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# INTERNATIONAL CIVIL AVIATION ORGANIZATION

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# Recent Development of ICAO's Work in the Legal Field

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# Overview of Presentation

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1. Key outcome of the 42nd Session of ICAO Assembly in the legal field
2. Settlement of disputes
3. Ratification of international air law instruments
4. Article 83 bis and WAGMAR



# 1. Key outcome of the 42nd Session of the ICAO Assembly in the Legal Field

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## A42-5 Consolidated Statement of Continuing ICAO policies in the legal field(updated)

### Appendix A

General Policy

### Appendix B

Procedure for approval of draft conventions on international air law

### Appendix C

Ratification of ICAO international instruments

### Appendix D

The teaching of air law

### Appendix E

Adoption of national legislation on certain offences committed on board aircraft (unruly and disruptive passengers)

### Appendix F

A Practical Way Forward on Legal and Institutional Aspects of CNS/ATM Systems

### Appendix G

Enhancing the capacity and effectiveness of States to implement air law treaties and update national laws and regulations

### Appendix H

Registration with ICAO of Aeronautical Agreements and Arrangements



# New Assembly Resolution: Honouring 80 Years of the Chicago Convention: The Legacy of the Work in the Legal Field <sup>5</sup>

## Assembly Resolution A42-1

- Invites all Member States to continue to actively support the Legal Committee's work and related groups to carry out its Work Programme;
- Invites all stakeholders, including relevant organizations of the global civil aviation community, to continue collaborating through the ICAO Legal Committee to further develop and codify international air law for the benefit of all nations and peoples.



# Work Programme of the Legal Committee

1. **Processes and procedures for States to fulfil their obligations under Article 12 of the Chicago Convention**
2. **Review of the Role of the International Explosives Technical Commission under the Convention on the Marking of Plastic Explosives for the Purpose of Detection**
3. **International legal aspects of unmanned (pilotless) aircraft operations and integration into civil aviation**
4. **Ratification of international air law instruments**
5. **Acts or offences of concern to the international aviation community, including cyber threats, that may not be adequately covered by existing air law instruments**
6. **Global satellite systems and services supporting international air navigation**
7. **International carriage by air and data protection laws**
8. **Legal Review of ATRP Analysis of Article 15 of the Chicago Convention<sup>new</sup>**

# Work Programme of the Legal Committee

## Article 12 of the Chicago Convention

### Article 12 Task Force

- **Scoping subgroup:** study the scope of Article 12
- **Tools Subgroup:** the development of tools for exchange of information related to Article 12

### Article 12 Rules of the Air

Each contracting State undertakes to adopt measures to insure that every aircraft flying over or maneuvering within its territory and that every aircraft carrying its nationality mark, wherever such aircraft may be, shall comply with the rules and regulations relating to the flight and maneuver of aircraft there in force. Each contracting State undertakes to keep its own regulations in these respects uniform, to the greatest possible extent, with those established from time to time under this Convention. Over the high seas, the rules in force shall be those established under this Convention. Each contracting State undertakes to insure the prosecution of all persons violating the regulations applicable.

## Unmanned Aircraft Operations

SSG-LIPA

- Chicago Convention Subgroup
- Liability and Security Subgroup
- Terminology Subgroup (TBD)

# Work Programme of the Legal Committee

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**Acts or offences of concern to the international aviation community, including cyber threats, that may not be adequately covered by existing air law instruments**

- ☐ A legal survey on the implementation by States of international air law instruments in national legal frameworks on cyber security ( to be launched)

**International carriage by air and data protection laws**

- ☐ Secretariat Study Group on Interactions between International Air Carriage and Data Protection Laws(SSG-DPL) was established in March 2025
- ☐ Legal survey issued on 27 August 2025, due on 15 December 2025

