



COMITÉ JURIDIQUE — 37^e SESSION

(Montréal, 4 – 7 septembre 2018)

Point 2 : Examen du Programme général des travaux du Comité juridique

Point 2-2 : Examen d'orientations sur les conflits d'intérêts

Point 2-4 : Examen de la création d'un cadre juridique en ce qui concerne les systèmes CNS/ATM, y compris les systèmes mondiaux de navigation par satellite (GNSS), et les organismes multinationaux régionaux

Point 2-5 : Détermination du statut d'un aéronef – civil/d'État

Point 2-6 : Promotion de la ratification des instruments de droit aérien international

EXAMEN D'AUTRES POINTS INSCRITS AU PROGRAMME GÉNÉRAL DES TRAVAUX DU COMITÉ JURIDIQUE

(Note présentée par le Secrétariat)

1. INTRODUCTION

1.1 La présente note de travail rend compte des travaux portant sur les points 2-2, 2-4, 2-5 et 2-6 du Programme général des travaux du Comité juridique qui ne sont pas traités dans les notes LC/37-WP/2-1, WP/2-3, WP/2-7 et WP/2-8.

2. EXAMEN D'ORIENTATIONS SUR LES CONFLITS D'INTÉRÊTS

2.1 Le Conseil, à la quatrième séance de sa 209^e session, le 25 novembre 2016, a confirmé que ce point était classé au deuxième rang dans l'ordre des priorités du Programme général des travaux du Comité juridique.

2.2 À sa 36^e session (du 30 novembre au 3 décembre 2015), notant qu'il est nécessaire pour tous les États de disposer d'un cadre pour gérer les conflits d'intérêts en aviation civile, vu leur fréquence, le Comité juridique a décidé qu'il fallait poursuivre les travaux sur cette question et qu'une résolution serait notamment présentée à la 39^e session de l'Assemblée de l'OACI (du 27 septembre au 6 octobre 2016). L'Assemblée a donc adopté la Résolution A39-8 : *Conflits d'intérêts en aviation civile*, dans laquelle elle prie instamment les États de créer un cadre relatif aux conflits d'intérêts, applicable aux activités de l'aviation civile. En outre, elle charge le Conseil de faciliter la collecte, l'analyse, la diffusion et la promotion de pratiques optimales en matière de conflits d'intérêts, pour le bénéfice des États membres. Elle demande aussi au Secrétaire général de continuer à recueillir des renseignements auprès des États et des organisations intergouvernementales compétentes sur les politiques et mesures à cet égard, et d'élaborer un document de référence qui recense les dispositions de l'OACI contenues dans les Annexes et les manuels concernant les conflits d'intérêts.

2.3 En ce qui concerne la tâche d'élaborer le document de référence susmentionné, qui lui est confiée dans la Résolution A39-8, le Secrétariat a réalisé des recherches et un examen multidisciplinaire en 2017 afin de recenser les dispositions de l'OACI concernant les conflits d'intérêts. Un récapitulatif de ces dispositions figure à l'**Appendice A** à la présente note. Il sera consultable dans le site web de l'OACI.

2.4 En outre, l'Assemblée a noté que les activités dont il est question dans la Résolution seront effectuées sous réserve des ressources disponibles dans le Budget-Programme ordinaire de 2017-2019 et/ou de contributions extrabudgétaires. Il est donc entendu que les autres travaux demandés dans la Résolution A39-8 pourraient ne pas commencer immédiatement, car il faut d'abord déterminer le financement.

3. **EXAMEN DE LA CRÉATION D'UN CADRE JURIDIQUE EN CE QUI CONCERNE LES SYSTÈMES CNS/ATM, Y COMPRIS LES SYSTÈMES MONDIAUX DE NAVIGATION PAR SATELLITE (GNSS), ET LES ORGANISMES MULTINATIONAUX RÉGIONAUX**

3.1 À la quatrième séance de sa 209^e session, le Conseil a confirmé que ce point était classé au quatrième rang dans l'ordre des priorités du Programme général des travaux du Comité juridique. À la huitième séance de sa 211^e session, le 19 juin 2017, le Conseil a demandé au Comité juridique de revoir le libellé actuel de ce point 4 afin de le reformuler pour mieux rendre compte des faits nouveaux survenus ces dernières années dans la sphère technique, notamment, entre autres, l'adoption du Plan mondial de navigation aérienne (GANP) ainsi que d'autres initiatives récentes, comme le suivi mondial des vols.

4. **DÉTERMINATION DU STATUT D'UN AÉRONEF – CIVIL/D'ÉTAT**

4.1 À la quatrième séance de sa 209^e session, le Conseil a confirmé que ce point était classé au cinquième rang dans l'ordre des priorités du Programme général des travaux du Comité juridique.

4.2 À la cinquième séance de sa 203^e session, en novembre 2014, lorsque le Conseil a décidé d'ajouter ce point au Programme des travaux du Comité juridique (au septième rang dans l'ordre des priorités), il a en outre demandé à la Direction des affaires juridiques et des relations extérieures (LEB) d'examiner l'étude de 1993 du Secrétariat sur les aéronefs civils et les aéronefs d'État (étude de 1993) pour repérer les domaines dans lesquels il serait possible de faire intervenir le Comité juridique, et il a recommandé de se pencher sur des façons de traiter la question autrement que par un amendement de l'alinéa b) de l'article 3 de la *Convention relative à l'aviation civile* (Convention de Chicago).

4.3 À sa 36^e session, en réponse à la note de travail LC/36-WP/2-6 – La définition d'aéronef civil et d'aéronef d'État et ses incidences sur l'aviation, le Comité juridique a conclu qu'il faudrait envoyer un questionnaire sur les problèmes pratiques imputables à la classification « aéronef civil » ou « aéronef d'État » rencontrés par les États, afin d'aider à restreindre le champ de l'examen de l'étude de 1993 par LEB. Conformément aux recommandations du Comité, le questionnaire (lettre aux États LE 4/50 – 16/86) a donc été envoyé le 1^{er} novembre 2016 et il était demandé aux États d'y répondre avant le 1^{er} février 2017.

4.4 Cinquante-cinq États ont retourné le questionnaire rempli (soit 23,5 % des membres de l'OACI) et leurs réponses ont été analysées dans le contexte de l'examen de l'étude de 1993 par LEB. Parmi ces 55 États, 47 n'ont formulé aucune question ou préoccupation concernant la détermination du statut d'un aéronef civil ou d'un aéronef d'État. Sur les neuf États qui en ont formulé, seuls quatre sont allés jusqu'à demander un amendement de l'article 3 de la Convention de Chicago, tandis que trois autres préconisaient que l'OACI souscrive à une interprétation de l'alinéa b) de l'article 3 conforme à celle

proposée dans l'étude de 1993, qui cherchait à simplifier la détermination du statut d'aéronef civil ou d'aéronef d'État et à fournir des critères pour déterminer si un aéronef est utilisé dans des services militaires, de douane ou de police. Les questions soulevées par les deux États restants peuvent être classées dans la catégorie des questions sur le plan opérationnel ou liées la mise en œuvre.

