

tor.¹²⁴ This convention also requires insurance or a guarantee of ability to cover liability, and can be required to produce proof thereof.¹²⁵

The hazardous nature of space activities is clear, and on that basis, State responsibility and liability for damage caused by space objects is reasonable and possibly desirable. That said, limiting the liability of operators both reduces the financial barriers to entry into the space arena, and reduces the cost of insurance necessary to safeguard companies from potential financial ruin in the case of damage. From this perspective, limiting liability for suborbital or hypersonic operators, who are largely operating in airspace, could substantially improve the viability of the industry.

C. Safety in Air Law and the Chicago Convention

The International Civil Aviation Organization (ICAO), in accordance with the Chicago Convention, promulgates safety standards for international civil aviation.¹²⁶ Article 44 of the Chicago Convention calls upon ICAO to ensure safe, regular, efficient, and economical air transport.¹²⁷ Article 37 provides a commitment to collaborate to obtain uniformity in areas which will improve or facilitate air navigation.¹²⁸ “International air transport operates within an extremely complex legal network that is based on air services agreements between national governments and on rules and regulations made by the ICAO...and IATA (International Air Transport Association).”¹²⁹

Annex I to the Chicago Convention defines aircraft as follows: “Any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth’s surface.” This would inherently rule out craft that are only rocket powered and do not have glider capabilities (because a traditional rocket-powered craft cannot derive any support from the air – reactions against the Earth’s surface are irrelevant in this

¹²⁴ *General Risks Convention*, *supra* note 120, art. 3.

¹²⁵ *Id.* at art. 9.

¹²⁶ Convention on International Civil Aviation, Dec. 7, 1944, 61 Stat. 1180, 15 U.N.T.S. 295.

¹²⁷ *Id.* at art 44.

¹²⁸ *Id.* at art 37.

¹²⁹ Spada, *supra* note 86, at 1.