**Legal review of ATRP Analysis of Article 15 of the Chicago Convention**

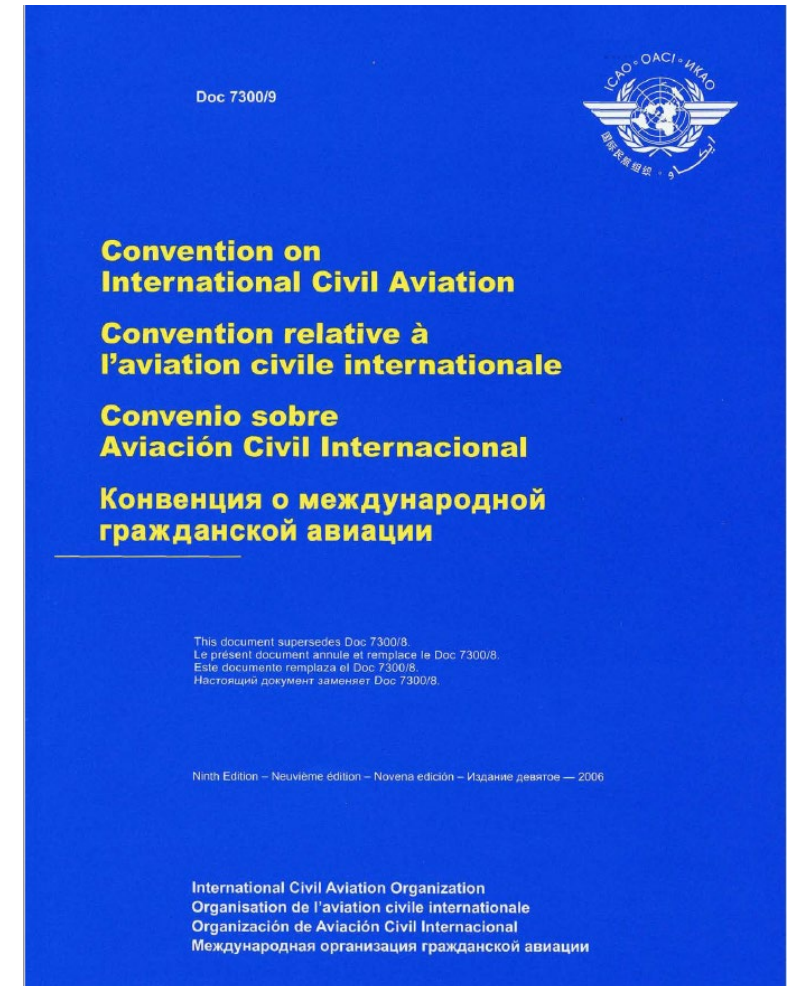
- ☐ New item
- ☐ Article 15: Airport and similar charges
- ☐ Legal review of the analysis completed by the Air Transport Regulation Panel (ATRP) of the application of Article 15 of the Chicago Convention



# Other high-policy issues: Infractions of the Chicago Convention

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Under **Article 54 k) of the Chicago Convention**, the Council shall report to the Assembly any infraction of the Convention where a contracting State has failed to take appropriate action within a reasonable time after notice of the infraction.



## 2. Settlement of Disputes

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- Set out in Chapter XVIII of the Chicago Convention
  - Article 84: *“If any disagreement between two or more contracting States relating to the interpretation or application of this Convention and its Annexes cannot be settled by negotiation, it shall, on the application of any State concerned in the disagreement, be decided by the Council”*
  - No member of the Council shall vote in the consideration by the Council of any dispute to which it is a party
  - The decision of the Council is appealable to an ad-hoc arbitral tribunal or to the International Court of Justice
- Similar functions in the Transit Agreement and Transport Agreement



