

CHAPTER THREE

CONVENTION FOR THE SUPPRESSION OF UNLAWFUL SEIZURE OF AIRCRAFT 1970 (‘Hague Convention’)

1. Although the Tokyo Convention includes certain provisions relating to hijacking of aircraft, they are both general in terms and limited in effect.²⁵ The principal objective of the Tokyo Convention is to ensure that offences and acts which jeopardise the safety of civil aircraft or persons or property, or good order and discipline, on board civil aircraft should not go unpunished because of a lack of jurisdiction over those responsible. To this end, it sets out detailed jurisdictional rules. It does not create or define particular offences; they are left to be determined by domestic law. *Article 11*, and certain supplementary provisions, are the only ones which relate specifically to hijacking. But they do not oblige Parties to prohibit or punish hijacking; they merely require them to take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve his or her control of the aircraft, to permit its passengers and crew to continue their journey as soon as practicable, and to return the aircraft and its cargo.

2. These provisions were not nearly enough to combat hijackingS of aircraft. During 1968 and 1969 there was a rapid increase in number, 122 in all. ICAO therefore convened a conference at The Hague which adopted the Convention on 16 December 1970. It entered into force on 14 October 1971. As of September 2002 it had 175 Parties, of which 47 are Commonwealth States. The United Kingdom ratified the Convention on 22 December 1971 in respect also of all its overseas territories. A number of them have since gained their independence, some of which have formally succeeded to the Convention. The text of the Convention is at page 58 below, and the complete list of signatures, ratifications and accessions as of September 2002 is at page 64 below.

Hijacking and piracy contrasted

3. States have long exercised universal jurisdiction²⁶ over piracy. The customary international law on the subject is now codified in *Article 101* of the United Nations Convention on the Law of the Sea 1982 (UNCLOS), which also reflects an extension of the traditional concept of universal jurisdiction over sea pirates by analogy to include certain acts in relation to aircraft. It is necessary therefore to consider briefly whether piracy could include hijacking an aircraft. *Article 101* provides as follows:

‘Piracy consists of any of the following acts:

- (a) Any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:
 - (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;

²⁵ See p. 20, para, 17 above.

²⁶ For an explanation of the term, see page 4, Para 8 above.

- (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any Party;
- (b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;
- (c) any act of inciting or of intentionally facilitating an act described in sub-paragraph (a) or sub-paragraph (b) of this article.’

Article 105 of UNCLOS provides for universal jurisdiction over pirates. Nevertheless, the inadequacy of the modern law of piracy as a means of combating aerial hijacking will be immediately apparent. In particular, the following matters limit its effectiveness:

- (1) Piracy must be committed ‘for private ends’. While there have been examples of aerial hijackings which have been performed for private ends, usually to extort money, the majority have been committed for overtly political objectives. Consequently they do not constitute piracy.
- (2) Piracy must take place on (or presumably over) the high seas or in a place outside the jurisdiction of any State. Consequently hijacking in national airspace is not piracy.
- (3) Piracy must be directed by the crew or passengers of one ship or aircraft against another ship or aircraft. This would exclude virtually all recorded instances of aerial hijacking.

Object and scope of the Convention

4. The approach adopted by the Convention is very different from that of the Tokyo Convention. The Hague Convention begins by establishing an offence of hijacking (*Article 1*). It then imposes an obligation on the Parties to make the offence punishable by severe penalties (*Article 2*). Each Party is required to take such measures as may be necessary to establish its jurisdiction over the offence, and any other act of violence against the passengers or crew of an aircraft in certain defined circumstances (*Article 4*). Each Party, if satisfied that the circumstances so warrant, is under a duty to take an alleged offender into custody or to take other measures to secure his or her presence (*Article 6*). When an alleged offender is found in the territory of a Party, if it does not extradite it must submit the case to its competent authorities for the purpose of prosecution (*Article 7*). The Convention also deals comprehensively with questions of extradition (*Article 8*).

5. The Convention applies only to civil aircraft, not to aircraft used in military, customs or police services (*Article 3(2)*). This provision is identical to that contained in *Article 1(4)* of the Tokyo Convention.²⁷

6. Generally, the Hague Convention applies only if the place of take-off or the place of actual landing of the aircraft on board which the offence is committed is situated outside the territory of the Party where the aircraft is registered (*Article 3(3)*). For this purpose the scheduled destination is irrelevant; if a case falls within

²⁷ See page 12, para 3 above, about the civil/military distinction.

the general rule in the article it is immaterial whether the aircraft is on an international or a domestic flight. Consequently the Convention will apply to acts on board an aircraft registered in Party A during a domestic flight in the territory of that Party if the point of actual landing is, due to the hijacking, outside that territory. The Convention will also apply to acts on board an aircraft registered in Party A during a flight between two points in the territory of Party B. To this general rule there exist a number of exceptions which will be considered subsequently.

The offence

7. *Article 1* provides that:

‘Any person who on board an aircraft in flight:

- (a) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act, or
- (b) is an accomplice of a person who performs or attempts to perform any such act

commits an offence (hereinafter referred to as "the offence").’

(Under *Article 2* each Party undertakes to make the offence punishable by severe penalties.) The component elements of the principal offence are therefore:

- (1) Seizure or exercise of control of an aircraft or an attempt to do so;
- (2) Seizure or exercise of control or an attempt by force or threat of force or by any other form of intimidation;
- (3) Seizure or exercise of control or an attempt that is unlawful;
- (4) Seizure or exercise of control or an attempt on board an aircraft in flight.

The offence is very similar to the notion of wrongful interference with aircraft in *Article 11* of the Tokyo Convention, although that Convention created no offence. A further important difference between the two provisions is that the Hague Convention makes provision for the liability of accomplices. We will now consider the four elements in detail.

