



## INTERNATIONAL CIVIL AVIATION ORGANIZATION

### AFI COMPREHENSIVE REGIONAL IMPLEMENTATION PLAN FOR AVIATION SECURITY AND FACILITATION IN AFRICA (AFI SECFAL PLAN)

#### 12<sup>TH</sup> AFI SECFAL STEERING COMMITTEE MEETING

#### RATIFICATION OF INTERNATIONAL AIR LAW TREATIES

*(Presented by the AFI SECFAL Plan Secretariat)*

#### EXECUTIVE SUMMARY

This working paper presents the benefits of certain international air law treaties and urges those African member States that have not yet ratified these treaties, to do so. To that end, summaries of the provisions and benefits of five international air law instruments are provided, as well as information pertaining to the ratification process and an overview of the resources available for States to assist them with ratification.

Action by the Steering Committee is proposed under **Paragraph 6**.

<i>Strategic Objectives</i>	This working paper relates to all ICAO strategic objectives.
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## 1. INTRODUCTION

1.1 During its 41st Session, the Assembly of the International Civil Aviation Organization (ICAO) adopted Resolutions A41-4, Appendix C, A41-18, Appendix B and A41-19, concerning the ratification of ICAO international air law instruments. These Resolutions reflect the Assembly's recognition of the need to accelerate the ratification and entry into force of international air law treaties, including the various Protocols of Amendment to the *Convention on International Civil Aviation* (Chicago, 1944 – “Chicago Convention”), developed and adopted under the auspices of the Organization. Moreover, the Assembly recognizes that only universal participation by ICAO Member States in international air law instruments would secure and enhance the benefits of unification of the international rules which they embody. Ratification by all African member States of “relevant international instruments” is included in the *Comprehensive Regional Implementation Plan for Aviation Security and Facilitation in Africa* (AFI SECFAL Plan) as objective number 16.

## 2. PROVISIONS AND BENEFITS OF VARIOUS TREATIES

2.1 This section provides an overview of the main features of five international air law treaties for which ICAO acts as depositary. The ratification status of each African member State with respect to these international air law treaties is set out in **Attachment A**.

2.2 ***Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation (Doc 9960) and the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft (Doc 9959) (Beijing, 2010)***: These treaties are the result of collective efforts of the international community to modernize the legal framework for aviation security. By criminalizing a number of acts constituting new and emerging threats against civil aviation, including certain preparatory acts for the offences, they strengthen the capacity of States to prevent the commission of these offences, and to prosecute and punish those who commit such offences. By Resolutions A39-10, A41-4, Appendix C, A41-18, Appendix B and A41-19, the Assembly urges all States to sign and ratify these two instruments. As of 10 August 2023, the Beijing Convention has 46 States Parties and the Beijing Protocol has 45 States Parties, including 17 African member States for the Beijing Convention and 16 African member States for the Beijing Protocol.

2.3 ***Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft (Doc 10034) (Montréal, 2014)***: This Protocol addresses the issue of rising incidents of unruly and disruptive behaviour on board aircraft by significantly improving the ability of States to expand jurisdiction over relevant offences and acts to the State of landing and the State of the operator. In order to support application of the treaty provisions, Assembly Resolution A41-4, Appendix E and the ICAO *Manual on the Legal Aspects of Unruly and Disruptive Passengers* (Doc 10117) contain provisions and guidance on legislation covering acts and offences, as well as elements of an administrative sanctions regime, which will assist States in implementing the appropriate legal measures to prevent and deal with unruly and disruptive passenger incidents. By Resolutions A41-4, Appendix C and A41-18, Appendix B, the Assembly urges all States that have not done so to ratify this Protocol. As of 10 August 2023, this Protocol has 45 States Parties, including 16 African member States.

2.4 ***Protocol Relating to an Amendment to the Convention on International Civil Aviation [Article 50 (a)] (Doc 10077) and Protocol Relating to an Amendment to the Convention on International Civil Aviation [Article 56] (Doc 10076) (Montréal, 2016)***: The Protocol of Amendment to Article 50 (a) provides for an increase in the size of the Council from thirty-six members to forty, while the Protocol of Amendment to Article 56 provides for an increase in the membership of the ANC from nineteen to twenty-one. In view of the growth in ICAO membership and the expansion and rising importance of international air transport for the national economies in many countries, an enlarged membership of the Council will provide for a better balance in the representation of Contracting States, while an enlarged membership of the ANC will ensure that the Commission can draw on the expertise and experience of more Commissioners having diverse operational skills and technical knowledge. As of 10 August 2023, 86 States have ratified these Protocols, including 11 African member States. These Protocols each require 128 ratifications in order to come into force.

