

**ASSEMBLY RESOLUTIONS
RELATED TO RATIFICATION MATTERS**

(as of 4 October 2019)

- A23-3:** Ratification of Protocol incorporating Article 83 *bis* into the Chicago Convention
- A26-3:** *Convention on the Privileges and Immunities of the Specialized Agencies*
- A27-1:** Ratification of the Protocol incorporating Article 3 *bis* into the Chicago Convention
- A39-5** Ratification of the Protocol amending Article 50 (a) of the *Convention on International Civil Aviation*
- A39-7** Ratification of the Protocol amending Article 56 of the *Convention on International Civil Aviation*
- A39-9** Promotion of the Montréal Convention of 1999
- A39-10** Promotion of the Beijing Convention and the Beijing Protocol of 2010
- A40-9** Consolidated statement of continuing ICAO policies in the air transport field – Appendix A: Economic regulation of international air transport, Section I. Basic principles and long-term vision
- A40-11** Consolidated statement on continuing ICAO policies related to aviation security – Appendix B: International legal instruments, enactment of national legislation and conclusion of appropriate agreements for the suppression of acts of unlawful interference with civil aviation
- A40-28** Consolidated statement of continuing ICAO policies in the legal field – Appendix C: Ratification of ICAO international instruments

A23-3: Ratification of Protocol incorporating Article 83 *bis* into the Chicago Convention

The Assembly,

Having adopted Resolution A23-2 amending the Chicago Convention by the addition of a new Article 83 *bis*,

Urges all Contracting States to complete any necessary changes in their national law and to ratify the amendment as soon as possible.

A26-3: *Convention on the Privileges and Immunities of the Specialized Agencies*

Whereas by Resolution A2-26 the Assembly accepted the *Convention on Privileges and Immunities of the Specialized Agencies*;

Whereas by Resolution A2-27 the Assembly recommended to Contracting States that they should immediately accord as far as possible to, or in connection with, ICAO the benefit of the privileges and immunities provided in the said Convention;

Whereas some Contracting States have not yet become parties to the Convention;

Whereas the United Nations General Assembly in Resolution 39/27 adopted on 30 November 1984 renewed its earlier request made in Resolution 239C(III) of 18 November 1948 to Member States that have not done so to take necessary action to exempt their nationals employed by the United Nations from national income taxation with respect to their salaries and emoluments paid to them by the United Nations;

The Assembly:

1. *Urges* all Contracting States which have not done so to take steps to become parties to the *Convention on the Privileges and Immunities of the Specialized Agencies*;
2. *Urges* all Contracting States to take such measures as are within their powers to apply the principles of the said Convention;
3. *Requests* the Secretary General to bring this resolution to the attention of all Contracting States; and
4. *Requests* the Council to report to the next ordinary session of the Assembly on the implementation of this resolution.

A27-1: Ratification of the Protocol incorporating Article 3 *bis* into the Chicago Convention

Whereas the Assembly at its 25th Session (Extraordinary) in 1984 unanimously approved an amendment to the *Convention on International Civil Aviation* incorporating a new Article 3 *bis* into that Convention;

Whereas Assembly Resolutions A25-2 and A26-2, as well as Resolutions of the Council of 14 July and 7 December 1988, appealed to all States which have not done so to ratify, as soon as possible, the Protocol incorporating the new Article 3 *bis* into the Convention;

Whereas Assembly Resolution A26-2 noted the slow progress of ratification of the Protocols of Amendment to the Chicago Convention;

Whereas the new Article 3 *bis* embodies fundamental principles essential for the safe development of international civil aviation; and

Whereas it is desirable that the Article come into force as early as possible;

The Assembly:

Appeals urgently to all Contracting States which have not yet done so to ratify, as soon as possible, the Protocol incorporating Article 3 *bis* into the Chicago Convention.

A39-5: Ratification of the Protocol amending Article 50 (a) of the *Convention on International Civil Aviation*

Whereas the Assembly has decided to amend Article 50 (a) of the Convention to provide for an increase in the size of the Council; and

Whereas the Assembly is of the opinion that it is highly desirable that the aforesaid amendment should come into force as soon as possible;

The Assembly:

1. *Recommends* to all Contracting States that they ratify most urgently the amendment to Article 50 (a) of the Convention; and
2. *Directs* the Secretary General to bring this resolution to the attention of Contracting States as soon as possible.

