

The Montreal Protocol 2014 - What Changes Will It Bring?

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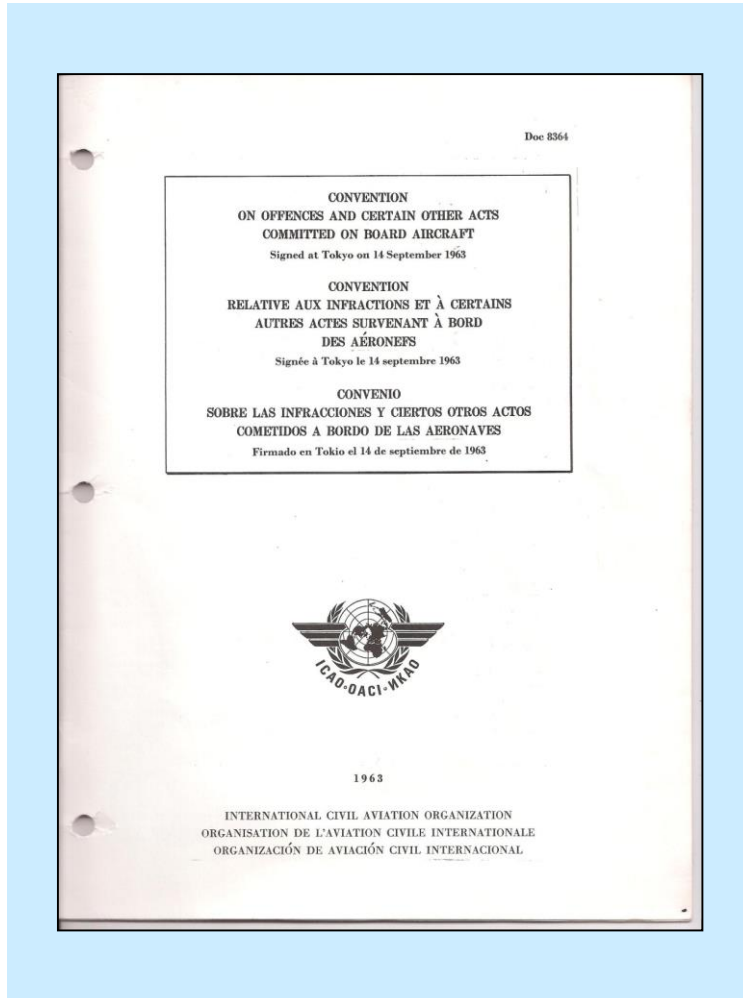
Outline

1. Montreal Protocol 2014 (MP14) - Introduction
 - (a) Tokyo Convention 1963 (TC63) – Features of Note
 - (b) Amendment of TC63 - What led to it?
 - (c) TC63 Amendment issues
2. Changes that MP14 will bring
3. What's Next?

Montreal Protocol 2014 - Introduction

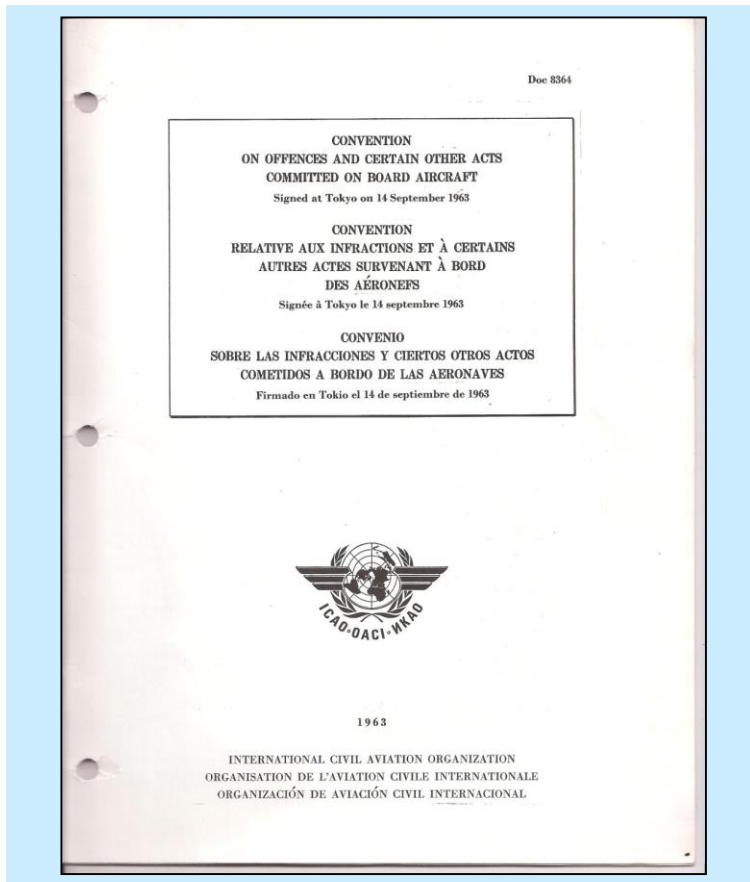
(a) Tokyo Convention 1963 (TC63)

