



| ICAO

INTERNATIONAL CIVIL AVIATION ORGANIZATION

A UN SPECIALIZED AGENCY





ICAO



Introducing key air law treaties – background, overview of policy objectives and ratification status

—
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International Air Law Treaty Workshop
Singapore | 12 – 14 December 2023

Overview of Presentation

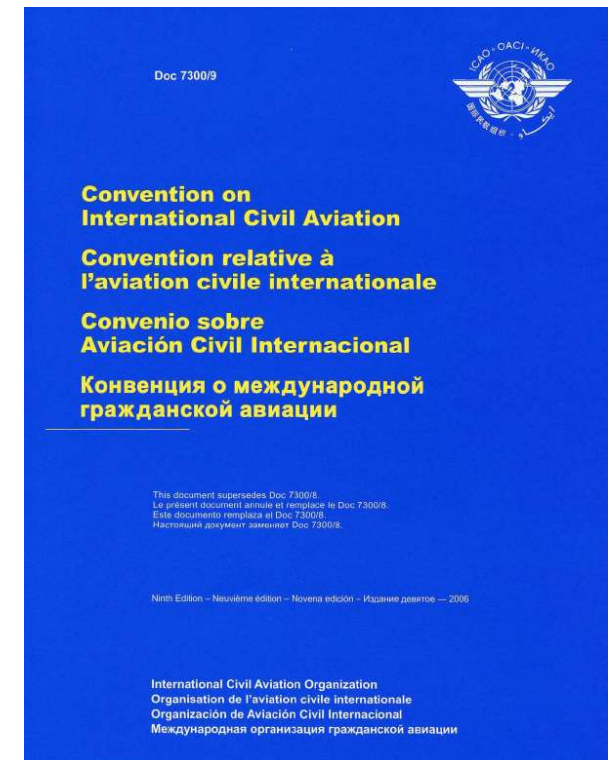
1. Treaty Making Process
2. Background and benefits of six key international air law treaties
3. Resources to promote ratification



Law-making Process at ICAO: Amendments to the Chicago Convention

- Article 94 (a) of the Convention:

“Any proposed amendment to this Convention must be approved by a two-thirds vote of the Assembly and shall then come into force in respect of States which have ratified such amendment when ratified by the number of contracting States specified by the Assembly. ***The number so specified shall not be less than two-thirds of the total number of contracting States.***”



Amendments to the Chicago Convention



Institutional and procedural changes

- Membership, Assembly sessions, permanent seat, budget and languages

Article 3 bis*

a) The contracting States recognize that every State must refrain from resorting to the use of weapons against civil aircraft in flight and that, in case of interception, the lives of persons on board and the safety of aircraft must not be endangered. This provision shall not be interpreted as modifying in any way the rights and obligations of States set forth in the Charter of the United Nations.

Article 3 bis

- Prohibition of use of weapons against civil aircraft

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 leased pursuant to an agreement for the lease, charter or exchange of the aircraft or any similar arrangement by a contractor 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 that 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.

