

ICAO and International Air Law

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Structure of the Discussion

- Chicago Convention and ICAO
- Objectives of the ICAO
- Structure and Functions of the ICAO
- Mission of the ICAO
- Current and Future Challenges of the ICAO
- Legal Personality of the ICAO
- Annexes & SARPs
- Filing of differences
- Strategic direction of SARPs

Chicago Convention and ICAO

- Chicago Convention 1944 has two Basic Functions
 - ❖ I. The Chicago Convention is a Source of International Air Law (Articles 1-42)
 - ❖ II. The Chicago Convention is the Constitution of an International Organization -ICAO (Articles 43-96)
- The Chicago Conference laid the foundation for the post-war establishment of the International Civil Aviation Organization [ICAO].
- The Provisional International Civil Aviation Organization [PICAO] functioned from June 6, 1945, until April 4, 1947.
- ICAO began operations April 4, 1947, and that same year was included under the umbrella of the United Nations.

PART-II (From Chapter VII-XIII ARTICLES:43-66)

- CHAPTER-VII (THE ORGANISATION-ICAO)
- CHAPTER-VIII (THE ASSEMBLY)
- CHAPTER-IX (THE COUNCIL)
- CHAPTER-X (AIR NAVIGATION COMM.)
- CHAPTER-XI (PERSONNEL)
- CHAPTER-XII (FINANCE)
- CHAPTER-XIII (OTHER INTL. ARRANGEMENTS)

ICAO

- The Chicago Convention has also established principles, structures and procedures for the International Civil Aviation Organization (ICAO) have been covered in Part II from Articles 43 to 66 of the Convention.
- The ICAO has been responsible for establishing guidelines and standards for navigational aids, technical rules for landing areas, aircraft certification, licensing of pilots and other specialized personnel.
- ICAO is responsible of Development of Int. Air Law

The OBJECTIVES OF ICAO

- Art.44 Objectives-
- ensure a safe and orderly growth of international civil aviation throughout the world;
- Encourage the arts of aircraft design and operation for peaceful purposes;
- Encourage the development of airways, airports, and air navigation facilities for international civil aviation;
- Meet the needs of the peoples of the world for safe, regular, efficient and economical air transport;
- Prevent economic waste caused by unreasonable competition;
- Insure that the rights of contracting states are fully respected and that every contracting state has a fair opportunity to operate international airlines;
- Avoid discrimination between contracting states;
- Promote safety of flight in international air navigation;
- Promote generally the development of all aspects of international civil aeronautics.

ICAO Assembly

- Each Contracting State is entitled to one vote and decisions of the Assembly are taken by a majority of the votes cast except when otherwise provided in the Convention.
- At these sessions, the Complete work of the Organization in the technical, economic, legal and technical cooperation fields is reviewed in detail and guidance is given to the other bodies of ICAO for future work.
- The Assembly meets once in every three years.
- All contracting states shall have an equal rights and each contracting state has one vote in the Assembly.
- The assembly may amend the ICAO constitution by a two-thirds majority vote, and it has done so on several occasions. But amendments come into force for the states that ratify them only after they have been ratified by at least two-thirds of the ICAO member states as specified by the assembly.