(a) Seizure or exercise of control of an aircraft

8. There must be a seizure of, or the exercise of control over, an aircraft, or an attempt to do so. The expressions ‘seizure’ and ‘exercise of control’ are not terms of art, and there is no point in attempting to distinguish between seizure or exercise of control. Taken together, they clearly cover, inter alia, cases where a pilot is replaced by a hijacker, and where a pilot is ordered to follow the hijacker's instructions, either through the threat or use of force against the pilot or other members of the crew, passengers or, indeed, the aircraft itself.

9. The offence can only be committed by a person *on board the aircraft*. This limits the scope of the offence, since the threat or use of force must come from *within the aircraft*. Consequently the offence does not extend to a case where an aircraft is forced to change course by the threat or application of force from another

aircraft. Similarly, a person would not commit the offence if he or she leaves explosives on board an aircraft before the flight commences and then, through radio contact from the ground to the aircraft in flight, threatens to detonate the explosives unless his or her instructions are followed. In such a case, many legal systems would apply a notion of constructive presence and thereby deem the person to have been on board the aircraft in flight, but there is no indication that the offence, as defined in the Convention, was intended to extend to such a case. However, such conduct would now fall within the scope of the Montreal Convention, considered in detail in Chapter Four.

(b) Use or threat of force or any other form of intimidation

10. The hijack of an aircraft will constitute an offence only if it is committed by the use or threat of force or by any other form of intimidation. Many hijackings are accomplished by the threat of force rather than its use, although there have been many where force was used, and passengers and members of the crew have been killed or wounded, most dramatically on 11 September 2001. Both categories are included in the offence. The threat of force contemplates all cases where the use of force or violence is threatened against members of the crew or passengers, or the aircraft itself. The offence may also extend to a threat to use force against persons or property not on board the aircraft, provided that the threat was made by a person *on board the aircraft* and for the purpose of seizing or taking control of it. It is doubtful whether the words ‘or by any other form of intimidation’ extend the scope of the offence since such conduct is likely to involve the threat of force, although it is possible that a hijacker might attempt to gain control of an aircraft by making a threat to the pilot which falls short of a threat of force e.g. blackmail.

11. Certain other means of seizure or exercise of control appear to fall outside the offence, for example, if the crew of an aircraft were bribed to fly it to a destination other than its scheduled destination; similarly if the crew decide to fly the aircraft to a different destination for an unauthorised purpose. Although there may be an unlawful exercise of control over the aircraft, in the absence of the threat or use of force the case falls outside *Article 1*; as it would when control over an aircraft is gained by deception, provided that the threat or use of force was not subsequently used to retain control of the aircraft.

(c) Illegality of threat or use of force

12. The inclusion of ‘unlawfully’ in *Article 1* serves to emphasize that the conduct must be without legal excuse or justification. Proper acts of members of the crew, police, sky-marshals or members of special forces to regain control of an aircraft seized by hijackers would obviously not constitute an offence. It is not clear by which legal system the legality of such conduct is to be judged. However, conduct which is justifiable in the law of the Party of registration of the aircraft would probably fall outside the scope of *Article 1*.

(d) On board an aircraft in flight

13. An offence can be committed only on board an aircraft ‘in flight’. For this purpose, an aircraft is considered to be in flight at any time from the moment when *all* its external doors are closed following embarkation until the moment when *any* such door is opened for disembarkation (*Article 3 (1)*). This conforms to the wider

of the two definitions of ‘in flight’ in the Tokyo Convention.²⁸ In addition, in the case of a forced landing an aircraft is deemed to be in flight under the Hague Convention until the competent authorities take over the responsibility for the aircraft and for persons and property on board (*Article 3(1)*).

14. There have been a number of reported incidents where an attempt was made to hijack an aircraft during the embarkation of passengers and before all the external doors of the aircraft were closed. Such conduct does not constitute an offence within *Article 1*. But the consequences of the lacuna are not as serious as might at first appear. If the attempt is unsuccessful and the hijacker apprehended, it is entirely appropriate that the prosecution should be carried out under the local law. On the other hand, if the attempt is successful and results in the closing of all the external doors of the aircraft before take-off, an offence under *Article 1* will be committed because the attackers would continue to exercise control over an aircraft which, as a matter of law at least, is then considered to be in flight. However, although the matter is not entirely free from doubt, it appears to follow from *Article 3(3)* that an offence within the Convention is committed in such circumstances only if the closing of the external doors is followed by the take-off of the aircraft.

Accomplices

15. *Article 1* makes accomplices equally liable for the offence. Any person who is an accomplice of a person who commits, or attempts to commit, the offence, commits it as well, provided that person’s acts also take place *on board an aircraft in flight* (*Article 1(b)*). This is clear from the opening words - ‘[a]ny person who on board an aircraft in flight’ – which are clearly intended to qualify both subparagraphs (a) and (b). For example, the person who conceals guns or explosives on board an aircraft, but leaves it before the flight commences, does not commit an offence within *Article 1*. But, such conduct might well constitute an offence contrary to local law, and is not likely to give rise to the jurisdictional problems that might arise from conduct on board an aircraft in flight. Such action would also amount to an offence under the Montreal Convention.

Establishment of jurisdiction

16. *Article 4* provides that:

‘1. Each [Party] shall take such measures as may be necessary to establish its jurisdiction over the offence and any other act of violence against passengers or crew committed by the alleged offender in connection with the offence, in the following cases:

- (a) when the offence is committed on board an aircraft registered [with that Party];
- (b) when the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;
- (c) when the offence is committed on board an aircraft leased without crew to a lessee who has his principal place of business or, if the lessee has no such place of business, his permanent residence in [the territory of that Party].

²⁸ See p. 15, para 13, above.

2. Each [Party] shall likewise take such measures as may be necessary to establish its jurisdiction over the offence in the case where the alleged offender is present in its territory and it does not extradite him pursuant to *Article 8* to any of the [Parties] mentioned in paragraph 1 of this Article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.’

