



WORKING PAPER

LEGAL COMMITTEE – 38TH SESSION

(Virtual Meeting, 22 – 25 March 2022)

Agenda Item 4: Amendment of the Rules of Procedure of the Legal Committee

AMENDMENT OF THE RULES OF PROCEDURE

(Presented by the Secretariat)

1. INTRODUCTION

1.1 According to Rule 47 (a) of the *Rules of Procedure of the Legal Committee* (Doc 7669-LC/139/6) (Rules of Procedure) “[s]ubject to the provisions of its Constitution, the Committee may make at any session such amendments to these rules as may be deemed necessary or appropriate”.

2. AMENDMENT OF THE RULES OF PROCEDURE TO USE GENDER NEUTRAL LANGUAGE

2.1 At the seventh meeting of its 222nd Session on 5 March 2021, the Council unanimously adopted the Declaration on Improving Gender Representation in ICAO’s Governing and Technical Bodies and committed to work with the Secretariat to ensure that gender discriminatory or biased language in existing official documents is identified and removed (C-DEC 222/7 refers). Accordingly, the Secretariat carried out a review of the Rules of Procedure to replace gender discriminatory language with gender-neutral language.

2.2 In light of the above, the Committee is invited to consider amending the Rules of Procedure to use gender-neutral language.

3. AMENDMENT OF THE RULES OF PROCEDURE TO PROVIDE FOR SESSIONS AND MEETINGS IN FULLY VIRTUAL FORMAT

3.1 Following the outbreak of the COVID-19 pandemic, most ICAO meetings, including meetings of the Council, have, by necessity, been held in a fully virtual format. The Committee may wish to consider amending Rules 3, 14 and 15 of the Rules of Procedure in order to explicitly provide for its sessions, as well as meetings of its Sub-Committees and working groups, to be convened, as an exceptional measure, in a fully virtual format.

4. **ACTION BY THE LEGAL COMMITTEE**

4.1 The Legal Committee is invited to

- a) note this working paper,
- b) consider whether to amend its Rules of Procedure as described in paragraphs 2 and 3, and
- c) review and consider the draft revisions to the Rules of Procedure set out in the **Appendix**.

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APPENDIX

RULES OF PROCEDURE

SECTION I — SESSIONS

Rule 1

Ordinary Sessions

The Committee shall normally hold an annual session. Additional sessions may be held, if necessary.

Rule 2

Special Sessions

Special sessions may be convened by direction of the Council or the Assembly to provide legal advice, to make recommendations and to submit reports, as the case may be, on urgent matters enumerated in paragraphs 2 a), b) and c) of the Constitution of the Legal Committee.

Rule 3

Place and time of sessions

The sessions of the Committee shall be convened at such times and places as may be directed or approved by the Council. Sessions of the Committee may, as an exceptional measure, be convened by the Council in a virtual format.

SECTION II — COMPOSITION

Rule 4

Representation of States

The Legal Committee shall be composed of legal experts designated as Representatives of and by the Contracting States, each of which shall notify the Secretary General of the Organization of the name or names of such designated Representative or Representatives. No person may represent more than one State.

Rule 5

Observers

Such non-Contracting States and international organizations as are duly authorized by the Council may be represented at sessions of the Committee by one or more observers.

SECTION III — OFFICERS

Rule 6

~~Chairman~~ Chairperson and ~~Vice-Chairmen~~ Vice-Chairpersons

- a) The Committee shall elect at the end of every second session, from among the Representatives of States, a ~~Chairman~~ Chairperson and the First, Second, Third and Fourth ~~Vice-Chairmen~~ Vice-Chairpersons. Such officers shall hold office from the time of adjournment of the session when they were elected until the end of the session during which their successors are duly elected. Subject to Rule 6 d), they shall not be eligible for re-election for the next succeeding term for the same position.
- b) If the office of the ~~Chairman~~ Chairperson or any of the offices of the ~~Vice-Chairmen~~ Vice-Chairpersons are vacated during the term, the next ~~Vice-Chairman~~ Vice-Chairperson in line shall automatically succeed to the vacated office for the unexpired portion of the term.
- c) If the office of a ~~Vice-Chairman~~ Vice-Chairperson is vacated during the term which cannot be filled in the manner described in Rule 6 b), the Committee shall, at the end of the first session following the vacancy, elect from among the Representatives of States, a ~~Vice-Chairman~~ Vice-Chairperson to fill the vacant office for the unexpired portion of the term.
- d) Individuals serving as officers for the unexpired portion of a term pursuant to Rules 6 b) and c) shall not be precluded from re-election for the next succeeding term for the same position; provided that in no event shall an individual serving as ~~Chairman~~ Chairperson for the two sessions of the current term be eligible for re-election for the next succeeding term for the same position.

