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Agenda Item 9: International Air Law Treaties, Laws and Regulations

RESEARCH AND STUDIES ON INTERNATIONAL AIR LAW SUBJECTS

(Presented by the Secretariat)

EXECUTIVE SUMMARY

This paper presents an overview of the international air law research and studies conducted by ICAO through its Legal Committee and the Legal Affairs and External Relations Bureau (LEB) which contribute towards the achievement of the Strategic Goal “*The International Civil Aviation Convention and other Treaties, Laws and Regulations address all Challenges*”. The paper concludes with proposed future action to support ICAO’s activities in the legal field.

Action:	Refer to Section 3.
Strategic Goal:	The International Civil Aviation Convention and other Treaties, Laws and Regulations address all Challenges

1. INTRODUCTION

1.1 The ICAO Strategic Plan 2026 – 2050, approved by the Council of ICAO in November 2024 (C-DEC 233/5 refers), identified six Strategic Goals to achieve and support the vision and mission of the Organization. Under Strategic Goal E - *The International Civil Aviation Convention and other Treaties, Laws and Regulations address all Challenges*, ICAO adapts international air law as necessary to ensure that the international civil aviation legal framework remains responsive to current and emerging challenges and opportunities, thereby fostering strong Member States support for all aspects of ICAO’s work as it moves towards its centenary and beyond.

1.2 In implementing this Strategic Goal, ICAO conducts research and studies on several international air law subjects to facilitate the codification and/or progressive development of international air law and the preparation of international air law instruments and guidance material through its Legal Committee, supported by LEB. The Legal Committee establishes and maintains, subject to the approval of the Council, a general programme of work which includes subjects proposed by the Committee itself, the Council or the Assembly, and may also include subjects proposed by Contracting States or International Organizations (IOs) represented at sessions of the Committee.

1.3 During its 42nd Session (Montréal, 23 September – 3 October 2025), the Assembly approved the following General Work Programme of the Legal Committee with the subjects listed in the order of priority: 1) Processes and procedures for States to fulfil their obligations under Article 12 of the Chicago Convention; 2) Review of the Role of the International Explosives Technical Commission under the Convention on the Marking of Plastic Explosives; 3) International legal aspects of unmanned (pilotless)

aircraft operations and integration into civil aviation; 4) Promotion of the ratification of international air law instruments; 5) Acts or offences of concern to the international aviation community, including cyber threats, that may not be adequately covered by existing air law instruments; 6) Study of international legal issues relating to global satellite systems and services supporting international air navigation services; 7) International carriage by air and data protection laws; and 8) Legal review of the analysis completed by the Air Transport Regulation Panel (ATRP) of the application of Article 15 of the Chicago Convention. The status of work on each of these items in the work programme is described in paragraph 2 below.

2. STATUS OF ITEMS IN THE WORK PROGRAMME OF THE LEGAL COMMITTEE

2.1 **Processes and procedures for States to fulfil their obligations under Article 12 of the Chicago Convention.** A Secretariat Task Force was established in 2021 to study the implementation of Article 12 of the *Convention on International Civil Aviation* (Chicago, 1944 – the “Chicago Convention”) on the obligation of States to establish and enforce rules and regulations for the flight and maneuver of aircraft (A12 TF). The A12 TF examined the scope of Article 12 and related legal issues and considered the development of the web-based tools for exchange of air law regulatory compliance and enforcement information. The A12 TF undertook a legal survey in 2023 to review potential questions and understand the implementation status, challenges and the needs of States regarding Article 12. The responses to the survey, answered by 94 States, were evaluated and analyzed. These survey outcomes supported the study of the related issues by the A12 TF. It is intended that the Task Force will complete its work during the second quarter of 2026 with a view to present a final report on its work to the [40th Session of the Legal Committee](#) which will take place in Montréal from on 26 to 30 October 2026.

