



DIRECTORS GENERAL OF CIVIL AVIATION-MIDDLE EAST REGION

Third Meeting (DGCA-MID/3) (Doha, Qatar, 27-29 April 2015)

Agenda Item 6: Aviation Security and Facilitation

MONTREAL PROTOCOL 2014 ON UNRULY PASSENGERS

(Presented by AACO)

SUMMARY

We include in this working paper the benefits that could result from MP14 that amended Tokyo Convention 1963 and we call upon Arab CAAs to join this new protocol

1. INTRODUCTION

1.1 Airlines, governments and the aviation industry as a whole work together to provide a safe and efficient transport mode to passengers; however, sometimes flights witness unruly behavior by some passengers that threaten the safety and security of the flight. Such behavior also reflects negatively on the travel experience of other passengers and could result in operational disruptions hence higher costs are bared by airlines.

1.2 Unruly behavior includes assault of other passengers or crew, illegal consumption of narcotics, refusal to comply with safety instructions, making threats that could affect the safety of the crew, passengers and aircraft, and other types of disorderly behavior.

1.3 IATA has conducted a detailed study on unruly behavior on board aircraft which highlighted 28,400 incidents between 2007 and 2013. Twenty percent of those incidents required the intervention of police or security services. A significant number of unruly passengers that are involved in these incidents rarely face prosecution or other legal or economic sanction and that is due to gaps in the Tokyo Convention of 1963 that have undermined the deterrent effect of the Convention.

1.4 Following ICAO conference last year that resulted in adopting a new protocol (MP14) amending Tokyo Convention, the Council of Arab Transport Ministers adopted a resolution in their meeting on 22-24 October 2014 that calls upon Arab states to join MP14, noting that so far Congo is the first and only state that has joined the new protocol.

1.5 AACO has joined efforts with IATA and other airline regional associations in promoting for the adoption of MP14 and highlighting the below benefits of the new protocol.

2. DISCUSSION

Benefits of MP14

Extension of Jurisdiction

2.1 The Tokyo Convention grants jurisdiction over offenses and other acts committed on board aircraft to the State of registration of the aircraft in question.

The new Protocol will give States the tools they require to deal with unruly passengers, whilst preserving prosecutorial discretion. Specifically:

- a) The Protocol gives mandatory jurisdiction to the intended State of landing (the scheduled destination). However, two safeguards were included to reflect the concerns of some states on legal certainty and proportionality. Firstly, the offense must be sufficiently serious i.e. where the safety of the aircraft or of persons or property therein, or good order and discipline on board is jeopardized. Secondly, the State of landing must consider if the offence is an offence in the State of operator.
- b) If the aircraft diverts to a third State, the Protocol gives that State the competence to exercise jurisdiction at its discretion.
- c) The Protocol establishes mandatory jurisdiction for the State of operator. This takes account of the increasing trend toward dry leasing aircraft where the State of aircraft registration is not necessarily the State of operator.

Definition of Offenses

2.2 The Protocol clarifies certain behaviours which should be considered, at a minimum, as an offense and encourages States to take appropriate criminal or other legal proceedings. These include physical assault or a threat to commit such assault against a crew member and refusal to follow a lawful instruction given by or on behalf of the aircraft Commander (for safety purposes). The elaboration of the types of conduct prohibited will improve certainty for passengers, law enforcement authorities and airlines.

Right of Recourse

2.3 Airlines usually have to bear the costs incurred as a result of unruly passenger incidents. Where this involves diversions to disembark an unruly passenger, the cost can be substantial, in some instances over US\$200,000. The Protocol recognizes that airlines may have a right to seek compensation for costs incurred as a result of unruly passenger behavior. The presence of this clause should have strong deterrent value.

3. RECOMMENDATIONS

- a) AACO urges Arab CAAs to work towards ratifying MP14 due to the benefits it brings to states, airlines and passengers;
- b) AACO urges Arab CAAs to work with their governments to adopt or amend supporting legislation to secure the proper activation of jurisdictional and prosecution powers; and
- c) AACO calls upon Arab CAAs to work towards raising public awareness of the consequences of failing to follow crew instructions or commit unruly behaviour.

4. ACTION BY THE MEETING

4.1 The meeting is invited to endorse the recommendations in para. 3.