

**ADMINISTRATIVE PACKAGE
FOR RATIFICATION OF OR ACCESSION TO
THE GENERAL RISKS CONVENTION**

1. Full Name:

Convention on Compensation for Damage Caused by Aircraft to Third Parties, done at Montréal on 2 May 2009 (Doc 9919)

2. History:

International Conference on Air Law, Montréal, 20 April to 2 May 2009.

3. Summary:

1) The Convention applies to damage to third parties which occurs in the territory of a State Party by an aircraft in flight on an international flight, other than as a result of an act of unlawful interference. In other words, it covers all cases not falling under the Unlawful Interference Compensation Convention. Article 2, paragraph 2, allows the possibility for a State to declare that the Convention regime applies to its domestic flights.

2) Under Article 3, paragraph 1, the operator is liable for damage sustained by third parties upon condition only that the damage was caused by an aircraft in flight. This liability is both strict and fault-based. Damages due to death, bodily injury and mental injury are compensable, as is damage to property; environmental damage is compensable, if such compensation is provided for under the law of the State Party where the damage occurred.

3) Under paragraph 1 of Article 4, the operator is strictly liable for each event based on the weight of the aircraft involved, ranging from 750 000 Special Drawing Rights (SDRs) for the smallest aircraft to 700 000 000 SDRs for the largest aircraft. In effect, the overall strict liability of the operator is capped. However, these limits only apply if the operator proves that it was not negligent or that the damage was solely due to the negligence of another person.

4) Article 12 states that any action for compensation for damage to third parties brought against the operator can only be brought subject to the conditions in the Convention. The provision is intended to prevent the claimant from invoking or relying on other sources of law to try to circumvent the provisions of the Convention such as those relating to liability. By virtue of Article 13, the owner, lessor or financier of an aircraft, not being an operator, is not liable under this Convention or under the domestic law of States Parties.

5) Actions for compensation may be brought in a single forum only, namely, before the courts of the State Party where the damage occurred (Article 16, paragraph 1). Also, judgements entered by a court shall, when they are enforceable in the State Party of that court, be enforceable in any other State Party, although recognition and enforcement of a judgement may be refused under certain specified circumstances (Article 17).

4. **Main reasons for ratification:**

This Convention updates the international legal regime by the incorporation of more modern concepts and terminology. It significantly enhances the protection of third-party victims in cases not involving acts of unlawful interference against civil aviation by increasing the limits of strict liability of the operator and by providing in certain circumstances for the potentially unlimited liability of the operator and therefore the fullest compensation for victims.

This Convention would also enable States to have uniform conditions for both domestic and international flights.

5. **Entry into force:**

In accordance with its Articles 21 and 22, the Convention shall be open to all States and Regional Economic Integration Organizations (REIOs) for signature at the headquarters of ICAO in Montréal until it enters into force.

In accordance with its Article 23, the Convention shall enter into force on the 60th day following the date of deposit of the 35th instrument of ratification, acceptance, approval or accession with the Depositary.

6. **Depositary:**

The International Civil Aviation Organization (ICAO)
Attention: Legal Affairs and External Relations Bureau
999 University Street
Montréal, Québec
Canada H3C 5H7

Attachments:

Model instrument of ratification and model instrument of acceptance, approval or accession

**MODEL INSTRUMENT OF RATIFICATION OF
THE GENERAL RISKS CONVENTION**

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

WHEREAS the *Convention on Compensation for Damage Caused by Aircraft to Third Parties*, was adopted at Montréal on 2 May 2009;

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

AND WHEREAS Article 21, paragraph 2, 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.

[*I DECLARE ADDITIONALLY*, in accordance with Article 2, paragraph 2, that this Convention shall also apply where an aircraft in flight other than on an international flight causes damage in the territory of [name of State], other than as a result of an act of unlawful interference.]

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

[Signature] and [Seal]

**MODEL INSTRUMENT OF [ACCEPTANCE OF] [APPROVAL OF] [ACCESSION TO]
THE GENERAL RISKS CONVENTION**

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

WHEREAS the *Convention on Compensation for Damage Caused by Aircraft to Third Parties*, was adopted at Montréal on 2 May 2009;

AND WHEREAS Article 21, paragraph 3, of the Convention specifies that any State which does not sign this 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.

[I DECLARE ADDITIONALLY], in accordance with Article 2, paragraph 2, that this Convention shall also apply where an aircraft in flight other than on an international flight causes damage in the territory of [name of State], other than as a result of an act of unlawful interference.]

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

[Signature] and [Seal]

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