

# *The Development of International Air Law under the Auspices of ICAO*

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**Singapore, 16 May 2019**

ORGANISED BY:



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# 2019 marks several anniversaries for international civil aviation

- 100 years of the Paris Convention
- 75 years of the Chicago Convention
- 40<sup>th</sup> Session of the Assembly



# Comparison Paris and Chicago Conventions



Paris Convention of  
1919, as amended in  
1929



Chicago Convention  
of 1944

**Article 1:** “every Power has complete and exclusive sovereignty over the air space above its territory.”

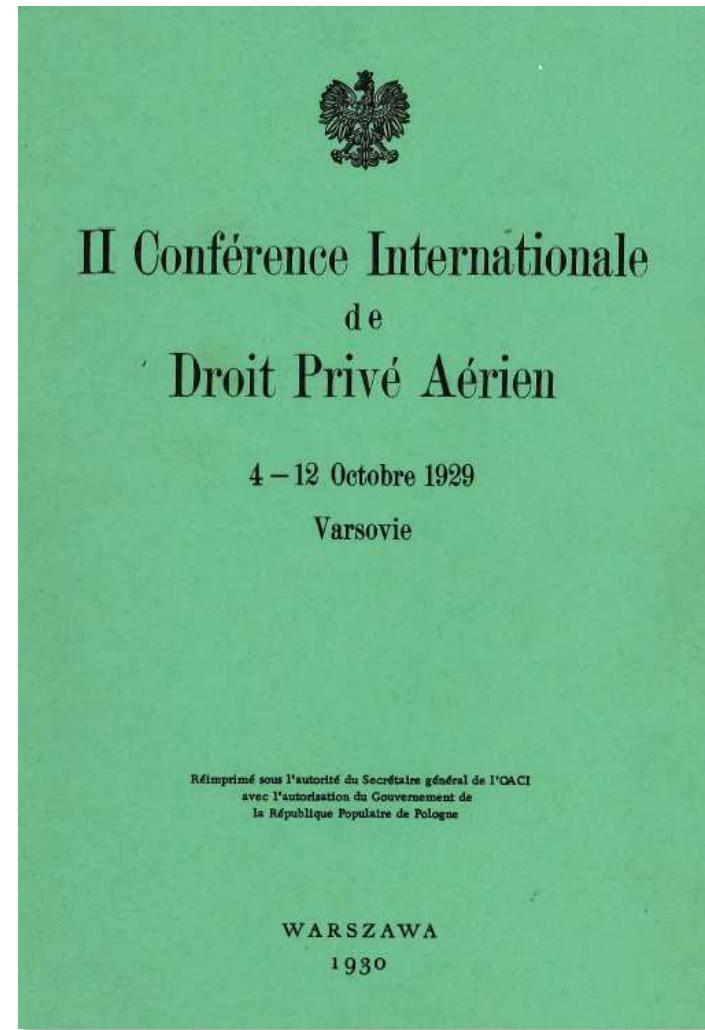
**Article 1:** “every State has complete and exclusive sovereignty over the airspace above its territory.”

**Article 15 al 2:** “No aircraft of a contracting State capable of being flown without a pilot shall, except by special authorization, fly without a pilot over the territory of another contracting State. ”

**Article 8:** “No aircraft capable of being flown without a pilot shall be flown without a pilot over the territory of a contracting State without special authorization by that State”

