

## CHAPTER FIVE

### PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS OF VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION 1988 ('Montreal Protocol')

1. The Tokyo, Hague and Montreal Conventions are concerned with the safety of civil aviation, in particular the safety of aircraft in flight. However, a further and disturbing manifestation of modern terrorism has been the use of violence at international civil airports. The terrorist attack at Rome Airport in January 1986 was a notorious example. Growing concern at the threat to airports led to the convening of an international conference at Montreal which, on 24 February 1988, adopted the Montreal Protocol ('the Protocol'). It entered into force on 6 August 1989. As of September 2002 it had 123 Parties, including 33 Commonwealth States. Four more Commonwealth States have signed the Protocol, but not yet ratified it. The text of the Protocol is at page 107 below, and the complete list of signatures, ratifications, accessions, territorial extensions and successions as of September 2002 is at page 110 below.

#### **Object and scope of the Protocol**

2. The Protocol supplements the Montreal Convention ('the Convention') by extending the scheme of the Convention to include offences involving acts of violence at international airports. As between Parties to the Protocol, the Convention and the Protocol are to be read and interpreted as one single instrument (*Article 1*).<sup>53</sup> A State that is not a Party to the Convention may ratify or accede to the Protocol only if at the same time it ratifies or accedes to the Convention (*Articles 5(2) and 7(2)*). Between those Parties to the Convention which are not Parties to the Protocol, the Convention will continue to apply in its original, unamended form; as it will also as between a Party to the Protocol (and therefore also to the Convention) and a Party to the Convention alone.

3. The Protocol makes use of the scheme and methods of the Convention. In particular, *Article 2* extends the scope of the offences in *Article 1* of the Convention ('the Convention offences') by adding some new offences ('the Protocol offences'), and *Article 3* provides for the establishment of jurisdiction over the Protocol offences.

4. Reference has been made in Chapter 4 to the complex rules governing the scope and application of the Convention.<sup>54</sup> For the Protocol offences, the situation is more straightforward: the majority of the provisions of the Convention apply to the Protocol offences. This follows from the fact that, as between Parties to the Protocol, the Convention and the Protocol must be read and interpreted as one single instrument. Accordingly, references in the Convention to 'offence' and 'alleged offender' must, as between Parties to the Protocol, be read as referring, in addition, to the Protocol offences and those alleged to have committed them.

#### **The Protocol offences**

5. *Article 2* adds a new paragraph 1 *bis* to *Article 1* of the Convention:

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<sup>53</sup> The Protocol uses Roman numerals, perhaps to make it easier to distinguish the articles of the Protocol from those of the Convention. For simplicity, Arabic numbers are used here.

<sup>54</sup> See p. 75-76, paras. 3-7 above.

‘1 *bis*. Any person commits an offence if he unlawfully and intentionally, using any device, substance or weapon:

- (a) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or
- (b) destroys or seriously damages the facilities of an airport serving international civil aviation or aircraft not in service located thereon or disrupts the services of the airport,

if such an act endangers or is likely to endanger safety at that airport.’

(It also makes a consequential amendment to *Article 1(2)(a)* of the Convention, namely, the insertion, after ‘paragraph 1’ of the words ‘or paragraph 1 *bis*’.)

The two offences created by *Article 2(1) bis* will be considered in turn.

*A person commits an offence if he, unlawfully and intentionally, using any device, substance or weapon, performs an act of violence against a person at an airport serving international civil aviation which causes, or is likely to cause, serious injury or death, if such an act endangers or is likely to endanger safety at that airport.*

6. The requirement that the act should be both intentional and unlawful might give rise to the question which law governs the legality of the conduct. We have seen that difficulties may arise in determining the unlawful character of activities within *Article 1* of the Convention because of the possibility that such activities may occur in circumstances where different Parties have competing claims to regulate conduct. But, no such difficulty is likely to arise in the case of Protocol offences since the acts will take place at an airport, and the legality of such conduct will fall to be determined by the law of the Party in whose territory the airport is situated.

