

Subject: TRANSPORTATION-
CIVIL AVIATION- NAVIGATION AND AIR
SAFETY- UNLAWFUL INTERFERENCE (HIJACKING
AND ARMED AGGRESSION AGAINST AIRCRAFT)-
INTERNATIONAL CIVIL AVIATION ORGANIZATION.
(ICAO).

Vol. 2

From 69/11/1

To 70/05/31

References to Related Files

File No.

Subjects

PUBLIC ARCHIVES - RECOILS CENTRE
DE OT DES ARCHIVES PUBLIQUES
OTTAWA

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C O N F I D E N T I A L

FM VIENN MAY29/70 NO/NO STANDARD

TO EXTEROTT 504

INFO TT DOT(STONER)CTC(MORISSET)DE OTT

REF OURTEL 447 MAY15 BERN TEL 198 MAY26

ICAO EXTRAORDINARY ASSEMBLY

DWORAK OF AUSTRIAN MINISTRY OF TRANSPORT HAS INFORMED US HE HAS BEEN IN TOUCH WITH HIS SWISS COLLEAGUE GULKIMANN AND SHARES RESERVATIONS ABOUT CDN PROPOSAL AS IMMED MEASURE.DWORAK THOUGHT IT MIGHT BE USEFUL TO REFER CDN PAPER ON IDEA TO ICAO LEGAL CTTEE FOR STUDY,BUT DID NOT/NOT OFFER ASUTRIAN ASSN WITH PAPER.

1/1/6

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*Send to
Mr. Clapham (FILE)
for action*

42-89-30
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C O N F I D E N T I A L

FM OSLO MAY29/70 NO/NO STANDARD

TO TT EXTER 224 PRIORITY DE LDN

INFO HAGUE COPEN SIKHM TT LDN DE HAGUE BRU BONN PARIS DE LDN

VIENN MDRID BERN DE PARIS WSHDC TOKYO DE OTT

DOTOTT(STONER) CTCOTT(MORISSET) DE OTT

BAG TAVIV BERUT CAIRO HAVAN DE OTT HSNKI DE HAGUE

REF OURTEL 189 MAY12

ICAO EXTRAORDINARY ASSEMBLY:PROPOSAL TO LINK BILATERAL AIR
AGREEMENTS TO ICAO CONVENTIONS

SANDVIK OF MFA INFORMED US TODAY THAT INTERDEPTL MTG YESTERDAY
CONSIDERED CDN PROPOSAL EXTENSIVELY AS RESULT OF WHICH THEY
HAVE FOLLOWING COMMENTS TO OFFER.

2.NORWAY WOULD LIKE CDA TO CHANGE ITS PROCEDURAL APPROACH AND
NOT/NOT TO PUT FORWARD OUR RESLN AT KIL MTG.INSTEAD THEY SUGGEST
THAT WE PROPOSE THAT OUR PROPOSED QUOTE PRINCIPLES UNQUOTE BE
REFERRED TO ICAOS LEGAL CITEE OR TO THE COUNCIL FOR FURTHER
PROFOUND STUDY.

3.SANDVIK SAID THAT OUR PROPOSAL WAS SO IMPORTANT(AND QUOTE
EXTREMELY INTERESTING UNQUOTE)THAT NORWAY COULD NOT/NOT COPE
WITH IT AT SUCH SHORT NOTICE.HE ADDED THAT IT TOUCHED ON IMPORTANT
PRINCIPLES OF NORWEGIAN AND SCANDINAVIAN TRADE POLICY WHICH WOULD
HAVE TO BE CAREFULLY CONSIDERED AND IT WOULD THEREFORE BE DIFFI-
CULT FOR NORWAY TO TAKE FINAL POSITION ON IT AT THIS TIME.

4.SANDVIK ADDED ON A PERSONAL BASIS THAT HE BELIEVED THAT TO

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PAGE TWO 224 CONFD

SUCCEED OUR PROPOSAL MUST FIRST BE LED BY BIG AVIATION COUNTRIES (SUCH AS BRIT AND USA). NORWAY IS ON OUTSKIRTS OF EUROPE AND HER ENDORSEMENT OF CDN PRINCIPLES IF BIG NATIONS DID NOT/NOT ALSO ADOPT SAME WOULD RUN INTO OPPOSITION HERE. ON OTHER HAND IF BIG NATIONS DID SUBSCRIBE TO OUR PRINCIPLES THEN SCANDINAVIAN COUNTRIES COULD EASILY DO LIKEWISE. SANDVIK ENDED BY EMPHASIZING THAT NORWAY HAS NO/NO PRINCIPLE OBJECTION TO OUR PROPOSALS BUT THEY HAVE TO TREAD WARILY BECAUSE QUOTE SO MANY TENDER ASPECTS OF SCANDINAVIAN TRADING POLICY UNQUOTE WOULD BE INVOLVED.