2.2 **Review of the Role of the International Explosives Technical Commission under the Convention on the Marking of Plastic Explosives for the Purpose of Detection.** Following the inclusion of this item on the Work Programme of the Legal Committee during its 39th Session in 2024, the Chairperson of the Legal Committee appointed on 7 May 2025 a Rapporteur to review the role of the International Explosives Technical Commission (IETC) established by the *Convention on the Marking of Plastic Explosives for the Purpose of Detection* (Montreal, 1991 - the “MEX Convention”). During the 42nd Session of the Assembly, the Rapporteur presented a preliminary analysis of potential solutions to redefine the role and functions of the IETC, which highlighted four possible options for addressing the role of the IETC: adoption of a Council decision to terminate the IETC; the convening of a Conference of States Parties to the MEX Convention; a formal amendment of the MEX Convention through ICAO’s traditional treaty-making procedure; or seeking an interpretative Resolution by the Assembly. Following the 42nd Session of the Assembly, the Chairperson of the Legal Committee established a Friend of the Chair Group in order to provide advice and recommendations on the Rapporteur’s Report prior to its consideration by the [40th Session of the Legal Committee](#).

2.3 **International legal aspects of unmanned (pilotless) aircraft operations and integration into civil aviation.** The Secretariat Study Group on Legal Issues related to Pilotless Aircraft (SSG-LIPA) was established in February 2020 to consider legal issues relating to international pilotless aircraft operations and integration of pilotless aircraft into civil aviation, to both support the on-going technical work of the Organization in this area and inform the Legal Committee of the need for relevant international conventions to potentially be amended. The SSG-LIPA currently has two Subgroups: the Chicago Convention Subgroup, which most recently has conducted an article-by-article analysis of the Chicago Convention to consider issues of application, interpretation, and implementation relative to pilotless aircraft operations, including but not limited to the operations over the high seas; and the Liability and Security Subgroup, which most recently has conducted a systematic assessment of key international aviation security instruments to evaluate their applicability to pilotless aircraft operations, with a subsequent gap analysis of these instruments currently underway. The SSG-LIPA recently agreed to the establishment

of a third subgroup that will consider the pilotless aircraft lexicon and potential divergences and inconsistencies in terminology, which is expected to begin work in the Summer of 2026. The work of the SSG-LIPA was highlighted by the Assembly, during its 42nd Session in 2025, when it expressed broad support for the urgent development and implementation of measures to facilitate legally compliant and safe operations of small pilotless aircraft (often commonly referred-to as “small UAS” or drones) over the high seas.

2.4 Acts or offences of concern to the international aviation community, including cyber threats, that may not be adequately covered by existing air law instruments. Regarding the subject of adequacy of the existing international air law framework to address cyber-attacks against civil aviation, the Legal Committee, during its 38th Session (Virtual, 22 – 25 March 2022), concluded that the *Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation* and the *Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft* (Beijing, 2010 – the “Beijing Convention and Protocol 2010”), contain important enhancements over older instruments, thus providing a sufficient basis for States to deal with cyber-attacks against civil aviation as crimes. In that context, the Assembly, in Resolution A42-19, *Addressing Cybersecurity in Civil Aviation*, called upon States to ratify the Beijing Convention and Protocol 2010 as a means to deal with cyberattacks against civil aviation. In addition, a legal survey on the implementation by States of international air law instruments in national legal frameworks on cyber security is to be launched in the second quarter of 2026. The survey will solicit responses from States on inclusion of relevant provisions of international air law instruments to cyber-attacks in their domestic legislation, with a view to assess their implementation and identify any gaps or challenges to be addressed at the international level. This survey supports the implementation of the ICAO cybersecurity strategy which calls for analysis of legal provisions. The survey questionnaire will also include legislative approaches to deal with emerging threats such as GNSS spoofing and jamming.

