

Introduction to International Air Law

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Civil Aviation Regulations: An Overview

- What is Regulation?
- Kinds of Aviation Regulations
 - 1. National
 - 2. Bilateral
 - 3. Regional and
 - 4. Global or International Regulations

National Aviation Regulations

- The aims & objectives of national regulation includes:
- to provide for the transport requirements
- To promote tourism sector
- to provide employment and earn foreign exchange
- to meet the needs of the postal system
- to create the conditions for a viable, healthy air transport sector
- to aid in national development
- to serve national defence.
- to meet disaster assistance needs etc.
- **Legislative component** (making of laws, policies, rules and regulations, and these rules for granting or denying of permission etc.)
- **Organizational Component**, Ministry of Civil Aviation and various other agencies like DGCA, Air India, Indian, other private airlines and AAI provides infrastructure

Bilateral Aviation Regulations

- Bilateral regulations are regulations undertaken jointly by two parties or most typically by two states in international civil aviation.
- The main objective of bilateral agreement is the conclusion, implementation or continuance of some kind of intergovernmental agreement or understanding concerning air services between the territories of two countries.
- why bilateral Agreements?
- Failures of Multilateralism
- Art.1 of the Chicago convention.
- Development of bilateral agreements
- the Chicago convention.
- Bermuda I of 1946 bilateral Agreement
- Liberal and open skies type of bilateral agreement

Model Bilateral Agreement

- Salient features of bilateral agreement or
- Bilateral Agreement Consist of
- The Preamble, A definitions article, A grant of rights, A fair and equal opportunity, A designation and authorization, Revocation or suspension of operating authorization, Capacity,
- A tariff, Statistics, Commercial operations or commercial opportunities , An airworthiness, Aviation security, Customs duties, Taxation, User charges
- A consultation , settlement of disputes , Termination or denunciation etc. are part of the bilateral agreement.

Regional Aviation Regulations

- Growing Importance of Regionalism
- Regionalism and International Law
- Growing Importance of Regionalism in Civil Aviation
- Regional Civil Aviation Regulations in the European Union
- Regional Civil Aviation Regulations in the North America
- Civil Aviation Regulations in the SAARC Region

Global Aviation Regulations-Definition, Sources and Development.

- Definition: Air law may be defined as “the body of rules governing the use of airspace and its benefits for aviation, general public and nations of the world”
- Sources: Sources of International Law, (art.38)
- Sources of International Air Law
- Multilateral Convention, Bilateral Agreements, National Laws, Contracts between States and Airline Companies, Contracts between airline companies ; General Principles of Law

Global Aviation Regulations

Development of Int. Air Law or Aviation Regulations can be Categorized into three parts or three Ps- PPP:

- A. Chicago Regime- General and Technical Regulations- Paris convention 1903, Paris Convention 1910 and 1919, Chicago convention 1944 and other related conventions dealing with the above regulations
- B. Warsaw Regime or The Liability Regime- the Warsaw convention 1929 and other related conventions and protocols dealing with Liability of Civil Aviation
- C. Criminal Air Law Regime or Air Safety and Security Regime, including various International conventions relating to aviation safety and aviation security.

History & Development of Global Aviation Regulations

- **Philosophy of Air Law-** Concept of state Sovereignty in the airspace or Roman Law maxim- *Cujus est solum ejus est usque ad coelum* (Who owns the land owns the skies)
- **Customary Law:** In the early times the questions arose over the rights of balloons to cross national borders safely. Example Paris police regulations on balloons of 1783 and the Hague conferences of 1899 & 1907, which prohibited the discharge of projectiles and explosives from balloons
- **Theories:** Scholars proponded theories on Sovereignty and Jurisdiction- Free Air Theory, Complete Sovereignty Theory, Restrictive Sovereignty Theory and Complete Sovereignty but innocent passage.

Int. Air Law Conventions before the Chicago Regime

- 1903 conference discussed the threat posed by the cross-border balloons to consider international aspects of flight across state boundaries
- 1910 Paris Convention (21 states) state sovereignty in the air space and prohibition of flights across some states.
- 1919 Paris Convention (38 states) discussed the use and misuse of world war I, and laid down concept of state sovereignty in airspace, Issues of Nationality, air worthiness, air safety, licenses to personnel etc.,
- Regional and Private Air Law Conventions: Ex, Ibero- American Convention 1926, Havana Convention of 1928 and the Warsaw Convention of 1929.

