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LEGAL COMMITTEE

CONSTITUTION

PROCEDURE FOR APPROVAL OF DRAFT CONVENTIONS

RULES OF PROCEDURE

Approved by the Legal Committee and published by authority of the Secretary General

SEVENTH EDITION – 2023

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HISTORICAL NOTE

In expressing the wish "that there be named in the near future a special committee of experts entrusted with preparing the continuation of the work of the conference", the first international conference on private air law, meeting in Paris from 26 October to 6 November 1925, laid the foundation of the international body which, for some twenty years, until the end of the second world war, was entrusted with the international codification of private air law. It was in May 1926 that the Comité International Technique d'Experts Juridiques Aériens, more widely known under its abbreviated name of CITEJA, was created at Paris. From 1926 until 1947, date of its dissolution, CITEJA held sixteen sessions and drew up the draft conventions which were to become:

the Convention for the unification of certain rules relating to international carriage by air, signed at Warsaw on 12 October 1929;

the Convention for the unification of certain rules relating to damage caused by aircraft to third parties on the surface, signed at Rome on 29 May 1933;

the Convention for the unification of certain rules relating to the precautionary attachment of aircraft, signed at Rome on 29 May 1933;

the Additional Protocol to the Convention for the unification of certain rules relating to damage caused by aircraft to third parties on the surface, signed at Brussels on 29 September 1938;

the Convention for the unification of certain rules relating to assistance and salvage of aircraft or by aircraft at sea, signed at Brussels on 29 September 1938.

The International Civil Aviation Conference, held at Chicago from 1 November to 7 December 1944, recommended in a resolution appearing in its Final Act, "that the various governments represented at this International Civil Aviation Conference give consideration to the desirability of bringing about the resumption at the earliest possible date of the CITEJA sessions which were suspended because of the outbreak of war ..." and "that consideration also 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".

As a result of this resolution, the CITEJA met in Paris and Cairo in 1946, but it was thought preferable to entrust the work of the CITEJA to a new international body created within ICAO. In May 1947, at Montreal, the CITEJA held its last session and the ICAO Assembly (First Session) instituted a Legal Committee, with broader powers than those of the CITEJA, which was charged, among other things, with resuming the work of the international codification of private air law. The same session of the Assembly likewise 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 was the subject of 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, held at Brighton from 15 June to 6 July 1953. The revised Constitution appears in Resolution A7-5 and the revised procedure for the approval of draft conventions appears in the Assembly Resolution on the *Consolidated statement of continuing ICAO policies in the legal field*, Appendix B.[1]

Since its institution in 1947, the Legal Committee has prepared drafts which led to the adoption of the following instruments:

Convention on the International Recognition of Rights in Aircraft, Signed at Geneva on 19 June 1948;

Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface, Signed at Rome on 7 October 1952;

1. Resolution A41-4 at the time of publication of this edition. The *Consolidated statement of continuing ICAO policies in the legal field* is updated for adoption at each ordinary Assembly Session, and the adopted version is given a new Resolution number that indicates the Session of adoption.

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;

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;

Convention on Offences and Certain Other Acts Committed on Board Aircraft, Signed at Tokyo on 14 September 1963;

Convention for the Suppression of Unlawful Seizure of Aircraft, Signed at The Hague on 16 December 1970;

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;

Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, Signed at Montreal on 23 September 1971;

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;

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;

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;

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;

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;

Protocol Relating to an Amendment to the Convention on International Civil Aviation [Article 83 *bis*], signed at Montreal on 6 October 1980;

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;

Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal on 1 March 1991;

Convention for the Unification of Certain Rules for International Carriage by Air, Done at Montreal on 28 May 1999;

Convention on International Interests in Mobile Equipment, Signed at Cape Town on 16 November 2001;

Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment, Signed at Cape Town on 16 November 2001;

Convention on Compensation for Damage Caused by Aircraft to Third Parties, Signed at Montréal on 2 May 2009;

Convention on Compensation for Damage to Third Parties, Resulting from Acts of Unlawful Interference Involving Aircraft, Signed at Montréal on 2 May 2009;

Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation, Done at Beijing on 10 September 2010;

Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft, Done at Beijing on 10 September 2010; and

Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft, Done at Montréal on 4 April 2014.