4.5 Rappelant que les membres du Comité juridique, à la 36^e session, se sont entendus sur le fait qu'il n'était pas nécessaire d'amender les alinéas a) et b) de l'article 3 de la Convention de Chicago, et considérant que les réponses des États au questionnaire n'ont révélé aucun problème dû à leur régime juridique actuel en matière d'aéronefs civils et d'aéronefs d'État qui nécessiterait de mettre à jour ou de modifier les opinions et les recommandations formulées dans l'étude 1993, le Comité juridique est invité à :

- a) prendre note de la pertinence continue des opinions et recommandations de l'étude de 1993 concernant la détermination du statut d'un aéronef civil et d'un aéronef d'État ;
- b) recommander au Conseil que les États soient encouragés à coopérer les uns avec les autres pour régler les questions sur le plan opérationnel en lien avec le statut d'un aéronef civil ou d'un aéronef d'État, et/ou à partager les meilleures pratiques pour la mise en œuvre de l'alinéa b) de l'article 3, grâce à des consultations directes ou à l'occasion des forums ou groupes régionaux de l'OACI appropriés ;
- c) recommander au Conseil de considérer comme clos le point « Détermination du statut d'un aéronef – civil/d'État » et de le retirer du Programme des travaux du Comité juridique.

5. PROMOTION DE LA RATIFICATION DES INSTRUMENTS DE DROIT AÉRIEN INTERNATIONAL

5.1 À la quatrième séance de sa 209^e session, le Conseil a confirmé que ce point était classé au sixième rang dans l'ordre des priorités du Programme général des travaux du Comité juridique.

5.2 Le nombre de ratifications d'instruments de droit aérien international adoptés sous les auspices de l'OACI figure à l'**Appendice B** à la présente note, y compris le nombre de ratifications depuis la clôture de la 36^e session du Comité juridique le 3 décembre 2015. Le site web public de l'OACI, sous la rubrique « Recueil des traités », contient des informations supplémentaires telles que des listes actualisées des parties aux traités multilatéraux de droit aérien ; la situation particulière de chaque État en ce qui concerne ces traités ; un tableau composite illustrant l'état des traités et la situation des États vis-à-vis des traités ; des guides administratifs pour aider les États à devenir parties aux traités ; les résolutions de l'Assemblée concernant des questions de ratification ainsi que des renseignements et des recommandations à jour sur les questions de ratification. Toutes les activités des dépositaires sont rapidement intégrées en ordre chronologique sur le site web.

5.3 À sa 39^e session, l'Assemblée a approuvé l'amendement de l'alinéa a) de l'article 50 et l'amendement de l'article 56, respectivement, de la Convention de Chicago. Le premier porte de 36 à 40 le nombre des membres du Conseil, et le second porte de 19 à 21 le nombre des membres de la Commission de navigation aérienne. L'Assemblée a également adopté les Résolutions A39-5 et A39-7, dans lesquelles elle recommande à tous les États contractants de ratifier de toute urgence ces amendements, et elle charge le Secrétaire général de porter ces résolutions à l'attention des États contractants dès que possible. En conséquence, la lettre LE 3/1.20, LE 3/1.21 – 17/2, à laquelle étaient jointes lesdites résolutions et dans laquelle les États étaient instamment priés de ratifier lesdits amendements, a été envoyée le 20 janvier 2017.

5.4 Dans sa Résolution A39-9 : *Promotion de la Convention de Montréal de 1999*, où elle prie instamment tous les États qui ne l'ont pas fait de devenir parties à ladite Convention, l'Assemblée a expressément reconnu l'importance d'adopter à l'échelle universelle la *Convention pour l'unification de certaines règles relatives au transport aérien international*, faite à Montréal le 28 mai 1999. En conséquence, la lettre LE 3/38.1-17/25, à laquelle était jointe ladite résolution et dans laquelle les États étaient instamment priés de ratifier la Convention, a été envoyée aux États le 2 mars 2017.

5.5 En outre, l'Assemblée a reconnu l'importance d'élargir et de renforcer le régime mondial de sûreté de l'aviation en adoptant la Résolution A39-10 : *Promotion de la Convention et du Protocole de Beijing de 2010*, dans laquelle elle pria instamment tous les États de signer et de ratifier la *Convention sur la répression des actes illicites dirigés contre l'aviation civile internationale* (Convention de Beijing de 2010) et le *Protocole complémentaire à la Convention pour la répression de la capture illicite d'aéronefs* (Protocole de Beijing de 2010). En conséquence, la lettre LE 3/44, LE 3/45-17/26, à laquelle était jointe ladite résolution et dans laquelle les États étaient instamment priés de ratifier les instruments de Beijing, a été envoyée aux États le 2 mars 2017. Il convient de noter que le Protocole de Beijing de 2010 est entré en vigueur le 1^{er} janvier 2018, à savoir le premier jour du deuxième mois après sa ratification par la République de l'Ouganda le 28 novembre 2017. Il s'agissait du vingt-deuxième instrument de ratification déposé, soit le nombre requis pour l'entrée en vigueur du Protocole, conformément au paragraphe 1 de son article XXIII. La Convention de Beijing de 2010 est entrée en vigueur le 1^{er} juillet 2018, à savoir le premier jour du deuxième mois après la ratification par la République turque le 31 mai 2018. Il s'agissait du vingt-deuxième instrument de ratification déposé, soit le nombre requis pour l'entrée en vigueur de la Convention, conformément au paragraphe 1 de son article 22.

5.6 Le Président du Conseil et la Secrétaire générale ne cessent de promouvoir les instruments de droit aérien international lorsqu'ils sont reçus dans les États membres et lorsqu'ils rencontrent de hauts responsables gouvernementaux. L'Association du transport aérien international (IATA), le bureau régional Afrique orientale et australe (ESAF) de l'OACI et la République de Corée ont accueilli des séminaires juridiques le 1^{er} avril 2016, les 27 et 28 novembre 2017, et les 24 et 25 mai 2018, respectivement, pour promouvoir entre autres ces instruments. LEB encourage aussi la ratification de ces instruments aux séminaires juridiques, à l'occasion des dépôts personnels effectués par des représentants d'État, aux sessions de l'Assemblée et au cours d'autres réunions de l'OACI.

6. QUESTIONS DIVERSES

6.1 À la huitième séance de sa 211^e session, approuvant la tenue de la 37^e session du Comité juridique, le Conseil a demandé au Comité d'envisager d'ajouter à l'ordre du jour provisoire deux points concernant, respectivement :

- a) les aspects juridiques des faits nouveaux dans le domaine du droit de l'espace découlant des activités du Bureau des affaires spatiales des Nations Unies (UNOOSA), dans la mesure où elles sont pertinentes pour le mandat de l'OACI ;
- b) la cybersécurité, plus particulièrement déterminer si les aspects juridiques de cette question sont convenablement traités actuellement dans les dispositions de la Convention de Beijing de 2010.

7. SUITE À DONNER PAR LE COMITÉ

7.1 Le Comité juridique est invité à examiner la présente note de travail et à prendre les dispositions qu'il juge nécessaires.

APPENDIX A

**ICAO GUIDANCE
ON CONFLICTS OF INTEREST
IN CIVIL AVIATION**

(Consolidation of Current ICAO Provisions)

July 2018

PART I - OVERVIEW

INTRODUCTION

In accordance with Assembly Resolution A39-8 *Conflicts of interest in civil aviation*, this reference document identifies provisions in the Annexes and manuals relating to conflicts of interest (COI). The purpose of this document is to provide easy reference to provisions set out in various ICAO documents that are relevant to the topic of COI.

