



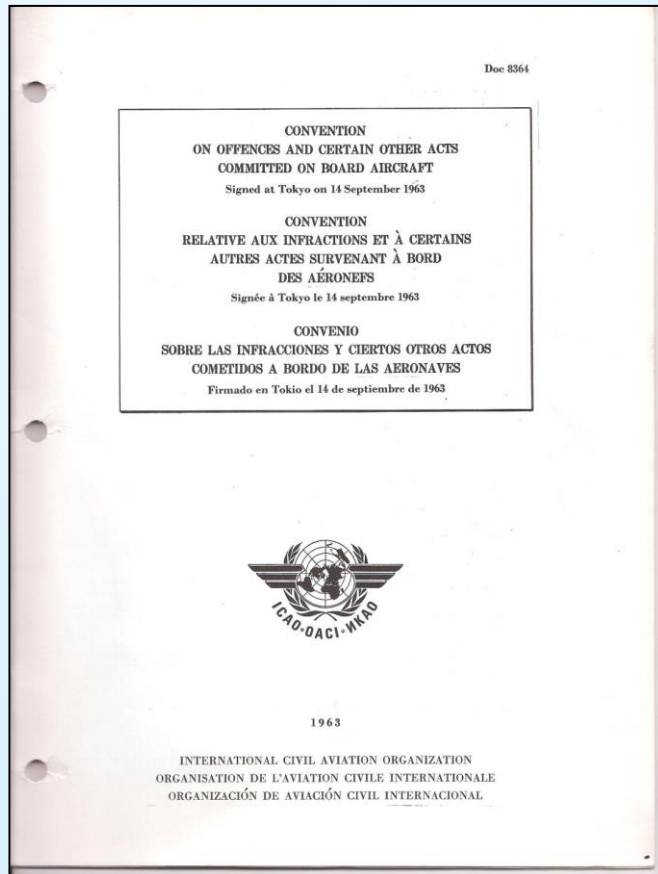
Montreal Protocol 2014

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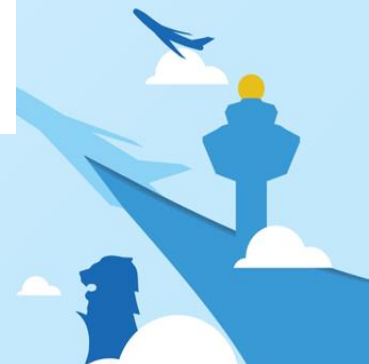


Montreal Protocol 2014 - Background



Tokyo Convention 1963 (TC63)

- Notable relevant features
 - Jurisdiction of the State of registration
 - Power of aircraft commander
 - Restoration of control of aircraft
 - No specific offences
 - No requirement to prosecute or extradite



Montreal Protocol 2014 – Amendments to TC 1963



Jurisdiction (Art 3(1 <i>bis</i>) & (2 <i>bis</i>))	New State of <u>landing</u> jurisdiction - mandatory New <u>State of the operator</u> jurisdiction - mandatory
List of offences (Art 15 <i>bis</i>)	No list of offences States encouraged to take measures to initiate proceedings in 2 cases <u>Resolution</u> requesting ICAO Secretary-General to update <i>Circular 288</i> (guidance)
Extradition (Art 16)	For extradition purpose – offences treated as committed in place of occurrence and territories of States required to establish jurisdiction



Montreal Protocol 2014 – Amendments to TC63



Aircraft commander immunity (Art 10)

No amendment to TC63 immunity provisions

In flight security officers (air marshalls) (Arts 6 & 10)

- Aircraft commander may ask, not require IFSO to restrain unruly passenger
 - May take preventive action against passengers, on reasonable grounds where they believe that an offence is about to be committed
 - Same immunity as aircraft commander, crew & passengers
-

Airline damages recovery (Art 18bis)

Recovery of damages under national law not precluded (& not only for airlines)

Termination of contract of carriage

No amendment to TC63
Refer to contract of carriage



Montreal Protocol 2014

– Status & Actions after Adoption



1. Entry into force
 - 1 Jan 2020 (*5 yrs & 9 mths after adoption on 4 Apr 2014*)
2. Updating of [Circular 288](#) pursuant to the Resolution of the Diplomatic Conference
 - “To include more detailed list of offences & other acts” and “To make consequential amendments on adoption of MP14”
 - [Manual](#) on the Legal Aspects of Unruly and Disruptive Passengers (Doc 10117)





IATA's/Airlines efforts to address Unruly Passenger Problem & Implementing the Montreal Protocol 2014



Slides from





Incident frequency and severity on the rise...