## 2. Settlement of Disputes

### List of cases submitted to the Council under Article 84 to date

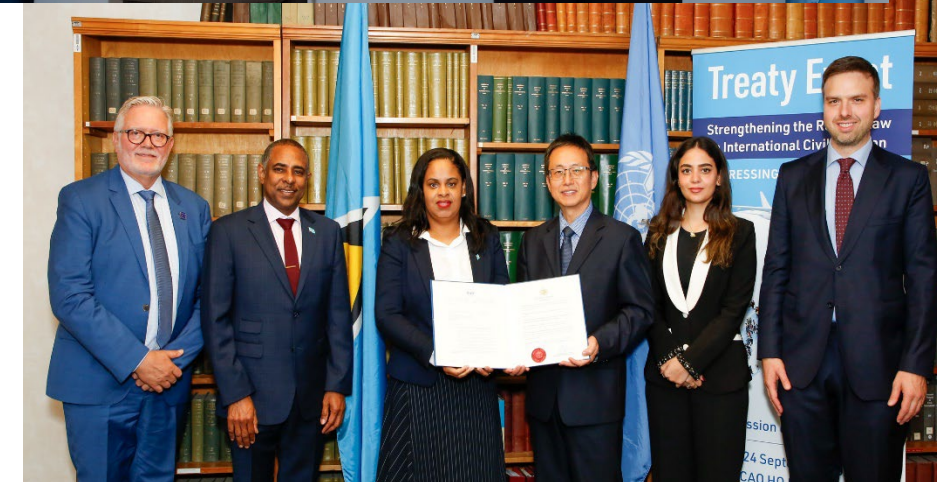
- India and Pakistan (1952)
- UK and Spain (1967)
- Pakistan and India (1971)- Case (1) and Case (2)
- Cuba and United States (1996)
- United States and 15 Member States of the EU (2000)
- Brazil and United States (2016)
- Qatar and Bahrain, Egypt, Saudi Arabia, UAE (2017) (Application A); Qatar and Bahrain, Egypt, UAE (2017) (Application B)
- Australia, Netherlands and Russian Federation (2022)
- The Russian Federation and 37 Member States (2023)
- Canada, Sweden, Ukraine, United Kingdom and the Islamic Republic of Iran (2024)
- Bolivarian Republic of Venezuela and the Argentine Republic (2024)

# 3. Ratification of International Air Law Instrument

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## ICAO's Role as Depositary

- The Secretary General is the Depositary of the following types of instruments:
  - Protocols of amendment to the Chicago Convention
  - Multilateral air law instruments concluded under the auspices of ICAO
  - Multilateral air law instruments not concluded under the auspices of ICAO (e.g., COSPAS-SARSAT)
- The ICAO Legal Affairs and External Relations Bureau (LEB) ensures the performance of the depositary functions.



# 3. Ratification process

- **Two-phase process**

- First phase: treaty to be approved for ratification by the national legislature or other organ of a State responsible for approving ratification of treaties
- CAAs can assist to:
  - Identify organs of State responsible for ratification process
  - Propose ratification of treaties to them, follow up for further action
  - Facilitate consultation processes with industry/key stakeholders



# 3. Ratification process

## Two-phase process

- Second phase: Deposit of an instrument of ratification with ICAO
  - In order to ratify/accede to a treaty, a State must deposit an instrument of ratification/accession in compliance with the relevant provisions of the treaty concerned.
  - The instrument must be in due and proper form (Art. 77 (d) VCLT). **It must be signed by the proper authority** either by **the Head of State, the Head of Government, the Minister for Foreign Affairs**, or a person exercising, ad interim, the power of one of the above authorities, or with full powers for that purpose.
  - The instrument of ratification/accession must clearly identify the treaty (exact title, date and place) concerned and the type of action being taken by the State in accordance with the provisions of the treaty (e.g., ratification, acceptance, approval, or accession).

# 3. Ratification process

## Place of deposit

- Instruments become effective only when deposited in original form with the Secretary General at ICAO Headquarters
- Or by delivery to the Secretary General or to his representative – D/LEB
- Appointment for in-person deposit with SG or D/LEB
- During Treaty Event at the ICAO Assembly Sessions

