



## 法律委员会 — 第 38 届会议

(2022 年 3 月 22 日至 25 日，虚拟会议)

### 议程项目 7：任何其他事项

## 国际民用航空组织法律委员会成立 75 周年

(由秘书处提交)

### 1. 背景

1.1 2022 年标志着国际民航组织大会第一届会议（1947 年 5 月 6 日至 27 日，蒙特利尔）成立国际民航组织法律委员会 75 周年。国际民航组织法律委员会自成立以来，起草了所通过的 24 项国际航空法条约的文本草案，其中许多条约得到了普遍接受。在这方面，法律委员会为国际航空法的发展和编纂做出了重大贡献。

1.2 法律委员会不仅是国际民用航空条约制定过程的核心组成部分，还就《国际民用航空公约》（1944 年，芝加哥，“芝加哥公约”）的解释向大会和理事会提供咨询建议，并就国际航空法事项进行研究。根据其组织章程，法律委员会由法律专家组成，对所有缔约国开放。法律委员会成立时，《芝加哥公约》有 41 个缔约国，而现在有 193 个缔约国。

### 2. 国际民航组织法律委员会的成立

2.1 国际民航组织法律委员会是在国际航空法律专家技术委员会（CITEJA）的基础上成立的，该委员会是根据 1925 年在巴黎举行的第一次国际航空私法会议上通过的一项建议而创立的。CITEJA 从 1926 年到 1947 年解散之时，共举行了 16 次会议，并编写了 5 份成为条约的文本草案，包括 1929 年 10 月 12 日在华沙签署的《统一国际航空运输某些规则的公约》。

2.2 国际民用航空会议（1944 年 11 月 1 日至 12 月 7 日，芝加哥）在其最后文件的一项决议中建议“各国政府应考虑将 CITEJA 的活动与临时国际民用航空组织的活动相协调，并在该组织成立后与根据 1944 年 12 月 7 日在芝加哥制定的国际民用航空公约建立的永久性国际民用航空组织相协调”。

2.3 国际民航组织大会第一届会议设立了法律委员会，该委员会具有比 CITEJA 更广泛的权力。大会同一届会议也通过了公约草案批准程序。法律委员会的组织章程附于第 A1-46 号决议，公约草案批准程序载于第 A1-48 号决议。1947 年通过的法律委员会组织章程和公约草案批准程序在大会第七届会议（1953 年 6 月 15 日至 7 月 6 日，布莱顿）上得到修订。经修订的组织章程载于第 A7-5 号决议，经修订的公约草案批准程序则载于第 A40-28 号决议附录 B。

2.4 法律委员会于 1947 年在布鲁塞尔举行的其第一届会议上通过了议事规则。在其第八届会议（1951 年，马德里）上，委员会通过了新的议事规则，该议事规则于其分别在里约热内卢（1953 年）、蒙特利尔（1960）年、巴黎（1967 年）和蒙特利尔（1983 年、1997 年和 2015 年）举行的第九、十三、十六、二十五、三十和三十六届会议上予以修订。第三十八届会议将审议进一步的修订，以实现《议事规则》现代化。

### 3. 国际民航组织法律委员会对国际航空法的贡献

3.1 国际民航组织法律委员会自 1947 年成立以来，起草了在航空安全和安保、航空器和航空承运人责任以及航空器融资领域通过的 24 项航空法条约的文本草案。这些航空法条约列于本工作文件附录 A 中。在法律委员会主持下制定的一些条约位居最为广泛接受的国际法编纂文书之列。法律委员会还审议了对《芝加哥公约》的修订，该修订引入了关于安全监督职能转移的第八十三条分条。

3.2 法律委员会还就国际航空法具体相关问题进行了若干研究，包括航空器和航空器机长的法律地位、空中交通管制机构的责任、全球导航卫星系统（GNSS）的法律框架、民用和国家航空器的定义以及遥控驾驶航空器运行的法律问题。此外，委员会还监督制定了关于各种题目的指导材料，例如不循规和扰乱性旅客、安全监督职能的转移和民用航空中的利益冲突等，从而为国际民航组织成员国和国际组织实施各项条约和国际民航组织标准和建议措施（SARPs）提供支持。

3.3 法律委员会主席团成员由作为其秘书处的国际民航组织法律事务和对外关系局提供支持。本工作文件附录 B 列出了自法律委员会第一届会议以来当选的主席团成员名单。

3.4 法律委员会继续在本组织中发挥领导作用，研究影响航空法的新的和正在出现的问题，并确定解决因航空运输不断变化的环境和现代现实所带来的挑战和机遇而产生的法律问题的方法。

### 4. 委员会的行动

4.1 请法律委员会审议本工作文件，并建议大会以决议或宣言的形式发表其认为适当的声明，以承认国际民航组织法律委员会对国际航空法的发展和编纂所作的重大贡献，并纪念法律委员会成立 75 周年。

