



SAFE SKIES.  
**SUSTAINABLE  
FUTURE.**

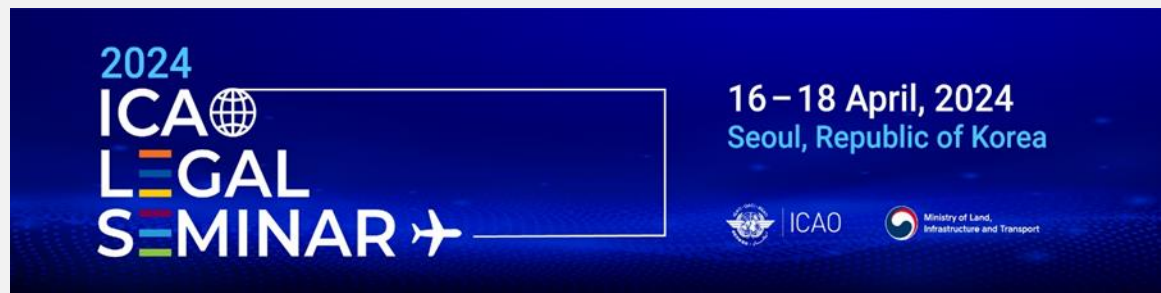


# *Chicago Convention - A global legal framework serving aviation safety over 80 years*

## Benoît Verhaegen

Senior External Relations and Legal Officer  
Legal Affairs and External Relations Bureau

ICAO



# Agenda

---

- 1 The Chicago Convention -  
The sovereignty principle
- 2 Safety Objectives -  
Limitations to sovereignty
- 3 ICAO technical publications –  
Legal Status
- 4 ICAO Air Navigation Planning
- 5 ANPs amendment process
- 6 Certificates and Licences –  
Aircraft, Crew and Operators
- 7 Conclusions - Key responsibilities &  
Selected milestones

# 1. The Chicago Convention

-  
The sovereignty principle



- Adopted at Chicago Conference 1944 (before UN)
- Basis for the development of international civil aviation
- Constitution of ICAO
- Air Transport – Freedom(s) of the Air ...
- Technical aspects – Safety: Success !

# 1. The Chicago Convention - The sovereignty principle

## Airspace sovereignty

Article 1 Chicago: Sovereignty over national airspace  
Article 2 Chicago : Sovereignty above land and territorial waters