According to its Constitution, the Legal Committee adopted Rules of Procedure at its First Session held in Brussels in 1947. At its Eighth Session, held in Madrid in September 1951, the Committee adopted new Rules of Procedure, which were amended at the following Sessions: Ninth (Rio de Janeiro, 1953), Thirteenth (Montreal, 1960), Sixteenth (Paris, 1967), Twenty-Fifth (Montreal, 1983), Thirtieth (Montreal, 1997), Thirty-Sixth (Montreal, 2015) and Thirty-Eighth (virtual, 2022).

The 41st Session of the Assembly, held from 27 September to 7 October 2022, adopted Resolution A41-5 commemorating the 75th anniversary of the Legal Committee, emphasizing the essential role that the Committee has played in the development and codification of international air law and reiterating the need for it to continue to take a leadership role in studying new and emerging issues affecting air law, to promote the development and codification of international air law and thereby to strengthen the legal framework governing international civil aviation for the benefit of all nations and peoples of the world.

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CONSTITUTION

(Assembly Resolution A7-5)

1. The Legal Committee (hereinafter called "the Committee") shall be a permanent Committee of the Organization, constituted by the Assembly and responsible to the Council except as otherwise specified herein.

2. The duties and functions of the Committee shall be:

a) to advise the Council on matters relating to the interpretation and amendment of the *Convention on International Civil Aviation*, referred to it by the Council;

b) to study and make recommendations on such other matters relating to public international air law as may be referred to it by the Council or the Assembly;

c) by direction of the Assembly or the Council, or on the initiative of the Committee and subject to the prior approval of the Council, to study problems relating to private air law affecting international civil aviation, to prepare drafts of international air law conventions and to submit reports and recommendations thereon;

d) to make recommendations to the Council as to the representation at sessions of the Committee of non-Contracting States and other international organizations, as to the coordination of the work of the Committee with that of other representative bodies of the Organization and of the Secretariat and also as to such other matters as will be conducive to the effective work of the Organization.

3. The Committee shall be composed of legal experts designated as representatives of and by Contracting States, and shall be open to participation by all Contracting States.

4. Each Contracting State represented in meetings of the Committee shall have one vote.

5. The Committee shall determine, subject to the approval of the Council, the general work programme of the Committee and the provisional agenda of each session, provided that the Committee may, during a session, modify the provisional agenda for the better conduct of its work consistently with the provisions of this Constitution. Sessions of the Committee shall be convened at such places and times as may be directed or approved by the Council.

6. The Committee shall adopt rules of procedure. Such rules, and any amendment thereof which affects the relationship of the Committee with other bodies of the Organization or with States or other organizations, shall be subject to approval by the Council.

7. The Committee shall elect its own officers.

8. The Committee may appoint Sub-Committees either to meet concurrently with the Committee or, subject to the approval of the Council, at other times and places as it may deem fit.

PROCEDURE FOR APPROVAL OF DRAFT CONVENTIONS

(Assembly Resolution on the *Consolidated statement of continuing ICAO policies in the legal field,* Appendix B[1])

1. Any draft convention which the Legal Committee considers as ready for presentation to the States as a final draft shall be transmitted to the Council, together with a report thereon.

2. The Council may take such action as it deems fit, including the circulation of the draft to the Contracting States and to such other States and international organizations as it may determine.

3. In circulating the draft convention, the Council may add comments and afford States and organizations an opportunity to submit comments to the Organization within a period of not less than four months.

4. Such draft convention shall be considered, with a view to its approval, by a conference which may be convened in conjunction with a session of the Assembly. The opening date of the conference shall be not less than six months after the date of transmission of the draft as provided in paragraphs 2 and 3 above. The Council may invite to such a conference any non-Contracting State whose participation it considers desirable, and shall decide whether such participation carries the right to vote. The Council may also invite international organizations to be represented at the conference by observers.

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1. Resolution A41-4 at the time of publication of this edition. The *Consolidated statement of continuing ICAO policies in the legal field* is updated for adoption at each ordinary Assembly Session, and the adopted version is given a new Resolution number that indicates the Session of adoption.