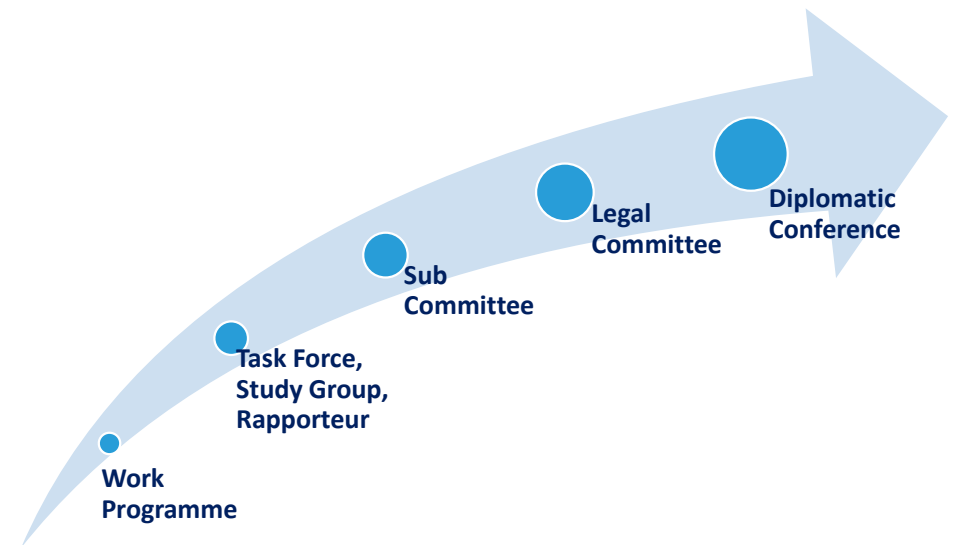
Article 83 bis

- Transfer of state of registry responsibility on leased, chartered aircraft

Law-making Process at ICAO: Development of Air Law Instruments

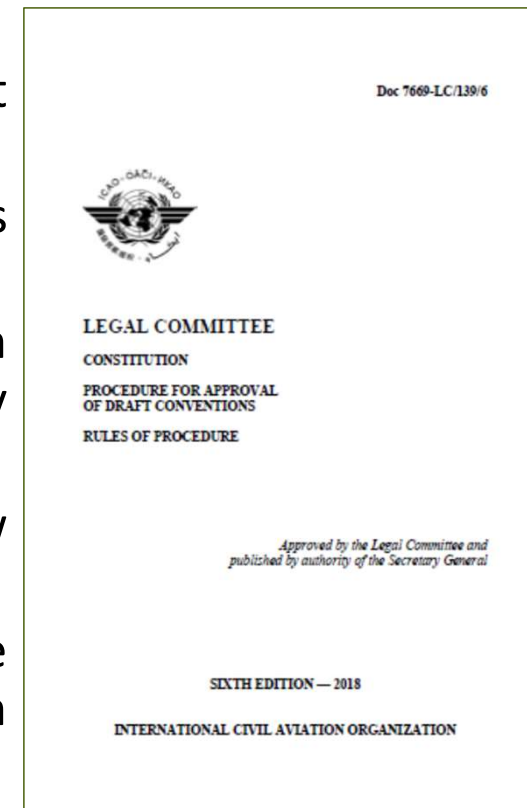
Other International Air Law Instruments

- Procedure for approval of draft Conventions (A41-4, Appendix B)
- Legal Committee may establish sub-Committees, working groups, task forces
- Council considers draft text of a new treaty
- Council convenes Diplomatic Conference to adopt the text
- Last instrument adopted is the Montréal Protocol 2014



Legal Committee's Current Work Programme

- 1) Review of the ICAO Rules for the Settlement of Differences;
- 2) International legal aspects of unmanned (pilotless) aircraft operations and integration into civil aviation;
- 3) Processes and procedures for States to fulfil their obligations under Article 12 of the Chicago Convention;
- 4) Acts or offences of concern to the international aviation community, including cyber threats, that may not be adequately covered by existing air law instruments;
- 5) Promotion of the ratification of international air law instruments;
- 6) Study of international legal issues relating to global satellite systems and services supporting international air navigation services;
- 7) Consideration of guidance on conflicts of interest; and
- 8) Implementation of Article 21 of the Chicago Convention.





Legal Affairs and External Relations Bureau (LEB) - Functions

- **Legal Advisory Services** to: Member States, Assembly, Council and its President, Council Committees, ANC (SARPs development), Secretary General, and other Bureaus and Offices
- **LEB Secretariat Services to ICAO Bodies:** Some Assembly organs, Diplomatic Conferences, certain Council Committees and Groups, Legal Committee and other legal bodies
- **Treaty: Depositary Function:** ICAO (through LEB) is the Depositary of almost 40 international air law treaties
- **Treaty: Registration Functions:** Registration of aeronautical agreements and arrangements under Article 83 of the Chicago Convention, over 7300 agreements registered, WAGMAR: online registration platform, including Article 83 *bis* agreements; *Rules for Registration with ICAO of Aeronautical Agreements and Arrangements*

Adoption of Air Law Instruments

Air Carrier Liability (passengers and cargo)

- Hague Protocol 1955
- Guadalajara Convention 1961
- Guatemala City Protocol 1971
- Additional Protocol Nos. 1, 2 and 3 1975
- Montreal Protocol No 4 1975
- Montreal Convention 1999