- Quick Recap of Features of Note
 - State of registration's jurisdiction over offences & acts on board
 - Aircraft commander's powers & immunity
 - Assistance of crew & passengers
 - No offences created
 - No requirement to prosecute or extradite



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(b) Amendment of TC63 - What led to it?



- ❑ The problem of unruly passengers & the threat posed to passenger, crew & aircraft safety
- ❑ The lack of enforcement action in certain cases in many jurisdictions
- ❑ The jurisdictional gap or limitations of State of registration jurisdiction

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(b) Amendment of Tokyo Convention – What led to it?

1996	ICAO Council	Included item in work programme of Legal Committee
1997	Secretariat Study Group	Prepared model legislation Proposed that Protocol to amend TC63 be considered for longer term
2001	ICAO General Assembly	Approved model legislation & guidance Passed Resolution urging States to enact laws to deal effectively with problem

Note

2002

ICAO Circular 288 – *Guidance Material on the Legal Aspects of Unruly/Disruptive Passengers (published in June)*

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(b) Amendment of Tokyo Convention – What led to it?

2009	ICAO Legal Committee	Accepted IATA proposal to study issue & revisit TC63
	ICAO Council	Reactivated Secretariat Study Group
2010	Secretariat Study Group	Studied the issues & recommended that TC63 amendment be considered
2011	Special Sub-Committee of Legal Committee	Deliberated based on Rapporteur's report & proposed draft Protocol to amend TC63
2013	ICAO Legal Committee	Reviewed & further developed draft Protocol & recommended that Diplomatic Conference be convened to consider the Protocol
2014	Diplomatic Conference	Concluded MP14

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(c) TC63 Amendment Issues

- ❑ Jurisdiction
- ❑ List of offences
- ❑ Extradition
- ❑ Aircraft commander's immunity
- ❑ Airline recovery of damages
- ❑ Inflight security officers

CHANGES THAT MP14 WILL BRING

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|---------------------|--|
| Jurisdiction | <ul style="list-style-type: none">• New State of landing jurisdiction - mandatory• New State of the operator jurisdiction - mandatory |
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|-------------------------|--|
| List of offences | <ul style="list-style-type: none">• No list of offences• States encouraged to take measures to initiate proceedings in 2 cases• <u>Resolution</u> requesting ICAO Secretary-General to update <i>Circular 288</i> (guidance) |
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Extradition	No change to TC63 (i.e. refer to usual bilateral agreements)
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CHANGES THAT MP14 WILL BRING

Aircraft commander immunity No amendment to TC63 immunity provisions

In flight security officers

- Aircraft commander may ask, not require IFSO to restrain unruly passenger
- May take preventive action against passengers, on reasonable grounds where they believe that an offence is about to be committed
- Same immunity as aircraft commander, crew & passengers

Airline damages recovery Recovery of damages under national law not precluded (& not only for airlines)

Termination of contract of carriage

- No amendment to TC63
- Refer to contract of carriage

What's Next?

1. Entry into force

- 22 ratifications/accessions needed
- 31 signatures; 4 ratification & 7 accessions as at 27 Nov 2017
= 11 ratifications/accessions to go

2. Updating of *Circular 288* pursuant to the Resolution of the Diplomatic Conference

- “To include more detailed list of offences & other acts” & “to make consequential amendments on adoption of MP14”
- Task Force on Legal Aspects of Unruly Passengers (UPAXTF)
 - decided to maintain list of offences in Circular as it is (*as list is sufficiently comprehensive to cover unruly behaviour taking place on daily basis*)
 - Guidance material incorporating consequential amendments to Circular 288 now undergoing final review

**Asante sana
Merci beaucoup
Many thanks**

for your attention!