



WORKING PAPER

ASSEMBLY — 39TH SESSION

LEGAL COMMISSION

Agenda Item 45: Work programme of the Organization in the legal field

**PROMOTION OF THE CONVENTION FOR THE UNIFICATION
OF CERTAIN RULES FOR INTERNATIONAL CARRIAGE BY AIR
DONE AT MONTREAL ON 28 MAY 1999 (MONTREAL CONVENTION OF 1999)**

(Presented by the United States of America)

EXECUTIVE SUMMARY

The Montreal Convention of 1999, which establishes a regime to govern airline liability to passengers and shippers on international flights, is in force for 119 countries. Its universal adherence would provide significant benefits to the travelling and shipping public, as well as greater certainty to the airline industry about what rules govern their liability. This paper seeks a greater effort to urge all Members States to become Parties to the 1999 Convention if they have not already done so.

Action: The Assembly is invited to adopt the resolution attached in the Appendix.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objective 4, Economic Development of Air Transport
<i>Financial implications:</i>	None
<i>References:</i>	Resolutions A37-22, Appendix C, and A38-20, ICAO DOC 10022

1. INTRODUCTION

1.1 The Montreal Convention of 1999 replaces the low airline liability caps of the previous Warsaw/Hague liability regimes, and enables individuals previously prevented from suing in their home country to do so. It imposes strict liability on carriers for the first 113,100 Special Drawing Rights of proven damages in the event of passenger death or injury (approximately US\$157,077/€142,112 as of July 18, 2016). Above that amount an airline must fully compensate for damages unless the airline proves that it was not at fault. In the case of aircraft accidents resulting in death or injury of passengers, the Convention also requires carriers to make advance payments , where such payments are required by their national law.

1.2 This Convention also precludes unreasonably high passenger recoveries by not allowing punitive or exemplary damages. At the same time, it prevents recoveries from being diluted by inflation by requiring a review of the limits every five years.

2. DISCUSSION

2.1 The Montreal Convention of 1999 was intended to replace the patchwork of liability regimes addressing airline liability to passengers and shippers that built up over the years, including the 1929 Warsaw Convention and its amendments and related instruments. Universal adherence to the Montreal Convention of 1999 would eliminate confusion about which liability regime governs a particular event.

2.2 Although it is in force for 119 ICAO Member States, 72 Member States still have not ratified the Montreal Convention of 1999. The 38th Session of the Assembly adopted a resolution (Resolution A38-20) urging Member States that have not already done so to become Parties to the Montreal Convention of 1999. Because of the benefits to be gained from universal adherence to the Convention, Member States should again be urged to ratify this document.

APPENDIX

A38-xx

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 Montreal 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 that allows full compensation for losses;

The Assembly:

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 (Montreal Convention of 1999);

Urges all Contracting States that have not done so to become Parties to the Montreal Convention of 1999 as soon as possible; and

Directs the Secretary General to provide assistance, as appropriate, with the ratification process if so requested by a Contracting State.

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