



INTERNATIONAL CONFERENCE ON AIR LAW

(Montréal, 20 April to 2 May 2009)

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

(Presented by the Secretariat)

1. In conformity with established practice, the 33rd Session of the Legal Committee did not prepare Final Clauses of the draft Convention.
2. To facilitate the task of Conference, the Task Force* established by the Council Special Group on the Modernization of the Rome Convention of 1952 met in Paris on 23 and 24 March 2009 and submits the Articles in the Appendix for the consideration of the Conference.
3. References are provided in the margin to facilitate the identification of the origin of the various components of the draft Final Clauses.

* The Task Force is an informal group composed of members and observers of the Council Special Group on the Modernization of the Rome Convention of 1952, with the objective to assist the Legal Committee and the Diplomatic Conference.

APPENDIX

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

	Source
CHAPTER VI	
Final Clauses	
Article 23 – Signature, ratification, acceptance, approval or accession	
1. This Convention shall be open for signature in Montreal on 2 May 2009 by States participating in the International Conference on Air Law held at Montreal 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 Montreal until it enters into force in accordance with Article 25.	Montreal Convention 1999 (MC 1999), Art 53 (1)
2. This Convention shall be subject to ratification by States which have signed it.	MC 1999, Art 53 (2) modified
3. Any State which does not sign this Convention may accept, approve or accede to it at any time.	MC 1999, Art 53 (4)
4. Instruments of ratification, acceptance, approval or accession shall be deposited with the International Civil Aviation Organization, which is hereby designated the Depositary.	MC 1999, Art 53 (5) modified
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	Cape Town Convention 2001 (CTC 2001), Art 48 (1); Cape Town Protocol 2001 (CTP 2001), Art XXVII

	Source
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.	CTC 2001, Art 48 (2) CTP 2001, Art XXVII (2)
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.	CTC 2001, Art 48 (3) CTP 2001, Art XXVII (3)
Article 25 – Entry into Force	
1. This Convention shall enter into force on the sixtieth day following the date of deposit of the thirtieth 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.	MC 1999, Art 53 (6)
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.	MC 1999, Art 53 (7)
Article 26 – Denunciation	
1. Any State Party may denounce this Convention by written notification to the Depositary.	MC 1999, Art 54 (1)
2. Denunciation shall take effect one hundred and	

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<p>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.</p>	<p>MC 1999, Art 54 (2); Rome Convention 1952 (RC 1952), Art 35, para. 2 modified; Rome Protocol 1978 (RP 1978), Art XXIV, para. 2 modified</p>
<p>Article 27 – Relationship to other treaties¹</p>	
<p>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:</p> <ul style="list-style-type: none"> a) the <i>Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface</i> Signed at Rome on 7 October 1952; or b) the <i>Protocol to Amend the Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface</i> Signed at Rome on 7 October 1952, Signed at Montreal on 23 September 1978. 	<p>MC 1999, Art 55 (1) modified</p>
<p>Article 28 – States with more than one System of Law</p>	
<p>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.</p>	<p>MC 1999, Art 56 (1)</p>
<p>2. Any such declaration shall be notified to the Depositary and shall state expressly the territorial units to which the Convention applies.</p>	<p>MC 1999, Art 56 (2)</p>
<p>3. In relation to a State Party which has made such a declaration:</p>	<p>MC 1999, Art 56 (3)</p>

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.

	Source
<p>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</p> <p>b) references in Article 14 to “national currency” shall be construed as referring to the currency of the relevant territorial unit of that State.</p>	
<p>Article 29 – Reservations and Declarations</p>	
<p>1. No reservation may be made to this Convention but declarations authorized by paragraph 2 of Article 2 and paragraph 2 of Article 24 may be made in accordance with these provisions .</p> <p>2. Any declaration or any withdrawal of a declaration made under this Convention shall be notified in writing to the Depository.</p>	<p>RC 1952, Art 39; RP 1978, Art XXV</p>
<p>Article 30 – Functions of the Depository</p>	
<p>The Depository shall promptly notify all signatories and States Parties of:</p> <p>a) each new signature of this Convention and date thereof;</p> <p>b) each deposit of an instrument of ratification, acceptance, approval or accession and date thereof;</p> <p>c) the date of entry into force of this Convention;</p> <p>d) the date of the coming into force of any revision of the limits of liability established under this Convention; and</p> <p>e) any denunciation with the date thereof and the date on which it takes effect.</p>	<p>MC 1999, Art 53 (8)</p> <p>CTC, Art 62 (2) (v)</p>
<p>IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Convention.</p>	<p>MC 1999 modified</p>

	Source
<p>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.</p>	

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