

# International Civil Aviation Organization: United States Should Repair Chinese Damage and Focus the Organization on Its Core Mission

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## KEY TAKEAWAYS

ICAO was created to provide vital services to aviation by codifying international aviation law, standards, and practices to ensure safety and security.

During her tenure, Secretary General Fang Liu undermined the impartiality and effectiveness of ICAO and compromised the security of the organization.

The United States should work with the future Secretary General to modernize ICAO, restore neutrality, improve safety, and condemn rule violations.

The International Civil Aviation Organization (ICAO), currently under the leadership of Secretary General Fang Liu, is a specialized agency of the United Nations that provides vital services to civil aviation by codifying international aviation law, standards, and practices to ensure safety and security.

Including ICAO, Chinese nationals currently lead four of the 15 United Nations specialized agencies.<sup>1</sup> The Chinese leaders of these organizations have supported pro-Beijing positions and endorsed Chinese projects such as the Belt and Road Initiative. The partiality of Chinese nationals, demanded by Beijing, violates the principle of neutrality that international civil servants are expected to observe and, in some instances, compromises the missions and mandates of the

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international organizations they lead. In addition, an underappreciated detriment of Chinese leadership is a management style that rejects transparency and accountability.

These problems should concern the United States and other members of the United Nations that depend on specialized agencies to act in a neutral manner to fulfill their missions and mandates and contribute to the safety, security, and reliability of international commerce, transportation, and other critical matters.

During her six years of leadership, Secretary General Liu has undermined the impartiality and neutrality of ICAO and compromised the security of the organization. Specifically, ICAO blocked Taiwan's participation in the organization, failed to promptly respond to abuses of the Chicago Convention—which underpins ICAO's role in global civil aviation—and concealed a cyber breach linked to a group with ties to the Chinese government that gained control of two ICAO servers with intent to spread malware to member governments and private industry.<sup>2</sup> As a manager, Liu has failed to modernize ICAO, resisted efforts to investigate and hold accountable those responsible for the cyber breach, defied demands for transparency, took little action to address pervasive sexual harassment, and condoned retribution against whistleblowers within the agency.

Liu will complete her second term this summer. Juan Carlos Salazar of Colombia will succeed her in August 2021. The United States should work closely with him to repair the damage done by Liu, including investigating the cyber breach and addressing any outstanding vulnerabilities, modernizing and reforming ICAO to improve transparency and accountability, confronting threats to civil aviation, and securing full international compliance with aviation safety standards.

## ICAO: Origins and Structure

Use of aviation for passenger and freight purposes grew rapidly prior to and during World War II, leading the United States to call for a new treaty to adopt uniform rules, standards, and practices for civil aviation. The International Civil Aviation Conference, held in Chicago in 1944, was convened with 54 attending nations to address these matters. The resulting Convention on International Civil Aviation, also called the Chicago Convention, was signed by 52 governments and entered into force in April 1947.<sup>3</sup>

The Chicago Convention established the International Civil Aviation Organization, which stood up immediately in 1944 in a provisional manner and was formally codified in 1947 with the entry into force of the

convention. One of the first decisions of the first ICAO Assembly was to approve a relationship agreement between the United Nations and ICAO. The organization officially became a U.N. specialized agency in October 1947.

Although a part of the U.N. system, ICAO is an autonomous international organization with a separate membership and governance structure. There are three arms of governance:

1. The **ICAO Council** is comprised of 36 member states elected by the ICAO Assembly. Factors considered in the election include importance in air transport, contribution of facilities for international civil air navigation, and geographic representation.<sup>4</sup> The Council provides regular direction to the work of ICAO, adopts international Standards and Recommended Practices (SARPs), submits annual reports to the ICAO Assembly, administers the finances of ICAO, appoints and defines the duties of a number of ICAO committees, and appoints the Secretary General.
2. The **ICAO Assembly** is composed of all 193 ICAO member states. It meets at least once every three years but can meet in extraordinary sessions at the request of the ICAO Council or of at least one-fifth (39 of 193) of the member states. The Assembly elects members of the ICAO Council, reviews and takes actions recommended by the Council as it deems appropriate, and approves the budget of the organization. The Assembly can also approve amendments to the convention, although those amendments are subject to ratification by member states.
3. The **ICAO Secretariat**, led by the Secretary General, carries out the daily responsibilities of the organization.<sup>5</sup> In addition to the headquarters in Montreal, ICAO maintains seven regional offices in Bangkok, Cairo, Dakar, Lima, Mexico City, Nairobi, and Paris.<sup>6</sup> A regional sub-office, the only such office established by ICAO, was set up in Beijing in 2013.<sup>7</sup>