DEFINING COI

A COI is typically defined as a situation in which an official has private interests that may or be perceived to improperly influence or interfere with the performance of his or her official duties and responsibilities. Such improper influence or perceived interference could be attributed to situations involving financial interest, family, emotional life, political or national affinity of the official. COI may also be found at the level of an organization. An organizational COI arises where an organization fails or is impeded to act impartially due to outside activities or relationships it has with other entities.

In the field of civil aviation, such COI may arise, principally, in two different scenarios:

- (a) First, through interactions between a department of the Government or its regulatory agencies with operating entities that are subject to regulation (such as air operators, aviation training organizations, approved maintenance organizations, design organizations, production organizations, air navigation service providers and aerodrome operators). Examples of COI situations that could arise in the course of such interactions include:
 - (i) direct or indirect financial interests in regulated entities;
 - (ii) movement of individuals between jobs in the regulatory and regulated entities (also referred to as “revolving door” situations);
 - (iii) performance of regulatory duties by seconded or designated staff of the regulated entities;
 - (iv) partnerships or arrangements between regulatory and regulated entities to advance the commercial interests of the regulated entities at the expense of the public interest (leading to what is also referred to as “regulatory capture”); and
 - (v) lobbying of policy or rule-making bodies on behalf of or in favour of regulated entities;
- (b) Second, through relationships between different organs or entities of the State involved in civil aviation activities, which could include:

- (i) overlap of functions between regulatory bodies and the government or its other organs such as the military, police, customs and investigative bodies;
- (ii) ownership or control of regulatory and operator entities by the State; and
- (iii) combination of regulatory and service provision functions in the same or related entities.

It is possible that COI (real or perceived), arising from such interactions or relationships, may hamper effective, independent and impartial regulation.

LEGAL FRAMEWORK

Generally, States have developed legal and institutional frameworks to deal with COI in response to requirements of their national laws or with reference to international treaties, such as the United Nations Convention Against Corruption of 2003 (UNCAC)¹ which provides for instance in Article 7(4) that: “*Each State Party shall, in accordance with the fundamental principles of its domestic law, endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.*” There are also guidelines or codes of best practice developed by international organizations such as the Organization for Economic Cooperation and Development (OECD) or by professional bodies. Civil aviation administrations in a given State might be subject to government-wide conflicts of interest frameworks or to frameworks that apply specifically only to them or to some combination of such frameworks. Frameworks that have been developed generally for the public sector or for particular professions may not fully address conflicts of interest as they relate specifically to civil aviation activities.

In a survey carried out by the ICAO Secretariat², it was found that many States have established a framework that deals specifically with civil aviation in addition to or separate from the general framework applicable to the public sector as a whole. In this regard, many respondents observed that it was necessary to establish such a specific framework so as to manage COI risks that are unique to civil aviation and to achieve legal harmonization and certainty. Indeed, the Convention on International Civil Aviation, 1944 (the Chicago Convention) sets an early precedent for standards of conduct in rule making, when in Article 50c) it provides that “*No representative of a contracting State on the Council shall be actively associated with the operation of an international air service or financially interested in such a service.*” ICAO has also prescribed rules in Annexes and developed guidance for States on COI.

The Assembly in A39-8 urges States which have not done so to consider establishing a legal framework to detect, avoid, mitigate and manage conflicts of interest in civil aviation. It also invites States to examine the level of adequacy of their domestic legal regimes in this regard and

¹ 186 Parties as at June 2018

² The results of the survey were reported to the Legal Committee in LC/36-WP/2-2

where necessary to enact laws and establish relevant policy frameworks. Current ICAO rules and guidance could be used as a reference to inform States as well as guide decisions and future work in this area. Assembly Resolution A39-8 is reproduced in the **Appendix**.

Annex - 17 Security, Annex 19 - Safety Management and Annex 13-Aircraft Accident and Incident Investigation contain Standards on COI that States are required to implement.

ICAO PROVISIONS

A number of ICAO Annexes and manuals contain provisions which identify and describe potential COI situations in various activities involving civil aviation and highlight the need as well as the means and measures that could be taken by States to address them.

The provisions identified in the ICAO Annexes and manuals have been organized under the following headings, which are provided for convenience only: Safety Management and Oversight; Security; Aeronautical Charts; Charges for Airports and Air Navigation Services; Airport Economics; and Accident Investigation.

PART II - ICAO PROVISIONS RELATING TO CONFLICTS OF INTEREST

A. SAFETY MANAGEMENT AND OVERSIGHT

ANNEX 19 - SAFETY MANAGEMENT

Chapter 3. State Safety Management Responsibilities

3.2 State safety policy, objectives and resources

3.2 Each State shall establish and implement a safety oversight system in accordance with Appendix 1.

Appendix 1 State Safety Oversight System

3. State System and Functions

3.3 The State shall ensure that personnel performing safety oversight functions are provided with guidance that addresses ethics, personal conduct and the avoidance of actual or perceived conflicts of interest in the performance of official duties.

ANNEX 19 - SAFETY MANAGEMENT (APPLICABLE FROM 7 NOVEMBER 2019)

Chapter 3. State Safety Management Responsibilities

3.2 State safety policy, objectives and resources

3.2.3 State System and Functions

3.2.3.1 States shall establish State System and functions in accordance with section 3 of Appendix 1.

Appendix 1 State Safety Oversight (SSO) System Critical Elements

Section 3. State System and Function (CE-3)

3.4 State shall ensure that personnel performing safety oversight functions are provided with guidance that addresses ethics, personal conduct and the avoidance of actual or perceived conflicts of interest in the performance of official duties.

DOC 9859 – SAFETY MANAGEMENT MANUAL
Fourth Edition (advance unedited) — 2018

1.2.4 Applicability for State-owned or military service providers

1.2.4.1 In some States, the service provider function is provided by the State civil service or military. Some civilian service providers provide contracted services to the military, and some military organizations provide civilian service. Regardless of the arrangement, the service provider providing the civilian service in the State should be required to address all the applicable ICAO SARPs, including the Annex 19 SMS requirements without regard to the specific nature of such organization. The State or service provider's system description should have regard for the functions of these organizations and their relationship to each other. The accountable executive of the service provider, whether civil or military, should be capable of explaining the arrangements and how safety risks are managed. Put simply, service providers should manage safety regardless of the organizational arrangements.

1.2.4.2 Where the State operates as a service provider there should be a clear separation between its functions as the service provider and that of the State regulatory authority. This is accomplished by having clearly defined roles and responsibilities for State authority and service provider personnel to avoid any conflicts of interest.

7.6.4 Additional considerations in applying a principle of exception

7.6.4.1 In deciding whether a principle of exception applies in a case, the competent authority should always take into account the consent of the source of the safety data or safety information. If a person has been given assurances of confidentiality in respect of safety data or safety information of which they are the source, then the use, disclosure or release of such data or information in a manner that conflicts with those assurances is likely to have an adverse impact on the safety data and safety information that may be provided by that person in the future. In addition, if safety data or safety information were to be released or used in spite of confidentiality assurances to the source, this may have a similarly adverse impact on any person who may become aware of that fact.

