



WORKING PAPER

ASSEMBLY — 41ST SESSION

LEGAL COMMISSION

Agenda Item 42: Consolidated Statement of Continuing ICAO Policies in the Legal Field

**FACILITATING THE RATIFICATION OF LEGAL INSTRUMENTS REGARDING
INTERNATIONAL CIVIL AVIATION**

(Presented by China)

EXECUTIVE SUMMARY

This paper outlines the effectiveness of legal instruments regarding international civil aviation developed or amended under the auspices of ICAO over the past two decades, and introduces the ratification procedures of the Chinese government and their ratification in China. It aims to facilitate Member States to ratify legal instruments regarding international civil aviation, in order to better achieve the aims, objectives and principles of the *Convention on International Civil Aviation* to safeguard the sound, orderly and efficient development of the international civil aviation.

Action: The Assembly is invited to:

- a) Call on Member States that have not ratified the legal instruments regarding international civil aviation to do so; and
- b) Request the Secretariat to promote these legal instruments for Member States' accession.

<i>Strategic Objective:</i>	This working paper relates to all Strategic Objectives and all supporting implementation strategies.
<i>Financial Implications:</i>	The activities referred to herein will be carried out under the regular programme budget for 2023-2025 and/or extra-budgetary contributions.
<i>References:</i>	Doc 10140, <i>Assembly Resolutions in Force</i> (as of 4 October 2019); and <i>Consolidated statement of continuing ICAO policies in the legal field</i> (A40-28) Doc 10034, <i>Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft</i> Doc 9960, <i>Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation</i> Doc 9959, <i>Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft</i> Doc 9794, <i>Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment</i> Doc 9793, <i>Convention on International Interests in Mobile Equipment</i> Doc 9740, <i>Convention for the Unification of Certain Rules for International Carriage by Air</i> Doc 7300, <i>Convention on International Civil Aviation</i>

¹ English and Chinese provided by China.

1. INTRODUCTION

1.1. Over the years, ICAO has become an important platform for promoting the development and amendment of international aviation public and private law treaties. Many important international legal documents, such as multilateral international conventions and protocols, have been adopted by the diplomatic conferences under the auspices of ICAO and convened by plenipotentiaries. ICAO's excellent work in the field of the rule of law in international civil aviation has won the universal respect of all States. In the process of ICAO promoting the legislation of international conventions, the Legal Committee of ICAO and the Legal Affairs and External Relations Bureau have played a very important role.

1.2. For over 20 years, under the auspices of ICAO and with the joint efforts of colleagues in the international civil aviation industry, States have successively adopted the *Convention for the Unification of Certain Rules Relating to International Carriage by Air*, the *Convention on International Interests in Mobile Equipment*, *Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment*, the *Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft*, the *Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation*, and *Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft*, and so on. The above-mentioned international civil aviation legal instruments reflect important progress in international aviation legislation.

1.3. In 2019, during the 40th session of the Assembly, the ICAO Secretariat organized the "ICAO Treaty Event 2019" to promote the ratification of multilateral air law treaties by Member States.

2. EFFECTIVENESS OF ABOVE INTERNATIONAL LEGAL INSTRUMENTS

2.1. On May 10, 1999, a Diplomatic Conference of ICAO was held in Montreal. Representatives of 121 ICAO Member States, 1 Non-member State and 11 international organizations participated in the conference. On May 28, the Conference adopted the *Convention for the Unification of Certain Rules for International Carriage by Air*. The Convention modernizes and integrates the international legal system established under the 1929 *Warsaw Convention* and its amended instruments, and sets out the rules for the international transport of passengers, baggage and goods performed by aircraft for remuneration within an integrated and unified framework. As of the end of May 2022, there were 137 States parties to the Convention (193 Member States of ICAO), covering more than 98 per cent of air traffic among countries.