7. The offence involves the use of ‘any device, substance or weapon’. These words are extremely wide. However, the offence will not be committed if the act of violence is committed by an unarmed person.

8. The act of violence must be against a person and must cause, or be such as is likely to cause, serious injury or death. There is no requirement of an intention to kill or to cause serious injury; it is sufficient that the attacker intentionally performs an act of violence which causes or is likely to cause serious injury or death.

9. The act must take place at an airport serving international civil aviation. ‘Airport’ is not defined, but is wide enough to include airport buildings and elsewhere within the airport, including runways.

10. The act is distinguished from ‘ordinary’ acts of violence by the requirement that it must endanger life or be likely to endanger safety at the airport.

*A person commits an offence if he, unlawfully and intentionally, using any device, substance or weapon, destroys or seriously damages the facilities of an airport serving international civil aviation, or aircraft not in service located thereon, or*

*disrupts the services of the airport, if such an act endangers or is likely to endanger safety at that airport.*

11. The act must involve the use of a device, substance or weapon to destroy or inflict serious damage on the airport facilities, or aircraft not in service, or to disrupt the services of the airport. It should be noted that while the offences created by Convention *Article 1(l)(a), (d) and (e)* relate to aircraft in flight, and the offences created by Convention *Article 1(l)(b) and (c)* relate to aircraft in service, the Protocol offence applies to activities in relation to aircraft not in service when located at an airport serving international civil aviation. This remedies the deficiency in the Convention referred to in Chapter 4.<sup>55</sup>

12. The act must take place at an airport serving international civil aviation.

13. Again, the act is distinguished from ‘ordinary’ acts of violence by the requirement that it must endanger life or be likely to endanger safety at the airport.

14. By virtue of *Article 1(2)(a)* of the Convention, as amended by *Article 2(2) of the Protocol*, a person also commits an offence if he attempts to commit one of the Protocol offences, or if he is the accomplice of a person who commits or attempts to commit one of the Protocol offences.

### **Jurisdiction**

15. *Article 5* of the Convention requires Parties to take such measures as may be necessary to establish their jurisdiction over Convention offences in specified circumstances. *Article 3 of the Protocol* adds a new paragraph to *Article 5* of the Convention (paragraph *2bis*) relating solely to Protocol offences. The effect of *Article 5* in relation to the Convention offences has been considered in detail in Chapter 4.<sup>56</sup> The effect of *Article 5* of the Convention, as amended in relation to the Protocol offences, is as follows:

- Prima facie, the terms of *Article 5(1)* of the Convention (and in particular the reference to ‘the offences’) are wide enough to include both Convention offences and Protocol offences. However, when one considers the circumstances in which Parties are required by *Article 5(1)* of the Convention to establish their jurisdiction, they are not all appropriate to Protocol offences. *Article 5(1)(a)* of the Convention (which requires a Party to establish its jurisdiction when the offence is committed in the territory of that Party) poses no difficulty. But this is not the case for *Article 5(1)(b), (c) or (d)* of the Convention because the linking factors there employed include references to the aircraft on board which (*Article 5(1)(b), (c), (d)*), or against which (*Article 5(1)(b), (d)*), the offence is committed. The Protocol offences are aimed primarily at safeguarding international airports and, while it is possible that they may take place on board or against aircraft (e.g. where aircraft not in service are located at an international civil airport), this will be incidental. It therefore appears that a Party to the Protocol is required to establish its jurisdiction over the Protocol offences when committed in the territory of that

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<sup>55</sup> See p. 78, para. 13 above.

<sup>56</sup> See p. 79, paras. 19-21 above.

Party and, probably, also when Protocol offences are committed on board or against aircraft in the circumstances described in *Article 5(1)(b), (c) or (d)* of the Convention.