Compared to other U.N. specialized agencies, ICAO is relatively small. In 2019, ICAO had 771 employees.<sup>8</sup> ICAO's triennial budget for 2020–2022 totaled \$256.3 million.<sup>9</sup> As with most international organizations, the United States is the largest financial contributor to ICAO, assessed 20.5 percent<sup>10</sup> of the budget in accordance with the methodology on apportionment for ICAO,<sup>11</sup> which for 2020 was approximately \$21.2 million.

## ICAO Mission

ICAO was established to facilitate diplomacy and cooperation in civil aviation and air transport between nations. In support of this mission, ICAO provides a forum for discussions and provides expert advice and research on aviation policy, safety, and standardization. In addition to member state governments, other international organizations, aviation industry groups, civil society, and other concerned parties can participate at ICAO as “Invited Organizations.”<sup>12</sup>

The primary products of ICAO are international SARPs and Procedures for Air Navigation (PANS) governing international civil aviation that “provide the fundamental basis for harmonized global aviation safety and efficiency in the air and on the ground, the worldwide standardization of functional and performance requirements of air navigation facilities and services, and the orderly development of air transport.”<sup>13</sup>

These SARPs and PANS are arrived at through deliberation. Government and non-government stakeholders raise and consider matters within the remit of ICAO, and the secretariat “convenes panels, task forces, conferences and seminars to explore their technical, political, socio-economic and other aspects.”<sup>14</sup> The ICAO Secretariat presents the results to governments with advice for new SARPs.

All new standards are arrived at through consensus and adopted by all 193 member states to avoid inconsistency and ensure that there is global observance and implementation in civil aviation standards and practices. The Chicago Convention is currently on its ninth edition, and its annexes now include more than 12,000 international SARPs, all of which have been agreed to by consensus by the ICAO Assembly.<sup>15</sup>

Despite this voluminous pile of standards, ICAO is not a global regulator. Its standards have no legal authority to supersede national regulations or laws. National authorities are responsible for implementing and enforcing aviation standards and practices. If a country fails to meet ICAO standards, the organization will urge and request compliance or, if the failure is inadvertent, assist willing governments in meeting those standards.

The organization has no enforcement power for non-compliance with SARPs or PANS. ICAO cannot close or restrict airspace, shut down routes, penalize violating airlines or airports, or take other punitive actions. ICAO can only alert national authorities of its concerns; it is up to national authorities to act upon those concerns.

If a country willfully violates international law as expressed in the Chicago Convention or its articles and annexes, ICAO has no organizational authority to sanction or act against the transgressor. Governments, however,

can raise issues of non-compliance under Article 84 of the Chicago Convention.<sup>16</sup> Settlement of disputes are resolved by the council but are subject to arbitration and appeal as outlined in Articles 85 and 86. Ultimately, the Chicago Convention provides for two penalties—one for airlines and one for countries that do not conform to the procedures outlined to settle disputes:

Article 87—Penalty for non-conformity of airline: Each contracting State undertakes not to allow the operation of an airline of a contracting State through the airspace above its territory if the Council has decided that the airline concerned is not conforming to a final decision rendered in accordance with the previous Article.

Article 88—Penalty for non-conformity by State: The Assembly shall suspend the voting power in the Assembly and in the Council of any contracting State that is found in default under the provisions of this Chapter.

Other actions or punishments against governments must be taken outside of ICAO either by a government or group of governments or by an international organization with authority to act in ways that ICAO cannot. For instance, if violations presented a threat to international peace and security, the U.N. Security Council could take up the issue.