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## **APPENDIX A**

### **LIST OF TREATIES DRAFTED BY ICAO LEGAL COMMITTEE**

*(as at 1 March 2022)*

- *Convention on the International Recognition of Rights in Aircraft*, signed at Geneva on 19 June 1948 (91 Parties);
- *Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface*, signed at Rome on 7 October 1952 (51 Parties);
- *Protocol to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air Signed at Warsaw on 12 October 1929*, done at The Hague on 28 September 1955 (137 Parties);
- *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*, signed at Guadalajara on 18 September 1961 (86 Parties);
- *Convention on Offences and Certain Other Acts Committed on Board Aircraft*, signed at Tokyo on 14 September 1963 (187 Parties);
- *Convention for the Suppression of Unlawful Seizure of Aircraft*, signed at The Hague on 16 December 1970 (185 Parties);
- *Protocol to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air Signed at Warsaw on 12 October 1929 as Amended by the Protocol Done at The Hague on 28 September 1955*, signed at Guatemala City on 8 March 1971 (8 ratifications);
- *Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation*, signed at Montreal on 23 September 1971 (188 Parties);
- *Additional Protocol No. 1 to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw on 12 October 1929*, signed at Montreal on 25 September 1975 (51 Parties);
- *Additional Protocol No. 2 to Amend the Convention for the Unification of Certain Rules relating to International Carriage by Air Signed at Warsaw on 12 October 1929 as Amended by the Protocol Done at The Hague on 28 September 1955*, signed at Montreal on 25 September 1975 (52 Parties);
- *Additional Protocol No. 3 to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air Signed at Warsaw on 12 October 1929 as Amended by the Protocols Done at The Hague on 28 September 1955 and at Guatemala City on 8 March 1971*, signed at Montreal on 25 September 1975 (22 ratifications);
- *Montreal Protocol No. 4 to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air Signed at Warsaw on 12 October 1929 as Amended by the Protocol Done at The Hague on 28 September 1955*, signed at Montreal on 25 September 1975 (61 Parties);

- *Protocol to Amend the Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface Signed at Rome on 7 October 1952*, signed at Montreal on 23 September 1978 (12 Parties);
  - *Protocol Relating to an Amendment to the Convention on International Civil Aviation [Article 83 bis]*, Signed at Montreal on 6 October 1980 (177 Parties);
  - *Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, Done at Montreal on 23 September 1971*, signed at Montreal on 24 February 1988 (176 Parties);
  - *Convention on the Marking of Plastic Explosives for the Purpose of Detection*, Done at Montreal on 1 March 1991 (156 Parties);
  - *Convention for the Unification of Certain Rules for International Carriage by Air*, Done at Montreal on 28 May 1999 (137 Parties);
  - *Convention on International Interests in Mobile Equipment*, Signed at Cape Town on 16 November 2001 (81 Parties);
  - *Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment*, Signed at Cape Town on 16 November 2001 (81 Parties);
  - *Convention on Compensation for Damage Caused by Aircraft to Third Parties*, Signed at Montréal on 2 May 2009 (12 ratifications);
  - *Convention on Compensation for Damage to Third Parties, Resulting from Acts of Unlawful Interference Involving Aircraft*, Signed at Montréal on 2 May 2009 (10 ratifications);
  - *Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation*, Done at Beijing on 10 September 2010 (42 Parties);
  - *Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft*, Done at Beijing on 10 September 2010 (42 Parties); and
  - *Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft*, Done at Montréal on 4 April 2014 (36 Parties).
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## APPENDIX B

### LIST OF THE OFFICERS THAT SERVED ON THE LEGAL COMMITTEE

<i>Chairpersons</i>	<i>Vice-Chairpersons</i>	<i>Session at which elected</i>
Mr. A. Garnault (France)	Mr. Justice E. Alten (Norway) Mr. C.S. Booth (Canada)	First Session September 1947
Mr. E.M. Loaeza (Mexico)	Mr. L. Clerc (Switzerland) Mr. H.W. Poulton (Australia)	Fourth Session June 1949
Mr. E.T. Nunneley (United States)	Mr. P.A.T. De Smet (Belgium) Mr. A.A. Irungaray (Argentina)	Sixth Session June 1950
Mr. L. Clerc (Switzerland)	Gen. José Salvador Merino (Spain) Maj. K.M. Beaumont (United Kingdom)	Eighth Session September 1951
Mr. T. Cavalcanti (Brazil)	Mr. K. Sidenbladh (Sweden) Mr. A. Ambrosini (Italy)	Ninth Session August – September 1953
Maj. K.M. Beaumont (United Kingdom)	Mr. C. Gómez Jara (Spain) Mr. Diaeddine Saleh (Egypt)	Tenth Session September 1954
Mr. A. Ambrosini (Italy)	Mr. S. Komachiya (Japan) Mr. V.J. Delascio (Venezuela)	Eleventh Session September 1957
Mr. C. Gómez Jara (Spain)	Mr. G. Rinck (Federal Republic of Germany) Mr. R. Golstein (Belgium)	Twelfth Session August – September 1959
Mr. K. Sidenbladh (Sweden)	Mr. C. Berezowski (Polish People's Republic) Mr. J.B. Diaz (Philippines)	Thirteenth Session September 1960
Mr. R. Golstein (Belgium)	Mr. J.P. Houle (Canada) Mr. U.A. Fernández-Tavelli (Argentina)	Fourteenth Session August – September 1962
Mr. V.J. Delascio (Venezuela)	Mr. W. Guldemann (Switzerland) Mr. B.S. Gidwani (India) Mr. F.X. Ollassa (Congo/Brazzaville)	Fifteenth Session September 1964
Mr. W. Guldemann (Switzerland)	Mr. D. Pardo Tovar (Colombia) Mr. A. El Hicheri (Tunisia) Mr. N. Nakano (Japan)	Sixteenth Session September 1967
Mr. D. Pardo Tovar (Colombia)	Mr. G. Guillaume (France) Mr. L.R. Edwards (Australia) Mr. G. Andriambololona (Malagasy Republic)	Seventeenth Session March 1970
Mr. G. Guillaume (France)	Mr. A.W.G. Kean (United Kingdom) Mr. K.O. Rattray (Jamaica) Mrs. A.M. Donato (Argentina)	Nineteenth Session June 1972
Mr. D.A. Gutiez (Argentina)	Mr. M.D. Moutafchiev (Bulgaria) Mr. B.S. Gidwani (India) Mr. K.H.Y. Moustafa (Arab Republic of Egypt)	Twenty-First Session October 1974