## Date of deposit

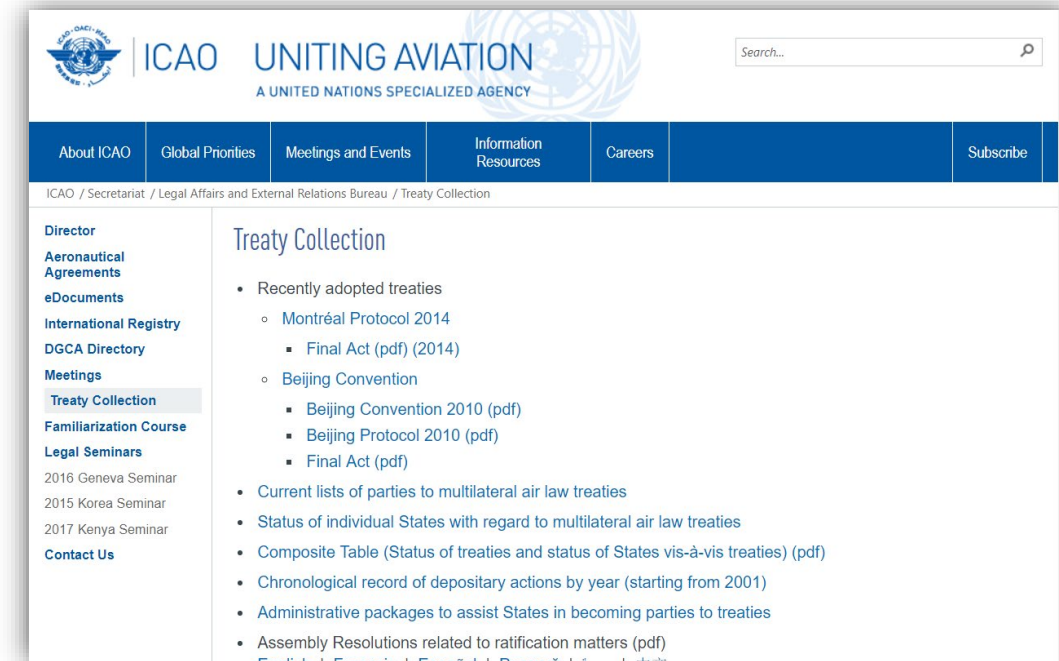
- Date when original instrument is received at ICAO HQ either by the Secretary General, by D/LEB or by Central Registry
- Deposit will produce its effect in accordance with the provisions of a treaty

# 3. Resources to assist with ratification

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## ICAO Treaty Collection Website

- Administrative packages providing guidelines for the ratification of, or accession to, international air law instruments in order to assist States in the ratification/accession process
- Lists of Parties to international air law instruments
- Forms indicating the current status of individual ICAO Member States with respect to international air law instruments



# 3. Resources to assist with ratification

## Tracking Matrix for Treaty Ratification

[NAME OF THE MEMBER STATE]					
	TREATY PROPOSED BY DGCA TO COMPETENT AUTHORITY FOR RATIFICATION	TREATY SUBMITTED FOR APPROVAL TO LEGISLATURE OR OTHER COMPETENT AUTHORITY	AWAITING SUBMISSION OF THE INSTRUMENT OF RATIFICATION TO THE DEPOSITARY (E.G., ICAO)	TREATY NOT CONSIDERED FOR RATIFICATION	COMMENTS
[NAME OF TREATY]					
[NAME OF TREATY]					
[NAME OF TREATY]					
[...]					

### 3. Status of ratification of key international air law treaties

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Treaty	Status	Eastern Caribbean States
Article 50(a) (2016). Increase Council Members to 40	Not yet in force. 120 Parties, (128)	3 Saint Kitts and Nevis Saint Lucia Saint Vincent and the Grenadines)
Article 56 (2016). Increase of ANC Members to 21	Not yet in force. 120 Parties, (128)	
Montréal Protocol(2014) Unruly and disruptive passengers	56 Parties	2 Saint Kitts and Nevis Saint Lucia)
Beijing Convention(2010) (aviation security and safety), deal with new and emerging threats using aircraft, BCN weapons, cyber attack.	56 Parties	
Beijing Protocol(2010) (aviation security and safety), deals with new forms of unlawful seizure including by any technological means	57 Parties	
Montreal Convention(1999) (Air carrier liability) universal application of uniform regime	143 Parties	2Saint Lucia, Saint Vincent and the Grenadines
Final Paragraph (1998). Referring to the authentic Chinese Text	Not yet in force, 57 Parties, (124)	1(Saint Lucia)
Final Paragraph (1995). Referring to the authentic Arabic Text	Not yet in force, 71 Parties, (122)	1(Saint Lucia)



# 4. Article 83 *bis* and WAGMAR

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## Background

### Protocol

- Protocol on Article 83 *bis* approved by the 23rd Session of the Assembly in 1980, entered into force on 20 June 1997.