Chapter 8 - STATE SAFETY MANAGEMENT

8.4.8 Accident Investigation

8.4.8.1 The accident investigation authority (AIA) must be functionally independent from any other organization. Independence from the CAA of the State is of particular importance. The interests of the CAA could conflict with the tasks entrusted to the AIA. The rationale for the independence of this function from those of other organizations is that accident causation can be

linked to regulatory or SSP-related factors. Also, such independence enhances the viability of the AIA and avoids real or perceived conflicts of interest.

Chapter 9 - SAFETY MANAGEMENT SYSTEMS (SMS)

9.3.5 Accountability and responsibilities

9.3.5.11 Accountabilities and responsibilities of all personnel, management and staff, involved in safety-related duties supporting the delivery of safe products and operations should be clearly defined. The safety responsibilities should focus on the staff member's contribution to the safety performance of the organization (the organizational safety outcomes). The management of safety is a core function, as such every senior manager has a degree of involvement in the operation of the SMS.

9.3.5.12 All defined accountabilities, responsibilities and authorities should be stated in the service provider's SMS documentation and should be communicated throughout the organization. The safety accountabilities and responsibilities of each senior manager are integral components of their job descriptions. This should also capture the different safety management functions between line managers and the safety manager (see 9.3.6 for further details).

9.3.5.13 Lines of safety accountability throughout the organization and how they are defined will depend on the type and complexity of the organization, and their preferred communication methods. Typically, the safety accountabilities and responsibilities will be reflected in organizational charts, documents defining departmental responsibilities, and personnel job or role descriptions.

9.3.5.14 The service provider should aim to avoid conflicts of interest between staff members' safety responsibilities and their other organizational responsibilities. They should allocate their SMS accountabilities and responsibilities, in a way that minimizes any overlaps and/or gaps.

9.3.6.3 In most organizations, an individual is appointed as the safety manager. Depending on the size, nature and complexity of the organization the safety manager role may be an exclusive function or it may be combined with other duties. Moreover, some organizations may need to allocate the role to a group of persons. The organization must ensure that the option chosen does not result in any conflicts of interest. Where possible, the safety manager should not be directly involved in the product or service delivery but should have a working knowledge of these. The appointment should also consider potential conflicts of interest with other tasks and functions. Such conflicts of interest could include:

- a) competition for funding (e.g. financial manager being the safety manager);

- b) conflicting priorities for resources; and
- c) where the safety manager has an operational role and their ability to assess the SMS effectiveness of the operational activities they are involved in.

9.3.7 Benefits and challenges of management system integration

9.7.5.5 Integrating the different areas under a single management system will improve efficiency by:

- a) reducing duplication and overlapping of processes and resources;
- b) reducing potentially conflicting responsibilities and relationships;
- c) considering the wider impacts of risks and opportunities across all activities; and
- d) allowing effective monitoring and management of performance across all activities.

9.7.5.6 Possible challenges of management system integration include:

- a) existing systems may have different functional managers that resist the integration that could result in conflict;
- b) there may be resistance to change for personnel impacted by the integration as this will require greater cooperation and coordination;
- c) impact on the overall safety culture within the organization as there may be different cultures in respect of each system that create conflicts;
- d) regulations may prevent such an integration or the different regulators and standards bodies may have diverging expectations on how their requirements should be met; and
- e) integrating different management systems (such as QMS and SMS) may create additional work to be able to demonstrate that the separate requirements are being met.

DOC 9734 - SAFETY OVERSIGHT MANUAL
Part A The Establishment And Management Of A State's Safety Oversight System

Chapter 2. Safety Oversight: An Obligation

2.3 State Safety Oversight (SSO) System

2.3.4 When the State is both the regulatory authority and service provider (e.g. an air traffic service (ATS) provider, aerodrome operator, air operator, manufacturer or maintenance organization), the requirements of the Convention will be met, and public interest be best served, by a clear separation of functions and responsibilities between the regulatory authority and the service provider. The approval, certification and continued surveillance procedures should be followed as though the service provider were a non-governmental entity.

3.3 State System And Functions (CE-3)

3.3.2 Staffing requirements

3.3.2.2 All State technical personnel authorized to perform licensing, certification, approval and/or surveillance functions, as applicable, need to possess appropriate credentials (with the empowering legislation indicated) identifying them as technical experts employed by the State authorities, with the right to unlimited and unrestricted access to aircraft, aviation-related documents, aerodromes, ATS and other relevant facilities and the associated inspection powers, as applicable and as provided by the State's primary legislation. They also need to be provided with guidance that addresses ethics, personal conduct and the avoidance of actual or perceived conflicts of interest in the performance of official duties.

3.3.2.5 It is recognized that some States (particularly those where the level of commercial air transport activity is low) may not be in a position to meet their staffing requirements due to a lack of qualified local personnel or the inability to obtain the necessary budgetary allocations. In some States, particularly when the State is also a service provider, personnel from the service provider are designated by the CAA to carry out fundamental CAA inspection functions. Such an arrangement should be avoided as it does not provide independent technical supervision and may lead to perceived or actual conflicts of interest. However, when properly controlled by the CAA, the designation of qualified service provider personnel to assist in some inspection functions can be acceptable in terms of safety and is generally economically beneficial to both the State and the service provider. In such cases, the designated service provider personnel, when performing their designated duties, need to be kept under the supervisory and technical control of the CAA.

3.3.2.7 Regardless of the arrangements that a State makes, it is in no way relieved of its ultimate responsibility for the safe, regular and efficient conduct of aviation within its jurisdiction. It is essential that agreements or contracts for the enforcement of inspection responsibilities and duties be explicit in their requirements.

3.3.4 Establishment of service providers

3.3.4.1 Whether or not the provision of ANS and/or the operation of aerodromes is vested outside the CAA, States have to ensure effective and independent safety oversight by the CAA in its role as the regulator. A clear separation of functions and responsibilities between the regulatory authority and the service provider needs to be established, including mechanisms to avoid perceived, potential or actual conflicts of interest.

3.3.4.2 The regulatory authority and service providers should not overlap in structure, responsibility or function. In particular, for the regulatory authority to be able to take effective and independent actions, including enforcement action, if necessary, the regulatory authority and service provider should not report to the same higher level management, unless the State can demonstrate that a “functional” separation has robust checks and balances, and there is no possibility of conflict of interest, including when enforcement action is taken.

3.6 Licensing, Certification, Authorization And Approval Obligations (Ce-6)

3.6.1 General considerations

3.6.1.5 Under an effective licensing/certification/approval system, all necessary evaluations are effectively performed by qualified personnel, based on national requirements and following a formal and comprehensive process. This personnel may be from the CAA, or in case not all required specialties and competencies exist within the CAA (as happens frequently in the area of aerodromes), the evaluations may also be performed by external specialists through an appropriate delegation of functions. In such cases, the CAA should formally designate the specialists after verification of their competence and of the absence of possible conflicts of interest. The CAA should also approve the specialists’ working methodologies, define deliverables and validate results of evaluations. The outcomes of the evaluations should be properly documented and recorded, with all the pertinent records and evidence kept by the CAA.

