

ICAO Civil-Military Cooperation Symposium

Conduct of Flight Operations by Russian Aircraft over the High Seas

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Министерство транспорта Российской Федерации
Федеральное агентство воздушного транспорта

РОСАВИАЦИЯ



I. History of the High Seas in International Law and ICAO Legal Framework

1. Convention on the High Seas (1958)

Law of the Sea until then customary international law

Objective: Codification of customary international law

Definition of “High Seas” reads as follows “all parts of the sea that are not included in the territorial sea or in the internal waters of a State”

Freedoms (Article 2)

“no State may validly purport to subject any part of [the high seas] to its sovereignty».

[“It comprises ...”]

freedom of navigation;

freedom of fishing;

freedom to lay submarine cables and pipelines;

Freedom to fly over the high seas.



I. History of the High Seas in International Law and ICAO Legal Framework

2. Legal Aspects in accordance with ICAO Docs Convention on International Civil Aviation (Doc 7300)

Article 3

- 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.
- d) The contracting States undertake, when issuing regulations for their state aircraft, that they will have due regard for the safety of navigation of civil aircraft.

Article 12

Over the high seas, the rules in force shall be those established under this Convention. Each contracting State undertakes to insure the prosecution of all persons violating the regulations applicable.

The rules stipulated in Annex 2 “Rules of the Air” to the Convention on International Civil Aviation are applicable only to civil aircraft that fly over the high seas.



I. History of the High Seas in International Law and ICAO Legal Framework

3. ICAO Assembly Resolution 38/12

The Assembly resolves that:

1. the common use by civil and military aviation of airspace and certain facilities and services shall be arranged so as **to ensure the safety, regularity and efficiency of civil aviation as well as to ensure the requirements of military air traffic are met;**
2. the regulations and procedures established by Member States to govern the operation of their state aircraft over the high seas shall ensure that these operations **do not compromise the safety, regularity and efficiency of international civil air traffic and that, to the extent practicable, these operations comply with the rules of the air in Annex 2.**
3. the Secretary General shall provide guidance on best practices for civil-military coordination and cooperation;
4. Member States may include, when appropriate, representatives of military authorities in their delegations to ICAO meetings.



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Civil-Military Cooperation in Air Traffic Management

State aircraft operations

5.1.1 In accordance with the Chicago Convention, Article 3 (b), “Aircraft used in military, customs and police services shall be deemed to be State aircraft”. In broad terms, the right to access all airspace, within the limits of the operational needs, is a crucial requirement to enable the military, customs and police to perform the security, defence and law enforcement missions mandated by their States and by international agreements. It is, therefore, a fundamental requirement that each State be able to train and operate its State aircraft effectively. In this manner, it is vital for State aircraft to be provided access to sufficient space, enabling adequate opportunities for the training and execution of security, defence and law enforcement elements.

5.1.2 In pursuit of their tasks, operators of State aircraft should, where practicable, respect international, regional and State civil aviation legislation and aim for compliancy. However, it is recognized that the nature of the defence and security tasks can create unique situations that need special handling and considerations. In this regard, this chapter will first explain what roles are performed by military and non-military flights under the title of “State aircraft”. It will then highlight circumstances when State aircraft can be fully compliant or partially compliant with international civil aviation rules and procedures, as provided for in ICAO SARPs, and the general expectations for handling such aircraft by an air navigation service provider (ANSP).



II. Basis for Flight Operations over the Deligated FIR in the High Seas in the Russian Federation

1. Airspace Classification over the High Seas in the Russian FIR

Pursuant to ENR 1.4.2 of the Russian AIP the following classes are established in the airspace outside the territory of the Russian Federation, where the responsibility for the organisation of air traffic is vested with the Russian Federation:

- a) class **A** – in the airspace designated for airways and RNAV routes;
- b) class **G** – in the airspace, where class A is not established and where FIS and alerting services are provided



II. Basis for Flight Operations over the Deligated FIR in the High Seas in the Russian Federation

2. Basis for Flight Operations of the Foreign Users over the High Seas in the Deligated FIR in the Russian Federation

Pursuant to para 1.4. GEN 1.2. of the Russian AIP international flights of aircraft over the neutral waters in the area of responsibility of the Russian Federation (FIR), without entry into the sovereign airspace of the Russian Federation, shall be operated on the basis of the filed flight plan (FPL), without coordination of such flights with the Federal Air Transport Agency.

A FPL for operation of an international flight of aircraft over the neutral waters in the area of responsibility of the Russian Federation (FIR), without entry into the sovereign airspace of the Russian Federation, shall be submitted at least three hours prior to the estimated time of departure from the point of departure to the addresses of MATMC and en-route ATFM units as in accordance with the requirements of ENR 1.11.1 section.

In the case of an airspace user having an overdue payment for the earlier provided air navigation services in Russian airspace or over the neutral waters in the area of responsibility of the Russian Federation (FIR), an FPL will not be acknowledged.



III. Conduct of Flight Operations by Russian State Aircraft over the High Seas

As part of training crews that conduct flights over the High Seas study the following:

- international aviation law basics;
- flight operations rules, ATS airspace management and appropriate ATS units in their designated areas;
- relevant resolutions and special rules, including existing airspace restrictions;
- radiotelephony phraseology rules, English terminology and phraseology used for communication with ATS units;
- ATS routes and data; tracks' positioning when performing flights in organized tracks areas.