This article is of central importance to the scheme of the Convention and of later conventions. Paragraphs 1 and 2 require Parties to establish their jurisdiction over the offence in certain specified circumstances, which are wide in ambit. An extension of the criminal law of the Parties is required. First, each Party is under a duty to make hijacking an offence contrary to its domestic law, if it is not already. Secondly, each Party must ensure that that part of its domestic law extends to such conduct which takes place in the circumstances set out in paragraphs 1 and 2. Thirdly, each Party must ensure that its domestic courts are competent to exercise jurisdiction over such conduct occurring in such circumstances. *Article 4* thus requires Parties to establish their jurisdiction in four sets of circumstances. It is convenient to consider each of these in turn.

A. Conduct on board an aircraft registered with the Party

17. Subparagraph 1(a) requires each Party to take such measures as may be necessary to establish its jurisdiction over the offence, and any other act of violence against passengers or crew committed by the alleged offender in connection with the offence, when the offence is committed on board an aircraft registered with that Party. This applies wherever the aircraft is situated at the time of the relevant acts, whether in the airspace of the Party of registration, in the airspace of another Party or, indeed, outside the territory of any Party.

18. Special provision is made in *Article 5* for the case of aircraft which are subject to joint or international registration. This corresponds with *Article 18* of the Tokyo Convention.²⁹ However, in cases concerning such joint air transport operating organisations or international operating agencies the Hague Convention does not apply if the place of take-off and the place of actual landing of the aircraft on board which the offence is committed are situated within the territory of the *same* Party if that Party is one of the States participating in the operation of the aircraft (*Article 3(4)*). This is an exception to the general rule in *Article 3(3)* (see paragraph 14 above).

B. Aircraft landing in the territory of a Party with a hijacker on board

19. Sub-paragraph 1(b) requires each Party to take such measures as may be necessary to establish its jurisdiction over the offence, and any other act of violence against passengers or crew committed by the alleged offender in connection with the offence, when the aircraft on board which the offence was committed lands in its territory with the alleged offender still on board. This contemplates the exercise of jurisdiction in a wide range of circumstances. It extends to conduct on board an aircraft whether registered with that Party or not. Furthermore, the provision applies

²⁹ See p. 14, para, 11, above.

to conduct on board an aircraft which subsequently lands in the territory of a Party with a hijacker on board without regard to the location of the aircraft at the time of the acts were committed. If they took place on board an aircraft which was at that time in the territorial airspace of the Party in whose territory it subsequently landed, the jurisdiction to be exercised by that Party over such acts would not be an extra-territorial jurisdiction.³⁰ This would normally be the case when a hijacking was successful because the offence would continue in the territorial airspace of the Party of landing until the flight ended.

20. However it would not be the case when an attempted hijacking was unsuccessful and the offence had ceased before the aircraft entered the airspace of the Party of landing. Consequently, the provision is sufficiently wide to require a Party to establish jurisdiction over conduct which has no connection with it save for the happy fact that the aircraft subsequently lands in its territory with the inept hijacker on board. For example, an aircraft registered with Party A, and crewed by and carrying persons of its nationality, is the subject of an attempted hijack by nationals of that Party in its airspace, or over the high seas. After the hijackers are overpowered, the aircraft enters the airspace of Party B and lands there. The Convention requires that the domestic law of Party B to be such that it can exercise jurisdiction over the attackers. In this case there are present none of the traditional linking factors on which the exercise of extra-territorial jurisdiction is generally justified. Consequently, the provision may be regarded as having established a new basis for the exercise of extra-territorial jurisdiction founded on a new jurisdictional, link. This helps by plugging a number of jurisdictional gaps, and is justifiable both by reference to the nature of the offence and to the fact that in such circumstances the Party of landing is in the best position to apprehend and punish the wrongdoers.

C. Conduct on board an aircraft leased without crew to a lessee who has his or her principal place of business or permanent residence in the territory of the Party

21. Paragraph 1(c) requires each Party to take such measures as may be necessary to establish its jurisdiction over the offence, and any other act of violence against passengers or crew committed by the alleged offender in connection with the offence, when the offence is committed on board an aircraft *leased without crew* to a lessee who has his or her principal place of business or, if the lessee has no such place of business, permanent residence, in the territory of that Party. This casts the net of jurisdiction even wider, so as to include conduct on board aircraft which, whether or not they are registered with a Party, are effectively operated by a person with his or her principal place of business or, if none, permanent residence in the territory of that Party. The Party from whose territory the aircraft is operated may well have a more substantial connection with the operation of the aircraft, and consequently a greater interest in the exercise of jurisdiction, than the Party of registration. However, it is not entirely clear why the provision is limited to cases of aircraft leased without crew ('dry lease'). While it is arguable that aircraft leased with crew ('wet lease') might have a stronger connection with the Party of registration, the Party from which it is substantially operated would nevertheless retain a strong interest in having jurisdiction.

³⁰ As to extra-territorial jurisdiction, see p. 3, paras. 7 to 11, above.

22. While jurisdiction established in accordance with paragraph 1(c) may be exercised in relation to intra-territorial acts, for example where the relevant conduct takes place on an dry-leased aircraft in the territorial airspace of the Party where the lessee has his or her principal place of business, it is clear that it also extends to extra-territorial activities. Furthermore, it envisages the possible exercise of extra-territorial jurisdiction in circumstances where there are present none of the linking factors on which the exercise of extra-territorial jurisdiction is usually explained. Consequently, as in the case of paragraph 1(b), the provision may be regarded as having established a new basis for the exercise of extra-territorial jurisdiction founded on a new jurisdictional link.

D. Alleged offender present in the territory of a Party

23. *Article 4(2)* requires each Party to take such measures as may be necessary to establish its jurisdiction over the offence where the alleged offender is present in its territory and it does not extradite the person to:

- (a) the Party with which the aircraft is registered;
- (b) the Party in whose territory the aircraft landed with the alleged offender still on board; or
- (c) the Party in whose territory a person to whom the aircraft was leased without crew has his or her principal place of business or, if none, where he or she has permanent residence.