<p>DOC 8335 - MANUAL OF PROCEDURES FOR OPERATIONS INSPECTION, CERTIFICATION AND CONTINUED SURVEILLANCE</p>

5.3 Staffing

5.3.3 A State that is unable to provide sufficient staff for its operations inspectorate could arrange for experienced personnel of an operator to be seconded to the CAA to act as CAA inspectors. In this case, a strategy to mitigate potential conflict of interest issues should be established and documented. However, it may be impossible to ensure that an inspector in such a case would not be involved in inspections concerning the operator from which the secondment was effected. It is still incumbent upon the DGCA to ensure that operator personnel, seconded as CAA inspectors, are adequately trained and qualified and subsequently supervised in the carrying out of their duties.

**DOC 9379 - MANUAL OF PROCEDURES FOR ESTABLISHMENT AND
MANAGEMENT OF A STATE'S PERSONNEL LICENSING SYSTEM**

PART I – General Principle and Organization

**Appendix A To Part I:
Examples of Job Responsibilities and Qualifications for Key Personnel Positions**

3. Examiner (Inspector or Technical Subject Matter Expert but excluding Medical Examiners)

Responsibilities of the staff of examiners, which include an individual examiner's responsibilities:

Qualifications

3d) have no personal or professional conflicts of interest with the examination function;

4. Examination Supervisor (Proctor)

Qualifications

f) have no personal or professional conflicts of interest with his or her examination supervision function;

5.2.3 Examination design and development

5.2.3.9 External question writers or moderators should have no potential conflicts of interest; for example, they should not be associated with any training organization or with persons intending to sit an examination. Precautions should also be taken not to compromise the security of examinations or questions worked on outside the Licensing Authority. Questions lost, mislaid or stolen are considered to be compromised and should be withdrawn from use.

5.4 Qualifications for Examiners

5.4.2 Whether they are responsible for theoretical examinations or practical tests, they must be experienced and current practitioners in their specialist area and have a strong background in training and assessment. Their requirement for the prescribed standard of performance from personnel being tested should not be in doubt. They should also have no professional or personal conflicts of interest with their examining function.

**PART II - Procedures
Chapter 5 - Examining Principles**

5.2 Theoretical knowledge examinations

5.2.3 Examination design and development

5.2.3.9 External question writers or moderators should have no potential conflicts of interest; for example, they should not be associated with any training organization or with persons intending to sit an examination. Precautions should also be taken not to compromise the security of

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DOC 10070 - MANUAL ON THE COMPETENCE OF CIVIL AVIATION SAFETY INSPECTORS (FIRST EDITION, ADVANCE UNEDITED) — 2016

Changing business models (Page 1-9)

In order to compensate for a shortage of locally qualified people or the inability to acquire sufficient budgetary funding allocations, States may need to consider changing their own business model. For example, they may augment the core group of CASIs with designated personnel trained and qualified to perform inspection/audit duties that are acquired through consignment agreements with other States or selected aviation service providers. In these instances, States must take special precautions to mitigate any likelihood of conflicts-of-interest when assigning inspection duties to temporary employees coming from organizations outside of the CAA. Regardless of the circumstances surrounding the CAA's level of funding or staffing, the State continues to assume full responsibility for meeting its safety obligations enshrined in the Chicago Convention and its Annexes.

B. SECURITY

ANNEX 17 - SECURITY

3.4 Quality control and qualifications

3.4.7 Each Contracting State shall ensure that the management, setting of priorities and organization of the national civil aviation security quality control programme shall be undertaken independently from the entities and persons responsible for the implementation of the measures taken under the national civil aviation security programme. Each Contracting State shall also:

- a) ensure that the personnel carrying out security audits, tests, surveys and inspections are trained to appropriate standards for these tasks in accordance with the national civil aviation security programme;

- b) ensure that the personnel carrying out security audits, tests, surveys and inspections are afforded the necessary authority to obtain information to carry out these tasks and to enforce corrective actions;
- c) supplement the national civil aviation security quality control programme by establishing a confidential reporting system for analysing security information provided by sources such as passengers, crew and ground personnel; and
- d) establish a process to record and analyse the results of the national civil aviation security quality control programme, to contribute to the effective development and implementation of the national civil aviation security programme, including identifying the causes and patterns of non-compliance and verifying that corrective actions have been implemented and sustained.

DOC 10047 - AVIATION SECURITY OVERSIGHT MANUAL

2.4 Government Approach To Control And Supervision

2.4.2 Characteristics of an effective State aviation security oversight system

2.4.2.3 It is equally important that an independent oversight infrastructure provide close governmental control and supervision where security functions are performed directly by civil service staff. This poses a challenge in States where the State is both the regulatory authority and an airport operator, aircraft operator, ATSP or other service provider or operator. In order to avoid any potential conflict of interest, there should be a clear separation of authority and responsibility between the State regulatory authority and any State-run operator or service provider. All approval, certification and continued surveillance procedures should be followed as though the operating agency was a non-government entity.

3.4 State Appropriate Authority for Aviation Security and Its Responsibilities (Ce-3)

3.4.2 Staffing requirements

3.4.2.5 Persons and entities responsible for the management, setting of priorities and organization of the NQCP should operate independently from persons and entities responsible for the implementation of measures under the NCASP, to avoid the perception of conflict of interest, and to ensure that designated personnel who perform aviation security oversight functions are, in turn, also subject to surveillance.

**DOC 9807 – UNIVERSAL SECURITY AUDIT PROGRAMME
CONTINUOUS MONITORING MANUAL**

2.4 Auditing principles

2.4.1 The following auditing principles apply to USAP-CMA activities, in accordance with *ISO 19011:2011 – Guidelines for Auditing Management Systems*.

(e) **Independence:** the basis for the impartiality of the audit and objectivity of the audit conclusions. Auditors should be independent of the activity being audited and should in all cases act in a manner that is free from bias and conflict of interest. Auditors should maintain objectivity throughout the audit process to ensure that the audit findings and conclusions are based only on the audit evidence.

APPENDIX D – ICAO CODE OF CONDUCT FOR AUDITORS

23. Conflicts of interest may occur when an international civil servant's personal interests interfere with the performance of his/her official duties or call into question the qualities of integrity, independence and impartiality required the status of an international civil servant. Conflicts of interest include circumstances in which international civil servants, directly or indirectly, may benefit improperly, or allow a third party to benefit improperly, from their association with their organization. Conflicts of interest can arise from an international civil servant's personal or familial dealings with third parties, individuals, beneficiaries, or other institutions. If a conflict of interest or possible conflict of interest does arise, the conflict shall be disclosed, addressed and resolved in the best interest of the organization. Questions entailing a conflict of interest can be very sensitive and need to be treated with care.

C. AERONAUTICAL CHARTS

DOC 8697 - AERONAUTICAL CHART MANUAL

1.5 Relations with other States

1.5.2 If responsibility [for the provision of aviation cartographic services] is delegated to an agency, it is very desirable that such agency should at least have an adequate technical background and preferably be one engaged in or allied to civil aviation. Where such background is lacking, the need for close coordination and liaison increases. An agency may be appointed to cover the whole or any part of the aeronautical charting programme and here again the responsibilities delegated should be clearly defined.

D. CHARGES FOR AIRPORTS AND AIR NAVIGATION SERVICES

DOC 9082 - ICAO POLICIES OF CHARGES FOR AIRPORTS AND AIR NAVIGATION SERVICES

Section I. General

Economic oversight

12. States' exercise of their economic oversight responsibilities should be clearly separated from the operation and provision of airports and air navigation services, with roles and powers clearly defined for each function.