Liability to Third Parties (damages on the ground)

- Rome Convention 1952
- Montreal Protocol 1978
- General Risks Convention 2009
- Unlawful Interference Compensation Convention 2009

Aviation Safety and Security

- Tokyo Convention 1963
- Hague Convention 1970
- Montreal Convention 1971
- VIA Protocol 1988
- MEX Convention 1991
- Beijing Convention and Protocol 2010
- Montréal Protocol 2014

Aircraft Financing

- Geneva Convention 1948
- Cape Town Convention 2001
- Aircraft Protocol 2001

Depository Functions

- ICAO is the Depository of almost 40 international air law treaties
- Ceremony of deposits
- Information for States available on the ICAO Treaty Collection Website ([icao.int/treaty](https://www.icao.int/treaty))



Background and Benefits of Six Key Treaties

Ratification of International Air Law Treaties:

The 41st Session of the ICAO Assembly recognized in several Resolutions (Resolutions A41-4, Appendix C, A41-18, Appendix B and A41-19), that unification of international rules could only be achieved through universal participation by all ICAO Member States.

- Called upon States that have not done so to consider becoming parties to international air law treaties.



Doc 10184

Assembly Resolutions in Force
(as of 7 October 2022)



Published by authority of the Secretary General

INTERNATIONAL CIVIL AVIATION ORGANIZATION

Background and Benefits of Six Key Treaties



Montreal Convention 1999 (air carrier liability): 139 Parties: Universal application for uniform regime



Beijing Convention 2010 (security and safety): 48 Parties: deals with new and emerging threats using aircraft, BCN weapons, cyber attacks



Beijing Protocol 2010 (security and safety): 48 Parties: deals with new forms of unlawful seizure including by any technological means



Montréal Protocol 2014 (unruly and disruptive passengers): 46 Parties: expands jurisdiction beyond State of registry, and promotes enforcement



2016 Protocol on Art. 50 (a) of the Chicago Convention (increase in the size of Council): 89 ratifications, 128 needed: broader representation n the Council



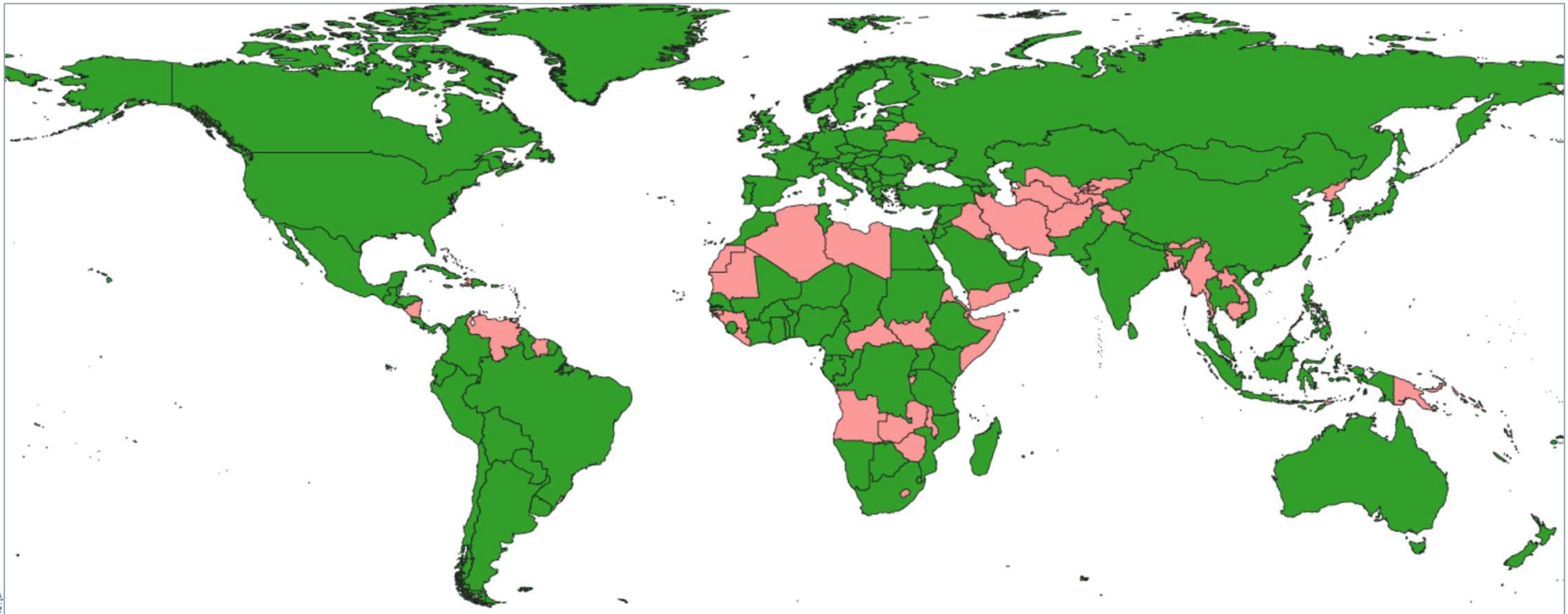
2016 Protocol on Art. 56 of the Chicago Convention (increase in the size of the ANC): 89 ratifications, 128 needed: broader representation on the ANC