This is intended to create an essential jurisdictional longstop. It requires Parties to extend their jurisdiction in such a way that even if a hijacker evades arrest by those Parties directly concerned with the hijacking, and is not extradited to one of them, the person may be prosecuted for the offence by any Party in whose territory he or she is subsequently found. Since there are now 175 Parties, the possibility of hijackers escaping justice is considerably reduced.

24. The provision is considerably wider than that in *Article 4(1)(b)*, which applies only in the case of a hijacker landing in the territory of a Party on board the aircraft on which the offence was committed. The present provision applies also when a hijacker is subsequently found in the territory of *any* Party. The extension of extra-territorial jurisdiction envisaged by *Article 4(2)* is potentially enormous since it requires a Party to establish its jurisdiction in circumstances where there is no connection between the alleged offence and that Party, save that the alleged offender is subsequently found there.

25. The extension of the ambit of a Party's criminal law so as to include relevant conduct in the circumstances contemplated by *Article 4(2)* effectively requires each Party to establish in its domestic law an offence of hijacking which may be committed by any person on board any aircraft anywhere in the world. The obligation imposed by the Convention on a Party so to extend its jurisdiction is limited to cases where the Party does not extradite the alleged offender to another Party. However, arrangements for the extradition or the return of fugitive offenders are not complete or so perfect that a Party could ever be certain that it would be able to extradite an alleged hijacker apprehended in its territory. Furthermore, a Party in whose territory the person was apprehended may not receive a request for extradition from another Party.

26. As a result, *Article 4(2)* comes very close to making the offence of hijacking an offence subject to universal jurisdiction.³¹ The conduct defined in *Article 1* constitutes an offence contrary to the law of each of the Parties regardless of the nationality of the alleged offender, the State of registration of the aircraft on board which the alleged offence took place, or the location of the aircraft at the time the offence was committed. This enormous extension of the extra-territorial jurisdiction of the Parties was, and remains, justifiable because of the nature of hijacking, which necessarily imperils the common interests of all States in preserving the safety of civil aviation. The extension and exercise of jurisdiction, in the circumstances contemplated in *Article 4*, are essential if the Convention's objectives of deterring and punishing such activities are to be achieved.

27. Such a result is achieved by, for example, section 1(1) of United Kingdom Aviation Security Act 1982 (re-enacting a provision of the Hijacking Act, 1971) which provides:

‘A person on board an aircraft in flight who unlawfully, by the use of force or by threats of any kind, seizes the aircraft or exercises control of it commits the offence of hijacking, whatever his nationality, whatever the State in which the aircraft is registered and whether the aircraft is in the United Kingdom or elsewhere’.

This is then qualified with regard to non-civil aircraft, in accordance with the Convention, but nevertheless establishes an offence of extremely wide ambit. It was necessary that the intended extra-territorial application of the provision be expressly stipulated in order to rebut the presumption against extra-territorial effect normally applied by English (and other) courts when interpreting legislation.³²

28. Finally, in this context reference must be made to *Article 4(3)* which provides that the Convention does not exclude any criminal jurisdiction exercised in accordance with national law. Although Article 3(3) of the Tokyo Convention has a similar provision, it is difficult to see why this provision was included in the Hague Convention, and its effect is not entirely clear. It seems merely to confirm that the jurisdictional provisions of the Convention are not intended to prejudice the other bases on which Parties have claimed to exercise jurisdiction over hijackers, and thus the Parties are free to exercise jurisdiction in circumstances not specified in the Convention. *Article 4(3)* was copied in the Montreal Convention, and later conventions, and was important for the *Lockerbie* prosecution (see page 80 below).

29. As with the Tokyo Convention and later conventions, the Hague Convention makes no provision for priority of competing jurisdictions.³³

The Convention and non-Parties

30. What effect, if any, do the jurisdictional provisions of the Convention have on non-Parties? Each Party is required to establish its jurisdiction over an alleged offender ‘present in its territory’. There is no requirement that the person be a national or have *any* connection with *any* Party. This is essential for the

³¹ See p. 4, para. 8, above.

³² See also pp. 6, paras. 15-16, above

³³ See p. 14, para. 10, above.

effectiveness of the Convention. But it has sometimes been asked whether these jurisdictional provisions can apply to the nationals of a State that is not a Party (often referred to as a ‘third State), when the act is done in the territory of that State, or on a ship or aircraft registered with it, and the person has no connection with any of the Parties. This point is dealt with at page 6, paragraph 17, above.

31. The application of the Convention to aircraft registered in third States is established not only by the plain meaning of the provisions of the Convention, but also by its travaux préparatoires (negotiating history). It was the clear intention of the Hague Conference that the Hijacking Convention should apply to all aircraft wherever registered. Similarly the Convention was intended to apply to the conduct of persons on board aircraft in flight, regardless of whether they are nationals of a Party. The Convention therefore requires a Party to establish jurisdiction over an alleged hijacker found in its territory in respect of activities which have no jurisdictional link with any Party. Let us take an extreme example. Ms Smith, a national of State A, hijacks an aircraft registered in State B in the airspace of State C. She escapes and is subsequently arrested in the territory of State Z. States A, B and C are *not* Parties to the Convention, but State Z *is* a Party. If it does not extradite her to A, B or C, or to another Party, it is obliged to submit the case to its competent authorities for the purpose of prosecution (see *Article 7*, and paragraph 35 below).

Exercise of jurisdiction

32. When any of the acts which constitute the offence of hijacking have occurred or are about to occur, Parties are under a duty to take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve the commander’s control of the aircraft (*Article 9(1)*). Any Party in whose territory the aircraft or its passengers and crew are present must facilitate the continuation of the journey of the passengers and crew as soon as practicable and must, without delay, return the aircraft and its cargo to the persons lawfully entitled to possession (*Article 9(2)*). This provision closely resembles *Article 11* of the Tokyo Convention.