RULES OF PROCEDURE

SECTION I – SESSIONS

Rule 1

Ordinary Sessions

The Committee shall normally hold an annual session. Additional sessions may be held, if necessary.

Rule 2

Special Sessions

Special sessions may be convened by direction of the Council or the Assembly to provide legal advice, to make recommendations and to submit reports, as the case may be, on urgent matters enumerated in paragraphs 2 a), b) and c) of the Constitution of the Legal Committee.

Rule 3

Place and time of sessions

The sessions of the Committee shall be convened at such times and places as may be directed or approved by the Council.

SECTION II – COMPOSITION

Rule 4

Representation of States

The Legal Committee shall be composed of legal experts designated as Representatives of and by the Contracting States, each of which shall notify the Secretary General of the Organization of the name or names of such designated Representative or Representatives. No person may represent more than one State.

Rule 5

Observers

Such non-Contracting States and international organizations as are duly authorized by the Council may be represented at sessions of the Committee by one or more observers.

SECTION III – OFFICERS

Rule 6

Chairperson and Vice-Chairpersons

a) The Committee shall elect at the end of every second session, from among the Representatives of States, a Chairperson and the First, Second, Third and Fourth Vice-Chairpersons. Such officers shall hold office from the time of adjournment of the session when they were elected until the end of the session during which their successors are duly elected. Subject to Rule 6 d), they shall not be eligible for re-election for the next succeeding term for the same position.

b) If the office of the Chairperson or any of the offices of the Vice-Chairpersons is vacated during the term, the next Vice-Chairperson in line shall automatically succeed to the vacated office for the unexpired portion of the term.

c) If the office of a Vice-Chairperson is vacated during the term which cannot be filled in the manner described in Rule 6 b), the Committee shall, at the end of the first session following the vacancy, elect from among the Representatives of States, a Vice-Chairperson to fill the vacant office for the unexpired portion of the term.

d) Individuals serving as officers for the unexpired portion of a term pursuant to Rules 6 b) and c) shall not be precluded from re-election for the next succeeding term for the same position; provided that in no event shall an individual serving as Chairperson for the two sessions of the current term be eligible for re-election for the next succeeding term for the same position.

Rule 7

Absence of Officers

If the Chairperson and Vice-Chairpersons are unable to act at any meeting, an acting chairperson shall be elected who shall act until one of the officers is able to resume office.

SECTION IV – WORK PROGRAMME AND AGENDA

Rule 8

Establishment and Maintenance of Work Programme

The Committee shall establish and maintain, subject to the approval of the Council, a general programme of work which shall include any subjects proposed by the Committee itself. The work programme may also include subjects proposed by the Contracting States or international organizations represented at sessions of the Committee. It shall also include any subjects proposed by the Assembly or the Council.

Rule 9

Establishment of Subject Lists

a) At each session, the Committee, taking into consideration the requirements of international civil aviation with due regard to the stage of preparation of subjects on its programme, shall establish two lists as follows:

   i) subjects to be placed for action on the agenda of the next session of the Committee;

   ii) subjects to be studied and reported on for future consideration by the Committee.

b) Subjects shall be placed on these lists in the order of priority to be established so far as practicable in accordance with any direction or recommendation made thereon by the Assembly or the Council of the Organization.

Rule 10

Provisional Agenda

a) At the end of each session, the Committee shall determine a provisional agenda for the next session.

b) The Chairperson of the Committee may add any other matter, which the Chairperson deems necessary, to the provisional agenda.

c) The provisional agenda shall be subject to the approval of the Council.

d) The proposed agenda shall be distributed at least four months before the session.

e) In the case of a special session, as provided by Rule 2, the proposed agenda shall be distributed, as far as possible, at least two months before the session.

f) The appropriate documentation shall be distributed with the proposed agenda or as soon thereafter as possible.

Rule 11

Final Agenda

a) The Committee shall fix the final agenda of the session at its first meeting.

b) The Committee may, during a session, modify the order of items on the agenda for the better conduct of its work.

c) Subject to the approval of the Council, additional items may be added to the agenda at any time.