Convention for the Unification of Certain Rules for International Carriage by Air, done at Montreal on 28 May 1999

- Assembly Resolution A39-9: *Promotion of the Montréal Convention of 1999* urging all States to ratify this Convention.
- Modernizes and consolidates the international legal regime established pursuant to the Warsaw Convention of 1929 and its amending instruments.
- Provides rules relating to the international carriage of passengers, baggage and cargo performed by aircraft for reward.



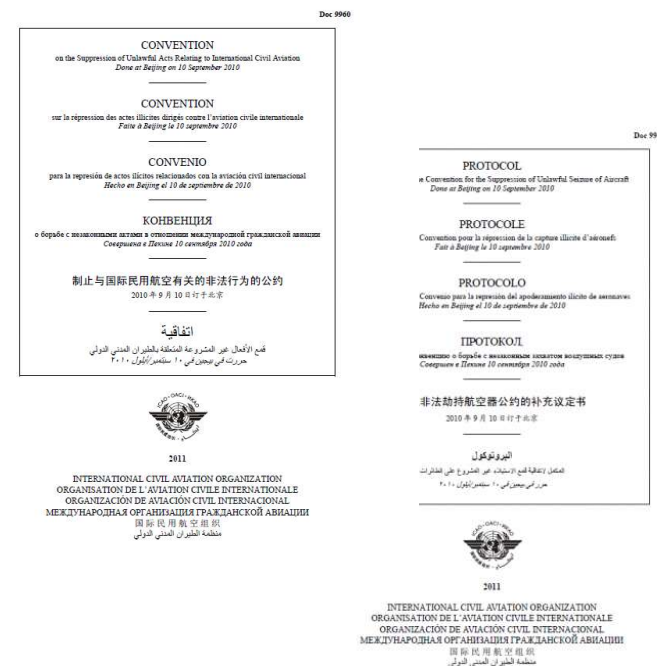
Parties to the Montreal Convention 1999



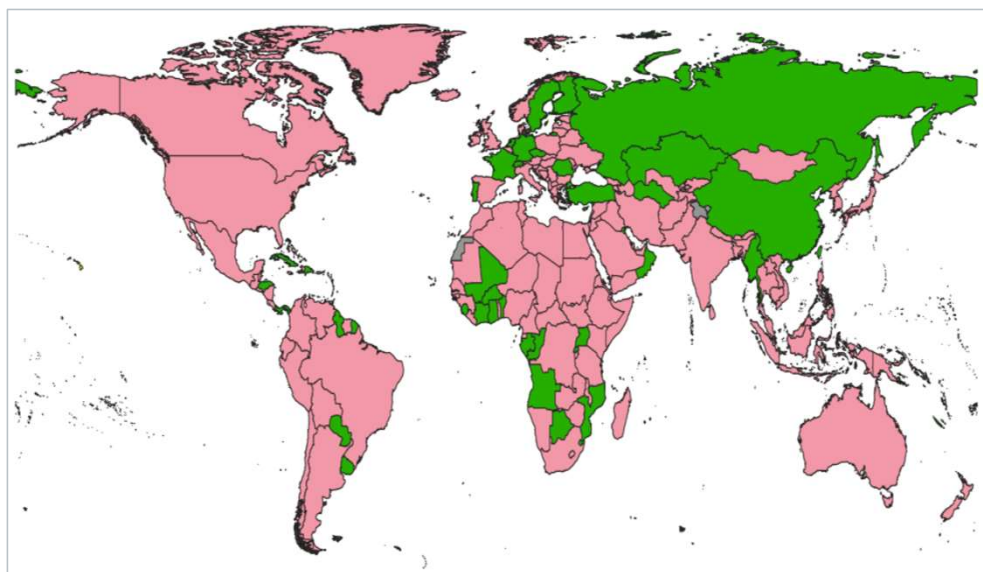
As of 30 November 2023, ratified by 139 Member States

Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation and the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft, both done at Beijing on 10 September 2010

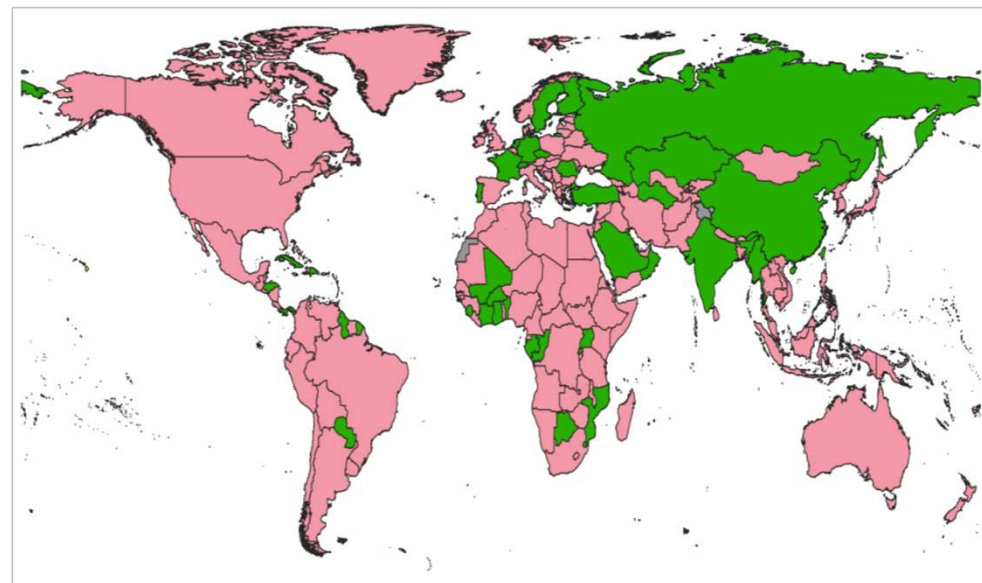
- Assembly Resolution A39-10: *Promotion of the Beijing Convention and the Beijing Protocol of 2010*, urging all States to sign and ratify these treaties.
- The Beijing Protocol entered into force on 1 January 2018 and the Beijing Convention on 1 July 2018.
- The instruments were developed to deal with new and emerging threats against civil aviation.
- Beijing Protocol amends and supplements the Hague Convention of 1970 while the Beijing Convention supplements the Montreal Convention of 1971 as well as the Airport Protocol of 1988.