- *Article 5(2)* of the Convention has no application to Protocol offences because it is limited by its terms to the offences created by *Article 1(1)(a), (b) and (c)*, and *Article 1(2)*, of the Convention.
- New *Article 5(2)bis* applies only to Protocol offences, and corresponds generally to *Article 5(2)* of the Convention. It requires each Party to take such measures as may be necessary to establish its jurisdiction over Protocol offences where the alleged offender is present in its territory and it does not extradite him pursuant to *Article 8* of the Convention. Whereas the obligation under *Article 5(2)* of the Convention applies only where there has been no extradition to one of the Parties mentioned in *Article 5(1)* of the Convention, the obligation under *Article 5(2)bis* applies only where there has been no extradition to the Party mentioned in *Article 5(1)(a)* of the Convention. This conforms to the analysis of the applicability of *Article 5(1)* of the Convention suggested above.

### **Duties of the Parties**

16. The duties of Parties under the Convention in relation to the custody of alleged offenders, preliminary enquiries and communication of information (*Articles 6 and 12*); submitting the case to the competent authorities for the purpose of prosecution, if the alleged offender is not extradited (*Article 7*); the prevention of offences (*Article 10*); mutual assistance in criminal proceedings (*Article 11*); and reporting to ICAO (*Article 13*), apply equally, as between Parties to the Protocol, to Protocol offences. To the extent that the commission of a Protocol offence may have delayed or interrupted a flight, *Article 10* of the Convention would require a Party to the Protocol in whose territory the aircraft or passengers or crew are present to help them continue their journey as soon as possible, and to return, without delay, the aircraft and its cargo to the persons lawfully entitled to possession. *Article 9* of the Convention (joint air transport operating organisations or international operating agencies) does not appear to be of direct relevance to Protocol offences.

### **Extradition**

17. As between Parties to the Protocol, the extradition provisions of the Convention (*Article 8*) apply to Protocol offences.

### **Disputes**

18. As between Parties to the Protocol, *Article 14* of the Convention governing settlement of disputes applies also.

### **Final clauses**

19. Although the Protocol is supplementary to the Convention, since it is a treaty in its own right, it has its very own set of final clauses. As with the Convention, the Protocol has no prohibition on reservations. The Protocol is open to accession by any State which did not sign it before it came into force on 6 August 1989 (*Article 7(1)*). The instrument of accession must be deposited with the Governments of the Russian Federation, the United Kingdom and the United States or with ICAO (*Articles 5(3)*

*and 7(3)*). Today, ICAO would be the natural depositary. Alternatively, a State that has gained its independence may be able to become a Party by succession.<sup>57</sup> A Party may denounce the Convention (*Article 8*).

### **Implementation**

20. Legislation will normally be needed to give effect to the Protocol in domestic law. Model Legislative Provisions are at page 116 below. However careful consideration will have to be given by each State that is considering becoming a Party to the Protocol as to its precise needs for the content of the legislation. If the State is not already a Party to the Convention (see paragraph 2 above), the legislation will have to implement the Convention as well.

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<sup>57</sup> See p. 11, para. 35 above.

## **PROTOCOL**

for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, Done at Montreal on 23 September 1971

### **THE STATES PARTIES TO THIS PROTOCOL**

CONSIDERING that unlawful acts of violence which endanger or are likely to endanger the safety of persons at airports serving international civil aviation or which jeopardize the safe operation of such airports undermine the confidence of the peoples of the world in safety at such airports and disturb the safe and orderly conduct of civil aviation for all States;

CONSIDERING that the occurrence of such acts is a matter of grave concern to the international community and that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;

CONSIDERING that it is necessary to adopt provisions supplementary to those of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971, to deal with such unlawful acts of violence at airports serving international civil aviation;

HAVE AGREED AS FOLLOWS:

### **ARTICLE 1**

This Protocol supplements the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971 (hereinafter referred to as "the Convention"), and, as between the Parties to this Protocol, the Convention and the Protocol shall be read and interpreted together as one single instrument.