Preparatory Work of the Conference

- In response to the invitation of the United States Government, representatives of 54 nations met at Chicago from November 1 to December 7, 1944, to "make arrangements for the immediate establishment of provisional world air routes and services" and "to set up an interim council to collect, record and study data concerning international aviation and to make recommendations for its improvement."
- The Conference was also invited to "discuss the principles and methods to be followed in the adoption of a new aviation convention."
- The Conference immediately set up, in addition to the normal working committees and technical committees with appropriate subcommittees. These were as follows:
 - Committee I. Multilateral Aviation Convention and International Aeronautical Body
 - Committee II. Technical Standards and Procedures
 - Committee III. Provisional Air Routes
 - Committee IV. Interim Council

President Roosevelt to the opening plenary session

- “As we begin to write a new chapter in the fundamental law of the air, let us all remember that we are engaged in a great attempt to build enduring institutions of peace. These peace settlements cannot be endangered by petty considerations or weakened by groundless fears. Rather, with full recognition of the sovereignty and judicial equality of all nations, let us work together so that the air may be used by humanity, to serve humanity”

Chicago Conference 1944 and Air Law

- Background of Chicago Conference or events led to the emergence Chicago conference
- developments in technology and absence of effective legal regime
- Deliberations of the Chicago conference
- Outcome of the conference includes
- (1) Interim agreement on Int. civil aviation (2) the convention on Int. civil aviation or popularly known as Chicago convention, 1944 (3) Int. Air Service Transit Agreement, (4) Int. Air Transport Agreement, (5) A Standard form of bilateral agreement and (6) A Draft of 12 Technical Annexes

Chicago Conference contd....

- Interim Agreement: Set up PICAO and worked from 6th June 1945 to 4th April 1947 and it also set up Interim assembly, council and secretariat.
- International Air Services Transit Agreement (IASTA) or Two Freedoms Agreement:
- (1) the privilege to fly across the territory and (2) the privilege to land for non-traffic purposes
- IASTA or Five Freedoms Agreement (3) the right or privilege to discharge passengers, mail or cargo taken on the hope ports (4) the right or privilege to pickup passengers, mail or cargo to be taken to the hope ports (5) the right to pickup and discharge passengers mail or cargo to or from any other contracting states

Other Freedoms

- ICAO characterizes all “freedoms” beyond the Fifth as “so-called” because only the first five “freedoms” have been officially recognized as such by international treaty.
- Sixth Freedom of The Air-the right or privilege, in respect of scheduled international air services, of transporting, via the home State of the carrier, traffic moving between two other States (also known as a Sixth Freedom Right).
- Seventh Freedom of The Air-the right or privilege, in respect of scheduled international air services, granted by one State to another State, of transporting traffic between the territory of the granting State and any third State with no requirement to include on such operation any point in the territory of the recipient State, i.e the service need not connect to or be an extension of any service to/from the home State of the carrier.
- Eighth Freedom of The Air - the right or privilege, in respect of scheduled international air services, of transporting cabotage traffic between two points in the territory of the granting State on a service which originates or terminates in the home country of the foreign carrier or (in connection with the so-called Seventh Freedom of the Air) outside the territory of the granting State (also known as a Eighth Freedom Right or “consecutive cabotage”).
- Ninth Freedom of The Air-the right or privilege of transporting cabotage traffic of the granting State on a service performed entirely within the territory of the granting State (also known as a Ninth Freedom Right or “stand alone” cabotage).

Contd..

- Failures of the Multilateralism which led to the emergence of Standard form of Bilateral Agreement
- Draft of 12 technical annexes and now 19 ex. Personnel licensing, rules of the air, metrological services, aeronautical charts, units of measurements in air and ground, operation of aircraft, aircraft nationality and registration, airworthiness of aircraft, facilitation, aeronautical telecommunications, ATS, search & rescue, aircraft accidents, aerodromes, AIS, environment, security and safe transport of dangerous goods, Safety Management Systems
- Advantages of Technical Annexes
- SARPS and Annexes

Chicago Convention 1944

Chicago convention has been divided into four parts, 22 chapters and 96 articles.