Parties to the Beijing Convention 2010



Parties to the Beijing Protocol 2010



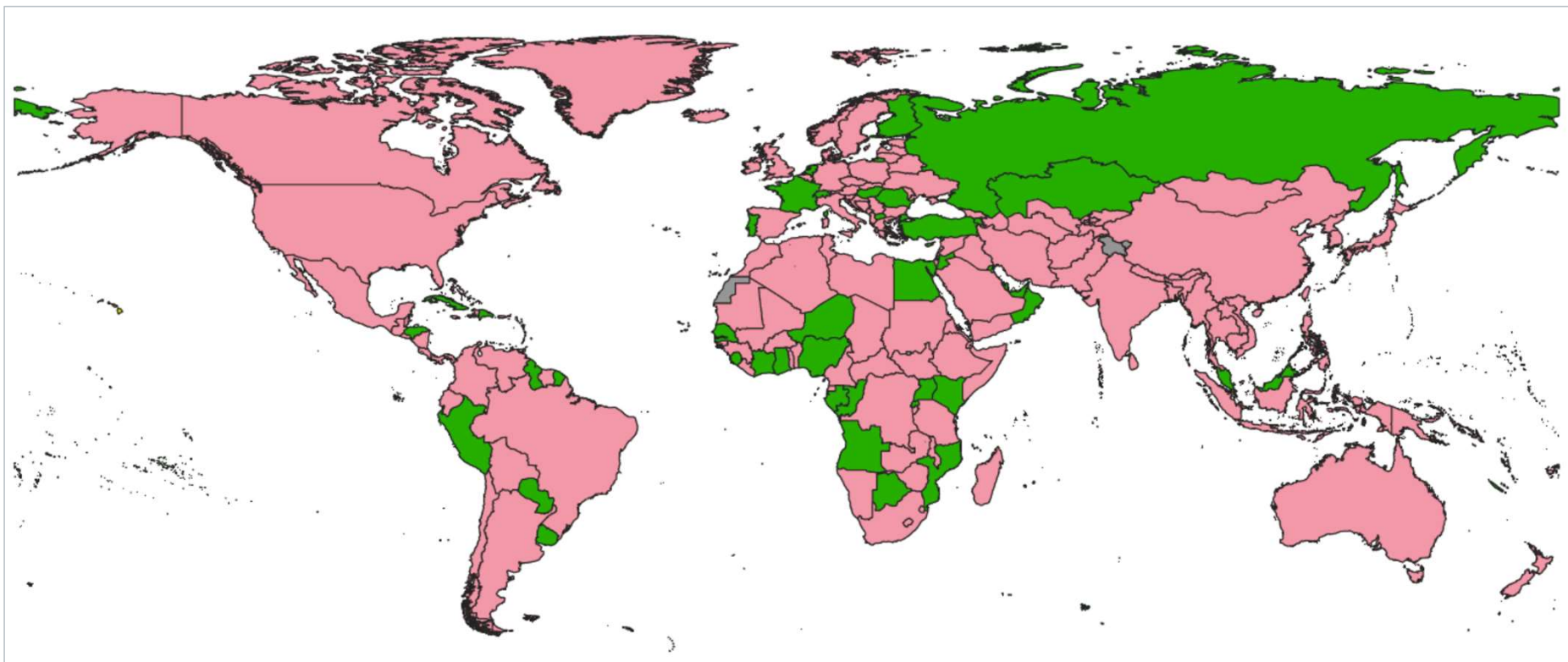
As of 30 November 2023, 48 States have ratified the Beijing Convention and Beijing Protocol 2010.

Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft, done at Montréal on 4 April 2014

- By Resolution A41-4, Appendix C, the Assembly urges all States that have not done so to ratify this Protocol.
- Protocol amends the Tokyo Convention of 1963.
- Protocol was adopted to address the escalation of the frequency of unruly and disruptive acts on board an aircraft; it improves the ability of States to expand jurisdiction over relevant offences and acts to the State of landing and the State of the operator.
- Implementation is supported by Doc 10117 “Manual on the Legal Aspects of Unruly and Disruptive Passengers” and Assembly Resolution A41-4, Appendix E.