Federal Aviation Administration

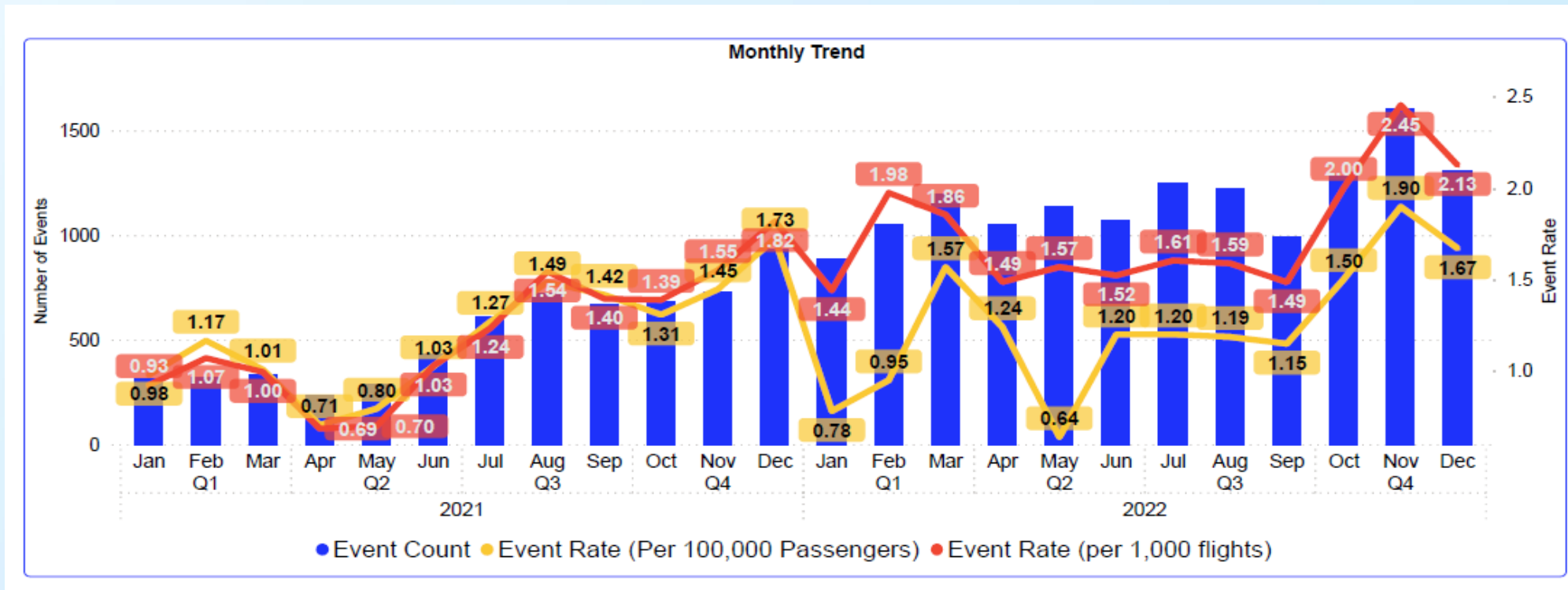




IATA IDX Data (Incident Data Exchange)

