



THE NATIONAL ASSEMBLY OF SEYCHELLES

REPORT OF THE INTERNATIONAL AFFAIRS COMMITTEE

ON THE

Protocol to Amend the Convention on Offences and Certain other Acts Committed on Board Aircraft

(Submitted for Accession as per Article 64 (4) of the Constitution)

The Committee has considered the Amendments to this Statute and presents its report thereon to the 7th Assembly. This is the International Affairs Committee's second special report on Treaties for the year 2025, laid before Parliament in accordance with Article 64 (4) of the Constitution of the Third Republic of Seychelles.

The International Affairs Committee (IAC) has the parliamentary responsibility for scrutinizing all international agreements submitted to the National Assembly by Recommendation of the President of the Republic of Seychelles.

The report addresses this Protocol that has been reviewed and considered at the meeting of the IAC on *Tuesday 8th July* with a delegation from the Ministry of Transport and the Seychelles

Civil Aviation Authority (SCAA) represented by:

Mr. David Bianchi, *Principal Secretary, Ministry of Transport*

Ms. Nathanielle Hoffman, *International Cooperation Officer, Ministry of Transport*

Ms. Elke Hoffman, *Legal Officer, Ministry of Transport*

Ms. Nathalie Young, *Legal Advisor, SCAA*

Mr. Kurtis Lespoir, *Air Transport Manager, SCAA*

Ms. Barabara Souffe, *Head Aviation Security and Facilitation, SCAA*

THE INTERNATIONAL AFFAIRS COMMITTEE is mandated to work closely with the Ministry of Foreign Affairs, other governmental and non-governmental organizations on international affairs, peace, security, and defence and contribute thereon as and when necessary; maintain existing and establish new ties with foreign parliamentary organizations of interest; and perform any other tasks as may be assigned by the National Assembly

Powers

The Committee is a Standing Sessional Committee, the powers of which are set out in the National Assembly Standing Orders, 2020, principally, SO 88-92.

Committee Staff

The Committee is assisted by the following Parliamentary Staff of the Secretariat: Ms. Emma Didon (Secretary) and Mr. Darel Atala (Secretary Assistant).

Contact

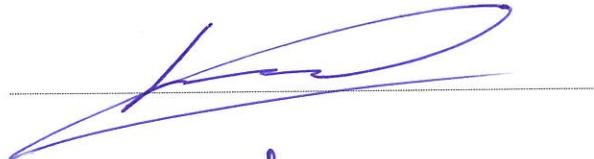
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The following Members of the International Affairs Committee undersigned, submit this Report dated Friday 11th July 2025:

Hon. Waven William
Chairperson



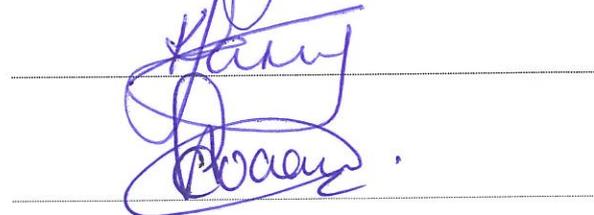
Hon. Wavel Woodcock
Vice-Chairperson



Hon. Egbert Aglae
Member



Hon. Kelly Samynadin
Member



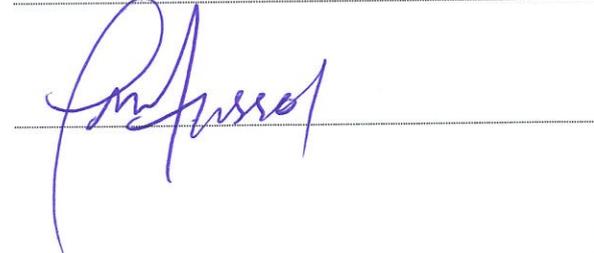
Hon. Cecile Larsen
Member



Hon. Philip Monthy
Member



Hon. Philip Arissol
Member



1 BACKGROUND AND SYNOPSIS OF THE CONVENTION AND ITS PROTOCOL

- 1.1 The Convention the Protocol wishes to amend was adopted on **14th September 1963** in Tokyo. The objective of the Tokyo Convention is to create a uniform legal framework that ensures there is at least one State with **competent jurisdiction** over offences or disruptive acts on board and **empowers aircraft** commanders and Contracting States to take necessary measures for order, safety and delivering offenders to the relevant authorities.
- 1.2 Seychelles ratified the Tokyo Convention on 4th January 1979.
- 1.3 The **2014 Montreal Protocol** was introduced in response to the sharp **rise in unruly and disruptive passenger behaviour** onboard aircrafts. The amendments the Protocol introduces provides for the **extension of jurisdiction** beyond the aircraft's State of registration, by adding the State of landing and State of operator. This is to ensure that **more states can prosecute offences** on board and that the security personnel have clear legal authority to act when there is a threat to safety and discipline in the aircraft.
- 1.4 In compliance with the provision of its entry into force, the Montreal Protocol came into force once the 22nd accession was deposited by Nigeria in November 2019 and **came into force on 1st January 2020**.
- 1.5 As of January 2024, 47 States have acceded to the Montreal Protocol.

The below includes an outline of the Tokyo Convention followed by a summary of the amendments provided by the 2014 Montreal Protocol.

TOKYO CONVENTION OUTLINE

CHAPTER I: SCOPE – Articles 1 – 2 - *Defines which flights and acts the Convention governs and excludes military/customs/police aircraft.*

CHAPTER II: JURISDICTION – Articles 3 – 4 - *Allocates primary and secondary jurisdiction for in-flight offences.*

CHAPTER III: POWERS OF THE AIRCRAFT COMMANDER – Articles 5 – 10 - *Empowers the aircraft commander (and crew) to restrain, disembark or hand over offenders, and grants them immunity*

CHAPTER IV: UNLAWFUL SEIZURE OF AIRCRAFT – Article 11 - *Obliges State Parties to thwart hijacking and restore control to the lawful commander.*

CHAPTER V: POWERS AND DUTIES OF STATES – Article 12 -17 - *Sets out State duties on conducting inquiries, receiving offenders, deciding prosecution or extradition and returning aircraft/cargo.*

CHAPTER VI: FINAL CLAUSES – Articles 18 – 21 - *Provides for signature, ratification entry into force, accession and amendment procedures.*

The Montreal Protocol has Seven major Amendment areas.

MONTREAL PROTOCOL - SUMMARY OF AMENDMENTS

1. STATE OF LANDING JURISDICTION – Amends Article 3 –

- Adds a mandatory jurisdiction for the State of landing if an offence occurs in flight or before disembarkation.
- Ensures offences don't go unpunished because the State of registration is out of reach.
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2. STATE OF OPERATOR JURISDICTION – Amends Article 3 –

- Introduces a mandatory right for the State of the aircraft operator to prosecute in flight offences
- Applied to cases where the airline's principal place of business is different from the State of registration.

3. ENCOURAGED LIST OF OFFENCES – New article after Article 3 –

- Urges Parties to criminalise a **non-exhaustive set** of unruly acts (interference with crew duties and assault).
- Requests for the ICAO (International Civil Aviation Organisation) to update **Circular 288** with a detailed offences list and guidance.

4. IN-FLIGHT SECURITY OFFICERS (IFSOs) – Amends Articles 6 & 10 –

- Formally recognises IFSOs on commercial flights and empowers commanders to request IFSOs to restrain or take preventive action on reasonable grounds.
- IFSOs are granted the same **immunity** as crew and assisting passengers.

5. RECOVERY OF DAMAGES – Inserts new Article –

- Clarifies that airlines and other victims may pursue **civil claims** or contract-based damages for losses arising from unruly conduct

6. CONTRAT OF CARRIAGE – Amends Article 5 –

- Confirms that **termination or suspension** of a passenger's carriage contract remains governed by existing contractual and national law, meaning there is no change to the substance of the provisions of the Convention.

7. GUIDANCE AND IMPLEMENTATION – Inserts an Annex –

- Sets and Annex directing ICAO to **revise Circular 288** with consequential amendments and maps a timeline for domestic law amendment and updates and the training of crew/security.

2 MAIN DISCUSSION POINTS

2.1. The Importance of the Montreal Protocol

Following welcoming remarks and introductions, the Hon. Chair invited the delegation to present the objective of the Protocol and reasoning for accession. PS. Bianchi provided the brief overview on the Montreal Protocol which governs instances of unruly behaviour on aircrafts rectifying a gap identified in the Tokyo Convention.