E. AIRPORT ECONOMICS

DOC 9562 - AIRPORT ECONOMICS MANUAL

Chapter 2 - Ownership, Control And Governance Of Airports

B — Government Ownership And Control

2.7 When a government plays both the role of regulator (i.e. performing its economic oversight function) and service provider, it should consider a clear separation of the regulatory and operational functions, with roles and powers clearly defined for each function as recommended in ICAO's policies on charges in Doc 9082 (Section I, paragraph 12). This is because too close a relationship between the regulator and the service provider can result in conflicts of interest and undermine public confidence and trust in the adequacy of the system, and because overlaps in the regulatory and operational functions may lead to diffuse accountability relationships within the entity. Separation enhances transparency in the decision-making process and makes clear the lines of accountability and the authority of one branch to monitor the activities of the other.

F. ACCIDENT INVESTIGATION

ANNEX 13 — AIRCRAFT ACCIDENT AND INCIDENT INVESTIGATION

3.2 A State shall establish an accident investigation authority that is independent from State aviation authorities and other entities that could interfere with the conduct or objectivity of an investigation.

5.4 The accident investigation authority shall have independence in the conduct of the investigation and have unrestricted authority over its conduct, consistent with the provisions of this Annex.

5.4.1 Any investigation conducted in accordance with the provisions of this Annex shall be separate from any judicial or administrative proceedings to apportion blame or liability.

5.10 The State conducting the investigation shall recognize the need for coordination between the investigator-in-charge and the judicial authorities. Particular attention shall be given to evidence which requires prompt recording and analysis for the investigation to be successful, such as the examination and identification of victims and read-outs of flight recorder recordings.

...

Note 2.— Possible conflicts between investigating and judicial authorities regarding the custody of flight recorders and their recordings may be resolved by an official of the judicial authority carrying the recordings to the place of read-out, thus maintaining custody.

Note 3.— Possible conflicts between investigating and judicial authorities regarding the custody of the wreckage may be resolved by an official of the judicial authority accompanying the wreckage to the place of examination and being present at such examination when a modification of the condition of the wreckage is required, thus maintaining custody.

<p>DOC 9756 - MANUAL OF AIRCRAFT ACCIDENT AND INCIDENT INVESTIGATION, Part 1 – Organization And Planning</p>

The Accident Investigation Authority

2.1 Structure

2.1.1 In conformity with Article 26 of the Convention on International Civil Aviation, it is incumbent on the State in which an aircraft accident occurs to institute an inquiry into the circumstances of the accident. This obligation can be met only when appropriate legislation on aircraft accident investigation is in place. Such legislation shall make provision for the establishment of an accident investigation authority (or commission, board or other body) for the investigation of aircraft accidents and incidents that is independent from State aviation authorities and other entities that could interfere with the conduct or objectivity of an investigation.

2.1.2 The accident investigation authority must be strictly objective and totally impartial and must also be perceived to be so. The authority should be established in such a way that it can withstand political or other interference or pressure. Many States have achieved this objective by setting up their accident investigation authority as an independent statutory body or by establishing an accident investigation organization that is separate from the civil aviation administration. In these States, the accident investigation authority reports directly to Congress, Parliament or a ministerial level of government (see Figure I-2-1 and Figure I-2-2 as examples).

2.1.4 In some States there might be a need for the accident investigation commission to be composed of members seconded from the civil aviation authority. It is essential that such a commission report directly to a ministerial level of government so that the findings and safety recommendations of the investigation are not diluted during passage through regular administrative channels.

2.1.5 Experts seconded from the civil aviation authority must be responsible to the investigator-in-charge for the duration of an investigation. This is not an ideal arrangement, in particular because seconded personnel may fear retribution when they return to their normal duties should the civil aviation authority react unfavourably to the findings in the Final Report of the investigation. States should take steps to alleviate any possibility of retribution.

2.2 Legislation

2.2.1 Appropriate legislation that defines the rights and responsibilities of the aircraft accident investigation authority is required. The accident investigation authority should, through legislation, have immediate and unrestricted access to all relevant evidence without requiring prior consent from judicial bodies or other authorities. Accident investigators should be aware that aircraft accidents may be subject not only to a technical investigation but also to some form of judicial, regulatory, administrative and/or disciplinary inquiry. However, accident investigation procedures should not be constrained by these types of processes, and national legislation and regulations should specify the procedures to be followed in order to keep the technical investigation separate from judicial or administrative proceedings. The legislation shall make it clear that accident prevention is the sole objective of the investigation and shall emphasize that it is not the role of the accident investigation authority to apportion blame or liability.

<p style="text-align: center;">DOC 9962 - MANUAL ON ACCIDENT AND INCIDENT INVESTIGATION POLICIES AND PROCEDURES</p>
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3.2 Independence

3.2.1 Maintaining independence in the conduct of investigations will result in enhancing the credibility of the [Investigation Authority] and its ability to avoid situations that have the potential to create conflicts of interest. Maintaining independence of the investigation function is equally important for accident and incident investigations.

3.2.2 The intent of “independence” is that the [Investigation Authority] shall be functionally independent, in particular of the national civil aviation authorities responsible for airworthiness, certification, flight operation, maintenance, licensing, air traffic control or airport operation and, in general, of any other party whose interests could conflict with the task entrusted to the investigation authority.

3.2.3 “Independence” does not mean that the [Investigation Authority] would not be administratively supervised and accountable to a governmental minister or ministry (or parliament) for its finances, administration, policies and working methods (which should be transparent).

4.2 The Selection and Appointment of Investigators

4.2.5 The use of outside expertise is accomplished by written contracts and/or MoUs which include provisions to ensure that the seconded individuals are relieved of their regular duties during the course of the investigation. Their independence and objectivity in the investigation work is essential, and it is important to ensure there are no real or perceived conflicts of interest on the parts of seconded individuals. Seconded investigators should be given proper credentials and should sign written agreements to comply with [Name of State] laws, regulations, policies and procedures, and to demonstrate their independence and objectivity, and that there are no conflicts of interest during the period of the secondment.

5.5 Delegation of the Investigation (In whole or in part)

5.5.2 For occurrences in which [Name of State] is the State of Occurrence, and involving aircraft operated, registered, designed and/or manufactured by other State(s), the [Investigation Authority] may consider delegating the whole or parts of the investigation to an aircraft accident investigation authority in another State or to an RAIO, in order to facilitate a timely investigation. For example, for aircraft component examinations that must be conducted at facilities outside of [Name of State], the [Investigation Authority] may delegate the oversight of the examinations to the accident investigation authority in another State. Whenever possible, the facility should not be the manufacturer, in order to avoid a real or perceived conflict of interest. However, there may be times when the only appropriate expertise or tooling will be at the manufacturer's facility, so it will be necessary to ensure investigator supervision of the work. Until the [Investigation Authority] establishes its own flight recorder laboratory, replay and analysis for recorders should be conducted in the facilities of other States with recorder read-out capabilities, in accordance with guidance provided in ICAO Annex 13, Attachment D, Guidelines for Flight Recorder Read-out and Analysis.

Investigation Policies and Procedures

6.1 General

6.1.9 Should the recorders sustain damage in such a way that they cannot readily be read out at the chosen facility, or are of a type that requires additional expertise or equipment (such as Russian-built flight recorders), the [Investigation Authority] should seek expert assistance consistent with the provisions of ICAO Annex 13. In some cases, the recorder may need to be taken to its manufacturer for read-out. In such cases, the work should normally be supervised by a [Investigation Authority] investigator, or an investigator from another State to ensure that there is no real or perceived conflict of interest.