5. OUR GENERAL IMPRESSION IS THAT OUR PROPOSED INITIATIVE HAS STRUCK A SOMEWHAT RESPONSIVE CHORD AT LEAST WITH SOME NORWEGIAN OFFICIALS. HOWEVER THEY BELIEVE THAT IT SHOULD FIRST BE STUDIED IN DEPTH, PREFERABLY BY ICAOS LEGAL CTTEE, AND FOR PRACTICAL PURPOSES IT PROBABLY WOULD HAVE TO BE PROMOTED BY BIG AVIATION COUNTRIES BEFORE SCANDINAVIANS, INCLUDING NORWAY, COULD GO ALONG WITH IT.

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C O N F I D E N T I A L

FM LDN MAY28/70 NO/NO STANDARD

TO EXTER 1769 PRIORITY

INFO BRU BONN HAGUE PARIS DOTLDN IT VIEN MDRID BERN DE PARIS

COPEN OSLO STKHM DE HAGUE WASHDC TOKYO DE OTT

DOTOTT CTCOTT DE OTT

REF OURTEL 1577 MAY14

ICAO EXTRAORDINARY ASSEMBLY:CDN INITIATIVE

FCO CALLED US IN YESTERDAY TO GIVE US PAPER OUTLINING CONSIDERED
UK REACTION TO CDN PROPOSAL.ERIT VIEWS WERE,IF ANYTHING,EVEN MORE
NEGATIVE THAN PRELIMINARY OFF THE CUFF REACTIONS OUTLINED IN
REFTEL.AT OUTSET,IT WAS EMPHASIZED THAT UK AUTHORITIES FULLY SHARE
CDN DESIRE TO MAKE PROSPECTIVE ICA CONVENTIONS IN FIELD OF INNATL
AVIATION SECURITY FULLY EFFECTIVE.HOWEVER,BRITS REGRET THAT THEY
COULD NOT/NOT SUPPORT RESLN ALONG LINES OF OUR PROPOSAL AT FORTH-
COMING ASSEMBLY FOR FOLLOWING REASONS:QUOTE

(A)A RELATIVELY SMALL NUMBER OF COUNTRIES HAVE SO FAR RATIFIED THE
TOKYO CONVENTION.THE EXTENT OF REAL SUPPORT OF THE HIJACKING
CONVENTION IS STILL TO BE REVEALED AND THE IDEA OF A FURTHER
CONVENTION ON OTHER FORMS OF VIOLENCE AGAINST AIRCRAFT HAS NOT/NOT
YET BEEN CONSIDERED INNITLY.THE ADVOCATES OF THESE CONVENTIONS
WOULD THEREFORE BE IN A WEAK POSITION TO PUT PRESSURE ON THE REST
OF THE INNATL COMMUNITY;

(B)THE SUPPORTS OF THE DRAFT RESLN WOULD SEEM TO COMMIT THEMSELVES
UNDER THE PARAS 1(II) AND 2(II) TO PRESENT STATES WHICH WERE NOT/NOT
PARTIES TO THE CONVENTION ON THIS SUBJ IN FORCE AT THE TIME WITH THE

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PAGE TWO 1769 CONFD NO/NO STANDARD

ALTERNATIVES OF EITHER ADHERING TO OR AT LEAST CONFORMING WITH THESE CONVENTIONS, OR SEEING THEIR BILATERAL AIR SERVICES AGREEMENTS DENOUNCED. ANY ULTIMATUM OF THIS SORT WOULD BE LIKELY TO PROVOKE RESENTMENT WHICH COULD WELL STIFFEN OPPOSITION TO THE CONVENTIONS, RATHER THAN PROMOTE THEM;

(C) IF ANY CONSIDERABLE NUMBER OF COUNTRIES REFUSED TO CONCLUDE OR RENEGOTIATE AIR SERVICES AGREEMENTS ON THESE TERMS, THE EFFECT ON CIVIL AVIATION IN THE AREAS CONCERNED COULD BE EXTREMELY SERIOUS;