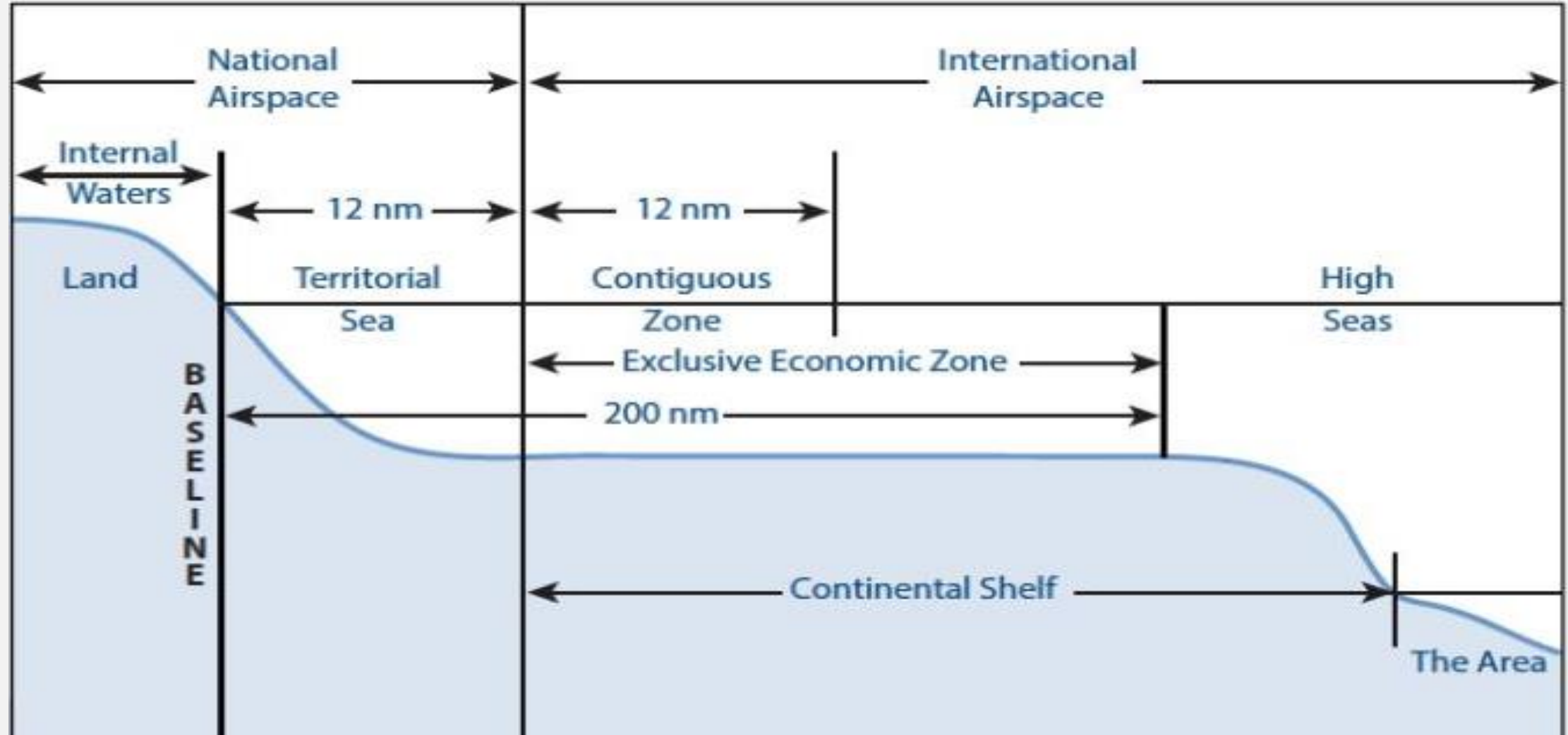


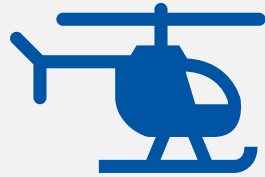
## High Seas – International airspace

Article 12 Chicago: Beyond territorial waters = High Seas  
Art. 3, 58, 87 UNCLOS: territorial waters = 12 NM  
Freedom of overflight over High Seas including EEZ (200 NM)

# 1. The Chicago Convention - The sovereignty principle

## Chicago 1944 and UNCLOS 1982





## Airspace Sovereignty

No blanket freedom of the air

- Except overflight + technical stops for non-scheduled flights (Art. 5)
- Authorizations: State aircraft (Art. 3); scheduled flights (Art. 6); unmanned aircraft (Art. 8); dangerous goods (Art. 35)...



## Article 11 – National Laws

National laws and regulations apply

Subject to:

- Non-discrimination
- Provisions of the Convention

## 2. Safety Objectives - Limitations to sovereignty

- **Preamble**
  - [...] the undersigned governments having agreed on certain principles and arrangements in order that international civil aviation may be developed in a **SAFE** and orderly manner