SECTION V – SUB-COMMITTEES AND RAPPORTEURS

Rule 12

Establishment of Sub-Committees

a) The Committee may establish, on a permanent or temporary basis, such Sub-Committees as may be deemed necessary to carry out its work.

b) If, in the opinion of the Chairperson of the Committee, it is necessary between sessions to establish any special Sub-Committee, the Chairperson may do so and appoint the members to serve until the next session of the Committee.

c) Each Sub-Committee shall be charged with only one subject or group of related subjects.

Rule 13

Appointment of Members

a) The Members of each Sub-Committee shall be appointed by the Committee. In case of any vacancy between sessions in the membership of a Sub-Committee, the Chairperson of the Committee or, on the Chairperson's failure to do so, the Chairperson of the Sub-Committee concerned may fill such vacancy. Members of Sub-Committees appointed between sessions shall continue in office until the next session.

b) The officers of the Committee and the immediately past Chairperson shall be members *ex officio* of all Sub-Committees.

Rule 14

Time and Place of Meetings of Sub-Committees

Sub-Committees shall meet either in conjunction with the Committee or, subject to the approval of the Council, at other times and places as the Committee or Sub-Committee may deem fit.

Rule 15

Working Groups

The Committee and Sub-Committees may create working groups.

Rule 16

Chairpersons

Each Sub-Committee or Working Group shall elect its own Chairperson and arrange its meetings in consultation, so far as practicable, with the Chairperson of the Committee.

Rule 17

Rapporteurs

A Rapporteur may be appointed by the Committee or a Sub-Committee for any subject under study. If, in the opinion of the Chairperson of the Committee, it is necessary between sessions to appoint a Rapporteur to carry out a special study, the Chairperson may appoint a Rapporteur to serve until the next session of the Committee.

Rule 18

Procedure

The Committee or, in case of its failure to do so, the Sub-Committee charged with a subject shall determine the most appropriate procedure for dealing with it.

Rule 19

Consideration of Requests

a) Matters referred to the Committee by the Assembly or the Council and received by the Committee during a session shall be considered by the Committee at that time.

b) Matters referred to the Committee while the Committee is not in session may be referred by the Chairperson to any existing Sub-Committee dealing with the general subject matter, or otherwise to a special Sub-Committee established in accordance with Rule 12 hereof, or to a Rapporteur appointed in accordance with Rule 17 hereof, for report to the next session of the Committee.

SECTION VI – SECRETARIAT

Rule 20

Secretariat

The Members of the Secretariat of the Organization, designated for that purpose by the Secretary General of the Organization, shall constitute the Secretariat of the Committee and its Sub-Committees.

SECTION VII – CONDUCT OF BUSINESS

Rule 21

Public and Private Meetings

Meetings of the Committee shall be open to the public unless the Committee decides that any of its meetings shall be held in private. Meetings of Sub-Committees and Working Groups shall not be open to the public except by decision of the Sub-Committee or Working Group concerned.

Rule 22

Participation of Observers

Observers may participate without vote in the deliberations of the Committee when its meetings are not held in private. With respect to private meetings, individual observers may be invited by the Committee to attend and to be heard.

Rule 23

United Nations Participation

Notwithstanding any of these rules, observers of the United Nations may attend the meetings of the Committee and of its Sub-Committees and Working Groups and may participate without vote in their deliberations.

Rule 24

Participation in Sub-Committees and Working Groups

Representatives of States who are not represented in a Sub-Committee or Working Group and observers may attend and be heard if invited by the body concerned.

Rule 25

Quorum

A majority of Contracting States represented at a session and whose Representatives have not notified the Secretary of their departure shall constitute a quorum.

Rule 26

Powers of Presiding Officers

The presiding officer of the Committee, a Sub-Committee or a Working Group shall declare the opening and closing of each meeting, direct the discussion, ensure observance of these Rules, accord the right to speak, put questions and announce decisions. The presiding officer shall rule on points of order and, subject to these Rules, shall have complete control of the proceedings of the body concerned and over the maintenance of order at its meetings.

Rule 27

Speakers

a) The presiding officer shall call upon speakers in the order in which they have expressed their desire to speak; the presiding officer may call a speaker to order if the speaker's observations are not relevant to the subject under discussion.

b) Generally, no Representative should be called to speak a second time on any question except for clarification, until all other Representatives desiring to speak have had an opportunity to do so.