9.1 Laboratory Testing of Aircraft Systems and Components

9.1.2 Specialist examinations may range from a scanning electron microscope (SEM) examination of a failed part to chemical analysis, and/or aircraft systems testing or flight testing. Laboratory examination and testing generally entail the use of specialized equipment not available at the accident site and are often beyond the capability of an aircraft maintenance facility. Consideration should be given to using the component manufacturer's facilities where specialized equipment

and trained personnel are readily available. However, this should require close supervision by the [Investigation Authority] investigators, or by investigators designated by the [Investigation Authority] to ensure that there is no real or perceived conflict of interest. All activities, particularly disassembly and testing phases, should be documented and photographed for evidence purposes.

APPENDIX 1

A39-8: Conflicts of interest in civil aviation

Recognizing that conflicts of interest may hamper effective, independent and impartial safety regulation of civil aviation and thereby pose risks to the safety and security of international civil aviation;

Acknowledging the need for and the benefits of drawing upon the experience and expertise of qualified industry personnel to help ensure that important regulatory oversight functions can be provided;

Recalling that the item “Consideration of Guidance on Conflicts of Interest” was added to the General Work Programme of the Legal Committee by the 37th Session of the Assembly and subsequently was endorsed by the Legal Committee, the Council and the 38th Session of the Assembly, which elevated its priority;

Aware that under the United Nations Convention Against Corruption adopted by the General Assembly on 31 October 2003, States have the obligation to endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest;

Considering that Annex 19 — Safety Management and ICAO guidance material identify the need for States inter alia to establish a strategy to mitigate potential issues arising from conflicts of interest in civil aviation; and

Convinced of the need for States to share information concerning policies and measures used to detect, avoid, mitigate and manage conflicts of interest in civil aviation;

The Assembly:

1. *Urges* States which have not done so to consider establishing a formal legal framework to detect, avoid, mitigate and manage conflicts of interest in civil aviation;

2. *Invites* States:

a) to examine at the national level the adequacy of their domestic legal regimes on measures and practices to detect, avoid, mitigate and manage conflicts of interest in civil aviation, with a view to ensuring and improving transparency and accountability in civil aviation regulatory activities and to balancing their particular circumstances and ability to fulfil their oversight obligations with addressing the risks to aviation safety and security posed by conflicts of interest; and

A39-8: Cont'd

b) where necessary, to enact legislation and establish systems, codes and practices which promote the awareness of potential conflicts of interest in civil aviation;

3. *Urges* States to ensure the enforcement of rules and measures to detect, avoid, mitigate and manage conflicts of interest relating to safety oversight in civil aviation;

4. *Mandates* the Council to facilitate the collection, analysis, dissemination and promotion of best practices addressing conflicts of interest for the benefit of Member States, taking advantage of existing expertise in the States and within the United Nations and other relevant international organizations;

5. *Requests* the Secretary General to continue to collect information from States and relevant intergovernmental organizations, concerning policies and measures used to detect, avoid, mitigate and manage conflicts of interest in civil aviation, in order to advance the study of this issue;

6. *Requests* the Secretary General to develop a reference document identifying all provisions in the Annexes and manuals relating to conflicts of interest;

7. *Mandates* the Legal Committee to keep the issue of conflicts of interests in civil aviation under regular review; and

8. *Calls upon* States to extend to the Secretary General their full support and assistance in the implementation of the present resolution, including the provision of expertise and information.

APPENDIX B

STATUS OF INTERNATIONAL AIR LAW INSTRUMENTS (As at 15 June 2018)						
		Entry into force	Signatures	Ratifications or Accessions (and number required for entry into force where applicable)		Ratifications since 3 December 2015
1.	Convention on International Civil Aviation Chicago, 7 December 1944 (Doc 7300) Depositary: US	4/4/47	52	192		1
2.	International Air Services Transit Agreement Chicago, 7 December 1944 (Doc 7500) (part of Doc 9587) Depositary: US	30/1/45		133		2
3.	International Air Transport Agreement Chicago, 7 December 1944 (part of Doc 9587) Depositary: US	8/2/45		11		None
4.	Protocol on the Authentic Trilingual Text Buenos Aires, 24 September 1968 (incorp. in Doc 7300) Depositary: US	24/10/68	58	153		1
5.	Protocol on the Authentic Quadrilingual Text Montreal, 30 September 1977 (Doc 9217) (incorp. in Doc 7300) Depositary: US	16/9/99	39	90		2
*6.	Protocol on the Authentic Quinquelingual Text Montreal, 29 September 1995 (Doc 9663) Depositary: US	-	66	76	Final para ¹	1
*7.	Protocol on the Authentic Six-Language Text Montreal, 1 October 1998 (Doc 9721) Depositary: US	-	60	57	Final para ¹	1
8.	Article 93 <i>bis</i> , Chicago Convention Montreal, 27 May 1947 (incorp. in Doc 7300) Depositary: ICAO	20/3/61		118		2
9.	Article 45, Chicago Convention Montreal, 14 June 1954 (incorp. in Doc 7300) Depositary: ICAO	16/5/58		144		2
10.	Articles 48(a), 49(e) and 61, Chicago Convention Montreal, 14 June 1954 (incorp. in Doc 7300) Depositary: ICAO	12/12/56		147		2
11.	Article 50(a), Chicago Convention Montreal, 21 June 1961 (incorp. in Doc 7300) Depositary: ICAO	17/7/62		135		1
12.	Article 48(a), Chicago Convention Rome, 15 September 1962 (incorp. in Doc 7300) Depositary: ICAO	11/9/75		122		2
13.	Article 50(a), Chicago Convention New York, 12 March 1971 (Doc 8970) (incorp. in Doc 7300) Depositary: ICAO	16/1/73		132		2

1. This Protocol will enter into force only when the corresponding amendment to the Final Paragraph of the Convention on International Civil Aviation enters into force.

* Not in force

STATUS OF INTERNATIONAL AIR LAW INSTRUMENTS (As at 15 June 2018)						
		Entry into force	Signatures	Ratifications or Accessions (and number required for entry into force where applicable)		Ratifications since 3 December 2015
14.	Article 56, Chicago Convention Vienna, 7 July 1971 (Doc 8971) (incorp. in Doc 7300) Depositary: ICAO	19/12/74		135		1
15.	Article 50(a), Chicago Convention Montreal, 16 October 1974 (Doc 9123) (incorp. in Doc 7300) Depositary: ICAO	15/2/80		130		1
16.	Final paragraph (Russian Text), Chicago Convention Montreal, 30 September 1977 (Doc 9208) (incorp. in Doc 7300) Depositary: ICAO	17/8/99		124		1
17.	Article 83 <i>bis</i> , Chicago Convention Montreal, 6 October 1980 (Doc 9318) (incorp. in Doc 7300) Depositary: ICAO	20/6/97		174		6
18.	Article 3 <i>bis</i> , Chicago Convention Montreal, 10 May 1984 (Doc 9436) (incorp. in Doc 7300) Depositary: ICAO	1/10/98		155		6
19.	Article 56, Chicago Convention Montreal, 6 October 1989 (Doc 9544) (incorp. in Doc 7300) Depositary: ICAO	18/4/05		127		1
20.	Article 50(a), Chicago Convention Montreal, 26 October 1990 (Doc 9561) (incorp. in Doc 7300) Depositary: ICAO	28/11/02		142		2
*21.	Final paragraph (Arabic Text), Chicago Convention Montreal, 29 September 1995 (Doc 9664) Depositary: ICAO	-		67	122 required	1
*22.	Final paragraph (Chinese Text), Chicago Convention Montreal, 1 October 1998 (Doc 9722) Depositary: ICAO	-		54	124 required	1
*23.	Article 50(a) Montréal, 6 October 2016 (Doc 10077) Depositary: ICAO			18	128 required	18
*24.	Article 56 Montréal, 6 October 2016 (Doc 10076) Depositary: ICAO			18	128 required	18
25.	Convention on the International Recognition of Rights in Aircraft Geneva, 19 June 1948 (Doc 7620) Depositary: ICAO	17/9/53	27	90		1
26.	Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface Rome, 7 October 1952 (Doc 7364) Depositary: ICAO	4/2/58	26	51		2