- **Article 44: Aims and objectives of the Organization:**
  - Ensure the **SAFE** and orderly growth of international civil aviation
    - (a)
  - Meet the needs of the peoples of the world for **SAFE**, air transport
    - (d)
  - Promote **SAFETY** of flight in international air navigation (h)
- **Limitations to sovereignty: international regulations**
  - Article 12: Rules of the Air
  - Article 25: Aircraft in distress
  - Article 26: Investigation of accidents
  - Article 28: Air navigation facilities and standards systems
  - Article 33: Recognition of certificates and licences
- **ICAO Standards & Recommended Practices (SARPs): Articles 37-54 I)-90**



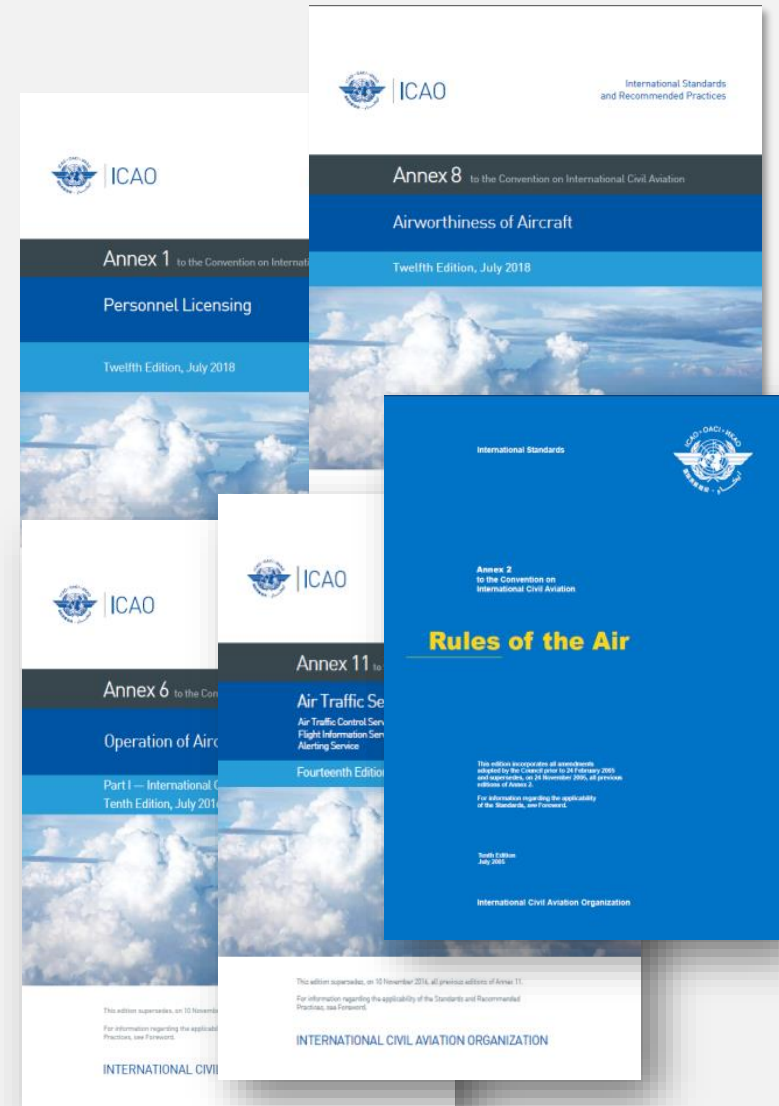


## 2. Safety Objectives - Limitations to sovereignty

### State Obligations in Safety Regulation

**Article 37** of the Convention attempts to achieve uniformity in air navigation, by requiring that every contracting State collaborate in securing:

