



Keynote Address
By the Secretary General,
of the International Civil Aviation Organization (ICAO),
Mr. Juan Carlos Salazar,
to the 2022 Annual Conference
of the American Bar Association's Forum on Air & Space
Law

Recorded Message

(Montréal, Canada – 16 September 2022)

1. I would like to thank the American Bar Association, and the Organizing Committee of this very important and timely Forum on Air and Space Law, for the very kind invitation to deliver this keynote address.
2. Although I cannot be present in-person with you today, I am very much encouraged that you have all been able to travel to Montréal and meet together for this event.
3. I am also delighted that the ABA has chosen Montréal for its annual conference. This wonderful city as you know is the home of the Institute of Air & Space Law of McGill University, where I had the honour to study more than twenty years ago.
4. ICAO as you may be aware had its Headquarters established here in the mid-1940s, and in the decades since, numerous international organizations in the field of aviation – representing global airlines, airports and manufacturers, have settled here as well.
5. This status as the global capital of civil aviation, complements Montréal's recognition as the third largest aerospace hub in the world, after Toulouse and Seattle.
6. Long before the beginning of my tenure as ICAO Secretary General, in August of last year, I had appreciated the importance and leadership role of ICAO for the international civil aviation community.
7. In fact, since its inception, the Organization has become the natural nexus for States to discuss aviation matters, and make industry and civil society stakeholders an essential part of their discussions.
8. By helping these numerous and diverse players to establish consensus on the very complex issues impacting air transport, ICAO has clearly demonstrated its value as a multilateral forum for global aviation progress.
9. The rule of law is fundamental to this mandate, and to the outcomes it achieves on behalf of citizens, societies and businesses all over the world.

10. In the next few minutes, I would like to explore our current work in the legal field by focusing on three current priorities, including:
- 1) The issues being posed by the integration of Remotely Piloted Aircraft (RPA) into traditional airspace;
 - 2) Some recent developments concerning the settlement of disputes; and
 - 3) The challenges and complexities of addressing the legal aspects of cyber-security in international civil aviation.

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11. As you are well aware, unmanned aviation systems, technologies and operations have been evolving rapidly, spurring thousands of new aviation entrants and a multitude of new products and services.
12. All of these frontier developments must be incorporated into a global aviation framework characterized by over 12,000 international Standards and Recommended Practices (SARPs) adopted by States through ICAO over almost eight decades now.
13. UAS are at the leading edge of aviation innovation, and accordingly they are revealing new opportunities in terms of how we leverage aircraft to serve societies.
14. But alongside this potential, new types of risks are also becoming evident, whether with respect to legacy aircraft and operations, or to urban and other populations in areas where UAS must operate.
15. Related technical factors would include the functional interoperability of traditional air traffic management mechanisms; airspace design limitations; new rules of the air for new aircraft types; and UAS traffic management.
16. ICAO's Member States anticipated these challenges, and they recognized, just as drone manufacturers did, that global approaches and solutions would deliver significant benefit, even though the operations in question would be almost exclusively domestic in nature.
17. ICAO has therefore been mandated to develop this global guidance. Hundreds of new Standards have already been developed, and these range across eight separate Annexes to the Chicago Convention.
18. On the legal side, a Secretariat Study Group on Legal Issues related to Pilotless Aircraft (SSG-LIPA) was established in February 2020.
19. Its objective is to provide an interface between the Organization's legal and technical work on pilotless aircraft.
20. Two Subgroups - the Subgroup on Compliance with the Chicago Convention and the Subgroup on Liability & Security, were established shortly thereafter.

21. Among its many tasks, the Study Group is presently assessing the need to reinterpret or amend the existing international air law instruments, or to adopt a completely new and proprietary instrument in this area.

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22. The second issue I mentioned earlier concerns the settlement of disputes by the ICAO governing Council.

23. Maintaining international peace and security has always been a major objective of international law. And like many other treaties, the Chicago Convention contains provisions for the settlement of disputes among its Contracting States (Chapter XVIII; Articles 84–88).

24. Throughout ICAO's history, a total of ten disputes have been presented to the Council for the settlement.

25. The first six were filed between 1952 and 2000, but we have seen a recent acceleration with the last four cases being filed between 2016 and 2022.

26. The Council adopted its Rules for the Settlement of Differences in 1957. These were closely aligned with the 1946 International Court of Justice *Rules of Court*, however the ICJ has since adopted a thoroughly revised set of Rules, while ICAO's have only been amended once, in 1975, and simply to include Russian as a working language.

27. In June 2017, the Council accordingly requested the Secretariat to review and update the ICAO Rules.

28. Since then, a working group of the Legal Committee has been undertaking the modernization required, including with respect to the introduction of new provisions on practice directions, provisional measures, and virtual proceedings. This project is expected to be concluded by 2023.

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29. Turning now to the subject of cyber threats against civil aviation, ICAO has been at the forefront of addressing these on a global basis since 2005.

30. This longstanding work recognizes the seriousness of these threats to our network, and to the safety and security of the billions of people who connect with it each year.

31. It's been notable of late that, in spite of the sharp declines in traffic and operational activity worldwide which arose to the pandemic, cyber-attacks targeting civil aviation continued to increase throughout every phase of COVID-19.

32. The pandemic has also fostered a significant public expectation for touchless technologies to make their future traveller experience healthier and safer, meaning that we face an entire new wave of compartmentalized digitalization, and still further system-of-systems vulnerabilities.

33. The 40th Session of the ICAO Assembly, held in 2019, acknowledged that cyberattacks can simultaneously affect a very wide range of aviation areas.

34. Participating States accordingly underscored the need for global adoption of the Beijing Convention and Protocol of 2010, which contain specific cyber-threat provisions.
35. The 40th Session of the Assembly also adopted a new global *Aviation Cybersecurity Strategy*, and called on ICAO to develop a mechanism for addressing cybersecurity in civil aviation that ensures a holistic and overarching set of solutions.
36. This led to the recent establishment of our Cybersecurity Panel, consisting of 23 experts, and with international organizations and industry participating in their Observer capacities.
37. On the legal side, an ICAO group of experts recently concluded a study on existing air law instruments and their applicability to cyber threats against civil aviation.
38. The study concluded that the existing international air law framework is only partially adequate in addressing cyber threats against civil aviation, and identified some key gaps including:
 - The fragmentation of the international air law framework, largely due to the varying ratification status of air law treaties between States;
 - The potential disparities in the interpretation of certain specific terms with regards to their inclusion of cyber threats, for example “weapon”, “device”, “use of force”, etc.;
 - The requirements of older instruments being less relevant to the cyber threat context, for example requiring a perpetrator to be on-board an aircraft);
 - And lastly the instruments themselves being limited to the safety and security of civil aviation.
39. Our ICAO Legal Committee will continue to explore these topics, and to address the very dynamic and evolving legal and technological challenges which accompany them.

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40. Ladies and gentlemen, what I have presented to you today is only a small fraction of the legal work that is currently being carried out at ICAO.
41. In just two weeks’ time, the 41st Session of the ICAO Assembly will be held at our Headquarters here in Montréal, and in concluding today I would invite you to follow its developments on our website and via social media.
42. I wish you all a very productive and engaging conference, and will be looking forward to its outcomes.
43. Thank you.