33. A Party, in whose territory an alleged offender is present, is required immediately to make a preliminary enquiry into the facts (*Article 6(2)*). ‘Upon being satisfied that the circumstances so warrant’, that Party must then take the person into custody or take other measures to ensure his or her presence (*Article 6(1)*). The quoted phrase gives the Party a discretion, but it must be exercised reasonably and in good faith. It does not require the Party to arrest any person who is alleged to be an offender; there must be some grounds for the belief. Conversely, the Party cannot decline to take action for, say, political reasons. *Article 6(1)* further provides that the custody or other measures shall be as provided in the law of the Party.

34. The treatment in accordance with the national as opposed to an international, standard of alleged offenders who are aliens has been considered in detail in the context of the Tokyo Convention,³⁴ and the conclusions there apply equally in relation to the Hague Convention. However, the following should be noted in the context of that Convention:

³⁴ See p. 19, para. 26.

- (a) The national standard applies only to custody or other measures taken to ensure the presence of an alleged offender (*Article 6(1)*);
- (b) The custody or other measures to ensure the presence of an alleged offender may be continued only for such time as is necessary to enable any criminal or extradition proceedings to be instituted (*Article 6(1)*);
- (c) Any person in custody must be assisted in communicating immediately with the nearest appropriate representative (usually the consul) of the Party of which the person is a national (*Article 6(3)*);
- (d) When a Party has taken a person into custody it must immediately notify the fact that such person is in custody, and the circumstances which warrant detention, to:
 - (i) the Party of registration of the aircraft;
 - (ii) where the alleged offence took place on board an aircraft leased without crew, the Party in whose territory the lessee has his or her principal place of business, or, if none, permanent residence;
 - (iii) the Party of nationality of the detained person;
 - (iv) if it considers it advisable, any other interested Parties (*Article 6(4)*).
- (e) The findings of the preliminary inquiry must be reported promptly to the Parties listed in paragraph (iv) above, with an indication whether it is intended to exercise jurisdiction (*Article 6(4)*).

Aut dedere aut judicare

35. *Article 7* is vital to the scheme of the Convention, and of later ones. It provides that a Party in the territory of which the alleged offender is found shall, if it does not extradite, be obliged *without exception whatsoever and whether or not the offence was committed in its territory*, to submit the case to its competent authorities for the purpose of prosecution. The authorities are required to take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that Party. The effect of this provision is that whenever an alleged offender is found in the territory of one of the Parties, that Party must either extradite him or her or submit the matter to its prosecuting authorities. As a result, no hijacker can find refuge with any of the Parties. (See also page 8, paragraph 22 above.)

36. Parties must afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offence or other acts of violence against passengers or crew committed by the alleged offender in connection with the offence (*Article 10(1)*). However, this duty is without prejudice to any obligations arising under any other treaty relating to mutual assistance in criminal matters.

37. If the alleged offender is found in the territory of a Party other than the Party of registration of the aircraft, *Articles 6, 7, 8 and 10* apply whatever the place of take-off or actual landing (*Article 3(5)*).

38. Each Party is under a duty to report to the Council of ICAO as promptly as possible any relevant information in its possession concerning the circumstances in which the hijacking took place and the action taken to restore or preserve the control of the commander of the aircraft, to facilitate the continuation of the journey by the passengers and crew, and to return the aircraft and its cargo to the persons lawfully entitled to possession. In addition, each Party is required to notify the Council of any measures taken in relation to the alleged offender, and, in particular, the results of any extradition or other legal proceedings (*Article 11*).

Extradition

39. *Article 8* contains the standard extradition provisions (see page 8 above for details). We have seen that the Convention makes no provision for priority in the exercise of jurisdiction by Parties.³⁵ Similarly, the Convention does not attempt to establish a scheme of priority in the matter of extradition.

40. The provisions dealing with extradition are a further exception to the general rule as to the scope of the Convention. They apply whatever the place of take-off or the place of actual landing of the aircraft on board which the offence was allegedly committed, if the alleged offender is found in the territory of a Party other than the Party of registration of that aircraft (*Article 3(5)*).

Disputes

41. *Article 12* contains the usual provision for the settlement of disputes between two or more Parties concerning the interpretation or application of the Convention.³⁶

Reservations

42. In addition to the right under *Article 12* to make a reservation to that article, reservations may also be made to other articles provided they are compatible with the object and purpose of the Convention.³⁷ None have been made.

Accession

43. The Convention is open to accession by any State which did not sign it before it came into force on 14 October 1971 (*Article 13(1)*). The instrument of accession must be deposited with the Depositary Governments, namely the Governments of the Russian Federation, the United Kingdom and the United States (*Article 13(2)*), though it is sufficient to deposit with any one of them. A Party may denounce the Convention (*Article 14*).

Succession

44. Alternatively, a State that has gained its independence may be able to become a Party by succession.³⁸

³⁵ See para. 29 above

³⁶ See p. 10 above for details.

³⁷ See p. 11 above for details.

³⁸ See p. 11 above.

Implementation

45. Legislation will normally be needed to give effect to the Convention in domestic law. Model legislative provisions are at page 71 below. It must be emphasised, however, that careful consideration will have to be given by each State that is considering becoming a party to the Convention as to its precise needs for the content of the legislation.

Hague Convention

CONVENTION FOR THE SUPPRESSION OF UNLAWFUL SEIZURE OF AIRCRAFT

PREAMBLE

THE STATES PARTIES TO THIS CONVENTION

CONSIDERING that unlawful acts of seizure or exercise of control of aircraft in flight jeopardize the safety of persons and property, seriously affect the operation of air services, and undermine the confidence of the peoples of the world in the safety of civil aviation;

CONSIDERING that the occurrence of such acts is a matter of grave concern;

CONSIDERING that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;

HAVE AGREED AS FOLLOWS:

ARTICLE 1

Any person who on board an aircraft in flight:

- (a) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act, or
- (b) is an accomplice of a person who performs or attempts to perform any such act

commits an offence (hereinafter referred to as "the offence").