“[...] the highest practicable degree of uniformity in regulations, standards, procedures, and organization in relation to aircraft personnel, airways and auxiliary services in all matters in which uniformity will facilitate and improve air navigation. To this end [ICAO] shall adopt and amend from time to time [...] international standards and recommended practices”.



#### Standards and Recommended Practices (SARPS)

- **INTERNATIONAL STANDARD** - “any specification for physical characteristics, configuration, material, performance, personnel or procedure, the uniform application of which is recognized as necessary for the safety or regularity of international air navigation and to which contracting States will conform in accordance with the Convention” (Arts. 37, 38 and 54 of the Chicago Convention)
- **RECOMMENDED PRACTICE** - “any specification for physical characteristics, configuration, material, performance, personnel or procedure, the uniform application of which is recognized as desirable in the interest of safety, regularity or efficiency of international air navigation and to which contracting States will endeavour to conform in accordance with the Convention” (Arts. 37 and 54 of the Chicago Convention)

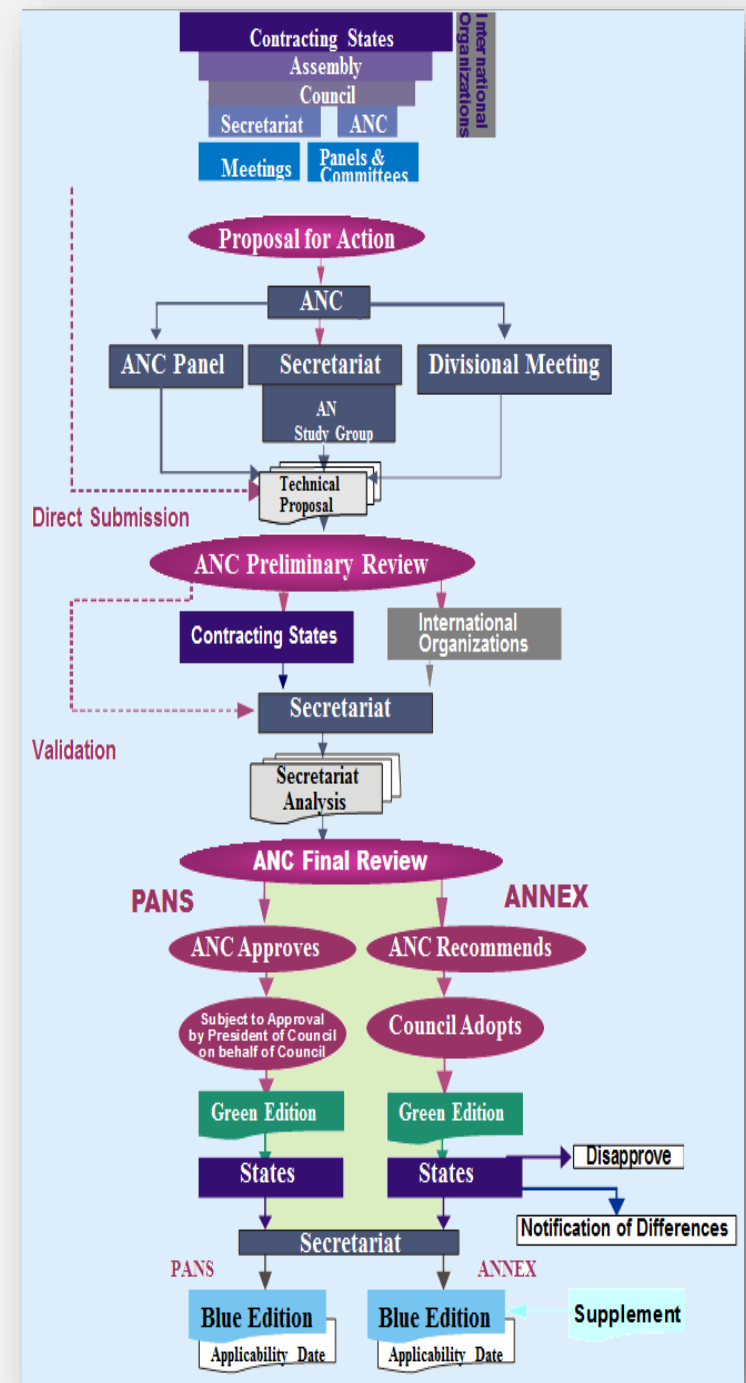
### 3. ICAO technical publications – Legal Status

