

EXPLANATORY MEMORANDUM

Ratification of the Protocol relating to Amendment of Article 50(a) of the convention on International Civil Aviation

History

The 39th Session of the International Civil Aviation Organization (ICAO) Assembly held at Montreal from 27 September to 6 October 2016 adopted two protocols amending, respectively, articles 50(a) and Articles 56 of the Convention on the International Civil Aviation (the Convention). The ICAO recommended to all contracting States to ratify urgently the amendments of Articles 50 (a) and Articles 56, respectively of the Convention. South Africa is one of the contracting States of the ICAO.

The amendment of Article 50 (a) of the Convention provides for the increase in the size of the Council from thirty-six (36) members to forty (40) members. The main reason for the ratification of Article 50 (a) is to take account of the increase in the membership of ICAO and the expansion and increasing importance of international air transport for the national economies in many countries. The enlarged membership of the Council ensures a better balance by means of an increased representation of Contracting States.

Objective

The objective is to obtain approval from both the National Assembly and National Council of Provinces in terms of Section 231(2) of the Constitution for the ratification of the Protocol relating to the Amendment of Article 50(a) of the Convention on International Civil Aviation.

Ratification of these Protocols will ensure that South Africa continues to meet its international obligations in the civil aviation arena thereby strengthening the support of South Africa's economic development and serve as catalyst for increased trade, tourism and job creation. It will also facilitate regional and international trade by 2030 in line with the National Development Plan (NDP), National Civil Aviation Plan (NCAP) and international conventions relating to civil aviation.

Legal implications

The Department of Transport received legal opinion on the consistency of the protocol with the South Africa's domestic law and on its consistency with both international law and South Africa's international obligations.

The Department of Justice AND Constitutional Development advised that the provisions of the Protocol are not in conflict with the domestic law of the Republic of South Africa.

The Department of International Relations and Cooperation (DIRCO) is of the opinion that the Protocol is consistent with both international law and South Africa's international obligations. DIRCO advised that the protocol fall within the ambit of section 231(2) of the Constitution of the Republic of South Africa, 1996, which means that it requires Parliamentary approval for ratification.

Financial Implications

None

Implementation

Upon approval of both Protocols by Parliament, the Department of Transport will prepare the Instrument of Ratification. The Minister of International Relations will sign the Instrument of Ratification. DIRCO will send the Instruments of Ratification to the International Civil Aviation Organization (ICAO) through the diplomatic channels.

The protocol will be deposited with the Treaty Section at the Department of International Relations and Cooperation (DIRCO). It will also be deposit at ICAO by the ICAO Secretary General in all the ICAO working languages (English, Arabic, Chinese, French, Russian or Spain). The information about the ratification is also needed for the registration of the agreements with the United Nations (UN).