(D) A SUPPORTER OF THE RESLN WOULD BE PUT AT A SERIOUS DISADVANTAGE IN ANY BILATERAL NEGOTIATION WITH A COUNTRY WHICH WAS OR AFFECTED TO BE RELUCTANT TO ACCEPT PROVISIONS OF THIS KIND AND MIGHT BE FORCED TO PAY A HIGH PRICE IN BILATERAL TERMS;

(E) THERE IS A DANGER THAT AN ATTEMPT TO ENFORCE THE PROVISIONS OF SUCH A RESLN MIGHT PROVOKE CONCERTED OPPOSITION. IE, THE ARABS AND THEIR FRIENDS, MIGHT WELL BE STUNG INTO TAKING REPRISALS AGAINST WESTERN INTERESTS, POSSIBLY IN UNRELATED FIELDS. THE ORIGINAL PROBLEM WOULD THEN BECOME HIGHLY POLITICAL AND MUCH HARDER TO SOLVE. UNQUOTE.

2. FCO FRANKLY RECOGNIZED THAT POINTS C AND D ABOVE REFLECT NARROWER CONCERNS OF A COUNTRY LIKE THE UK WHICH HAS ELABORATE NETWORK OF BILATERAL AIR AGREEMENTS WITH STATES IN THE ONE AREA- MIDEAST- WHICH PRESENTS MOST PROBLEMS AT THE MOMENT. BRIT PROFESSED ...3

PAGE THREE 1769 CONFD NO/NO STANDARD

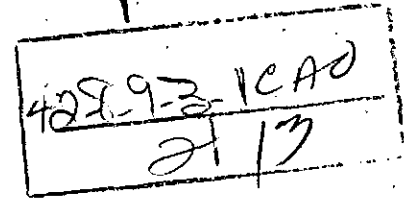
TO BE ESPECIALLY CONCERNED THAT IF IMPLICATIONS OF POINT(E) OF CDN RESLN WERE PRESSED AT THIS TIME, IT MIGHT GIVE ARABS A RALLYING POINT FOR OPPOSING OTHER APPROPRIATE MEASURES ON A MUCH BROADER FRONT.

3. IN THE CIRCUMSTANCES, BRITS WERE CONSIDERABLY RELIEVED TO LEARN OF POSSIBLE FALLBACK POSITION (YOURTEL FLE736) IN LIGHT OF REACTIONS RECEIVED FROM CAC MEMBERS TO DATE. IN THIS RESPECT, UK REACTIONS TO CURRENT PLAN TO TABLE CDN IDEAS AS A WORKING PAPER WAS VERY MUCH ALONG LINES OF GUILDINANN'S REACTIONS AS STATED IN BERN TEL 198. BRITS NEVERTHELESS DID NOT/NOT GO SO FAR AS TO OFFER TO COSPONSOR CDN PAPER ON THIS BASIS ALTHOUGH THIS POINT CAN NO/NO DOUBT BE PURSUED WITH THEM AT MTL.

4. BRITS WERE GRATEFUL FOR INFO ON COMPOSITION OF CDN DEL TO FORTHCOMING MTG. UNDERSTAND THEIR DEL WILL NUMBER 10 TO 12 MAINLY BOT OFFICIALS BUT PROBABLY INCLUDING CROMARTIE OF FCO AVIATION AND TELECOMMUNICATIONS DEPT. INCIDENTALLY, BRITS EXPRESSED INTEREST IN LEARNING PATTERN OF ACCEPTANCES FOR JUN CONFERENCE, EG, WHETHER ANY MAJOR GROUPS (ARABS) HAVE DECLINED TO ATTEND. GRATEFUL FOR ANY INFO ON THIS POINT WE COULD PASS TO THEM.

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C O N F I D E N T I A L

FM COPEN MAY27/70 NO/NO STANDARD

TO TT DE LDN

TO TT EXTER 225 DE LDN

INFO HAGUE STKHM TT LDN DE HAGUE PARIS BRU BONN DE LDN WSHDC

DOT CTCOTT DE OTT

BAG OSLO DE OTT

REF OURTEL 214 MAY21

ICAO EXTRAORDINARY ASSEMBLY:CDN INITIATIVE

WE TALKED TODAY WITH ADAMSEN(HEAD OF MFA DIV CONCERNED)AND
MIKKELSEN OF DEPT PW WHO WILL BE MEMBER OF DANISH DEL.

2.DANISH POSITION WILL NOT/NOT BE DECIDED UNTIL AFTER THEIR
MTG IN COPEN JUN4 WITH NORWAY AND SWEDEN AND IT IS CLEAR THAT
DENMARK MUST MARCH IN STEP WITH THEIR TWO SAS PARTNERS.

