

'26

AUMUNS STUDY GUIDE

**CO-UNDER
SECRETARY
GENERAL:
DOGUKAN
YPRGANCI
CO-UNDER
SECRETARY
GENERAL:
SACIT EREN
TUNCER**

ICAO

International Civil Aviation Organization (ICAO)

Agenda Item: Sovereignty and the Global Security Balance in Aviation; Management of High-Risk Airspaces

Co-Under Secretary General: Sacit Eren TUNCER
Co-Under Secretary General: Dođukan YORGANCI

Table of Contents

1. Letters From The Secretariat

1.1. Letter From The Secretary-General

1.2. Letter From The Deputy Secretary-General

2. Letters from Under-Secretaries-General

Greetings all,

I am Dođukan YORGANCI, the Co-Under-Secretary-General of ICAO with Sacit Eren Tuncer. He is my partner-in-crime for many subjects and making this committee is one of those subjects. He's been most helpful throughout this committee preparation journey. We are aware that the guide is shorter compared to the average but we would like to inform you that it is due to the nature of our agenda and we basically didn't want to fill the study guide with unnecessary information. Everything you will be needing for the committee is included in these pages. Please take your time while reading the study guide and doing research. Please do not refrain from contacting me regarding the committee, my contact information is down below. Wish you all the best of luck.

Most Sincerely,
Dođukan Yorganci

dogukanyorganci@gmail.com

+90 (541) 813 20 08

Distinguished participants of this committee,

As you all are familiar with, I am Sacit Eren TUNCER and I would like to honorably welcome you all to the “International Civil Aviation Organization (ICAO)”. In our committee I will be serving as your Under Secretary General during the long awaited days of this prestigious conference.

First and Foremost I want to give a huge shoutout to my dear Co Under Secretary General Doğukan Yorgancı. He is my partner-in-crime in many fields so I am really intimate with his greatness and stance. As the Under Secretaries General of this committee, we acknowledge the shortness of our study guide but we also want to point out that the reason behind this shortage is the naturalness of our agenda item and our radical decision on only writing the relevant and important information for you to understand every aspect better.

I frankly wish this committee will be an unforgettable and productive experience that contributes to your career and skills.

If you have any kind of questions prior to the conference, do not hesitate to contact me. You can reach me through my e-mail, erentcr999@gmail.com

Sincerely,

Sacit Eren TUNCER

3.Introduction To The Committee

The International Civil Aviation Organization (ICAO) is a specialized agency of the United Nations, established in 1944 to manage the administration and governance of the Convention on International Civil Aviation. Its primary mission is to ensure that the skies remain safe. This means creating a standardized set of rules so that a pilot from Brazil can land in Japan using the same signals, safety protocols, and language as everyone else. ICAO serves as the global forum for its 193 Member States to cooperate on the safety, security, and environmental sustainability of international air transport.

4.Introduction To The Agenda Item

The current agenda centers on a fundamental gap in international law: Who has the right to close the sky? Under current laws, only the state that owns the Sovereign State or the UN Security Council for peace and security can legally declare a No-Fly Zone

This committee must decide if ICAO should be granted the supranational authority to mandate the closure of airspace in conflict zones. There are two main ideas regarding the topic:

1. Proponents argue that states are often too biased to close their own skies because they rely on overflight fees millions of dollars paid by airlines to fly through their air.

2. Opponents argue that giving ICAO this power would violate Article 1 of the Chicago Convention and allow a technical body to make political decisions that could impact a nation's defense.

5. How International Civil Aviation Organization Operates

ICAO operates through a complex system. The Council of ICAO (36 elected states) is the executive body. When a crisis occurs, the Council can issue State Letters or Electronic Bulletins to warn airlines.

In late 2024, ICAO launched its new strategic plan for 2026–2050. A key pillar of this plan is Integrated Risk Management. This moves away from reacting after a plane is shot down and toward using satellite data and AI to predict "high-stress" airspace before a missile is even fired.

6. Historical Context

The concept of restricting or controlling airspace during conflict has evolved alongside the development of modern aviation and international law. While the International Civil Aviation Organization (ICAO) was established in order to ensure the safety and standardization of global air travel, the increasing use of airpower in military operations has created tension between state sovereignty and collective security.

Historically, control of airspace has been viewed as an extension of territorial sovereignty, as codified in the Chicago Convention on International Civil Aviation. However, repeated incidents involving civilian aircraft in conflict zones have demonstrated the limitations of relying solely on state responsibility. These events have raised critical questions about whether international mechanisms should play a more active role in preventing tragedies.

Over time, the international community has experimented with various forms of airspace restriction, including no-fly zones, temporary flight restrictions, and advisory-based avoidance measures. These efforts reflect an ongoing struggle to balance humanitarian protection, military necessity, and legal authority.

6.1. Past Conflicts & Interventions

Airspace restrictions have been implemented in several major conflicts, often under the authority of the United Nations Security Council (UNSC), highlighting both their utility and limitations.

One of the earliest examples occurred after the Gulf War, when coalition forces established no-fly zones over northern and southern Iraq to protect Kurdish and Shia populations.

