

## CHAPTER FOUR

### CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF CIVIL AVIATION 1971 (‘Montreal Convention’)

1. The offence established by the Hague Convention requires the seizure of, or other exercise of control over, an aircraft in flight, or an attempt to do so. It can be committed only by a person on board the aircraft. Similarly, the conduct of an accomplice must also take place on board. These limitations restrict the scope of the offence. In particular they exclude from its ambit cases where force is applied from outside the aircraft. Moreover, the offence under the Hague Convention does not extend to acts of sabotage and destruction of aircraft. Unhappily, such conduct has occurred frequently. Between 1949 and 1970, 22 aircraft were destroyed and over 400 persons killed as a result of the detonation of explosives on board. A further treaty was therefore needed to co-ordinate means for the deterrence and punishment of such acts.

2. ICAO convened a diplomatic conference at Montreal and on 23 September 1971 it adopted the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation. The Convention entered into force on 26 January 1973. As of September 2002 it had 176 Parties, including 47 Commonwealth States. The United Kingdom ratified the Convention on 25 October 1973 also in respect of all its overseas territories. A number of them have since attained independence, some of which have formally succeeded to the Convention. The text of the Convention is at page 83 below, and the complete list of signatures, ratifications and accessions, territorial extensions and successions as of September 2002 is at page 90 below.

#### **Object and scope of the Convention**

3. The approach adopted by the Montreal Convention is very similar to that of the Hague Convention and many of their provisions are identical. The Montreal Convention begins by establishing a number of offences (*Article 1*). Each Party is required to take such measures as may be necessary to establish its jurisdiction over the offences in certain defined circumstances (*Article 4*). Each Party, if satisfied that the circumstances so warrant, is under a duty to take an alleged offender into custody or to take other measures to secure the presence of the person (*Article 6*). A Party in whose territory an alleged offender is found is under a duty, if it does not extradite to submit the case to its competent authorities for the purpose of prosecution (*Article 7*). The Convention also deals with extradition (*Article 8*).

4. The Convention applies to civil aircraft only, not to aircraft used in military, customs or police services (*Article 4(1)*). This provision is identical to *Article 1(4)* of the Tokyo Convention<sup>39</sup> and *Article 3(2)* of the Hague Convention.

5. The acts (except those concerning air navigation facilities in *Article 1(1)(d)*) set out in *Article 1* are only offences under the Convention in the following circumstances:

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<sup>39</sup> For more details see page 12, para 3, above.

- *The place of take-off or landing, actual or intended, of the aircraft is situated outside the territory of the Party of registration of the aircraft, or the offence is committed in the territory of a Party other than the Party of registration of the aircraft (Article 4(2)).* This provision is slightly wider than the comparable provision in *Article 3(3)* of the Hague Convention, in that it applies if either the actual or intended place of landing is situated outside the territory of the Party of registration. It also extends the application of the Convention to conduct in relation to an aircraft passing through the airspace of another Party while travelling between two points in the territory of the Party of registration (e.g. French-registered aircraft flying from France across India to New Caledonia). If these requirements are satisfied it is, however, immaterial whether the aircraft was engaged on an international or a domestic flight.
- *If the offender or alleged offender<sup>40</sup> is found in the territory of a Party other than the Party of registration of the aircraft (Article 4(3)).* This is the case even if the places of take-off and landing, actual or intended, are situated in the territory of the Party of registration of the aircraft and the offence is committed in that territory.

6. In the case of the offence created by *Article 1 (l)(d)* (destroying or damaging air navigation facilities) the Convention applies only if the air navigation facilities are used in international air navigation (*Article 4(5)*).

7. Special provision is made for joint air transport operating organisations or international operating agencies that operate aircraft which are subject to joint or international registration (see paragraph 25 below). With respect to Parties that establish such organisations or agencies, the Convention does not apply if the places of take-off and landing, actual or intended, are situated within the territory of the same Party if it established the organisation or agency. However the Convention will apply even in those cases if the offence is committed, or if the offender or alleged offender is subsequently found, in the territory of a Party other than that Party (*Article 4(4)*).

### **The offences**

8. *Article 1(1)* provides that:

‘1. Any person shall be guilty of an offence if he unlawfully and intentionally:

- (a) performs an act of violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft; or
- (b) destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight; or
- (c) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that

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<sup>40</sup> This, and some of the other conventions, sometimes refer both to an ‘alleged offender’ and an ‘offender’. The reason is unclear, though it may be to cover a convicted person who has escaped.

- aircraft or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or
- (d) destroys or damages air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight; or
  - (e) communicates information which he knows to be false, thereby endangering the safety of an aircraft in flight.’

