

No. 7305

**AUSTRALIA, BELGIUM, BRAZIL,
BYELORUSSIAN SOVIET SOCIALIST REPUBLIC,
REPUBLIC OF CHINA, etc.**

**Convention, Supplementary to the Warsaw Convention, for
the Unification of Certain Rules Relating to Interna-
tional Carriage by Air Performed by a Person Other
than the Contracting Carrier. Signed at Guadalajara,
on 18 September 1961**

Official texts: English, French and Spanish.

Registered by Mexico on 15 June 1964.

**AUSTRALIE, BELGIQUE, BRÉSIL,
RÉPUBLIQUE SOCIALISTE SOVIÉTIQUE
DE BIÉLORUSSIE, RÉPUBLIQUE DE CHINE, etc.**

**Convention, complémentaire à la Convention de Varsovie,
pour l'unification de certaines règles relatives au trans-
port aérien international effectué par une personne
autre que le transporteur contractuel. Signée à Guada-
lajara, le 18 septembre 1961**

Textes officiels anglais, espagnol et français.

Enregistrée par le Mexique le 15 juin 1964.

No. 7305. CONVENTION,¹ SUPPLEMENTARY TO THE WARSAW CONVENTION,² FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR PERFORMED BY A PERSON OTHER THAN THE CONTRACTING CARRIER. SIGNED AT GUADALAJARA, ON 18 SEPTEMBER 1961

The States signatory to the present Convention

Noting that the Warsaw Convention does not contain particular rules relating to international carriage by air performed by a person who is not a party to the agreement for carriage

Considering that it is therefore desirable to formulate rules to apply in such circumstances

Have agreed as follows :

Article I

In this Convention :

a) "Warsaw Convention" means the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw on 12 October 1929,² or the Warsaw Convention as amended at The Hague, 1955,³ according to whether the carriage under the agreement referred to in paragraph b) is governed by the one or by the other;

b) "contracting carrier" means a person who as a principal makes an agreement for carriage governed by the Warsaw Convention with a passenger or consignor or with a person acting on behalf of the passenger or consignor;

¹ In accordance with article XIII (1), the Convention came into force on 1 May 1964, the ninetieth day after the date of deposit of the fifth instrument of ratification, in respect of the following States which deposited their instruments of ratification with the Government of Mexico on the dates indicated :

Mexico	16 May	1962
United Kingdom of Great Britain and Northern Ireland	4 September	1962
Australia	1 November	1962
France	24 January	1964
Switzerland	1 February	1964

Subsequently, the Convention entered into force in respect of the Netherlands and the Federal Republic of Germany on 25 and 31 May 1964, respectively, the said States having deposited their instruments of ratification on 25 February and 2 March 1964 respectively.

² League of Nations, *Treaty Series*, Vol. CXXXVII, p. 11; Vol. CXLII, p. 393; Vol. CXLVII, p. 355; Vol. CLVI, p. 258; Vol. CLX, p. 418; Vol. CLXIV, p. 395; Vol. CLXXII, p. 425; Vol. CLXXVII, p. 420; Vol. CLXXXI, p. 397; Vol. CLXXXV, p. 406; Vol. CXCVIII, p. 273; Vol. CXCVI, p. 422, and United Nations, *Treaty Series*, Vol. 261, p. 423, and Vol. 266, p. 444.

³ United Nations, *Treaty Series*, Vol. 478, p. 371.

c) "actual carrier" means a person, other than the contracting carrier, who, by virtue of authority from the contracting carrier, performs the whole or part of the carriage contemplated in paragraph b) but who is not with respect to such part a successive carrier within the meaning of the Warsaw Convention. Such authority is presumed in the absence of proof to the contrary.

Article II

If an actual carrier performs the whole or part of carriage which, according to the agreement referred to in Article I, paragraph b), is governed by the Warsaw Convention, both the contracting carrier and the actual carrier shall, except as otherwise provided in this Convention, be subject to the rules of the Warsaw Convention, the former for the whole of the carriage contemplated in the agreement, the latter solely for the carriage which he performs.

Article III

1. The acts and omissions of the actual carrier and of his servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the contracting carrier.

2. The acts and omissions of the contracting carrier and of his servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the actual carrier. Nevertheless, no such act or omission shall subject the actual carrier to liability exceeding the limits specified in Article 22 of the Warsaw Convention. Any special agreement under which the contracting carrier assumes obligations not imposed by the Warsaw Convention or any waiver of rights conferred by that Convention or any special declaration of interest in delivery at destination contemplated in Article 22 of the said Convention, shall not affect the actual carrier unless agreed to by him.

Article IV

Any complaint to be made or order to be given under the Warsaw Convention to the carrier shall have the same effect whether addressed to the contracting carrier or to the actual carrier. Nevertheless, orders referred to in Article 12 of the Warsaw Convention shall only be effective if addressed to the contracting carrier.

Article V

In relation to the carriage performed by the actual carrier, any servant or agent of that carrier or of the contracting carrier shall, if he proves that he acted within the scope of his employment, be entitled to avail himself of the limits