ARTICLE 2

Each Contracting State undertakes to make the offence punishable by severe penalties.

ARTICLE 3

1. For the purposes of this Convention, an aircraft is considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board.

2. This Convention shall not apply to aircraft used in military, customs or police services.

3. This Convention shall apply only if the place of take-off or the place of actual landing of the aircraft on board which the offence is committed is situated outside the territory of the State of registration of that aircraft; it shall be immaterial whether the aircraft is engaged in an international or domestic flight.

4. In the cases mentioned in Article 5 this Convention shall not apply if the place of take-off and the place of actual landing of the aircraft on board which the offence is committed are situated within the territory of the same State where that State is one of those referred to in that Article.

5. Notwithstanding paragraphs 3 and 4 of this Article, Articles 6, 7, 8 and 10 shall apply whatever the place of take-off or the place of actual landing of the aircraft, if the offender or the alleged offender is found in the territory of a State other than the State of registration of that aircraft.

ARTICLE 4

1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over the offence and any other act of violence against passengers or crew committed by the alleged offender in connection with the offence, in the following cases:

- (a) when the offence is committed on board an aircraft registered in that State;
- (b) when the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;
- (c) when the offence is committed on board an aircraft leased without crew to a lessee who has his principal place of business or, if the lessee has no such place of business, his permanent residence, in that State.

2. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offence in the case where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph 1 of this Article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

ARTICLE 5

The Contracting States which establish joint air transport operating organizations or international operating agencies, which operate aircraft which are subject to joint or international registration shall, by appropriate means, designate for each aircraft the State among them which shall exercise the jurisdiction and have the attributes of the

State of registration for the purpose of this Convention and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all State Parties to this Convention.

ARTICLE 6

1. Upon being satisfied that the circumstances so warrant, any Contracting State in the territory of which the offender or the alleged offender is present, shall take him into custody or take other measures to ensure his presence. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary enquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this Article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national.

4. When a State, pursuant to this Article, has taken a person into custody, it shall immediately notify the State of registration of the aircraft, the State mentioned in Article 4, paragraph 1(c), the State of nationality of the detained person and, if it considers it advisable, any other interested States of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 2 of this Article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

ARTICLE 7

The Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.

ARTICLE 8

1. The offence shall be deemed to be included as an extraditable offence in any extradition treaty existing between Contracting States. Contracting States undertake to include the offence as an extraditable offence in every extradition treaty to be concluded between them.

2. If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offence. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. Contracting States which do not make extradition conditional on the existence of a treaty shall recognize the offence as an extraditable offence between themselves subject to the conditions provided by the law of the requested State.

4. The offence shall be treated, for the purpose of extradition between Contracting States, as if it had been committed not only in the place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with Article 4, paragraph 1.

ARTICLE 9

1. When any of the acts mentioned in Article 1(a) has occurred or is about to occur, Contracting States shall take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve his control of the aircraft.

2. In the cases contemplated by the preceding paragraph, any Contracting State in which the aircraft or its passengers or crew are present shall facilitate the continuation of the journey of the passengers and crew as soon as practicable, and shall without delay return the aircraft and its cargo to the persons lawfully entitled to possession.

ARTICLE 10

1. Contracting States shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offence and other acts mentioned in Article 4. The law of the State requested shall apply in all cases.

2. The provisions of paragraph 1 of this Article shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

ARTICLE 11

Each Contracting State shall in accordance with its national law report to the Council of the International Civil Aviation Organization as promptly as possible any relevant information in its possession concerning:

- (a) the circumstances of the offence;
- (b) the action taken pursuant to Article 9;
- (c) the measures taken in relation to the offender or the alleged offender, and, in particular, the results of any extradition proceedings or other legal proceedings.

ARTICLE 12

1. Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within

six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, anyone of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other Contracting States shall not be bound by the preceding paragraph with respect to any Contracting State having made such a reservation.

3. Any Contracting State having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Depositary Governments.

ARTICLE 13

1. This Convention shall be open for signature at The Hague on 16 December 1970, by States participating in the International Conference on Air Law held at The Hague from 1 to 16 December 1970 (hereinafter referred to as The Hague Conference). After 31 December 1970, the Convention shall be open to all States for signature in Moscow, London and Washington. Any State which does not sign this Convention before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

2. This Convention shall be subject to ratification by the signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, which are hereby designated the Depositary Governments.

3. This Convention shall enter into force thirty days following the date of the deposit of instruments of ratification by ten States signatory to this Convention which participated in The Hague Conference.

4. For other States, this Convention shall enter into force on the date of entry into force of this Convention in accordance with paragraph 3 of this Article, or thirty days following the date of deposit of their instruments of ratification or accession, whichever is later.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of entry into force of this Convention, and other notices.

6. As soon as this Convention comes into force, it shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations and pursuant to Article 83 of the Convention on International Civil Aviation (Chicago, 1944).

ARTICLE 14

1. Any Contracting State may denounce this Convention by written notification to the Depositary Governments.
2. Denunciation shall take effect six months following the date on which notification is received by the Depositary Governments.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorised thereto by their Governments, have signed this Convention.

DONE at The Hague, this sixteenth day of December, one thousand nine hundred and seventy, in three originals, each being drawn up in four authentic texts in the English, French, Russian and Spanish languages.

**CONVENTION FOR THE SUPPRESSION
OF UNLAWFUL SEIZURE OF AIRCRAFT
SIGNED AT THE HAGUE ON 16 DECEMBER 1970**

Entry into force: The Convention entered into force on 14 October 1971.