Rule 28

Precedence

At meetings of the Committee, precedence may be awarded by the Chairperson of the Committee to the Chairperson of a Sub-Committee or Working Group or a Rapporteur in discussions on matters being reported on by the Sub-Committee, Working Group or Rapporteur.

Rule 28A

Texts by Sub-Committees

Where a text for a draft convention has been prepared by a Sub-Committee and presented to the Committee, then, unless the Committee shall in any case by a two-thirds majority otherwise decide:

a) the text so prepared shall be taken as the basis of discussion;

b) any proposals in relation to the text so prepared shall be submitted in the form of amendments to the text.

Rule 29

Points of Order

During the discussion on any matter, a Representative on the Committee may at any time raise a point of order, and the point of order shall be immediately decided by the presiding officer. Any Representative on the Committee may appeal against the ruling of the presiding officer and any discussion on the point of order shall be governed by the procedure stated in Rule 32. The ruling of the presiding officer shall stand unless overruled by a majority of votes cast. A Representative speaking on a point of order may speak only on this point and may not speak on the substance of the matter under discussion before the point was raised.

Rule 30

Time Limit on Speeches

A presiding officer may limit the time allowed to each speaker, unless the body concerned decides otherwise.

Rule 31

Motions and Amendments

a) A motion or amendment shall not be discussed until it has been seconded. Motions and amendments may be presented and seconded only by Representatives on the Committee. However, observers may make a motion or amendment provided that such motion or amendment is seconded by the Representatives of two States on the Committee.

b) No motion may be withdrawn by its author if an amendment to it is under discussion or has been adopted.

Rule 32

Procedural Motions

Subject to the provision of Rule 31 a), any Representative on the Committee may move at any time the suspension or adjournment of the meeting, the adjournment of the debate on any question, the deferment of discussion of an item, or the closure of the debate on an item. After such a motion has been made and explained by its proposer, only one speaker shall normally be allowed to speak in opposition to it, and no further speeches shall be made in its support before a vote is taken. Additional speeches on such motion may be allowed at the discretion of the presiding officer, who shall decide the priority of recognition.

Rule 33

Order of Procedural Motions

The following motions shall have priority over all other motions and shall be taken in the following order:

a) to suspend the meeting;

b) to adjourn the meeting;

c) to adjourn the debate on any question;

d) to defer discussion of any question;

e) for closure of the debate on any question.

Rule 34

Reopening of Debate

Reopening of a debate already completed by a vote on a given question during the same session shall require a majority of two-thirds of votes cast. Reopening of a debate already completed by a vote on a given question during a previous session shall require a majority of votes cast. Permission to speak on a motion to reopen shall normally be accorded only to the proposer and to one speaker in opposition, after which it shall be immediately put to vote. Additional speeches on such a motion may be allowed at the discretion of the presiding officer, who shall decide the priority of recognition. Speeches on a motion to reopen shall be limited in content to matters bearing directly on the justification for reopening.

Rule 35

Discussions in Sub-Committees and Working Groups

Notwithstanding these rules, Sub-Committees and Working Groups may conduct their deliberations informally.

SECTION VIII – VOTING

Rule 36

Voting Rights

Each Contracting State duly represented shall have one vote at meetings of the Committee. Observers shall not be entitled to vote.

Rule 37

Voting of Presiding Officer

Subject to the provisions of Rule 36, the presiding officer of the Committee or any Sub-Committee or Working Group shall have the right to vote on behalf of the presiding officer's State.

Rule 38

Majority Required

Except as otherwise provided in these Rules, decisions shall be by a majority of the votes cast. An abstention shall not be considered as a vote.

Rule 39

Method of Voting

Voting shall normally be by voice, by show of hands, or by standing. In meetings of the Committee there shall be a roll-call if requested by the Representatives of two States. The vote or abstention of each Contracting State participating in a roll-call shall be recorded in the minutes.

Rule 40

Division of Motions

On request of any Representative on the Committee and unless the Committee decides otherwise, parts of a motion shall be voted on separately. The resulting motion shall then be put to a final vote in its entirety.