- **Domestic implementation through enactment of domestic law**
  - SARPs need to be given legal effect - usually by Regulation (text in 6 languages)
- **Chicago Convention: *Pacta sunt servanda* = binding**
- **SARPs in Annexes: special status/procedure**
  - Article 90: 2/3 Council and no disapproval by majority of States
  - Articles 37-38: “Comply or notify” a ‘difference’ to ICAO
  - Standard is binding Rule of Law IF no difference is notified
  - Assembly: notify also differences to Recommended Practices
- **Guidance material in Annexes (Notes, Attachments, ...)**
- **PANS & SUPPS + Technical Instructions (Dangerous Goods)**
- **Guidance material by Secretariat: Circulars and Manuals**

### 3. ICAO technical publications – Legal Status

#### Annexes to the Chicago Convention

- Legislative power of ICAO under Articles 37 and 38 of the Chicago Convention to adopt Standards and Recommended Practices (SARPs)
- 19 Annexes containing over 12,000 SARPs
- States may depart from Standards by filing differences



### 3. ICAO technical publications – Legal Status



*The following summary gives the status, and also describes in general terms the contents of the various series of technical publications issued by the International Civil Aviation Organization. It does not include specialized publications that do not fall specifically within one of the series, such as the Aeronautical Chart Catalogue or the Meteorological Tables for International Air Navigation.*

**International Standards and Recommended Practices** are adopted by the Council in accordance with Articles 54, 37 and 90 of the Convention on International Civil Aviation and are designated, for convenience, as Annexes to the Convention. The uniform application by Contracting States of the specifications contained in the International Standards is recognized as necessary for the safety or regularity of international air navigation while the uniform application of the specifications in the Recommended Practices is regarded as desirable in the interest of safety, regularity or efficiency of international air navigation. Knowledge of any differences between the national regulations or practices of a State and those established by an International Standard is essential to the safety or regularity of international air navigation. In the event of non-compliance with an International Standard, a State has, in fact, an obligation, under Article 38 of the Convention, to notify the Council of any differences. Knowledge of differences from Recommended Practices may also be important for the safety of air navigation and, although the Convention does not impose any obligation with regard thereto, the Council has invited Contracting States to notify such differences in addition to those relating to International Standards.

**Procedures for Air Navigation Services (PANS)** are approved by the Council for worldwide application. They contain, for the most part, operating procedures regarded as not yet having attained a sufficient degree of

maturity for adoption as International Standards and Recommended Practices, as well as material of a more permanent character which is considered too detailed for incorporation in an Annex, or is susceptible to frequent amendment, for which the processes of the Convention would be too cumbersome.

**Regional Supplementary Procedures (SUPPS)** have a status similar to that of PANS in that they are approved by the Council, but only for application in the respective regions. They are prepared in consolidated form, since certain of the procedures apply to overlapping regions or are common to two or more regions.

---

*The following publications are prepared by authority of the Secretary General in accordance with the principles and policies approved by the Council.*

**Technical Manuals** provide guidance and information in amplification of the International Standards, Recommended Practices and PANS, the implementation of which they are designed to facilitate.

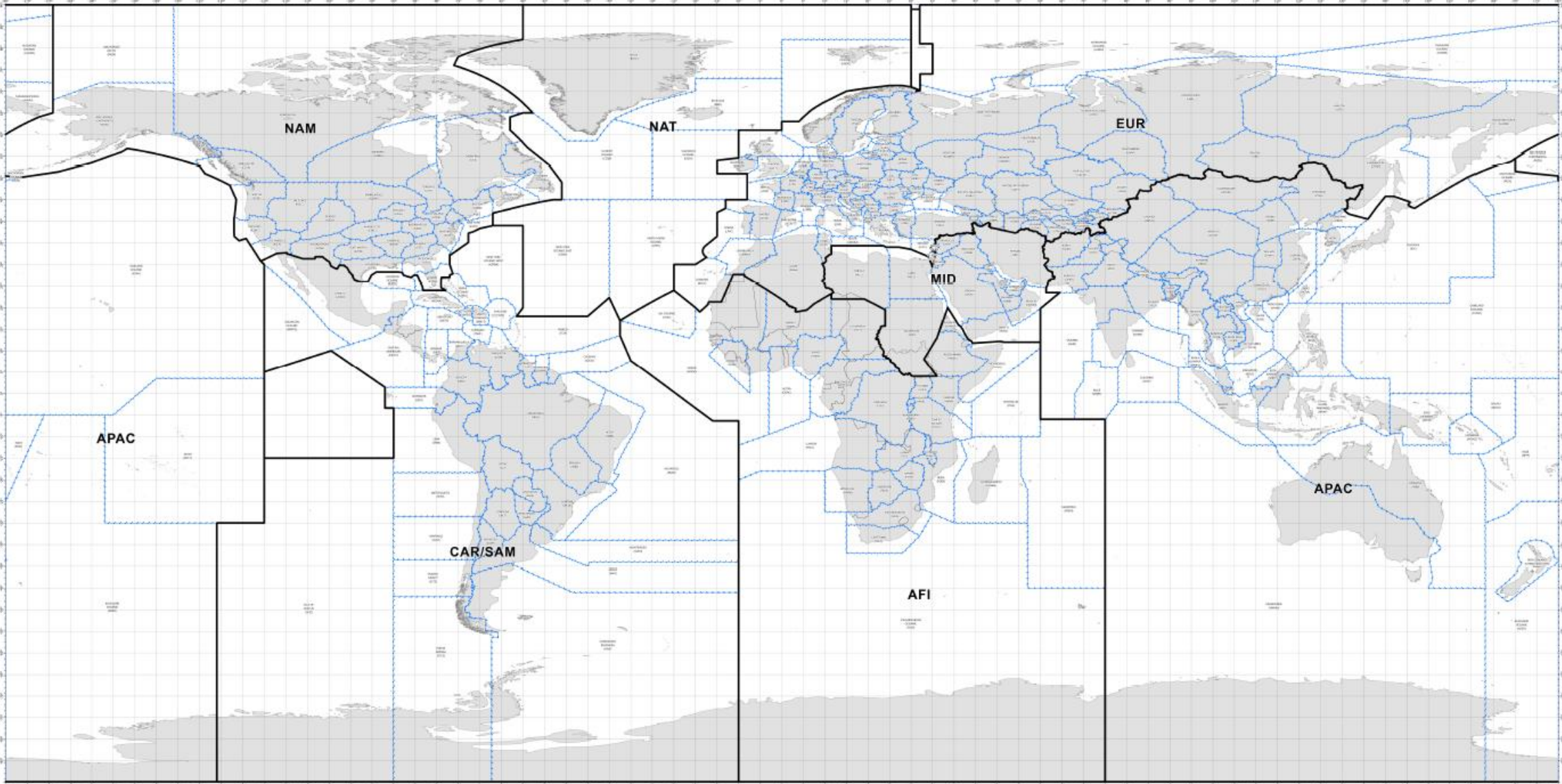
**Air Navigation Plans** detail requirements for facilities and services for international air navigation in the respective ICAO Air Navigation Regions. They are prepared on the authority of the Secretary General on the basis of recommendations of regional air navigation meetings and of the Council action thereon. The plans are amended periodically to reflect changes in requirements and in the status of implementation of the recommended facilities and services.

