



INTERNATIONAL CONFERENCE ON AIR LAW

(Montréal, 20 April to 2 May 2009)

**REPORT OF THE FINAL CLAUSES COMMITTEE ON THE DRAFT FINAL CLAUSES OF
THE CONVENTION ON COMPENSATION FOR DAMAGE CAUSED BY
AIRCRAFT TO THIRD PARTIES**

(Presented by the Chairman of the Final Clauses Committee)

The draft Final Clauses text of Articles 23 to 30 of the draft Convention on Compensation for Damage Caused by Aircraft to Third Parties is set out in this Report. For convenience of reference, the Report also contains a text indicating the changes made to DCCD Doc No. 15.

**DRAFT FINAL CLAUSES OF THE CONVENTION ON COMPENSATION
FOR DAMAGE CAUSED BY AIRCRAFT TO THIRD PARTIES**

CHAPTER VI

Final Clauses

Article 23 – Signature, ratification, acceptance, approval or accession

1. This Convention shall be open for signature in Montréal on 2 May 2009 by States participating in the International Conference on Air Law held at Montréal from 20 April to 2 May 2009. After 2 May 2009, the Convention shall be open to all States for signature at the Headquarters of the International Civil Aviation Organization in Montréal until it enters into force in accordance with Article 25.
2. This Convention shall be subject to ratification by States which have signed it.
3. Any State which does not sign this Convention may accept, approve or accede to it at any time.
4. Instruments of ratification, acceptance, approval or accession shall be deposited with the International Civil Aviation Organization, which is hereby designated the Depositary.

Article 24 – Regional Economic Integration Organizations

1. A Regional Economic Integration Organization which is constituted by sovereign States and has competence over certain matters governed by this Convention may similarly sign, ratify, accept, approve or accede to this Convention. The Regional Economic Integration Organization shall in that case have the rights and obligations of a State Party to the extent that that Organization has competence over matters governed by this Convention. Where the number of Contracting States is relevant in this Convention, the Regional Economic Integration Organization shall not count as a Contracting State in addition to its Member States which are Contracting States.
2. The Regional Economic Integration Organization shall, at the time of signature, ratification, acceptance, approval or accession, make a declaration to the Depositary specifying the matters governed by this Convention in respect of which competence has been transferred to that Organization by its Member States. The Regional Economic Integration Organization shall promptly notify the Depositary of any changes to the distribution of competence, including new transfers of competence, specified in the declaration under this paragraph.
3. Any reference to a “State Party” or “States Parties” in this Convention applies equally to a Regional Economic Integration Organization where the context so requires.

Article 25 – Entry into force

1. This Convention shall enter into force on the sixtieth day following the date of deposit of the thirty-fifth instrument of ratification, acceptance, approval or accession with the Depositary between

the States which have deposited such instrument. An instrument deposited by a Regional Economic Integration Organization shall not be counted for the purpose of this paragraph.

2. For other States and for other Regional Economic Integration Organizations, this Convention shall take effect sixty days following the date of deposit of the instrument of ratification, acceptance, approval or accession.

Article 26 – Denunciation

1. Any State Party may denounce this Convention by written notification to the Depositary.
2. Denunciation shall take effect one hundred and eighty days following the date on which notification is received by the Depositary; nevertheless, in respect of damage contemplated in Article 3 arising from an event which occurred before the expiration of the one hundred and eighty day period, the Convention shall continue to apply as if the denunciation had not been made.

Article 27 – Relationship to other treaties¹

The rules of this Convention shall prevail over any rules in the following instruments which would otherwise be applicable to damages covered by this Convention:

- a) the *Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface*, Signed at Rome on 7 October 1952; or
- b) the *Protocol to Amend the Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface Signed at Rome on 7 October 1952*, Signed at Montréal on 23 September 1978.

Article 28 – States with more than one system of law

1. If a State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.
2. Any such declaration shall be notified to the Depositary and shall state expressly the territorial units to which the Convention applies.
3. For a declaration made under Article 2, paragraph 2, by a State Party having two or more territorial units in which different systems of law are applicable, it may declare that this Convention shall apply to damage to third parties that occurs in all its territorial units or in one or more of them and may modify this declaration by submitting another declaration at any time.
4. In relation to a State Party which has made such a declaration:

¹ With respect to collisions, the relationship between this Convention and the Montreal Convention of 1999 may need to be clarified. In assessing this issue, the provisions of the latter Convention could be taken into account, in particular Article 21. This issue has been referred to the Small Group on Article 5.

- a) the reference in Article 8 to “the law of the State” shall be construed as referring to the law of the relevant territorial unit of that State; and
- b) references in Article 14 to “national currency” shall be construed as referring to the currency of the relevant territorial unit of that State.

Article 29 – Reservations and declarations

1. No reservation may be made to this Convention but declarations authorized by Article 2, paragraph 2, Article 24, paragraph 2, and Article 28 may be made in accordance with these provisions.
2. Any declaration or any withdrawal of a declaration made under this Convention shall be notified in writing to the Depositary.