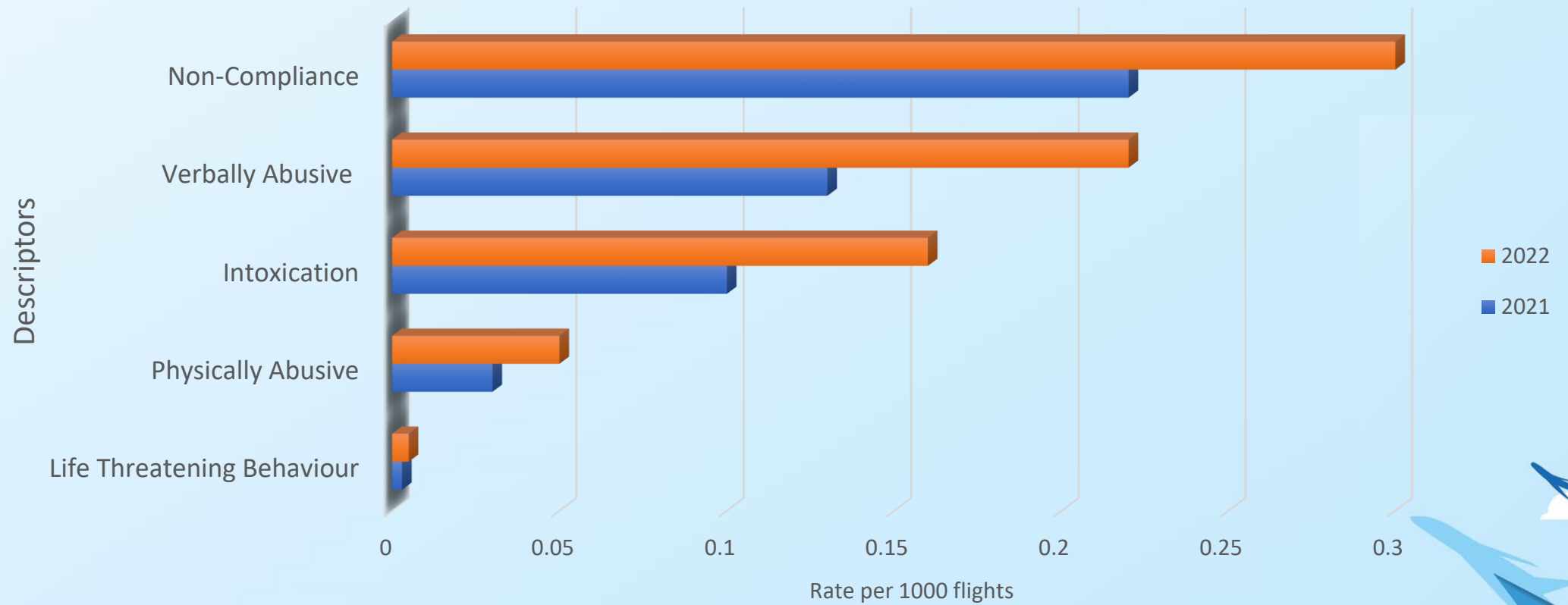
Incident rate 2021: 1 incident per 835 flights.

Incident rate 2022: 1 incident per 568 flights.





Taxonomy of the incidents





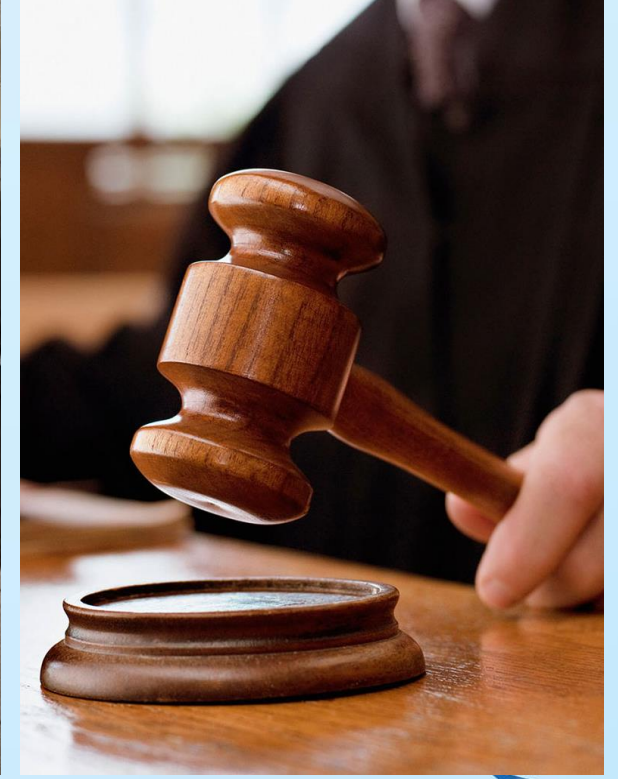
Impacts

- Unruly & disruptive incidents have significant impacts:
 - ☹️ Compromise flight safety and good order onboard
 - ☹️ Disturb the journey for other passengers
 - ☹️ Physical and mental health impacts on airline cabin crew
 - ☹️ Flight delays, cancellations and operational disruption
- Consumer rights, but also consumer responsibility
- Demand for air travel will double by 2040 – many first-time flyers ...!





How to reduce incidents?