Objective of the Protocol to Amend the Tokyo Convention

PS proceeded to invite the SCAA delegates to provide further detail of the Protocol. Mr. Lespoir provided historical context of the 1963 Convention and illustrated the jurisdictional gap for the Committee in the following way: Emirates is registered in United Arab Emirates. An Emirates flight is heading to Canada when a passenger behaves unruly. However, under the Tokyo Convention, Canada has no legal power to deal with that passenger meaning, that only the UAE, as the registered State has jurisdiction. This is the main weakness identified by the civil aviation industry that the Montreal Protocol seeks to amend by ensuring that Canada, as the State of landing, can also deal with the offence that has taken place onboard further ensuring that the offenders are punished. Mr. Lespoir additionally noted that the urgent need to accede also comes from an observed increase in unruly and disruptive with data showing that in 2023 there were 1 in 494 operations with unruly passengers while 2024 shows 1 in 360 showing a clear increase. Furthermore, the Protocol allows for more comfort, protection and security for the airlines where in addition to criminal charges, damage claims can also be made against misbehaved passengers as costs are exponential especially for long haul flights and diversions due to unruly passengers.

Mr. Lespoir additionally noted, that such a Protocols governing the security aspect at the airport is covered under the SCAA's bilateral agreements with different jurisdictions worldwide. The bilateral agreements make explicit mention of the 1963 Tokyo Convention under the article on aviation security which includes a provision to adopt any amendment made to the Convention. Seychelles therefore must do the necessary to accede and submit to the ICAO.

Implementation and Enforcement of the Protocol

For the enforcement on the ground locally, Ms. Souffe detailed how the Protocol will be enforced and implemented once acceded, especially considering the absence of such regulations. The Protocol, she explained will protect and empower the agents in the industry to effectively tackle any situation with unruly and misbehaved passengers as they are now legally backed by the Protocol. This protects the industry from any legal cases that clients may misappropriately bring against them. Ms. Souffe added that there will also be limited financial implications except for the capacity building trainings and for sensitisation.

An additional benefit is that airlines are reassured and confident with doing business in Seychelles knowing that their interests are protected by the Protocol with the legal and criminal claims that will be established by the SCAA. Acknowledging the importance of the Protocol and its accession, the Committee expressed its support.

2.2. Status of accession of the Protocol

The Committee first enquired on the number of acceding Parties of the Protocol and its coming into force. Ms. Young shared that the last data collected noted 186 States had acceded and the Protocol has already entered into force.

2.3. Domestication of the Protocol

Questions arose on the plan and updates of domesticating the protocol including whether the regulations were ready. Ms. Young began by explaining that the process of domestication involves aligning regulations with existing Conventions that cover different Offences. As this Protocol addresses unruly passengers specifically, the regulations will have to reflect that. A draft of the law was prepared in 2019 and is still in consultation with the Attorney General's (AGs) Office due to prolonged negotiations on the structure and framework of the regulations. A decision would have to be made on whether to cover all offences in one regulation or formulate separate regulations to correspond with each relevant Convention/Protocol. She informed the Committee that discussions continue, and a draft has been sent back to the AGs office and is a priority for the SCAA.

2.4 Concerns of client protection

The Committee raised concern on passenger/client protection and whether it would be considered in the drafting and implementation of the national regulations. Ms. Young reassured that, in fact, the Protocol makes provisions and shed lights on the rights of passengers.

2.5 Role of Airlines

An enquiry was made on the role and responsibilities of the airlines in the equation relative to the Protocol. Mr. Lespoir informed that the role of the airlines does not change meaning that from the State of Registry, they still have authority to act against passengers. The airlines receive guidelines and mitigating measures usually formulated by the State's relevant authority to deter and/or handle unruly, disruptive passengers. Additionally, the airlines invest in insurance coverage to cater for damages and can also take legal actions against the passengers. In relation to legal action and prosecution, it was noted that extradition is also an option for unruly passengers, providing a bilateral agreement exists between the two States.

Ms. Souffe added that the responsibilities of the airlines would also have to be established in the regulations which will include the obligation of airlines to provide reports on incidents. Due to the current absence of regulations, airlines are not obliged to provide data and statistics to Seychelles when unruly incidents occur. She further noted that this would necessitate international cooperation between the airlines, the State of Registry, the State of Operator and the State of

Landing, where the parties would convene to discuss and establish their obligations and responsibilities to develop the national regulations.

3 RECOMMENDATIONS

The IAC recognises the importance of aviation security and safety as per the objective of the Montreal Protocol to Amend the Tokyo Convention. There being no recommendations, the Committee thanked the delegation from SCAA and the Ministry of Transport for presenting the Amendments to the Convention and reassured them of the IAC's support on its accession.