

AVIATION ENVIRONMENTAL REGULATION

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I. AVIATION ENVIRONMENTAL ISSUES

- Aircraft noise pollution
- Local air quality/pollution
- Surface and groundwater contamination
- Global aviation emissions
 - Global warming
 - Climate change
- Global aviation is projected to grow by an annual average of 3.5% between 2005 and 2025. Aviation environmental problems are therefore expected to increase on the same scale.

II. ENVIRONMENTAL REGULATION AT THE INTERNATIONAL LEVEL

- Two general approaches can be identified from the manner in which aviation environmental issues have been addressed at the international level:
- One approach is to consider aviation environmental issues as part of general environmental problems and to address them as such under treaties such as the Long-Range Transboundary Air Pollution Convention (LRTAP), the Vienna Convention on the Ozone Layer, and the United Nations Framework Convention on Climate Change (UNFCCC)
- The other (preferred) approach is to consider aviation environmental problems as industry-specific issues and to address them within the framework of ICAO.

ENVIRONMENTAL REGULATION AT THE INTERNATIONAL LEVEL

- Art. 2(2) of the Kyoto Protocol to the UNFCCC supports the second approach by expressly recognizing the role of ICAO in this regard. It provides that:
 - The parties included in Annex I shall pursue limitation or reduction of emissions of greenhouse gases not controlled by the Montreal Protocol from *aviation* and marine bunker fuels, working through the *International Civil Aviation Organization* and the International Maritime Organization respectively.
- Although the Chicago Convention is silent on the issue of aviation environmental regulation, ICAO has nevertheless since 1972 adopted and continually updated International Standards and Recommended Practices (SARPs) on Aircraft Noise and subsequently on Aircraft Engine Emissions and designated them as Annex 16 Vols. I & II respectively to the Chicago Convention

ENVIRONMENTAL REGULATION AT THE INTERNATIONAL LEVEL

- Under the Chicago Convention, SARPs are only to be designated as Annexes to the Chicago Convention for the sake of convenience (See Art. 54(1) of the Chicago Convention). As such, the provisions of SARPs do not have the same legal effect as the substantive provisions of the Chicago Convention.
- Once SARPs are adopted (or amended) by ICAO and enter into force, all contracting states have the discretion to determine whether or not to apply them, and those states which find it impracticable to apply the requirements of the SARPs or deem it necessary to adopt regulations different from the requirements of the SARPs are only obliged to give immediate notification of this to ICAO. (See Art. 38 of Chicago Convention).
- By and large, the majority of contracting states apply SARPs not because of their binding effect but for fear of being ostracized from the international aviation community

ENVIRONMENTAL REGULATION AT THE INTERNATIONAL LEVEL

- The SARPs contained in Annex 16 only address Aircraft Noise and Aircraft Engine Emissions (i.e., vented fuel and gaseous emissions), basically through certification of aircraft engines on an LTO cycle. They do not address other equally important aviation-related environmental issues such as surface and groundwater contamination by aviation fuel and de-icing chemicals etc.

III. ENVIRONMENTAL REGULATION AT THE NATIONAL LEVEL

- States may either implement ICAO's SARPs at the national (domestic) level or, within the time limited for doing so, simply file differences notifying ICAO of the impracticability of doing so (or of their desire to adopt different regulations).
- Depending on the domestic legal system, national implementation of SARPs may require executive and/or legislative action on the part of the contracting states
- Beyond the foregoing, ICAO has no means of verifying whether contracting states which have not filed any differences are actually implementing the SARPs domestically. There is also no mechanism for following up on those States which do file differences with ICAO

ENVIRONMENTAL REGULATION AT THE NATIONAL LEVEL

- With regard to Safety-related SARPs, ICAO has since 1998 established a Universal Safety Oversight Audit Program (USOAP) by virtue of which the organization is able to assess contracting states' implementation of the relevant Annexes on a first hand basis and to remedy any deficiencies. The same applies to Security-related SARPs, in respect of which a Universal Security Audit Program (USAP) has been established.
- With regard to Annex 16, however, there is no audit program by which ICAO is able to assess whether contracting states are implementing the SARPs or not.

IV. RECENT DEVELOPMENTS IN AVIATION ENVIRONMENTAL REGULATION

- EU-US Aircraft Noise Regulation dispute – US-registered Chapter 2 hush-kitted aircraft banned from operating in European skies
- Market-Based Options for reducing Aircraft Engine Emissions – Emissions Trading and the EU initiative
- Achieving a balance between growth and development in aviation on the one hand and proper management of the environmental aspects of aviation on the other – ICAO's balanced approach.

THANK YOU

ONCE AGAIN!!!