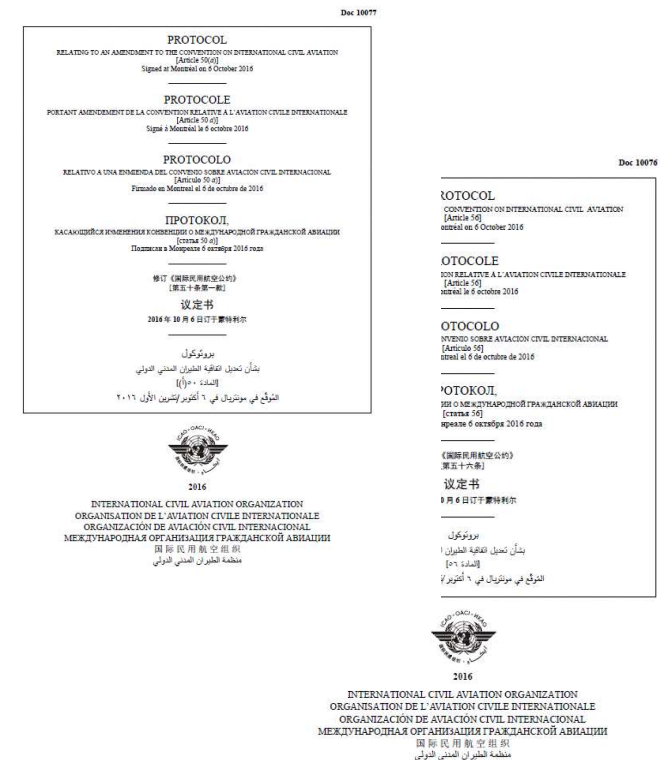
Parties to the Montreal Protocol 2014



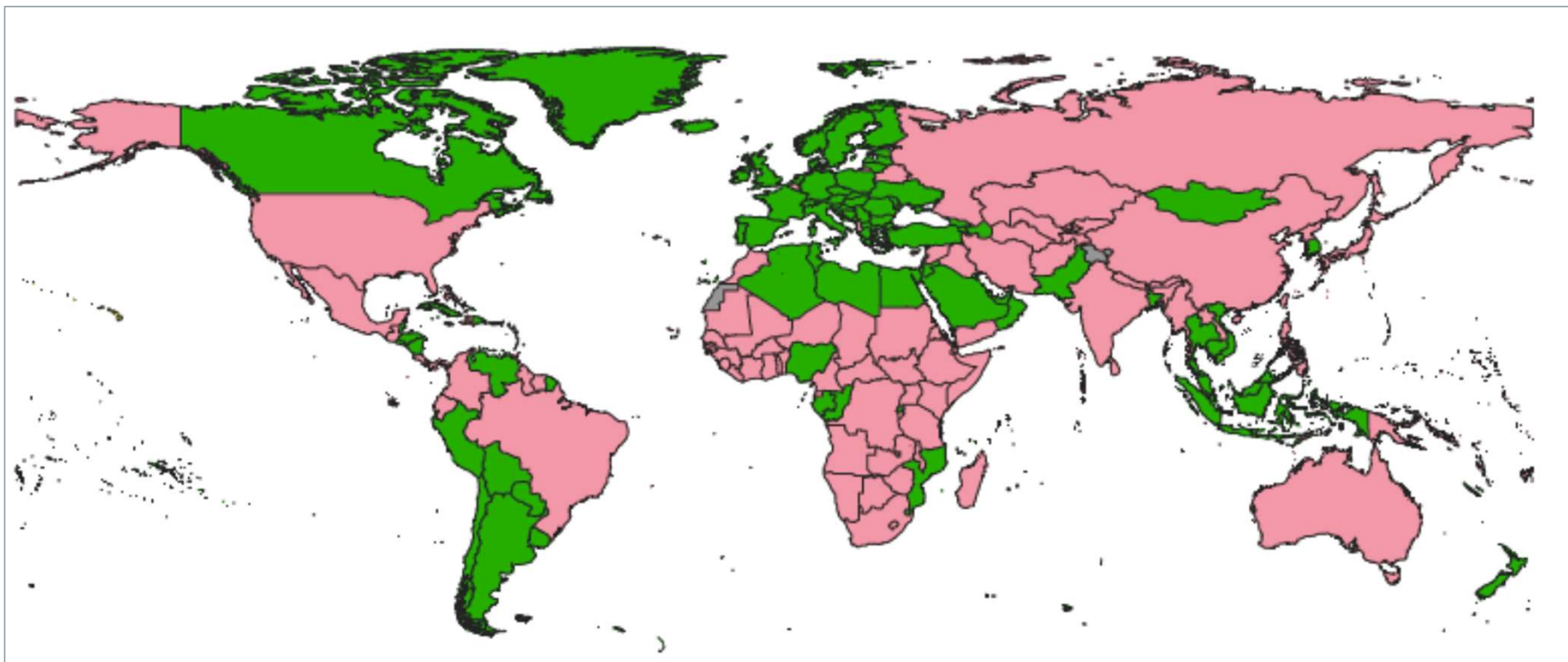
As of 30 November 2023, the Protocol has been ratified by 46 States

2016 Protocols amending Articles 50(a) and 56 of the Chicago Convention

- The 39th Session of the Assembly approved amendments to Articles 50 (a) and 56 of the Chicago Convention.
- The amendment to Article 50 (a) increases the membership of the Council from **36 to 40**, while the amendment to Article 56 increases the membership of the Air Navigation Commission from **19 to 21**.
- These Protocols call for an increase in the membership of the Council (from 36 to 40 Members) as well as of the Air Navigation Commission (from 19 to 21 Members), respectively, in order to ensure a better representation of States within the ICAO Council as well as to ensure that the Commission can draw on the expertise of more commissioners.