Rule 41

Voting on Amendments

Any amendment to a motion shall be voted on before a vote is taken on the motion. When two or more amendments are moved to a motion, the vote shall be taken on them in their order of remoteness from the original motion, commencing with the most remote. The presiding officer shall determine whether a proposed amendment is so related to the motion as to constitute a proper amendment thereto, or whether it must be considered as an alternative or substitute motion.

Rule 42

Voting on Alternative or Substitute Motions

Alternative or substitute motions shall, unless the meeting otherwise decides, be put to vote in the order in which they are presented, and after the disposal of the original motion to which they are alternative or in substitution. The presiding officer shall decide whether it is necessary to put such alternative or substitute motions to vote in the light of the vote on the original motions and any amendments thereto. This ruling may be reversed by a majority of votes cast.

Rule 43

Tie Vote

In the event of a tie vote, a second vote on the motion concerned shall be taken at the next meeting, unless the Committee decides that such second vote be taken during the meeting at which the tie vote took place. Unless there is a majority in favour of the motion on this second vote, it shall be considered lost.

SECTION IX – LANGUAGES

Rule 44

a) Documents of the Committee, including texts of draft conventions, recommendations, resolutions and decisions shall be prepared and circulated in the English, Arabic, Chinese, French, Russian and Spanish languages.

b) The English, Arabic, Chinese, French, Russian and Spanish languages shall be used in the deliberations of the Committee and of Sub-Committees and Working Groups. Speeches made in any of the six languages shall be interpreted into the other five languages, except where such interpretation is dispensed with by consent of all those concerned.

SECTION X – RECORDS OF PROCEEDINGS AND REPORTS

Rule 45

Records of Proceedings

Subject to Rule 46, the minutes of the meetings of the Committee shall be prepared by the Secretariat and approved by the Committee unless the Committee decides that minutes need not be prepared for a meeting or part of a meeting.

Rule 46

Reports on Sessions

The Committee shall present to the Council a report on the work accomplished during each session.

SECTION XI – AMENDMENTS TO THE RULES

Rule 47

a) Subject to the provisions of its Constitution, the Committee may make at any session such amendments to these rules as may be deemed necessary or appropriate.

b) Any proposed amendment not included in the proposed agenda submitted pursuant to Rule 10 may be adopted only by a two-thirds vote of Contracting States duly represented at the session.

APPENDIX

ORGANIZATION AND WORKING METHODS OF THE LEGAL COMMITTEE

Note.— At its Sixteenth Session (1967), the Legal Committee considered it desirable that certain recommendations of the Assembly (Fifteenth Session) concerning the organization and working methods of the Committee as well as certain decisions of the Committee (Sixteenth Session) on the same subject be collected and made available to Members in a convenient form (for example, in a part of a booklet containing the Constitution and Rules of Procedure of the Legal Committee). These recommendations and decisions are set forth below.

a. RECOMMENDATIONS OF THE ASSEMBLY (Fifteenth Session)

Extract from the Report of the Legal Commission of the Assembly

(Fifteenth Session, Montreal 1965 – Doc 8517, A15-LE/10).[1]

1. *Membership and seat of the Committee.* The Commission unanimously decided that the Legal Committee should continue to remain open to representatives of all Contracting States and that there is no need to provide that the Committee would have a permanent seat in Montreal.

2. *Sessions of the Committee.* The Commission agrees that it is not necessary that the Legal Committee should hold permanent sessions. It did not adopt the recommendation of the Working Group that the Legal Committee should, if possible, meet twice a year instead of once a year as at present, whenever this is necessary in order for the Committee to keep its work up to date; it considered that this matter should be left for determination in accordance with the Committee's Rules of Procedure, which already permit more than one session per year to be held, if necessary.

1. With new paragraph numbers.

3. *Continuity of participation of delegates in work.* The Commission proposes that the Assembly draw the attention of States to the desirability, in the interest of good progress in the work of the Legal Committee, of the participation by the same delegates, as far as possible, in all meetings concerning a specified question.[2]

4. *Establishment of national groups or teams of lawyers.* The Commission also proposes that the attention of States should be drawn to the practice followed in some States where national groups or teams of lawyers have been established for consideration of items on the agenda of the Legal Committee.[2]