PREVENTION > MANAGEMENT > JURISDICTION > ENFORCEMENT



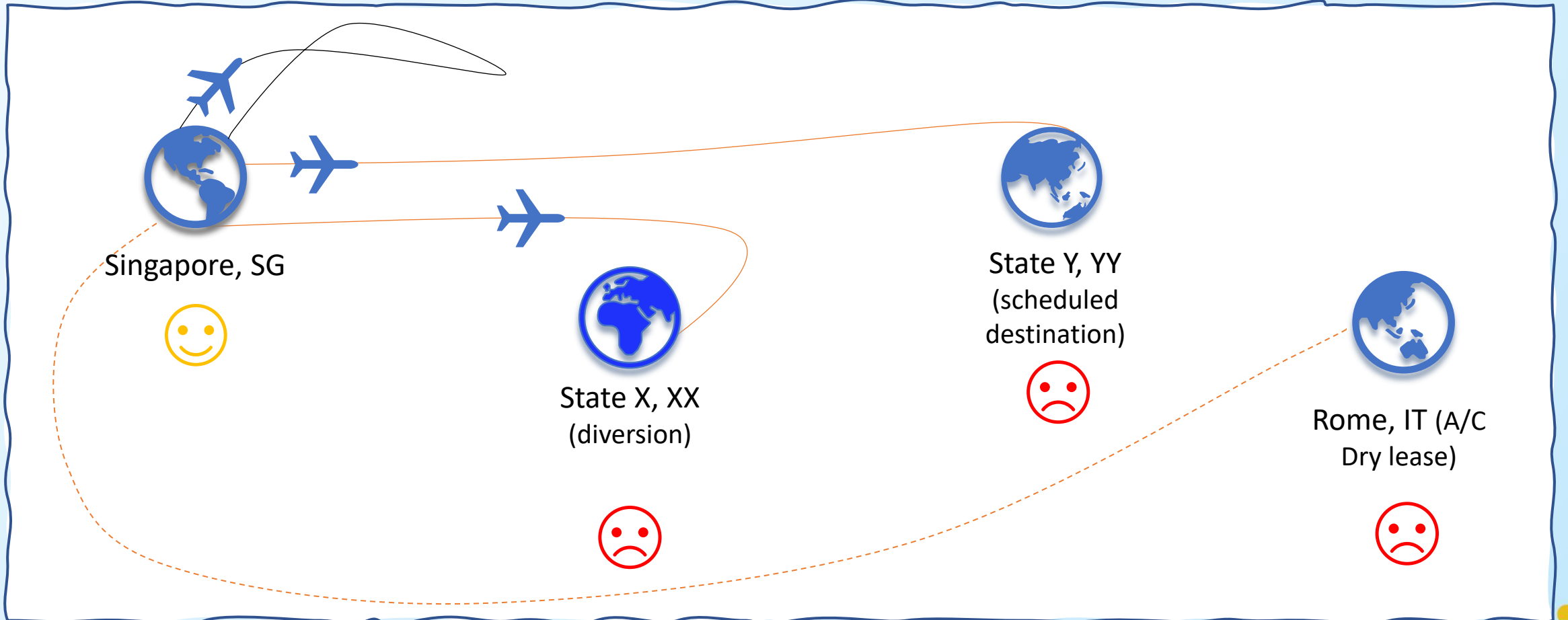


Survey - Jurisdictional Issues

- In a survey of IATA member airline legal departments
- **over 60%** of respondents highlighted that **jurisdictional issues** were the main reason for lack of prosecutions of unruly passengers!



Jurisdictional gaps in Tokyo Convention 1963



Aircraft is registered in Singapore (9V-registration). State X and State Y do not have State of Landing jurisdiction and are not parties to Montreal Protocol 2014.





IATA's approach to solving the issue

1. Enhance the international deterrent

- Resolve gaps that allow unruly and disruptive passengers to avoid punishment for their misconduct (Montreal Protocol 2014)
- Encourage States to review if they have the right enforcement mechanisms that can be applied to different types of offenses and acts (refer now to ICAO Manual (Doc 10117))

2. Prevention

- Training (de-escalation, alcohol service, restraint)
- Multi-stakeholder initiatives
- Public awareness of prohibited conduct and consequences





ICAO's actions to address the problem

1. Strengthen States' capacity to address global problem of unruly & disruptive passengers

- Amended Tokyo Convention 1963 through **Montreal Protocol 2014 (MP14)**
 - Established **State of landing & State of the operator jurisdictions (MP14)**
 - Encourage States to take necessary measures to **initiate appropriate legal proceedings**

