



ICAO

UNITING AVIATION

# **SAFETY ASPECTS OF ECONOMIC LIBERALIZATION AIRCRAFT LEASING AND ARTICLE 83 *bis***

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# Outline – Article 83 *bis*

- **1. Background**
- **2. History**
- **3. Mechanism**
- **4. Safety Benefits**
- **5. Documentation**
- **6. Manual on implementation**
- **7. What is next?**

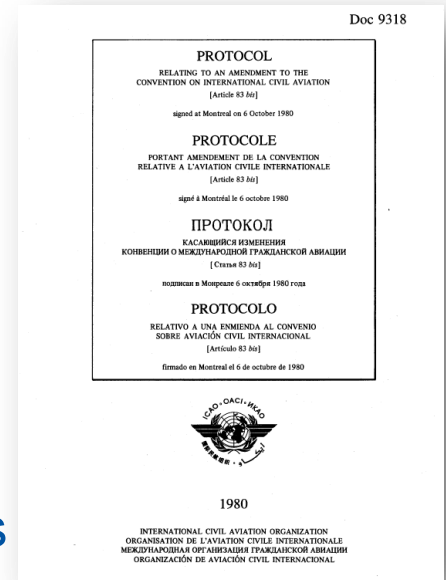


# 1: Background of Article 83 *bis*

- International Leasing: Different State of Registry and State of the Operator Principal Place of Business (PPB)
- Remote oversight of crew and aircraft difficult
- Temporary transfer of Registry – Back ...?
- Delegation of authority – bilateral effect
- Multilateral effect – Transfer of responsibility

## 2: ICAO History of Article 83 *bis*

- Panel of Experts (1976) - Sub-C of the LC (1977)
- LC (1978): Chicago C. to be amended; No definition of L.C.I.; Articles 12, 30, 31 and 32 (a)
- Art. 83 *bis* : 6 Oct. 1980 (A23) – i.f. 20 June 1997
- First substantive amendment – 174 Parties
- Circular 295 (2003)
- TF - LC (2015) : Manual (2017) + 5 recommendations





## 2: 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.
- c) The provisions of paragraphs *a*) and *b*) above shall also be applicable to cases covered by Article 77.



## 3: The Mechanism

- **WHEN?** International Lease of Aircraft
- **WHO?** State of Registry / State of the Operator
- **WHAT?** Transfer of certain SR duties and functions
- **HOW?** Agreement and publicity
- **EFFECT!** Multilateral recognition of transfer

## 3: The Mechanism – WHEN?

- 3.1 WHEN? Operational Agreements
  - No official definition
  - Lease: Operational and international (cross - border)
    - Lessor/Lessee
    - dry lease (without crew); wet lease (with crew)
  - Charter: hire of capacity = (wet) lease
  - Interchange: single-plane interline ops = (dry) leases
  - Similar Agreement = Lease where different SR and SO
  - About a specific aircraft



## 3: The Mechanism – WHO?

- 3.2 WHO? The Parties
  - State of Registry and of the Operator + General A.
  - Principle: SR responsibility; transfer is EXCEPTION
  - Umbrella provision/Discretionary: No obligation
  - Article 77 cases inclusive
  - SO's functions NOT transferable
  - Wet leases rarely