Rule 7

Absence of Officers

If the ~~Chairman~~ Chairperson and ~~Vice-Chairmen~~ Vice-Chairpersons are unable to act at any meeting, an acting ~~chairman~~ chairperson shall be elected who shall act until one of the officers is able to resume office.

SECTION IV — WORK PROGRAMME AND AGENDA

Rule 8

Establishment and Maintenance of Work Programme

The Committee shall establish and maintain, subject to the approval of the Council, a general programme of work which shall include any subjects proposed by the Committee itself. The work programme may also include subjects proposed by the Contracting States or international organizations represented at sessions of the Committee. It shall also include any subjects proposed by the Assembly or the Council.

Rule 9*Establishment of Subject Lists*

- a) At each session, the Committee, taking into consideration the requirements of international civil aviation with due regard to the stage of preparation of subjects on its programme, shall establish two lists as follows:
 - i) subjects to be placed for action on the agenda of the next session of the Committee;
 - ii) subjects to be studied and reported on for future consideration by the Committee.
- b) Subjects shall be placed on these lists in the order of priority to be established so far as practicable in accordance with any direction or recommendation made thereon by the Assembly or the Council of the Organization.

Rule 10*Provisional Agenda*

- a) At the end of each session, the Committee shall determine a provisional agenda for the next session.
- b) The ~~Chairman~~ Chairperson of the Committee may add any other matter, which ~~he~~ the Chairperson deems necessary, to the provisional agenda.
- c) The provisional agenda shall be subject to the approval of the Council.
- d) The proposed agenda shall be distributed at least four months before the session.
- e) In the case of a special session, as provided by Rule 2, the proposed agenda shall be distributed, as far as possible, at least two months before the session.
- f) The appropriate documentation shall be distributed with the proposed agenda or as soon thereafter as possible.

Rule 11*Final Agenda*

- a) The Committee shall fix the final agenda of the session at its first meeting.
- b) The Committee may, during a session, modify the order of items on the agenda for the better conduct of its work.
- c) Subject to the approval of the Council, additional items may be added to the agenda at any time.

SECTION V — SUB-COMMITTEES AND RAPPORTEURS

Rule 12

Establishment of Sub-Committees

- a) The Committee may establish, on a permanent or temporary basis, such Sub-Committees as may be deemed necessary to carry out its work.
- b) If, in the opinion of the ~~Chairman~~ Chairperson of the Committee, it is necessary between sessions to establish any special Sub-Committee, the ~~Chairman~~ Chairperson may do so and appoint the members to serve until the next session of the Committee.
- c) Each Sub-Committee shall be charged with only one subject or group of related subjects.

Rule 13

Appointment of Members

- a) The Members of each Sub-Committee shall be appointed by the Committee. In case of any vacancy between sessions in the membership of a Sub-Committee, the ~~Chairman~~ Chairperson of the Committee or, on ~~his~~ the Chairperson's failure to do so, the ~~Chairman~~ Chairperson of the Sub-Committee concerned may fill such vacancy. Members of Sub-Committees appointed between sessions shall continue in office until the next session.
- b) The officers of the Committee and the immediately past ~~Chairman~~ Chairperson shall be members *ex officio* of all Sub-Committees.

Rule 14

Time and Place of Meetings of Sub-Committees

Sub-Committees shall meet either in conjunction with the Committee or, subject to the approval of the Council, at other times and places as the Committee or Sub-Committee may deem fit. Meetings of Sub-Committees may, as an exceptional measure, be convened in a virtual format, subject to the approval of the Council.

Rule 15

Working Groups

The Committee and Sub-Committees may create working groups. Such working groups may, as an exceptional measure, meet in a virtual format.

Rule 16

~~Chairmen~~ Chairpersons

Each Sub-Committee or Working Group shall elect its own ~~Chairman~~ Chairperson and arrange its meetings in consultation, so far as practicable, with the ~~Chairman~~ Chairperson of the Committee.

Rule 17*Rapporteurs*

A Rapporteur may be appointed by the Committee or a Sub-Committee for any subject under study. If, in the opinion of the ~~Chairman~~ Chairperson of the Committee, it is necessary between sessions to appoint a Rapporteur to carry out a special study, the ~~Chairman~~ Chairperson may appoint a Rapporteur to serve until the next session of the Committee.

Rule 18*Procedure*

The Committee or, in case of its failure to do so, the Sub-Committee charged with a subject shall determine the most appropriate procedure for dealing with it.