2. Encourage/Assist States to ratify & implement MP14

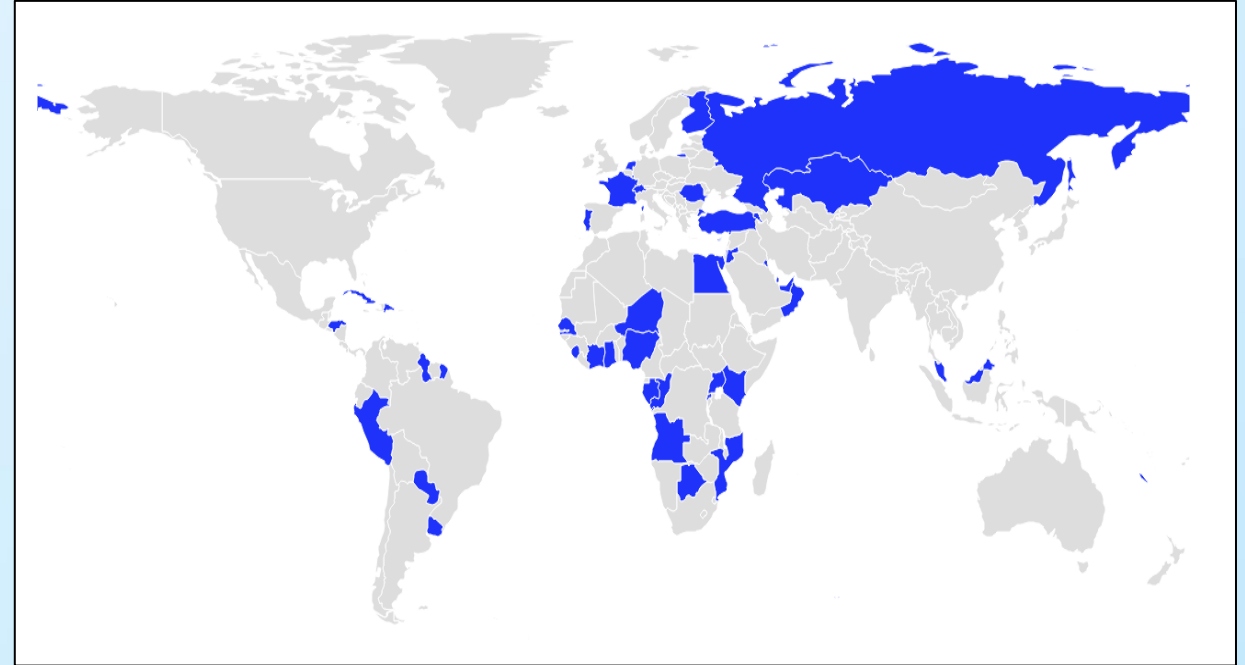
- **Administrative package** & promotional efforts for ratification
- Task Force on the Legal Aspects of Unruly Passengers (UPAXTF) to update Circular 288 -> **Manual on Legal Aspects of Unruly & Disruptive Passengers (Doc 10117)**





Status of MP14

- IATA active in promoting ratification of MP14
- Currently 48 States Parties
- Represents >33% of global international traffic
- Strong pipeline of States in process of ratification
- Others like Australia, Canada, US and the UK have extended jurisdiction under national law.





Scenario

Slides from



Incident (based on an actual case)

Occurred on an 8-hour international flight from NOP in Country C to XYZ in Country D. Aircraft is registered in Country C. Both countries are parties to the Tokyo Convention 1963.

- A business class passenger in seat 3A asked the purser for another glass of champagne during the meal service
- She had already had several glasses before and was starting to show signs of possible intoxication (she was slurring words and dropping items).
- The cabin crew informed her that they had run out of champagne. She demanded wine but the crew informed her discretely that she had already had a lot of alcohol and that they would not serve her any more for the remainder of the flight.
- The woman then started to racially abuse the senior male cabin crew member. She also hit him in the face and bit him on the arm so severely that he had to receive first aid.
- The passenger then started a verbal tirade using foul language and spitting at crew and other passengers highlighting that she was an international human rights lawyer.
- The Captain was informed, and he gave the crew permission to restrain the passenger and called XYZ to request the police to attend the aircraft upon landing.
- The crew followed their restraint training and successfully managed to restrain the passenger. However, in the process, the unruly passenger fell on to two other passengers.
- The unruly passenger remained belligerent until landing.
- The police attended the aircraft.



Incident – Volunteers for roles!