**ICAO Circulars** make available specialized information of interest to Contracting States. This includes studies on technical subjects.

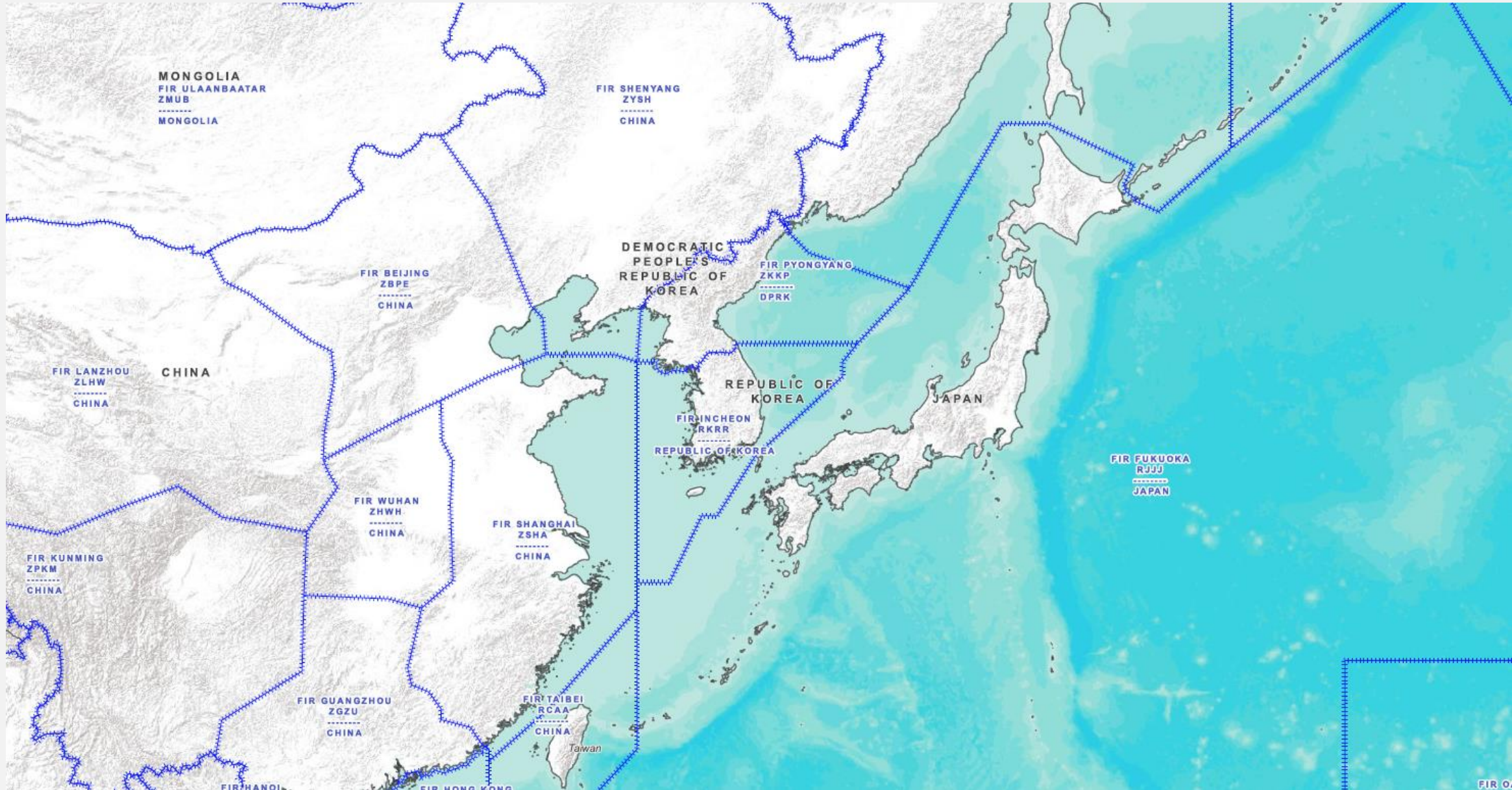
## 4. ICAO Air Navigation Planning

- SARPs & PANS → SUPPs & Air Navigation Plans ← States
  - Art. 28 + regional air navigation agreements
  - ANPs: AFI – APAC – CARSAM – EUR – MID – NAM – NAT
  - Annex 11: Flight Information Regions (FIRs) & ATS
  - ANPs : sovereign airspaces & High Seas
  - A41-10, App. G: Delimitation of ATS airspaces

# 4. ICAO Air Navigation Planning



# 4. ICAO Air Navigation Planning





### Seven cardinal principles - A41-10, App. G

1. ATS airspaces: technical and operational considerations for safety/efficiency/economy reasons
2. No undue segmentation of ATS airspaces
3. States' agreement on delegation of authority for ATS
4. National laws and regulations apply in sovereign airspace
5. Delegated ATS or High Seas ATS: safety/regularity of air traffic
6. State's delegation of ATS: no derogation of sovereignty
7. ATS over High Seas: no recognition of sovereignty

## 5. ANPs amendment process



Assembly Resolution A41-10 App. E



Planning and Implementation Regional Groups (PIRGs)



Amendment procedure 18 June 2014 (C-DEC 202/4)



Process through ICAO Regional Offices

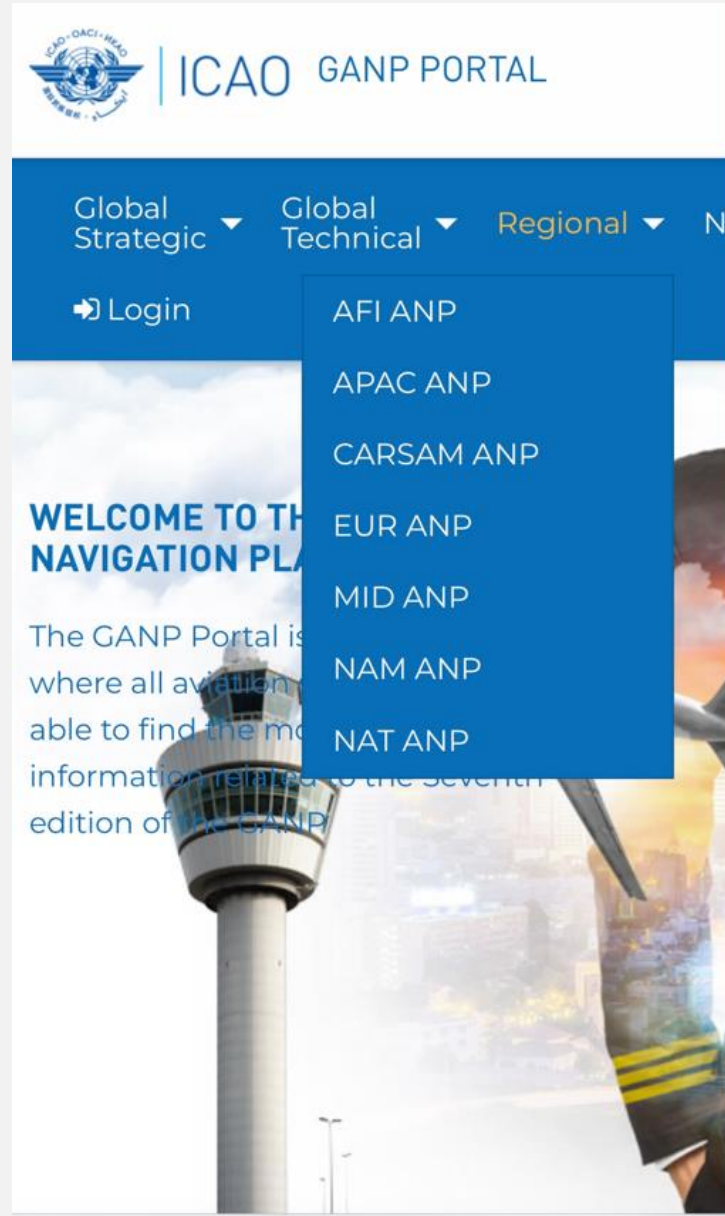


Mainly by correspondence (or RAN Meetings) + ANC if objection



Approval by (President of the) Council

# 5. ANPs amendment process



## 5. ANPs amendment process

High Seas: ultimate authority of ICAO Council

National Airspace: sovereignty prevails

- Delegation of ATS by agreement (Annex 11, 2.1.1)
- Withdrawal (Note to 2.1.1): prior consultation