9. In each case the conduct must be *unlawful* and carried out *intentionally*. The former requirement excludes from the scope of the offence conduct which is legally justifiable or done with legal authority, such as preventive action by police. The requirement that the act should be intentional applies only to the acts performed, not to their consequences; it is immaterial whether the consequences were those intended. Furthermore, save in the case of the offences established under *Article 1(1) (b) and (e)*, it is not necessary that the consequences should actually occur; it is sufficient that they are likely. It is unclear which system of law should govern such questions. However, it seems that such conduct would fall outside the scope of the offence if it is justifiable under the law of the Party of registration of the aircraft. Under *Article 3* each Party undertakes to make the offences punishable by severe penalties.

10. An aircraft is *in flight* for the purposes of the Convention at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation; and in the case of a forced landing, the flight is deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board (*Article 2(a)*). This definition is identical to that employed in the Hague Convention and conforms to the wider of the two definitions employed in *Article 5(1)* of the Tokyo Convention.<sup>41</sup>

11. An aircraft is *in service* for the purposes of the Convention from the beginning of the pre-flight preparation of the aircraft by ground personnel, or the crew, for a specific flight until twenty-four hours after any landing; and the period during which an aircraft is in service includes the entire period during which it is in flight (*Article 2(b)*).

We will now consider each of the offences in turn.

***(a) an act of violence against a person on board an aircraft in flight which is likely to endanger the safety of the aircraft.***

12. The act of violence must be likely to endanger the safety of the aircraft. It must be directed against a person on board an aircraft in flight but, in contrast to the Hague Convention, the attacker does *not* have to be on board the aircraft. Nor does the attack have to be against a particular person. Thus the provision would extend to the application of violence against persons on board an aircraft in flight from outside the aircraft, such as firing a missile at it or planting a bomb on board before the flight.

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<sup>41</sup> See p. 15, para. 13 above.

***(b) destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight.***

13. The destruction or damage must occur at a time when the aircraft is in service; the offence does not extend to acts of sabotage against an aircraft performed before then. Yet it is of course possible that a person might before an aircraft is in service set in train a course of events which results in destruction or damage when the aircraft is in service. This deficiency is now remedied by the Montreal Protocol, *Article 2*, which is considered in detail later.<sup>42</sup>

14. The offence is not limited to the conduct of persons on board the aircraft. It includes acts of sabotage to the aircraft before the flight commences, and an attack on an aircraft in flight from another aircraft. In the case of the infliction of damage which falls short of destruction, the damage must either render the aircraft incapable of flight or be likely to endanger its safety in flight. In the latter case it is not necessary that its safety in flight should in fact be endangered.

***(c) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely***

***to destroy that aircraft, or***

***to cause damage to it which renders it incapable of flight, or***

***to cause damage to it which is likely to endanger its safety in flight.***

15. This is primarily intended to cover cases where a bomb is placed on board. The words "device or substance" are probably sufficiently wide to include most bombs. The offence may be committed by introducing the bomb into the aircraft or by attaching it to the outside. However, the provision requires that the bomb be placed or caused to be placed on an aircraft 'in service'. This does not mean that it has to be in service when the act is committed; it is enough that the act is done before the period of service commences and the bomb remains there during any period of service.

***(d) destroys or damages air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight.***

16. The air navigation facilities must be used for international air navigation (*Article 4(5)*). They may be on the ground, at an airport or elsewhere, and, possibly, on board an aircraft. It is not necessary that the safety of a particular aircraft in flight should in fact be endangered; it is sufficient that the act creates a general danger to the safety of aircraft in flight. The provision is sufficiently wide to include the jamming of radio signals emitted from air navigation facilities.

***(e) communicates information which he knows to be false, thereby endangering the safety of an aircraft in flight.***

17. This is intended to cover such cases as false signals being relayed to an aircraft with the purpose of diverting it from its intended course. However, such conduct will constitute an offence only if the safety of the aircraft is actually endangered.

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<sup>42</sup> At p. 104, para. 11, below.

### **Ancillary offences**

18. Any person who attempts to commit any of the offences also commits an offence (*Article 1(2)(a)*). An accomplice of a person who commits, or attempts to commit, an offence under the Convention himself commits an offence (*Article 1(2)(b)*). In the Hague Convention the conduct of the accomplice must take place on board the aircraft if it is to constitute an offence, but there is no such restriction in the Montreal Convention.

### **Establishment of jurisdiction**

19. The jurisdictional provisions of the Convention are very similar to those of *Article 4* of the Hague Convention. Each Party is required to take such measures as may be necessary to establish its jurisdiction over the offences in the following cases:

- (a) When the offence is committed in the territory of that Party (*Article 5(1)(a)*);
- (b) When the offence is committed against or on board an aircraft registered with that Party (*Article 5(1)(b)*);
- (c) When the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board (*Article 5(1)(c)*);
- (d) When the offence is committed against or on board an aircraft leased without crew to a lessee who has his or her principal place of business or, if the lessee has no such place of business, his or her permanent residence, in the territory of that Party (*Article 5(1)(d)*).