A39-7: Ratification of the Protocol amending Article 56 of the *Convention on International Civil Aviation*

Whereas the Assembly has decided to amend Article 56 of the *Convention on International Civil Aviation* to provide for an increase in the size of the ANC; and

Whereas the Assembly is of the opinion that it is highly desirable that the aforesaid amendment should come into force as soon as possible;

The Assembly:

1. *Recommends* to all Contracting States that they ratify most urgently the amendment to Article 56 of the *Convention on International Civil Aviation*; and
2. *Directs* the Secretary General to bring this resolution to the attention of Contracting States as soon as possible.

A39-9: Promotion of the Montréal Convention of 1999

Recalling its Resolution A37-22, Appendix C, relating to the ratification of instruments which have been developed and adopted under the auspices of the Organization, and Resolution A38-20, *Promotion of the Montréal Convention of 1999*;

Recognizing the importance of achieving a universal regime to govern airline liability to passengers and shippers on international flights;

Recognizing the desirability of an equitable, fair and convenient system for compensation for losses;

The Assembly:

1. *Urges* all Contracting States to support and encourage the universal adherence to the *Convention for the Unification of Certain Rules for International Carriage by Air*, done at Montréal on 28 May 1999 (Montréal Convention of 1999);
2. *Urges* all Contracting States that have not done so to become Parties to the Montréal Convention of 1999 as soon as possible; and
3. *Directs* the Secretary General to provide assistance, as appropriate, with the ratification process if so requested by a Contracting State.
4. *Declares* that this resolution supersedes Resolution A38-20.

A39-10: Promotion of the Beijing Convention and the Beijing Protocol of 2010

Recalling its Resolution A38-19 entitled Promotion of the Beijing Convention and the Beijing Protocol of 2010;

Recalling further its Resolution A37-22, Appendix C, relating to the ratification of instruments which have been developed and adopted under the auspices of the Organization; and

Recognizing the importance of broadening and strengthening the global aviation security regime to meet new and emerging threats;

The Assembly:

1. *Urges* all States to support and encourage the universal adoption of the *Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation* (Beijing Convention of 2010) and the Protocol Supplementary to the *Convention for the Suppression of Unlawful Seizure of Aircraft* (Beijing Protocol of 2010);
2. *Urges* all States to sign and ratify the Beijing Convention and Beijing Protocol of 2010 as soon as possible;
3. *Directs* the Secretary General to provide assistance, as appropriate, with the ratification process if so requested by a State; and
4. *Declares* that this resolution supersedes Resolution A38-19.

A40-9: Consolidated statement of continuing ICAO policies in the air transport field – Appendix A: Economic regulation of international air transport, Section I. Basic principles and long-term vision

Whereas the basic principles of sovereignty, fair and equal opportunity, non-discrimination, interdependence, harmonization and cooperation set out in the Convention have served international air transport well and continue to provide the basis for and contribute to its future development;

Whereas multilateralism to liberalize international air transport, especially the exchange of commercial rights, including traffic rights, on a multilateral basis to the greatest possible extent continues to be an objective of the Organization;

Whereas within the framework of the Convention, Member States have many differing regulatory goals and policies but share a fundamental objective of participation through reliable and sustained involvement in the international air transport system;

Whereas there is a need to adapt to the changing regulatory and operating environment in the air transport field and the Organization has accordingly developed policy guidance for the regulation of international air transport, including model clauses and template air services agreements;

Whereas there is need to build further understanding of the challenges and benefits associated with market access liberalization, both in terms of passenger and cargo services;

Whereas the provision of regular and reliable air transport services is of fundamental importance to the development of the economies of States, especially the developing States, including those dependent on tourism;

Whereas the Organization has adopted the long-term vision for international air transport liberalization which states:

We, the Member States of the International Civil Aviation Organization, resolve to actively pursue the continuous liberalization of international air transport to the benefit of all stakeholders and the economy at large. We will be guided by the need to ensure respect for the highest levels of safety and security and the principle of fair and equal opportunity for all States and their stakeholders;

Whereas the compliance of Member States with provisions of the Convention and the universal adherence to the *International Air Services Transit Agreement (IASTA)*, the *Convention for the Unification of Certain Rules for International Carriage by Air (Montréal Convention of 1999)*, the *Convention on International Interests in Mobile Equipment (Cape Town Convention)* and its Protocol on Matters Specific to Aircraft Equipment and other ICAO instruments governing international air transport can facilitate and contribute to the achievement of the objectives of the Organization; and

Whereas consumer interest should be given due regard in the development of national or regional policies and regulations of international air transport;

The Assembly:

1. *Urges* all Member States to give regard to, and apply, the *ICAO Long-term Vision for International Air Transport Liberalization* in policy-making and regulatory practices;
2. *Encourages* Member States to pursue liberalization of market access at a pace and in a manner appropriate to needs and circumstances, giving due regard to the interests of all stakeholders, the changing business environment and infrastructure requirements, as well as to the principles pertaining to safeguard measures designed to ensure the sustained and effective participation of all States, including the principle of giving special consideration to the interests and needs of developing countries;
3. *Urges* Member States to avoid adopting unilateral and extraterritorial measures that may affect the orderly, sustainable and harmonious development of international air transport and to ensure that domestic

policies and legislation are not applied to international air transport without taking due account of its special characteristics;

4. *Urges* Member States that have not yet become parties to the IASTA, the Montréal Convention of 1999, the Cape Town Convention and its Protocol and other ICAO instruments governing international air transport to give urgent consideration to so doing;

5. *Urges* all Member States to register all agreements and arrangements relating to international civil aviation with ICAO in accordance with Article 83 of the Convention and the *Rules for Registration with ICAO of Aeronautical Agreements and Arrangements*, to enhance transparency;

6. *Urges* Member States to keep the Council fully informed of serious problems arising from the application of air services agreements or arrangements and of any significant developments in the liberalization process;

7. *Urges* Member States to give due regard to the distinct features of air cargo services when exchanging market access rights in the framework of air service agreements and grant appropriate rights and operational flexibility so as to promote the development of air cargo services, including those enabling e-commerce;

8. *Urges* Member States, in dealing with the issues related to slot allocation and night flight restrictions, to give due consideration to the needs and concerns of other States and make every effort to resolve any concerns through consultation between the parties concerned, in a transparent and non-discriminatory manner, and to respect and follow the ICAO Balanced Approach principle in regulatory action on aircraft noise management at airports;

9. *Urges* Member States and concerned stakeholders to give regard to, and apply, the ICAO high-level, non-binding, non-prescriptive core principles on consumer protection in policy-making and regulatory and operational practices, including in case of massive disruptions impacting aviation, and to keep ICAO informed of the experiences gained or issues encountered in their application;

10. *Requests* the Council to strongly support the exchange of views and good practices on the application of the ICAO core principles on consumer protection as this effort could help encourage compatibility among national or regional regimes, taking into account the needs of States for flexibility given their social, political and economic characteristics;

11. *Encourages* Member States to continue to make use of and benefit from the ICAO Air Services Negotiation (ICAN) facility, which facilitates and improves the efficiency of their air services negotiations and consultations;

12. *Requests* the Council to undertake further work to build a better understanding of the benefits and challenges of liberalization and barriers to opening market access, so that further consideration could be given to the development of a multilateral approach at the appropriate time;

13. *Requests* the Council to continue to enhance dialogue and exchange of information with Member States and industry, taking into account the goals of the *ICAO Long-term Vision for International Air Transport Liberalization*, concerning the past experience and achievements of States, including existing liberalization agreements concluded at bilateral, regional and multilateral levels, as well as the applicability and relevance of the existing multilateral air law treaties, and the various proposals presented during the Sixth Worldwide Air Transport Conference (ATConf/6);

14. *Requests* the Council to continue to cooperate with regional and subregional bodies in the examination and development of measures of cooperation, including liberalized arrangements, and the results of these measures, in order to see whether similar or other measures should at the appropriate time be recommended to Member States for application on a wider basis; and

15. *Requests* the Council to continue the comparative and analytical study of the policies and practices of Member States in the regulation of international air transport, including the provisions of air services agreements, and to share such information with Member States.

A40-11: Consolidated statement on continuing ICAO policies related to aviation security – Appendix B: International legal instruments, enactment of national legislation and conclusion of appropriate agreements for the suppression of acts of unlawful interference with civil aviation

a) *International air law instruments*

Whereas the protection of civil aviation from acts of unlawful interference has been enhanced by the *Convention on Offences and Certain Other Acts Committed on Board Aircraft* (Tokyo, 1963), by the *Convention for the Suppression of Unlawful Seizure of Aircraft* (The Hague, 1970), by the *Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation* (Montréal, 1971), by the *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* (Montréal, 1988), by the *Convention on the Marking of Plastic Explosives for the Purpose of Detection* (Montréal, 1991), by the *Convention for the Suppression of Unlawful Acts Relating to International Civil Aviation* (Beijing, 2010)¹, by the *Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft* (Beijing, 2010), by the *Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft* (Montréal, 2014), and by bilateral agreements for the suppression of such acts;

The Assembly:

1. *Urges* Member States which have not yet done so to become parties to the *Convention on Offences and Certain Other Acts Committed on Board Aircraft* (Tokyo, 1963), to the *Convention for the Suppression of Unlawful Seizure of Aircraft* (The Hague, 1970), to the *Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation* (Montréal, 1971) and the 1988 *Supplementary Protocol to the Montréal Convention*, to the *Convention on the Marking of Plastic Explosives for the Purpose of Detection* (Montréal, 1991), to the *Convention for the Suppression of Unlawful Acts Relating to International Civil Aviation* (Beijing, 2010), to the *Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft* (Beijing, 2010), and to the *Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft* (Montréal, 2014)²;

2. *Calls upon* States not yet parties to the above-mentioned air law instruments to give effect, even before ratification, acceptance, approval or accession, to the principles of those instruments and calls upon States which manufacture plastic explosives to implement the marking of such explosives as soon as possible; and

¹ The *Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation* (Beijing, 2010) became effective in 2018.

² Lists of States Parties to aviation security legal instruments can be found at www.icao.int under the ICAO Treaty Collection.

3. *Requests* the Council to direct the Secretary General to continue to remind States of the importance of becoming parties to the Tokyo, The Hague, Montréal and Beijing Conventions, to the 1988 *Supplementary Protocol to the Montréal Convention*, to the 2010 *Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft*, to the 2014 *Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft*, and to the *Convention on the Marking of Plastic Explosives for the Purpose of Detection*, and to provide assistance requested by States encountering any difficulties in becoming parties to these instruments.

b) *Enactment of national legislation and conclusion of appropriate agreements*

Whereas deterrence of acts of unlawful interference with civil aviation can be greatly facilitated through the enactment by Member States of national criminal laws providing severe penalties for such acts;

The Assembly:

1. *Calls upon* Member States to give special attention to the adoption of adequate measures against persons committing, planning, sponsoring, financing or facilitating acts of unlawful interference against civil aviation, and in particular to include in their legislation rules for the severe punishment of such persons; and

2. *Calls upon* Member States to take adequate measures relating to the extradition or prosecution of persons committing acts of unlawful interference against civil aviation by adopting appropriate provisions in law or treaty for that purpose and by concluding appropriate agreements to provide for the extradition of persons committing criminal attacks on international civil aviation.

**A40-28 Consolidated statement of continuing ICAO policies in the legal field –
Appendix C: Ratification of ICAO international instruments**

The Assembly:

Recalling its Resolution A39-11, Appendix C relating to the ratification of the Protocols of Amendment to the Chicago Convention and of the private air law and other instruments which have been developed and adopted under the auspices of the Organization;

Noting with concern the continuing slow progress of ratification of the aforementioned Protocols of Amendment, including in particular those amending Articles 50 (a) and 56 adopted in 2016, and the final paragraphs (relating to the Arabic and Chinese texts);

Also noting that while a substantial number of States are party to the Protocols introducing Articles 3 *bis* and 83 *bis* of the Chicago Convention, there is still a need to further progress the ratification of those Protocols;

Recognizing the importance of these amendments to international civil aviation, in particular to the viability of the Chicago Convention, and the consequent urgent need to accelerate the entry into force of those amendments not yet in force;

Recognizing the need to accelerate the ratification and entry into force of air law instruments developed and adopted under the auspices of the Organization;

Conscious of the fact that only a universal participation in these Protocols of Amendment and other instruments would secure and enhance the benefits of unification of the international rules which they embody:

Urges all Contracting States which so far have not done so to ratify those Amendments to the Chicago Convention which are not yet in force, i.e. those amending the final paragraph to add Arabic and Chinese to the authentic texts of the Convention, and those amendments to Articles 50 (a) and 56 adopted in 2016, as soon as possible;

Urges all Contracting States which have not yet done so to ratify the Protocols introducing Articles 3 *bis* and 83 *bis* of the Chicago Convention;

Urges all Contracting States which so far have not done so to ratify the other international air law instruments, in particular the Montréal Convention of 1999, the Cape Town Convention and Aircraft Protocol of 2001, the two Montréal Conventions of 2 May 2009, the Beijing Convention and the Beijing Protocol of 2010, the Montréal Protocol of 2014 and the Protocols on the Authentic Quinquelingual Text (1995) and the Authentic Six-Language Text (1998) of the Chicago Convention, as soon as possible;

Urges States which have ratified the instruments in question to provide to the Secretary General copies of the text and documents they have used in the process of ratification and implementation of such instruments and which may serve as an example assisting other States in the same process; and

Directs the Secretary General to take all practical measures within the Organization's means in cooperation with States to provide assistance, if requested, to States encountering difficulties in the process of ratification and implementation of the air law instruments, including the organization of and the participation in workshops or seminars to further the process of ratification of the international air law instruments.

— END —