Relevant Roles:

1. Passenger 3A (“FP3A”)
2. Cabin Crew (Male Cabin Crew, Female Cabin Crew, etc.) (“FCC”, “MCC”, “FCC2”, “MCC2”)
3. Captain
4. Passenger B
5. Passenger C
6. Air Traffic Control (“Arrival Control”)
7. Police Officer 1 (“PO1”)
8. Police Office 2 (“PO2”)



Script Incident

We are in the business class cabin of Global Generic Airways Flight 800, en route from NOP in Country C to XYZ in Country D. Meal service is just concluding, and passengers are being served dessert. The flight is operated by Global Generic Airways' long-haul aircraft, which is registered in Country C.

FP3A: Another glass of champer... champagne, pleaaaaaaase. And make it snaaaaaaappy!

FCC: I'm sorry madame, we've run out of champagne.

FP3A: Get me a vino, then. Cheers.

FCC: You've had quite a bit this evening. Perhaps I can suggest an orange juice or a tea?

FP3A: Don't start on this. I've had a stressful day. Wine, red, now, thanks.

FCC: Madame, under our cabin rules – we're not allowed to serve you additional alcoholic beverages. Now, please let me know, is there something else you'd like to be comfortable?

FP3A: Look, get the [expletive] wine or you'll have bigger problems OK. I'm not the [expletive] problem. Just get me a nice glass of wine, you little [expletive]. Thank [expletive] you.

MCC: [*Second male crew member intervening*] I'm sorry, we can't get you this – these are our cabin rules, and we must follow them. Please watch your language and calm down so we can help you.

FP3A: That'd be right you [racial epithet] [expletive]! Don't tell me about rules, I probably wrote them. How about you do your actual job and let me have the drink that I've paid business class for. You [racial epithet] [expletive]! Just [expletive] do it and spare me the attitude!

MCC: Madame... please... It's not helpful...



Script Incident (2)

[MCC leans closer to FP3A - FP3A strikes MCC by slapping him on the face with her hand, using some force.]

MCC: Arrggh! Ma'am stop this. Calm down!

FP3A: What do you expect, you impertinent [expletive]!

MCC: Ma'am, I will report this to the captain. You can't hit me.

FP3A: [Grabs and firmly bites the arm of the MCC, breaking the skin, and leading to a scuffle as MCC attempts to extricate himself from FP3A]

FP3A: Look at this, do you know who I am? Do you know who I am?

MCC: Please, please – I need help now with the passenger.

FP3A: [Gets up from her seat] This is what you get, nowadays... jack [expletive]! Look, look at this. You just can't get service. And service from this [expletive]. You disgust me!

[FP3A spits on the withdrawing MCC]

FP3A: There we go, you coward. Afraid of a little tough criticism.

Passenger A: Hey, come on, you're a bit excited! Sit down! Come on, you're ruining things for others. Do yourself a favour here.

FP3A: You, you – you jumped up [expletive]! You too, then! No respect for your betters.

[FP3A spits into the seat area and upon the person of Passenger A]



Script Incident (3)

FP3A: Anyone else got an opinion? Do you know who I am? You people... Wouldn't know a day's work in your lives.

Passenger B: Really, please miss, you're really scaring me...

FCC: Madame, you must sit down. This is very serious. You've assaulted the crew. Sit down now.

FP3A: Make me. Where's the bar? I'm having the wine I paid for... get out of my way.

FCC: Ma'am, stop. You're out of line.

FCC2 and MCC2: Hey! Listen to her. You are going to sit down now. If you don't you will be made to sit down. You've assaulted a team member.

In the cockpit

FFC: Captain, sorry, we've got a serious issue in business class. A female passenger in 3A has bit my pursuer and slapped him on the face. She's now carrying on erratically and is spitting on other passengers.

Captain: She's violent?

FFC3: Yes, my purser's getting first aid for his arm and she struck him to the face. She's now trying to get to the bar and is spitting on other passengers. We don't know what she'll do.

Captain: OK, you've got the restraining kit? You can follow the procedure to apply restraints and I want to know when she is restrained.

FFC: OK..



Script Incident (4)

Captain: This is Global Generic Airways 800, I've got a violent passenger on board. This person has hit and bitten my crew. We're applying restraints and, ah, expect arrival in 3 hours. We want to request that police meet the aircraft.

Arrival Control: GGA800, roger that. You say that the passenger is restrained?

Captain: Not yet. But we're going to apply restraints and will give her over to police.

Arrival Control: Roger that, you will deliver to police. We will have police meet the aircraft. Can you please confirm when you have restrained the passenger, thank you. We'll be calling back for more details in a bit.

