AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

116TH CONGRESS
2d Session

SENATE

TREATY DOC.
116–4

PROTOCOL SUPPLEMENTARY TO THE CONVENTION FOR THE SUPPRESSION OF UNLAWFUL SEIZURE OF AIRCRAFT

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

PROTOCOL SUPPLEMENTARY TO THE CONVENTION FOR THE SUPPRESSION OF UNLAWFUL SEIZURE OF AIRCRAFT (THE "BEIJING PROTOCOL"), ADOPTED BY THE INTERNATIONAL CIVIL AVIATION ORGANIZATION INTERNATIONAL CONFERENCE ON AIR LAW (DIPLOMATIC CONFERENCE ON AVIATION SECURITY) IN BEIJING ON SEPTEMBER 10, 2010, AND SIGNED BY THE UNITED STATES ON THAT SAME DATE

JUNE 18, 2020.—Treaty was read the first time, and together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

U.S. GOVERNMENT PUBLISHING OFFICE

99–118 WASHINGTON : 2020

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *June 18, 2020.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft (the "Beijing Protocol"), adopted by the International Civil Aviation Organization International Conference on Air Law (Diplomatic Conference on Aviation Security) in Beijing on September 10, 2010, and signed by the United States on that same date. I also transmit, for the information of the Senate, the report of the Department of State with respect to the Beijing Protocol.

The Beijing Protocol is an important component of international efforts to prevent and punish terrorism targeting civil aviation. It supplements the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on December 16, 1970 (the "Hague Convention"), and fills several gaps in the existing international legal framework for combatting global terrorism. It will significantly advance cooperation between States Parties in the prevention of the full range of unlawful acts relating to civil aviation and in the prosecution and punishment of offenders.

The Beijing Protocol amends the existing hijacking offense in the Hague Convention to cover hijackings that occur pre- or post-flight and addresses situations in which the offender may attempt to control an aircraft from outside of the aircraft, such as by remotely interfering with flight operation or data transmission systems. The Beijing Protocol requires States Parties to criminalize these acts under their domestic laws and to cooperate to prevent and investigate suspected crimes under the Beijing Protocol. It includes an "extradite or prosecute" obligation with respect to persons accused of committing, attempting to commit, conspiring to commit, or aiding in the commission of such offenses.

Some changes to United States law will be needed for the United States to implement provisions of the Beijing Protocol, obligating the United States to criminalize certain offenses, make those offenses punishable by appropriate penalties, and authorize the assertion of jurisdiction over such offenses. Proposed legislation is being separately transmitted by my Administration to the Congress.

I recommend that the Senate give early and favorable consideration to the Beijing Protocol, subject to a reservation and certain understandings that are described in the accompanying report of the Department of State.

DONALD J. TRUMP.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, February 5, 2020.

The PRESIDENT,
The White House.

MR. PRESIDENT: I have the honor to submit to you, with a view to its transmission to the Senate for advice and consent to ratification, subject to a reservation and certain understandings set forth in the enclosed overview, the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft ("the Beijing Protocol"), adopted by the International Civil Aviation Organization International Conference on Air Law (Diplomatic Conference on Aviation Security) in Beijing on September 10, 2010, and signed by the United States on that same date. The Beijing Protocol is an important component of international efforts to prevent and punish terrorism targeting civil aviation. It supplements the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on December 16, 1970 ("the Hague Convention"), and strengthens the existing international legal framework for combating global terrorism. It will significantly advance cooperation between States Parties in the prevention of the full range of unlawful acts relating to civil aviation and in the prosecution and punishment of offenders.

As of March 2, 2020, 34 States have deposited their instruments of ratification, acceptance, approval, or accession. An additional 20 States have signed the Beijing Protocol but have not yet deposited an instrument of ratification, acceptance, or approval. An overview of the Beijing Protocol, including a detailed article-by-article analysis, is enclosed with this report. Recommended legislation necessary to implement the Beijing Protocol is being prepared for separate submission to the Congress. The Departments of Justice, Homeland Security, Defense, and Energy join in recommending that the Beijing Protocol be transmitted to the Senate at an early date for its advice and consent to ratification, subject to a reservation to and certain understandings.

With the exception of the provisions that obligate the United States to criminalize certain offenses, make those offenses punishable by appropriate penalties, and authorize the assertion of jurisdiction over such offenses, the Beijing Protocol is self-executing. Included among the self-executing provisions are those provisions obligating the United States to treat certain offenses as extraditable offenses for purposes of bilateral extradition treaties. None of the provisions of the Beijing Protocol, including Articles IX and X, confer private rights enforceable in United States courts.

I recommend, therefore, that you transmit the Beijing Protocol to the Senate for its advice and consent to ratification.

Sincerely,

MICHAEL R. POMPEO.

Enclosures: As stated.

Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft

OVERVIEW

The Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft (the "Beijing Protocol" or "Protocol"), adopted by the International Civil Aviation Organization International Conference on Air Law in Beijing on September 10, 2010, is an important component of international efforts to prevent and punish terrorism targeting civil aviation. The Beijing Protocol amends and supplements the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on December 16, 1970 (the "Hague Convention") (together with the Protocol, the "Hague Convention, as amended"), S. Treaty Doc. 92-1.

The Hague Convention, an International Civil Aviation Organization (ICAO) counterterrorism treaty to which the United States is already a Party, requires States Parties to criminalize the hijacking of a civil aircraft in flight. It also creates a series of obligations relating to this offense with the object of bringing the perpetrators to justice, including the "extradite or prosecute" obligation that is a common feature of counterterrorism instruments. The Hague Convention is widely ratified, and has been an integral part of a broader international legal framework to counter terrorism.

