

AD-A271 118



January 13, 1981
NUMBER 4540.1

ASD(MRA&L)



Department of Defense Directive

SUBJECT: Use of Airspace by U.S. Military Aircraft and Firings
Over the High Seas

- References:
- (a) DoD Directive 4540.1, "Operating Procedures for United States Military Aircraft Over the High Seas," June 23, 1962 (hereby canceled)
 - (b) Agreement and Protocol between the Government of the United States of America and the Union of Soviet Socialist Republics on the Prevention of Incidents on and Over the High Seas, May 25, 1972 and May 22, 1973
 - (c) DoD Flight Information Publications, General Planning
 - (d) Article 3, Chicago Convention of 1944

A. REISSUANCE AND PURPOSE

This Directive reissues reference (a) and updates policy and operating procedures for operating U.S. military aircraft and for firings into airspace over the high seas. It also serves as background for discussions on the question of control of U.S. military operations in international airspace.

B. APPLICABILITY

The provisions of this Directive apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to as "DoD Components"). The term "Military Services," as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

C. DEFINITIONS

Military Aircraft. Includes manned and unmanned aircraft, remotely piloted vehicles, and cruise missiles.

D. POLICY

1. Freedom of the high seas includes the right of aircraft of all nations to use the airspace over the high seas. In accordance with the Geneva Conference on Law of the Sea, 1958, and international law, this freedom must be exercised by all countries with reasonable regard for the interests of other nations.

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2. It is the policy of the Department of Defense that all U.S. military aircraft and firings shall operate with due regard for the safety of all air and surface traffic. Further, when practical and compatible with the mission, U.S. military aircraft operating on the high seas shall observe:

a. International Civil Aviation Organization (ICAO) flight procedures.

b. Reasonable warning procedures with regard to the military aircraft of all nations and the Soviet Union, in accordance with the U.S.-USSR agreement (reference (b)).

E. OPERATING PROCEDURES

1. Selection of Operating Areas. Flight operations shall be conducted away from high density air traffic areas, when possible. Areas for aircraft and firing activities shall be selected so as not to interfere with established air routes and ocean shipping lanes. In establishing firing exercise areas, every effort shall be made to confine activities to warning areas, altitude reservations (stationary or moving), other special-use airspace, or any combination thereof. Arrangements for airspace or altitude reservations shall be made through the appropriate airspace or altitude reservation facility such as Central Altitude Reservation Facility (CARF), European and Pacific CARF.

2. Notices to Airmen or Mariners. When firings affect the safety of non-participating aircraft and ships, civil and military notices to airmen (NOTAMs) or notices to mariners (NMs) shall be promulgated. Coordination with appropriate air traffic control facilities is essential to ensure safe routing of civil and military aircraft to, from, and around operating areas.

3. Procedures for Conducting Aircraft Operations

a. Operations Conducted Under ICAO Procedures. Normally, routine point-to-point and navigation flights shall follow ICAO flight procedures. The General Planning section of reference (c) provides ICAO information, definitions, rules, and procedures.

b. Operations Not Conducted Under ICAO Procedures

(1) Generally, there are operational situations that do not lend themselves to ICAO flight procedures such as: military contingencies; classified missions; politically sensitive missions; or routine aircraft carrier operations or other training activities. Operations not conducted under ICAO flight procedures are conducted under the "due regard" or "operational" prerogative of military aircraft and are subject to one or more of the following conditions:

(a) Aircraft shall be operated in visual meteorological conditions; or

(b) Aircraft shall be operated within radar surveillance and radio communications of a surface radar facility; or

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(c) Aircraft shall be equipped with airborne radar that is sufficient to provide separation between themselves, aircraft they may be controlling, and other aircraft; or

(d) Aircraft shall be operated outside controlled airspace.

(2) The above conditions provide for a level of safety equivalent to that normally given by ICAO air traffic control agencies; and fulfill U.S. Government obligations under Article 3 of the Chicago Convention of 1944 (reference (d)), which stipulates there must be "due regard for the safety of navigation of civil aircraft" when flight is not being conducted under ICAO flight procedures. Essentially, flight under the "due regard" or "operational" option obligates the military aircraft commander to be his own air traffic control agency and to separate his aircraft from all other air traffic.

4. Operations in Foreign Air Defense Identification Zones (ADIZ). The General Planning section of reference (c) provides procedures for military aircraft penetrating a foreign ADIZ on a flight plan or intending to penetrate the sovereign airspace of the ADIZ country. Military aircraft transiting through a foreign ADIZ without intending to penetrate foreign sovereign airspace are not required to follow these procedures.

5. Procedures for Missile/Projectile Firings. Firing areas shall be selected so that trajectories are clear of established oceanic air routes or areas of known surface or air activity. An exception to this operating procedure may be made when it can be ascertained that aircraft are operating above the maximum ordinate of the trajectory.

6. Special Provisions

a. Details of classified operations shall not be divulged to unauthorized personnel.

b. In the event of combat operations in time of war, armed conflict, national emergency, situations requiring self-defense, or similar military contingencies, departure from the operating procedures in this Directive may be required. In all such instances, however, all possible precautions shall be taken to minimize any hazard to the safety of other air and surface traffic and departure from procedures set forth in this Directive shall be of no greater extent or duration than is required to meet the contingency.

c. The U.S.-USSR agreement (reference (b)) shall govern aircraft approaching aircraft and ships of USSR registry operating on and over the high seas, the provisions of which shall be published and updated in the General Planning section of reference (c).

F. RESPONSIBILITIES

1. Heads of DoD Components or designees shall comply with the provisions of this Directive.

2. The Director, Defense Mapping Agency, shall ensure that the provisions of this Directive are incorporated in the General Planning section of reference (c).

G. EFFECTIVE DATE

This Directive is effective immediately.

W Graham Claytor, Jr.
W. Graham Claytor, Jr.
Deputy Secretary of Defense

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