19. Furthermore, *Article 5(2)* imposes a duty on each Party to establish its jurisdiction over the offences mentioned in *Article 1(1)(a), (b) and (c)* when the alleged offender is present in its territory and it does not extradite to any of the Parties mentioned in *Article 5(1)*, that is to say:

- the Party in whose territory the offence was committed;
- the Party of registration of the aircraft;
- the Party in whose territory the aircraft on board which the offence was committed landed with the alleged offender still on board; or
- the Party in whose territory a person, to whom the aircraft on which the offence was committed was leased without crew, has his or her principal place of business or, if none, where he or she has permanent residence.

This provision corresponds closely to *Article 4(2)* of the Hague Convention which has been considered in detail above.<sup>43</sup> However, the offences to which *Article 5(2)* relates do not include the offences covered by *Article 1(1)(d)* (destruction of or damage to air navigation facilities or interference with their operation) or *Article 1(1)(e)* (communication of information known to be false).

20. The draft Convention proposed that the Party in which the *effects* of the offences were felt should also be required to establish its jurisdiction. This was not accepted.<sup>44</sup>

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<sup>43</sup> See pp.52/3, paras. 23-27.

<sup>44</sup> See also, p 3, para. 7 above

21. The Convention provides that its jurisdictional provisions do not exclude any criminal jurisdiction exercised in accordance with national law (*Article 5(3)*). This provision corresponds to *Article 4(3)* of the Hague Convention. As with that Convention, the Montreal Convention makes no provision for priority of competing jurisdictions.

### **Aut dedere aut judicare**

22. *Article 7* provides that a Party in whose territory the alleged offender is found shall, if it does not extradite, be obliged without exception whatsoever, and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. This is identical to *Article 7* of the Hague Convention.<sup>45</sup>

### **Lockerbie**

23. Libya, the United Kingdom and the United States were, and still are, Parties to the Montreal Convention when flight PA 103 was sabotaged and exploded over Lockerbie in Scotland on 21 December 1988. But the UK and the US declined to invoke the provisions of the Convention. The results of the exhaustive police investigation implicated the Libyan Government, the two Libyans accused of the crime being charged on the basis that they had acted on behalf of the Libyan Intelligence Services. This was later confirmed in the judgment of the trial and appeal court in respect of the accused who was convicted. Given the alleged complicity of the Libyan Government - which if confirmed amounted to a fundamental breach of the Convention - it was out of the question that the accused should be tried by the Libyan courts. Yet, since Libyan law prohibited extradition of Libyans, if an extradition request had been made Libya would have been obliged to submit the case to its prosecuting authorities. The demand for the 'surrender' of the two accused for trial in a Scottish or US court could therefore be said to have been made in reliance on the saving provision in *Article 5(3)*. In the event, the accused were tried by a Scottish court sitting at Zeist in the Netherlands.<sup>46</sup>

### **Extradition**

24. The extradition provisions in *Article 8* are identical to those in *Article 8* of the Hague Convention.<sup>47</sup>

### **Miscellaneous**

25. Parties which establish joint air transport operating organisations, or international operating agencies, and which operate aircraft which are subject to joint or international registration are required to designate which Party shall have the attributes of the Party of registration for the purpose of the Convention (*Article 9*). Notice of this designation must be given to ICAO which is required to communicate it to the other Parties. This provision corresponds to *Article 18* of the Tokyo Convention<sup>48</sup> and *Article 5* of the Hague Convention.

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<sup>45</sup> And see p. 8, para. 22 above for more details.

<sup>46</sup> For the history of how the accused came to be so tried, see A. Aust, 'Lockerbie: the other case' ICLQ (2000), pp. 278 *et seq.*

<sup>47</sup> See p. 8-10, paras. 24-30 above for more details.

<sup>48</sup> See p. 14, para. 11, above.

26. The Parties are required, in accordance with international and domestic law, to endeavour to take all practicable measures for the purpose of preventing the offences (*Article 10(1)*). The duties of Parties in relation to helping with the onward journey of passengers and crew, and the return of aircraft and cargo to those persons lawfully entitled to possession, are identical to those in *Article 9(2)* of the Hague Convention (*Article 10(2)*).

27. The duties of Parties in the matter of the custody of alleged offenders, preliminary inquiries, and communication with other Parties (*Article 6*), are very similar to those under the Hague Convention.

28. *Article 11*, which governs mutual assistance in criminal proceedings is very similar to *Article 10* of the Hague Convention.

29. Parties which have reason to believe that an offence will be committed are required to furnish any relevant material in their possession to those Parties which it believes are required by *Article 12* to establish their jurisdiction over the intended offence in accordance with *Article 5(1)*.

30. The duties of Parties in *Article 13* on the matter of reporting to ICAO correspond exactly to those in *Article 11* of the Hague Convention.