Flights in the airspace over the High Seas in areas of responsibility of foreign States are normally IFR flights conducted at flight levels when following criteria are met:

- coordination of airspace usage (when planning activities potentially hazardous to civil aviation flights and mass formation flights);
- permission to use a foreign state's airspace (if a flight in a foreign state's airspace is planned);
- issuance of a notification on the submitted aircraft flight plan, as prescribed;
- adherence to procedures established by regional air navigation rules;
- establishment and maintenance of a two-way VHF (HF) communication with ATS units;



III. Conduct of Flight Operations by Russian State Aircraft over the High Seas

When planning flights over the High Seas, advisory and controlled airspaces are normally used. The crossing of controlled airspace should normally be planned in the items of the mandatory position report.

The routes for flights over the High Seas are designed with due consideration to provision of safe navigation, especially in the vicinity of foreign states' territorial waters.

A permission to enter the airspace of the High Seas by an aircraft crossing the state border of the Russian Federation is granted in accordance with the Federal Rules for Airspace Utilization of the Russian Federation. The entry into the airspace of the High Seas is performed through the established entry/exit points provided by radar control of ground based radar sites.

When planning operations in the airspace over the High Seas (oceans) no request for airspace usage is submitted nor are additional permissions required. In this case a flight plan is compiled and filed with ATS units as prescribed.

Airspace utilization considerations of different states are published in their respective AIPs. The notification of a submitted FPL is distributed via AFTN which is a teletype network and connects all international airports, ATS units and NOTAM units as well as the majority of aviation authorities in the world.



III. Conduct of Flight Operations by Russian State Aircraft over the High Seas

For instance, all state aviation flights to the Kaliningrad region are operated after submitting and accepting the FPL in a prescribed manner. It is submitted no later than 3 hours prior to departure and is forwarded, inter alia, to:

Estonia EETTQZX, EETTZRZX;

Latvia EVRRZDZX, EVRRZQZX;

Lithuania EYVLZDZX, EYVCZRZX;

Finland EFESZQZX;

Eurocontrol EUCHZMFP, EUCBZMFP.

State aircraft crews when conducting flights over the High Seas or in areas of responsibility of foreign states are controlled by Air Force Command Posts. When conducting flights the crews notify appropriate ATS units that are responsible for service provision in their designated area of their flight data, as stipulated by ICAO Doc 4444-RAC/501.

During the flight operations the monitoring is carried out on frequencies used by ATS in the overfly area or on emergency frequencies, if such a procedure is allowed for by regional air navigation rules, and a two-way communication is established with an appropriate ATS unit.



IV. Challenges with Flight Operations and Other Activities over the High Seas

- a) occurrences have been reported when foreign state aviation aircraft cross airways in the neutral waters without filing a respective FPL with an appropriate ACC (or contacting an appropriate ACC) of the Joint ATM System;
- b) flight operations along airway route segments over the neutral waters without filing an FPL;
- c) occurrences have been reported when debtors after being refused provision of ANS over the neutral waters conduct flights off-airways in Class G;
- d) issues of concern have been reported with regard to a timely NOTAM publications while coordinating the establishment of danger areas over the High Seas with some states.
- e) When sending a respective FPL for the flights over the High Seas to EUROCONTROL, FPL do Not received and that is why we need to agree this FPL with all countries in accordance with flight route.



IV. Challenges with Flight Operations and Other Activities over the High Seas

f) Unknown aircraft and unidentified objects, which impact flight safety, have been recently reported in the area of responsibility of Khabarovsk ACC. For the last two years (2013-2014) over 20 incidents have occurred.

These aircraft with codes A1200 and A1400 operate on flight levels used by civil aircraft in RVSM airspace (FL290-410). Highly dangerous incidents causing a real threat to safety were reported:

- On 23 Aug 2013 an airspace disruption by a/c (A1200). At 01.05 UTC the a/c entered POD IGROD on FL325 and crossed international airways B451, A932, B233, A931, A333, B358, R211, R22, A933 in the area of responsibility of Khabarovsk ACC of the Joint ATM System.

This a/c (code A1200) did not respond on published frequencies or the emergency frequency of Khabarovsk ACC.

The aircraft diverged with a 5 km lateral and 2500 feet vertical separations.

- On 27 May 2014 at 04.00 UTC an unidentified aircraft (code A1200) on FL325 entered the airspace in the area of responsibility of Khabarovsk ACC conflicting DAL158 on FL330 head-on.

- At 05.23 UTC flight CSN632 operating on B451 (IGROD-NATEK) had to change the FL (from 350 to 340) to prevent conflict (avoidance of near-miss).

Dangerous repercussions are as follows:

- Unidentified targets with codes A1200, A1400 do not establish communication with controllers of Khabarovsk ACC according to published frequencies or the emergency frequency (121,5 MHz);
- Flights are conducted on flight levels used by civil aircraft and published in aeronautical information;
- The controllers of Khabarovsk ACC are not aware of the flight route and its profile, crews' intentions of unidentified targets (codes A1200 and A1400) with regard to flight altitude and direction;
- Flights conducted on flight levels intended for VFR flights (325, 335 etc.) do not ensure safe separation between aircraft and pose a real threat of aircraft mid-air collisions, which causes ACAS RA.



V. Further Cooperation Steps

It is proposed to establish an Action Working Group under the auspices of the ICAO EUR/NAT Office composed of representatives of states concerned, the Russian Federation and Eurocontrol to assess the current situation of civil-military cooperation and coordination, to develop mutually agreed positions and recommendations for enhancement of civil-military coordination aimed to increase flight safety.



Thank you for your attention!



Министерство транспорта Российской Федерации
Федеральное агентство воздушного транспорта

РОСАВИАЦИЯ

