

LESSONS FROM CALAF
SINGAPORE 2019 –
STATES NEEDS

A presentation by :

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Civil Aviation Legal Adviser's Forum - CALAF:

- A timely initiative of ICAO Legal Bureau and the Legal Committee that enables a broad based legal interaction in an unconventional setting outside the four walls of the seat of ICAO, Montreal.
- Objective:
 - To Foster discussions and cross fertilization of ideas and perspectives on current, and emerging issues facing international civil aviation.
 - To complement the work of the Legal Committee in the area of advocacy and continuing legal education.
- Inaugural session, hosted by the Civil Aviation Authority of Singapore was a huge success.

CALAF SINGAPORE 2019

Robust presentations and discussions by subject matter experts on a wide range of issues to wit; cyber-security in civil aviation, artificial intelligence (AI), UAVs , ratification of international air law instruments, MH17- conducting independent investigation- challenges, challenges of legal advisers in civil aviation, aviation and environment (CORSIA), the Chicago Convention and allied treaties – whether adequate to address emerging issues facing international civil aviation.., amongst others.

Whereas the Forum unanimously achieved closure on some issues for instance, the consensus that the current international framework for civil aviation security – the Chicago Convention and allied treaties (Beijing Convention and Protocol) contain sufficient provisions that addresses emerging issues such as threat of Cyber Crimes to international civil aviation, a number of the issues discussed at the Forum are still talking and working points. The outstanding issues raised by States, form the core of this paper.

NEEDS OF STATES

1. Ratification of Air Law instruments:

Whereas ICAO has developed administrative packages for ratification of each air law instrument under the Chicago Convention system, a reasonable number of States still have difficulties relating with the packages and therefore have not been able to take appropriate steps towards ratification and deposit of the instruments of ratification with ICAO or UNIDRIOT in the case of the Cape Town Convention Aircraft Protocol.

A workshop/Seminar on this subject under the umbrella of the CALAF will go a long way in providing the needed guidance to facilitate the ratification of more air law Instruments by States.

2. Training of lawyers in the CAA

There is an urgent need for ICAO through the LEB & CALAF to bridge the current knowledge/skills gap of CAA Lawyers (especially in Developing States) by developing a sustainable and structured training program for Lawyers, considering the enormous and diverse roles played by this endangered category of professionals within the civil aviation regulatory space. A package that will provide guidance on entry qualification, initial and continuing training for CAA Lawyers similar to the Inspectorate Training Scheme (ITS) developed for the Flight Standards and other Inspectorate divisions.

This can be achieved through the corridor of the ICAO Global Aviation Training - TRAINAIR PLUS initiative, a very commendable effort aimed at developing the capacity of lawyers in civil aviation.

3. **USOAP/ USAP CMA Audit technics Training:**

Out of the 8 critical elements of the ICAO USUOAP/USAP CMA Audits as well as the IASA audit, the management/administration of Critical Elements 1, 2 and 8 fall within the direct remit of Lawyers.

So far, the outcome of consultation with colleagues in some States that have gone through these audits revealed a common problem that underscore the need for guidance and training assistance to CAA Lawyers. The LEB of ICAO, the Regional Offices of ICAO and the various Regional Cooperative Safety Initiatives at Continental level, some of which have metamorphosed into Regional Oversight Safety Organizations (like BAGASOO) are in a position to offer assistance to States in this area.

4. **State Support and Sponsorship of Lawyers to Participate in ICAO Meetings:**

Attendance and participation in meetings organized by ICAO including Meetings of the Legal Committee is part of the obligation of member States.

Meetings provide fertile platforms for networking and capacity development. Shared perspectives by States on thorny legal issues in meetings have helped shape positively the course of debates and the decisions arrived at. Non-participation by some States does not make for a wholistic exchange of views on common issues.

While funding remains a challenge to a number of States, matters relating to safety and security of international civil aviation should be accorded priority by States.

5. **State recognition of the role of Legal Advisers in Civil Aviation Authorities.**

- ICAO, IASA Audit Role
- Legal Advisory Role (Legal opinion to: FSG, AGA, Human Resources ,Consumer Protection issues etc.).
- Regulatory Role (Drafting, interpretation of laws ,regulations, enforcement actions)
- Key players in bilateral and multi-lateral Negotiations , etc.

In spite of the above , the Legal departments in a number of jurisdictions are yet to be fully integrated into the mainstream CAA structure and activities.

While appreciating the effort of the ICAO LEB in extracting an Assembly Resolution highlighting the work of the CAA Legal Adviser, a lot needs to be done in getting States to commit to accord lawyers as professionals within the civil aviation regulatory system greater recognition commensurate with the services they render.

END – THANK YOU.