by the Council is the Technical instructions which provide detailed explanations of how Annexes are to be implemented.
- “Procedures for Air Navigation Services (or PANS) comprise operate operating practices and material too detailed for Standards or Recommended Practices - they often amplify the basic principles in the corresponding Standards and Recommended Practices. To qualify for PANS status, the material should be suitable for application on a worldwide basis. The Council invites Contracting States to publish any differences in their Aeronautical Information Publications when knowledge of the differences is important to the safety of air navigation.”
- Regional Supplementary Procedures (or SUPPs) have application in the respective ICAO regions. Although the material in Regional Supplementary Procedures is similar to that in the Procedures for Air Navigation Services, on SUPPs do not have the worldwide applicability of PANS.

Annexe-1

- Personnel Licensing—licensing of flight crews, air traffic controllers, and aircraft maintenance personnel
- Standards and Recommended Practices for the licensing of flight crew members (pilots, flight engineers and flight navigators), air traffic controllers, aeronautical station operators, maintenance technicians and flight dispatchers, training manuals also provide guidance for the training

Annexe-2

- Rules of the Air—rules relating to the conduct of visual and instrument flights
- remain clear of clouds by a distance of at least 1 500 m horizontally and at least 300 m (1 000 ft) vertically and to maintain a forward visibility of at least 8 km
- An aircraft cannot be flown under VFR at night or above 6 100 m (20 000 ft) except by special permission

Annexe-3

- Meteorological Services—provision of meteorological services for international air navigation and reporting of meteorological observations from aircraft

Annexe-4

- Aeronautical Charts—specifications for aeronautical charts for use in international aviation
- Pilots need to be informed about meteorological conditions along the routes to be flown and at their destination aerodromes.
- 21 types, each intended to serve specialized purposes
- The Enroute Chart, the Plotting Chart, the Plotting Chart, Standard Departure Chart, The Instrument Approach Chart, The Aerodrome/Heliport Chart, Aerodrome Obstacle Chart.

Annexe-5

- Units of Measurement—dimensional systems to be used in air-ground communications.
- also introduced the International System of Units, known as SI from the "Système International d'Unités"
- a new definition of the metre, and references to temporary non-SI units were deleted.

Annexe-6

- Operation of Aircraft. Part I: International Commercial Air Transport; Part II: International General Aviation; Part III: International Operations—Helicopters. These specifications will ensure in similar operations throughout the world a level of safety above a prescribed minimum

Annexe-7

- Aircraft Nationality and Registration Marks—requirements for registration and identification of aircraft
- How are aircraft classified and identified, and how can you tell aircraft nationality?
- deals with aircraft nationality and registration marks, and, in a separate table, classifies aircraft by how they maintain sustained flight in the air.

Annexe-8

- Airworthiness of Aircraft
- aircraft must be designed, constructed and operated in compliance with the appropriate airworthiness requirements of the State of Registry of the aircraft.
- a Certificate of Airworthiness declaring that the aircraft is fit to fly.

Annexe-9

- Facilitation—simplification of customs, immigration, and health inspection regulations at international airports.
- Article 22 obliges each Contracting State to adopt all practicable measures to facilitate and expedite navigation
- Article 23 establish customs and immigration procedures
- Likewise Arts 10,13, 29 will be complied by all states

Annexe-10

1. Aeronautical Telecommunications—standardization of communications equipment and systems and of communications procedures.
 - Annex 10 is divided into five volumes:
 - Volume I — Radio Navigation Aids
 - Volume II — Communications Procedures including those with PANS status
 - Volume III — Communication Systems
 - Part 1 — Digital Data Communication Systems
 - Part 2 — Voice Communication Systems
 - Volume IV — Surveillance Radar and Collision Avoidance Systems
 - Volume V — Aeronautical Radio Frequency Spectrum Utilization

Annexe-11

- ❑ Air Traffic Services—establishment and operation of air traffic control, flight information, and alerting services.
- ❑ The world's airspace is divided into a series of contiguous flight information regions (FIRs) within which air traffic services are provided
- ❑ All aircraft fly either instrument flight rules (IFR) or visual flight rules (VFR).
- ❑ specifications for operational flight information service (OFIS) broadcasts, including automated terminal information service (ATIS) broadcasts

Annexe-12

- Search and Rescue—organization and operation of facilities and services necessary for search and rescue
- 1-Uncertainty Phase
- 2- Rescue Coordination Centre (RCC)
- 3- SAR units

Annexe-13

- Aircraft Accident Investigation—uniformity in the notification, investigation, and reporting of aircraft accidents.
- consists of 8 chapters, an appendix and 4 attachments.
- protection of evidence , promptly notified of the occurrence, investigation process, final report of an investigation, Preliminary and Accident/Incident Data Reports, accident prevention measures

Annexe-14

Aerodromes—specifications for the design and equipment of aerodromes.

- I- Deals the planning of airports, aerodrome design and operations
- II- Deals heliport design

Annexe-15

- Aeronautical Information Services—methods for the collection and dissemination of aeronautical information required for flight operations
- to ensure the flow of information necessary for the safety, regularity and efficiency of international air navigation

Annexe-16

Environmental Protection. Vol. I: Aircraft Noise—specifications for aircraft noise certification, noise monitoring, and noise exposure units for land-use planning; Vol. II: Aircraft Engine Emissions—standards relating to vented fuel and emissions certification requirements.

Annexe-17

- ❑ Security—specifications for safeguarding international civil aviation against acts of unlawful interference.
- ❑ detailed guidance material contained in the Security Manual for Safeguarding Civil Aviation Against Acts of Unlawful Interference

Annexe-18

1. Safe Transport of Dangerous Goods by Air—specifications for the labeling, packing, and shipping of dangerous cargo.
2. 9 hazard classes
 - explosives of all kinds, compressed or liquefied gases, flammable liquids, flammable solids, spontaneously combustible materials, oxidizing material, Radioactive materials, dangerous to human tissue, miscellaneous category etc.

Annex 19

- Safety Management Systems
- Importance of Safety
- Safety and ICAO Objectives
- ICAO work on global Air Safety Management systems
- Air Safety managements and Recent Developments

Thank you