Following the terrorist attacks of September 11, 2001, the international community recognized the need for additional international legal measures to address new and emerging threats involving civil aviation. The Hague Convention was among the first international treaties to address the issue of terrorism, and many of its provisions needed updating due to changes in the threats faced by civil aviation during the intervening four decades. To this end, the United States, along with close partners, helped lead the effort within ICAO to modernize the offense provisions in the Hague Convention and to incorporate standard provisions developed in more recent counterterrorism conventions.

The resulting Beijing Protocol fills several gaps in the existing international legal framework for combating global terrorism. It will significantly advance cooperation between States Parties in the prevention of the full range of unlawful acts relating to civil aviation and in the prosecution and punishment of offenders.

The Beijing Protocol amends the existing hijacking offense in the Hague Convention to cover hijackings that occur pre- or post-flight and to address situations in which the offender may attempt to control an aircraft from outside the aircraft, such as by remotely interfering with flight operation or data transmission systems.

The Beijing Protocol also includes or builds upon many of the standard provisions developed in more recent counterterrorism conventions to which the United States is already a party, such as the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, done at London October 14, 2005 ("2005 SUA Protocol") and the Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, done at London October 14, 2005 ("2005 Fixed Platforms Protocol") (together, the "2005 SUA Protocols"), S. Treaty Doc. 110-8; the International Convention for the Suppression of Acts of Nuclear Terrorism, done at New York April 13, 2005 ("Nuclear Terrorism Convention"), S. Treaty Doc. 110-4; the International Convention for the Suppression of the Financing of Terrorism, done at New York December 9, 1999 ("Terrorism Financing Convention"), S. Treaty Doc. 106-49; and the International Convention for the Suppression of Terrorist Bombings, done at New York December 15, 1997 ("Terrorist Bombings Convention"), S. Treaty Doc. 106-6. For example, the Beijing Protocol expands the types of inchoate and ancillary offenses States Parties must criminalize, and to which an "extradite or prosecute" obligation applies. Like other more recent counterterrorism conventions, the Beijing Protocol contains a military exclusion clause that clarifies the Protocol does not apply to activities undertaken by State military forces in the exercise of their official duties.

As of March 2, 2020, 34 States have deposited their instruments of ratification, acceptance, approval, or accession, and an additional 20 States have signed the Beijing Protocol but have not yet deposited their instruments of ratification, acceptance, or approval. The Beijing Protocol entered into force on January 1, 2018, following deposit of the twenty-second instrument of ratification, acceptance, approval, or accession. For each State that ratifies, accepts, approves or accedes to the Beijing Protocol after that date, it shall enter into force for that State on the first day of the second month following the deposit of that State's instrument of ratification, acceptance, approval or accession with the ICAO Secretary General. If a State, which is not a party to the Hague Convention, consents to be bound by the Beijing Protocol, that State automatically becomes a State Party to the Hague Convention, as amended.

This report provides an article-by-article analysis of the provisions of the Beijing Protocol, which take the form of amendments to the Hague Convention.

Article-by-Article Analysis of the Beijing Protocol

Article I:

Article I provides that the Beijing Protocol supplements the Hague Convention.

Article II:

Article II of the Beijing Protocol replaces Article 1 of the Hague Convention with a new, more expansive provision that provides for a broader primary hijacking offense and additional inchoate and ancillary offenses. Paragraph 1 provides that any person commits an offense if that person unlawfully and intentionally seizes or exercises control of an "aircraft in service" by force or threat thereof, or by coercion, or by any other form of intimidation, or by any technological means. Previously, the Hague Convention only applied to "aircraft in flight" and did not account for seizure through technological means.

"Unlawfully" is a term used in many international conventions, including the prior counterterrorism conventions, to make clear that States are not required to criminalize conduct that, under common principles of criminal law, is not considered unlawful (e.g., properly authorized use of force by its own law enforcement authorities in carrying out their official duties, or conduct permitted in responding to credible threats against persons or property, including in self-defense), even if those actions are otherwise described in the offense.

Paragraph 2 provides that any person also commits an offense if that person makes a threat to commit the offense set forth in paragraph 1, or unlawfully and intentionally causes any person to receive such a threat, under circumstances which indicate that the threat is credible. The inclusion of "threats" as an ancillary offense can also be found in Article 2(2) of Nuclear Terrorism Convention, as well as in Article 4(4) of the 2005 SUA Protocol and Article 3(3) of the 2005 Fixed Platforms Protocol. The inclusion of the new threat provision is fully warranted by the grave nature of the harm threatened and is formulated in a manner that is compatible with threat offenses in U.S. law.

Paragraphs 3 and 4 contain additional inchoate and ancillary offenses that will strengthen the ability of the international community to investigate, prosecute, and extradite those who conspire or otherwise contribute to the commission of offenses defined in the Hague Convention, as amended. Paragraph 3(a) provides that any person also commits an offense if that person attempts to commit the offense set forth in paragraph 1. Pursuant to paragraph 3(b), any person also commits an offense if that person organizes or directs others to commit an offense set forth in paragraph 1, 2, or 3(a). Paragraph 3(c) provides that any person also commits an offense if that person participates as an accomplice in an offense set forth in paragraph 1, 2, or 3(a). Paragraph 3(d) provides that any person also commits an offense if that person unlawfully and intentionally assists another person to evade investigation, prosecution or punishment, knowing that the person has committed an act that constitutes an offense set forth in paragraph 1, 2, 3(a), 3(b), or 3(c), or that the person is wanted for criminal prosecution by law enforcement authorities for such an offense or has been sentenced for such an offense.

