



The evolution of penal air law

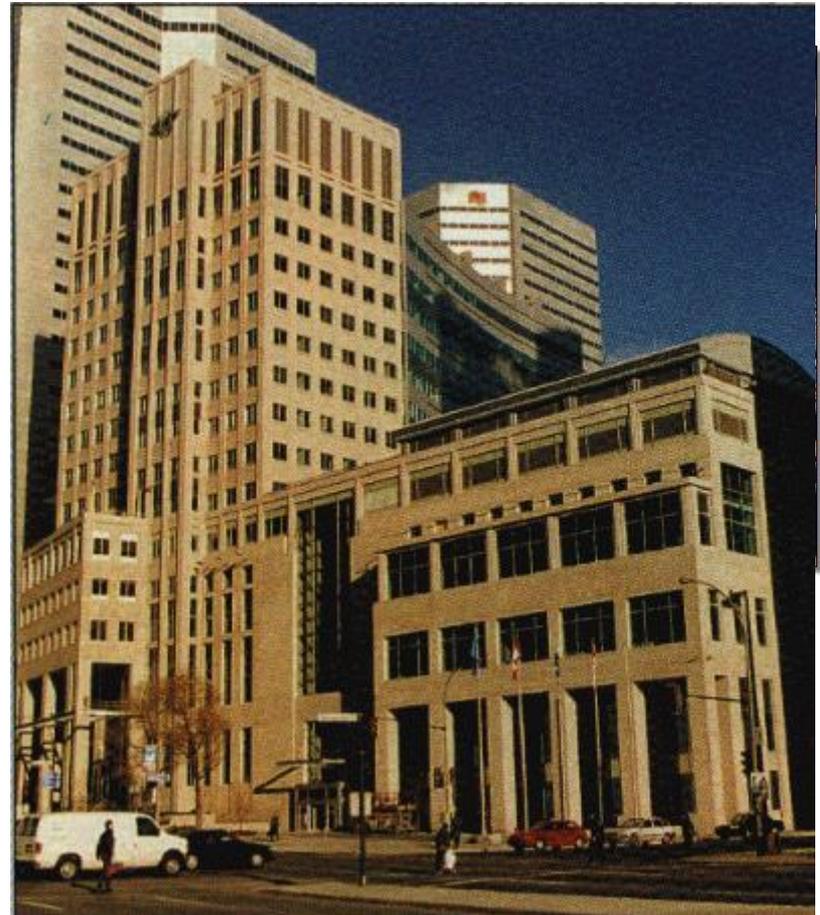
Jiefang Huang assisted by Andrew Opolot

Legal Affairs and External Relations Bureau
International Civil Aviation Organization (ICAO)
Nairobi, Kenya

27 to 28 November 2017



- Briefly about ICAO
- The evolution of aerial crime; threats and responses
- **The Offences and Acts Convention:** Tokyo Convention 1963 and Montreal Protocol 2014
- **The Hijacking Convention:** Hague Convention 1970 and Beijing Protocol 2010
- **The Sabotage Convention:** Montreal Convention 1971
- **The Unlawful Acts Convention**
Beijing Convention 2010





Doc 8364

CONVENTION
on Offences and Certain Other Acts
Committed on Board Aircraft
Signed at Tokyo on 14 September 1963

CONVENTION
relative aux infractions et à certains autres actes
survenant à bord des aéronefs
Signée à Tokyo le 14 septembre 1963

CONVENIO
sobre las infracciones y ciertos otros actos
cometidos a bordo de las aeronaves
Firmado en Tokio el 14 de septiembre de 1963



1963

INTERNATIONAL CIVIL AVIATION ORGANIZATION
ORGANISATION DE L'AVIATION CIVILE INTERNATIONALE
ORGANIZACION DE AVIACION CIVIL INTERNACIONAL

Doc 8966

CONVENTION
for the Suppression of Unlawful Acts
against the Safety of Civil Aviation
Signed at Montreal on 23 September 1971

CONVENTION
pour la répression d'actes illicites
dirigés contre la sécurité de l'aviation civile
Signée à Montréal le 23 septembre 1971

КОНВЕНЦИЯ
о борьбе с незаконными актами, направленными
против безопасности гражданской авиации
Подписана в Монреале 23 сентября 1971 года