## Pervasive Management Problems

Many U.N. organizations have a history of poor governance, mismanagement, and accountability. ICAO, however, appears to be a poor performer even by U.N. standards. In a speech before the International Aviation Club of Washington, DC, former U.S. Ambassador to ICAO Thomas Carter detailed a litany of institutional problems, including the lack of a formal ethics program, bullying, sexual harassment, failure to address internal complaints, and institution-wide efforts to cover up problems:<sup>17</sup>

[T]o put it bluntly, when I arrived there was absolutely nowhere to turn if an individual ICAO employee had a legitimate complaint of wrongdoing. For the entire year of 2017 prior to my arrival, I understand that 16 formal complaints were filed, with only one matter investigated, and that individual admitted to financial fraud.<sup>18</sup>

Under pressure from the United States, including financial withholding,<sup>19</sup> ICAO approved the establishment of an independent Investigations Committee to review complaints and recommend investigations, although it remains unclear if it has been fully staffed.<sup>20</sup>

However, this only partially addresses ICAO's deficiencies. A 2018 internal *Review of Whistle-Blower Policies and Practices in United Nations System Organizations* indicted internal ICAO procedures, citing a lack of "explicit provisions for anonymous reporting," no "options for external reporting of misconduct/wrongdoing," "no internal professional investigative capacity," no provision for an external and independent appeals process, and requirements that an "investigation cannot be opened without the prior approval of the executive head," among other inadequacies.<sup>21</sup> Discussions with ICAO staff highlighted numerous examples of wrongdoing, including the ousting of ICAO's ethics officer after she proved too diligent at her position, replacing her temporarily with an official with a conflict of interest from ICAO's legal bureau, and failing to protect internal complaints that were leaked—complete with names and charges—to the subjects of the allegations.<sup>22</sup> Some complainants were subsequently subject to retaliation.<sup>23</sup>

## Sexual Harassment

In addition, ICAO has a poor record on sexual harassment. A U.N.-wide survey of sexual harassment conducted by Deloitte—the Safe Space Survey—looked at different U.N. organizations to assess the prevalence of sexual harassment, tolerance for sexual harassment, if the organization clearly defined sexual harassment, and how well information about sexual harassment policies and procedures was disseminated.<sup>24</sup> According to insiders, ICAO ranked as one of the worst performing specialized agencies in the U.N. system. In a separate document prepared for ICAO and provided to the authors, Deloitte notes, "Overall the results of the ICAO Secretariat are less favourable than the average of the UN System as a whole."<sup>25</sup> For a sense of the scope of ICAO's underperformance, those surveyed at the agency reported that 45.7 percent had experienced sexual harassment in the previous two years. The overall average for the U.N. system was 33 percent. Most ICAO women in the survey, 52.7 percent, reported harassment versus an overall U.N. rate of 33 percent. Meanwhile, in the question that serves as a proxy for the responsiveness of management, ICAO respondents reported a lack of a "clear definition of what constitutes sexual harassment," a lack of "clear and accessible information about sexual harassment policy and procedures," and a lack of information about "behaviors that should not be tolerated" by their agency. In each instance, ICAO numbers deviated negatively from the U.N. average. Unsurprisingly, mismanagement and systemic harassment issues have contributed to low morale and vacancies.<sup>26</sup>

## The 2016 Cyberattack

The problems of mismanagement and poor accountability at ICAO were exacerbated under the management of Secretary General Liu, who pressured and manipulated the organizations in several ways to the benefit of China while compromising the mission and independence of ICAO.

In 2016, ICAO was hit with the most damaging cyberattack in its history, which gave hackers control of two of ICAO's servers. The hackers sought to use that access to spread malware to foreign governments and the aviation industry. They were successful in infecting private-sector entities<sup>27</sup> and at least one member state. "Within 30 minutes of the hack on ICAO, at least one of the U.N. agency's 192 member states, Turkey, had been compromised."<sup>28</sup> The hackers also gained access to ICAO's webmail server, domain administrator, and system administrator accounts—the gateway to user passwords and other private, proprietary, and sovereign information.

