



**INTERNATIONAL
CIVIL AVIATION
ORGANIZATION**



Legal Review of the Analysis Conducted by the Air Transport Regulation Panel of the Application of Article 15 of the Chicago Convention

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Background

- 41st Session of the Assembly (2022)
 - Agreed that more specific guidance and legal analysis were required to assist Member States in better understanding and applying Article 15 of the Chicago Convention, and to facilitate compliance with its provisions.
 - Agreed that the Air Navigation Services Economics Panel (ANSEP) and the Air Transport Regulation Panel (ATRP), in consultation with the Legal Committee, should undertake an analysis specifically addressing whether a State's differential conditioning of airspace access granted to other States is consistent with the national treatment standard and the principle of non-discrimination set forth in the Convention.
- Subsequent work within the ATRP and ANSEP culminated in the approval by the Council of certain amendments to ICAO's *Policies on Charges for Airports and Air Navigation Services* (Doc 9082) published in the 10th Edition, 2024.

Background

- ATRP/17 (April 2024)
 - Endorsed a recommendation from its Working Group 4 that there is no common understanding on the interpretation of Article 15 among ICAO Member States, therefore, further clarifications and guidance are necessary to ensure compliance by States.
 - Established Working Group 1 to focus solely on progressing the work on States' implementation and compliance with the provisions of Article 15 of the Chicago Convention.
- ATRP/18 (April 2025)
 - Endorsed draft documents on Article 15 prepared by Working Group 1 in coordination with the AEP-ANSEP.

ATRP Draft Documents

1. Draft Guidance Material on Article 15 of the Chicago Convention
2. Draft State Letter to Contracting States Clarifying Obligations under Article 15
3. Draft Council Process on Issues of Article 15 of the Chicago Convention

42nd Session of the Assembly (2025)

- Item titled “*Legal Review of the Analysis Conducted by the Air Transport Regulation Panel on the Application of Article 15 of the Chicago Convention*” added to the Work Programme of the Legal Committee with a target completion date of 2026
- Secretariat Study Group on Article 15 (SSG-A15) established in early 2026 to undertake the legal review of the ATRP Draft Documents and to report to the 40th Session of the Legal Committee in October 2026

SSG-A15

- The SSG-A15 was established in January 2026 to help the Legal Committee carry out the legal review of the ATRP Draft Documents
- It comprises legal experts nominated by 16 Member States (out of 23 invited) and one International Organization (out of several invited)
- Representatives from the ATRP and AEP-ANSEP also participate in the work of the SSG-A15
- The SSG-A15 is conducting its work with the support of LEB and ATB colleagues
- The Group has held four virtual meetings between March and July 2026 and is presently finalizing its report to the 40th Session of the Legal Committee

SSG-A15: Main areas of legal review of the ATRP Draft Documents

ATRP Draft Guidance Material on Article 15:

- Consistency with the wording of Article 15 of the Chicago Convention.
- Difference between binding treaty obligations and non-binding guidance.
- Whether Article 15 requires that charges must be cost-related.
- Whether Article 15 requires publication of detailed information about charges (such as cost-breakdown).
- Meaning of “*No fees, dues or other charges shall be imposed by a contracting State in respect solely of the right of transit over, entry into or exit from its territory....*”
- Cross-subsidization or other commercial arrangements.

SSG-A15: Main areas of legal review of the ATRP Draft Documents

Draft State Letter Clarifying Obligations under Article 15:

- Review has focused mainly on ensuring that the contents of the draft State Letter are aligned with those of the ATRP Draft Guidance Material to avoid ambiguity.

SSG-A15: Main areas of legal review of the ATRP Draft Documents

Article 15 Council review process:

- Difference between Article 15 review process and Article 84 dispute settlement process.
- Burden of proof and procedural fairness.
- At this time only one representation from a State to the Council regarding Article 15 has been identified. This occurred in the 1950s.

Thank You