- Part 1 Air navigation art. 1-42 Covering six chapters including the schedule and non-schedule flights
- Part II International Civil Aviation Organization (ICAO) Structure, powers and functions of the ICAO are covered under articles 43-66
- Part III Int. Air Transport regulations and their implementations are covered under articles 67-79
- Part IV Final Provisions including the authentic languages, signature, ratification, amendments etc. are covered under articles 80-96.

Part I on Air Navigation

6 Chapters from Article 1 - 42

- **CHAPTER-I**
- **General Principles and Application of the Convention** (From 1-4) discusses the state sovereignty, territory, civil and state aircraft and use of civil aviation. Whole air law is developed on the concept of state sovereignty in civil aviation.
- According to Article I the **contracting states recognises that every state has complete and exclusive sovereignty over airspace above its territory.**

CHAPTER-II

- **Flight over territory of contracting states Article (5-16)** discusses issues relating to the scheduled and non-scheduled air services, cabotage, pilotless aircraft, prohibited areas, landing at custom airports, air rules and regulations, airport charges etc.
- Article 6 “No scheduled international air services may be operated over or into the territory of a contracting state, except with the special permission or authorization of that state, and in accordance with the terms of such permission or authorization.”

CHAPTER-III

- Chapter-III discusses about the Nationality and Registration of Aircraft from articles 17-21 of the convention.
- According to Article 17 Aircraft have the nationality of the state in which they are registered. Other important provisions of nationality of the aircraft includes dual registration, national laws governing registrations, display of marks and Reports of registration.
- Helps in settling Leasing and liability issues

CHAPTER-IV

- The articles 22-28 of the Chicago Convention deal with the measures to facilitate air navigation.
- Provisions were made for facilitating the flight of aircraft engaged in international air navigation, including simplification of customs requirements, giving assistance to aircraft in distress, aiding investigation of accidents, exempting aircraft from seizure by reason of patent claims or infringements, and by the adoption of Standards and Recommended Practices (SARPs) in respect of airports, radio services, meteorological services and other air navigation facilities, standard communication procedures, codes, markings, signals, lighting and publication of charts & maps.

CHAPTER-V

- Articles 29-36 deal with conditions to be fulfilled with respect to aircraft including
- documents carried in aircraft, aircraft radio equipment, certificate of airworthiness, licences of personnel, recognition of certificates and licences, journey log books, cargo restriction and photographic apparatus.

CHAPTER-VI

- Articles 37-42 deal with Adoption and implementation of International Standards and Recommended Practices (SARPs) in international civil aviation.
- the adoption and departures of international standards, procedures, endorsement of certificates and licences and their validity, recognition of airworthiness etc are covered in this Chapter.

WARSAW SYSTEM & AVIATION LIABILITY REGIME

Warsaw System on Aviation Liability

- Warsaw system consisting of -
- The Warsaw Convention 1929
- The Hague Protocol, 1955
- Guadalajara supplementary convention of 1961
- The Guatemala City Protocol in 1971
- The Montreal Protocols of 1975
- IATA Inter-carrier Agreement (IIA) 1996
- IATA Measures of Implementation Agreement (MIA) 1996
- The Montréal Convention 1999

Aviation - Liability

- Concept of Liability- Kinds of Liability
- Airlines liability
- ATC Liability
- Air Navigation Service Liability-- Ground / Satellite based
- Third Party Liability - Rome convention
- Product liability - Aircraft and other systems

Warsaw Convention 1929

- Historical Background
 - 1920s commercial aviation started
 - After 1st world war- air power effects
 - Sovereignty concept w.r.t air space
 - Limitation of the liability of the carrier: law of the Sea
- Risk involved with the new industry
 - Safety risks, financial risks
 - Insurance argument – easy if liability is limited
 - Speedy settlement - in case of limited liability
 - Burden of proof- If limited liability, reversal of burden of proof

The Warsaw Convention 1929

- History: The Warsaw Convention was the result of two international conferences held in
 - Paris in 1925 and
 - Warsaw in 1929
- as well as extensive work by the *Comité International Technique d'Experts Juridiques Aériens (CITJA)* which had the primary responsibility for preparing the draft convention and reports.
- The Primary objectives of the Warsaw Convention:
 - a) To create and limit the liability of air carriers
 - b) To define and establish uniform rules arising out of international air transportation.