CONVENIO
para la represion de actos ilicitos
contra la seguridad de la aviacion civil
Firmado en Montreal el 23 de septiembre de 1971



1971

INTERNATIONAL CIVIL AVIATION ORGANIZATION
ORGANISATION DE L'AVIATION CIVILE INTERNATIONALE
МЕЖДУНАРОДНАЯ ОРГАНИЗАЦИЯ ГРАЖДАНСКОЙ АВИАЦИИ
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Doc 9618

PROTOCOL
for the Suppression of Unlawful Acts of Violence
on Board Aircraft, Supplemental 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

PROTOCOLE
pour la répression des actes illicites de violence
dans les aéronefs survenant à l'aviation civile internationale,
complémentaire à la Convention pour la répression d'actes illicites
dirigés contre la sécurité de l'aviation civile,
faite à Montréal le 23 septembre 1971
Signé à Montréal le 24 février 1988

ПРОТОКОЛ
о борьбе с незаконными актами насилия в аэронефах, дополняющий
международную конвенцию о борьбе с незаконными актами, направленными против безопасности гражданской
авиации, принятой в Монреале 23 сентября 1971 года
Подписан в Монреале 24 февраля 1988 г.

PROTOCOLO
para la represion de actos ilicitos de violencia
en los aeroplanos que prestan servicio a la aviacion civil internacional,
complementario del Convenio para la represion de actos ilicitos
contra la seguridad de la aviacion civil,
hecho en Montreal el 23 de septiembre de 1971
Firmado en Montreal el 24 de febrero de 1988



1988

INTERNATIONAL CIVIL AVIATION ORGANIZATION
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Doc 9671

CONVENTION
on the Marking of Plastic Explosives for the Purpose of Detection,
Done at Montreal on 1 March 1991

CONVENTION
sur le marquage des explosifs plastiques et en faveur des fins de détection
faite à Montréal le 1^{er} mars 1991

КОНВЕНЦИЯ
о маркировке пластических взрывчатых веществ и целях их обнаружения,
состоявшаяся в Монреале 1 марта 1991 года

CONVENIO
sobre la marcación de explosivos plásticos para los fines de detección
hecho en Montreal el 1^o de marzo de 1991

اتفاقية
بشأن تمييز المتفجرات البلاستيكية بغرض كشفها
حزرت في مونتريال في 1 مارس 1991



1991

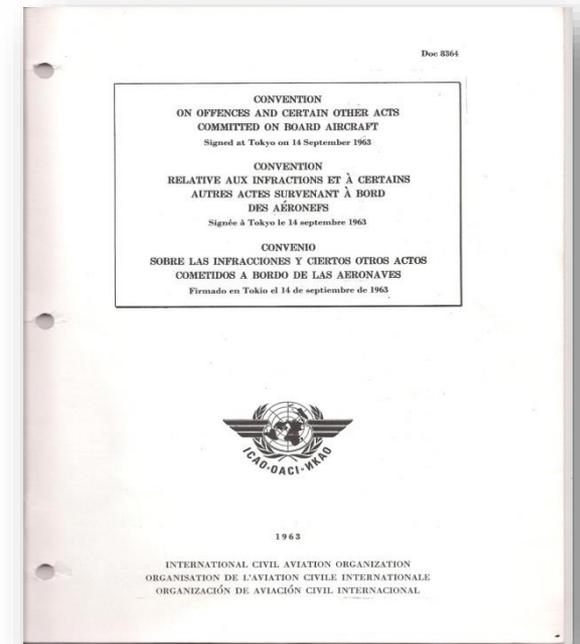
INTERNATIONAL CIVIL AVIATION ORGANIZATION
ORGANISATION DE L'AVIATION CIVILE INTERNATIONALE
МЕЖДУНАРОДНАЯ ОРГАНИЗАЦИЯ ГРАЖДАНСКОЙ АВИАЦИИ
ORGANIZACION DE AVIACION CIVIL INTERNACIONAL

منظمة الطيران المدني الدولي

Tokyo Convention (1963)

Convention on Offences and Certain Other Acts Committed on Board Aircraft

- Entered into force in 1969
(186 parties)
- *US vs. Cordova*, 1950
- Which State has jurisdiction?