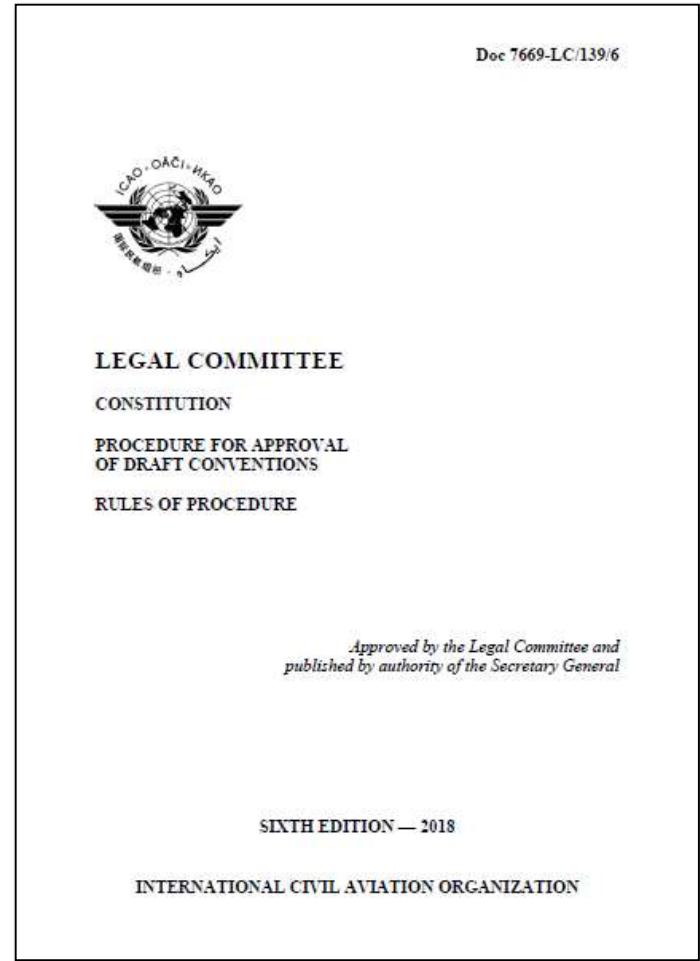
# Comité International Technique d'Experts Juridiques Aériens (CITEJA)

- Held sixteen sessions between 1926 and 1947
- Prepared the following draft Conventions:
  - Warsaw Convention of 1929 on aircraft liability
  - Rome Convention of 1933 on damages caused by aircraft to third parties on the surface
  - Rome Convention of 1933 on precautionary attachment of aircraft
  - Brussels Protocol of 1938 additional to the Convention on damages to third parties
  - Brussels Convention of 1938 relating to assistance and salvage of aircraft or aircraft at sea.



# ICAO Legal Committee

- **Established in 1947 by the first session of the Assembly**
- **Open to all ICAO Member States**
- **Main duties and functions:**
  - to make recommendations on matters relating to public international air law
  - to study problems relating to private air law affecting international civil aviation
  - to prepare drafts of international air law conventions



# Private International Air Law Instruments

## Montreal Convention of 1999

- Liability of the carrier for death and injury of passengers, destruction or damage to cargo, for checked baggage, as well as for delay in the carriage of passengers, baggage and cargo

## Rome Convention 1952 and General Risks Convention 2009

- Liability of carrier for damage caused on the ground

## Unlawful Interference Compensation Convention 2009

- Liability for damage to third parties caused by an aircraft in flight on an international flight, as a result of an act of unlawful interference

## Geneva Convention 1948

- International recognition of rights in aircraft

## Cape Town Convention and Aircraft Protocol 2001

- Framework to facilitate cross-border and asset-based financing of aircraft

# Public International Air Law Instruments

## Tokyo Convention 1963 and Montreal Protocol 2014

- Offences and other acts committed on board aircraft, including unruly behaviour
- Extension of legal recognition to and certain protections to in-flight security officers

## The Hague Convention 1970

- Suppression of hijacking

## Montreal Convention 1971 and the VIA Protocol 1988

- Other unlawful acts against the safety of civil aviation, and for the suppression of unlawful acts of violence at airports

## Beijing Convention and Protocol 2010

- Suppression of the act of using civil aircraft as a weapon of destruction, and the act of using biological, chemical or nuclear material against civil aviation
- Criminal liability of directors and organizers of an offence, as well as the liability of those who knowingly assist an offender to evade investigation, prosecution or punishment

## MEX Convention 1991

- Marking of plastic explosives for purposes of detection

# ICAO Functions and Legal Advice

- Legislative Function
- Judicial Function
- Executive Function

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Civil Aviation Authority of Singapore

# New Dangers to Civil Aviation

- Man-made dangers (e.g. use of force, unlawful seizure of aircraft)
- Civil aviation remains a target of choice for terrorists
- Violent acts against civil aviation constitute a worldwide problem not limited by geographic or political boundaries



# Article 1 (d) of the Montreal Convention

## Article 1

1. Any person commits an offence if that person unlawfully and intentionally:

...

