



A42-WP/663
LE/15
26/9/25

ASSEMBLY — 42ND SESSION

LEGAL COMMISSION

DRAFT TEXT FOR THE REPORT ON AGENDA ITEM 29

The attached material on Agenda Item 29 is submitted for consideration by the Legal Commission.

Agenda Item 29: Other issues to be considered by the Legal Commission

29.1 The Commission considered A42-WP/90, presented by South Africa, which recalled previous Assembly Resolutions relating to the implementation of CNS/ATM systems including Global Navigation Satellite Systems (GNSS) and the importance of developing guidance for the development and implementation of a global legal regime for GNSS. While noting the evolution of ATM systems since the Resolutions were adopted, the paper highlighted developments necessitating continuous monitoring of the aviation operating landscape, such as the potential impacts posed by the re-entry of space objects affecting international air navigation and higher altitude operations (HAO). A42-WP/90 proposed the assignment of key work packages to relevant ICAO Panels, Committees and Working Groups and suggested that the Legal Committee be tasked to create a risk matrix on aspects considered and deemed addressed under the Chicago Convention and related SARPs/PANS for consideration by States. At the invitation of the Chairperson, the Secretariat expressed the view that the elements of A42-WP/90 pertaining to re-entry of space objects and higher altitude operations were not related to the existing item on the Work Programme but were the subject of different technical work streams as confirmed by the 14th Air Navigation Conference. The Chairperson therefore sought clarification as to whether A42-WP/90 was intended to add a new item to the Work Programme. The delegation of South Africa clarified that A42-WP/90 did not seek to add a new item to the Work Programme of the Legal Committee.

29.2 Several delegations who took the floor expressed support for A42-WP/90 emphasizing the importance of understanding the risks and gaps in coverage arising from the existing legal regime. One delegation wished to further strengthen the proposal by recommending that the Legal Committee should establish a dedicated study group on legal aspects of emerging space-based technology. Other delegations who took the floor did not support A42-WP/90 or the actions proposed therein, noting the additional workload that it would impose on the Secretariat and cautioning that detailed technical work which has been ongoing in other fora should not be duplicated. While observing that the Legal Committee was not the appropriate forum for addressing the issues raised in A42-WP/90, one delegation considered that continued collaboration between the United Nations Office for Outer Space Affairs (UNOOSA) and national space agencies provided a more suitable forum for addressing matters related to the safe and sustainable use of outer space. In that delegation's view there is no need for the Legal Committee to be tasked to develop new frameworks at this time. Several other delegations who did not support the action proposed in A42-WP/90 underlined that the issues raised therein should not be conflated with the existing item on the Work Programme of the Legal Committee relating to "Study of international legal issues relating to global satellite systems and services supporting international air navigation services", and that any legal consideration should follow a clearer technical understanding.

29.3 Considering the divergent views expressed by delegations, the Chairperson of the Commission concluded that as there was no clear majority either in favour of or against the actions proposed in A42-WP/90, the matter should be left to the Legal Committee to determine whether the elements covered by A42-WP/90 would fit within a broader scope of the existing Working Programme item relating to study of international legal issues relating to global satellite systems and services supporting international air navigation services.

29.4 The Commission reviewed A42-WP/268, presented by Brazil and Oman, and supported by 19 LACAC Member States and co-sponsored by Singapore, which emphasized the importance of celebrating the 80th anniversary of the Chicago Convention. The paper highlighted the foundation laid

down by the Convention and the essential contribution of international air law treaties for a safe, integrated and sustainable civil aviation system, underpinned by cooperation among States in technical, economic and legal fields. One Delegation proposed additional paragraphs to the draft resolution contained in the Appendix to the working paper, recognizing contributions of Air Navigation Commission, Air Transport Committee and other ICAO bodies and inviting those bodies to coordinate with the Legal Committee and LEB to ensure that legal implications are considered in parallel with technical development. The Commission recognized the importance of the ICAO Legal Committee, and its predecessor CITEJA, in drafting treaties and supporting States in applying international air law and acknowledged the vital role of national legal advisors in the implementation of the Chicago Convention and other international air law instruments domestically and the need for capacity-building to strengthen their expertise. It also emphasized the support provided by the ICAO Secretariat, particularly the Legal Affairs and External Relations Bureau (LEB). The Commission endorsed the proposed resolution commemorating the 80th anniversary of the Chicago Convention as amended during the discussion, paying tribute to contributors in the legal field and urging continued support for the Legal Committee, the Secretariat, and national legal advisors.