### **Disputes**

31. *Article 14* contains the usual provision for the settlement of disputes between two or more Parties concerning the interpretation or application of the Convention.<sup>49</sup>

### **Reservations**

32. In addition to the right of a Party under *Article 14* to make a reservation regarding that article, reservations may also be made to other articles, provided the reservations are compatible with the object and purpose of the Convention.<sup>50</sup> Venezuela made one regarding asylum which was objected to by the United Kingdom.<sup>51</sup>

### **Accession**

33. The Convention is open to accession by any State which did not sign it before it came into force on 26 January 1973 (*Article 15(1)*). The instrument of accession must be deposited with the Depository Governments, namely the Governments of the Russian Federation, the United Kingdom and the United States (*Article 13(2)*), though is sufficient to deposit with only one of them. A Party may denounce the Convention (*Article 16*).

### **Succession**

34. Alternatively, a State that has gained its independence may be able to become a Party by succession.<sup>52</sup>

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<sup>49</sup> See p. 10, para. 33 above for details.

<sup>50</sup> See p. 11, para. 34 for details.

<sup>51</sup> See the notes to the status list at [www.icao.int](http://www.icao.int)

<sup>52</sup> See p. 11, para. 35 above

**Implementation**

35. Legislation will normally be needed to give effect to the Convention in domestic law. Model legislative provisions are at page 97 below. However careful consideration will have to be given by each State that is considering becoming a Party to the Convention as to its precise needs for the content of the legislation.



## **Montreal Convention**

### **CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF CIVIL AVIATION**

THE STATES PARTIES TO THIS CONVENTION

CONSIDERING that unlawful acts against the safety of civil aviation jeopardize the safety of persons and property, seriously affect the operation of air services, and undermine the confidence of the peoples of the world in the safety of civil aviation;

CONSIDERING that the occurrence of such acts is a matter of grave concern;

CONSIDERING that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;

HAVE AGREED AS FOLLOWS:

#### **ARTICLE 1**

1. Any person commits an offence if he unlawfully and intentionally:
  - (a) performs an act of violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft; or
  - (b) destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight; or
  - (c) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or
  - (d) destroys or damages air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of aircraft 'in flight; or
  - (e) communicates information which he knows to be false, thereby endangering the safety of an aircraft in flight.
2. Any person also commits an offence if he:
  - (a) attempts to commit any of the offences mentioned in paragraph 1 of this Article; or
  - (b) is an accomplice of a person who commits or attempts to commit any such offence.

## **ARTICLE 2**

For the purposes of this Convention:

(a) an aircraft is considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation; in the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board;

(b) an aircraft is considered to be in service from the beginning of the preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight as defined in paragraph (a) of this Article.

## **ARTICLE 3**

Each Contracting State undertakes to make the offences mentioned in Article 1 punishable by severe penalties.

## **ARTICLE 4**

1. This Convention shall not apply to aircraft used in military, customs or police services.

2. In the cases contemplated in subparagraphs (a), (b), (c) and (e) of paragraph 1 of Article 1, this Convention shall apply, irrespective of whether the aircraft is engaged in an international or domestic flight, only if:

(a) the place of take-off or landing, actual or intended, of the aircraft is situated outside the territory of the State of registration of that aircraft; or

(b) the offence is committed in the territory of a State other than the State of registration of the aircraft.

3. Notwithstanding paragraph 2 of this Article, in the cases contemplated in subparagraphs (a), (b), (c) and (e) of paragraph 1 of Article 1, this Convention shall also apply if the offender or the alleged offender is found in the territory of a State other than the State of registration of the aircraft.

4. With respect to the States mentioned in Article 9 and in the cases mentioned in subparagraphs (a), (b), (c) and (e) of paragraph 1 of Article 1, this Convention shall not apply if the places referred to in sub-paragraph (a) of paragraph 2 of this Article are situated within the territory of the same State where that State is one of those referred to in Article 9, unless the offence is committed or the offender or alleged offender is found in the territory of a State other than that State.

5. In the cases contemplated in subparagraph (d) of paragraph 1 of Article 1, this Convention shall apply only if the air navigation facilities are used in international air navigation.

6. The provisions of paragraphs 2, 3, 4 and 5 of this Article shall also apply in the cases contemplated in paragraph 2 of Article 1.

#### **ARTICLE 5**

1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over the offences in the following cases:

- (a) when the offence is committed in the territory of that State;
- (b) when the offence is committed against or on board an aircraft registered in that State;
- (c) when the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;
- (d) when the offence is committed against or on board an aircraft leased without crew to a lessee who has his principal place of business or, if the lessee has no such place of business, his permanent residence, in that State.

2. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offences mentioned in Article 1, paragraph 1 (a), (b) and (c), and in Article 1, paragraph 2, in so far as that paragraph relates to those offences, in the case where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph 1 of this Article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

#### **ARTICLE 6**

1. Upon being satisfied that the circumstances so warrant, any Contracting State in the territory of which the offender or the alleged offender is present, shall take him into custody or take other measures to ensure his presence. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary enquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this Article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national.