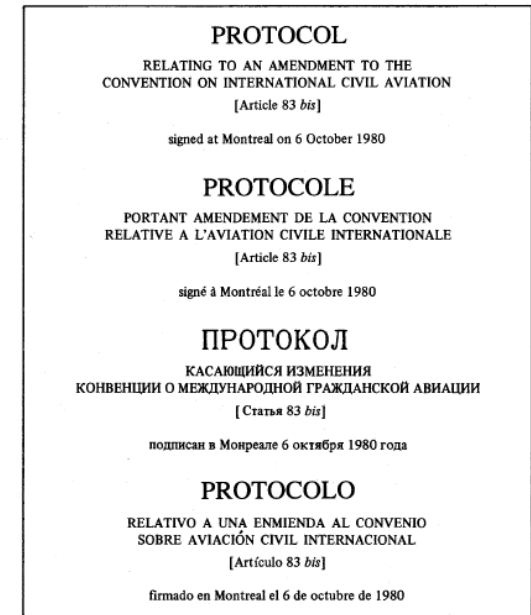
### Rationale

- Lease, charter or interchange of an aircraft can lead to the State of Registry being different from State of the Operator and to split safety oversight responsibilities.

### Wide Participation

- Currently 182 parties to the Protocol.

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INTERNATIONAL CIVIL AVIATION ORGANIZATION  
ORGANISATION DE L'AVIATION CIVILE INTERNATIONALE  
МЕЖДУНАРОДНАЯ ОРГАНИЗАЦИЯ ГРАЖДАНСКОЙ АВИАЦИИ  
ORGANIZACIÓN DE AVIACIÓN CIVIL INTERNACIONAL



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# Correct use of Article 83 *bis*

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## When

International lease, charter or interchange of Aircraft

## Who

State of Registry / State of Operator

## What

Transfer of certain State of Registry functions and duties

## How

Agreement, registration and made public

## Effect

State of Registry relieved of responsibility. Multilateral recognition of transfer.

### Article 83 *bis*

#### Transfer of certain functions and duties

a) Notwithstanding the provisions of Articles 12, 30, 31 and 32 a), when an aircraft registered in a contracting State is operated pursuant to an agreement for the **lease, charter or interchange** of the aircraft or any similar arrangement by an operator who has his principal place of business or, if he has no such place of business, his permanent residence in another contracting State, the **State of registry may, by agreement with such other State, transfer** to it all or part of its functions and duties as State of registry in respect of that aircraft under Articles 12, 30, 31 and 32 a). **The State of registry shall be relieved of responsibility in respect of the functions and duties transferred.**

b) The transfer shall not have effect in respect of other contracting States before either **the agreement** between States in which it is embodied **has been registered with the Council and made public pursuant to Article 83** or the existence and scope of the agreement have been directly communicated to the authorities of the other contracting State or States concerned by a State party to the agreement.



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**WAGMAR** WEBSITE OF AERONAUTICAL  
AGREEMENTS AND ARRANGEMENTS

Search Agreement

Search Aircraft

User Guide

LOGIN

**WAGMAR**

WEBSITE OF AERONAUTICAL  
AGREEMENTS AND ARRANGEMENTS

**WAGMAR**, new online interactive registration platform for swift and efficient registration of Article 83 bis agreements.

### Main Features and Benefits

- Self-registration of agreements by State Focal Points;
- Intuitive process;
- No need to mail certified true paper copies to ICAO;
- Automated notifications to the other State party;
- Increased certainty



For any questions with respect to the ratification process with ICAO or on registration functions please do not hesitate to contact LEB.

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	Legal Affairs and External Relations Bureau; LEB

# Thank You

