



ICAO Civil/Military Cooperation Symposium

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OPERATION OF STATE AIRCRAFT

(Presented by FAA, United States)

The U.S. has well documented procedures (both DoD and FAA) that clearly define the responsibility of State aircraft operating over the High Seas. In this regard, FAA and DoD policies provide for a level of safety that fulfils the U.S. obligations under Article 3 of the Chicago Convention that states there must be “due regard for the safety of navigation of civil aircraft” when flight is not being conducted under ICAO flight procedures.

FAAO 7110.65 defines DUE REGARD as – a phase of flight wherein an aircraft commander of State-operated aircraft assumes responsibility to separate his/her aircraft from all other aircraft.

FAAO 7110.65V, Section 6. Oceanic Emergency Procedures, 10-6-3. Alerting Service and Special Assistance, “e.” states:

Responsibility to provide alerting service for flight operations conducted under the “due regard” or “operational” prerogative of military aircraft is assumed by the military. When “due regard” operations are scheduled to end with aircraft filed under ICAO procedures, the ACC may, if specified in a letter of agreement, assume responsibility for alerting service at proposed time filed.

Further, FAAO 7110.65V, Section 2. Terms of Reference, 1-2-1 Word Meaning, “o.” states;

Flight operations in accordance with the options of “due regard” or “operational” obligates the authorized state aircraft commander to:

1. Separate his/her aircraft from all other air traffic; and
2. Assure that an appropriate monitoring agency assumes responsibility for search and rescue actions; and
3. Operate under at least one of the following conditions:
 - (a) In visual meteorological conditions (VMC); or
 - (b) Within radar surveillance and radio communications of a surface radar facility; or
 - (c) Be equipped with airborne radar that is sufficient to provide separation between his/her aircraft and any other aircraft he/she may be controlling and other aircraft; or
 - (d) Operate within Class G airspace.
 - (e) An understanding between the pilot and controller regarding the intent of the pilot and the status of the flight should be arrived at before the aircraft leaves ATC frequency.

For the DoD side, I refer to the attached, DoD INSTRUCTION NUMBER 4540.01 - Use of International Airspace by U.S. Military Aircraft and for Missile/Projectile Firings. (March 28, 2007),

6.3.2. Operations Not Conducted Under ICAO Procedures:

6.3.2.1. Military operational situations may not lend themselves to ICAO flight procedures; e.g., military contingencies, classified missions, politically sensitive missions, routine aircraft carrier operations, and some training activities. Operations not conducted under ICAO flight procedures are conducted under the “due regard” or “operational” prerogative of military aircraft and are subject to one or more of the following conditions:

6.3.2.1.1. Aircraft shall be operated in visual meteorological conditions.

6.3.2.1.2. Aircraft shall be operated within surveillance and radio/satellite communications of a surface and/or airborne facility.

6.3.2.1.3. Aircraft shall be equipped with airborne radar that is sufficient to provide separation between themselves, aircraft they may be controlling, and other aircraft.

6.3.2.1.4. Aircraft shall be operated outside controlled airspace (Reference (d), Chapter 2).

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