Status: 175 Parties

State	Date of signature	Date of deposit of Instrument of Ratification, Accession or Succession
Afghanistan	16 December 1970	29 August 1979
Albania		21 October 1997
Algeria		6 October 1995
Angola		12 March 1998
Antigua and Barbuda		22 July 1985
Argentina	16 December 1970	11 September 1972
Australia	15 June 1971	9 November 1972
Austria	28 April 1971	11 February 1974
Azerbaijan		3 March 2000
Bahamas		13 August 1976
Bahrain		20 February 1984
Bangladesh		28 June 1978
Barbados	16 December 1970	2 April 1973
Belarus (3)	16 December 1970	30 December 1971
Belgium	16 December 1970	24 August 1973
Belize		10 June 1998
Benin	5 May 1971	13 March 1972
Bhutan		28 December 1988
Bolivia		18 July 1979
Bosnia and Herzegovina		15 August 1994
Botswana		28 December 1978
Brazil	16 December 1970	14 January 1972
Brunei Darussalam		16 April 1986
Bulgaria	16 December 1970	19 May 1971
Burkina Faso		19 October 1987

Burundi	17 February 1971	
Cambodia	16 December 1970	8 November 1996
Cameroon		14 April 1988
Canada	16 December 1970	20 June 1972
Cape Verde		20 October 1977
Central African Republic		1 July 1991
Chad	27 September 1971	12 July 1972
Chile	4 June 1971	2 February 1972
China		10 September 1980
Colombia	16 December 1970	3 July 1973
Comoros		1 August 1991
Congo		24 November 1989
Costa Rica	16 December 1970	9 July 1971
Côte d'Ivoire		9 January 1973
Croatia		8 June 1993
Cuba		27 November 2001
Cyprus		5 July 1972
Czech Republic		14 November 1994
Democratic People's Republic of Korea		28 April 1983
Democratic Republic of the Congo		6 July 1977
Denmark	16 December 1970	17 October 1972
Djibouti		24 November 1992
Dominican Republic	29 June 1971	22 June 1978
Ecuador	19 March 1971	14 June 1971
Egypt		28 February 1975
El Salvador	16 December 1970	16 January 1973
Equatorial Guinea	4 June 1971	2 January 1991
Estonia		22 December 1993
Ethiopia	16 December 1970	26 March 1979

Fiji	5 October 1971	27 July 1972
Finland	8 January 1971	15 December 1971
France	16 December 1970	18 September 1972
Gabon	16 December 1970	14 July 1971
Gambia	18 May 1971	28 November 1978
Georgia		20 April 1994
Germany	16 December 1970	11 October 1974
Ghana	16 December 1970	12 December 1973
Greece	16 December 1970	20 September 1973
Grenada		10 August 1978
Guatemala	16 December 1970	16 May 1979
Guinea		2 May 1984
Guinea-Bissau		20 August 1976
Guyana		21 December 1972
Haiti		9 May 1984
Honduras		13 April 1987
Hungary	16 December 1970	13 August 1971
Iceland		29 June 1973
India	14 July 1971	12 November 1982
Indonesia	16 December 1970	27 August 1976
Iran, Islamic Republic of	16 December 1970	25 January 1972
Iraq	22 February 1971	3 December 1971
Ireland		24 November 1975
Israel	16 December 1970	16 August 1971
Italy	16 December 1970	19 February 1974
Jamaica	16 December 1970	15 September 1983

Japan	16 December 1970	19 April 1971
Jordan	9 June 1971	18 November 1971
Kazakhstan		4 April 1995
Kenya		11 January 1977
Kuwait	21 July 1971	25 May 1979
Kyrgyzstan		25 February 2000
Lao People's Democratic Republic	16 February 1971	6 April 1989
Latvia		23 October 1998
Lebanon		10 August 1973
Lesotho		27 July 1978
Liberia		1 February 1982
Libyan Arab Jamahiriya		4 October 1978
Liechtenstein	24 August 1971	23 February 2001
Lithuania		4 December 1996
Luxembourg	16 December 1970	22 November 1978
Madagascar		18 November 1986
Malawi		21 December 1972
Malaysia	16 December 1970	4 May 1985
Maldives		1 September 1987
Mali		29 September 1971
Malta		14 June 1991
Marshall Islands		31 May 1989
Mauritania		1 November 1978
Mauritius		25 April 1983
Mexico	16 December 1970	19 July 1972
Monaco		3 June 1983
Mongolia	18 January 1971	8 October 1971
Morocco		24 October 1975
Myanmar		22 May 1996
Nauru		17 May 1984
Nepal		11 January 1979
Netherlands	16 December 1970	27 August 1973

New Zealand	15 September 1971	12 February 1974
Nicaragua		6 November 1973
Niger	19 February 1971	15 October 1971
Nigeria		3 July 1973
Norway	9 March 1971	23 August 1971
Oman		2 February 1977
Pakistan	12 August 1971	28 November 1973
Palau		3 August 1995
Panama	16 December 1970	10 March 1972
Papua New Guinea		15 December 1975
Paraguay	30 July 1971	4 February 1972
Peru		28 April 1978
Philippines	16 December 1970	26 March 1973
Poland	16 December 1970	21 March 1972
Portugal	16 December 1970	27 November 1972
Qatar		26 August 1981
Republic of Korea		18 January 1973
Republic of Moldova		21 May 1997
Romania	13 October 1971	10 July 1972
Russian Federation	16 December 1970	24 September 1971
Rwanda	16 December 1970	3 November 1987
Saint Lucia		8 November 1983
Saint Vincent and the Grenadines		29 November 1991
Samoa		9 July 1998
Saudi Arabia		14 June 1974
Senegal	10 May 1971	3 February 1978
Seychelles		29 December 1978
Sierra Leone	19 July 1971	13 November 1974
Singapore	8 September 1971	12 April 1978