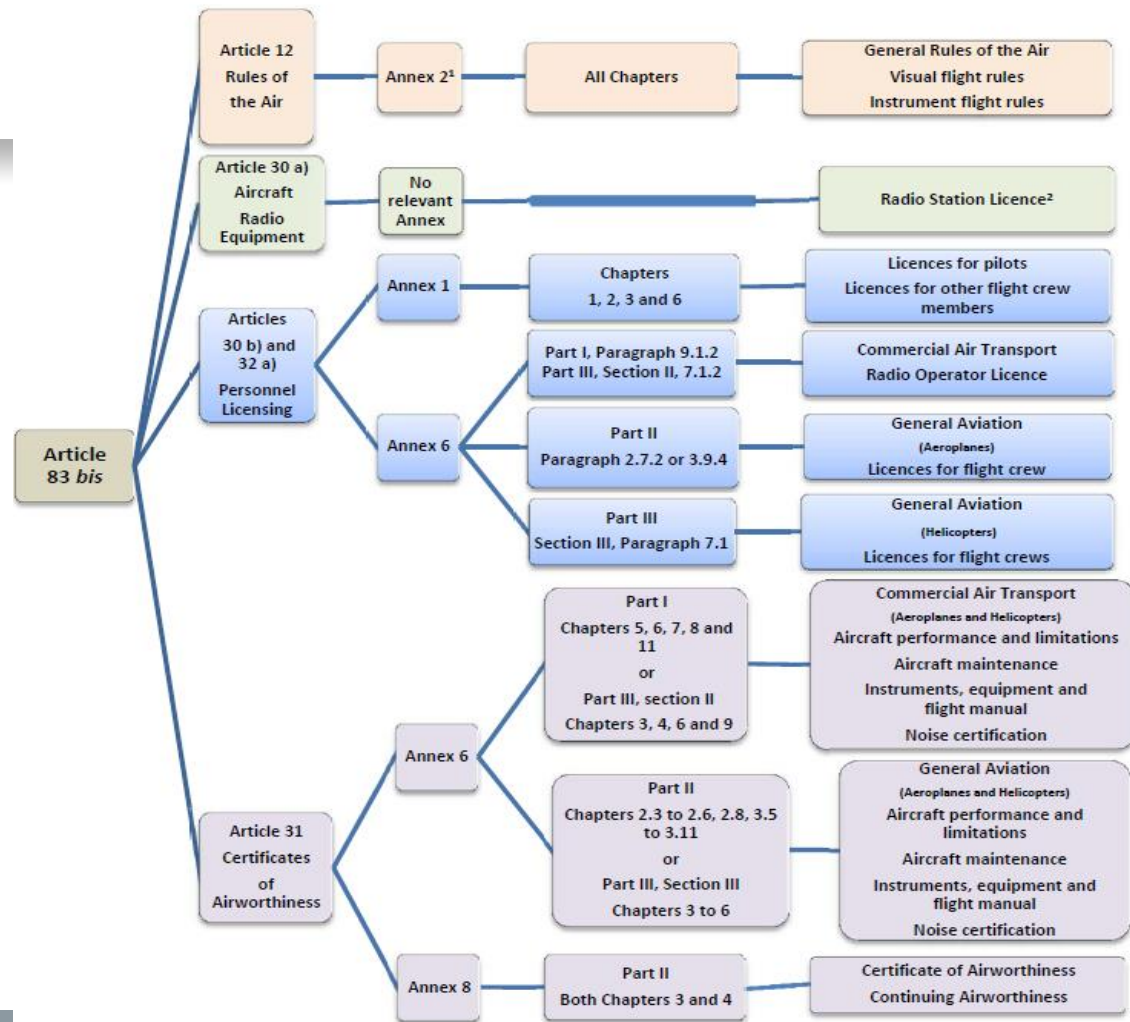




## 3: The Mechanism – WHAT?

- 3.3 WHAT? All or part of duties and functions:
  - Discretionary and flexible option
  - Article 12 – Annex 2: Rules of the Air
  - Art. 30 (b) and 32 (a) – Annex 1: crew licensing
  - Art. 31 – Annexes 6 & 8: radio equipment + COFA maintenance and renewal
  - Manual: PACKAGES

**Figure 5-1. Articles and Annexes of the Convention under which responsibilities may be transferred in whole or in part from the State of Registry to the State of the Operator/PLG**





## 3: The Mechanism – HOW?

- 3. 4 HOW? Express Agreement
  - Administrative agreement
    - Authority of signature (DGCA)
    - Summary Agreement
  - Publicity: para b) of Article 83 *bis*
    - Registration with ICAO (Art. 83)
    - Direct communication (SO)
  - Certified true copy of the Summary on board (cf. AOC)



## 3: The Mechanism – EFFECT!

- 3.5 EFFECT!
  - **Multilateral effect**  
Binding on all parties to Article 83 *bis*
  - **Transfer of Responsibility to State of Operator/PLG**  
Law of State of the Lessee applies
  - **Obligations of other States party : Article 33 Chicago C.**  
ICAO SOA audits – protocol questions
  - **NO Effect for States not party to Art. 83 *bis***  
83bis operations subject to permission



## 4: Safety Benefits

- Enhanced coordination of safety oversight
- Law of the SO applied by SO
- Harmonized qualification and training of crew
- Improvement of maintenance of aircraft
- Article 12 enforcement by SO facilitated
- Dry leases vs. wet leases
- Medium-term leases vs. short or long terms

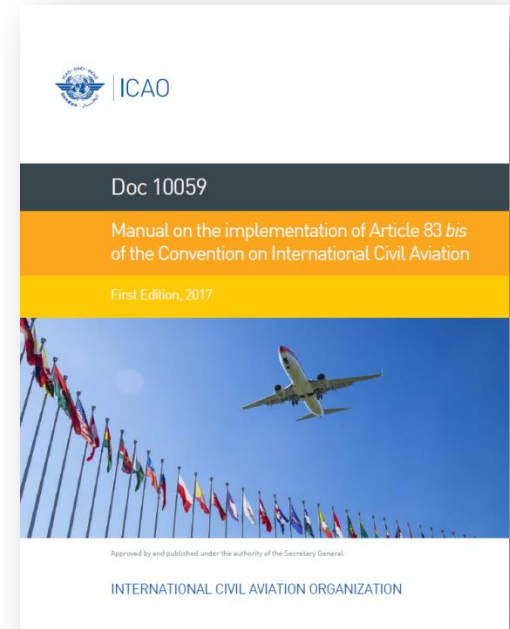


## 5: Documentation

- Assembly Resolutions
  - A23-2; A23-3; A23-13
- Circular 295: Guidance
  - 13 Guidelines + Model Agreement
- ICAO Website (Legal Affairs and External Relations Bureau)
  - Treaty Collection + DAGMAR
- Manual E-Doc 10059: 22.06.2017 (E) – 21.03.2018 (A-C-F-R-S)

# 6: Manual = Doc 10059

- Manual on implementation of Art. 83 bis:
  - Definitions/Rationale/Background/Key Terms
  - Appropriate Use/Packages/Summary Template
  - Preparation/Negotiation/Termination
  - Third Parties to Agreements – States not party
  - Appendices:
    - Commentary on Chicago C. and Annexes provisions
    - Assessment of SO by SR
    - Example of record of SR/SO functions and duties





## 7: What is next ?

### 5 Recommendations LC endorsed by Council

1. Amendment to Rules of Registration: Consideration
2. DAGMAR - online system : Consideration
3. Annex 6: Summary A. on Board – In process
4. SO v/v General Aviation/Aerial Work/RPAs - Later
5. SL on Ratification & Policies - Done





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