Paragraph 4 further addresses liability in the context of participation in an organized criminal group. It provides that each State Party shall also establish as offenses, when committed intentionally, whether or not any of the offenses set forth in paragraph 1 or 2 is actually committed or attempted, either or both of the following: (a) agreeing with one or more other persons to commit an offense set forth in paragraph 1 or 2 and, where required by national law, involving an act undertaken by one of the participants in furtherance of the agreement; or (b) contributing in any other way to the commission of one or more offenses set forth in paragraph 1 or 2 by a group of persons acting with a common purpose, and such contribution shall either be made with the aim of furthering the general criminal activity or purpose of the group, where such activity or purpose involves the commission of an offense set forth in paragraph 1 or 2, or be made in the knowledge of the intention of the group to commit an offense set forth in paragraph 1 or 2.

Article III:

Article III replaces Article 2 of the Hague Convention with a new Article 2 that mirrors the old article but replaces the term "Contracting State" with "State Party" in requiring States Parties to make the expanded range of offenses set forth in the new Article 1 punishable by severe penalties.

Article IV:

Article IV adds new Article 2 *bis* to the Hague Convention, addressing legal entity liability. It provides that each State Party, in accordance with its domestic legal principles, may take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for management or control of that legal entity has, in that capacity, committed an offense set forth in Article 1 of the Hague Convention, as amended. Such liability may be criminal, civil, or administrative and is without prejudice to the criminal liability of individuals having committed the offenses. Further, States Parties that do hold legal entities liable for offenses under Article 1 of the Hague Convention, as amended, are required to endeavor to ensure that the applicable criminal, civil, or administrative sanctions are effective, proportionate, and dissuasive. Such sanctions may include monetary sanctions.

Article IV closely tracks Article 5(2) of the 2005 SUA Protocol. However, the language of Article IV is permissive, while the 2005 SUA Protocol requires States Parties, in accordance with domestic legal principles, to take necessary measures to establish legal entity liability.

Article V:

Article V amends Article 3 of the Hague Convention to reflect the expanded scope of the Hague Convention, as amended, to cover "aircraft in service" while still requiring certain international links for its application.

Paragraph 1 replaces the definition of "aircraft in flight" in paragraph 1 of Article 3 of the Hague Convention with a new definition for "aircraft in service." Paragraph 1 provides that an aircraft is considered to be in service from the beginning of the pre-flight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing. 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.

Paragraphs 2 and 3 make minor technical changes to Article 3(3) and 3(4) of the Hague Convention, replacing the word "registration" with "registry," and the word "mentioned" with "set forth," respectively.

Paragraph 4 makes conforming changes to Article 3(5) of the Hague Convention, providing that, under the Hague Convention, as amended, notwithstanding paragraphs 3 and 4 of Article 3, Articles 6, 7, 7 *bis*, 8, 8 *bis*, 8 *ter*, 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 registry of that aircraft.

Article VI:

Article VI adds new Article 3 *bis* to the Hague Convention, conforming the scope of the Hague Convention to other recent international counterterrorism conventions. Paragraph 1 of Article 3 *bis* addresses the interaction of the convention with other rights, obligations, and responsibilities of States and individuals. Paragraph 1 provides that nothing in the Hague Convention, as amended, shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes and principles of the Charter of the United Nations, the Convention on International Civil Aviation, and international humanitarian law. Paragraph 1 is based on similar provisions contained in Article 19(1) of the Terrorist Bombings Convention and Article 21 of the Terrorism Financing Convention.

Consistent with recent counterterrorism instruments, paragraph 2 of Article 3 *bis* contains two important exceptions to the applicability of the Hague Convention, as amended. It states that the Hague Convention, as amended, does not apply to the activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law, and the activities undertaken by military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law. This exception restates similar language in Article 19(2) of the Terrorist Bombings Convention, Article 3 of the 2005 SUA Protocol, and Article 4(2) of the Nuclear Terrorism Convention.

The first exception is meant to exclude from the scope of the Hague Convention, as amended, the activities of armed forces, so long as those activities are in the course of an "armed conflict." To ensure that suspected offenders cannot claim the benefit of the "armed conflict" exception in Article 3 *bis* to avoid extradition or prosecution under the Hague Convention, as amended, it would be useful for the United States to articulate an understanding clarifying the scope of this exception, consistent with the understandings taken with respect to the similar provisions in Article 19(2) of the Terrorist Bombings Convention and Article 3 of

the 2005 SUA Protocol, and with respect to the reference to the undefined term "armed conflict" in Article 2(1)(b) of the Terrorism Financing Convention. Those understandings were based upon the widely accepted provision in paragraph 2 of Article 1 of Protocol II Additional to the Geneva Conventions of August 12, 1949, and Relating to the Protections of Victims of Non-International Armed Conflicts ("Additional Protocol II"), done at Geneva June 8, 1977, 1125 UNTS 609, S. Treaty Doc. 100-2, which states that "armed conflict" does not include "internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature." Including an understanding that specifies the scope of "armed conflict" in a manner consistent with Additional Protocol II would help to counter attempts by terrorists to claim protection from this exception in circumstances for which it is not intended. I therefore recommend that the following understandings to Article VI of the Beijing Protocol be included in the United States instrument of ratification:

> The United States of America understands that the term "armed conflict" in Article VI of the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft (which adds, *inter alia*, paragraph 2 of Article 3 *bis* to the Convention for the Suppression of Unlawful Seizure of Aircraft) does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature.

The United States made a substantially identical understanding with respect to the Terrorist Bombings Convention, the 2005 SUA Protocol, the Nuclear Terrorism Convention, and the Terrorism Financing Convention.