Slovakia		13 December 1995
Slovenia		27 May 1992
South Africa	16 December 1970	30 May 1972
Spain	16 March 1971	30 October 1972
Sri Lanka		30 May 1978
Sudan		18 January 1979
Suriname		27 October 1978
Swaziland		27 December 1999
Sweden	16 December 1970	7 July 1971
Switzerland	16 December 1970	14 September 1971
Syrian Arab Republic		10 July 1980
Tajikistan		29 February 1996
Thailand	16 December 1970	16 May 1978
The former Yugoslav Republic of Macedonia		7 January 1998
Togo		9 February 1979
Tonga		21 February 1977
Trinidad and Tobago	16 December 1970	31 January 1972
Tunisia		16 November 1981
Turkey	16 December 1970	17 April 1973
Turkmenistan		25 May 1999
Uganda		27 March 1972
Ukraine	16 December 1970	21 February 1972
United Arab Emirates		10 April 1981
United Kingdom	16 December 1970	22 December 1971
United Republic of Tanzania		9 August 1983
United States	16 December 1970	14 September 1971
Uruguay		12 January 1977
Uzbekistan		7 February 1994
Vanuatu		22 February 1989

Venezuela	16 December 1970	7 July 1983
Vietnam		17 September 1979
Yemen		29 September 1986
Yugoslavia, F.R. of		23 July 2001
Zambia		3 March 1987
Zimbabwe		6 February 1989

Model Legislative Provisions

To implement the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16th December 1970, and for purposes connected therewith.

NOTE

No specific penalties for the offences have been included because of the variation in sentencing practice between states. However the Convention requires penalties that reflect the seriousness of the offence and therefore maximum penalties should be set including, if appropriate, a life sentence.

Be it enacted as follows:-

Short title and commencement

1. This Act may be cited as the Hijacking Act, and shall come into operation on (.....)¹.

Interpretation

2. (1) In this Act, unless the context otherwise requires –

"act of violence" means -

- (a) any act done in (.....)² which constitutes the offence of (.....)³, and
- (b) any act done outside (.....)², which, if done in (.....)², would constitute such an offence as is mentioned in paragraph (a);

"the Convention" means the Convention for the Suppression of Unlawful Seizure of Aircraft signed at The Hague on 16 December 1970;

"landing" includes alighting on water;

"military service" includes naval and air force service;

"unlawfully" -

- (a) in relation to the commission of an act in (.....)², means an offence that is (apart from this Act) constituted under any law in force in (.....)²; and
- (b) in relation to the commission of an act outside (.....)², means the Commission of the act that would (apart from this Act) have been an offence under any law in force in (.....)² had it been committed in (.....)².

- (2) For the purposes of this Act the period during which an aircraft is in flight shall be deemed to include any period from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation, and, in the case of a forced landing, any period until the competent authorities take over responsibility for the aircraft and for persons and property on board.

Hijacking

3. (1) Subject to subsection (2) a person on board an aircraft in flight who unlawfully, by the use of force or by threats of any kind, seizes the aircraft or exercises control of it commits the offence of hijacking, whatever his or her nationality or citizenship, whatever the State in which the aircraft is registered and whether the aircraft is in (.....)² or elsewhere.
- (2) If the aircraft is used in military, customs or police service, subsection (1) shall not apply unless -
- (a) the person seizing or exercising control of the aircraft is a citizen of (.....)²; or
 - (b) the act is committed in or over (.....)²; or
 - (c) the aircraft is used in the military, customs or police service of (.....)^{2, 4}.
- (3) A person who commits the offence of hijacking shall be guilty of an offence under this Act.

Violence against passengers or crew

4. Any act of violence against the passengers or crew of any aircraft in flight done by any person in connection with the offence of hijacking committed or attempted on board such aircraft shall be deemed to have been committed in (.....)² and shall constitute an offence punishable under the law in force in (.....)² applicable thereto, wherever the act of violence was committed, whatever the State of registration of the aircraft and whatever the nationality or citizenship of the offender.

Abetting the commission of acts outside (.....)²

5. Any person in (.....)² who abets the commission elsewhere of any act which would, but for subsection (2) of section 3, be the offence of hijacking shall be guilty of an offence under this Act.⁴

Penalty

6. Any person guilty of an offence under this Act shall be liable on conviction to be punished with (.....)⁵.

Consent for prosecution

7. No prosecution shall be instituted under this Act without the written consent of (.....)⁶.

Extradition

8. (1) There shall be deemed to be included in [the list of] extradition crimes [described in the (Extradition Act)⁷] offences under this Act and attempts to commit such offences.
- (2) Where no extradition treaty is in force between (.....)² and a State which is party to the Convention, a notification (.....)⁸ may be made applying the (Extradition Act)⁷ as if the Convention were an extradition treaty between (.....)² and that State, but where the (Extradition Act)⁷ is so applied, it shall have effect as if the only extradition crimes within the meaning of that Act were offences under this Act and attempts to commit such offences.
- (3) For the purposes of the (Extradition Act)⁷, any act, wherever committed, which -
- (a) is an offence under this Act or an attempt to commit such an offence, or attempt but for subsection (2) of section 3; and
- (b) is an offence against the law of any State in the case of which the (Extradition Act)⁷ has been applied by (.....)⁹,
- shall be deemed to be an offence within the jurisdiction of that State.

NOTES

1. Date of commencement or procedure by which the Statute is to be brought into force.
2. Name of acceding State.
3. List relevant offences e.g. offences involving firearms; murder; manslaughter; assault occasioning actual bodily harm; battery.
4. The Hague Convention is intended to apply only to civil aircraft and provides that it shall not apply to aircraft used in military, customs or police services. (Article 3(2).) This provision is, therefore, not required in order to ensure compliance with the Hague Convention. However, similar provisions have been included in enacting legislation in a number of Commonwealth States.
5. Maximum penalty.
6. The Attorney General or other responsible law Officer. The purpose of this provision is to prevent prosecutions for infringement of this Statute without the consent of the Government.
7. Or other relevant Statute or law.
8. Specify how notification is to be made e.g. by publication in official government publication.
9. Specify manner of application e.g. by publication in official government publication.