

**ADMINISTRATIVE PACKAGE
FOR RATIFICATION OF OR ACCESSION TO
THE CONVENTION FOR THE UNIFICATION OF CERTAIN RULES
FOR INTERNATIONAL CARRIAGE BY AIR, DONE AT MONTREAL ON 28 MAY 1999**

INFORMATION ON THE INSTRUMENT AND MAIN REASONS FOR RATIFICATION

1. **Full Name of Instrument:**

*Convention for the Unification of Certain Rules for International Carriage by Air,
done at Montreal on 28 May 1999* (Doc 9740).

2. **History:**

International Conference on Air Law, Montreal, 10 to 28 May 1999.

3. **Summary:**

This Convention modernizes and consolidates the international legal regime which has been established pursuant to the Warsaw Convention of 1929 and its various amending instruments (the so-called “Warsaw System”) and provides, within a consolidated and uniform framework, the rules relating to the international carriage of passengers, baggage and cargo performed by aircraft for reward.

The Convention facilitates the use of simplified and modernized documents of carriage (passenger ticket, air waybill), thus enabling the utilization of electronic or computerized data processing for the issuance of these documents.

With respect to the accidental death or injury of passengers, the Convention establishes a two-tier liability regime. For proven damage which per passenger does not exceed 100 000 Special Drawing Rights (SDR)*, the carrier is subject to strict liability regardless of fault, and only in the case of contributory negligence of the passenger or the person claiming compensation could the carrier be partly or wholly exonerated. For proven damage exceeding 100 000 SDR*, the liability of the air carrier is based on a system of presumed fault with no pre-specified limits of liability. For such damage, the carrier is not liable if the carrier proves that the damage was not caused by its negligence or other wrongful act or omission.

A system of strict liability also applies to damage sustained in the event of loss or destruction of checked baggage. With respect to the destruction or loss of cargo, the Convention follows the provisions of Montreal Protocol No. 4 (Doc 9148), by establishing a system of strict liability, subject to certain defences which remain available to the air carrier.

The limit of liability for cargo claims is set at 17 SDR* per kilogramme, and the limits of liability for loss or destruction of baggage and for delay of passengers have been set at 1 000 SDR* and 4 150 SDR* per passenger respectively.

In relation to the amounts referred to above, the Convention contains a built-in review mechanism with a view of protecting the real value of the above-mentioned amounts subsequent to its entry into force. In accordance with Article 24, the limits of liability are subject to review by the Depositary at five-year intervals starting from the end of fifth year following the date of entry into force of the Convention. The first such review took place in 2009 (see paragraph 5 below).

*see revised limits of liability in paragraph 5.

As regards jurisdiction, the Convention provides that legal action in the case of injury or death of a passenger may, in addition to the existing four jurisdictions, also be brought before a Court in the State in which, at the time of the accident, the passenger had his or her principal and permanent residence, provided the air carrier has the required operational and commercial presence in that State.

The Convention establishes a mandatory insurance requirement pursuant to which an air carrier may be required to submit evidence to the State into which it operates to the effect that it maintains adequate insurance covering its liability.

The Convention also contains rules pertaining to the liability of the actual and contracting carrier *vis-à-vis* the passenger or consignor, by incorporating the substantive provisions of the Guadalajara Supplementary Convention of 1961 (Doc 8181).

4. **Main reasons for ratification:**

This Convention re-establishes urgently needed uniformity and predictability of the rules relating to the international carriage of passengers, baggage and cargo. While maintaining a core of provisions which have successfully served the international air transport community for several decades, the new Convention achieves the required modernization in a number of key areas. It protects the interests of the passenger by introducing a modern two-tier liability system referred to in paragraph 3 above, and by facilitating the swift recovery of proven damages without the need for lengthy litigation. Air carriers, on the other hand, achieve substantive operational savings through the use of electronically produced and simplified documents of carriage, especially in the cargo field, and the ability to manage risks more efficiently.

5. **Entry into force and revision of limits of liability**

The Convention entered into force on 4 November 2003.

* As a result of the first review of limits of liability conducted by ICAO in accordance with Article 24, the rounded revised limits, effective as of 30 December 2009, in SDRs, are:

- 19 SDRs per kilogramme in the case of destruction, loss, damage or delay in relation to the carriage of cargo (Article 22, paragraph 3)
- 1 131 SDRs for each passenger in case of destruction, loss, damage or delay with respect to baggage (Article 22, paragraph 2)
- 4 694 SDRs for each passenger in relation to damage caused by delay in the carriage of persons (Article 22, paragraph 1)
- 113 100 SDRs for each passenger for damage sustained in case of death or bodily injury of a passenger (for the first tier) (Article 21, paragraph 1)

6. **Depositary:**

The International Civil Aviation Organization
Attention: Legal Bureau
999 University Street
Montreal, Canada
H3C 5H7

Attachments:

- Model instruments of ratification and accession

**MODEL
INSTRUMENT OF RATIFICATION
BY [NAME OF STATE]**

**(To be signed by the Head of State, Head of Government
or Minister for Foreign Affairs)**

WHEREAS the Convention for the Unification of Certain Rules for International Carriage by Air (hereinafter referred to as “the Convention”) was concluded at Montreal on 28 May 1999;

WHEREAS the Convention was signed on behalf of [name of State] on [date];

AND WHEREAS Article 53, paragraph 3, of the Convention specifies that the latter is subject to ratification by signatory States;

NOW THEREFORE I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs], declare that the Government of [name of State], having considered the above-mentioned Convention, *RATIFIES* the same and undertakes faithfully to perform and carry out the stipulations therein contained.

IN WITNESS WHEREOF, I have signed this instrument of ratification at [place] on [date].

[Signature] and [Seal]

**MODEL
INSTRUMENT OF [ACCEPTANCE] [APPROVAL] [ACCESSION]
BY [NAME OF STATE]**

**(To be signed by the Head of State, Head of Government
or Minister for Foreign Affairs)**

WHEREAS the Convention for the Unification of Certain Rules for International Carriage by Air (hereinafter referred to as “the Convention”) was concluded at Montreal on 28 May 1999;

AND WHEREAS Article 53, paragraph 4, of the Convention specifies that any State which does not sign the Convention may accept, approve or accede to it at any time;

NOW THEREFORE I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs], declare that the Government of [name of State], having considered the above-mentioned Convention, *[APPROVES] [ACCEPTS] [ACCEDES TO]* the same and undertakes faithfully to perform and carry out the stipulations therein contained.

IN WITNESS WHEREOF, I have signed this instrument of [acceptance] [approval] [accession] at [place] on [date].

[Signature] and [Seal]