ICAO Council

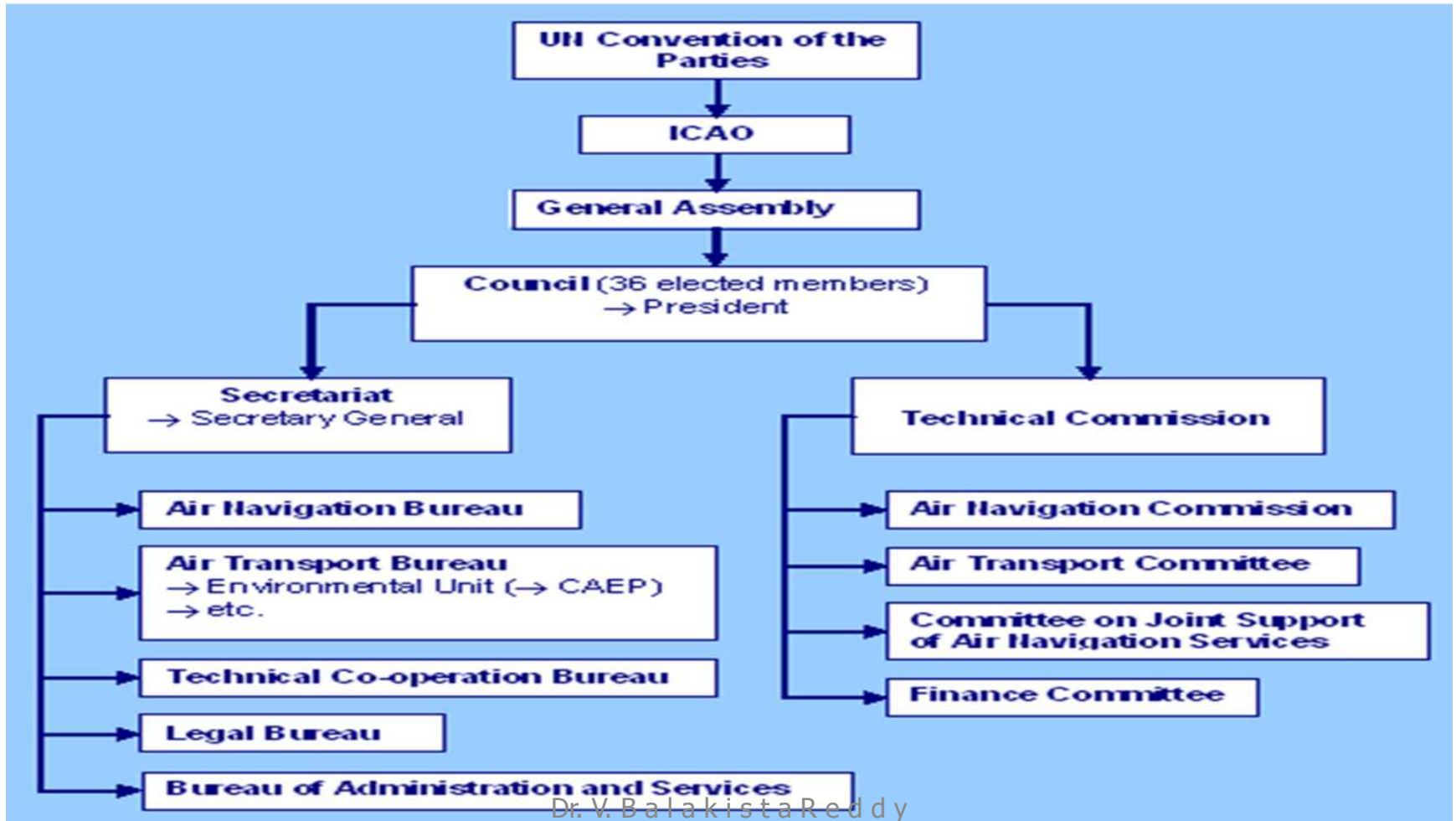
- The Council is a permanent body responsible to the Assembly and is composed of 36 Contracting States elected by the Assembly for a three-year term.
- In the election, adequate representation is given to States of chief importance in air transport, States not otherwise included which make the largest contribution to the provision of facilities for civil air navigation and States not otherwise included whose designation will ensure that all the major geographic areas of the world are represented on the Council.
- The Council and its subsidiary bodies provide the continuing direction of the work of the Organization.
- One of the major duties of the Council is to adopt International Standards and Recommended Practices (SARPs) and to incorporate these as Annexes to the Convention on International Civil Aviation.
- The Council may act as an arbiter between Contracting States on matters concerning aviation and implementation of the Convention; it may investigate any situation which presents avoidable obstacles to the development of international air navigation and, in general, it may take whatever steps are necessary to maintain the safety and regularity of operation of international air transport.

ICAO Secretariat

- Headed by Sec. General and other staff to run the day to day functions.
- It also has various commissions and Burios including Air navigation commission and legal bureau, Air transport bureau, Tech. cooperation bureau, Admin. Services bureau.
- It also has aviation security and facilitation services
- CAO headquarters are at 999 University Street, in the center of Montreal, occupying a 15-story tower with an adjoining complex offering complete conference facilities

ICAO Structure

ICAO's Structure



ICAO Air Navigation Commission

- The Commission is composed of 15 persons who have qualifications and experience in the science and practice of aeronautics.
- Its members are nominated by Contracting States and are appointed by the Council. They act in their personal expert capacity and not as representatives of their nominators.
- The Commission is assisted by small groups of experts, nominated by Contracting States and international organizations and approved by the Commission.
- ICAO also works in close collaboration with other specialized agencies of the United Nations, such as the International Maritime Organization, the International Telecommunication Union and the World Meteorological Organization. Other international organizations including the International Air Transport Association, the Airports Council International and the International Federation of Air Line Pilots' Associations participate at many ICAO meetings.

ICAO and Regional Offices

- Today, ICAO maintains seven Regional offices:
 - - Bangkok: Asia and Pacific (APAC) Office
 - - Cairo: Middle East (MID) Office
 - - Dakar: Western and Central African (WACAF) Office
 - - Lima: South American (SAM) Office
 - - Mexico: North American, Central American and Caribbean (NACC) Office
 - - Nairobi: Eastern and Southern African (ESAF) Office
 - - Paris: European and North Atlantic (EUR/NAT) Office

FINANCING OF THE ICAO

- The Chapter XII of the Chicago Convention, Articles 61-63, are devoted to the financing matters of the Organization. It determines that the Council submits to the Assembly annual budgets, annual statements of accounts and estimates of all receipts and expenditures.
- The Assembly votes the budgets with whatever modification it sees fit to prescribe, and apportions the expenses of the Organization among the contracting States on the basis which it determines from time to time determine. The Assembly may suspend the voting power in Assembly and in the Council of any contracting State that fails to discharge within a reasonable period its financial obligations to the Organization.
- Each contracting State bears the expenses of its own delegation to the Assembly and the remuneration, travel, and other expenses of any person whom it appoints to serve on the Council, and of its nominees or representatives on any subsidiary committees or commissions of the Organization.