### **ARTICLE 2**

1. In Article 1 of the Convention, the following shall be added as new paragraph 1 bis:

"1 bis. Any person commits an offence if he unlawfully and intentionally, using any device, substance or weapon:

- (a) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or
- (b) destroys or seriously damages the facilities of an airport serving international civil aviation or aircraft not in service located thereon or disrupts the services of the airport,

if such an act endangers or is likely to endanger safety at that airport".

2. In paragraph 2(a) of Article 1 of the Convention, the following words shall be inserted after the words “paragraph 1”:

“or paragraph 1 bis”

### **ARTICLE 3**

In Article 5 of the Convention, the following shall be added as paragraph 2 bis:

“2 bis. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offences mentioned in Article 1, paragraph 1 bis, and in Article 1, paragraph 2, in so far as that paragraph relates to those offences, in the case where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to the State mentioned in paragraph 1 (a) of this Article.”

### **ARTICLE 4**

This Protocol shall be open for signature at Montreal on 24 February 1988 by States participating in the International Conference on Air Law held at Montreal from 9 to 24 February 1988. After 1 March 1988, the Protocol shall be open for signature to all States in London, Moscow, Washington and Montreal, until it enters into force in accordance with Article VI.

### **ARTICLE 5**

1. This Protocol shall be subject to ratification by the signatory States.
2. Any State which is not a Contracting State to the Convention may ratify this Protocol if at the same time it ratifies or accedes to the Convention in accordance with Article 15 therefor.
3. Instruments of ratification 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 or with the International Civil Aviation Organisation, which are hereby designated the Depositaries.

### **ARTICLE 6**

1. As soon as ten of the signatory States have deposited their instruments of ratification of this Protocol, it shall enter into force between them on the thirtieth day after the date of the deposit of the tenth instrument of ratification. It shall enter into force for each State which deposits its instrument of ratification after that date on the thirtieth day after deposit of its instrument of ratification.
2. As soon as this Protocol enters into force, it shall be registered by the Depositaries 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 7**

1. This Protocol shall, after it has entered into force, be open for accession by any non-signatory State.
2. Any State which is not a Contracting State to the Convention may accede to this Protocol if at the same time it ratifies or accedes to the Convention in accordance with Article 15 thereof.
3. Instruments of accession shall be deposited with the Depositaries and accession shall take effect on the thirtieth day after the deposit.

## **ARTICLE 8**

1. Any Party to this Protocol may denounce it by written notification addressed to the Depositaries.
2. Denunciation shall take effect six months following the date on which notification is received by the Depositaries.
3. Denunciation of this Protocol shall not of itself have the effect of denunciation of the Convention.
4. Denunciation of the Convention by a Contracting State to the Convention as supplemented by this Protocol shall also have the effect of denunciation of this Protocol.

## **ARTICLE 9**

1. The Depositaries shall promptly inform all signatory and acceding States to this Protocol and all signatory and acceding States to the Convention:
  - (a) of the date of each signature and the date of deposit of each instrument of ratification of, or accession to, this Protocol, and
  - (b) of the receipt of any notification of denunciation of this Protocol and the date thereof.
2. The Depositaries shall also notify the States referred to in paragraph 1 of the date on which this Protocol enters into force in accordance with Article VI.

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

DONE at Montreal on the twenty-fourth day of February of the year One Thousand Nine Hundred and Eighty-eight, in four originals, each being drawn up in four authentic texts in the English, French, Russian and Spanish languages.