2.5 Study of international legal issues relating to global satellite systems and services supporting international air navigation services. This subject was first added to the work programme of the Legal Committee in 1988 and work carried out by the Committee since then culminated in the adoption of the *Statement of ICAO Policy on CNS/ATM Systems Implementation and Operation* (approved by the Council on 9 March 1994), the *Charter on the Rights and Obligations of States Relating to GNSS Services* (Assembly Resolution A32-19), *Development and Elaboration of an Appropriate Long-term Legal Framework to Govern the Implementation of GNSS* (Assembly Resolution A32-20), and *A Practical Way Forward on Legal and Institutional Aspects of Communications, Navigation, Surveillance/Air Traffic Management (CNS/ATM) Systems* (Assembly Resolution A35-3; presently Appendix F to Assembly Resolution A42-5). Following consideration by the 42nd Session Assembly in 2025 of a proposal to assign key work packages to relevant ICAO bodies for continuous monitoring of the aviation operating landscape to identify potential risks, including supporting mitigation measures relating to CNS/ATM implementation, as well as the potential impacts posed by increasing space object re-entries and higher altitude operations, the Assembly referred the matter to the Legal Committee to determine whether the elements covered in the proposal would fit within a broader scope of this subject. In this context, a legal survey is to be issued to all ICAO Member States and selected IOs with a view to assessing their needs with respect to this topic.

2.6 International carriage by air and data protection laws. Further to a decision of the Council of ICAO regarding the Work Programme of the Legal committee (C-DEC 233/6 refers), the Secretariat Study Group on interactions between international air carriage and Data Protection Laws (SSG-DPL) was established in March 2025 to examine these interactions and to propose ways to facilitate understanding and awareness among Member States in this area. It was recognized that the matter goes beyond the air transport sector and that the establishment of data protection laws and policies remain within the responsibility of States. To support this work, a legal survey was conducted in the last quarter of 2025 to assess how national laws, data protection frameworks and enforcement mechanisms intersect with

international air carriage, particularly the collection, processing, retention and transfer of data. A total of 95 responses were received from 88 States, 6 Territories and 1 international organization, including from 14 States and 3 Territories in the NACC region. Overall, States reported diverse legislation and practices, with some general tendencies observed and regional variations for certain questions noteworthy.. In the NACC region, 50% of responding States reported challenges in implementing data-related requirements for international air carriage (e.g., differing legal requirements and technical constraints on data transfer and collection of sensitive data, differing data retention requirements and cybersecurity risks). With respect to enforcement mechanisms for non-compliance, a generally consistent approach was reported among NACC States. NACC States also reported active participation in regional and international data-governance initiatives. The survey's final conclusions and recommendations are under consultation within SSG-DPL and will be submitted to the [40th Session of the Legal Committee](#) for consideration.

2.7 **Legal review of the analysis completed by the Air Transport Regulation Panel (ATRP) of the application of Article 15 of the Chicago Convention.** This item was added to the Work Programme of the Legal Committee by the 42nd Session of the Assembly, with a target date of completing the work by 2026. With a view to advance the work on this item in an expedient way, a Secretariat Study Group to Review the Analysis by ATRP on Article 15 (SSG-A15) was established by the end of 2025 to undertake the review of the draft documents, which includes a draft guidance material on Article 15 of the Chicago Convention, a proposed process for the Council's review, pursuant to a representation by an interested contracting State, of charges imposed for the use of airports and other facilities as contemplated by Article 15, and a draft State letter to clarify the obligations of contracting States under Article 15 of the Chicago Convention. It is intended that the SSG-A15 will present a final report to the [40th Session of the Legal Committee](#).

3. ACTION BY THE MEETING

3.1 The Meeting is invited to encourage NACC States to:

- a) to continue to actively support the ICAO Legal Committee's work and related groups to carry out its Work Programme, including providing timely response to legal surveys on various subjects;
- b) to participate in the [40th Session of the Legal Committee](#) and, if they so wish, submit comments or proposals on the items of the Provisional Agenda in the form of a working paper by 11 September 2026.