3.BOTH OFFICIALS RAISED THE SAME CRITICISMS THAT HAVE BEEN
MADE BY OTHER ECAC COUNTRIES BUT ADAMSEN AT LEAST WAS MORE
SYMPATHETIC THAN SWEDES.HIS PURELY PERSONAL OPINION WAS THAT
PROBLEM OF AMENDING BILATERALS WAS NOT/NOT INSUPERABLE IF
THERE WERE POLITICAL DECISION TO PROCEED ON LINES SUGGESTED
BY CDA.

4.WE TOLD THEM OF SWISS INTENTION(BERN TEL 198 MAY26)TO RAISE
CDN PROPOSAL AT ECAC JUN8-12.

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C O N F I D E N T I A L

FM BRU MAY27/70

TO TT EXTER 554 DE LDN

INFO DOTOTT(STONER)CICOTT(MORISSET)DE OTT

REF OURTEL 500 MAY14

ICAO EXTRAORDINARY ASSEMBLY-PROPOSAL TO UNITE BILATERAL AIR

AGREEMENTS TO ICAO CONVENTIONS

DE VOGELAERE INFORMS US THAT MTG WITH BELGIAN AERONAUTIC OFFICIALS

ON MAY21 INCONCLUSIVE AS FAR AS DRAFT CDN RESLN CONCERNED.BELGIAN

GOVT ATTITUDE TO DRAFT NOT/NOT YET AVAILABLE.FURTHER MTG WILL

BE HELD JUN3 TO DECIDE ON BELGIAN POSITION.

4/28/5

ACTION COPY

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Beckoff
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C O N F I D E N T I A L

FM BERN MAY26/70

TO TT EXTER 193 PRIORITY DE PARIS

INFO PARIS TT LDN VIENN MDRID DE PARIS BRU BONN HAGUE DE LDN

COPEN OSLO STKHM HSNKI DE HAGUE TOKYO WSHDC DE OTT

DOTOTT(STONER) CTCOTT(MORISSET)DE OTT

BAG TAVIV BERUT HAVAN CAIRO DE OTT

REF YOURTEL FLE736 MAY22

ICAO EXTRAORDINARY ASSEMBLY:CDN INITIATIVE

GULDIMANN AVAILABLE FOR FIRST TIME YESTERDAY.HAVE HAD USEFUL
DISCUSSION WITH ON REF SUBJ ALTHOUGH GENERAL NATURE OF HIS REACTION
RESERVED.MEANWHILE GULDIMANN AWARE OF CDN PROPOSAL AS REPORTED
OURTEL 184 MAY13 AND HAS HAD OPPORTUNITY TO SPEAK TO HIS SWEDISH
AND DUTCH COLLEAGUES IN INTERIM WHO BOTH EXPRESSED NEGATIVE
REACTION TO CDN INITIATIVE.

2.SWITZERLAND INTERESTED IN ANY CONSTRUCTIVE INITIATIVES IN
PRESENT STATE OF LAWLESS CAMPAIGN AGAINST AIRLINES.GULDIMANN
EXPRESSED STRONG RESERVATIONS ABOUT REOPENING CURRENT BILATERALS.
IN HIS VIEW UNFORESEEN PROBLEMS WOULD SURELY ARISE AS CHAIN
REACTION.

3.GULDIMANN ADMITTED NO/NO PROBLEMS WOULD ARISE BETWEEN QUOTE
CIVILIZED STATES UNQUOTE HAVING NORMAL RELATIONS BUT REAL AND
UNFORESEEABLE PROBLEMS WOULD SURELY ARISE BETWEEN STATES WHOSE
RELATIONS ARE NOT/NOT NORMAL.IN THIS CASE HE QUOTED AS EXAMPLE
HIGHJACKED QUOTE EL AL UNQUOTE IN 1968 TO ALGERIA.HE WOULD

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10.26.5

PAGE TWO 198 CONF

SERIOUSLY DOUBT EFFICACY OF APPLYING SANCTIONS PROPOSED IN CDN
RESLN IN SUCH A CASE IN CONTEXT OF ARAB/ISRAELI RELATIONS.