<i>Chairpersons</i>	<i>Vice-Chairpersons</i>	<i>Session at which elected</i>
Mr. A.W.G. Kean (United Kingdom)	Mr. G. F. FitzGerald (Canada) Mr. J. Junek (Czechoslovakia) Mr. M. Tirado (Venezuela)	Twenty-Third Session February 1978
Mr. A. Sciolla-Lagrange (Italy)	Mr. G.H. Kaunda (United Republic of Tanzania) Mr. M. Tirado (Venezuela) Ms Z. Szemes (Hungary) Mr. S.M. Anwar (Pakistan)	Twenty-Fifth Session April 1983
Mr. S.M. Anwar (Pakistan)	Mr. J. Garland (Peru) Mr. C. de la Verpillière (France) Mr. S.R. Tahou (Côte d'Ivoire) Mr. J. Capek (Czechoslovakia)	Twenty-Seventh Session April 1990
Mr. K. El Hussainy (Egypt)	Mr. C. de la Verpillière (France) Mr. E. Medina Urbizu (Mexico) Mr. G. Lauzon (Canada) Mr. H.B. Shrestha (Nepal)	Twenty-Ninth Session July 1994
Mr. G. Lauzon (Canada)	Dr. E. Chiavarelli (Italy) Mr. R.K. Maheshwari (India) Mr. A. Kalango (Nigeria) Mr. Y. El Zubi (Jordan)	Thirty-First Session August – September 2000
Mr. H. Kjellin (Sweden)/ Mr. M. B. Jennison (United States) <sup>1</sup>	Mr. M.B. Jennison (United States) Mr. A.H. Mutti (Argentina) Ms. S.H. Tan (Singapore) Mr. M. Sourang (Senegal)	Thirty-Third Session April – May 2008
Mr. T. Olson (France)	Ms. S.H. Tan (Singapore) Mr. A. Piera (United Arab Emirates) Mr. N. Luongo (Argentina) Mrs. H. Hitula (Namibia)	Thirty-Fifth Session May 2013
	Mr. S. Eid (Lebanon) Mr. L. Mabaso (South Africa)	Thirty-Sixth Session <sup>2</sup> November – December 2015
Ms. S. H. Tan (Singapore)	Mr. N. Luongo (Argentina) Ms. S. Metsälampi (Finland) Ms. E. Manga (The Gambia) Mr. B. AL Mubarak (Kuwait)	Thirty-Seventh Session <sup>3</sup> September 2018

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<sup>1</sup> At its 35th Session (Montréal, 6 – 15 May 2013), under consideration of agenda item 5, it was decided that the record of the Legal Committee should indicate that Mr. M. B. Jennison (United States) was the Chairperson of the Legal Committee for a full term consisting of its 34th and 35th Sessions.

<sup>2</sup> At its 36th Session (Montréal, 30 November – 4 December 2015), under consideration of agenda item 6, the Legal Committee elected Mr. S. Eid (Lebanon) as the Third Vice-Chairperson and Mr. L. Mabaso (South Africa) as the Fourth Vice-Chairperson. Also, in accordance with Rule 6 b), Mr. N. Luongo (Argentina) became second Vice-Chairperson.

<sup>3</sup> Since the end of the 38th Session (Montréal, 4 – 7 September 2018), the offices of the First and Fourth Vice-Chairpersons have been vacated. Accordingly, in accordance with Rule 6 a) of the *Rules of Procedure of the Legal Committee* (Doc 7669-LC/139/6), Ms. S. Metsälampi (Finland) and Ms. E. Manga (The Gambia), automatically became First and Second Vice-Chairpersons, respectively. The 38th Session will proceed with the election of the Third and Fourth Vice-Chairpersons which will be elected at the end of the 38th Session for the unexpired portion of the term, i.e. until the end of the 39th Session (LC/38-WP/5-1 refers).