



**Agenda Item 1A: Current situation and regional priorities**

**ADDRESSING THE RISE IN UNRULY & DISRUPTIVE PASSENGER INCIDENTS ONBOARD FLIGHTS**

(Presented by the International Air Transport Association)

**SUMMARY**

The recovery of international civil aviation is underway in the aftermath of the COVID-19 pandemic with global traffic in January 2023 at 84.2% of January 2019 levels. Unfortunately, the rate of reported unruly and disruptive passenger incidents onboard flights has also increased from 1 incident per 835 flights in 2021 to 1 incident per 568 flights in 2022. South American (SAM) States have shown strong leadership in taking steps to tackle this issue. However, further action is urgently required to further enhance safety, to ensure a trouble-free passenger experience, and to protect cabin crew.

Action: The Meeting is invited to:

- Urge all SAM States to review their approach in deterring unruly and disruptive behaviour and flights and specifically to:
  - i) Ratify the Montreal Protocol 2014 (MP14) to remove jurisdictional gaps
  - ii) Complement criminal prosecutions with a civil and administrative penalties regime as outlined in ICAO Manual Doc. 10117 to ensure that enforcement mechanisms are available appropriate to the severity of unruly and disruptive passenger incidents.
  - iii) Ensure that travellers are aware of unruly and prohibited conducts onboard flights and the legal and other sanctions that are in place as per Standard 6.45 in Annex 9- *Facilitation*

**References:**

- Annex 9 ('Facilitation') to the Convention on International Civil Aviation
- ICAO Manual on the Legal Aspects of Unruly & Disruptive Passengers (Doc. 10117)
- The Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft, done at Montréal on 4 April 2014 (Montreal Protocol 2014 or MP14)
- ICAO Assembly Resolution A41-4: Consolidated statement of continuing ICAO policies in the legal field (Appendix C and E)

**ICAO Strategic Objectives:**

## 1. Introduction

1.1 The increasing frequency and severity of unruly and disruptive passenger incidents onboard flights has been a shared concern for SAM Member States and industry for several years.

1.2 Global air traffic in January 2023 was at 84.2% of January 2019 levels illustrating that the recovery in the aftermath of the COVID-19 pandemic is well underway. However, as traffic rebounds, airlines are reporting a concerning rise in the rate of unruly passenger incidents onboard flights. These incidents which include smoking in lavatories, failure to follow crew instructions, verbal harassment and physical assaults of crew and other passengers threaten safety and good order onboard. This leads to flight delays and diversions, impacting the travel experience of other passengers and the work environment for cabin crew.

1.3 Some SAM Member States have already undertaken action to address this issue. For example, Guyana, Honduras, Peru, and Paraguay have already ratified the Montreal Protocol 2014 (MP14). Brazil and Mexico have signed the Protocol indicating their intention to become a party in the future. However, further action is needed to address this growing problem.

## 2. Discussion

2.1 Unruly and disruptive incidents are caused by a tiny fraction of airline passengers, but they have a disproportionate impact.

2.2 IATA collects safety data from participating airlines in its IDX program, including incident reports that have descriptors relating to unruly and disruptive passenger incidents. During 2021 and 2022 there were over 20,000 unruly passenger reports submitted by over 40 airlines globally. While the data has limitations (not every airline submits reports to IATA), it is the only global dataset of unruly and disruptive incidents and the statistics do give an indication of trends and particularly the nature of incidents.

2.3 In 2021, the overall unruly and disruptive passenger reporting rate was 1 incident for every 835 flights. This increased to 1 incident for every 568 flights. When we analyse the reports from members, there are descriptors used that help us classify the type of events. There may be multiple descriptors per incident.

2.4 Non-compliance is the number one descriptor in incidents in both 2021 and 2022. Non-compliance covers many behaviours. In terms of frequency of occurrence on non-compliance, smoking in lavatories is the biggest issue, followed by the smoking of E-cigarettes, fastening seatbelts and cabin baggage placement. Reports of physically abusive incidents (0.036 incidents per 1,000 flights in 2021 versus 0.058 in 2022) and verbally abusive behaviour (0.137 in 2021 versus 0.220 in 2022) is also on the rise and this is of significant concern.

2.5 IATA has consistently advocated for a stronger deterrent to tackle the problem of unruly and disruptive behaviour. Given that the recovery from the COVID-19 pandemic is underway, IATA believes now is a timely opportunity for States to review the deterrent measures in place, considering the following questions:

2.5.1 Do prosecutors and law enforcement agencies have the necessary legal powers needed to deal with unruly passenger incidents on foreign registered aircraft that land in our territory?

2.5.2 Are sufficient enforcement tools available suited to the different types and severities of incidents that may occur? Are these enough to ensure that unruly passengers face the consequences of their misbehaviour?