Given the importance of protecting the flexibility of the United States military to conduct legitimate activities against all lawful targets, the second exception in Article 3 *bis* was also an important objective of the United States when negotiating the Beijing Protocol. This provision exempts from the Beijing Protocol's application "the activities undertaken by military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law." This language is consistent with Article 19(2) of the Terrorist Bombings Convention, Article 3 of the 2005 SUA Protocol, and similar provisions in other recent counterterrorism instruments. It is intended to exclude all official acts undertaken by U.S. and other State military forces from the scope of criminal offenses. Because the Beijing Protocol does not reach the official activities of State military forces, it similarly does not reach persons, including non-military, policy-making officials of States, who direct, organize or otherwise act in support

of the activities of State military forces. Recognizing the importance of this provision, I recommend that the following understanding to Article VI of the Beijing Protocol be included in the United States instrument of ratification:

> The United States of America understands that, pursuant to Article VI of the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft, which, *inter alia*, adds paragraph 2 of Article 3 *bis* to the Convention for the Suppression of Unlawful Seizure of Aircraft, does not apply to:
>
> (a) the military forces of a State, which are the armed forces of a State organized, trained, and equipped under its internal law for the primary purpose of national defense or security, in the exercise of their official duties;
>
> (b) civilians who direct or organize the official activities of military forces of a State; or
>
> (c) civilians acting in support of the official activities of the military forces of a State, if the civilians are under the formal command, control, and responsibility of those forces.

The United States made a substantially similar understanding with respect to the Terrorist Bombings Convention, the 2005 SUA Protocol, and the Nuclear Terrorism Convention.

Article VII:

Article VII replaces Article 4 of the Hague Convention with expanded jurisdictional provisions in a new Article 4. Under paragraph 1 of new Article 4, each State Party must establish its jurisdiction over the offenses set forth in Article 1 of the Hague Convention, as amended, and any other act of violence against passengers or crew committed by the alleged offender in connection with the offenses, when (1) the offense is committed in its territory; (2) the offense is committed against or on board an aircraft registered in that State; (3) the aircraft on board which the offense is committed lands in its territory with the alleged offender still on board; (4) the offense is committed against or on board an aircraft leased without crew to a lessee whose principal place of business or, if the lessee has no such place of business, whose permanent residence is in that State; or (5) the offense is committed by a national of that State.

Consistent with recent counterterrorism conventions (for example, jurisdictional provisions in Article 6(2) of the Terrorist Bombings Convention and

Article 9(2) of the Nuclear Terrorism Convention), paragraph 2 of new Article 4 provides that each State Party has discretion to establish jurisdiction over offenses when the offense is committed against a national of that State or is committed by a stateless person whose habitual residence is in the territory of that State.

Paragraphs 3 and 4 of new Article 4 replicate paragraphs 2 and 3 of current Article 4 with only a few minor technical changes. Paragraph 3 contains the so-called "universal jurisdiction" provision, obligating each State Party to establish jurisdiction over any alleged offender located on its territory regardless of where the offense takes place, if the State Party does not extradite that person pursuant to Article 8 of the Hague Convention, as amended. Paragraph 4 provides that the Hague Convention, as amended, does not exclude any criminal jurisdiction exercised in accordance with national law.

Article VIII:

Article VIII replaces Article 5 of the Hague Convention with a new Article 5 that makes minor changes to the existing provisions concerning States that establish joint air transport operating organizations or international operating agencies, which operate aircraft that are subject to joint or international registration. The new provision replaces the terms "Contracting States" with "States Parties," "registration" with "registry," and "International Civil Aviation Organization" with "Secretary General of the International Civil Aviation Organization."

Article IX:

Article IX replaces paragraph 4 of Article 6 of the Hague Convention with a new paragraph 4 that expands the notification requirements of States Parties that have taken an offender or alleged offender into custody. The expanded requirements reflect the expanded jurisdictional provisions of the Hague Convention, as amended. New paragraph 4 provides that when a State Party, pursuant to Article 6, has taken a person into custody, it shall immediately notify the States Parties that have established mandatory jurisdiction under paragraph 1 of Article 4 of the Hague Convention, as amended, States Parties that have established discretionary jurisdiction and notified the Depositary under paragraph 2 of Article 4 of the Hague Convention, as amended, and, if the State Party holding the person in custody considers it advisable, any other interested States, of the fact that such person is in custody and of the circumstances which warrant that person's detention. New paragraph 4 of Article 6 further provides that the State Party that

makes the preliminary enquiry contemplated in paragraph 2 of Article 6 shall promptly report its findings to those same States for which notification is required and shall indicate whether it intends to exercise its jurisdiction. Like the Beijing Protocol as a whole, as well as other similar counterterrorism conventions, paragraph 4 to Article 6 of the Hague Convention, as amended is not intended to create judicially enforceable private rights.

Article X:

Article X adds Article 7*bis* to the Hague Convention, as amended. Consistent with recent counterterrorism conventions, Article 7*bis* provides that any person who is taken into custody, or regarding whom any other measures are taken or proceedings are being carried out pursuant to the Hague Convention, as amended, shall be guaranteed fair treatment, including all rights and guarantees under the law of the State in which that person is present, as well as "applicable provisions of international law, including international human rights law." Similar or identical text also appears in Article 9 of the 2005 SUA Protocol, Article 12 of the Nuclear Terrorism Convention, Article 17 of the Terrorism Financing Convention, and Article 14 of the Terrorist Bombings Convention. Like Article IX, Article X is not intended to create judicially enforceable private rights. Additionally, to make clear the relationship between current United States law and the requirements of Article X, I recommend that the following understanding with respect to Article X be included in the United States instrument of ratification:

> The United States of America understands that the current United States law with respect to the rights of persons in custody and persons charged with crimes fulfills the requirement in Article X of the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft (which adds Article 7*bis* to the Convention for the Suppression of Unlawful Seizure of Aircraft), and accordingly, the United States does not intend to enact new legislation to fulfill its obligations under this Article.