Contracting States to the 2016 Protocols amending Articles 50(a) and 56 of the Chicago Convention

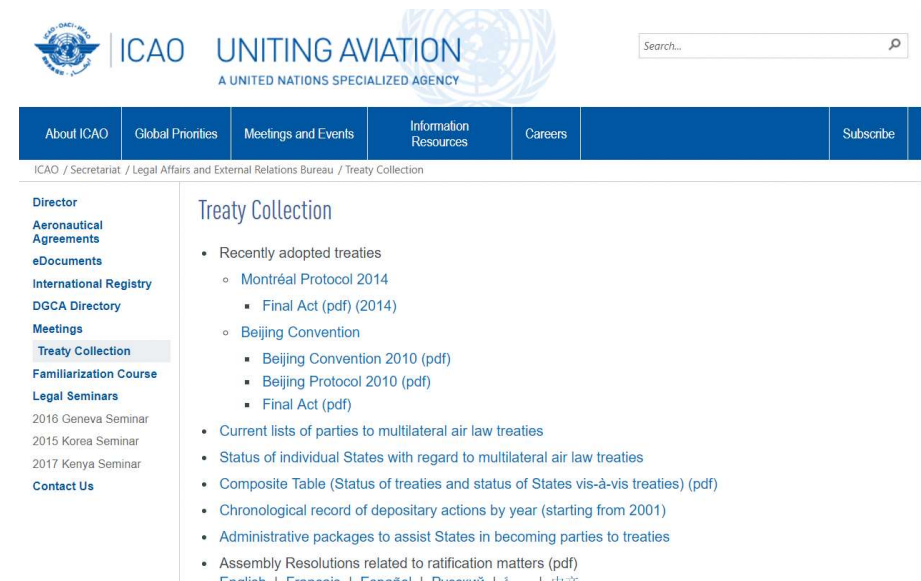


As of 30 November 2023, 89 States have ratified these two Protocols

Resources to promote ratification

ICAO Treaty Collection Website

- Administrative packages providing guidelines for the ratification of, or accession to, international air law instruments and highlight the benefits and key provisions of the treaties.
- 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.



The screenshot shows the ICAO Treaty Collection website. The header includes the ICAO logo and the text "UNITING AVIATION A UNITED NATIONS SPECIALIZED AGENCY". A search bar is located in the top right corner. The navigation menu includes "About ICAO", "Global Priorities", "Meetings and Events", "Information Resources", "Careers", and "Subscribe". The main content area is titled "Treaty Collection" and lists several categories of treaties and documents, including "Recently adopted treaties", "Current lists of parties to multilateral air law treaties", and "Status of individual States with regard to multilateral air law treaties".

Resources to promote ratification – key activities

- Supports delivery of the GAT International Air Law Course
- Hosts and facilitates legal seminars in ICAO regions
- Supports the Civil Aviation Legal Adviser Forum (CALAF)
- ICAO Treaty Event
- Consultations with States including state visits
- Promotion of ratification in regional events (e.g. DGCA meetings)
- Issuance of State letters
- Support from ICAO Regional Offices
- Treaty Collection Website
- Participating in UN activities



ICAO International Air Law Course (IALC)



<https://igat.icao.int/ated/trainingCatalogue/Course/1037>

ROLE OF CAAs



**Stakeholder
advocacy and
consultations**

**Advise to
Government on
air transport
matters**

**Champion in
liaison with
other
government
bodies**

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]					
[...]					

Questions?

For any questions with respect to the ratification process with ICAO please do not hesitate to contact LEB

Emails:

- treaty@icao.int
- officeleb@icao.int





Thank You!