2.5.3 Are air travellers (some of whom may have never flown before) sufficiently aware of what constitutes unruly and disruptive behaviour onboard aircraft and what legal and other sanctions may result?

2.6 Over the past decade, new legal instruments such as the updated guidance materials and enhanced Standards and Recommended Practices have been developed by ICAO that can support States when they review their deterrent.

2.7 There is currently a lack of clarity on the State's jurisdiction over offenses committed onboard aircraft, or a lack of capacity to exercise such jurisdiction. A survey from IATA member airline legal departments in 2020 found that in 60% of incidents, jurisdictional issues were cited as the reason that prosecutions did not proceed. This is because in most cases, the Tokyo Convention 1963 confers jurisdiction over offenses committed onboard aircraft of the State of aircraft registration. This causes problems upon landing in a foreign country where law enforcement determines that they do not have jurisdiction because the aircraft is registered in another State. In such scenario, unruly passengers are released to continue their journey without any sanction for their misbehaviour.

2.8 The MP14 specifically addresses this issue by giving mandatory jurisdiction to the State of intended landing, thus giving States powers to deal with unruly passengers that land in their territory, irrespective of where the aircraft is registered. MP14 entered into force on 1 January 2020 and there are currently 43 States Parties. Four SAM States are already parties to MP14. IATA urges the ratification of this important instrument by all States as per ICAO Assembly Resolution A41-4 Appendix C.

2.9 Behaviour that would amount to offenses relating to the refusal of passengers to follow a lawful instruction given by or on behalf of the pilot in command for the purpose of protecting the safety of aircraft or persons or property therein; or maintaining good order and discipline on board, does not always lead to criminal enforcement action. This is because, in many States, the administrative sanctions regime recommended in ICAO Doc 10117 *Manual on the Legal Aspects of Unruly and Disruptive Passengers* has not been implemented enabling rapid, cost-effective enforcement actions taken against unruly and disruptive passengers outside the criminal justice system.

2.10 The absence of an appropriate civil or criminal enforcement response to unruly and disruptive passenger behaviour undermines the objective to deter such action through effective enforcement. Civil and administrative penalties issued quickly by police or aviation security officials (in some systems "on the spot") are not available in many jurisdictions.

2.11 Expanded guidance on civil and administrative penalties including model legislation is provided in ICAO *Manual on the Legal Aspects of Unruly and Disruptive Passengers* (Doc. 10117). IATA urges more States to consider adopting a civil and administrative penalties regime to aid enforcement and deter future offenses.

2.12 In terms of traveller awareness, it is essential that all passengers, especially those who are flying for the first time, understand clearly what constitutes prohibited behaviours onboard and what legal or other actions may result for failure to comply. Standard 6.45 of Annex 9 – *Facilitation* of the Chicago Convention states that "*Each Contracting State shall, to deter and prevent unruly behaviour, promote passenger awareness of the unacceptability and possible legal consequences of unruly or disruptive behaviour in aviation facilities and onboard aircraft*". IATA therefore urges Member States to work with airlines on communications awareness campaigns to passengers to prevent future incidents.

2.13 Finally, to further support and inform States, IATA recently published an updated strategy document titled [\*“Even safer and more enjoyable air travel for all – A Strategy for reducing the problem of unruly and disruptive passenger incidents.”\*](#) This high-level document uses examples of good practices to highlight the practical steps that governments can take to significantly reduce the problem of unruly and disruptive passengers. It also gives some of the latest data from IATA and key regulators, as well as some of the examples of initiatives that the industry itself has implemented to prevent and manage such incidents.

### 3. **Conclusion**

3.1 The increase in the reported rate of unruly and disruptive passenger incidents during the COVID-19 pandemic highlights yet again the need for a stronger deterrent against such behaviour. ICAO has developed all the tools and measures necessary to support States in acting on this issue.

3.2 If implemented, IATA considers that the tools and measures highlighted in 2.7 to 2.10 above, together with industry initiatives, will deliver an overall reduction in unruly and disruptive incidents and help to create an even safer and more enjoyable air travel experience for all.

### 4. **Suggested Action:**

4.1 The Meeting is invited to:

- a) Urge all SAM States to review their approach in deterring unruly and disruptive behaviour and flights and specifically to:
  - i. Ratify the Montreal Protocol 2014 (MP14) to remove jurisdictional gaps
  - ii. Complement criminal prosecutions with a civil and administrative penalties regime as outlined in ICAO Manual Doc. 10117 to ensure that enforcement mechanisms are available appropriate to the severity of unruly and disruptive passenger incidents.
  - iii. Ensure that travellers are aware of unruly and prohibited conducts onboard flights and the legal and other sanctions that are in place as per Standard 6.45 in Annex 9- *Facilitation*

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