Conti...

- The Warsaw Convention is one of the most Widely adhered and litigated treaties in the world.
- The convention made a unique attempt in the international arena mainly to deal with uniform rules regarding traffic documents,
- The liability of the air carrier,
- Notification of damages and
- Jurisdictional issues

Warsaw- Main Aspects

- Applicability
- Traffic documents
- Liability of the air carrier
- Notification of Damages
- Jurisdiction

The Warsaw Convention 1929

- The Warsaw Convention of 1929, formally known as the Convention for the "unification of certain rules relating to international carriage by air", was signed in Warsaw on 12 October 1929 and came into force on 13 February 1933.
- This convention established the international liability of air carriers and the monetary limits of damage, delay or loss.
- The legal regime governing the liability of air carriers in the carriage of passengers, baggage and cargo comprised a number of international instruments.

The Warsaw Convention 1929

- The Warsaw Convention of 1929 is a basic document on an air carrier's liability, although it has been amended by other subsequent treaties too.
- According to Article 17, an air carrier is liable to death or injury sustained in an accident on board the aircraft, A condition precedent to the carrier's responsibility to the passengers is that the damage must take place on board the aircraft, or in the course of any of the operations of embarking or disembarking [Article 17(1)].

The Warsaw Convention 1929

- Under Article 21, if the carrier proves that the damage has been caused by or contributed to by the negligence of the injured person, Court may, in accordance with the provisions of its own law, exonerate the carrier wholly, or partly, from liability.
- The central underpinning of the Warsaw Convention is Article 22, which places a maximum ceiling on the damages recoverable from an air carrier when a passenger has been injured, or killed, in an international air travel.

The Warsaw Convention 1929

- The internationally established rule is that subscribing air carriers are liable to damage sustained by a passenger during the course of international transport up to an amount not exceeding 1,25,000 princare francs (at that time equal to about \$ 8,300).
- The wilful misconduct exception to the liability limitation, under Article 25 of the Warsaw Convention, has been a cause of concern and extensive debate since its promulgation.
- Special contracts, ticket conditions or other provisions designed to reduce or limit this liability were declared void by Article 23.
- Under Article 24 all sanctions arising out of the convention, were subject to the terms of the convention.

The Hague Protocol, 1955

- The Hague Protocol, 1955, has changed those provisions of the Warsaw Convention which were found incompatible with the changed situation of international air transport, or were unclear or subject to different interpretations.
- It doubles the original Warsaw limits of liability by amending Article 22, to increase the gold franc limit from 1,25,000 to 2,50,000 (approximately \$ 16,000 in 1955). This was accompanied by a revision of Article 25.

The so-called Montreal Agreement of 1966

- The so-called Montreal Agreement of 1966, which is not an intergovernmental agreement but only an arrangement on liability among air carriers operating passenger transport, to, from or with an agreed stopping place in the United States, was adopted on 13 May 1966.
- This was necessitated by the withdrawal of the denunciation of the Warsaw Convention by the US which was to take effect on 16 May 1966.
- By this agreement, the parties have *de facto* amended the application of the Warsaw Convention as changed by the Hague Protocol, 1955, by providing for a limit of liability for each passenger in the case of death, or bodily injury, of **US\$ 75,000**, inclusive of legal fees and costs and **\$ 58,000** exclusive of legal fees and costs.

The Four Montreal Protocols of 1975

- The 1975 'diplomatic conference on air law' drafted and adopted four protocols to the Warsaw Convention.
- The protocols did not raise the limit of liability, but changed the expression from poincare francs to special drawing rights (SDRs) as defined by the International Monetary Fund (IMF).

The Four Montreal Protocols of 1975

- Additional Protocol No. 1 establishes the liability limit at 8,300 SDR, or 1,25,000 monetary units (MU) per passenger.
- Additional protocol No. 2 limits the liability at 16,600 SDR, or 2,50,000 MU, per passenger.
- Additional Protocol No. 3 establishes 100,000 SDR, or 1,50,000 MU, per passenger in the case of injury or death.
- Additional Protocol No. 4 revises various provisions relating to air cargo regulations.