5. *Election of officers.* The Legal Commission recommends that the Legal Committee should, instead of electing its Chairman and Vice-Chairmen at the beginning of a session of the Committee, elect these officers at the end of a session. The officers so elected would enter office immediately and hold office for the next two sessions.[3]

6. *Basic principles to be followed in the preparation of draft conventions.* The Legal Commission examined with interest the various principles which the Working Group of the Council suggested be followed in the preparation of draft conventions (*see* A15-WP/23 LE/4, Attachment: C-WP/4160, paras. 8 and 14 (Recommendation (6)). It noted that some of these principles were in fact followed by the Legal Committee and that therefore it was unnecessary to direct the Committee to follow them. The Legal Commission found certain other of the principles suggested by the Working Group unacceptable on their merits or, in some cases, as being too rigid. Finally, the Legal Commission decided to refer to the following principles as being important and recommended that the Legal Committee continue to observe them:

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2. This proposal was brought to the attention of States in State Letter S 11/1-65/172, dated 7 September 1965.

3. At its Sixteenth Session, the Legal Committee amended Rule 6 of its Rules of Procedure accordingly. At its Thirty-Sixth Session, the Legal Committee further amended Rule 6 to allow for automatic succession by a Vice-Chairman next in line to the vacant office for the unexpired portion of the term; where a vacant office cannot be filled by succession, the Rule would allow for the election of a Vice-Chairman at the end of the first session following the vacancy, to fill the vacant office for the unexpired portion of the term. At its Thirty-Eighth Session, the Legal Committee amended its Rules of Procedure to use gender-neutral language pursuant to the Declaration on Improving Gender Representation in ICAO's Governing and Technical Bodies, unanimously adopted by the Council at the seventh meeting of its 222nd Session on 5 March 2021. The gendered language is retained in the Appendix as it is an extract from the original 1965 Report of the Legal Commission.

1) Draft conventions placed before the Legal Committee by Sub-Committees should be considered under the procedure found in Rule 28A of the Committee's Rules of Procedure.

2) At all stages of the study of a subject, the Legal Committee should make full use of the resources of the Legal Bureau[4].

3) Questionnaires should be used for the purpose of consulting States and international organizations, although they should be used sparingly.

7. *Procedure for the preparation of draft conventions.* The Legal Commission agreed that the procedure to be followed by the Legal Committee for the preparation of draft conventions should be as indicated in the statement set forth in Attachment A hereto[5], noting that this is the same as the existing procedure with some minor changes.

8. *Informal consultations among members of the Legal Committee.* The Legal Commission notes with approval the practice of informal consultations between members of the Legal Committee before, during and after each session of the Committee with a view to reconciling possible divergent interests and reducing the occasions of an impasse or the number of cases where the Committee might take decisions by a narrow majority.

9. *Roles of the Chairman and Legal Bureau.* The Legal Commission considers that the Chairman of the Legal Committee and the Legal Bureau should be given an increasingly active role in promoting progress of the work of the Legal Committee. (See, in particular, the following paragraphs.)

10. *Roles of Chairman, Vice-Chairmen and Legal Bureau in informal consultations.* The Legal Commission considers that the Chairman of the Legal Committee, or, in the event of his being unable to act, one of the Vice-Chairmen, should undertake informal consultations assisted by the Legal Bureau.

4. Renamed the Legal Affairs and External Relations Bureau effective 14 November 2008.
5. Attachment A is reproduced at the end of Doc 7669.

11. *Role of Legal Bureau during sessions of Legal Committee.* The Legal Commission considers that the Legal Bureau should, at the request of the Chairman of the Legal Committee or of the Committee itself during a session, make suggestions (e.g., draft texts) for the solution of problems before the Committee.