Article 30 – Functions of the Depositary

The Depositary shall promptly notify all signatories and States Parties of:

- a) each new signature of this Convention and date thereof;
- b) each deposit of an instrument of ratification, acceptance, approval or accession and date thereof;
- c) the date of entry into force of this Convention;
- d) the date of the coming into force of any revision of the limits of liability established under this Convention; and
- e) any denunciation with the date thereof and the date on which it takes effect.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Convention.

DONE at Montréal on the 2nd day of May of the year two thousand and nine in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic. This Convention shall remain deposited in the archives of the International Civil Aviation Organization, and certified copies thereof shall be transmitted by the Depositary to all Contracting States to this Convention, as well as to all States Parties to the Conventions and Protocol referred to in Article 27.

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2. This Convention shall be subject to ratification by States which have signed it.
3. Any State which does not sign this Convention may accept, approve or accede to it at any time.
4. Instruments of ratification, acceptance, approval or accession shall be deposited with the International Civil Aviation Organization, which is hereby designated the Depository.

Article 24 – Regional Economic Integration Organizations

1. A ~~regional~~Regional Economic Integration Organization which is constituted by sovereign States and has competence over certain matters governed by this Convention may similarly sign, ratify, accept, approve or accede to this Convention. The Regional Economic Integration Organization shall in that case have the rights and obligations of a State Party to the extent that that Organization has competence over matters governed by this Convention. Where the number of Contracting States is relevant in this Convention, the Regional Economic Integration Organization shall not count as a Contracting State in addition to its Member States which are Contracting States.
2. The Regional Economic Integration Organization shall, at the time of signature, ratification, acceptance, approval or accession, make a declaration to the Depository specifying the matters governed by this Convention in respect of which competence has been transferred to that Organization by its Member States. The Regional Economic Integration Organization shall promptly notify the Depository of any changes to the distribution of competence, including new transfers of competence, specified in the declaration under this paragraph.
3. Any reference to a “State Party” or “States Parties” in this Convention applies equally to a Regional Economic Integration Organization where the context so requires.

Article 25 – Entry into ~~Force~~force

1. This Convention shall enter into force on the sixtieth day following the date of deposit of the ~~thirtieth~~thirty-fifth instrument of ratification, acceptance, approval or accession with the Depository between the States which have deposited such instrument. An instrument deposited by a Regional Economic Integration Organization shall not be counted for the purpose of this paragraph.

2. For other States and for other Regional Economic Integration Organizations, this Convention shall take effect sixty days following the date of deposit of the instrument of ratification, acceptance, approval or accession.

Article 26 – Denunciation

1. Any State Party may denounce this Convention by written notification to the Depositary.
2. Denunciation shall take effect one hundred and eighty days following the date on which notification is received by the Depositary; nevertheless, in respect of damage contemplated in Article 3 arising from an event which occurred before the expiration of the one hundred and eighty day period, the Convention shall continue to apply as if the denunciation had not been made.

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Article 28 – States with more than one ~~System~~[system](#) of ~~Law~~[law](#)

1. If a State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.
2. Any such declaration shall be notified to the Depositary and shall state expressly the territorial units to which the Convention applies.
3. [For a declaration made under Article 2, paragraph 2, by a State Party having two or more territorial units in which different systems of law are applicable, it may declare that this Convention shall apply to damage to third parties that occurs in all its territorial units or in one or more of them and may modify this declaration by submitting another declaration at any time.](#)
4. [In relation to a State Party which has made such a declaration:](#)

¹ With respect to collisions, the relationship between this Convention and the Montreal Convention of 1999 may need to be clarified. In assessing this issue, the provisions of the latter Convention could be taken into account, in particular Article 21. [This issue has been referred to the Small Group on Article 5.](#)

- a) the reference in Article 8 to “the law of the State’ shall be construed as referring to the law of the relevant territorial unit of that State; and
- b) references in Article 14 to “national currency” shall be construed as referring to the currency of the relevant territorial unit of that State.

Article 29 – Reservations and ~~Declarations~~declarations

1. No reservation may be made to this Convention but declarations authorized by Article 2, paragraph ~~2 of Article 2 and paragraph 2 of 2~~, Article 24, paragraph 2, and Article 24~~28~~ may be made in accordance with these provisions .
2. Any declaration or any withdrawal of a declaration made under this Convention shall be notified in writing to the Depository.

Article 30 – Functions of the Depository

The Depository shall promptly notify all signatories and States Parties of:

- a) each new signature of this Convention and date thereof;
- b) each deposit of an instrument of ratification, acceptance, approval or accession and date thereof;
- c) the date of entry into force of this Convention;
- d) the date of the coming into force of any revision of the limits of liability established under this Convention; and
- e) any denunciation with the date thereof and the date on which it takes effect.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Convention.

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