4. When a State, pursuant to this Article, has taken a person into custody, it shall immediately notify the States mentioned in Article 5, paragraph 1, the State of nationality of the detained person and, if it considers it advisable, any other interested States of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 2 of this Article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

#### **ARTICLE 7**

The Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.

#### **ARTICLE 8**

1. The offences shall be deemed to be included as extraditable offences in any extradition treaty existing between Contracting States. Contracting States undertake to include the offences as extraditable offences in every extradition treaty to be concluded between them.

2. If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offences. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. Contracting States which do not make extradition conditional on the existence of a treaty shall recognize the offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Each of the offences shall be treated, for the purpose of extradition between Contracting States, as if it had been committed not only in the place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with Article 5, paragraph 1 (b), (c) and (d).

#### **ARTICLE 9**

The Contracting States which establish joint air transport operating organizations or international operating agencies, which operate aircraft which are subject to joint or international registration shall, by appropriate means, designate for each aircraft the State among them which shall exercise the jurisdiction and have the attributes of the State of registration for the purpose of this Convention and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

## **ARTICLE 10**

1. Contracting States shall, in accordance with international and national law, endeavour to take all practicable measures for the purpose of preventing the offences mentioned in Article 1.

2. When, due to the commission of one of the offences mentioned in Article 1, a flight has been delayed or interrupted, any Contracting State in whose territory the aircraft or passengers or crew are present shall facilitate the continuation of the journey of the passengers and crew as soon as practicable, and shall without delay return the aircraft and its cargo to the persons lawfully entitled to possession.

## **ARTICLE 11**

1. Contracting States shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences. The law of the State requested shall apply in all cases.

2. The provisions of paragraph 1 of this Article shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

## **ARTICLE 12**

Any Contracting State having reason to believe that one of the offences mentioned in Article 1 will be committed shall, in accordance with its national law, furnish any relevant information in its possession to those States which it believes would be the States mentioned in Article 5, paragraph 1.

## **ARTICLE 13**

Each Contracting State shall in accordance with its national law report to the Council of the International Civil Aviation Organization as promptly as possible any relevant information in its possession concerning:

- (a) the circumstances of the offence;
- (b) the action taken pursuant to Article 10, paragraph 2;
- (c) the measures taken in relation to the offender or the alleged offender and, in particular, the results of any extradition proceedings or other legal proceedings.

## **ARTICLE 14**

1. Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, anyone of those Parties may refer the dispute

to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other Contracting States shall not be bound by the preceding paragraph with respect to any Contracting State having made such a reservation.

3. Any Contracting State having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Depositary Governments.

## **ARTICLE 15**

1. This Convention shall be open for signature at Montreal on 23 September 1971, by States participating in the International Conference on Air Law held at Montreal from 8 to 23 September 1971 (hereinafter referred to as the Montreal Conference). After 10 October 1971, the Convention shall be open to all States for signature in Moscow, London and Washington. Any State which does not sign this Convention before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

2. This Convention shall be subject to ratification by the signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, which are hereby designated the Depositary Governments.

3. This Convention shall enter into force thirty days following the date of the deposit of instruments of ratification by ten States signatory to this Convention which participated in the Montreal Conference.

4. For other States, this Convention shall enter into force on the date of entry into force of this Convention in accordance with paragraph 3 of this Article, or thirty days following the date of deposit of their instruments of ratification or accession, whichever is later.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of entry into force of this Convention, and other notices.

6. As soon as this Convention comes into force, it shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations and pursuant to Article 83 of the Convention on International Civil Aviation (Chicago, 1944).

## ARTICLE 16

1. Any Contracting State may denounce this Convention by written notification to the Depositary Governments.
2. Denunciation shall take effect six months following the date on which notification is received by the Depositary Governments.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their Governments, have signed this Convention.

DONE at Montreal, this twenty-third day of September, one thousand nine hundred and seventy-one, in three originals, each being drawn up in four authentic texts in the English, French, Russian and Spanish languages<sup>(4)</sup>.

**CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS  
AGAINST THE SAFETY OF CIVIL AVIATION  
Signed at Montreal On 23 September 1971**

**Entry into force:** The Convention entered into force on 26 January 1973.

**Status:** 176 Parties.

<b>State</b>	<b>Date of signature</b>	<b>Date of deposit of Instrument of Ratification, Accession or Succession</b>
Afghanistan		26 September 1984
Albania		21 October 1997
Algeria		6 October 1995
Angola		12 March 1998
Antigua and Barbuda		22 July 1985
Argentina	23 September 1971	26 November 1973
Australia	12 October 1972	12 July 1973
Austria	13 November 1972	11 February 1974
Azerbaijan		15 March 2000
Bahamas		27 December 1984
Bahrain		20 February 1984
Bangladesh		28 June 1978
Barbados	23 September 1971	6 August 1976
Belarus	23 September 1971	31 January 1973
Belgium	23 September 1971	13 August 1976
Belize		10 June 1998
Bhutan		28 December 1988
Bolivia		18 July 1979
Bosnia and Herzegovina		15 August 1994
Botswana	12 October 1972	28 December 1978
Brazil	23 September 1971	24 July 1972
Brunei Darussalam		16 April 1986
Bulgaria	23 September 1971	28 March 1973
Burkina Faso		19 October 1987



