

# Legal and regulatory issues

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## Content of the presentation

- I –Relation between contingency and law
- II – Legal framework
- III- Actors concerned and respective responsibilities
- IV – Specific aspects
- V – Guidance documentation

## I – Contingency and law

- Related to safety critical operations
- Responsibilities and liabilities involved
- Precautions and obligations
- In same region, need for a harmonised approach

## II – Legal framework

- Applicable rules
  - ICAO Annex 11, Attachment C
  - (EC) Regulation No 2096/2005, § 8.2 (+ EC Regulation No 550/2004, Art. 10)
  - National rules
- Scope of application
  - Geographical scope
  - Services concerned
  - Status of the ANSP (civil/mil)

### III – Actors concerned - States

- Assign national requirements to ANSPs through laws, regulations or designation act
- Entrust the NSA with the oversight of contingency plans
- Coordinate with ICAO, foreign States, users and other stakeholders
- Approve possible contingency agreements between ATSPs
- Include contingency provisions in FAB agreements between States

### III – Actors concerned - NSAs

- Define and communicate to the ANSPs the procedures for the oversight
- Verify and the existence, content and adequacy of the contingency plan
- Approve the contingency plan or request corrective actions (or apply sanctions)
- Establish international cooperation
  - Make arrangements with other NSAs, when agreements between ANSPs
  - Oversight of multiple ACC





### III – Actors concerned – ANSPs

- Prepare contingency plans
- Coordinate with other ANSPs (arrangements for liability);
- Review contracts with suppliers
  - No interruption of service (if possible)
  - Guarantee minimum service (if degradation)
- Ensure appropriate insurance coverage
  - Communicate plan to insurers
  - Reduce premiums
- Implement /apply the plan when necessary

## IV – Specific aspects - Liabilities

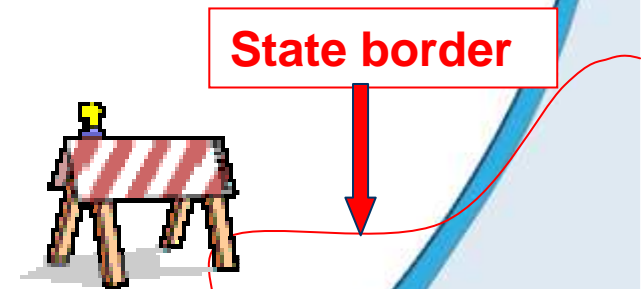


- Liability incurred by all actors when failure to respect their respective obligations
- Liability between the parties to be arranged in contracts/agreements (recourse actions, applicable law, competent courts, etc.)
- Ultimate liability of the State