Captain: Roger that, GGA800 to confirm when restrained.

[In the business class cabin]

FP3A: This is outrageous, outrageous you [expletive] people can't tell me what to do. I've paid for where I am. Who are you? Go [expletive] yourself.

MCC2: I need you to return to your seat. The captain has ordered you to return to your seat immediately. You are breaking regulations.

FP3A: I'm going to see the Captain, where is he? Hiding back there, what a [expletive]. He's got a [expletive] team here.

MCC2: Ma'am...

FP3A: Get the [expletive] out of my way...

[FP3A slaps MCC2 repeatedly on the face, head and neck and then spits into his face]



Script Incident (5)

MCC2: Arggh.... Stoppp... OK, OK – What is it you want?

FP3A: Give me the bottle of red or I'll make you [expletive] sorry.

MCC2: If you'll just...

[Group of three cabin crew approach and twist arm of FP3A, hooking her knee and placing FP3A on ground. They apply the restraint kit to the passenger. The passenger is returned to her seat under restraint, where she verbally protests for some time. Routine checks are made on her. She however appears aggressive and agitated, yelling and spitting profanities until the aircraft lands in XYZ.]

In the cockpit

Captain: Arrival Control this is GCA800 again, we have a violent passenger under restraint. Passenger has assaulted crew and should be detained upon landing. Ah, under our procedures – we are requesting to make a delivery to your authorities in XYZ.

Arrival Control: Thank you, GCA. Confirm you have a passenger under restraint, we will have law enforcement attend the aircraft after landing. We'll provide taxi directions after landing.

Captain: Roger, thank you.

Arrival Control: Do you have any injuries on board?

Captain: I'll call you back.

Arrival Control: OK, when you have a moment, we'll need more details about the passenger who is restrained, and any medical assistance required on arrival.



Script Incident (6)

[The Captain replies to Arrival Control with some basic details about the aircraft, the incident, the number of people affected and the injuries to the crew. He also reports on medical situation of FP3A, reporting no apparent medical problems, that she is responsive but abusive when questioned.]

[Some time later.... Aircraft lands at XYZ, where the aircraft is directed to taxi to a special stand. Two police officers board the aircraft and attend at the seat of 3A]

PO1: Madame, how are you this morning?

FP3A: Yeah... [mumbles incoherently]

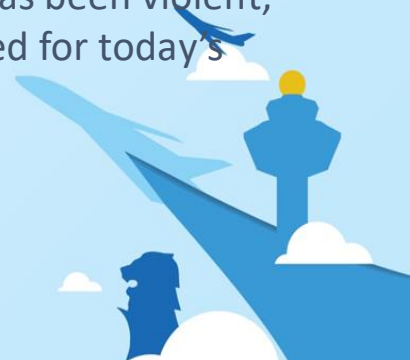
PO1: Big night then... Madame, do you understand me? Are you in any pain at the moment?

FP3A: You're a [expletive] pain.

PO1: Just relax Madame, we need to sort through some things before we'll be moving you.

FP3A: [Expletive] you.

Captain: Uh, Officer, for the formal bit, I'm asked to deliver this passenger to you by our procedures. I wish to make a complaint on behalf of the crew and the company. We have our incident report, which we will provide to you. This passenger has been violent, hitting my crew and was a threat to safety. I'm also giving you the Global Generic Airway's delivery card, completed for today's incident. [Captain hands PO1 a delivery card]



Script Incident (7)

PO1: Madame, I'm sorry but you're at XYZ in Country D. I'm PO1 with the XYZ police unit. You've been restrained, I see, but now I am arresting for offences under the Civil Aircraft Ordinance 1984. You do not have to say anything but what you do say can go into court. This is PO2 and we will be processing you today.

PO1: *[To the Captain]* OK, Captain, we'll need those documents and to take statements.

[PO1 and PO2 lift FP3A up and carry her off the aircraft into a police vehicle. FP3A is placed in a holding unit in the airport police wing. Statements are taken from the cabin crew, other passengers and captain. A record is made that the captain and MCC wish to press charges]

[Some time later...]

PO1: FP3A, ah, good evening. We're holding you for charges on flight CGA800. You've had quite the time on board, I see?

FP3A: I'm not saying anything, sorry.

CPO1: Let's get this cleared up, why don't you tell us what happened? You'll feel better.

FPA3A: Nice try. I'm not making any statement. I want a lawyer.