Case 2021: Withdrawal + FIR proposal

- 2023 ANC procedure for reports as per A41-10, App. G
- Art. 1: sovereignty but no absolute right to FIR
- No undue segmentation of airspace

Case 2015: Withdrawal - no FIR

- Sectorization of national airspace within FIR
- EEZ = High Seas



## 6. Certificates and Licences – Aircraft, Crew and Operators

- **State of Registry**
  - Art. 17 - 21 + Annex 7
  - crew licences (Art. 32 - Annexes 1 ) + radio (Art. 30 b))
  - certificate of airworthiness (Art. 31 - Annex8) + radio (Art. 30a))
- **State of the Operator** – Annex 6 + Art. 83 *bis*
- **IF Standards in Annexes 1 or 8 are NOT met:**
  - Article 38: State shall notify a difference to ICAO
  - Article 39: Endorsement of Licence/Certificate
  - Article 40: Prior permission of State to be overflown (Art. 11)
- **Differences are not “exportable”**

# 6. Certificates and Licences – Aircraft, Crew and Operators

Annex 6 : pilots to be familiar with national laws and regulations

More stringent laws may apply by virtue of Art. 11-12

Exception: Art. 33

English translation

Article 29 & other documents to be carried on board

mutual recognition of validity of PELs and CofAs

If issued under requirements meeting the 'minimum' ICAO standards

Same exception for mutual recognition of AOCs/OpSpecs

+ Certified true copy of AOC & Summary of 83bis agreement.

## 7. Conclusion: Key responsibilities

### The State having sovereignty

- Article 11: local laws and regulations apply in territory
- Consistent with Chicago Convention
- Resolution A36-6:
  - safety oversight over national operators
  - Surveillance over foreign operators
- Article 12 : no safe harbour – universal jurisdiction

### Verifications

- Article 16: Ramp inspections (Art. 29 et al.)
- ICAO EFOD: publication of differences from SARPs
- AIPs: 'significant' differences from SARPs & PANS
- ICAO USOAP reports: including SSCs
- ICAO Assembly Resolutions
- Varia

## 7. Conclusion: Key responsibilities

### The State providing ATS

- Art. 28: local laws and regulations apply in territory
- Annex 2: Rules of the Air
  - Council 1948: no difference over High Seas (Art. 12)
- Annex 11: ATS uniform through entire FIR
  - National airspace and high seas airspace
  - Freedom of overflight over High Seas
  - ATS Planning Manual: applicable ICAO rules over high seas

### The State establishing an ADIZ

- Annexes 4 and 15: Definition – no regulations for establishment
- AIPs
- Freedom of overflight over high seas (Doc 10088):
  - Limited procedures: flight plan
  - Not conflicting with adjacent ADIZ / FIRs
  - Interception: Annex 2 and “due regard” (Art. 3 d))