Article XI:

Article XI replaces Article 8 of the Hague Convention with a new Article 8, updating the extradition regime to account for the expanded offenses and jurisdictional provisions added by the Beijing Protocol. Paragraph 1 amends existing extradition treaties between States Parties to include the offenses set forth in Article 1 of the Hague Convention, as amended, as extraditable offenses and provides that States Parties shall undertake, in subsequent extradition treaties, to

include those same offenses as extraditable offenses. Paragraph 2 allows a State Party that makes extradition conditional on the existence of a treaty to use the Hague Convention, as amended, at its option, as a legal basis for extradition to another State Party with which it has no extradition treaty, subject to other conditions provided by the law of the requested State. Because it is longstanding United States policy to extradite fugitives only to States with which the United States has a bilateral extradition treaty, this option would not serve as an independent legal basis for extradition from the United States. Paragraph 3 provides that the offenses in Article 1 of the Hague Convention, as amended, shall be extraditable offenses between States Parties that do not make extradition conditional on the existence of an extradition treaty, subject to the conditions provided by the law of the requested State. Paragraph 4 provides that each of the offenses under the Hague Convention, as amended, shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place where it occurred but also in the territories of the States Parties required to establish their jurisdiction in accordance with subparagraphs (b), (c), (d), and (e) of paragraph 1 of Article 4 of the Hague Convention, as amended, and who have established jurisdiction in accordance with paragraph 2 of Article 4 of the Hague Convention, as amended. Paragraph 5 adds new language providing that the offenses regarding participation in an organized criminal group set forth in subparagraphs (a) and (b) of paragraph 4 of Article 1 of the Hague Convention, as amended, shall, for the purpose of extradition between States Parties, be treated as equivalent.

Article XII:

Consistent with recent counterterrorism conventions, Article XII adds new Article 8*bis* to the Hague Convention, as amended, providing that none of the offenses under the Hague Convention, as amended, shall be regarded, for the purposes of extradition or mutual legal assistance, as a political offense. Accordingly, a request for extradition or mutual legal assistance may not be refused on the sole ground that it concerns a political offense or an offense connected with a political offense or an offense inspired by political motives. Article 8*bis* thus provides a useful narrowing of the ability to invoke the political offense exception in response to requests for extradition for offenses under the Hague Convention, as amended. Many modern U.S. bilateral extradition treaties already contain provisions that bar application of the political offense exception to extradition under multilateral conventions to which similar "extradite or prosecute" obligations apply. Like similar provisions in Article 10(2) of the 2005 SUA Protocol, Article 14 of the Terrorism Financing Convention, and Article 11 of the

Terrorist Bombings Convention, Article 8*bis* builds on this trend by making the restriction on the invocation of the political offense exception for requests based on offenses under the Hague Convention, as amended, a matter of general application, rather than dependent on the terms of individual bilateral law enforcement treaties between the States Parties.

Article XIII:

Consistent with recent counterterrorism conventions, Article XIII adds a new Article 8*ter* to the Hague Convention, as amended, providing that the Hague Convention, as amended, does not impose an obligation to extradite or afford mutual legal assistance if the requested State Party has substantial grounds for believing that such request for extradition or mutual legal assistance has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin, political opinion, or gender, or that compliance with the request would cause prejudice to that person's position for any of these reasons. This Article is similar to provisions already included in a number of existing counterterrorism treaties, including Article 12 of the Terrorist Bombings Convention, Article 15 of the Terrorism Financing Convention, and Article 10(3) of the 2005 SUA Protocol.

Article XIV:

Article XIV replaces language in paragraph 1 of Article 9 of the Hague Convention with new gender-neutral language and also replaces "Contracting States" with "States Parties," but maintains a State Party's obligation to take all appropriate measures to restore or preserve a lawful commander's control of an aircraft when an act set forth in paragraph 1 of Article 1 of the Hague Convention, as amended, has occurred or is about to occur.

Article XV:

Article XV replaces paragraph 1 of Article 10 of the Hague Convention with a new paragraph 1 that accounts for the expanded list of offenses in the context of mutual legal assistance. It provides that States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought for offenses set forth in Article 1 of the Hague Convention, as amended, and other acts set forth in Article 4 of the Hague Convention, as amended, and specifies that the law of the requested State shall govern the furnishing of such assistance.

Article XVI:

Consistent with recent counterterrorism conventions, Article XVI adds new Article 10*bis* to the Hague Convention, as amended, addressing information sharing between States Parties with respect to the expanded list of offenses or suspected offenses. It provides that any State Party having reason to believe that one of the offenses set forth in Article 1 of the Hague Convention, as amended, will be committed shall, in accordance with its national law, furnish any relevant information in its possession to those States Parties that it believes would be the States with jurisdiction under paragraphs 1 and 2 of Article 4 of the Hague Convention, as amended.

Article XVII:

Article XVII makes two global changes to terms in the Hague Convention. Paragraph 1 provides that all references in the Hague Convention to "Contracting State" and "Contracting States" shall be replaced by "State Party" and "States Parties" respectively. Paragraph 2 provides that all references in the Hague Convention to "him" and "his" shall be replaced by "that person" and "that person's" respectively.

Article XVIII:

The Hague Convention was originally done in the English, French, Russian, and Spanish languages, each being equally authentic. Texts of the Hague Convention in the Arabic and Chinese languages are annexed to the Beijing Protocol, and Article XVIII provides that such texts together with the texts of the Hague Convention in the English, French, Russian, and Spanish languages, shall constitute texts equally authentic in the six languages.

Article XIX:

Article XIX provides that as between States Parties to the Beijing Protocol, the Hague Convention and the Beijing Protocol shall be read and interpreted together as one single instrument and shall be known as The Hague Convention as amended by the Beijing Protocol, 2010.

Article XX:

Article XX provides that the Beijing Protocol opened for signature on 10 September 2010 by States participating in the Diplomatic Conference on Aviation Security held at Beijing from 30 August to 10 September 2010. It further provides that after 27 September 2010, the Beijing Protocol is open to all States for signature at the Headquarters of ICAO in Montreal until it enters into force.

