



INTERNATIONAL CIVIL AVIATION ORGANIZATION  
FIFTH MEETING OF DIRECTORS GENERAL OF CIVIL AVIATION (DGCA/5)  
OF ESAF AND WACAF STATES  
(Dakar, Senegal, 4 November 2013)

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**Agenda Item 5: Aviation Security**

**AVSEC INTERNATIONAL TREATIES (BEIJING)**

*(Presented by the Secretariat.)*

SUMMARY
This paper deals with the latest development to the Hague and Montreal Conventions

**1. INTRODUCTION**

1.1 Since the 1960s, a number of treaties on aviation security have been concluded under the auspices of ICAO. These legal instruments criminalize acts against international civil aviation, such as hijacking and sabotage, and facilitate the cooperation between States with a view to ensuring that such acts are prevented and do not remain unpunished where they occur.

**2. NECESSARY MODERNIZATION**

2.1 In view of the current and new threats to civil aviation, it became necessary to modernize the Convention for the Suppression of Unlawful Seizure of Aircraft, the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation and the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation.

2.2 The Diplomatic Conference on Aviation Security held in Beijing, China, from 30 August to 10 September 2010 under the auspices of ICAO adopted two new treaties; namely, the Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation (commonly referred to as the Beijing Convention) and the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft (commonly referred to as the Beijing Protocol).

2.3 The Beijing Convention: criminalizes the acts of using civil aircraft for the purpose of causing death, serious bodily injury or serious damage; of using civil aircraft to release or discharge any biological, chemical or nuclear (BCN) weapon or similar substances to cause death, serious bodily injury or serious damage; and of using any BCN weapon or similar substances on board or against civil aircraft. It further criminalizes the unlawful transport of any BCN weapon, related material or other dangerous material. Cyber-attacks on air navigation facilities constitute an offence under this Convention.

Moreover, the Convention specifically provides for the criminal liability of directors and organizers of an offence, as well as the liability of those who knowingly assist an offender to evade investigation, prosecution or punishment. Any person making a threat to commit an offence may be criminally accountable when the circumstances indicate that the threat is credible. Under certain conditions, agreement to contribute or contribution to an offence, whether such an offence is actually committed or not, may be punishable. A legal entity may be held criminally liable if the applicable national law so provides. The Convention also expands the grounds of jurisdiction under the earlier Instruments by requiring each State Party to establish jurisdiction when the offence is committed by its national, and by enabling each State Party to establish jurisdiction when the victim of the offence is its national. It also affirms the principles of fair treatment and non-discrimination. Moreover, the Convention contains a clause that a State cannot refuse to extradite an offender on the sole ground that the offence would be political in nature.

2.4 The Beijing Protocol supplements the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970 (The Hague Convention, 1970). The Protocol expands the scope of The Hague Convention to cover different forms of aircraft hijackings, including through modern technological means. Moreover, it specifically provides for the criminal liability of directors and organizers of an offence, as well as the liability of those who knowingly assist an offender to evade investigation, prosecution or punishment. Any person making a threat to commit an offence may be criminally accountable when the circumstances indicate that the threat is credible. Under certain conditions, agreement to contribute or contribution to an offence, whether such an offence is actually committed or not, may be punishable. A legal entity may also be criminally liable if the applicable national law so provides. The Protocol also expands the grounds of jurisdiction by requiring each State Party to establish jurisdiction when the offence is committed by its national, and by enabling each State Party to establish jurisdiction when the victim of the offence is its national. It also affirms the principles of air treatment and non-discrimination. Moreover, the Protocol contains a clause that a State cannot refuse to extradite an offender on the sole ground that the offence would be political in nature.

2.5 The State letters Referenced LE 3/44, LE 3/45-11/53 dated 30 June 2011 signed by the ICAO Secretary General were posted on the web site and sent to States of the Region by the respective Regional Offices with reminders thereafter to follow up for the required action. In addition, an administrative package was proposed to States, for the purpose of assisting States to sign, ratify, accept, approve or accede to the Beijing Convention and Protocol.

Considering the relatively small number of African States which signed and ratified the above mentioned Treaties, the AFCAC 23 rd Plenary Session held in Accra, Ghana, 2-5 April 2013 urged African States that have not yet done so to sign and ratify those treaties, and invited them to take necessary action to incorporate the provisions of the Beijing treaties in their respective national legislation.

Each of the aforementioned two treaties requires 22 ratifications to bring them into force. In this regard as of September 2013, the Beijing Convention have been ratified by 2 States in Africa (Angola and Mali) and the Beijing Protocol was ratified by only one State (Mali)

The Meeting participants may access the global status of ratification / information on the following website:

<http://www.icao.int/secretariat/legal/Lists/Current%20lists%20of%20parties/AllItems.aspx>