STATUS OF INTERNATIONAL AIR LAW INSTRUMENTS (As at 15 June 2018)						
		Entry into force	Signatures	Ratifications or Accessions (and number required for entry into force where applicable)		Ratifications since 3 December 2015
27.	Protocol of Amendment to the Rome Convention Montreal, 23 September 1978 (Doc 9257) Depositary: ICAO	25/7/02	14	12		None
28.	Convention for the Unification of Certain Rules relating to International Carriage by Air Warsaw, 12 October 1929 (ICAO-Net) Depositary: Poland	13/2/33	21	152		None
29.	The Hague Protocol amending the Warsaw Convention The Hague, 28 September 1955 (Doc 7632) Depositary: Poland	1/8/63	38	137		None
30.	Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules relating to International Carriage by Air Performed by a Person other than the Contracting Carrier Guadalajara, 18 September 1961 (Doc 8181) Depositary: Mexico	1/5/64	23	86		None
*31.	Guatemala City Protocol Guatemala City, 8 March 1971 (Doc 8932/2) Depositary: ICAO	-	33	7 ratifications 5 accessions	30 required	None
32.	Additional Protocol No. 1 Montreal, 25 September 1975 (Doc 9145) Depositary: Poland	15/2/96	33	51		1
33.	Additional Protocol No. 2 Montreal, 25 September 1975 (Doc 9146) Depositary: Poland	15/2/96	34	52		1
*34.	Additional Protocol No. 3 Montreal, 25 September 1975 (Doc 9147) Depositary: Poland	-	32	21	30 required	None
35.	Montreal Protocol No. 4 Montreal, 25 September 1975 (Doc 9148) Depositary: Poland	14/6/98	38	60		1
36.	Convention for the Unification of Certain Rules for International Carriage by Air Montreal, 28 May 1999 (Doc 9740) Depositary: ICAO	4/11/03	72 States, 1 Regional Economic Integration Organisation	132		16
37.	Convention on Offences and Certain Other Acts Committed on Board Aircraft Tokyo, 14 September 1963 (Doc 8364) Depositary: ICAO	4/12/69	41	186		None
*38.	Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft Montréal, 4 April 2014 Depositary: ICAO	-	30	13	22 required	12
39.	Convention for the Suppression of Unlawful Seizure of Aircraft The Hague, 16 December 1970 (Doc 8920) Depositaries: RF, UK, US	14/10/71	77	185		None

* Not in force

STATUS OF INTERNATIONAL AIR LAW INSTRUMENTS (As at 15 June 2018)						
		Entry into force	Signatures	Ratifications or Accessions (and number required for entry into force where applicable)		Ratifications since 3 December 2015
40.	Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation Montreal, 23 September 1971 (Doc 8966) Depositaries: RF, UK, US	26/1/73	60	188		None
41.	Montreal Supplementary Protocol Montreal, 24 February 1988 (Doc 9518) Depositaries: RF, UK, US, ICAO	6/8/89	69	175		2
42.	Convention on the Marking of Plastic Explosives for the Purpose of Detection Montreal, 1 March 1991 (Doc 9571) Depositary: ICAO	21/6/98	51	155 [25 producers]		2
43.	Convention on the Suppression of Unlawful Acts relating to International Civil Aviation Beijing, 10/9/10 (Doc 9960) Depositary: ICAO		33	23	Will enter into force on 1 July 2018	11
44.	Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft Beijing, 10/9/10 (Doc 9959) Depositary: ICAO	1/1/18	35	24		12
45.	Convention on International Interests in Mobile Equipment Cape Town, 16/11/01 (Doc 9793) Depositary: Unidroit	1/3/06	28	72		12
46.	Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment Cape Town, 16/11/01 (Doc 9794) Depositary: Unidroit	1/3/06	28	72		12
*47.	Convention on Compensation for Damage Caused by Aircraft to Third Parties (GRC) Montréal, 2/5/09 (Doc 9919) Depositary: ICAO		13	12	35 required	5
*48.	Convention on Compensation for Damage to Third Parties, Resulting from Acts of Unlawful Interference Involving Aircraft (UICC) Montréal, 2/5/09 (Doc 9920) Depositary: ICAO		11	9	35 required	5
49.	Convention on the Privileges and Immunities of the Specialized Agencies United Nations, 21 November 1947 - application to ICAO Depositary: UN (and ICAO)	2/12/48		114		2
50.	Joint Financing Agreement - Greenland Geneva, 25 September 1956 (Doc 9585) Depositary: ICAO	6/6/58	13	19		None
51.	Protocol of Amendment to the Joint Financing Agreement - Greenland Montreal, 3 November 1982 Further amendments in 2008 (incorp. in Doc. 9585) Depositary: ICAO	1/1/83 provisional 17/11/89 definitive.	17	23		None

STATUS OF INTERNATIONAL AIR LAW INSTRUMENTS (As at 15 June 2018)						
		Entry into force	Signatures	Ratifications or Accessions (and number required for entry into force where applicable)		Ratifications since 3 December 2015
52.	Joint Financing Agreement - Iceland Geneva, 25 September 1956 (Doc 9586) Depositary: ICAO	6/6/58	13	19		None
53.	Protocol of Amendment to the Joint Financing Agreement - Iceland Montreal, 3 November 1982 Further amendments in 2008 (incorp. in Doc. 9586) Depositary: ICAO	1/1/83 provisional 17/11/89 definitive	17	24		None
54.	International Agreement on the Procedure for the Establishment of Tariffs for Intra-European Scheduled Air Services Paris, 16 June 1987 Depositary: ICAO	5/6/88	13	15		None
55.	International Agreement on the Sharing of Capacity on Intra-European Scheduled Air Services Paris, 16 June 1987 Depositary: ICAO	17/7/88	10	11		None
56.	Multilateral Agreement on Commercial Rights of Non-Scheduled Air Services in Europe Paris, 30 April 1956 Depositary: ICAO	21/8/57	17	24		3
57.	International COSPAS-SARSAT Programme Agreement Paris, 1 July 1988 Parties to the Agreement: States participating as: Ground Segment Providers (GSP) User States (US) Depositaries: ICAO and IMO	30/8/88	4		29 9	2 GSP + 1 change from US to GSP

— END —