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ICAO – a platform for intergovernmental cooperation in space

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ICAO / UNOOSA Symposium

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- ICAO is the example of a uniform international approach to regulating the safety, security, and navigation of civil aviation.
- It has more recently also expanded its scope into environmental regulation of aviation.
- It is responsible for setting standards and has over 70 years of experience in this regulatory function.



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ICAO model for coordination

- The ICAO model for coordination is mainly based on SARPS (standards and recommended practices), which are then monitored through the Universal Safety Oversight Audit Program – USOAP.
- The USOAP program assesses member states' compliance with their international safety obligations.
- The same approach can be extended to aerospace regulation, especially where air and space law overlap.



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Space-related activities in the UN

- With regards to space-related activities, such as sub-orbital operations, efforts have only begun with the establishment of an ICAO/UNOOSA Space Learning Group – which is composed of legal experts from ICAO, UNOOSA, other space organizations such as EASA, national governments, academic institutions, and private entities.
 - So far an information text on sub-orbital flights with recommendations for inclusion into the Global Aviation Safety and Air Navigation Planes (GASP and GANP) has been drafted.
 - The recent Manfred Lachs International Conference on Global Space Governance held in Montreal, and the 2nd ICAO/UNOOSA Symposium indicates the significance and growing interest in Space.
- ICAO should encourage more efforts when it comes to sub-orbital operations, as well as other emerging space activities.



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Cooperation in the UN

- Cooperation is needed between organizations and states in order for this to be successful, as the UN works in a system of compliance.
- ICAO has no power to sanction non-compliant states. Despite this it has been very successful with such softer levels of enforcement – this is thanks to all the member states agreeing that harmonization with regards to the implementation of SARPs is in all member states' common interest.
- In the same way, we must recognize that harmonization is also a common interest for all space activities as an increasing amount of states get involved.



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ICAO – a forum for regulating space activities

- Its framework is already established and successful, and cooperation with the private industry is also already present. E.g. the first ICAO World Aviation Forum (IWAF) in November 2015 provided a Bilateral Meeting Service.
- ICAO facilitates networking and exchanges of ideas and efforts between public and private entities or industry stakeholders in the meetings and events it hosts all over the world. Some events are jointly organized, and numerous cooperation agreements are signed between ICAO and organizations such as IATA or ACI.
 - These tools and systems already in place can be expanded in scope into commercial space activities.
- The reasons for an international regulatory body at the reigns are simple. Commercial aviation is by far the safest form of transportation, and for it to remain so, not only safety but also navigation must be coordinated with aerospace.



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Bilateral space agreements

- With the number of launching states increasing, more and more bilateral space agreements are being drafted. Having many bilateral agreements on safety measures will only make harmonization later a greater challenge. Proactive the launching of such vehicles expands at a similar rate as aviation has since its inception.
- There is no need for a new organization to be created for this; rather such cooperation can be done under the auspices of ICAO, which has proven to be a stable platform so far.
- The reality is that emerging space issues cannot be ignored, as the commercial space sector is expanding rapidly. With expansion comes regulation, and if it is not done at the multilateral level, it will be done so unilaterally. This has already begun and if it is not consolidated into a uniform approach, the consequences may be chaotic and not only slow down economic growth, but can impede the maintenance of peace and security.



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- The *U.S. Commercial Space Launch Competitiveness Act 2015* is based on issuing licenses for reusable launch vehicles and suborbital vehicles. Section 109 is titled Orbital Traffic Management. With the rapid development of space technologies, more and more national regimes will be created in order to manage the traffic.
- Without a uniform approach, not only can navigation be disrupted, but the safety of civil aviation will be compromised.
- NASA has already awarded international space cargo transport contracts, and transported 35,000 pounds of space cargo already. The contracts have all been awarded to private entities developing space technologies.
 - The commercial use of such technologies is in its nascent phase right now and will only continue to grow.
- *NewSpace* ventures are not limited to new commercial space ventures, and this should be taken into account when establishing a new regulatory regime for it.



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New legal challenges

- ICAO in cooperation with UNOOSA and industry players can best address new legal challenges. Stable and predictable regulatory conditions can be best achieved through such a forum.
- There is no need for radical changes or amendments to the Chicago Convention in order to achieve safety and harmonization. We can already see how ICAO has stayed up to date with emerging issues in the framework of its regulatory system and expanded its scope into for example, emissions and security.
- With the emergence of civil and commercial space transportation and irreversible globalisation, international cooperation and coordination will be necessary to maintain the safety of both systems civil space and civil air transport.
- There are different possibilities through which the scope of ICAO can be expanded, for example by re-defining “aircraft” in the Chicago convention, creating a new Annex (which is not unprecedented), or by simply introducing the necessary amendments to existing annexes. If this is not done then separate national and bilateral regimes will emerge.



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ICAO – a forum for regulation space activities

- One must recall that commercial aviation was similarly in its nascent phase when the Chicago Convention was signed. States came together realizing that commercial air transport could only develop under a uniform system. It had to be organized on an international scale in order to be effectively and safely utilized.
 - The same is true for space transportation, and it is not isolated to space endeavors, but impacts both airspace and outer space.
- ICAO is well-placed to facilitate such cooperation between all areas of the industry, and has the necessary tools and experience to do the same for space. The ICAO Council is a great example of successful intergovernmental cooperation between developed and developing countries. It has confronted challenges on a range of issues and found consensus between different states. It has been proactive in keeping states updated, through state letters, data-sharing platforms, and coordination in regional offices, making it easier to work together in similar regions before reporting to ICAO headquarters.



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Conclusion

- Finding a common commercial interest between states and introducing safety and security standards to ensure the commercial industry can develop has been achieved by the UN with regards to civil aviation.
- There is no need to create a new organization to oversee the regulation of space activities. Rather, ICAO together with UNOOSA, can create such a forum by simply cooperating more closely according to the model and practices already developed.



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THANK YOU

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