The conventions dealing with damage to the third parties on surface

- CITEJA also initiated the work on Certain Rules Relating to the Damages Caused by Aircraft to Third Parties on the Surface.
- The Rome Convention of 1933
- Add. Insurance Protocol of Brussels, 1938
- Rome Convention of 1952
- The Montreal Protocol of 1978.

Montreal Convention 1999

- In May 1999 following decades of discussion about achieving a new comprehensive Intergovernmental regime, ICAO convened a Diplomatic Conference in Montréal attended by 118 states.
- The purpose of this conference was to consider a new convention to modernize and replace the existing Warsaw System of Liability.

Montreal Convention 1999

- General Provisions (Articles: 1-2)
- Documentation and Duties of the Parties relating to the Carriage of Passengers, Baggage and Cargo (Articles: 3-16)
- Liability of the Carrier and Extent of Compensation for Damage(17-37)
- Combined Carriage (Articles 38)
- Carriage by Air performed by a Person other than the Contracting Carrier (Articles 39-48)
- Other Provisions (Articles 49-52)
- Final Clauses (Articles 53-57)

Exception to Art. 21

Carrier will not be liable for damages arising under Art. 17 (1) to the extent that they exceed for each passenger 100000 SDR if the Carrier proves that:

1. such damage was not due to the negligence or other wrongful act or omission of the Carrier or its Servants or Agents; or
2. such damage was solely due to the negligence or other wrongful act or omission of a third party.

Liability Limit for Delay, Baggage and Cargo Art. 22

- Liability of Carrier towards Delay to each Passenger:
4150 SDR
- Liability of Carrier towards Baggage destruction,
Loss, Damage or delay to each Passenger :
1000 SDR
- Liability of Carrier towards Cargo destruction,
Loss, Damage or Delay to each Passenger : 17
SDR/Per Kg

Advance payments- Art 28

- Carrier is obligated to make advance payments with respect to passenger injury or death if required by the national law of the carrier.

Art. 33 – Fifth Jurisdiction

- The Convention created an additional ‘Fifth’ Jurisdiction to the four retained from the **Warsaw Convention**.

**Principal & permanent residence of the passengers
residence or home land**

1. Domicile of the Carrier
2. Principal Place of Business of the Carrier
3. Where ticket was purchased
4. Passengers Destination

Insurance Art. 50

- The Convention imposes the a duty upon the contracting states to require their air carriers to maintain adequate insurance covering their liability under the convention.
- The determination of what constitutes adequate insurance appears to be left to each contracting state.

Summary

- Strict Carriers Civil Liability for damages- 100 000 SDRs
- Advance payments
- Possibility of victims to bring suits before the passengers residences jurisdiction
- Increase carriers liability for delay, loss /damage
- Modernization of transport documents
- Clarification with respect to contractual carriers and actual carriers
- Improved adequate insurance provisions
- Introduction of so called regional clause etc.....

Limits of Liability under various Conventions – *in a nutshell*

Subject	Warsaw Convention 1929	Warsaw Convention Amended By Hague Protocol	Warsaw Convention Amended by Montreal Protocol-4	Montreal Convention 1999
Passenger Delay	125,000 Francs (US\$ 8,300)	250,000 Francs (US\$ 16,600)	250,000 Francs (US\$ 16,600)	4150 SDRs (US\$ 6140) Approx.
Baggage Loss, Delay or Damage for (Checked)	250 Francs Per Kg (US\$ 9.07 per Pound)	250 Francs Per Kg (US\$20 per Kg)	250 Francs Per Kg (US\$ 20 Per Kg.)	1000 SDRs Per Passenger (US\$ 1480) Approx.

Subject	Warsaw Convention 1929	Warsaw Convention Amended By Hague Protocol	Warsaw Convention Amended by Montreal Protocol-4	Montreal Convention 1999
Unchecked (Carry On) Baggage Passenger must prove Carrier's Negligence	5000 Francs Per Passenger (US\$ 400.11)	5000 Francs Per Passenger (US\$ 400.11)	250 Francs Per Kg. (US\$ 20 Per Kg)	1000 SDR Per Passenger (US\$ 1480) approx.
Cargo Loss, Delay or Damage	250 Francs Per Kg. (US\$ 20 per Kg.)	250 Francs Per Kg. (US\$ 20 per Kg.)	17 SDR Per Kg. (US\$ 25.16) Approx.	17 SDR Per Kg. (US\$ 25.16) Approx.