Burundi	6 March 1972	11 February 1999
Cambodia		8 November 1996
Cameroon		11 July 1973
Canada	23 September 1971	19 June 1972
Cape Verde		20 October 1977
Central African Republic		1 July 1991
Chad	23 September 1971	12 July 1972
Chile		28 February 1974
China		10 September 1980
Colombia		4 December 1974
Comoros		1 August 1991
Congo	23 September 1971	19 March 1987
Costa Rica	23 September 1971	21 September 1973
Côte d'Ivoire		9 January 1973
Croatia		8 June 1993
Cuba		31 October 2001
Cyprus	28 November 1972	27 July 1973
Czech Republic		14 November 1994
Democratic People's Republic of Korea		13 August 1980
Democratic Republic of the Congo		6 July 1977
Denmark	17 October 1972	17 January 1973
Djibouti		24 November 1992
Dominican Republic	31 May 1972	28 November 1973
Ecuador		12 January 1977
Egypt	24 November 1972	20 May 1975
El Salvador		25 September 1979
Equatorial Guinea		2 January 1991
Estonia		22 December 1993
Ethiopia	23 September 1971	26 March 1979
Fiji	21 August	5 March 1973

	1972	
Finland		13 July 1973
France		30 June 1976
Gabon	24 November 1971	29 June 1976
Gambia		28 November 1978
Georgia		20 April 1994
Germany	23 September 1971	3 February 1978
Ghana		12 December 1973
Greece	9 February 1972	15 January 1974
Grenada		10 August 1978
Guatemala	9 May 1972	19 October 1978
Guinea		2 May 1984
Guinea-Bissau		20 August 1976
Guyana		21 December 1972
Haiti	6 January 1972	9 May 1984
Honduras		13 April 1987
Hungary	23 September 1971	27 December 1972
Iceland		29 June 1973
India	11 December 1972	12 November 1982
Indonesia		27 August 1976
Iran, Islamic Republic of		10 July 1973
Iraq		10 September 1974
Ireland		12 October 1976
Israel	23 September 1971	30 June 1972
Italy	23 September 1971	19 February 1974
Jamaica	23 September 1971	15 September 1983
Japan		12 June 1974
Jordan	2 May 1972	13 February 1973
Kazakhstan		4 April 1995
Kenya		11 January 1977
Kuwait		23 November 1979

Kyrgyzstan		25 February 2000
Lao People's Democratic Republic	1 November 1972	6 April 1989
Latvia		13 April 1997
Lebanon		23 December 1977
Lesotho		27 July 1978
Liberia		1 February 1982
Libyan Arab Jamahiriya		19 February 1974
Liechtenstein		23 February 2001
Lithuania		4 December 1996
Luxembourg	29 November 1971	18 May 1982
Madagascar		18 November 1986
Malawi		21 December 1972
Malaysia		4 May 1985
Maldives		1 September 1987
Mali		24 August 1972
Malta		14 June 1991
Marshall Islands		31 May 1989
Mauritania		1 November 1978
Mauritius		25 April 1983
Mexico	25 January 1973	12 September 1974
Monaco		3 June 1983
Mongolia	18 February 1972	14 September 1972
Morocco		24 October 1975
Myanmar		22 May 1996
Nauru		17 May 1984
Nepal		11 January 1979
Netherlands	23 September 1971	27 August 1973
New Zealand	26 September 1972	12 February 1974
Nicaragua	22 December 1972	6 November 1973
Niger	6 March 1972	1 September 1972
Nigeria		3 July 1973
Norway		1 August 1973

Oman		2 February 1977
Pakistan		24 January 1974
Palau		3 August 1995
Panama	18 January 1972	24 April 1972
Papua New Guinea		15 December 1975
Paraguay	23 January 1973	5 March 1974
Peru		28 April 1978
Philippines	23 September 1971	26 March 1973
Poland	23 September 1971	28 January 1975
Portugal	23 September 1971	15 January 1973
Qatar		26 August 1981
Republic of Korea		2 August 1973
Republic of Moldova		21 May 1997
Romania	10 July 1972	15 August 1975
Russian Federation	23 September 1971	19 February 1973
Rwanda	26 June 1972	3 November 1987
Saint Lucia		8 November 1983
Saint Vincent and the Grenadines		29 November 1991
Samoa		9 July 1998
Saudi Arabia		14 June 1974
Senegal	23 September 1971	3 February 1978
Seychelles		29 December 1978
Sierra Leone		20 September 1979
Singapore	21 November 1972	12 April 1978
Slovakia		6 March 1995
Slovenia		27 May 1992
Solomon Islands		13 April 1982
South Africa	23 September 1971	30 May 1972
Spain	15 February 1972	30 October 1972