## 7. Conclusion: Key responsibilities



ICAO

Doc 10088

Manual on Civil-Military Cooperation  
in Air Traffic Management

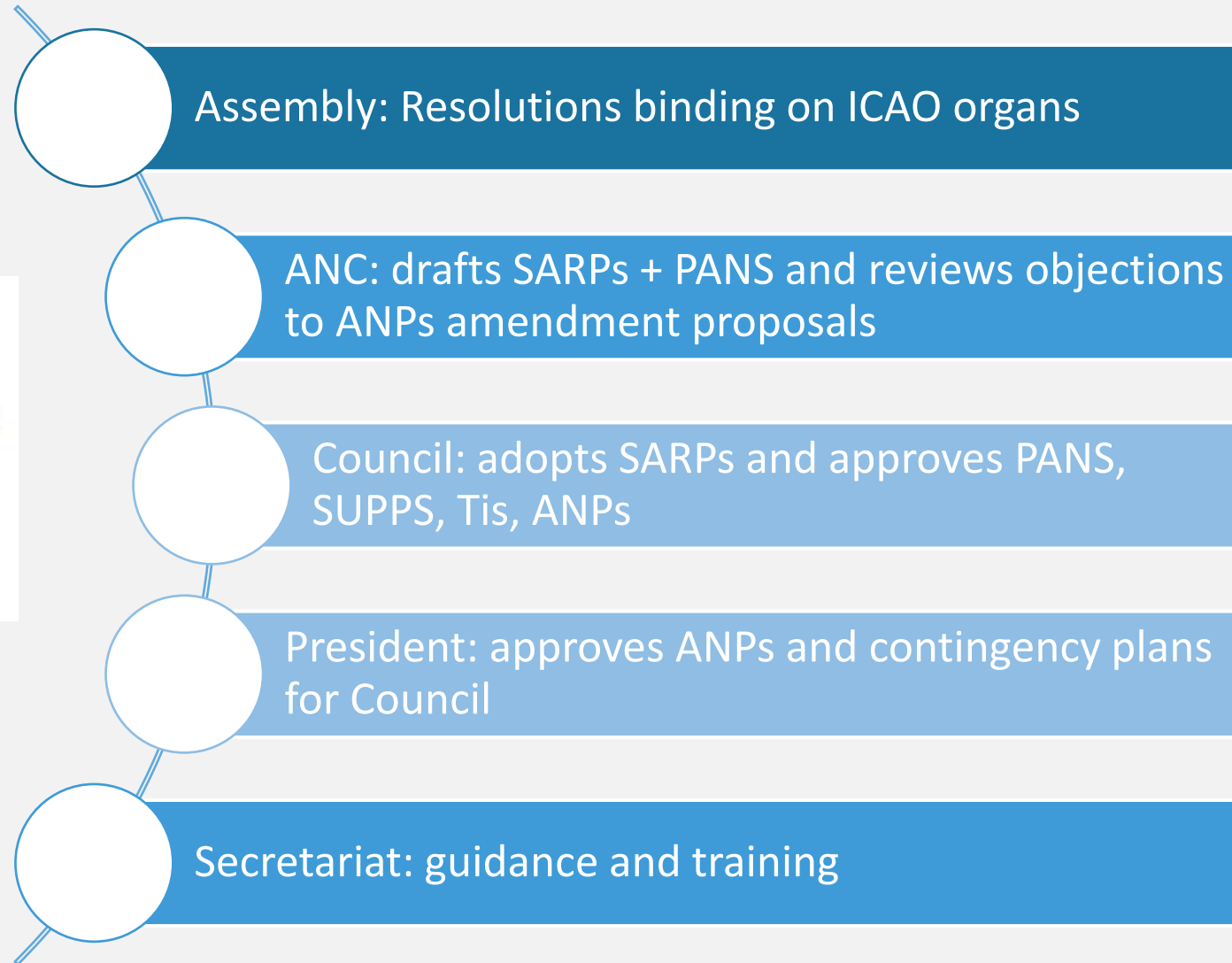
First Edition, 2021



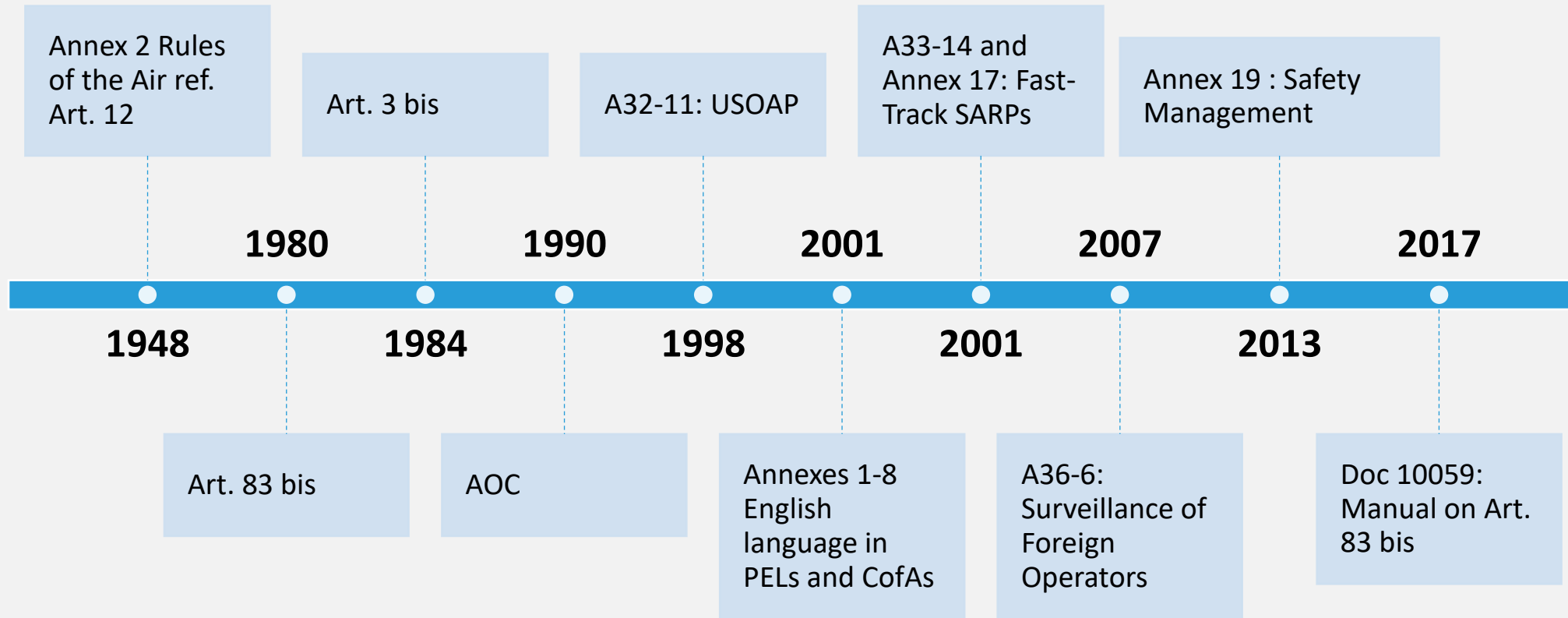
Approved by and published under the authority of the Secretary General

INTERNATIONAL CIVIL AVIATION ORGANIZATION

## 7. Conclusion: Key responsibilities



# Selected Milestones



---

# Thank You