The Canadian Broadcasting Corporation (CBC) revealed that the cyber intrusion was almost certainly perpetrated by the Chinese-government-linked espionage organization "Emissary Panda." The breach was discovered and reported to ICAO by private-sector aviation industry experts.<sup>29</sup> CBC reports indicate that ICAO's information and communications technology team and ICAO's deputy director of information management and general administration interfered with internal and external efforts to contain the damage, eliminate compromised systems, alert those impacted, and investigate how the breach occurred.<sup>30</sup>

Separately, U.N. investigators eventually uncovered a pattern of malfeasance, absenteeism, and cover-ups that ended with the original four IT team members being escorted from ICAO headquarters.<sup>31</sup> Within weeks, however, all were back at work. Reportedly, no further disciplinary action was taken in response to their failure to prevent, detect, and contain the damage caused by the cyber hack. To the contrary, James Wan, the person in charge of the IT team, was awarded a new contract in September 2019 with an unlimited term despite his failures relating to the cyber hack and ethical breaches involving awarding "\$240,000 worth of consulting contracts to his Concordia University doctoral supervisor while still his student."<sup>32</sup>

Compare this response by Liu to actions taken against whistleblower Vincent Smith, ICAO's Director of the Bureau of Administration and Services, who made numerous internal disclosures of security breaches that threatened civil aviation security and safety in connection to the 2016 cyber hack. He was fired after publicly revealing problems related to the cyber hack. According to Smith, Liu created a "toxic and hostile" work environment

characterized by “a culture of impunity [that] exonerated alleged offenders of wrongdoing without an investigation, it also added to the cult of personality, deference and personal loyalty to the secretary general from those exonerated.”<sup>33</sup> The Government Accountability Project noted that after Smith talked to the press, Secretary General Liu sought to discredit Smith and delayed incorporating a whistleblower policy into ICAO’s service code, which she coordinated with the council’s leadership, hoping that such inaction would allow her to retaliate against Smith with impunity.<sup>34</sup>

## Missing Its Primary Mission

The primary focus of ICAO is to promote and improve the safety and security of civilian aviation and air transport. Yet ICAO has been falling short in securing full international compliance with safety standards. As of March 2020, the average effective implementation of ICAO safety standards for audited member states (six states had not been audited) was 68.83 percent.<sup>35</sup> Only 46 percent had an effective implementation above 75 percent. More concerning is the fact that 24 audited states (13 percent) had an effective implementation under 40 percent, including eight member states with an effective implementation below 20 percent.<sup>36</sup> Thirty percent of the governments that ICAO notified of a potential security inspection from 2017 to 2019 declined to welcome the ICAO inspection.<sup>37</sup> Nonetheless, these governments and airlines remain in good standing as ICAO member states, and ICAO has not issued public warnings as to potential safety concerns.

Instead of focusing on full compliance with existing standards, ICAO has focused on tangential missions. For instance, the organization has increasingly focused on minimizing the adverse effects of international civil aviation on climate change.<sup>38</sup> Emissions arising from civil aviation are a major contributor to greenhouse-gas emissions, but establishing new standards for emissions is only one facet of a much larger issue. Moreover, establishing such standards is beyond ICAO’s remit. Similarly, some governments and officials in ICAO have pressed the organization to insert itself into commercial space traffic.<sup>39</sup> This is a complex and politically fraught area and well beyond an organization that cannot even secure full compliance for its existing standards.

In addition, ICAO has been dilatory in responding to serious dangers to civil aviation. For instance, the recent conflict among Saudi Arabia, the United Arab Emirates, and Qatar that resulted in the closure of airspace in the Arabian Gulf—although ultimately addressed by ICAO—was ignored for months. Persistent drone attacks on civilian airports in the gulf by

Iranian-backed Houthi rebels in Yemen have endangered civil aviation.<sup>40</sup> And while it is true that ICAO has very little authority to act against member states for these actions that endanger civil aviation, it could and should refer such matters to the U.N. Security Council for potential action if they represent threats to the safety and security of international civil aviation.