Although widely enforced, these zones operated in a legally ambiguous environment, as their authorization was debated.

Similarly, during the Bosnian War, the UNSC formally authorized a no-fly zone over Bosnia and Herzegovina. This led to enforcement operations by the North Atlantic Treaty Organization (NATO), marking one of the first instances of collective military enforcement of an air exclusion zone.

In 2011, the Libyan Civil War saw the implementation of a no-fly zone. While initially framed as a humanitarian measure, its enforcement expanded into broader military intervention, raising concerns about mandate overreach.

Beyond formally declared no-fly zones, several aviation tragedies have underscored the dangers of high-risk airspace. The Malaysia Airlines Flight 17 shootdown and the downing of Ukraine International Airlines Flight 752 shootdown demonstrated that civilian aircraft remain vulnerable when flying over conflict zones, even in the absence of officially declared restrictions.

These cases illustrate a critical gap in the current system: while mechanisms exist to impose no-fly zones, they are often slow, politically constrained, or reactive rather than preventive. This historical experience directly informs the present debate over whether ICAO should be granted greater authority to proactively manage high-risk airspace.

7. No-Fly Zones

A **no-fly zone**, also known as a **no-flight zone (NFZ)**, or **air exclusion zone (AEZ)**, is a territory or area established by a military power over which certain aircraft are not permitted to fly. Such zones are usually set up in an enemy power's territory during a conflict for humanitarian or military reasons without consent of the enemy state, similar in concept to an aerial demilitarized zone, and usually intend to prohibit the enemy's military aircraft from operating in the region. Military action may be employed by the enforcing state and, depending on the terms of the NFZ, may include preemptive attacks to prevent potential violations, reactive force targeted at violating aircraft, or surveillance with no use of force. Air exclusion zones and anti-aircraft defences are sometimes set up in a civilian context, for example to protect sensitive locations, or events against terrorist air attack. A no-fly zone is generally not considered a form of aerial blockade due to its more limited scope compared to an aerial blockade.

7.1. What Constitutes High-Risk Airspace

High-risk airspace refers to regions where flying poses elevated danger to aircraft due to conflict, instability, or other specific hazards. Aviation authorities and airlines treat these areas with special caution, sometimes avoiding them entirely.

High-risk airspace typically includes:

a. Conflict Zones

Airspace over or near areas of armed conflict where military activity is ongoing, including the use of aircraft, missiles or air defense systems. A well-known example is the Malaysia Airlines Flight 17 shootdown, which highlighted the dangers of civilian overflight in contested regions.

b. Areas with Active Air Defense Systems

Regions where surface to air missiles (SAMs), anti-aircraft artillery, or advanced radar systems are deployed and operational, creating a risk of misidentification or accidental engagement.

c. Politically Unstable or Poorly Governed Airspace

Airspace in states experiencing political instability, where air traffic management (ATM) services may be degraded or unreliable.

d. Presence of Non-State Armed Groups

Areas where insurgent or terrorist groups possess weapons capable of targeting aircraft, increasing the risk to civil aviation.

e. Military Activity and Exercises

Airspace used for military training, weapons testing, or operations that may pose hazards to civilian aircraft.

f. Deficient Air Traffic Management Infrastructure

Regions with limited radar coverage, outdated systems or insufficiently trained personnel, increasing the likelihood of operational errors.

g. Regulatory or Advisory Designation

Airspace is identified as high-risk by aviation authorities such as the International Civil Aviation Organization (ICAO), the Federal Aviation Administration (FAA), or the European Union Aviation Safety Agency (EASA), often through safety bulletins, NOTAMs, or conflict zone information repositories.

7.1.1. Methods of Risk Assessment

Risk assessment of high-risk airspace involves a systematic evaluation of threats, vulnerabilities, and potential consequences to ensure the safety of civil aviation operations.

Aviation authorities, airlines, and international organizations use a combination of intelligence, technical analysis, and regulatory guidance to assess and mitigate risks.

The principal methods include:

a. Intelligence Gathering and Analysis

States and aviation stakeholders rely on military intelligence, surveillance data, and geopolitical analysis to identify potential threats, such as the presence of surface to air missiles, ongoing hostilities, or emerging security risks.

b. Notice to Airmen (NOTAMs) and Aeronautical Information

Official advisories, including NOTAMs, provide real-time or near-real-time information about hazards, airspace restrictions and operational limitations. These notices are a primary tool for communicating risks to flight operators.

c. Conflict Zone Information Sharing

International coordination mechanisms, often supported by organizations such as the International Civil Aviation Organization (ICAO), facilitate the sharing of information regarding conflict zones and associated risks between states and operators.

d. National Aviation Authority Guidance

Authorities such as the Federal Aviation Administration (FAA) and the European Union Aviation Safety Agency (EASA) issue risk assessments, prohibitions, or operational recommendations based on their own analyses.

e. Airline Operational Risk Assessments

Airlines conduct internal risk assessments that consider flight routes, aircraft capabilities, altitude profiles and contingency planning. These assessments often incorporate both public advisories and proprietary intelligence.

f. Threat and Vulnerability Analysis

This method evaluates both the likelihood of a threat (e.g., missile capability) and the vulnerability of aircraft (e.g., cruising altitude, flight path), producing a structured risk profile.

g. Dynamic Monitoring and Review

Risk levels in airspace can change rapidly. Continuous monitoring ensures that assessments remain current, allowing for timely rerouting or suspension of operations when necessary.