TOKYO CONVENTION



Article 1: Scope

- Offences against penal law
- Acts jeopardizing safety or good order and discipline on board



Articles 6,7: Restrain

- Power of Aircraft Commander to restrain an offender until the next landing
- Crew or passenger to take reasonable preventive measures



Article 8, 12: Power of Aircraft Commander to disembark and deliver offender in the state of landing



Article 10: aircraft commander, crews and passengers, aircraft owner or operator not responsible for actions taken

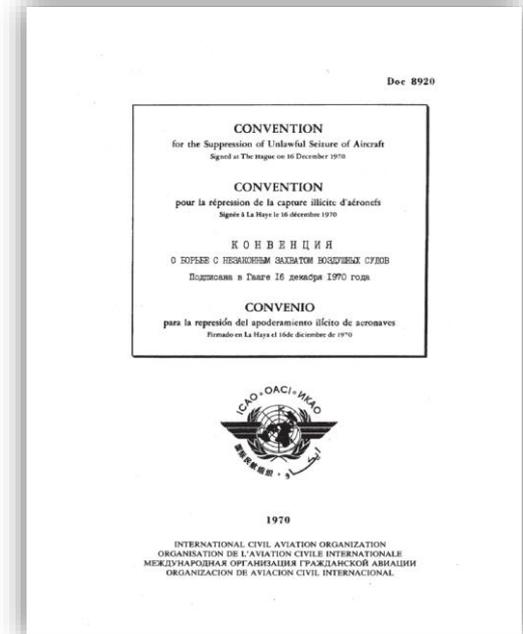
The Hague Convention (1970)

Convention for the Suppression of Unlawful Seizure of Aircraft

- Entered into force in 1971 (185 parties)

In 1969, number of hijackings had climbed to 82 in one year, highest number ever.

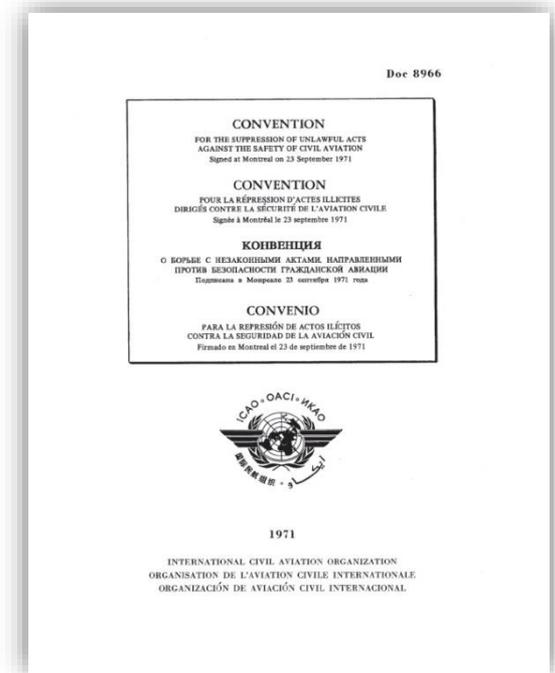
- Criminalization of Hijacking
- Obligation for the States to either extradite or submit the alleged offender to the competent authorities for the purpose of prosecution (“*aut dedere aut judicare*”)
- Jurisdiction
 - State of Registration
 - State of Operator
 - State of Landing



Montreal Convention (1971)

Convention for the Suppression of Unlawful Acts Against the Safety Of Civil Aviation

- Entered into force in 1973
(188 parties)



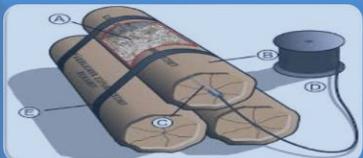
Montreal Convention, 1971 Offences



Act of violence on board aircraft



Destroy aircraft in service



Place destructive device or substance on aircraft



Destroy or damage air navigation facilities;
airport facilities



Communicate false information

Airport Protocol (1988)

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

- Entered into force 1989 (174 parties)

Attacks at Rome and Vienna airports in late December 1985; sudden awareness that international airports unprotected.