## PROTOCOL

### FOR THE SUPPRESSION OF UNLAWFUL ACTS OF VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION, SUPPLEMENTARY TO THE CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF CIVIL AVIATION, DONE AT MONTREAL ON 23 SEPTEMBER 1971

Signed At Montreal On 24 February 1988

**Entry into force:** The Protocol entered into force on 6 August 1989.

**Status:** 123 Parties.

State	Date of signature	Date of deposit of Instrument of Ratification, Accession or Succession	Effective date
Albania		29 April 2002	29 May 2002
Algeria		6 October 1995	5 November 1995
Argentina	24 February 1988	12 February 1992	13 March 1992
Australia		23 October 1990	22 November 1990
Austria	4 July 1989	28 December 1989	27 January 1990
Azerbaijan		23 March 2000	22 April 2000
Bahrain		12 February 1996	13 March 1996
Belarus	24 February 1988	1 May 1989	6 August 1989
Belgium	15 March 1989	20 April 1999	20 May 1999
Belize		10 June 1998	10 July 1998
Bolivia		1 February 2002	3 March 2002
Bosnia and Herzegovina		15 August 1994	6 March 1992
Botswana		30 October 2000	29 November 2000
Brazil	24 February 1988	9 May 1997	8 June 1997
Brunei Darussalam		20 December 2000	19 January 2001
Bulgaria	24 February 1988	26 March 1991	25 April 1991
Burkina Faso		8 December 1998	7 January 1999

Cambodia		8 November 1996	8 December 1996
Cameroon	23 November 1988		
Canada	24 February 1988	2 August 1993	1 September 1993
Cape Verde		12 September 2002	12 October 2002
Central African Republic		1 July 1991	31 July 1991
Chile	24 February 1988	15 August 1989	14 September 1989
China	24 February 1988	5 March 1999	4 April 1999
Congo	13 April 1989		
Costa Rica	24 February 1988		
Côte d'Ivoire	21 March 1988		
Croatia		8 June 1993	8 October 1991
Cuba		31 October 2001	30 November 2001
Cyprus		23 April 2002	23 May 2002
Czech Republic		25 March 1993	1 January 1993
Democratic People's Republic of Korea	11 April 1989	19 July 1995	18 August 1995
Democratic Republic of the Congo	24 February 1988		
Denmark	24 February 1988	23 November 1989	23 December 1989
Egypt	24 February 1988	25 July 2000	24 August 2000
El Salvador		8 April 1998	8 May 1998
Estonia		22 December 1993	21 January 1994
Ethiopia	24 February 1988	15 December 1999	14 January 2000
Fiji		21 September 1992	21 October 1992
Finland	16 November 1988	3 April 1998	3 May 1998
France	29 March 1988	6 September 1989	6 October 1989
Gabon	20 September		

	1988		
Gambia		16 June 2000	16 July 2000
Georgia		15 February 1999	17 March 1999
Germany	24 February 1988	25 April 1994	25 May 1994
Ghana	24 February 1988	15 July 1997	14 August 1997
Greece	18 April 1988	25 April 1991	25 May 1991
Grenada		15 January 2002	14 February 2002
Guatemala		11 October 1994	10 November 1994
Guinea		1 October 1998	31 October 1998
Guyana		19 June 2002	19 July 2002
Hungary	24 February 1988	7 September 1988	6 August 1989
Iceland	24 February 1988	9 May 1990	8 June 1990
India		22 March 1995	21 April 1995
Indonesia	24 February 1988		
Iran (Islamic Republic of)		14 February 2002	16 March 2002
Iraq		31 January 1990	2 March 1990
Ireland	29 July 1988	26 July 1991	25 August 1991
Israel	24 February 1988	2 April 1993	2 May 1993
Italy	24 February 1988	13 March 1990	12 April 1990
Jamaica	24 February 1988		
Japan		24 April 1998	24 May 1998
Jordan	30 September 1988	18 September 1992	18 October 1992
Kazakhstan		18 May 1995	17 June 1995
Kenya		5 October 1995	4 November 1995
Kuwait	24 February 1988	8 March 1989	6 August 1989
Kyrgyzstan		28 February 2000	29 March 2000
Latvia		13 April 1997	13 May 1997

