



**ASSEMBLY — 40TH SESSION**

**LEGAL COMMISSION**

**Agenda Item 40: Other issues to be considered by the Legal Commission**

**CIVIL AVIATION LEGAL ADVISERS FORUM**

(Presented by Singapore, and co-sponsored by Armenia, Australia, Bahamas, Botswana, Bulgaria, Canada, China, Fiji, Finland, Gambia, Ghana, Japan, Kuwait, Lao People's Democratic Republic, North Macedonia, Oman, Papua New Guinea, Poland, Qatar, United States and Viet Nam)

**EXECUTIVE SUMMARY**

This paper provides information on the inaugural Civil Aviation Legal Advisers Forum (CALAF 2019) organised by ICAO and hosted in Singapore in May 2019, which was attended by more than 80 legal advisers from 40 States and one regional organization.

The CALAF 2019 recognized the contribution that legal advisers make in supporting their States and organizations to implement air law treaties and to formulate and update national laws and regulations to give effect to national policies and regulatory requirements. In addition to legal seminars and workshops and other similar events, the regular convening of the CALAF can enable legal advisers to continuously update and enhance their competencies, capabilities and capacities to carry out their responsibilities effectively. ICAO and States can harness the support of their legal advisers to strengthen and enhance their capabilities to respond to new and emerging opportunities and challenges as well as threats to the safe and efficient development of international civil aviation.

**Action:** The Assembly is invited to adopt the proposed Assembly Resolution set out in the Appendix to this paper.

<i>Strategic Objectives:</i>	Supporting Implementation Strategies – Programme Support – Legal Services and External Relations.
<i>Financial implications:</i>	Not applicable.
<i>References:</i>	None.

## 1. INTRODUCTION

1.1 The proposal to establish a forum for legal advisers was first raised at the 37<sup>th</sup> Session of the Legal Committee. It was intended to facilitate a continuing focus of attention on issues of interest to the international aviation community in the legal field and closer interaction and collaboration among air law professionals, particularly those serving in organizations that regulate civil aviation.

1.2 The inaugural Civil Aviation Legal Advisers Forum (CALAF 2019), was organised by the International Civil Aviation Organization (ICAO) and hosted by the Civil Aviation Authority of Singapore (CAAS) from 16 to 17 May 2019 in Singapore. More than 80 legal advisers from 40 States<sup>1</sup> and one regional organization<sup>2</sup> attended.

## 2. THE INAUGURAL FORUM

2.1 The participants shared views on the challenges encountered and solutions adopted for the effective implementation of international air law treaties and Standards and Recommended Practices (SARPs) in their respective States. The Forum covered recent developments and emerging issues impacting the implementation and development of future air law, including: threats to aviation safety and security (including those involving drones, lasers and cyber-attacks); the conduct of independent accident and incident investigations and protecting safety information as illustrated in the Malaysia Airlines flight MH 17 and German Wings cases; regulatory actions taken in response to the Boeing 737 Max accidents and subsequent groundings; and the United Kingdom's experience in reconstructing national air safety regulations in anticipation of Brexit.

2.2 The Forum highlighted the progress in the development of air law treaties over the past century starting with the adoption in 1919 of the Paris Convention on Aerial Navigation. Since the formation of ICAO, 24 international air law instruments have been adopted covering various fields such as aviation security, air carrier liability and aircraft finance. The Forum acknowledged the preeminent role ICAO has played as the leading international and diplomatic forum for the development of air law, enabling its Member States to find legal solutions to new and emerging challenges and to take advantage of opportunities for the development of civil aviation. The participants took the opportunity to reflect on key moments, impacts and experiences in the negotiation, adoption, ratification and implementation of air law treaties and challenges for the implementation of more than 12,000 SARPs.

2.3 The proceedings of the CALAF 2019 is under preparation and will be accessible by the start of the Assembly at <https://www.icao.int/Meetings/SingaporeSeminar2019/Pages/Proceedings.aspx>.