4. NEVERTHELESS GULDIMANN STATED CDN PROPOSAL WORTHY OF INTEREST
AND DISCUSSION AND SHOULD NOT/NOT BE SET ASIDE. HE TAKES VIEW THAT
CDN DRAFT RESLN IS TOO QUOTE HARD UNQUOTE AND WOULD NOT/NOT
COMMAND MAJORITY ACCEPTANCE AT MTL EXTRAORDINARY ASSEMBLY IN JUN
AS NO/NO TIME FORESEEN EITHER BEFORE OR AT ASSEMBLY FOR MATURE
DISCUSSIONS. THUS GULDIMANN CONCLUDES THAT AS INSTRUMENT FOR IMMEDIATE
PRESENTATION CDN DRAFT RESLN NOT/NOT ACCEPTABLE IN PRESENT STATE
OF DISCUSSION BUT REPRESENTS USEFUL INITIATIVE AS PROPOSAL FOR
FURTHER STUDY IN ICAO.

5. SWISS PAPER FOR SEVENTEENTH EXTRAORDINARY ASSEMBLY ENTITLED
QUOTE SUGGESTIONS QUANT AUX MESURES A PRENDRE POUR LA DIX-SEPTIEME
ASSEMBLEE UNQUOTE NOW BEING PROCESSED AT ICAO AND WILL BE DISCUSSED
IMMEDIATELY. WE ARE SENDING COPIES AIRMAIL TODAY. SWISS PAPER PROPOSES
PROCEDURAL APPROACH INVOLVING REF OF THEIR PROPOSALS FOR STUDY
BY QUOTE SPECIALIZED ORGANS UNQUOTE OF ICAO (LEGAL COUNCIL) WITH
INSTRUCTION TO REPORT BACK TO ICAO COUNCIL EARLIEST.

6. INFORMAL MTG OF DIRGENS OF ECAC COUNTRIES BEING HELD IN TOULOUSE
AND BRUX JUN 3-12 ONE WEEK BEFORE ICAO ASSEMBLY TO ESTABLISH ECAC
POSITION. GULDIMANN CANNOT/NOT ATTEND HIMSELF BUT WILL INSTRUCT
DEPUTY MUNCH TO RAISE DISCUSSION CDN PROPOSAL. MEANWHILE HE IS
TELEGRAPHING HIS ECAC COLLEAGUES WARNING THEM OF SWISS INTENTION
TO RAISE CDN PROPOSAL AT TOULOUSE/BRUX.

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PAGE THREE 198 CONF

7.FINALLY GULDIMANN FAVOURS IDEA PARA2 REFTL OF CDA SUBMITTING
WORKING PAPER TO SEVENTEENTH ASSEMBLY AS A PAPER FOR ICAO CITEE
STUDY,ALONG WITH SWISS PAPER.HE DID NOT/NOT EXCLUDE POSSIBILITY
OF SUBMISSION OF CDN DRAFT RESLN AS A JOINT CDN/EUROPEAN
INITIATIVE DEPENDING ON OUTCOME OF DISCUSSIONS AT TOULOUSE/BRDUX

ROBERTS

ACTION COPY

C O N F I D E N T I A L

FM BONN MAY26/70

TO TT EXTER 567 PRIORITY DE LDN

INFO LDN TT BRU HAGUE PARIS DE LDN VIENN MDRID BERN TAVIV BERUT

CAIRO DE PARIS COPEN OSLO STKHM DE HAGUE WSHDC TOKYO HAVAN DOTOTT

(STONER)CICOTT(MORISSET)DE OTT

REF YOURTEL FLE651 MAY8

ICAO EXTRAORDINARY ASSEMBLY:PROPOSAL TO LINK BILATERAL AIR AGREEMENTS
TO ICAO CONVENTIONS

COORDINATED BUT PRELIMINARY VIEWS OF MINISTRIES RESPONSIBLE HERE

ON CDN PROPOSAL WERE GIVEN US TODAY.GERMANS FIND OUR IDEA INTERESTING

AND ORIGINAL BUT TECHNICAL OBSTACLES IT WOULD RAISE FOR THEM ARE

GREAT.BASIS FOR THEIR HESITATION IS FACT THAT ALL AMENDMENTS(CAS

WE UNDERSTAND T HOWEVER SMALL)TO BILATERAL AGREEMENTS MUST BE

INDIVIDUALLY SUBMITTED TO PARLIAMENT.WE DID MAKE POINT THAT RENE-

GOTIATION OF AGREEMENTS WOULD NOT/NOT NECESSARILY BE INVOLVED BUT

THIS DID NOT/NOT SEEM TO ELIMINATE PROBLEM FOR THEM.SUCH A PROSPECT

APPLIED TO BETWEEN 60 AND 70 BILATERALS IS ANYTHING BUT APPEALING

AND UNLESS SOME DEVICE COULD BE FOUND TO GET AROUND THIS CDN IDEA

WILL NOT/NOT FIND ENTHUSIASTIC SUPPORT IN BONN.