Lebanon	24 February 1988	27 May 1996	26 June 1996
Liberia	24 February 1988		
Libyan Arab Jamahiriya		26 July 1996	25 August 1996
Liechtenstein		26 February 2001	28 March 2001
Lithuania		4 December 1996	3 January 1997
Luxembourg	18 May 1989		
Madagascar		30 March 1998	29 April 1998
Malawi	24 February 1988		
Malaysia	24 February 1988		
Maldives		22 March 1999	21 April 1999
Mali		31 October 1990	30 November 1990
Malta		14 June 1991	14 July 1991
Marshall Islands	23 June 1988	30 May 1989	6 August 1989
Mauritius	28 June 1989	17 August 1989	16 September 1989
Mexico	24 February 1988	11 October 1990	10 November 1990
Monaco		22 December 1993	21 January 1994
Mongolia		22 September 1999	22 October 1999
Morocco	8 July 1988	15 February 2002	17 March 2002
Myanmar		22 May 1996	21 June 1996
Netherlands	13 April 1988	11 July 1995	10 August 1995
New Zealand	11 April 1989	2 August 1999	1 September 1999
Nicaragua		25 April 2002	25 May 2002
Niger	24 February 1988		
Norway	24 February 1988	29 May 1990	28 June 1990
Oman		27 November 1992	27 December 1992
Pakistan	24 February 1988	26 September 2000	26 October 2000
Palau		12 October 1995	11 November

			1995
Panama		10 April 1996	10 May 1996
Papua New Guinea		11 July 2002	10 August 2002
Paraguay		23 July 2002	22 August 2002
Peru	24 February 1988	7 June 1989	6 August 1989
Philippines	25 January 1989		
Poland	24 February 1988		
Portugal	24 February 1988	18 December 2001	17 January 2002
Republic of Korea	24 February 1988	27 June 1990	27 July 1990
Republic of Moldova		20 June 1997	20 July 1997
Romania	24 February 1988	3 September 1998	3 October 1998
Russian Federation	24 February 1988	31 March 1989	6 August 1989
Rwanda		16 May 2002	15 June 2002
Saint Lucia		11 June 1990	11 July 1990
Saint Vincent and the Grenadines	1 December 1988	29 November 1991	29 December 1991
Samoa		9 July 1998	8 August 1998
Saudi Arabia	24 February 1988	21 February 1989	6 August 1989
Senegal	24 February 1988		
Singapore		22 November 1996	22 December 1996
Slovakia		20 March 1995	1 January 1993
Slovenia		27 May 1992	-
South Africa		21 September 1998	21 October 1998
Spain	2 March 1989	8 May 1991	7 June 1991
Sri Lanka	28 October 1988	11 February 1997	13 March 1997
Sudan		15 May 2000	14 June 2000
Sweden	24 February 1988	26 July 1990	25 August 1990
Switzerland	24 February	9 October 1990	8 November

	1988		1990
Syrian Arab Republic		18 July 2002	17 August 2002
Tajikistan		29 February 1996	30 March 1996
Thailand		14 May 1996	13 June 1996
The former Yugoslav Republic of Macedonia		4 January 1995	-
Togo	24 October 1988	9 February 1990	11 March 1990
Trinidad and Tobago		3 April 2001	3 May 2001
Tunisia		7 June 1994	7 July 1994
Turkey	24 February 1988	7 July 1989	6 August 1989
Turkmenistan		25 May 1999	24 June 1999
Uganda		17 March 1994	16 April 1994
Ukraine	24 February 1988	3 January 1990	2 February 1990
United Arab Emirates	24 February 1988	9 March 1989	6 August 1989
United Kingdom	26 October 1988	15 November 1990	15 December 1990
United States	24 February 1988	19 October 1994	18 November 1994
Uruguay		3 December 1998	2 January 1999
Uzbekistan		7 February 1994	9 March 1994
Venezuela	24 February 1988		
Viet Nam		25 August 1999	24 September 1999
Yugoslavia (F.R. of)		6 September 2001	27 April 1992

## Model Legislative Provisions

To implement the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation signed at Montreal on 23rd September, 1971 and the Protocol for the Suppression of Unlawful Acts of Violence at Airports serving Civil Aviation signed at Montreal on 24th February 1988 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 Protection of Aircraft and Airports Act, and shall come into operation on (.....)<sup>1</sup>.