2.2. On November 16, 2001, the *Convention on International Interests in Mobile Equipment* and its *Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment* were adopted. The purpose of the *Convention* and its *Protocol* is to uniformly regulate the financial leasing transactions of high-value mobile equipment, by strengthening the protection of the interests of creditors, reduce the transaction risks of creditors and lessors to reduce the foreign financing costs and guarantee responsibilities for the purchase and leasing of aircraft, and at the same time create conditions for diversified financing. Its goal is to provide a basic legal basis for financiers and lessors to reduce the financing risk of creditors buying or leasing aircraft. By the end of May 2022, 28 countries had signed the Convention and its Protocol, and 81 countries and territories had become parties to the Convention and its Protocol.

2.3. From August 30 to September 10, 2010, the Diplomatic Conference on Aviation Security was held in Beijing, China. Representatives of 76 countries and senior officials of ICAO attended the Conference. After consultations, the formal text of a new international multilateral treaty was finally produced. Representatives of nearly 20 countries signed the newly developed *Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation* (2010 Beijing Convention) and the *Protocol Supplementary to the Convention for Suppression of Unlawful Seizure of Aircraft* (2010 Beijing Protocol). Two international civil aviation legal instruments have become an important part of the

international anti-terrorism convention. It provides a strong legal guarantee for effectively protecting the lives and property of passengers and cracking down on unlawful interference against civil aviation. On January 1, 2018, the Beijing Protocol entered into force. By the end of May 2022, a total of 35 countries had signed, 21 ratified, 20 acceded, 1 approved and 1 accepted the Beijing Protocol. On July 1, 2018, the Beijing Convention entered into force. By the end of May 2022, a total of 34 countries had signed, 23 ratified, 18 acceded, 1 approved and 1 accepted the Beijing Convention. The 2010 Beijing Convention and the 2010 Beijing Protocol are important treaties in the field of international air law, which will play an important role in preventing and punishing international crimes against the international air transport industry. It is a successful model in the history of international aviation legislation.

2.4. From 26 March to 4 April 2014, ICAO held a diplomatic conference on the revision of the Tokyo Convention of 1963 at its headquarters, which was attended by delegates from 100 states and 9 international organizations. The principal objective of the conference was to address the escalating problem of unruly passengers. Through the joint efforts of all countries, the *Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft* (hereinafter referred to as the 2014 Montreal Protocol) introduced jurisdiction, in-flight security officers, offence lists and recourse provisions. The 2014 Montreal Protocol entered into force on January 1, 2020. By the end of May 2022, 36 countries had signed, 13 countries had ratified, 22 countries had acceded to and 2 countries had accepted the 2014 Montreal Protocol.

3. **CHINA'S TREATY RATIFICATION PROCEDURES AND RATIFICATION OF INTERNATIONAL CIVIL AVIATION LEGAL INSTRUMENTS**

3.1. The Law of the People's Republic of China on the Procedure on Conclusion of Treaties stipulates in detail the domestic procedures that China needs to go through to conclude international treaties. So far, China has acceded to or ratified 29 conventions on international civil aviation (three of which enter into force only for the Hong Kong Special Administrative region of China).

3.2. In 2005, the 14th Meeting of the Standing Committee of the Tenth National People's Congress decided to approve the *Convention for the Unification of Certain Rules for International Carriage by Air*, which was adopted by the international conference on air law held by the ICAO in Montreal on May 28, 1999. Subsequently, the representative of China on the Council of ICAO submitted the instrument of ratification to ICAO.

3.3. In 2008, the Fifth meeting of the standing Committee of the Eleventh National people's Congress decided to approve the *Convention on International Interests in Mobile Equipment* and the *Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment* adopted at the diplomatic conference jointly convened by the Council of ICAO and UNIDROIT on November 16, 2001. Subsequently, the representative of China on the Council of ICAO submitted the instrument of ratification to ICAO.

3.4. The Chinese government attaches great importance to the ratification of the 2010 Beijing Convention and the Beijing Protocol. The ratification procedures of the 2010 Beijing Convention and the Beijing Protocol have started.