2.WE WONDER HOWEVER IF THERE WERE A CONSENSUS OF SUPPORT AT ICAO

FOR SUBSTANCE OF DRAFT PROPOSAL,WHETHER SUCH TECHNICAL OBJECTIONS

COULD NOT/NOT BE OVERCOME BY SOME SPECIAL PROCEDURE THAT WOULD

APPLY ONLY IN THIS CASE IE AN ACROSS THE BOARD ADDENDUM TO BILATERALS

THAT WOULD NOT/NOT BE AN AMENDMENT AND WHICH WOULD LEAVE THEIR

CONTENT INTACT.IT SHOULD BE SAID THAT COORDINATING AUTHORITY HERE

IS LEGAL DIR OF FO WITH EMPHASIS THIS MPLIES.BRIEFLY

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PAGE TWO 567 CONFD

MENTIONED,BUT NOT/NOT ENLARGED UPON WAS DANGER THAT SEVERING ONE
BILATERAL AGREEMENT MIGHT CREATE CHAOTIC SITUATION BECAUSE SO MANY
ARE INTERCONNECTED IN ELEBORATE NETWORK.AT SAME TIME THEY HAVE SAID
THEY ARE WILLING TO DISCUSS IT FURTHER IN MONTREAL.

3.YOU PERHAPS ALREADY KNOW THAT FGR CONTRIBUTION TO JUN ICAO SPECIAL
MTG IS WORKING PAPER STRESSING SECURITY MEASURES,AMONG THEM NATL
SECURITY CITEES.

TO: **ADIAN EMBASSY, WASHINGTON D.C.**

Security..... **UNCLASSIFIED**

Date..... **May 25, 1970**

FROM: **USSEA, OTTAWA**

Air or Surface..... **Bag**

No. of enclosures..... **1**

The documents described below are for your information.

Despatching Authority..... **L.S.Clark/ oh**

42-8-9-3-1C70

ms | -

| Copies | Description | Also referred to: |
|--------|--|-------------------|
| | Canadian Comments on USA Presentation Relating to Agenda of ICAO XVIII Assembly (Extraordinary). | |

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M.Bissonnette
Emb. Washington

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Document divulgué en vertu de la Loi sur l'accès à l'information
ELE/ L.S. CLARK/ OH

OTTAWA, May 25, 1970

Mr. Walter F.X. Collopy,
First Secretary,
United States Embassy,
100 Wellington Street,
O t t a w a.

Dear Sir,

... With reference to your discussion with Mr. L.S. Clark of our
Legal Division, we are forwarding to you herewith the Canadian comments
on the U.S.A. Presentation Relating to the Agenda of the ICAO XVIIth
Assembly (Extraordinary) which will take place in Montreal, June 16-30.

Yours sincerely,
J. A. BEESLEY

Under-Secretary of State
for External Affairs.

CONTENTS ON U.S.A. PRESENTATION RELATING TO THE AGENDA OF THE ICAO XVIIth
ASSEMBLY (EXTRAORDINARY).

I - The Use of Rewards as a Means of Discouraging Hijacking,
Sabotage and Other Acts of Violence Against International
Air Transport.

This matter would appear to merit some degree of study. Accordingly, rather than urging Contracting States, international organizations, etc. to consider the offering of monetary rewards, you may wish to consider rewording the draft resolution along the following lines:

The Assembly requests Contracting States, international organizations such as IATA and IFALPA, and comparable national organizations, to consider the question as to whether it would assist in the deterrence and prevention of unlawful interference with international air transport, sabotage or other criminal acts that may endanger the safety of air transport if monetary rewards were offered for the arrest and conviction of persons who perpetrate such acts.

II - Measures Which the Assembly Should Adopt to
Assure Adequate Security.

Many States take the view that they do not have any particular problem with respect to acts of unlawful interference with civil aviation. It is only after they themselves have been involved in such an activity that they begin to take more of an interest in the problems under discussion. The draft resolution proposed under this heading may therefore gain more acceptability if it were less imperative in tone. In this connection, and as general suggestions, we put forward for your consideration the following as possible amendments:

- I.A.1 - Substituting "States should consider promoting" in place of "States should promote";
- I.A.2 - Inserting "and in appropriate circumstances" after "in accordance with their national law";
- I.A.5 - Inserting "States may wish to make" before "arrangements for governmental support";
- I.B.1 - Inserting "co-operate in promoting" in place of "promote" before "the development and use of devices";
- I.C.1 - Deleting "and utilize" before "authority to search".