#### Interpretation

2. (1) In this Act, unless the context otherwise requires - "act of violence" means
- (a) any act done outside (.....)<sup>2</sup> which constitutes the offence of (.....)<sup>3</sup>; and
  - (b) any act done outside (.....)<sup>2</sup> which if done in (.....)<sup>2</sup>, would constitute such an offence as is mentioned in paragraph (a) ;

"the Convention" means the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation signed at Montreal on 23rd September, 1971;

"landing" includes alighting on water;

"military service" includes naval and air force service;

"the Protocol" means the Protocol for the Suppression of Unlawful Acts of Violence at Airports serving Civil Aviation signed at Montreal on 24th February 1988;

"unlawfully" -

- (a) in relation to the commission of an act in (.....)<sup>2</sup>, means an offence that is (apart from this Act) constituted under any law in force in (.....)<sup>2</sup>, and
- (b) in relation to the commission of an act outside (.....)<sup>2</sup>, means the commission of an act that would (apart from this Act) have been an

offence under any law in force in (.....)<sup>2</sup> had it been committed in (.....)<sup>2</sup>.

- (2) For the purposes of this Act -
- (a) 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; and
  - (b) an aircraft shall be taken to be in service during the whole of the period which begins with the pre-flight preparation of the aircraft for a flight and ends twenty-four hours after the aircraft lands having completed that flight, and also at any time (not falling within that period) while, in accordance with paragraph (a) the aircraft is in flight.

### **Destroying, damaging or endangering safety of aircraft**

3. (1) Subject to subsection (3), any person who unlawfully and intentionally -
- (a) destroys an aircraft in service or so damages such aircraft as to render it incapable of flight or as to be likely to endanger its safety in flight; or
  - (b) commits on board an aircraft in flight any act of violence which is likely to endanger the safety of the aircraft,
- shall be guilty of an offence under this Act.
- (2) Subject to subsection (4), any person who unlawfully and intentionally places or causes to be placed on an aircraft in service any device or substance which is likely to destroy the aircraft or is likely so to damage it as to render it incapable of flight or as to be likely to endanger its safety in flight shall be guilty of an offence under this Act; but nothing in this subsection shall be construed as limiting the circumstances in which the commission of any act -
- (a) may constitute an offence under subsection (1); or
  - (b) may constitute attempting or conspiring to commit or abetting the commission of such offence.
- (3) Except as provided by subsection (4), subsections (1) and (2) apply whether any such act therein mentioned is committed in (.....)<sup>2</sup> or elsewhere, whatever the nationality or citizenship of the person committing the act or whatever the State in which the aircraft is registered.



(4) Subsections (1) and (2) do not apply to any act committed in relation to an aircraft used in military, customs or police service unless -

(a) the act is committed in or over (.....)<sup>2</sup>; or

(b) where the act is committed outside (.....)<sup>2</sup>, the person committing the act is a citizen of (.....)<sup>2,4</sup>.

**Other acts endangering or likely to endanger the safety of aircraft**

4. (1) Subject to subsections (5) and (6), any person who unlawfully and intentionally destroys or damages any property to which this section applies or interferes with the operation of such property, where the destruction, damage or interference is likely to endanger the safety of aircraft in flight, shall be guilty of an offence under this Act.

(2) Subsection (1) applies to any property used for the provision of air navigation facilities including any land, building or ship so used, and including any apparatus or equipment so used, whether it is on board an aircraft or elsewhere.

(3) Subject to subsections (4) and (5), any person who intentionally communicates any information which is false, misleading or deceptive in a material particular, where the communication of the information endangers the safety of an aircraft in flight or is likely to endanger the safety of an aircraft in flight, shall be guilty of an offence under this Act.