Rule 19*Consideration of Requests*

- a) Matters referred to the Committee by the Assembly or the Council and received by the Committee during a session shall be considered by the Committee at that time.
- b) Matters referred to the Committee while the Committee is not in session may be referred by the ~~Chairman~~ Chairperson to any existing Sub-Committee dealing with the general subject matter, or otherwise to a special Sub-Committee named in accordance with Rule 12 hereof, or to a Rapporteur named in accordance with Rule 17 hereof, for report to the next session of the Committee.

SECTION VI — SECRETARIAT**Rule 20***Secretariat*

The Members of the Secretariat of the Organization, designated for that purpose by the Secretary General of the Organization, shall constitute the Secretariat of the Committee and its Sub-Committees.

SECTION VII — CONDUCT OF BUSINESS**Rule 21***Public and Private Meetings*

Meetings of the Committee shall be open to the public unless the Committee decides that any of its meetings shall be held in private. Meetings of Sub-Committees and Working Groups shall not be open to the public except by decision of the Sub-Committee or Working Group concerned.

Rule 22

Participation of Observers

Observers may participate without vote in the deliberations of the Committee when its meetings are not held in private. With respect to private meetings, individual observers may be invited by the Committee to attend and to be heard.

Rule 23

United Nations Participation

Notwithstanding any of these rules, observers of the United Nations may attend the meetings of the Committee and of its Sub-Committees and Working Groups and may participate without vote in their deliberations.

Rule 24

Participation in Sub-Committees and Working Groups

Representatives of States who are not represented in a Sub-Committee or Working Group and observers may attend and be heard if invited by the body concerned.

Rule 25

Quorum

A majority of Contracting States represented at a session and whose Representatives have not notified the Secretary of their departure shall constitute a quorum.

Rule 26

Powers of Presiding Officers

The presiding officer of the Committee, a Sub-Committee or a Working Group shall declare the opening and closing of each meeting, direct the discussion, ensure observance of these Rules, accord the right to speak, put questions and announce decisions. ~~He~~ The presiding officer shall rule on points of order and, subject to these Rules, shall have complete control of the proceedings of the body concerned and over the maintenance of order at its meetings.

Rule 27

Speakers

- a) The presiding officer shall call upon speakers in the order in which they have expressed their desire to speak; ~~he~~ the presiding officer may call a speaker to order if ~~his~~ the speaker's observations are not relevant to the subject under discussion.
- b) Generally, no Representative should be called to speak a second time on any question except for clarification, until all other Representatives desiring to speak have had an opportunity to do so.

Rule 28*Precedence*

At meetings of the Committee, precedence may be awarded by the ~~Chairman~~ Chairperson of the Committee to the ~~Chairman~~ Chairperson of a Sub-Committee or Working Group or a Rapporteur in discussions on matters being reported on by the Sub-Committee, Working Group or Rapporteur.

Rule 28A*Texts by Sub-Committees*

Where a text for a draft convention has been prepared by a Sub-Committee and presented to the Committee, then, unless the Committee shall in any case by a two-thirds majority otherwise decide:

- a) the text so prepared shall be taken as the basis of discussion;
- b) any proposals in relation to the text so prepared shall be submitted in the form of amendments to the text.

Rule 29*Points of Order*

During the discussion on any matter, a Representative on the Committee may at any time raise a point of order, and the point of order shall be immediately decided by the presiding officer. Any Representative on the Committee may appeal against the ruling of the presiding officer and any discussion on the point of order shall be governed by the procedure stated in Rule 32. The ruling of the presiding officer shall stand unless overruled by a majority of votes cast. A Representative speaking on a point of order may speak only on this point and may not speak on the substance of the matter under discussion before the point was raised.

Rule 30*Time Limit on Speeches*

A presiding officer may limit the time allowed to each speaker, unless the body concerned decides otherwise.

Rule 31*Motions and Amendments*

- a) A motion or amendment shall not be discussed until it has been seconded. Motions and amendments may be presented and seconded only by Representatives on the Committee. However, observers may make a motion or amendment provided that such motion or amendment is seconded by the Representatives of two States on the Committee.
- b) No motion may be withdrawn by its author if an amendment to it is under discussion or has been adopted.

Rule 32

Procedural Motions

Subject to the provision of Rule 31 a), any Representative on the Committee may move at any time the suspension or adjournment of the meeting, the adjournment of the debate on any question, the deferment of discussion of an item, or the closure of the debate on an item. After such a motion has been made and explained by its proposer, only one speaker shall normally be allowed to speak in opposition to it, and no further speeches shall be made in its support before a vote is taken. Additional speeches on such motion may be allowed at the discretion of the presiding officer, who shall decide the priority of recognition.