Article XXI:

Paragraph 1 of Article XXI states that the Beijing Protocol is subject to ratification, acceptance, or approval and designates the Secretary General of ICAO as the Depositary.

Paragraph 2 of Article XXI provides that if any State, which is not a Party to the Hague Convention, consents to be bound by the Beijing Protocol, that State automatically become a State Party to the Hague Convention, as amended.

Paragraph 3 provides that any State which does not ratify, accept, or approve the Beijing Protocol in accordance with paragraph 1 of Article XXI may accede to it at any time by depositing an instrument of accession with the Depositary.

Article XXII:

Article XXII provides that States Parties, upon ratifying, accepting, approving, or acceding to the Beijing Protocol shall notify the Depositary of the discretionary jurisdiction it has established under its national law in accordance with paragraph 2 of Article 4 of the Hague Convention, as amended, and immediately notify the Depositary of any change; and may declare that it shall apply the provisions of subparagraph (d) of paragraph 3 of Article 1 of the Hague Convention, as amended – defining the offense of providing assistance to evade investigation, prosecution, or punishment – in accordance with the principles of its criminal law concerning family exemptions from liability.

Article XXIII:

Paragraph 1 provides that the Beijing Protocol shall enter into force on the first day of the second month following the date of deposit of the twenty-second

instrument of ratification, acceptance, approval, or accession with the Depositary. (The Beijing Protocol entered into force on January 1, 2018.)

Paragraph 2 provides that for each State ratifying, accepting, approving, or acceding to the Beijing Protocol after the deposit of the twenty-second instrument of ratification, acceptance, approval, or accession, the Beijing Protocol shall enter into force for that State on the first day of the second month following the date of deposit by such State of its instrument of ratification, acceptance, approval, or accession.

Paragraph 3 provides that as soon as the Beijing Protocol enters into force, it shall be registered with the United Nations by the Depositary.

Article XXIV:

Paragraph 1 provides that any State Party may denounce the Beijing Protocol by written notification to the Depositary. Paragraph 2 states that such denunciation shall take effect one year following the date on which notification is received by the Depositary.

Article XXV:

Article XXV sets forth notification requirements of the Depositary, requiring the Depositary to promptly inform all States Parties and all signatory or acceding States of the date of each signature, the date of deposit of each instrument of ratification, acceptance, approval, or accession, the date of coming into force, and other relevant information.

Application of Article 12(1) in the Hague Convention

The Hague Convention, which this Protocol amends, includes a binding dispute provision. Article 12(1) of the Hague Convention provides that any dispute "concerning the interpretation or application of this Convention, which cannot be settled through negotiation, shall, at the request of one of the[] [States Parties to the dispute], be submitted to arbitration." As disputes concerning the interpretation or application of this Protocol could be subject to binding arbitration through application of that provision, consistent with past practice, I recommend that the following reservation be included in the United States instrument of ratification:

Consistent with Article 12(2) of the Convention for the Suppression of the Unlawful Seizure of Aircraft, the United States of America declares that it does not consider itself bound by Article 12(1) of the Convention for the Suppression of the Unlawful Seizure of Aircraft with respect to disputes concerning the interpretation or application of the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft.

Doc 9959

PROTOCOL

Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft
Done at Beijing on 10 September 2010

PROTOCOLE

additionnel à la Convention pour la répression de la capture illicite d'aéronefs
Fait à Beijing le 10 septembre 2010

PROTOCOLO

complementario del Convenio para la represión del apoderamiento ilícito de aeronaves
Hecho en Beijing el 10 de septiembre de 2010

ПРОТОКОЛ,

дополняющий Конвенцию о борьбе с незаконным захватом воздушных судов
Совершен в Пекине 10 сентября 2010 года

制止非法劫持航空器公约的补充议定书

2010年9月10日订于北京

البروتوكول

المكمل لاتفاقية قمع الاستيلاء غير المشروع على الطائرات

حرر في بيجين في ١٠ سبتمبر/أيلول ٢٠١٠

2011

INTERNATIONAL CIVIL AVIATION ORGANIZATION
ORGANISATION DE L'AVIATION CIVILE INTERNATIONALE
ORGANIZACIÓN DE AVIACIÓN CIVIL INTERNACIONAL
МЕЖДУНАРОДНАЯ ОРГАНИЗАЦИЯ ГРАЖДАНСКОЙ АВИАЦИИ
国际民用航空组织
منظمة الطيران المدني الدولي

Certified to be a true and complete copy
Copie certifiée conforme
Es copia fiel y auténtica
Копия точная и полная
经认证的真实和完整的副本
صورة معتمدة طبق الأصل

Director, Legal Affairs and External Relations Bureau
Directeur des affaires juridiques et des relations extérieures
Director de asuntos jurídicos y relaciones exteriores
Директор Управления по правовым вопросам и внешним сношениям
法律事务和对外关系局局长
مدير إدارة الشؤون القانونية والعلاقات الخارجية

ICAO OACI ИКАО 国际民航组织 الايكاو

PROTOCOL

Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft

Done at Beijing on 10 September 2010

Published by ICAO under the authority of the Secretary General of the
INTERNATIONAL CIVIL AVIATION ORGANIZATION
999 University Street, Montréal, Quebec, Canada H3C 5H7

For ordering information and for a complete listing of sales agents
and booksellers, please go to the ICAO website at www.icao.int

Doc 9959, *Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft*
Order Number: 9959
ISBN 978-92-9231-781-2

© ICAO 2011

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, without prior permission in writing from the International Civil Aviation Organization.