In addition, since the term "unlawful seizure" has been accepted by ICAO and is more encompassing and includes unlawful diversion, we would suggest that "seized" be substituted for "diverted" in I.E.1, E.2, E.3, E.4, E.6 and E.8, and "seizure" be substituted for "diversion" in E.5 and E.7. A similar substitution could be made in III.A.1.

III - Co-operation and Exchange of Information Between Other International Organisations and ICAO and Among ICAO Member States in Devising and Applying Measures to Combat Unlawful Interference.

The draft resolution proposed under this heading is acceptable to us.

IV - Action by the Council and its Committees.

We agree that the giving of instructions to the Council on the subject of unlawful interference is an appropriate function of the Assembly. With respect to instructing the Committee on Unlawful Interference with International Civil Aviation and its Facilities, the existing terms of reference were set out in the Council Resolution of April 10, 1969. While the proposed amendment to these terms of reference - contained in the draft resolution - appears acceptable to us, the close supervision of the Committee by the Council contemplated in operative paragraph 3 ("to insure that the Committee....") might be taken by Members of the Committee as a reflection on their ability to carry out the tasks assigned to them.

We put forward for your consideration the following drafting suggestions with respect to this resolution:

Preambular paragraph 1 - replace "its endeavors to prevent such unlawful interference" by "endeavors to deal with acts of unlawful interference";

Preambular paragraph 2 - replace "co-operate to the maximum extent possible in promoting" by "exert every effort to promote";

Operative paragraph 3 - replace "to insure that the Committee on Unlawful Interference analyzes" by "to REQUEST the Committee on Unlawful Interference to fully analyze";

Operative paragraph 4 - insert "the offer of" after "to extend" and before "good offices of ICAO".

Operative paragraph 5 deals only with unlawful seizure, whereas the subject matter of the remainder of the resolution covers all acts of unlawful interference. Since the question of sending an ICAO Representative to the State of landing of a hijacked aircraft may well be more controversial than the other matters dealt with in this resolution, it may be preferable if this paragraph were the subject of a separate resolution. In addition, since instructions to the Council "to direct its President" are a different matter from instructions to the Council as a whole, it would not seem appropriate for this paragraph to be "tacked on" to what precedes it in the present text of the draft resolution.

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V - Expeditious Ratification of the Hijacking Convention

It is our view that ICAO Assembly resolutions should be able to stand on their own without unnecessary references to particular points in time. Accordingly, we would suggest the deletion of "in recent months" in this resolution. We would also recommend the insertion of "to sign and" after "Contracting States" in the final operative paragraph; "thereafter" may also be deleted.

VI - Continuing Ratification of the Tokyo Convention

We agree with this draft resolution and would consider co-sponsoring it. However, for the reason above, we would suggest deleting "in recent months".

VII - National Legislation Punishing Unlawful Interference

We agree with this resolution and would consider actively supporting it.

VIII - International Agreements

We agree that it would be useful for the Assembly to suggest a review of existing extradition arrangements and to call upon Member States to strengthen their extradition relations. We also agree that an urgent study, by the ICAO Legal Committee, of measures to deal with attacks on civil aircraft other than unlawful seizure would be useful. However, we would prefer that the question of elaborating a multilateral convention be left for the decision of the Legal Committee as to whether this is the most appropriate way in which to deal with the subject.

We note that the draft Convention on Unlawful Seizure has left open for the Conference of Governments the question as to whether Contracting States should be required to report to the Council on incidents of unlawful seizure of civil aircraft, including the disposition of the offender. In our view, this is a matter to be decided by the Diplomatic Conference scheduled to take place in the Hague, December 1 to 16. Accordingly, we do not believe that the Assembly should consider this matter and do not see the need for an Assembly resolution.