[After some more time, the interview is terminated and FPA3 is returned to her cell. The police have 48 hours to charge under their local law, which started ticking after the arrest on board the aircraft. The police have the incident reports, statements from the cabin crew and captain, together with medical reports on injury to the arm of MCC].



Script Incident (8)

PO1: Well, we've got her slapping, biting and spitting on crew.

CPO1: And she's going to see the captain at one point...

Prosecution Lawyer: But she didn't get to the cockpit, or the cockpit door.

PO1: No, she wanted to go see the Captain, or fight her way to the bar. Mainly she wanted another drink.

Prosecution Counsel: Right. She just said she wanted to see the Captain?

PO1: Yeah.

Prosecution Counsel: Do we know when this drama occurred, how long was the flight?

PO1: Urrr... 8 hours I think from Country C

Prosecution Counsel : And when did the action happen?

PO1: Mid-flight.

Prosecution Counsel: That puts the aircraft well over the ocean. What about after landing?

PO1: No, she was restrained. Abusive language but that's it.

Prosecution Counsel : Resist arrest?

PO1: No.



Script Incident (9)

Prosecution Counsel: No, no, no. Sorry. This is bad for the statistics. The jurisdiction bit is shaky. I think you let her go with a talking to.

O1: Catch and release, but we've got her biting into the flesh of a steward? I'd charge that on the street no worries.

Prosecution Counsel: I hear you. But no jurisdiction. And no one's going to request extradition here under, what is it, the Tokyo Convention... I've never seen one request yet. I can't see the motivation for the Country C to put one in. The injuries to the crew member don't sound permanent.

PO1: Surely, it's worth putting charges into the system?

Prosecution Counsel: We'd just be wasting your time, Sergeant. Jurisdiction would be the first issue. It's not worth the time or money on the prosecution. The whole thing would get dismissed.

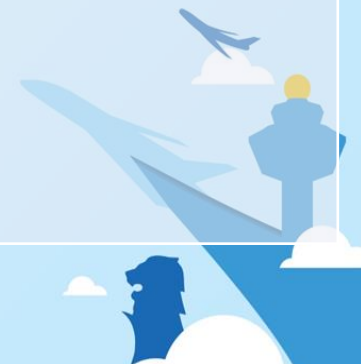
CPO1: OK, we've got our steer. Thank you.





Applying Tokyo Convention 1963 in Incident

Relevant Parties	Actions/Decisions	Considerations / Outcomes	What if MP14 applies
Cabin crewmembers (MCC, FCC, MCC2, FCC2 & others)	<ul style="list-style-type: none"> • Verbal warning • Reported to Captain • Imposed restraint 	<ul style="list-style-type: none"> • Gave statements to police officers • MCCs presses for charges 	
Captain (Aircraft Commander)	<ul style="list-style-type: none"> • Imposed restraint • Requested police attendance • Hands over delivery card to police offices 	<ul style="list-style-type: none"> • Violent passenger • Injury to crew members • Unruly passenger restrained • Police attended when aircraft landed • Presses for charges 	<ul style="list-style-type: none"> • Delivery if serious offence, in aircraft commander's <u>opinion</u>
Police Officers (PO1 and PO2)	<ul style="list-style-type: none"> • Attended aircraft on arrival • Took incident reports, statements from cabin crew and medical reports 	<ul style="list-style-type: none"> • Arrested FP3A for offences under Civil Aircraft Ordinance • Place FP3A in holding unit • Consulted prosecution Counsel 	
Prosecution Counsel	<ul style="list-style-type: none"> • Requested facts from PO1 • Assessed that Country D has no jurisdiction to prosecute • Advised that she be let go with a warning 	<ul style="list-style-type: none"> • FP3A is foreign national and arrived on 'foreign airline' • FP3A did not try to go to cockpit or get to the Captain • Occurrences in mid-flight • Injuries to MCCs not permanent • Country D is State of landing not State of registration 	<ul style="list-style-type: none"> • Country D has jurisdiction as State of landing





Benefits of ratification of MP14

- ❑ Jurisdiction as State of landing or State of the operator to initiate criminal, administrative or other forms of legal proceedings wrt unruly and disruptive acts
- ❑ Especially in cases where victim is own national
- ❑ Protection of crew members and passengers of national carriers
- ❑ Keeps flying safe:
 - Safety of aircraft, persons & property onboard
 - Maintains good order and discipline onboard
- ❑ Jurisdiction as State of landing or State of the operator for other offences as well (i.e. not only wrt unruly and disruptive acts)





Thank you for your attention
& participation!

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