AVIATION SAFETY & SECURITY

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Air Safety and Air Security

- The phrase "AIR SAFETY" generally connotes the minimisation of dangers, risks and hazards during aircraft operations, bearing chiefly on safety standards established by aviation technology and the competence of personnel involved in aircraft operation.
- In other words, air safety presupposes precautions against accidents of any kind, either by preventing their recurrence or by trying to minimise their effect.
- AVIATION SECURITY involves the protection of persons and cargo in carriage by air facilities and related auxiliary support activities.
- Civil aviation has been greatly affected by social unrest since 1960s in various forms: hijacking, shooting down, sabotage - like explosions in aircraft, missile attacks against aircraft, armed attacks on airports, passengers and aviation property and bombings.
- The motives range from political ideology to extortion and murders. The targets, besides aircraft themselves, include "aviation facilities" - air terminals, cargo buildings, maintenance hangars, passenger buses, airline offices and travel agencies.

ICAO and Safety

- The ICAO derives its legitimacy and legal sustenance from the Chicago Convention, which sets the ICAO's chief objective as the safe and orderly development of international civil aviation throughout the world.
- The Chicago Convention also stipulates two other objectives for the ICAO:
 - (a) that the ICAO promotes flight safety in international civil aviation, and
 - (b) Through the development of its standards and recommended practices (SARPs), meets the needs of safe, regular, efficient and economical air transport.

ICAO and Air Safety

- Article 26 and Annex 13 of the Chicago Convention also relevant to the global air safety and security regulations which deals with Aircraft Accident Investigation.
- Article 26 postulates that the inquiry is to be conducted subject to the laws of the state where an accident occurs, and consideration is to be given to the procedures recommended by the ICAO.
- The ICAO also adopted Annex 13 – Aircraft Accident Investigation in-1957 to conduct aircraft accident investigations.
- Article 54 entrusts the amendment of these annexes to the ICAO Council. Article 90(a) further prescribes a special meeting of the Council followed by a two-thirds vote for the adoption of new annexes.

Air Safety and Global Developments

By 1980, substantial increase in the lease, charter and movement of operational bases of aircraft across national boundaries had posed real safety oversight problems.

Article 83 bis of the Chicago Convention was adopted in 1980 to end these problems and was enforced on 20 June 1997; it will solve many problems of regulation and air safety oversight, which are experienced when an aircraft registered in one state is operated by an operator based in another state.

In 1984, a protocol amending the Chicago Convention of 1944 under Article 3 bis was adopted, recognizing the principle that states must refrain from the use of weapons against civil aircraft in flight, and that the lives of persons on board the flight and aircraft safety must not be endangered while intercepting civil aircraft.

Air Safety and Various Annexes

- The ICAO Annexes, most of which aim to maintain and improve safety, cover personnel licensing, airworthiness of aircraft, aircraft operations, air traffic services, aeronautical, information, telecommunications, meteorological services, and airport security.
- They collectively ensure the highest degree of air safety on a worldwide basis.
- These technical specifications are kept up-to-date in the 19 Annexes of the Chicago Convention, covering all the specialised sectors of air navigation.
- The Annexes are supplemented by procedures of worldwide or regional application and technical manuals.
- The ICAO also establishes regional plans, specifying ground facilities and services required for international air navigation.

Annex 17 - Security - Safeguarding International Civil Aviation Against the Acts of Unlawful Interferences

- Situation in 1960 and early 1970s necessitated the adoption of annex 17 in 1974.
- **Chapter one** defines terms like air side, security, security control and security programme.
- **Chapter two** aims and objectives: to safeguard international civil aviation against acts of unlawful interference; safety of passengers, crew and ground personnel, and development plans and their implementation procedures for the operation of international flights.
- **Chapter three** embodies detailed provisions for the organisation of security.
- **Chapter four** mentions various preventive security measures for the contracting states
- **Chapter five** describes the management of response to acts of unlawful interference.