12. *Relationship between the Council and the Legal Committee.* The Legal Commission considers that there should be no change in the relationship now existing between the Council and the Legal Committee as established by the existing Constitution of the Committee (Resolution A7-5).

b. DECISIONS OF LEGAL COMMITTEE (Sixteenth Session)

Work Programme

The Committee decided:

"to continue the practice indicated by the Council in 1953 of dividing the general programme of work of the Committee into two parts, namely –

Part A (subjects of current study) and

Part B (subjects on which no work should be undertaken unless and until a report had been submitted to the Council by the Secretary General or by the Chairman of the Committee indicating the need for such work and the Council had approved, or unless the Assembly or Council otherwise directed that active work should be undertaken)."[6]

6. Doc 8704-LC/155, 22/9/67 – Summary of the Work of the Legal Committee during its Sixteenth Session, p. 21, or Doc 8787-LC/156-1 – Minutes of the Sixteenth Session of the Legal Committee, p. (xxix). (Note: Doc 8704 was incorporated into Doc 8787). During the 26th Session of the Assembly in 1986, the Legal Commission "reconfirmed the conclusions reached at the 23rd Session of the Assembly in 1980 that the General Work Programme in the legal field should include only problems of sufficient magnitude and practical importance requiring an urgent international action. In view of this criterion, the General Work Programme should not be divided into Parts A and B." (Doc 9493, A26-LE, Report and Minutes of the Legal Commission, p. 8, paragraph 21:2)

Assessment of extent of agreement in regard to a draft convention

The Committee decided:

"that, in practice, each subcommittee established by the Committee to study a draft convention should, as far as practicable, include in its report an assessment of the measure of agreement reached and capable of being reached between States upon the problems under consideration, together with an expression of opinion whether the subject is ripe for study by the Legal Committee. If, in the opinion of the Chairman of the Legal Committee, any steps may have to be taken by the Council in connection with the report of a subcommittee before the next session of the Legal Committee, he will send that report as soon as possible to the Council together with such comments as he considers necessary or useful. The Committee did not consider that it was necessary to include such a statement as the foregoing in its Rules of Procedure;"[7]

7. ibid., Doc 8704, p. 22; Doc 8787, p. (xxx).

ATTACHMENT A

PROCEDURE FOR THE PREPARATION OF DRAFT CONVENTIONS

1. As a first step, the Legal Bureau would continue, as at present, to collect documentation (national laws, case-law, doctrine, technical and economic information) in relation to subjects in Part A of the work programme of the Legal Committee. The Committee would then, with the aid of the Legal Bureau, prepare a summary of the essential problems on which a decision is required in order to facilitate the work of the Committee.

1.1 The next step would be for the Legal Committee to refer the subject for study either to a rapporteur or to a Sub-Committee, or to both, as the Committee considers appropriate.

1.1.1 Under Rule 12 of the Rules of Procedure of the Legal Committee, the number of members of a Sub-Committee is left for determination by the Committee or its Chairman, depending on whether the Sub-Committee is established during a session of the Committee, or between sessions. Although no change is recommended in Rule 12, it is, nevertheless, considered that the membership of a Sub-Committee should not be too large. The most important criterion to be applied in making appointments to a Sub-Committee is the contribution which a member can bring to the work of the Sub-Committee, although no doubt other considerations would be involved in such appointments, e.g., the achievement of geographical representation and linguistic distribution as well as the balancing of legal systems.

1.1.2 At this same stage (see paragraph 1.1 above), the Legal Bureau, or the rapporteur, if one is appointed, should prepare for the Sub-Committee and circulate to its members an analysis of the problems raised by the subject to be studied.

1.1.2.1 The rapporteur or the Sub-Committee may request, through the Secretary General, from States and international organizations views or other information on these problems.

1.1.3 The rapporteur or Sub-Committee would then prepare a report for submission to the Legal Committee. This report, as well as including a discussion of the subject under study, and, where appropriate, a draft convention, could raise questions for decision by the Committee.

1.1.4 The report so prepared would normally be circulated to Contracting States and international organizations and, if necessary, to representative bodies of ICAO for comment.

1.2 The next step would be for the Legal Committee to consider the report and draft convention which were prepared by the Sub-Committee and the comments which may have been received from States or other bodies.

1.2.1 The Legal Committee would, at this stage, refer back to the Sub-Committee, with an indication of the Committee's views, a text which required additional work by the Sub-Committee on a specific problem or problems or which, though appearing to have little chance of acceptance by States for the time being, nevertheless showed possibilities of successful completion in the future.

1.2.2 At the same time, if further views of the Contracting States and international organizations were required, they could be elicited by the Legal Committee, through the Secretary General, and placed before the Sub-Committee.

1.3 The final step would be for the Legal Committee to discuss the draft convention revised by the Sub-Committee.

— END —

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