

MACAU'S 1ST COURSE ON AIR LAW

Presented by
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Co-ordinator

PREAMBLE

On the completion of the first year of commercial aviation activities in Macau, the Faculty of Law of the University of Macau and the Civil Aviation Authority of Macau decided to convene and organise jointly an International Conference on Air Law.

With the objective to prepare the International Conference, it was also decided that a Course on Air Law should be organised and convened in order to impart basic knowledge of the theory and principles of Air Law and give the participants the chance to share in the discussion of theoretical and practical problems related with civil aviation.

1. ORGANISATION AND CO-ORDINATION

1.1. Organisers and sponsors

The Faculty of Law of the University of Macau and the Civil Aviation Authority of Macau organised, to be held during the period between 13 and 17 January 1997, the 1st course on air law.

The training course that took place in the CTT Training Centre located at Edifício dos CTT, Largo do Senado - MACAU has been sponsored by the following Entities:

- ADA - ADMINISTRAÇÃO DE AEROPORTOS, LDA
- AIR MACAU
- AUTORIDADE MONETÁRIA E CAMBIAL DE MACAU
- CÂMARA MUNICIPAL DAS ILHAS
- CTT - DIRECÇÃO DOS SERVIÇOS DE CORREIOS E TELECOMUNICAÇÕES
- FUNDAÇÃO MACAU



- LEAL SENADO
- STDM - SOCIEDADE DE TURISMO E DIVERSÕES DE MACAU
- TAP - AIR PORTUGAL
- TDM - TELEDIFUSÃO DE MACAU
- UNITEL

1.2. Co-ordination

The course has been co-ordinated by António de Azevedo Júnior

1.3. Participants

Fifty two Participants attended the course.

2. SUBJECTS AND SPEAKERS

The following were the subjects included in the programme of the Course and the respective lecturers:

(A) *Brief History of Air Law: from the early days to the Chicago Conference*
by Azevedo Júnior;

(B) *Sources of International Air Law*
by José Tomás Baganha

(C) *Chicago Conference: Debate and Results*
by Azevedo Júnior

(D) *The Chicago Convention*
by Azevedo Júnior

(E) *The International Civil Aviation Organisation*
by Azevedo Júnior

(F) *Organisation of International Airspace*
by Querubim Ramalho

(G) *Use of Airspace by Aircraft for Commercial purposes (Airspace: Commercial Operation)*
by Azevedo Júnior

(H) *Civil Aviation Liability*
by José Tomás Baganha

(I) *Macau Civil Aviation System*
by José Tomás Baganha

A panel, which was entirely organised and presented under the responsibility of the Faculty of Law of the University of Macau took place as an integrate part of the course. The following were the subjects and the lecturers of the Panel:

(A) *Civil Law I*
by Cândida Pires

(B) *Civil Law II*
by Escovar Trigo

(C) *Commercial Law**by* Teixeira Garcia**(D) *Labour Law****by* Pinheiro Torres**(E) *Criminal Law****by* Leonor Assunção**3. GOALS**

The following were the objectives of the Course. At the end of the Course participants should be capable of:

- a) Describing how developments in civil aviation influence the evolution of Air Law
- b) Identifying the main sources of international Air Law
- c) Be acquainted with International Civil Aviation Organisation, list its main bodies, competencies and duties and identify the system of international rules and procedures for air navigation services.
- d) Identifying and describing the structure of international airspace and how ICAO Contracting States share in the provision of international air navigation services.
- e) Know and describe the present status of legislation concerning international air transport and the use of national and international airspace and how present day liberal and globalist currents of thought influence it.
- f) Demonstrating the importance of a world-wide atmosphere of confidence in the safety of international air navigation and air transport liability as well as to know and describe the international legal system set up for that purpose.
- g) Be acquainted with the Macau Aviation System and identify its bodies, its organisation, main functions and responsibilities.

The organisers aimed at:

- a) Providing basic principles and knowledge of Air Law
- b) Contributing to the dissemination and promotion of Air Law matters.
- c) Identifying training needs and adding to the research and study of this branch of the Law.
- d) Setting up a forum intended at the discussion, update and follow-up of matters of Air Law.



Programme

1. OPENING SESSION

Video briefly describing the evolution of aviation.

Title: *“História da Aviação - do mais leve que o ar até ao espaço exterior”*.

Produced at Centro de Formação da ANA-EP in 1994, with didactic purposes only.

Duration: about 45 minutes.

Language: Portuguese (English translation).

2. SUBJECTS

2.1. Brief history of Air Law: From the early days to the Chicago Conference

Objective:

To show the evolution of Air Law from the early days to the Chicago Conference and to provide a better understanding of both the present legislation and its present and future trends.

Topics:

- (1) First steps in respect of Legislation, doctrine and Jurisprudence
- (2) Paris Conference of 1910.
- (3) Paris Conference of 1919.
- (4) Other International Conferences and Conventions:
 - (a) Madrid Conference and Ibero-American Convention;
 - (b) Havana Conference and Pan-American Convention;
 - (c) The CITEJA and Private International Air Law;
 - (d) Warsaw Convention;
 - (e) Rome Convention.

2.2. Sources of International Air Law

Objective:

To study the basic principles and the main legal instruments of Air Law. To point out the characteristics and specialities of this branch of the Law.

Topics:

- (1) Nature of International Air Law.
- (2) Main Sources of International Air Law.
- (3) Main Sources of national and local Air Law.

