



WORKING PAPER

HIGH-LEVEL CONFERENCE ON AVIATION SECURITY (HLCAS)

Montréal, 12 to 14 September 2012

Agenda Item 5: Capacity building and technical assistance

PROMOTION OF THE BEIJING CONVENTION AND THE BEIJING PROTOCOL OF 2010

(Presented by the Secretariat)

SUMMARY

The Beijing Convention and the Beijing Protocol broaden and strengthen the global legal framework for aviation security. Their universal adoption would significantly advance cooperation in the prevention of unlawful acts relating to civil aviation and the prosecution and punishment of offenders. This paper encourages all States to sign and ratify the two new treaties.

Action: The High-Level Conference on Aviation Security is invited to endorse the recommendation in paragraph 4.

1. INTRODUCTION

1.1 The Diplomatic Conference on Aviation Security, held in Beijing from 30 August to 10 September 2010, adopted the *Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation* (Beijing Convention) and the *Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft* (Beijing Protocol).

1.2 The Beijing Convention modernized the *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation* of 1971 and its Supplementary Protocol of 1988 by criminalizing the act of using civil aircraft as weapons, and the act of using dangerous materials to attack aircraft or other targets. The unlawful transport of biological, chemical and nuclear weapons and their related material has been made punishable. Cyber attacks on air navigation facilities will also trigger criminal responsibility.

1.3 The Beijing Protocol updated the *Convention for the Suppression of Unlawful Seizure of Aircraft* (The Hague, 1970), by expanding its coverage against the different forms of aircraft hijackings.

1.4 Both instruments specifically cover the criminal liability of directors and organizers of an offence under the treaties. Making a threat to commit an offence under the treaties may be criminally accountable when the circumstances indicate that the threat is credible. Under certain conditions, agreement or contribution to an offence, whether such an offence is actually committed or not, may be punishable. The two instruments also update provisions to promote cooperation between States in combating unlawful acts directed against civil aviation while emphasizing human rights and fair treatment of suspects.

1.5 As of 12 July 2012, the Beijing Convention had been signed by the following 24 States: Brazil, Burkina Faso, Cameroon, Chad, China, Costa Rica, Cyprus, Czech Republic,

Dominican Republic, France, Gambia, Indonesia, Mali, Mexico, Nepal, Nigeria, Panama, Paraguay, Republic of Korea, Senegal, Spain, Uganda, United Kingdom and United States. The Beijing Protocol has been signed by the above-mentioned States plus India and Zambia.

1.6 Each of the two treaties requires 22 ratifications to bring it into force.

2. IMPLEMENTING ACTION BY ICAO

2.1 The 37th Session of the Assembly adopted Resolution A37-23: *Promotion of the Beijing Convention and the Beijing Protocol of 2010*, which urges all States to sign and ratify the Beijing Convention and the Beijing Protocol as soon as possible, and directs the Secretary General to provide assistance, as appropriate, with the ratification process if so requested by a Member State.

2.2 The Secretary General has taken action to organize a number of events to promote the instruments and has prepared administrative packages for ratification, which are available on the ICAO website: <http://www.icao.int/secretariat/legal/Pages/AdministrativePackages.aspx>.

2.3 Romania, COCESNA, the Republic of Korea and Poland have successively taken the initiative to sponsor ICAO legal seminars to promote, *inter alia*, the Beijing instruments.

3. MAIN REASONS FOR RATIFICATION

3.1 The Beijing instruments 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 will strengthen the capacity of States to prevent the commission of these offences, and to prosecute and punish those who commit such offences. The instruments will also contribute to the implementation of the United Nations Global Counter-Terrorism Strategy adopted by the General Assembly of the United Nations on 8 September 2006 by enhancing the global treaty regime on counter-terrorism.

4. CONCLUSION

4.1 The High-Level Conference on Aviation Security is invited to recommend that States expedite the ratification of the Beijing Convention and the Beijing Protocol.