Civil Aviation and Unlawful Interference

- The offence of unlawful interference with civil aviation, whether a direct attack on an airline, its passengers and crew or on other related properties, or an act of seizure of an aircraft for the illegal carriage of narcotics by air, is a criminal act and can be broadly identified as an act of terrorism.
- The Annex 17 of the Chicago Convention defines aviation security as a "combination of measures of human and material resources intended to safeguard civil aviation against acts of unlawful interference". It contains standards and recommended practices (SARPs) for safeguarding international civil aviation operations worldwide.
- Aviation security requires incessant precautions and effective security controls and procedures to be implemented by governments, airports authorities and airlines.

Aviation Security & International Conventions

- The safeguards for international civil aviation against acts of unlawful interference have been a matter of grave concern to the governments and the ICAO all over the world.
- The costs resulting from unlawful interference in terms of loss of human lives, disruption of air services and adverse economic impact are incalculable.
- These incidents occurring as they do over the frontiers of more countries then one raise the important issue of jurisdiction also.
- This called for specific undertakings by states through various conventions, agreements, declarations and national legislation.
- The most important conventions adopted by the ICAO as yet are the Tokyo Convention 1963, the Hague Convention 1970, the Montreal Convention 1971, the Montreal Protocol (supplementary to the Montreal Convention) 1988, and the Convention on the Marking of Plastic Explosives for the Purpose of Detection 1991.

Aviation Security and International Conventions

Tokyo Convention 1963

- The Tokyo Convention of 1963 refers to any offence committed or act done by a person on board any aircraft registered in a contracting state while the aircraft is in flight or on the surface of the high seas or of any other area outside the territory of such state.
- Convention also mentions acts of interference, seizure of or other wrongful exercise of control of an aircraft, implying its concern over hijacking.

Hague Convention 1970

- The Hague Convention of 1970 in Article 1 identifies any person who, on board an aircraft in flight, unlawfully by force or threat or by any other form of intimidation seizes or takes control of such aircraft, or even attempts to perform such an act, as an offender. Anyone who aids such an act is an accomplice and is included in the category of the former

Montreal Convention 1971

- The Montreal Convention of 1971 also fails to define in specific terms the offence of hijacking, although it circumvents barriers placed by Article 1 of the Hague Convention.
- For instance it encircles instances where an offender need not be physically present in an aircraft; it includes instances where an aircraft is immobile while its doors are open; and it even draws into its net any person who disseminates false information which could endanger an aircraft in flight.

Aviation Security and International Conventions

- Montreal Protocol (supplementary to the Montreal Convention) 1988, and
- the Convention on the Marking of Plastic Explosives for the Purpose of Detection 1991
- Various UN General Assembly Resolutions
- Beijing Convention and Protocol 2010: Revised the earlier Anti-Hijacking Conventions by criminalizing the act of using civil aircraft as weapons, and the act of using dangerous materials to attack aircraft or other targets. Beijing Protocol updated the Hague Convention by expanding its coverage against the different forms of aircraft hijackings.

Prohibition of the Use of Weapons against Civil Aircraft in Flight

- Historically, the greatest risk posed by military activities to civil aviation has been demonstrated by occurrences of civil aircraft being shot down deliberately or by mistake, causing numerous fatalities.
- 27 July 1955, an aircraft of El Al Israeli Airlines Ltd. entered into Bulgarian airspace and was shot down, causing the death of all 58 persons on board. On 21 February 1973, a Boeing 727 belonging to Libyan Arab Airlines was shot down by Israeli air forces over the Israeli-occupied Sinai Peninsula, resulting in the death of 110 persons.
- On 31 August/1 September 1983, a Boeing 747 of Korean Air-lines (Flight 007) deviated from its planned route into the airspace of the Soviet_Union and was shot down by the latter, killing 269 persons on board.
- On 10 October 1998, a Boeing 727 aircraft of Congo Airlines was shot down, resulting in the loss of 41 lives.
- Article 3 *bis* of the Chicago Convention in 1984 was adopted. Prohibition on the use of weapon and ensuring protection of passengers on board.
- Emergency Landing in exceptional cases

Thank you