- Expansion of the scope of application to acts of violence at airports serving international civil aviation
 - Must endanger safety at the airport



<http://2.cdn.turner.com/cnnnext/dam/assets/140609128842-pakistan-karachi-airport-smoke-story-top.jpg>

MEX Convention(1991)

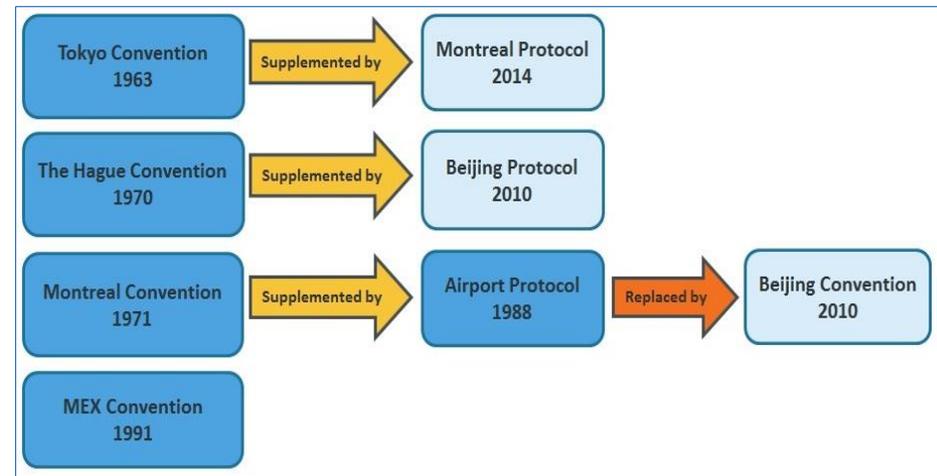
Convention on the Marking of Plastic Explosives for the Purpose of Detection

- Entered into force 1998 (153 parties)
- Uniform international system to mark plastic explosives to enhance their detectability
 - Prohibits manufacture of unmarked explosives
 - Prohibits movements in or out of territory except by military or police authorities



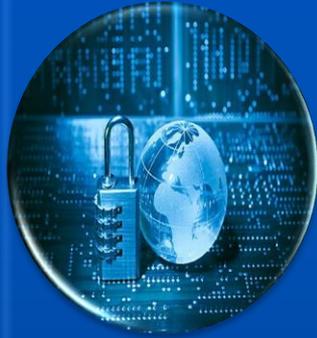
Summary of International AVSEC Treaties

- Gradual expansion of acts which are criminalized
- Gradual expansion of protection to civil aviation
- Increase in recognized bases of jurisdiction

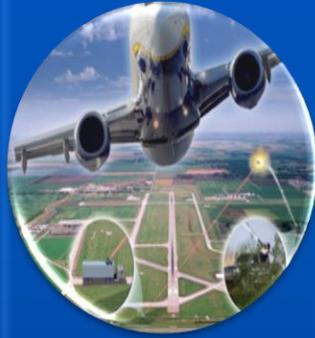




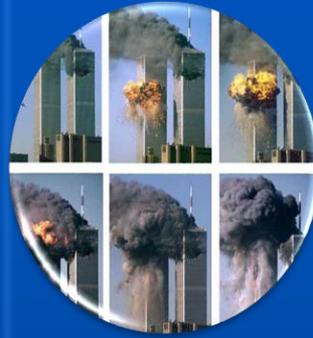
New and Emerging Threats



Cyber attacks



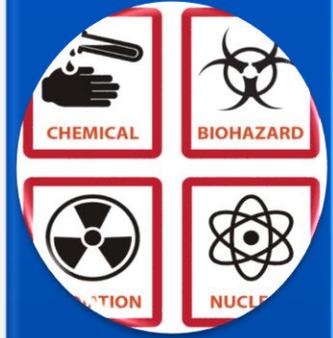
MANPAD attacks



Aircraft weapons



Suicide bombings



WMD BCNs





ICAO

UNITING AVIATION



ICAO

North American
Central American
and Caribbean
(NACC) Office
Mexico City

South American
(SAM) Office
Lima

ICAO
Headquarters
Montréal

Western and
Central African
(WACAF) Office
Dakar

European and
North Atlantic
(EUR/NAT) Office
Paris

Middle East
(MID) Office
Cairo

Eastern and
Southern African
(ESAF) Office
Nairobi

Asia and Pacific
(APAC) Sub-office
Beijing

Asia and Pacific
(APAC) Office
Bangkok



THANK YOU