### 3. **RATIFICATION PROCESS FOR INTERNATIONAL AIR LAW TREATIES**

3.1 The process of ratification of a treaty usually involves two phases. In many jurisdictions the first phase is the internal procedure, where the State concerned must attend to its constitutional provisions by sending the text of the instrument it has signed through its legislature or other governmental authority responsible for approving ratification. Once the treaty has been approved for ratification, the State has to proceed with an international procedure consisting of depositing an instrument of ratification/accession with the depositary, which, in the case of the five treaties described in this working paper, is ICAO. In order to ratify/accede to a treaty, a State must deposit an original instrument of ratification/accession (i.e., bearing an original signature, not a digital/electronic signature) in compliance with the relevant provisions of the treaty concerned.

### 4. **RESOURCES AVAILABLE FOR STATES TO ASSIST THEM IN THE RATIFICATION OF INTERNATIONAL AIR LAW INSTRUMENTS**

4.1 The ICAO Treaty Collection Website ([www.icao.int/treaty](http://www.icao.int/treaty)) provides resources for States to assist them with the ratification of international air law treaties. The Treaty Collection contains administrative packages providing guidelines for the ratification of, or accession to, international air law

instruments, and also contain information on the historical background of the treaty, a summary of the main provisions of the treaty, and the main reasons and benefits for ratification. These packages also contain model instruments of ratification/accession. The Treaty Collection Website also contains documents such as lists of Parties to all international air law instruments, as well as forms indicating the current status of individual ICAO Member States with respect to international air law instruments.

4.2 With a view to promoting the ratification of international air law instruments and to assist Member States in their implementation, the Organization facilitates the delivery of ICAO legal seminars and workshops, the ICAO International Air Law Course as well as other similar events, which include segments on ratification. Meetings of the Civil Aviation Legal Advisers Forum (CALAF) could also include ratification of air law instruments in its agenda. In this connection, the African member States are encouraged to make use of these events for the continuous training and development of their legal advisers and to consider hosting such events in their States and regions.

## 5. PROGRESS TOWARDS RATIFICATION

5.1 Civil Aviation Authorities (CAA) can play an important role in promoting the ratification of international air law treaties by acting as subject matter experts and advising on the importance of ratification before the competent authorities (government agencies) within their State, by coordinating with the competent authorities to follow the progress of ratification, and by facilitating consultations on ratification with industry and other stakeholders (e.g., the general public). Moreover, in order for ICAO to better assess the needs of States and regions with respect to ratification of international air law instruments, **Attachment B** to this working paper contains a tracking matrix that States are invited to use to periodically inform the Organization of their State's progress towards ratification of the five international air law treaties highlighted in this working paper, or any other international air law treaties. It is intended that the tracking matrix can be filled whenever a State is reaching an important milestone in the ratification process, such as when the ratification proposal is presented or receives executive and/or legislative approval, and when the ratifying legislation is published or gazetted, as applicable.

## 6. ACTION BY THE STEERING COMMITTEE

- 6.1 The Steering Committee is invited to:
- a) Encourage those African member States that have not already done so, to become parties to the international air law treaties highlighted in this working paper and to any other international air law treaties that they have not yet ratified;
  - b) Add the subject "Ratification of international air law treaties" in the 2023 AFI SECFAL Plan Work Programme which is presented in WP/03;
  - c) Encourage African member States to make use of ICAO legal seminars and workshops, the Civil Aviation Legal Advisers Forum (CALAF), the ICAO International Air Law Course as well as other similar events for the continuous training and development of their legal advisers with regard to ratification and implementation of international air law instruments and to consider hosting from time to time such events in their States and regions; and
  - d) Request African member States to initially inform ICAO before 31 December 2023 of their progress towards the ratification of international air law treaties by using the tracking matrix set out in Attachment B to this working paper.