Sri Lanka		30 May 1978
Sudan		18 January 1979
Suriname		27 October 1978
Swaziland		27 December 1999
Sweden		10 July 1973
Switzerland	23 September 1971	17 January 1978
Syrian Arab Republic		10 July 1980
Tajikistan		29 February 1996
Thailand		16 May 1978
The former Yugoslav Republic of Macedonia		4 January 1995
Togo		9 February 1979
Tonga		21 February 1977
Trinidad and Tobago	9 February 1972	9 February 1972
Tunisia		16 November 1981
Turkey	5 July 1972	23 December 1975
Turkmenistan		25 May 1999
Uganda		19 July 1982
Ukraine	23 September 1971	26 January 1973
United Arab Emirates		10 April 1981
United Kingdom	23 September 1971	25 October 1973
United Republic of Tanzania		9 August 1983
United States	23 September 1971	1 November 1972
Uruguay		12 January 1977
Uzbekistan		7 February 1994
Vanuatu		6 November 1989
Venezuela	23 September 1971	21 November 1983
Vietnam		17 September 1979
Yemen	23 October 1972	29 September 1986
Yugoslavia, F.R. of		23 July 2001

Zambia  
Zimbabwe

3 March 1987  
6 February 1989

## Model Legislative Provisions

To implement the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation signed at Montreal on 23rd September, 1971, and for purposes connected therewith.

### NOTE

No specific penalties for the offences have been included because of the variation in sentencing practice between states. However the Convention requires penalties that reflect the seriousness of the offence and therefore maximum penalties should be set including, if appropriate, a life sentence.

Be it enacted as follows:

### Short title and commencement

1. This Act may be cited as the Protection of Aircraft Act, and shall come into operation on (.....)<sup>1</sup>.

### Interpretation

2. (1) In this Act, unless the context otherwise requires -"act of violence" means -

- (a) any act done in (.....)<sup>2</sup> which constitutes the offence of (.....)<sup>3</sup>; and
- (b) any act done outside (.....)<sup>2</sup> which if done in (.....)<sup>2</sup>, would constitute such an offence as is mentioned in paragraph (a);

"the Convention" means the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation signed at Montreal on 23rd September, 1971;

"landing" includes alighting on water;

"military service" includes naval and air force service;

"unlawfully" -

- (a) in relation to the commission of an act in (.....)<sup>2</sup>, means an offence that is (apart from this Act) constituted under any law in force in (.....)<sup>2</sup>, and
- (b) in relation to the commission of an act outside (.....)<sup>2</sup>, means the commission of the act that would (apart from this Act) have been an offence under any law in force in (.....)<sup>2</sup> had it been committed in (.....)<sup>4</sup>.

- (2) For the purposes of this Act -
- (a) the period during which an aircraft is in flight shall be deemed to include any period from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation, and, in the case of a forced landing, any period until the competent authorities take over responsibility for the aircraft and for persons and property on board; and
  - (b) an aircraft shall be taken to be in service during the whole of the period which begins with the pre-flight preparation of the aircraft for a flight and ends twenty-four hours after the aircraft lands having completed that flight, and also at any time (not falling within that period) while, in accordance with paragraph (a) the aircraft is in flight.

**Destroying, damaging or endangering safety of aircraft**

3. (1) Subject to subsection (4), any person who unlawfully and intentionally-
- (a) destroys an aircraft in service or so damages such aircraft as to render it incapable of flight or as to be likely to endanger its safety in flight; or
  - (b) commits on board an aircraft in flight any act of violence which is likely to endanger the safety of the aircraft,
- shall be guilty of an offence under this Act.
- (2) Subject to subsection (4), any person who unlawfully and intentionally places or causes to be placed on an aircraft in service any device or substance which is likely to destroy the aircraft or is likely so to damage it as to render it incapable of flight or as to be likely to endanger its safety in flight shall be guilty of an offence under this Act; but nothing in this subsection shall be construed as limiting the circumstances in which the commission of any act -
- (a) may constitute an offence under subsection (1); or
  - (b) may constitute attempting or conspiring to commit or abetting the commission of such offence.
- (3) Except as provided by subsection (4), subsections (1) and (2) apply whether any such act therein mentioned is committed in (.....)<sup>2</sup> or elsewhere, whatever the nationality or citizenship of the person committing the act or whatever the State in which the aircraft: is registered.
- (4) Subsections (1) and (2) do not apply to any act committed in relation to an aircraft used in military, customs or police service unless -
- (a) the act is committed in or over (.....)<sup>2</sup>; or



- (b) where the act is committed outside (.....)<sup>2</sup>, the person committing the act is a citizen of (.....)<sup>2, 5</sup>.

