Foreign Air Operator Validation & Surveillance Course

Convention and Annexes
States Responsibilities and Authorities
Convention on International Civil Aviation

- Signed at Chicago on 7 December 1944 and came into force on 4 April 1947

- Primary instrument that establishes ICAO and provides it mandate

- Under the authority of the Convention, ICAO establishes Standards and Recommended Practices (SARPs)
Convention on International Civil Aviation

Standards & Recommended Practices (SARPS) are contained in 18 Annexes

- Annex 1 – Personnel Licensing
- Annex 6 – Operation of Aircraft
- Annex 8 – Airworthiness of Aircraft
- Annex 18 – Safe Transportation of Dangerous Goods by Air
- etc.
Article 1 ~~ Sovereignty

The contracting States recognize that every State has complete and exclusive sovereignty over the airspace above its territory
Article 3 ～～ Civil and State aircraft

a) This Convention shall be applicable only to civil aircraft, and shall not be applicable to state aircraft.

b) Aircraft used in military, customs and police services shall be deemed to be state aircraft.

c) No state aircraft of a contracting State shall fly over the territory of another State or land thereon without authorization by special agreement or otherwise, and in accordance with the terms thereof.
Article 6 ~~ Scheduled Air Services

No scheduled international air service may be operated over or into the territory of a contracting State, except with the special permission or other authorization of that State, and in accordance with the terms of such permission or authorization. (air services agreements)
Article 11 — Applicability of Air Regulations

Subject to the provisions of this Convention, the laws and regulations of a contracting State relating to the admission to or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft while within its territory, shall be applied to the aircraft of all contracting States without distinction as to nationality, and shall be complied with by such aircraft upon entering or departing from or while within the territory of that State.
Article 12 ~~ Rules of the Air

Each contracting State undertakes to adopt measures to insure that every aircraft flying over or maneuvering within its territory and that every aircraft carrying its nationality mark, wherever such aircraft may be, shall comply with the rules and regulations relating to the flight and maneuver of aircraft there in force........ Each contracting State undertakes to insure the prosecution of all persons violating the regulations applicable.
Article 16 ~~ Search (inspection) of Aircraft

The appropriate authorities of each of the contracting States shall have the right, without unreasonable delay, to search aircraft of the other contracting States on landing or departure, and to inspect the certificates and other documents prescribed by this Convention.
Article 29 — Documents Carried in Aircraft

Every aircraft of a contracting State, engaged in international navigation, shall carry the following documents in conformity with the conditions prescribed in this Convention:

a) Its certificate of registration;
b) Its certificate of airworthiness;
c) The appropriate licenses for each member of the crew;
d) Its journey log book;
e) If it is equipped with radio apparatus, the aircraft radio station license;
f) If it carries passengers, a list of their names and places of embarkation and destination;
g) If it carries cargo, a manifest and detailed declarations of the cargo.
Article 33 ~~ Recognition of certificates & licenses

Certificates of airworthiness and certificates of competency and licenses issued or rendered valid by the contracting State in which the aircraft is registered, shall be recognized as valid by the other contracting States, provided that the requirements under which such certificates or licenses were issued or rendered valid are equal to or above the minimum standards which may be established from time to time pursuant to this Convention.
Article 38
~~ Departure from International Standards and Procedures

Any State which finds it impractical to comply in all respects … shall give immediate notification to ICAO of the difference between its own practice and that established by international standard. ….. The Council shall make immediate notice of the difference to all other States ….
Interpretation ~ Convention

- While Article 1 recognizes the sovereignty of States, ICAO Annexes indicate that the State of Registry (Operator) has the overall responsibility for safety oversight.

- While Article 16 grants specific rights for States to carry out inspections of foreign aircraft, a review of Annexes would suggest that the scope is somewhat limited.
Interpretation ~ Annex 6

- Annex 6, Parts I & III introduce the concept of the “State of the Operator”

- The *State of the Operator* could be different from the *State of Registry*

- Annex 6 recognizes that the *State of the Operator* has vast responsibilities related to safety oversight
Interpretation ~~ Annex 6

- **Air operator certificate (AOC)**  A certificate authorizing an operator to carry out specified commercial air transport operations.

- **Operations specifications**  The authorizations, conditions and limitations associated with the air operator certificate and subject to the conditions in the operations manual.
Interpretation ~~ Annex 6, Part I

4.2.1.2 The air operator certificate shall authorize the operator to conduct commercial air transport operations in accordance with the operations specifications.

4.2.1.3 The issue of an air operator certificate by the State of the Operator shall be dependent upon the operator demonstrating an adequate organization, method of control and supervision of flight operations, training programme as well as ground handling and maintenance arrangements consistent with the nature and extent of the operations specified.

4.2.1.4 The continued validity of an air operator certificate shall depend upon the operator maintaining the requirements of 4.2.1.3 under the supervision of the State of the Operator.
Interpretation

- The responsibility of the *State of the Operator* is combined with the *State of Registry*

- Under the Convention and its Annexes, States have a responsibility to refer to the *State of Registry* or the *State of the Operator* any concerns they would have in the case of regulatory infraction

- Deficiencies found by Inspections performed under Article 16 should also be referred to the *State of Operator* and/or *Registry*
Interpretation

- States must be careful in extending their authority over Foreign Air Operators beyond the scope contemplated in the Convention

- COSCAP Model Regulation and Manual of Validation and Surveillance of FAO has been developed in full consideration of the ICAO requirements and DOC 8335
Interpretation

- Article 11 recognizes that States may have requirements other or more stringent and not conflicting with those provided in the Convention.

- These requirements must be imposed on a non-discriminatory basis.
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-- End --

Convention and Annexes

Comments and Questions