7.2. Legal Scope

At the heart of the Chicago Convention lies Article 1, which states:

Article 1: "The contracting States recognize that every State has complete and exclusive sovereignty over the airspace above its territory."

Article 2 extends this to territorial waters, meaning a coastal state also controls the air above its seas. For ICAO to declare an NFZ.

Adopted after the 1983 KAL 007 tragedy, Article 3 bis is the primary legal check on military power. It explicitly prohibits the use of weapons against civil aircraft in flight. However, it contains a double-edged clause:

The Constraint: States must refrain from using weapons.

The Power: States have the right to require an aircraft to land at a designated airport if it is flying over prohibited areas without authority.

Under Article 9, a state may restrict or prohibit flying over its territory for "reasons of military necessity or public safety."

The Rule of Uniformity: A state cannot ban foreign planes while allowing its own planes to fly there. If the sky is dangerous for a foreigner plane, it must be declared dangerous for a local plane too.

The Conflict: States often refuse to trigger Article 9 because it signals weakness or a loss of control over their territory. If ICAO had the power to trigger Article 9 for a state, it would be a massive shift from Consensus-based Law to Supranational Law.

The UN Charter vs. ICAO Mandate

The most significant legal hurdle is the hierarchy of the United Nations. Under Chapter VII of the UN Charter, only the UN Security Council (UNSC) has the legal authority to impose a No-Fly Zone as an enforcement measure to maintain peace.

ICAO is a Technical Agency: Legally, its mandate is limited to Safety and Efficiency.

The Argument for Expansion: Delegates in favor of ICAO-led NFZs argue that the UNSC is often paralyzed by Vetoes (e.g., Russia or the US blocking action against their allies). They suggest that ICAO should be granted Emergency Technical Authority to close airspace based on safety data, bypassing the political gridlock of the Security Council.

The 2025 ICAO Ruling

A major legal milestone occurred in May 2025, when the ICAO Council rendered a historic decision holding the Russian Federation responsible for the downing of Flight MH17

This was the first time ICAO acted as a quasi-judicial body, moving beyond mere recommendations to assigning legal blame. This precedent has opened the door for the current debate: If ICAO can judge a state after a tragedy, shouldn't it have the legal power to prevent it by closing the airspace beforehand?

Finally, there is the law of Overflight Fees. Under Article 15, states are allowed to charge fair and reasonable fees for the use of their air traffic services. For many states in conflict zones, these fees are a primary source of national income.

The legal question for this is: If ICAO declares an NFZ, is it liable for the Economic Taking of that state's revenue? This introduces International Tort Law into the discussion, the idea that ICAO might have to compensate countries for the money they lose when their skies are closed.

7.3. Coordination Between Civil Aviation and Military Authorities

A major barrier to NFZs is Overflight Revenue. Countries like Russia, Iran, and various African nations earn hundreds of millions of dollars annually from airlines. Closing an NFZ would mean turning off the tap.

Coordination requires the military to give up some of this control to civilian Air Traffic Control (ATC), a process known as Flexible Use of Airspace (FUA).

8. Questions To Be Addressed

1) Should the International Civil Aviation Organization (ICAO) be granted supranational authority to mandate the closure of high-risk airspace, or should this power remain exclusively with sovereign states and the United Nations Security Council (UNSC)?

2) How can the principle of state sovereignty as established under the Chicago Convention on International Civil Aviation, be balanced with the need to protect civilian aircraft from conflict-related threats?

3) What objective criteria or threshold should be used to classify airspace as “high-risk,” and who should be responsible for making that determination?

4) If ICAO is granted the authority to restrict or close airspace, should it also bear legal or financial responsibility for economic losses, such as overflight fee revenue, incurred by affected states?

5) What mechanisms can improve coordination between civilian aviation authorities and military actors to prevent incidents such as the Malaysia Airlines Flight 17 shootdown and ensure timely airspace closures?

9. Bibliography

<https://www.icao.int/about-icao>

<https://www.icao.int/about-icao/assembly>

<https://www.icao.int/strategic-goals/Seamless-Accessible-and-Reliable-Mobility>

<https://treaties.un.org/doc/publication/unts/volume%2015/volume-15-ii-102-english.pdf>

<https://www.icao.int/history-icao-and-chicago-convention>

<https://www.britannica.com/event/Persian-Gulf-War>

<https://www.easa.europa.eu/en/domains/air-operations/czibs>

<https://www.alternativeairlines.com/no-fly-zones>

<https://www.bbc.com/news/world-europe-28357880>

<https://www.icao.int/icao-and-united-nations>

https://www.rand.org/pubs/research_reports/RR676.html