**Other acts endangering or likely to danger the safety of aircraft**

4. (1) Subject to subsections (5) and (6), any person who unlawfully and intentionally destroys or damages any property to which this section applies or interferes with the operation of such property, where the destruction, damage or interference is likely to endanger the safety of aircraft in flight, shall be guilty of an offence under this Act.
- (2) Subsection (1) applies to any property used for the provision of air navigation facilities including any land, building or ship so used, and including any apparatus or equipment so used, whether it is on board an aircraft or elsewhere.
- (3) Subject to subsections (4) and (5), any person who intentionally communicates any information which is false, misleading or deceptive in a material particular, where the communication of the information endangers the safety of an aircraft in flight or is likely to endanger the safety of an aircraft in flight, shall be guilty of an offence under this Act.
- (4) It shall be a defence for a person charged with an offence under subsection (3) to prove -
- (a) that he or she believed and had reasonable grounds for believing, that the information was true; or
- (b) that, when he or she communicated the information, they were lawfully employed to perform duties which consisted of or included the communication of information and that he or she communicated the information in good faith in the performance of those duties.
- (5) Subsections (1) and (3) do not apply to the commission of any act unless either the act is committed in (.....)<sup>2</sup>, or, where the act is committed outside (.....)<sup>2</sup> -
- (a) the person committing the act is a citizen of (.....)<sup>2</sup>; or
- (b) the commission of the act endangers or is likely to endanger the safety in flight of a civil aircraft registered in (.....)<sup>2</sup> or chartered by demise to a lessee whose principal place of business, or (if none) whose permanent residence is in (.....)<sup>2</sup>; or
- (c) the act is committed on board a civil aircraft which is registered or so chartered; or
- (d) the act is committed on board a civil aircraft which lands in (.....)<sup>2</sup> with the person who committed the act still on board.

- (6) Subsection (1) also does not apply to any act committed outside (.....)<sup>2</sup> and so committed in relation to property which is situated outside (.....)<sup>2</sup> and is not used for the provision of air navigation facilities in connection with international air navigation, unless the person committing the act is a citizen of (.....)<sup>2</sup>.
- (7) In this section, "civil aircraft" means any aircraft other than an aircraft used in military, customs or police service.

**Abetting the commission of acts outside (.....)<sup>2</sup>**

5. Any person in (.....)<sup>2</sup> who abets the commission elsewhere of any act which -
- (a) would, but for subsection (4) of section 3, be an offence under that section; or
  - (b) would, but for subsection (5) or (6) of section 4, be an offence under that section,

shall be guilty of an offence under this Act.

**Penalty**

6. Any person guilty of an offence under this Act shall be liable on conviction to be punished with (.....)<sup>5</sup>.

**Consent for prosecution**

7. No prosecution shall be instituted under this Act without the written consent of (.....)<sup>6</sup>.

**Extradition**

8. (1) There shall be deemed to be included in [the list of] extradition crimes [described in the (.....)<sup>7</sup>] offences under this Act and attempts to commit such offences.
- (2) Where no extradition treaty is in force between (.....)<sup>2</sup> and a State which is party to the Convention, a notification (.....)<sup>8</sup> may be made applying the (.....)<sup>8</sup> as if the Convention were an extradition treaty between (.....)<sup>2</sup> and that State; but where the (.....)<sup>7</sup> is so applied, it shall have effect as if the only extradition crimes within the meaning of that Act were offences under this Act and attempts to commit such offences.
- (3) For the purposes of the (.....)<sup>7</sup> any act, wherever committed, which -
- (a) is an offence under this Act or an attempt to commit such an offence, or attempt but for subsection (4) of section 3, or subsection (5) or (6) of section 4; and
  - (b) is an offence against the law of any State in the case of which the (.....)<sup>7</sup> has been applied by (.....)<sup>9</sup>,

shall be deemed to be an offence within the jurisdiction of that State.

## NOTES

1. Date of commencement or procedure by which the Statute is to be brought into force.
2. Name of country.
3. List relevant offences in law of acceding State.
4. The Montreal Convention is intended to apply only to civil aircraft and provides that it shall not apply to aircraft used in military, customs or police services. (Article 4(1)). This provision is, therefore, not required in order to ensure compliance with the Montreal Convention. However, similar provisions have been included in enacting legislation in a number of Commonwealth States.
5. Maximum penalty.
6. The Attorney General or other responsible Law Officer. The purpose of this provision is to prevent prosecutions for infringements of this Statute without the consent of the Government.
7. Extradition Act or other relevant Statute or law.
8. Specify how notification is to be made e.g. by publication in official government publication.
9. Specify manner of application e.g. by publication in official government publication.