(d) destroys or damages air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight;

# Air Navigation Facilities

Article 2, paragraph (c)  
of the Beijing Convention

“Air navigation facilities”  
include signals, data,  
information or systems  
necessary for the  
navigation of the aircraft;

# ICAO's Law Making Activities



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# Malaysian Airliner MH-17

*The Security Council,  
Deploring the downing of a  
civilian aircraft on an  
international flight, Malaysia  
Airlines flight MH17, on 17  
July in Donetsk Oblast,  
Ukraine, with the loss of all  
298 passengers and crew on  
board,*





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Civil Aviation Authority of Singapore

# 2019 ICAO Treaty Event

- **Theme: “A Century of International Air Law Treaties”**
- **To be held during the 40th Session of the Assembly**
- **Invitation to participate by State letter 19/37**
- **Instruments promoted:**
  - **Montreal Convention 1999**
  - **Beijing Convention and Protocol 2010**
  - **Montréal Protocol 2014**
  - **2016 Protocols amending Articles 50(a) and 56**

**CIVIL AVIATION  
LEGAL ADVISERS FORUM**



International Civil Aviation Organization      Organisation de l'aviation civile internationale      Organización de Aviación Civil Internacional      Международная организация гражданской авиации      منظمة الطيران المدني الدولي      国际民用航空组织

Tel.: +1 (514) 954-6090  
Ref.: LE 4/75.1 – 19/37  
Subject: 2019 ICAO Treaty Event – “A Century of International Air Law Treaties”

Action Required: States interested in ratifying air law treaties during the 2019 ICAO Treaty Event to notify the Organization by 31 August 2019

Sir/Madam,

In my capacity as the Depositary of multilateral air law treaties, I would like to encourage the participation of your State in the inaugural ICAO Treaty Event which will be held on 24 and 25 September 2019 at ICAO Headquarters in Montréal, during the 40<sup>th</sup> Session of the ICAO Assembly.

The 2019 Treaty Event will take place under the theme “A Century of International Air Law Treaties”. For this purpose, I wish to highlight that 2019 not only marks the 75<sup>th</sup> anniversary of the adoption of the *Convention on International Civil Aviation* (Chicago, 1944), but also the 100<sup>th</sup> anniversary of the adoption of the *Convention on Aerial Navigation* (Paris, 1919) which is the historically first multilateral instrument of international law relating to air navigation.

This Event is launched with a view to promoting the ratification of multilateral air law treaties by providing special facilities for representatives of Member States, in the margins of the Assembly Session, for depositing instruments of ratification or accession.

The Treaty Event will focus on promoting the ratification/ accession of the Montreal Convention of 1999, the Beijing Convention and Protocol of 2010, the Montreal Protocol of 2014, as well as the 2016 Protocols amending Articles 50(a) and 56 of the Chicago Convention. I wish to extend my invitation for your State to make use of the Treaty Event by depositing instruments of ratification or accession to these or any other treaty for which ICAO acts as Depositary. A list of the highlighted treaties together with procedural information for the deposit of instruments of ratification or accession are enclosed herewith.

Let me emphasize again that the Treaty Event may be used to take action, not only on the treaties referred to above, but also on any other treaty for which ICAO acts as Depositary. A complete list of the air law treaties deposited with the Organization is available on the ICAO Treaty Collection Website (<https://www.icao.int/Secretariat/Legal/Page/TreatyCollection.aspx>).

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GLOBAL AVIATION TRAINING  
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# International Air Law course

- **Goal:** To enable representatives of civil aviation authorities, airports and air navigation service providers to support their organization in compliance with international air law through the application of appropriate knowledge gained in case discussions.
- **Upon completion of the course,** participants will be able to accomplish the following:
  - learn the concepts and rules of international air law;
  - explain the relevance of the rules and procedures of international air law for their own role and functions in their organization; and
  - apply their knowledge and understanding to assist their national administration in improving implementation.
- **Target audience:** lawyers and administrators or managers with or without legal education from Civil Aviation Administrations, Civil Aviation Authorities and Airports and Air Navigation Service Providers of Member States.
- **Language:** English
- **Mastery test**
- **Next delivery:** 10-14 June 2019, Montréal, Canada

**INTERNATIONAL AIR LAW**

# Regulation of new and emerging modes of aerial transportation



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# Aviation Safety is a Common Concern



For any information on the ratification of ICAO air law treaties please do not hesitate to contact the Legal Affairs and External Relations Bureau at: [treaties@icao.int](mailto:treaties@icao.int)

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