2.3. Chicago Conference: Debate and Results

Objective:

To learn the reasons why the Conference was called, the different stances adopted and their debate, the results of the Conference and its influence on the present international air transport regulations and air navigation services and procedures.

Topics:

- (1) Chicago Conference: debate of the UK, USSR and USA different concepts.
- (2) Sovereignty and Liberalisation.
- (3) Liberalisation and Regulamentation.
- (4) Results of the Conference (agreements):
 - (a) Provisional International Civil Aviation Organisation;
 - (b) Air Transport Agreements;
 - (c) Air Navigation Regulations.

2.4. Chicago Convention, the International Civil Aviation Organisation and the Air Navigation Regulations

Objective:

To study the Chicago Convention as the main source of the international Air Law, its structure, basic principles and the main aspects of the International Civil Aviation Organisation, such as, its bodies, responsibilities and tasks.

Topics:

- (1) Chicago Convention Structure: subjects regulated on it.
- (2) Main principles of the Chicago Convention.
- (3) International Civil Aviation Organisation (ICAO).
- (4) The ICAO's Role in International Air Transport.
- (5) ICAO's Responsibilities and functions.
- (6) The ICAO's Role in international standardisation of Air Navigation Services rules and procedures.
- (7) The Annexes to the Chicago Convention as an instrument of standardisation.
- (8) Annexes Forming Process.
- (9) Notification of differences.
- (10) Legal force of the Annexes as international regulations and the problem of their application as national regulations.
- (11) Transcription of the text of the Annexes to internal law of each ICAO Contracting State.

- (12) Procedures For the Air Navigation Services.
- (13) Supplementary Procedures.

2.5. Organisation of International Airspace

Objective:

To provide information on the structure and organisation of airspace, and how the ICAO Contracting States share in the provision of air navigation services:

Topics:

- (1) Structure of International Airspace : Organisation of the Regional and National Airspace.
- (2) Air Navigation Regions.
- (3) Flight Information Regions.
- (4) Organisation of the Flight Information Regions - National Airspace Structures: Controlled Airspace and Uncontrolled Airspace.
- (5) Airspace Restrictions: Prohibited areas, Danger Areas and Restricted Areas.
- (6) International Air Navigation services provided by the States.

2.6. The Use of Airspace by Aircraft for Commercial purposes (Airspace: Commercial Operation) I / II

Objective:

To point out the problems concerning the use of the airspace both in general and particularly by an aircraft operating for commercial purposes. To study and discuss the present international air transport regulations and their expected evolution under the influence of modern neo-liberal doctrines.

Topics:

- (1) International Air Transport Organisation.
- (2) Facilitation.
- (3) Air Services
- (4) International Air Transport Regulations.
- (5) International Air Services Transit Agreement and International Air Transport Agreement.
- (6) Freedoms of the Air.
- (7) The Chicago Convention provisions on International Air Transport: Scheduled Air Transport and Non scheduled Air Transport; Cabotage.
- (8) International Scheduled Air Transport Bilateral Agreements.
- (9) Non scheduled International Air Transport Regulations.
- (10) Endeavours for Multilateralization of the International Schedule Air Transport regulations.

2.7. Civil Aviation Liability

Objective:

To provide participants an overall view of the legal system of liability in civil aviation and its relevance in a worldwide atmosphere of confidence in the safety of the international air transport.



Topics:

- (1) Specialities and characteristics of International Air Transport and their influence on the legal system of liability.
- (2) Sources of civil aviation liability.
- (3) Warsaw System: Origins of Warsaw Convention and evolution.
- (4) Main Components of Warsaw Convention.
- (5) Basic principles.
- (6) Montreal Protocol of 1966 and Guadalajara Protocol.
- (7) Insurance Contracts.

2.8. Macau Civil Aviation System

Objective:

To study the Macau Civil Aviation System, its main bodies, legal status, responsibilities and functions.

Topics:

- (1) Civil Aviation Authority of Macau: Competencies and functions.
- (2) Other bodies related to civil aviation : CAM, ADA - objectives and functions
- (3) Macau civil aviation legal system: Particularities and objectives.
- (4) Scheduled Air Transport Agreements between Macau and other Countries.
- (5) Non scheduled air transport policy adopted in Macau.
- (6) Air Law production in Macau.

2.9. The Panel

Objectives:

Both to promote and to bring the participants discussion on practical aspects of Air Law in they're day-to-day application

A. Civil Law:

- (1) Facts on board of aircraft. In flight:
 - (a) marriage;
 - (b) birth;
 - (c) death;
 - (d) testament.

B. Commercial and Commercial Law:

- (1) Air Transport Contract.
- (2) Aircraft Leasing.
- (3) Aircraft Arrest.
- (4) Insurance (Warsaw System and other legal provisions).

C. Labour Law:

- (1) Labour Contracts of crew members and other aeronautical technical personnel.
- (2) Legal powers of the Pilot- in- Command of Civil Aircraft.

D. Criminal Law:

(1) International Conventions on the prevention and repression of unlawful acts against civil aviation and on Air Law.

(2) Tokyo Convention: Criminal offences committed on board aircraft.

(3) The Hague Convention: The unlawful seizure of aircraft in flight.

(4) The Montreal Convention 1971: acts of violence that are likely to endanger the safety of an aircraft in flight or against civil aviation personnel.

(5) Unlawful acts against Civil Aviation, such as, hijacking; acts of violence at aerodromes, terrorism; taking of hostages; possession of firearms, weapons, explosives; piracy; unlawful interference against aeronautical telecommunications.