PROTOCOL

SUPPLEMENTARY TO THE CONVENTION FOR THE SUPPRESSION OF UNLAWFUL SEIZURE OF AIRCRAFT

THE STATES PARTIES TO THIS PROTOCOL,

DEEPLY CONCERNED about the worldwide escalation of unlawful acts against civil aviation;

RECOGNIZING that new types of threats against civil aviation require new concerted efforts and policies of cooperation on the part of States; and

BELIEVING that in order to better address these threats, it is necessary to adopt provisions supplementary to those of the *Convention for the Suppression of Unlawful Seizure of Aircraft* signed at The Hague on 16 December 1970, to suppress unlawful acts of seizure or exercise of control of aircraft and to improve its effectiveness;

HAVE AGREED AS FOLLOWS:

Article I

This Protocol supplements the *Convention for the Suppression of Unlawful Seizure of Aircraft*, signed at The Hague on 16 December 1970 (hereinafter referred to as "the Convention").

Article II

Article 1 of the Convention shall be replaced by the following:

"**Article 1**

1. Any person commits an offence if that person unlawfully and intentionally seizes or exercises control of an aircraft in service by force or threat thereof, or by coercion, or by any other form of intimidation, or by any technological means.

2. Any person also commits an offence if that person:

   (a) makes a threat to commit the offence set forth in paragraph 1 of this Article; or

   (b) unlawfully and intentionally causes any person to receive such a threat,

under circumstances which indicate that the threat is credible.

3. Any person also commits an offence if that person:

(a) attempts to commit the offence set forth in paragraph 1 of this Article; or

(b) organizes or directs others to commit an offence set forth in paragraph 1, 2 or 3 (a) of this Article; or

(c) participates as an accomplice in an offence set forth in paragraph 1, 2 or 3 (a) of this Article; or

(d) unlawfully and intentionally assists another person to evade investigation, prosecution or punishment, knowing that the person has committed an act that constitutes an offence set forth in paragraph 1, 2, 3 (a), 3 (b) or 3 (c) of this Article, or that the person is wanted for criminal prosecution by law enforcement authorities for such an offence or has been sentenced for such an offence.

4. Each State Party shall also establish as offences, when committed intentionally, whether or not any of the offences set forth in paragraph 1 or 2 of this Article is actually committed or attempted, either or both of the following:

(a) agreeing with one or more other persons to commit an offence set forth in paragraph 1 or 2 of this Article and, where required by national law, involving an act undertaken by one of the participants in furtherance of the agreement; or

(b) contributing in any other way to the commission of one or more offences set forth in paragraph 1 or 2 of this Article by a group of persons acting with a common purpose, and such contribution shall either:

(i) be made with the aim of furthering the general criminal activity or purpose of the group, where such activity or purpose involves the commission of an offence set forth in paragraph 1 or 2 of this Article; or

(ii) be made in the knowledge of the intention of the group to commit an offence set forth in paragraph 1 or 2 of this Article."

Article III

Article 2 of the Convention shall be replaced by the following:

"**Article 2**

Each State Party undertakes to make the offences set forth in Article 1 punishable by severe penalties."

Article IV

The following shall be added as Article 2 *bis* of the Convention:

"Article 2 *bis*

1. Each State Party, in accordance with its national legal principles, may take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for management or control of that legal entity has, in that capacity, committed an offence set forth in Article 1. Such liability may be criminal, civil or administrative.

2. Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.

3. If a State Party takes the necessary measures to make a legal entity liable in accordance with paragraph 1 of this Article, it shall endeavour to ensure that the applicable criminal, civil or administrative sanctions are effective, proportionate and dissuasive. Such sanctions may include monetary sanctions."

Article V

1. Article 3, paragraph 1, of the Convention shall be replaced by the following:

"Article 3

1. For the purposes of this Convention, an aircraft is considered to be in service from the beginning of the pre-flight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing. 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. In Article 3, paragraph 3, of the Convention, "registration" shall be replaced by "registry".

3. In Article 3, paragraph 4, of the Convention, "mentioned" shall be replaced by "set forth".

4. Article 3, paragraph 5, of the Convention shall be replaced by the following:

"5. Notwithstanding paragraphs 3 and 4 of this Article, Articles 6, 7, 7 *bis*, 8, 8 *bis*, 8 *ter* 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 registry of that aircraft."

Article VI

The following shall be added as Article 3 *bis* of the Convention:

"Article 3 *bis*

1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes and principles of the Charter of the United Nations, the Convention on International Civil Aviation and international humanitarian law.

2. The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law are not governed by this Convention, and the activities undertaken by military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.

3. The provisions of paragraph 2 of this Article shall not be interpreted as condoning or making lawful otherwise unlawful acts, or precluding prosecution under other laws."

Article VII

Article 4 of the Convention shall be replaced by the following:

"Article 4

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

(a) when the offence is committed in the territory of that State;

(b) when the offence is committed against or on board an aircraft registered in that State;

(c) when the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;

(d) when the offence is committed against or on board an aircraft leased without crew to a lessee whose principal place of business or, if the lessee has no such place of business, whose permanent residence is in that State;

(e) when the offence is committed by a national of that State.

2. Each State Party may also establish its jurisdiction over any such offence in the following cases:

(a) when the offence is committed against a national of that State;

(b) when the offence is committed by a stateless person whose habitual residence is in the territory of that State.

3. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in Article 1 in the case where the alleged offender is present in its territory and it does not extradite that person pursuant to Article 8 to any of the States Parties that have established their jurisdiction in accordance with the applicable paragraphs of this Article with regard to those offences.

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

Article VIII

Article 5 of the Convention shall be replaced by the following:

"Article 5

The States Parties 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 registry for the purpose of this Convention and shall give notice thereof to the Secretary General of the International Civil Aviation Organization who shall communicate the notice to all States Parties to this Convention."