2.4 In considering their plan of action, the participants welcomed the CALAF as a new platform for informed discussion and constructive exchange among Member States and sharing of knowledge and experiences, including regulatory best practices in a less formal context. They proposed actions which included

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<sup>1</sup> Australia, Armenia, Bahamas, Belgium, Botswana, Bulgaria, Canada, China, Fiji, Finland, Gambia, Ghana, Guatemala, Israel, Indonesia, Japan, Kenya, Kuwait, Lao People's Democratic Republic, Namibia, Nepal, Netherlands, Nigeria, North Macedonia, Oman, Papua New Guinea, the Philippines, Poland, Qatar, Russian Federation, Saudi Arabia, Seychelles, Singapore, South Africa, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom, the United States, and Vietnam

<sup>2</sup> Pacific Aviation Safety Office (PASO)

- a) Convening the CALAF regularly to enable civil aviation legal advisers to share experiences, including on regulatory best practices, and to continuously update and enhance their air law and regulatory development and implementation knowledge and skills;
- b) Encouraging all civil aviation administrations to include in-house legal advisers as integral to their strength, efficiency and capability for timely development and updating of national laws and regulations and the effective implementation of air law instruments and SARPs;
- c) Establishing a database of civil aviation legal advisers and providing digital resources for sharing relevant legal and related information among Member States; and
- d) Developing a competency framework/profile to assist civil aviation administrations in the recruitment and training of civil aviation legal advisers so as to strengthen and enhance their competency and capacity for supporting their Organisations' and States' regulatory and other functions, especially in the areas of aviation safety and security oversight and the implementation of air law treaty obligations.

### 3. CONCLUSION

3.1 The inaugural CALAF recognized the contribution that civil aviation legal advisers make in supporting their States and organisations to implement air law treaties and to formulate and update national laws and regulations to give effect to national policies and regulatory requirements. In addition to legal seminars and workshops and other similar events, the regular convening of CALAF will enable legal advisers to continuously update and enhance their competencies, capabilities and capacities to enhance their contributions and carry out their responsibilities effectively. ICAO and States can harness the support of their legal advisers to strengthen and enhance their capabilities to respond to new and emerging opportunities and challenges as well as threats to the development of international civil aviation.

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## APPENDIX

### CIVIL AVIATION LEGAL ADVISERS FORUM

#### **A40-xx: Consolidated Statement of Continuing ICAO Policies in the Legal Field Enhancing the capacity and effectiveness of States to implement air law treaties and update national laws and regulations**

*Recalling* the important role of law (especially air law) for the achievement by ICAO of its aims and objectives and for ICAO, Member States and the aviation industry to respond effectively to new and emerging opportunities, challenges and threats to the development of international civil aviation;

*Recognizing* that Member States must ensure that appropriate legislation and regulations are formulated to implement, and are applied in accordance with the Chicago Convention, relevant air law instruments and ICAO provisions;

*Affirming* the important role that civil aviation legal advisers and air law practitioners play in supporting their States and organisations to implement air law treaties and to formulate and update national laws and regulations to give effect to national policies and regulatory requirements;

*Considering* that legal advisers must continuously update and enhance their competencies, capabilities and capacities to effectively carry out their responsibilities;

*Welcoming* the first Civil Aviation Legal Advisers Forum initiative organized by ICAO and hosted in Singapore in May 2019, which enabled legal advisers, particularly those serving in organisations that regulate civil aviation, to share and exchange views on current issues of interest to the international aviation community and on strengthening their support for their organisations and States;

*The Assembly:*

*Encourages* Member States that have not already done so to establish positions of dedicated in-house legal advisers for their civil aviation administrations;

*Encourages* Member States to make use of ICAO seminars and workshops, the International Air Law Course and other similar events for the continuous training and development of their legal advisers and to consider hosting from time to time such events in their States and regions;

*Invites* Member States to support the Civil Aviation Legal Advisers Forum initiative and to consider hosting subsequent editions of the Forum as well as encourage and facilitate their legal advisers to participate in and to contribute to the Forum;

*Requests* the Secretary General to assist Member States in achieving and maintaining the appropriate competency of civil aviation legal advisers including through developing a competency framework for strengthening their role; and

*Urges* Member States to support ICAO's work in the legal field by encouraging the active participation of their legal advisers in the work of the Legal Committee, subcommittees and task forces, panels, working groups, and similar bodies established to examine air law issues and develop legal solutions.

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