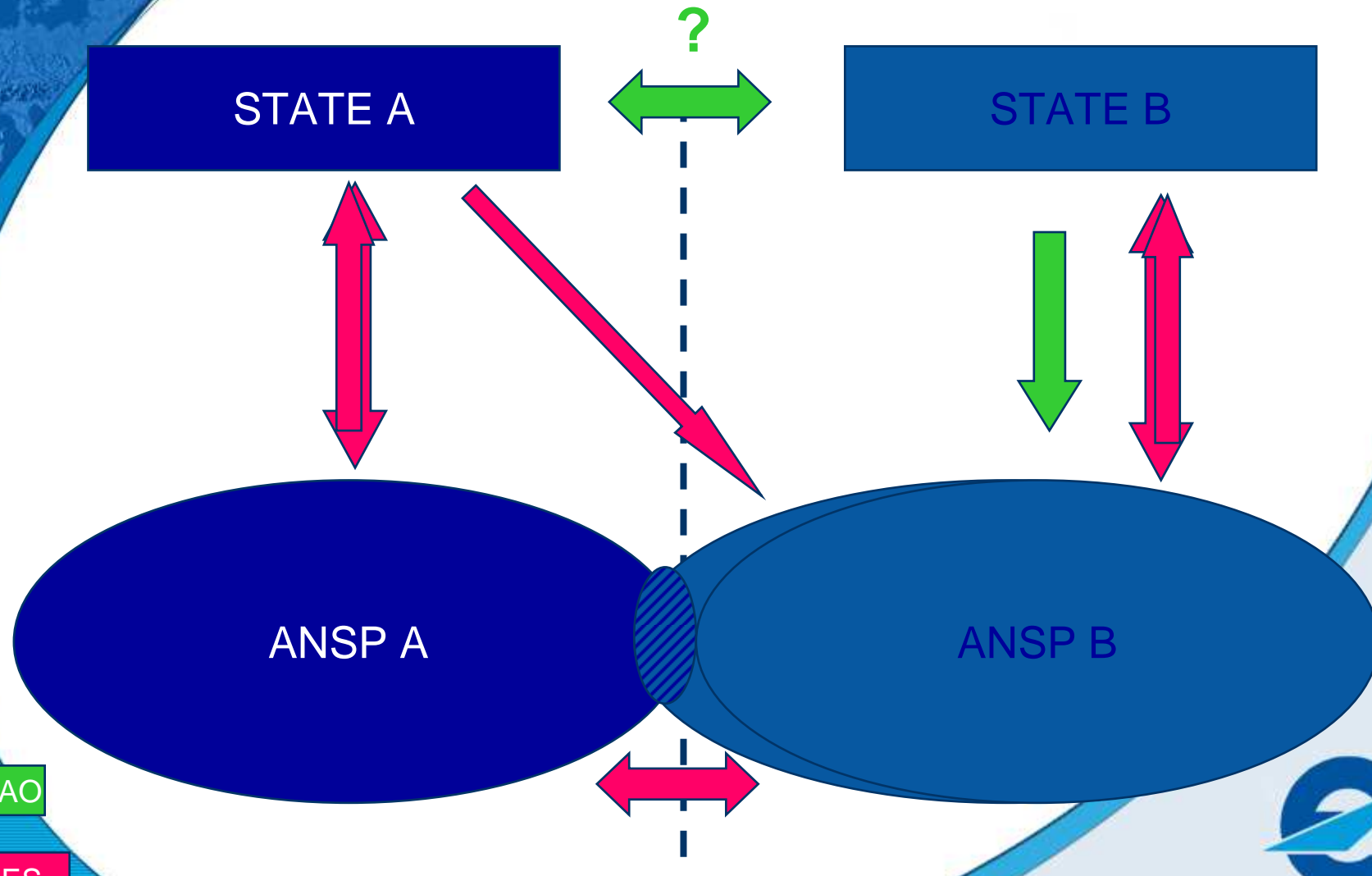


## IV – Specific aspects - Cross-border situations

- Liability aspects more complex in cross-border situations
- Necessity to ensure appropriate written agreements addressing in particular:
  - Identification of services concerned (and expected level)
  - Definition of geographical area
  - Applicable operational rules
  - Respective liabilities
  - Staff training, etc.
- Regulator's approval needed



## IV – Specific aspects – Cross-border situations (2)



ICAO

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## IV – Specific aspects - FABs

- Legal framework based on the FAB Agreement between States
- One common/joint contingency plan
- Particular difficulty due to the number of operational rules
- **Example:** *“The Contracting States shall ensure that the ANSPs develop a common Contingency Plan for all the services provided within the FAB establishing the procedures among the Units/Authorities concerned. The Plan shall be developed in compliance with, inter alia, the requirements of Annex 11 to the Chicago Convention. The Contingency Plan shall be developed before the start of the operations of the FAB”.*

## V – Where to find more info in the Guidelines ?

- § 6.1 Roles and responsibilities + Appendix A
- § 6.3 Legal aspects
- Appendix F - Model Contingency Agreement between ANSPs
- FAQs

## Conclusion

- Legal obligations related to contingency not to be neglected
- Written arrangements preferred
- Importance of « due diligence »

Thank you