Article IX

Article 6, paragraph 4, of the Convention shall be replaced by the following:

"Article 6

4. When a State Party, pursuant to this Article, has taken a person into custody, it shall immediately notify the States Parties which have established jurisdiction under paragraph 1 of Article 4, and established jurisdiction and notified the Depositary under paragraph 2 of Article 4 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 that person's detention. The State Party which makes the preliminary enquiry contemplated in paragraph 2 of this Article shall promptly report its findings to the said States Parties and shall indicate whether it intends to exercise jurisdiction."

Article X

The following shall be added as Article 7 *bis* of the Convention:

"Article 7 *bis*

Any person who is taken into custody, or regarding whom any other measures are taken or proceedings are being carried out pursuant to this Convention, shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law, including international human rights law."

Article XI

Article 8 of the Convention shall be replaced by the following:

"Article 8

1. The offences set forth in Article 1 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include the offences as extraditable offences in every extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party 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 offences set forth in Article 1. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in Article 1 as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Each of the offences shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States Parties required to establish their jurisdiction in accordance with subparagraphs (b), (c), (d) and (e) of paragraph 1 of Article 4 and who have established jurisdiction in accordance with paragraph 2 of Article 4.

5. The offences set forth in subparagraphs (a) and (b) of paragraph 4 of Article 1 shall, for the purpose of extradition between States Parties, be treated as equivalent."

Article XII

The following shall be added as Article 8 *bis* of the Convention:

"**Article 8 *bis***

None of the offences set forth in Article 1 shall be regarded, for the purposes of extradition or mutual legal assistance, as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives."

Article XIII

The following shall be added as Article 8 *ter* of the Convention:

"**Article 8 *ter***

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in Article 1 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin, political opinion or gender, or that compliance with the request would cause prejudice to that person's position for any of these reasons."

Article XIV

Article 9, paragraph 1, of the Convention shall be replaced by the following:

"**Article 9**

1. When any of the acts set forth in paragraph 1 of Article 1 has occurred or is about to occur, States Parties shall 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 XV

Article 10, paragraph 1, of the Convention shall be replaced by the following:

"**Article 10**

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in Article 1 and other acts set forth in Article 4. The law of the State requested shall apply in all cases."

Article XVI

The following shall be added as Article 10 *bis* of the Convention:

"Article 10 *bis*

Any State Party having reason to believe that one of the offences set forth in Article 1 will be committed shall, in accordance with its national law, furnish any relevant information in its possession to those States Parties which it believes would be the States set forth in paragraphs 1 and 2 of Article 4."

Article XVII

1. All references in the Convention to "Contracting State" and "Contracting States" shall be replaced by "State Party" and "States Parties" respectively.

2. All references in the Convention to "him" and "his" shall be replaced by "that person" and "that person's" respectively.

Article XVIII

The texts of the Convention in the Arabic and Chinese languages annexed to this Protocol shall, together with the texts of the Convention in the English, French, Russian and Spanish languages, constitute texts equally authentic in the six languages.

Article XIX

As between the States Parties to this Protocol, the Convention and this Protocol shall be read and interpreted together as one single instrument and shall be known as The Hague Convention as amended by the Beijing Protocol, 2010.

Article XX

This Protocol shall be open for signature in Beijing on 10 September 2010 by States participating in the Diplomatic Conference on Aviation Security held at Beijing from 30 August to 10 September 2010. After 27 September 2010, this Protocol shall be open to all States for signature at the Headquarters of the International Civil Aviation Organization in Montréal until it enters into force in accordance with Article XXIII.

Article XXI

1. This Protocol is subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the International Civil Aviation Organization, who is hereby designated as the Depositary.

2. Ratification, acceptance or approval of this Protocol by any State which is not a Party to the Convention shall have the effect of ratification, acceptance or approval of The Hague Convention as amended by the Beijing Protocol, 2010.

3. Any State which does not ratify, accept or approve this Protocol in accordance with paragraph 1 of this Article may accede to it at any time. The instruments of accession shall be deposited with the Depositary.

Article XXII

Upon ratifying, accepting, approving or acceding to this Protocol, each State Party:

(a) shall notify the Depositary of the jurisdiction it has established under its national law in accordance with paragraph 2 of Article 4 of The Hague Convention as amended by the Beijing Protocol, 2010, and immediately notify the Depositary of any change; and

(b) may declare that it shall apply the provisions of subparagraph (d) of paragraph 3 of Article 1 of The Hague Convention as amended by the Beijing Protocol, 2010 in accordance with the principles of its criminal law concerning family exemptions from liability.

Article XXIII

1. This Protocol shall enter into force on the first day of the second month following the date of the deposit of the twenty-second instrument of ratification, acceptance, approval or accession with the Depositary.

2. For each State ratifying, accepting, approving or acceding to this Protocol after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, this Protocol shall enter into force on the first day of the second month following the date of the deposit by such State of its instrument of ratification, acceptance, approval or accession.

3. As soon as this Protocol enters into force, it shall be registered with the United Nations by the Depositary.

Article XXIV

1. Any State Party may denounce this Protocol by written notification to the Depositary.

2. Denunciation shall take effect one year following the date on which notification is received by the Depositary.

Article XXV

The Depositary shall promptly inform all States Parties to this Protocol and all signatory or acceding States to this Protocol of the date of each signature, the date of deposit of each instrument of ratification, acceptance, approval or accession, the date of coming into force of this Protocol, and other relevant information.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Protocol.

DONE at Beijing on the tenth day of September of the year Two Thousand and Ten in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic, such authenticity to take effect upon verification by the Secretariat of the Conference under the authority of the President of the Conference within ninety days hereof as to the conformity of the texts with one another. This Protocol shall remain deposited in the archives of the International Civil Aviation Organization, and certified copies thereof shall be transmitted by the Depositary to all Contracting States to this Protocol.

○