MISSION OF THE ICAO

- The main mission of ICAO includes strengthening of safety and security, increasing of efficiency of international civil aviation, and promotion of principles enshrined in the Chicago Convention. The mission is further elaborated through eight strategic objectives:
- - Foster the implementation of ICAO Standards and Recommended Practices (SARPs) to the greatest extent possible worldwide.
- - Develop and adopt new or amended SARPS and associated documents in a timely manner to meet changing needs.
- - Strengthen the legal framework governing international civil aviation.
- - Ensure the currency, coordination and implementation of regional air navigation plans and provide the framework for the efficient implementation of new air navigation systems and services.
- - Respond on a timely basis to major challenges to the safe, secure and efficient development and operation of civil aviation.
- - Ensure that guidance and information on the economic regulation of international air transport is current and effective.
- - Assist in the mobilization of human, technical and financial resources for civil aviation facilities and services.
- - Ensure the greatest possible efficiency and effectiveness in the operations of the Organization, inter alia to meet the above objectives.

CURRENT AND FUTURE CHALLENGES

- Since 1944, the Chicago Convention has proved resilient by providing a sufficiently
- flexible framework to enable ICAO to fulfil successfully the responsibilities assigned to it. Today, however, major challenges are facing international civil aviation. There is a great need for ICAO to adapt within the framework of the Convention to rapidly changing circumstances including:
 - - Globalization and trans-nationalization of markets and operations.
 - - Terrorism and use of aircrafts as weapons.
 - - Emergence of regional and sub-regional trading and regulatory blocks.
 - - Commercialization of government service providers.
 - - Diversification of fiscal measures to respond to budgetary needs.
 - - Potential evasion of safety regulation (along with labour, competition and other regulation) as a consequence of blurring of sectoral boundaries and responsibilities of related authorities.
 - - Recognition of and response to environmental concerns.
 - - Emergence of new technologies.
 - - Approach of physical limits to infrastructure capacity.

ICAO and Legal Personality

- The Organization is given a corporate legal personality including the capacity to contract; acquire and dispose of immovable and movable property; and to institute legal proceedings. At the same time, the Organization, its property and its assets were given the same immunity from suit and every form of judicial process as is enjoyed by foreign states.
- The Headquarters premises of the Organization shall be inviolable with the Government of Canada giving it the same protection as is given to diplomatic mission in Canada. The property and assets of the Organization, wherever located and by whomsoever held, are immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial, or legislative action, except with the consent of and under the conditions agreed to by the Secretary General of the Organization.
- The Organization has the obligation to prevent the Headquarters premises from becoming a refuge either for persons who are avoiding arrest or for persons who are endeavouring to avoid services of execution of legal process.
- The Organization is exempt from taxes and duties, as well as from prohibition or restriction on import, export or sale of its publications

Part III Int. Air Transport

- Chapter XIV- information & Reports
- Art. 67 – File report with Council
- Each contracting state shall file its internal airlines reports with the Council including the traffic reports, cost statistic and financial statements

Chapter XV

Airports & other air navigation facilities

- Articles 68- 76
- covered various airport and air navigation facilities including designation of routes and airports, financing & improvement of air navigation facilities, acquisition and use of land, expenditure and assessment of revenues etc.

CHAPTER-XVI

JOINT OPERATING ORGS. & POOL SERVICES

- Articles 77-79
- Deals with joint operating organizations permitted and pooling their air services on any route or in any regions with council permission, advisory function of council on the matters, states may participate in joint operating organizations.

Part IV- final provision

Chapter XVII

Other Aeronautical Agreements & Arrangements

- Articles 80-83
- States will give notice to council whether they are parties to the Paris and Habana Conventions, all pervious agreements between states shall be forthwith registered with the Council, abrogation of inconsistent arrangements and registration of new arrangements with council.

Chapter-XVIII

Disputes & Default

- Articles 84-88
- Council will settle the dispute between the states, against the decision of the council the state can appeal to CJI, it also deals with arbitration procedure, apples and penalty for non –conformity of airline and by state.

Chapter XIX

War

- In case of war the provision of this Convention shall not affect the freedom of action of any states whether the belligerents or as neutrals.
- In national emergency state will notifies the fact to the Council.

Chapter XX

Annexes

- Article 90 Adoption & amendment of Annexes
- Adoption of the Annexes by council will be by vote of 2/3 of the council – Art 54 (1)
- Council shall immediately notify all contracting states of coming force of any Annexes or amendment thereto.

Chapter XXI

Ratifications, Adherence, Amendments & Denunciations

- Articles 91-95
- Deals with the Ratifications, Adherence, admission of other states, Amendments & Denunciations

Chapter XXII

Definitions

- Article 96
- Air Services
- International Air Services
- Airlines
- Stop for non-traffic purpose

Thank you