## Air Defense Identification Zones

The United States first established the concept of an Air Defense Identification Zone (ADIZ) that establishes an airspace over land or water requiring, for reasons of national security, the identification, location, and regulation of civilian aircraft in specified circumstances. As the United States is the originator of the concept, its practices are considered standard. The United States requires aircraft bound for its territorial airspace to provide position reports and alerts prior to territorial penetration. “[F]oreign military aircraft can operate freely and without regard for the identification requirements in the U.S. ADIZ as long as they do not intend to operate to or from sovereign U.S. airspace; if they do intend to enter U.S. national airspace, then they are generally expected to follow all ADIZ regulations and procedures.”<sup>41</sup> ADIZs exist the world over, and most are non-controversial and negotiated between the nations impacted.

In 2013, Beijing established an East China Sea (ECS) ADIZ that encroached upon already extant ADIZs of Taiwan, Japan, and South Korea. Since the declaration, China has committed more than 4,400 intrusions into these ADIZs for training, gathering intelligence, straining resources of target nations, and asserting territorial claims.<sup>42</sup> Departing from standard practice, Beijing demands that aircraft within its declared ECS ADIZ follow its identification rules even if they do not intend to enter territorial airspace, share a flight plan with China’s Ministry of Foreign Affairs or Civil Aviation Administration, maintain radio and transponder identification with China, and follow Chinese “instructions.”<sup>43</sup> Chinese ADIZ practices “have the potential to destabilize the [ECS] region” and beyond if Beijing seeks to establish an ADIZ in the South China Sea, “where China is entangled in numerous maritime territorial disputes in a small space and where civil air travel is increasing dramatically, creating a complex air environment for U.S. pilots.”<sup>44</sup>

The International Federation of Airline Pilots Association has complained to ICAO about problems involving Beijing’s ECS ADIZ,<sup>45</sup> including rerouting, failure by Beijing to respond to timely requests, and other issues. Japan and the United States also formally complained to ICAO about the challenge to commercial air traffic and infringement of its Flight

Information Region (FIR) by the new ADIZ.<sup>46</sup> The government of Japan initially refused to comply with these demands but was undercut after the U.S. Federal Aviation Administration issued a “notice to airmen” recommending compliance.<sup>47</sup>

China is not the only country to assert rights and restrictions beyond U.S. practice, but its actions have been especially expansive and seemingly intended to limit foreign military surveillance permitted under international law and to bolster its territorial claims versus those of neighboring nations.<sup>48</sup>

The Chicago Convention is silent on ADIZs, which postdate the convention, but it does provide guidance on military engagement with civilian aircraft and other matters relating to sovereignty and territory. Article 1 of the Chicago Convention specifies that each nation has “complete and exclusive sovereignty over the airspace above its territory” with *territory* defined in Article 2 as “the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or mandate of such State.”<sup>49</sup> ICAO has responsibility for international civil aviation and, as such, is the most appropriate venue to address civilian aircraft affected by the ECS ADIZ, including the adverse impact of Chinese assertions of requirements over civilian aircraft that are inconsistent with air traffic control in FIRs overlapping the ECS ADIZ.<sup>50</sup> As the Congressional Research Service noted in a 2015 report to Congress:

ICAO appears to be the most appropriate authority for hearing concerns regarding the establishment of and procedural requirements for ADIZs. As previously noted, however, neither the Chicago Convention nor ICAO standards and recommended practices specifically address issues pertaining to ADIZs. The United States or any other member nation could petition ICAO or take a lead role in proposing and drafting a proposed ICAO standard or recommended practice pertaining to the establishment of ADIZs and flight operational procedures within a designated ADIZ...