(4) It shall be a defence for a person charged with an offence under subsection (3) to prove -

(a) that he or she believed, and had reasonable grounds for believing, that the information was true; or

(b) that, when he or she communicated the information, they were lawfully employed to perform duties which consisted of or included the communication of information and that he or she communicated the information in good faith in the performance of those duties.

(5) Subsections (1) and (3) do not apply to the commission of any act unless either the act is committed in (.....)<sup>2</sup>, or where the act is committed outside (.....)<sup>2</sup> -

(a) the person committing the act is a citizen of (.....)<sup>2</sup>; or

(b) the commission of the act endangers or is likely to endanger the safety in flight of a civil aircraft registered in (.....)<sup>2</sup> or chartered by demise to a lessee whose principal place of business, or (if he has no place of business) whose permanent residence is in (.....)<sup>2</sup>; or

(c) the act is committed on board a civil aircraft which is registered or so chartered; or

- (d) the act is committed on board a civil aircraft which lands in (.....)<sup>2</sup> with the person who committed the act still on board.
- (6) Subsection (1) also does not apply to any act committed outside (.....)<sup>2</sup> and so committed in relation to property which is situated outside (.....)<sup>2</sup> and is not used for the provision of air navigation facilities in connection with international air navigation, unless the person committing the act is a citizen of (.....)<sup>2</sup>.
- (7) In this section, "civil aircraft" means any aircraft other than an aircraft used in military, customs or police service.

**Acts of violence at airports serving international civil aviation**

- 5. (1) Any person who unlawfully and intentionally, using any device, substance or weapon-
  - (a) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or
  - (b) destroys or seriously damages the facilities of an airport serving international civil aviation or an aircraft not in service located thereon or disrupts the services of the airport,

where such an act endangers or is likely to endanger safety at that airport, shall be guilty of an offence under this Act.
- (2) Subsection (1) applies whether any such act therein mentioned is committed in (.....)<sup>2</sup> or elsewhere, whatever the nationality or citizenship of the person committing the act or whatever the State in which the aircraft is registered.

**Abetting the commission of acts outside (.....)<sup>2</sup>**

- 6. Any person in (.....)<sup>2</sup> who abets the commission elsewhere of any act which -
  - (a) would, but for subsection (4) of section 3, be an offence under that section; or
  - (b) would, but for subsection (5) and (6) of section 4, be an offence under that section,

shall be guilty of an offence under this Act.

**Penalty**

- 7. Any person guilty of an offence under this Act shall be liable on conviction to be punished with (.....)<sup>5</sup>.

### **Consent for prosecution**

8. No prosecution shall be instituted under this Act without the written consent of (.....)<sup>6</sup>.

### **Extradition**

9. (1) There shall be deemed to be included in [the list of] extradition crimes [described in the (.....)<sup>7</sup>] offences under this Act and attempts to commit such offences.

(2) Where no extradition treaty is in force between (.....)<sup>2</sup> and a State which is party to the Convention or the Convention and the Protocol, a notification (.....)<sup>8</sup> may be made applying the (.....)<sup>7</sup> as if the Convention or the Convention and the Protocol were an extradition treaty between (.....)<sup>2</sup> and that State; but where the (.....)<sup>7</sup> 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 (.....)<sup>7</sup> 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 (4) of section 3, or subsection (5) or (6) of section 4; and

(b) is an offence against the law of any State in the case of which the (.....)<sup>7</sup> has been applied by (.....)<sup>9</sup>,

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 country.
3. List of relevant offences.
4. The Montreal Protocol is intended to apply only to civil aircraft and provides that it shall not apply to aircraft used in military, customs or police services. This provision is, therefore, not required in order to ensure compliance with the Montreal Protocol. 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 infringements of this Statute without the consent of the Government.
7. Extradition Act or other relevant Statute or law.
8. Specify how notification is to be made e.g. by publication official government publication.
9. Specify manner of application e.g. by publication in official government publication.