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## ATTACHMENT A

**STATUS OF AFRICAN MEMBER STATES WITH REGARD  
TO SELECTED INTERNATIONAL AIR LAW INSTRUMENTS**

*(as of 10 August 2023)*

	<b>Article 50 (a) (2016) (86 Parties)</b>	<b>Article 56 (2016) (86 Parties)</b>	<b>Beijing Convention (2010) (46 Parties)</b>	<b>Beijing Prot (2010) (45 Parties)</b>	<b>Mtl Prot (2014) (45 Parties)</b>
<b>Algeria</b>	X	X			
<b>Angola</b>			X		X
<b>Benin</b>			X	X	
<b>Botswana</b>			X	X	X
<b>Burkina Faso</b>			X	X	
<b>Burundi</b>					
<b>Cameroon</b>					
<b>Cabo Verde</b>			X	X	
<b>Central African Republic</b>					
<b>Chad</b>					
<b>Comoros</b>					
<b>Congo</b>	X	X	X	X	X
<b>Côte d'Ivoire</b>			X	X	X
<b>Democratic Republic of the Congo</b>					
<b>Djibouti</b>					

	Article 50 (a) (2016) (86 Parties)	Article 56 (2016) (86 Parties)	Beijing Convention (2010) (46 Parties)	Beijing Prot (2010) (45 Parties)	Mtl Prot (2014) (45 Parties)
<b>Egypt</b>	X	X			X
<b>Equatorial Guinea</b>					
<b>Eritrea</b>					
<b>Eswatini</b>			X	X	
<b>Ethiopia</b>					
<b>Gabon</b>	X	X	X	X	X
<b>Gambia</b>			X	X	X
<b>Ghana</b>			X	X	X
<b>Guinea</b>					
<b>Guinea-Bissau</b>					
<b>Kenya</b>					X
<b>Lesotho</b>					
<b>Liberia</b>					
<b>Libya</b>	X	X			
<b>Madagascar</b>					
<b>Malawi</b>					
<b>Mali</b>			X	X	

	<b>Article 50 (a) (2016) (86 Parties)</b>	<b>Article 56 (2016) (86 Parties)</b>	<b>Beijing Convention (2010) (46 Parties)</b>	<b>Beijing Prot (2010) (45 Parties)</b>	<b>Mtl Prot (2014) (45 Parties)</b>
<b>Mauritania</b>	X	X			
<b>Mauritius</b>					
<b>Morocco</b>					
<b>Mozambique</b>	X	X	X	X	X
<b>Namibia</b>					
<b>Niger</b>					X
<b>Nigeria</b>	X	X			X
<b>Rwanda</b>	X	X	X	X	X
<b>Sao Tome and Principe</b>					
<b>Senegal</b>					X
<b>Seychelles</b>	X	X	X	X	
<b>Sierra Leone</b>			X	X	X
<b>Somalia</b>					
<b>South Africa</b>					
<b>South Sudan</b>					
<b>Sudan</b>					
<b>Togo</b>					

	<b>Article 50 (a) (2016) (86 Parties)</b>	<b>Article 56 (2016) (86 Parties)</b>	<b>Beijing Convention (2010) (46 Parties)</b>	<b>Beijing Prot (2010) (45 Parties)</b>	<b>Mtl Prot (2014) (45 Parties)</b>
<b>Tunisia</b>	X	X			
<b>Uganda</b>			X	X	X
<b>United Republic of Tanzania</b>					
<b>Zambia</b>					
<b>Zimbabwe</b>					

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**ATTACHMENT B  
RATIFICATION TRACKING MATRIX**

<b>[NAME OF THE MEMBER STATE]</b>					
	<b>TREATY PROPOSED BY DGCA TO COMPETENT AUTHORITY FOR RATIFICATION</b>	<b>TREATY SUBMITTED FOR APPROVAL TO LEGISLATURE OR OTHER COMPETENT AUTHORITY</b>	<b>AWAITING SUBMISSION OF THE INSTRUMENT OF RATIFICATION TO THE DEPOSITARY (E.G., ICAO)</b>	<b>TREATY NOT CONSIDERED FOR RATIFICATION</b>	<b>COMMENTS</b>
[NAME OF TREATY]					
[NAME OF TREATY]					
[NAME OF TREATY]					
[...]					

— END —