A possible future course of action for countries opposing China’s establishment of or procedural requirements for civil aircraft flying in its ECS ADIZ would be to file a formal complaint before ICAO in what is referred to as an Article 84 filing. Article 84 of the Chicago Convention establishes a formal ICAO process for settling differences among member countries. Since ADIZs are not formally recognized under the Chicago Convention or international civil aviation law, there is no clear precedent for how ICAO may resolve such a complaint.<sup>51</sup>

It is important to note that ICAO involvement could have implications for the ADIZs maintained by the United States. However, ICAO's failure to confront the ECS ADIZ poses even greater risks by tacitly condoning aggressive demands by Beijing and enabling similar future actions in a prospective ADIZ in the South China Sea.<sup>52</sup>

## Taiwan

ICAO has bowed to Beijing's political agenda in other areas as well, notably in the case of Taiwan. Under Liu, the organization ignored direct challenges to ICAO's rulemaking by China in 2018 when it unilaterally opened civilian air routes through the Taiwan Strait in contravention of the ICAO Air Traffic Services Planning Manual. That year, Beijing announced that the M503 civilian air path through the Taiwan Strait would henceforth be open to northbound traffic (it previously allowed only southbound flights) and "announced three new west-east feeder routes to the M503."<sup>53</sup> This action violated not only ICAO's rules but also a 2015 agreement with Taiwan to consult prior to any such unilateral steps.<sup>54</sup> Notwithstanding protests to ICAO, the organization ratified the Chinese move in 2019.

Taiwan was permitted to attend an ICAO meeting in 2013 as an observer when Taipei was governed by a candidate deemed by Beijing to be sufficiently pro-mainland. More recently, however, ICAO has repeatedly rejected Taiwanese efforts to attend ICAO meetings despite Taipei's status as a major air traffic hub.<sup>55</sup> And as COVID-19 spread globally, ICAO doubled down on its shunning of Taiwan, refusing to share any information about aviation operations.<sup>56</sup> In January 2020, ICAO's social media manager blocked Twitter accounts that took aim at ICAO's exclusion of Taiwan.<sup>57</sup>

## Other Abuses

Liu has also used her position to benefit Beijing's other foreign policy goals. In contravention of her obligation to neutrality as an international civil servant,<sup>58</sup> Liu has vigorously supported China's Belt and Road Initiative,<sup>59</sup> sought to reintegrate North Korea into global aviation,<sup>60</sup> and encouraged nations to permit Chinese flights in the early COVID-19 outbreak,<sup>61</sup> which led to the more rapid spread of the pandemic.<sup>62</sup>

Finally, under Liu, ICAO has failed to address other actions by China in the South China Sea that endanger civil aviation. In 2016, Vietnam complained to ICAO of violations of the Ho Chi Minh FIR, including 46 Chinese government "state" flights that took place without notice, including

commercial jetliners without commercial passengers.<sup>63</sup> Among other incursions, the aircraft landed at Fiery Cross Reef, an island of the Spratly Islands chain claimed by both Hanoi and Beijing. While China rebuffed Vietnam's complaints,<sup>64</sup> the risk posed to civilian aviation from these flights is real. Air traffic control for the Ho Chi Minh FIR had no advance knowledge of the flights through the region and claimed that the Chinese flights crossed the paths of several civilian jetliners.<sup>65</sup>

ICAO's jurisdiction covers only civilian air travel and does not apply to what are called "aircraft used in military, customs and police services."<sup>66</sup> State aircraft are exempt from rules governing civilian aircraft and do not require advance notification or coordination with the authority controlling FIRs. This provided Liu and ICAO with an excuse to ignore the matter, but ICAO should take seriously threats to civil aviation and should not let China use the ambiguity of the convention for abuse.

## Recommendations

The United States has a clear incentive to repair the problems at ICAO and focus the organization on its core mission to promote safety and security of civil aviation. In addition to promoting safety and security, the United States has an economic interest in improving ICAO. Although hit hard by COVID-19, aviation supported over 65 million jobs and contributed \$2.7 trillion to the global economy in 2018.<sup>67</sup> In the United States, the industry contributed over 2.2 million jobs and \$267 billion to the economy.<sup>68</sup> By any standard, aviation is vital in the modern economy.