A42/xx Honouring 80 Years of the Chicago Convention: The Legacy of the Work in the Legal Field

Whereas the year 2024 marks the 80th anniversary of the Chicago Convention, and ICAO highly values and promotes the rule of law in international civil aviation;

Noting that the Legal Committee has played a crucial role in drafting, developing and promoting the ratification of air law treaties;

Noting also that the Legal Committee has conducted studies on key issues related to international air law and has contributed to the development of a resilient civil aviation sector;

Noting further that ICAO Member States support the work of the Legal Committee by nominating national legal experts to contribute to the numerous task forces, study groups, working groups, and other forums that undertake the Committee's Work Programme;

Recognizing the strong support provided by the ICAO Secretariat, particularly the Legal Affairs and External Relations Bureau, in facilitating the work of the Legal Committee and, consequently, the development and codification of international air law;

Recognizing also the vital role that legal advisors of civil aviation authorities play at the national level in implementing the principles and international rules of the Chicago Convention and ensuring that national regulations are aligned with the Convention and its Annexes;

Recognizing also the essential technical and policy contributions of ICAO's other bodies and experts – including the Air Navigation Commission, Air Transport Committee, Committee on Aviation Environmental Protection, and the panels and expert groups;

Determined to ensure that the legal work continues to effectively address ongoing challenges and uphold the rule of law in the civil aviation sector;

The Assembly, in celebrating the 80th anniversary of the Chicago Convention

1. *Pays* tribute to the diverse actors committed to advancing the legal aspects of civil aviation;
2. *Emphasizes* the essential contribution of the ICAO Legal Committee's work for the development of the civil aviation sector;
3. *Recognizes* the significant support provided by the ICAO Secretariat, particularly the Legal Affairs and External Relations Bureau, to the Legal Committee;
4. *Acknowledges* the valuable contributions of Member States through their provision of national legal experts engaged in the work of the Legal Committee;
5. *Highlights* the important role played by legal advisors of civil aviation authorities at the national level;
6. *Reiterates* the importance of sustaining the Legal Committee's work in examining new and emerging issues affecting air law, and in promoting the development, codification and implementation of international air law;
7. *Invites* all Member States to continue to actively support the Legal Committee's work and related groups to carry out its Work Programme;
8. *Invites* ICAO technical bodies and panels to continue proactively to (a) identify issues where legal analysis is required at the outset of technical work, and (b) coordinate with the Legal Committee and Legal and External Affairs Bureau to ensure that legal implications are considered in parallel with technical development;
9. *Urges* all Member States to continually enhance and update the skills and capacities of their legal advisors in civil aviation;
10. *Invites* all stakeholders, including relevant organizations of the global civil aviation community, to continue collaborating through the ICAO Legal Committee to further develop and codify international air law for the benefit of all nations and peoples.

29.5 The Commission reviewed A42-WP/307 Revision No.1, presented by Jordan on behalf of ACAO Member States, which explains the critical role of the judiciary in enforcing civil aviation regulations, citing the importance of States implementing appropriate legislation to correspond with their international treaty obligations and educating judges to ensure adequate expertise in applying such legislation, and requested relevant iPacks be prepared for the judicial organs in Member States.

29.6 While supporting the efforts to upskill the judiciary where necessary, one Delegation expressed concerns that the proposed action items would involve additional work for the Secretariat, potentially distracting from its work on the current items of the Work Programme of the Legal Committee.

29.7 In summing up, the Chairperson noted the information provided by the Secretariat that an iPack is in preparation, which covers improving cross-border transfers (XBT) of aircraft and registration processes to enhance safety outcomes and efficiency.

29.8 The Commission reviewed A42-WP/109, presented by the Air Crash Victims Families' Federation International (ACVFFI) and co-sponsored by Kazakhstan, which emphasized the importance of ensuring the protection of third-party victims and the need for fair and equitable compensation. The paper emphasized the critical importance of encouraging States to inform ICAO of their insurers and air operators in order to compile, share and implement best practices.

29.9 The Commission noted the broad recognition by States of the importance of this subject and expressed appreciation for the work undertaken by ACVFFI. The Commission further noted that the consideration of best practices of insurance companies in supporting victims of air accidents falls within the mandate of the Working Group on Assistance to Aircraft Accident Victims and their Families under the Facilitation Panel. All delegations that took the floor agreed that a revision of the Montreal Convention was not necessary.

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