



WORKING PAPER

LEGAL COMMITTEE – 38th SESSION

(Virtual Meeting, 22 to 25 March 2022)

Agenda Item 7 : Any other business

75TH ANNIVERSARY OF THE LEGAL COMMITTEE OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

(Presented by the Secretariat)

1. BACKGROUND

1.1 The year 2022 marks the 75th anniversary of the establishment of the ICAO Legal Committee by the First Session of the ICAO Assembly (Montréal, 6 – 27 May 1947). Since its inception, the ICAO Legal Committee has prepared draft texts which led to the adoption of twenty-four international air law treaties many of which have received universal acceptance. In this regard, the Legal Committee has made a significant contribution to the development and codification of international air law.

1.2 In addition to being a core component of the treaty-making process for international civil aviation, the Legal Committee advises the Assembly and the Council on the interpretation of the *Convention on International Civil Aviation* (Chicago, 1944 – the “Chicago Convention”) and undertakes studies on matters of international air law. According to its Constitution, the Legal Committee is composed of legal experts and open to participation by all Contracting States. While there were 41 Contracting States to the Chicago Convention as at the establishment of the Legal Committee, there are now 193 Contracting States.

2. ESTABLISHMENT OF THE ICAO LEGAL COMMITTEE

2.1 The Legal Committee of ICAO was established on the foundation of the *Comité International Technique d’Experts Juridiques Aériens* (CITEJA) which was created pursuant to a recommendation adopted at the First International Conference on Private Air Law, held at Paris in 1925. From 1926 until 1947, when it was dissolved, CITEJA held sixteen sessions and prepared five draft texts which were to become treaties, including the *Convention for the unification of certain rules relating to international carriage by air*, signed at Warsaw on 12 October 1929.

2.2 The International Civil Aviation Conference (Chicago, 1 November – 7 December 1944) recommended in a resolution appearing in its Final Act, that consideration be given “by the various governments to the desirability of co-ordinating the activities of CITEJA with those of the Provisional International Civil Aviation Organization and after it shall have come into existence, of the permanent International Civil Aviation Organization established pursuant to the Convention on International Civil Aviation drawn up at Chicago on December 7, 1944 ”.

2.3 The First Session of the ICAO Assembly instituted the Legal Committee, with broader powers than those of the CITEJA. The same session of the Assembly adopted a procedure for the approval of draft conventions. The Constitution of the Legal Committee was annexed to Resolution A1-46 and the procedure for the approval of draft conventions is set out in Resolution A1-48. The Constitution of the Legal Committee and the procedure for the approval of draft conventions adopted in 1947 were revised at the Seventh Session of the Assembly (Brighton, 15 June – 6 July 1953). The revised Constitution appears in Resolution A7-5 and the revised procedure for the approval of draft conventions appears in Resolution A40-28, Appendix B.

2.4 The Legal Committee adopted Rules of Procedure at its First Session held in Brussels in 1947. At its Eighth Session (Madrid, 1951), the Committee adopted new Rules of Procedure, which were amended at its Ninth, Thirteenth, Sixteenth, Twenty-Fifth, Thirtieth and Thirty-Sixth Sessions held, respectively, in Rio de Janeiro (1953), Montreal (1960), Paris (1967) and Montreal (1983, 1997 and 2015). The Thirty-Eighth Session will consider further amendments to modernise the Rules of Procedure.

3. CONTRIBUTION OF THE ICAO LEGAL COMMITTEE TO INTERNATIONAL AIR LAW

3.1 Since its inception in 1947, the ICAO Legal Committee has prepared draft texts which led to the adoption of 24 air law treaties in the areas of aviation safety and security, aircraft and air carrier liability and aircraft finance. The air law treaties are listed in **Appendix A** to this working paper. Some of the treaties prepared under the auspices of the Legal Committee are amongst the most widely accepted instruments of codification of international law. The Legal Committee has also considered an amendment to the Chicago Convention which introduced Article 83 *bis* on the transfer of safety oversight functions.

3.2 The Legal Committee has also undertaken several studies on specific issues pertaining to international air law including the legal status of aircraft and aircraft commander, the liability of air traffic control agencies, legal framework for global navigation satellite systems (GNSS), definition of civil and State aircraft and legal aspects of remotely piloted aircraft operations. In addition, the Committee has overseen the development of guidance material on diverse topics such as unruly and disruptive passengers, transfer of safety oversight functions and conflicts of interest in civil aviation, thereby supporting ICAO Member States and International Organizations in the implementation of treaties and ICAO Standards and Recommended Practices (SARPs).

3.3 The Officers of the Legal Committee are supported by the Legal Affairs and External Relations Bureau of ICAO which acts as its Secretariat. A list of the elected Officers of the Legal Committee since its First Session is provided in **Appendix B** to this working paper.

3.4 The Legal Committee continues to take a leadership role in the Organization to study new and emerging issues affecting air law and identify the means to address legal issues arising from the challenges posed as well as the opportunities offered by the changing landscape and modern realities of air transport.

4. ACTION BY THE COMMITTEE

4.1 The Legal Committee is invited to consider this working paper and to recommend that the Assembly issue any statement it deems appropriate in the form of a resolution or a declaration with a view to recognizing the significant contribution made by the ICAO Legal Committee to the development and codification of international air law as well as to commemorate the 75th anniversary of the Committee.

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).

— — — — —

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) ¹	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 ² 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 ³ September 2018

— END —

¹ 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.

² 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.

³ 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).