The United States should work closely with Juan Carlos Salazar of Colombia when he becomes Secretary General of ICAO in August 2021 to repair the damage done by Liu, modernize ICAO, restore neutrality to the organization, and enforce agreed rules and regulations. Specifically, the U.S. should:

- **Seek a thorough investigation into the 2016 cyber breach and identify ongoing vulnerabilities.** In 2016, ICAO experienced the most serious cyber hack in its history, which was attributed to a group with ties to the Chinese government. The ICAO Secretary General sought to suppress information about the breach, and the organization worked to ensure that there was little to no accountability from what was almost certainly a Beijing-directed attack. The United States should press the new Secretary General to conduct a robust internal investigation of the matter, initiate a comprehensive examination of

ICAO cyber systems, hold individuals accountable where appropriate, resolve outstanding vulnerabilities, including personnel vulnerabilities, and enhance security.

- **Demand that ICAO focus on its core mission of safety and security.** That so many countries fall so short in complying with ICAO's established security and safety standards is disquieting. This poses risks for civil aviation around the world. ICAO should make 100 percent compliance a top priority and publicly list countries that decline to cooperate with ICAO security inspections.
- **Urge ICAO to fulfill its responsibility for protecting the safety of civilian aviation in the face of aggressive acts by states.** The ICAO Council "may investigate any situation which presents avoidable obstacles to the development of international air navigation and, in general, it may take necessary steps to maintain the safety and regularity of international air transport."<sup>69</sup> Aggressive actions by China have created potential threats to the safety and security of civil aviation. A recent Taiwanese flight carrying COVID-19 vaccines judged it would be too dangerous to fly through any Beijing-controlled FIRs.<sup>70</sup> The most persistent state actor in this area is China, but the recent diversion of a Ryanair flight by Belarus further highlights willingness by other governments to abuse their authority.<sup>71</sup> The United States has lodged protests with ICAO on Chinese ADIZ practices and announced that it would raise the actions of Belarus with the ICAO Council.<sup>72</sup> Although ICAO has limited authority to respond to Chinese actions, the United States can and should urge ICAO to reinforce the principle of freedom of overflight of civil aviation in international air space, endorse U.S. ADIZ practices in regard to civil aviation, condemn aberrant actions and demands as a disruption and a threat to civil aviation, and refer these matters to the U.N. Security Council when they pose a threat to international peace and security.
- **Press for Taiwan observer status in ICAO.** Taiwan is a self-governing territory with one of the busiest air traffic hubs in the world. Failure to allow Taiwan to participate in ICAO deliberations undermines ICAO's mission and purpose to promote universal standards and procedures involving government and non-government stakeholders.

- **Support modernizing ICAO to advance transparency and enhance accountability.** Many have noted ICAO's unwillingness to update internal systems, protect whistleblowers, and put in place adequate oversight. At best, the organization is years behind the times. Member states and the ICAO Council should work with the new Secretary General to mitigate these problems and bring ICAO into the 21st century.
- **Work to review ICAO standards to make sure they are current.** The Chicago Convention and its annexes include more than 12,000 international SARPs. Obviously, these standards were adopted over time and were deemed pertinent and prudent when adopted. But the sheer number of these practices makes compliance less likely. ICAO should periodically review older SARPs with a view to streamlining and ensuring they are consistent with modern civil aviation.

## Conclusion

ICAO provides vital services to aviation by codifying international aviation law, standards, and practices to ensure safety and security. Regrettably, the organization has been hindered by poor management, a lack of transparency, a tolerance for slipshod compliance with its standards, a climate of harassment and fear for whistleblowers, and other problems that have negatively impacted its effectiveness. These problems have been compounded under the leadership of Secretary General Fang Liu, who has abused her position to advance policies dictated by Beijing and conceal breaches that threatened the security of ICAO, the member states, and the aviation industry. The United States should work closely with Juan Carlos Salazar of Colombia, who will become Secretary General of ICAO in August, to repair the damage done by Liu, modernize ICAO, restore neutrality to the organization, focus the organization on its core mission, and enforce agreed upon rules and regulations.

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## Endnotes

1. In addition to ICAO, Chinese nationals currently lead three other United Nations specialized agencies: Qu Dongyu at the Food and Agriculture Association, Zhao Houlin at the International Telecommunications Union, and Li Yong at the United Nations Industrial Development Organization.
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