



International Civil Aviation Organization

**WORKING PAPER**

A37-WP/77

LE/5

13/8/10

**ASSEMBLY — 37TH SESSION**

**LEGAL COMMISSION**

**Agenda Item 60: 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 Canada, Singapore, South Africa and 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 97 countries. Its universal adoption 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 Contracting States to ratify 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 F (Rule of Law)
------------------------------	---

<i>Financial implications:</i>	None.
--------------------------------	-------

<i>References:</i>	Resolution A36-26, Appendix C
--------------------	-------------------------------

## 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 provides automatic payment for proven damages in the event of injury or death up to 113,100 Special Drawing Rights (approximately US\$171,000/133,000 euros as of mid-August 2010). Above that amount an airline must fully compensate for damages unless the airline proves that it was not at fault. The Convention also encourages upfront payments to victims to be made without delay, where such payments are required by 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 adjusting the limits every five years to reflect inflation.

## 2. DISCUSSION

2.1 The Montreal Convention of 1999 seeks to replace the patchwork of international agreements addressing airline liability to passengers and shippers that has built up over the years. Airline liability was first addressed in the 1929 Warsaw Convention. Several changes have been made since then that are set out in some international agreements. None of these changes has been universally adopted, creating confusion about which agreements govern a particular event. Universal acceptance of the Montreal Convention of 1999 will eliminate this problem.

2.2 While broadly ratified (97 countries), there are still almost a hundred Contracting States to the Chicago Convention who have not acted to bring the Montreal Convention of 1999 into force. At the 36<sup>th</sup> Session of the Assembly, a resolution was adopted (Resolution A36-26, Appendix C) urging Contracting States that have not already done so, to ratify the instruments adopted under the auspices of ICAO, including the Montreal Convention of 1999. Because of the benefits to be gained from the universal acceptance of the Convention, Contracting States should again be urged to ratify this document.

## 3. ACTION

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

-----

**APPENDIX**

A37-xx

*Recalling* its Resolution A36-26, Appendix C, relating to the ratification of instruments which have been developed and adopted under the auspices of the Organization;

*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 States to support and encourage the universal adoption of the Montreal Convention of 1999;

*Urges* all 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 State.

— END —