Rule 33

Order of Procedural Motions

The following motions shall have priority over all other motions and shall be taken in the following order:

- a) to suspend the meeting;
- b) to adjourn the meeting;
- c) to adjourn the debate on any question;
- d) to defer discussion of any question;
- e) for closure of the debate on any question.

Rule 34

Reopening of Debate

Reopening of a debate already completed by a vote on a given question during the same session shall require a majority of two-thirds of votes cast. Reopening of a debate already completed by a vote on a given question during a previous session shall require a majority of votes cast. Permission to speak on a motion to reopen shall normally be accorded only to the proposer and to one speaker in opposition, after which it shall be immediately put to vote. Additional speeches on such a motion may be allowed at the discretion of the presiding officer, who shall decide the priority of recognition. Speeches on a motion to reopen shall be limited in content to matters bearing directly on the justification for reopening.

Rule 35

Discussions in Sub-Committees and Working Groups

Notwithstanding these rules, Sub-Committees and Working Groups may conduct their deliberations informally.

SECTION VIII — VOTING**Rule 36***Voting Rights*

Each Contracting State duly represented shall have one vote at meetings of the Committee. Observers shall not be entitled to vote.

Rule 37*Voting of Presiding Officer*

Subject to the provisions of Rule 36, the presiding officer of the Committee or any Sub-Committee or Working Group shall have the right to vote on behalf of ~~his~~ the presiding officer's State.

Rule 38*Majority Required*

Except as otherwise provided in these Rules, decisions shall be by a majority of the votes cast. An abstention shall not be considered as a vote.

Rule 39*Method of Voting*

Voting shall normally be by voice, by show of hands, or by standing. In meetings of the Committee there shall be a roll-call if requested by the Representatives of two States. The vote or abstention of each Contracting State participating in a roll-call shall be recorded in the minutes.

Rule 40*Division of Motions*

On request of any Representative on the Committee and unless the Committee decides otherwise, parts of a motion shall be voted on separately. The resulting motion shall then be put to a final vote in its entirety.

Rule 41*Voting on Amendments*

Any amendment to a motion shall be voted on before a vote is taken on the motion. When two or more amendments are moved to a motion, the vote shall be taken on them in their order of remoteness from the original motion, commencing with the most remote. The presiding officer shall determine whether a proposed amendment is so related to the motion as to constitute a proper amendment thereto, or whether it must be considered as an alternative or substitute motion.

Rule 42

Voting on Alternative or Substitute Motions

Alternative or substitute motions shall, unless the meeting otherwise decides, be put to vote in the order in which they are presented, and after the disposal of the original motion to which they are alternative or in substitution. The presiding officer shall decide whether it is necessary to put such alternative or substitute motions to vote in the light of the vote on the original motions and any amendments thereto. This ruling may be reversed by a majority of votes cast.

Rule 43

Tie Vote

In the event of a tie vote, a second vote on the motion concerned shall be taken at the next meeting, unless the Committee decides that such second vote be taken during the meeting at which the tie vote took place. Unless there is a majority in favour of the motion on this second vote, it shall be considered lost.

SECTION IX — LANGUAGES

Rule 44

- a) Documents of the Committee, including texts of draft conventions, recommendations, resolutions and decisions shall be prepared and circulated in the English, Arabic, Chinese, French, Russian and Spanish languages.
- b) The English, Arabic, Chinese, French, Russian and Spanish languages shall be used in the deliberations of the Committee and of Sub-Committees and Working Groups. Speeches made in any of the six languages shall be interpreted into the other five languages, except where such interpretation is dispensed with by consent of all those concerned.

SECTION X — RECORDS OF PROCEEDINGS AND REPORTS

Rule 45

Records of Proceedings

Subject to Rule 46, the minutes of the meetings of the Committee shall be prepared by the Secretariat and approved by the Committee unless the Committee decides that minutes need not be prepared for a meeting or part of a meeting.

Rule 46

Reports on Sessions

The Committee shall present to the Council a report on the work accomplished during each session.

SECTION XI — AMENDMENTS TO THE RULES

Rule 47

- a) Subject to the provisions of its Constitution, the Committee may make at any session such amendments to these rules as may be deemed necessary or appropriate.
- b) Any proposed amendment not included in the proposed agenda submitted pursuant to Rule 10 may be adopted only by a two-thirds vote of Contracting States duly represented at the session.

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