Following from the above comments, you may wish to consider amending the first draft resolution so as to include:

"Noting the increasing frequency of acts of violence against civil aircraft, in addition to unlawful seizure" (i.e. deleting "in recent months");

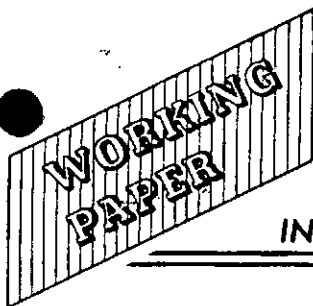
"Recommends that the Legal Committee, at the earliest possible date, institute a study of measures to deal with acts of violence against civil aircraft in addition to unlawful seizure" (i.e. deleting references to a multilateral convention); such study

.....4

-4-

to include consideration of punishment of such acts by severe penalties, jurisdiction, extradition, prosecution in the event of non-extradition and any other appropriate measures necessary or useful to deter and prevent acts of violence against civil aircraft in addition to unlawful seizure. (The question of requiring reports to the Council could be left to the Legal Committee for discussion and recommendation.)

In our view, the subject matter of the second draft resolution is a matter for decision at the Hague Diplomatic Conference in December. The objective - of securing agreement to including in the draft Convention on Unlawful Seizure a provision requiring Contracting Parties to report to the Council all relevant information regarding unlawful seizure of civil aircraft - could, of course, be usefully promoted in informal discussions at the Assembly. However, in our view, introduction of a specific resolution intended, in a sense, to tie the hands of the Diplomatic Conference, could well be counter-productive. Low-keyed general lobbying in Montreal could be much more useful, in terms of eventual support at the Hague, than even securing adoption of a resolution which attracted a large number of negative votes or abstentions.



ECT (Noris S. 3/10)
d. file 428-9-3-1CAO
JS-WP/750
NAOS/178
6/3/70
ADDENDUM NO. 3
22/5/70

INTERNATIONAL CIVIL AVIATION ORGANIZATION

COMMITTEE ON JOINT SUPPORT OF AIR NAVIGATION SERVICES

COUNCIL - SIXTY-NINTH SESSION

Subject No. 17.3: North Atlantic Ocean Stations Joint Financing Agreement

CONSULTATION WITH CONTRACTING GOVERNMENTS REGARDING FURTHER ACTION
ON RECOMMENDATIONS NOS. 27 AND 28 OF THE SIXTH ICAO JOINT FINANCING
CONFERENCE ON NAOS

(Presented by the Secretary of the Committee)

ADDENDUM NO. 3

A reply has been received on this matter from Italy, and is reproduced in this Addendum.

ITALY (translation)

The following comments are submitted in response to letter EC 8/65.4-69/261, dated 10 November 1969:

The views expressed on the subject by the Italian Delegation to the Sixth NAOS Conference may be considered as still valid (see NAOS/6-WP/34 of 7 February 1968).

In our opinion -- and this is also the view of pilots and airlines -- the operational value of the NAOS aeronautical benefits has decreased considerably, particularly if account is taken of the fact that jets usually fly above weather disturbances.

It is obvious therefore that the 80% evaluation for aeronautical benefits appears completely unjustified at the present time; what is more, it may be considered that the non-aeronautical benefits have increased in value as the operational significance of aeronautical benefits has decreased.

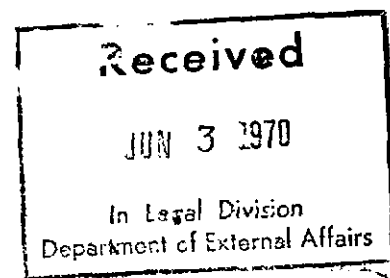
It may be concluded therefore that the allocation proposed by the ICAO Secretariat does not appear to reflect the current operational realities of NAOS and hence the Italian Authorities confirm the view expressed at the Sixth NAOS Conference that a 50:50 allocation for the two types of benefits would give a clearer and truer picture of the operational usefulness of the NAOS system.

Finally, since the percentage allocation of aeronautical and non-aeronautical costs should be regarded as an internal requirement of each State with a view to the sharing of the total NAOS costs between the governmental agencies concerned, it may be added that to use the North Atlantic crossings as a basis for the sharing of NAOS costs among States (as regards aeronautical benefits) is simply an expedient device with a purely indicative value which cannot constitute any reference to an obligation based on realities.

(1 page)

- END -

DISTR. 22/5 /70



*FLE to see
ECT (Miss Byladye)
& file 42-8-4-1C-10-6
me.*

27 May 1970.

The Assistant Deputy Minister, Air,
Department of Transport,
#3 Bldg.,
Ottawa, Ont.

Dear Sir:

Enclosed, for information, is a copy of each
of the following:

Add.#5 to JS-WP/747;

Add.#3 to JS-WP/750: — *NAOS. On file 42-8-9-3-1*

Yours truly,

L.M.E. Brennan

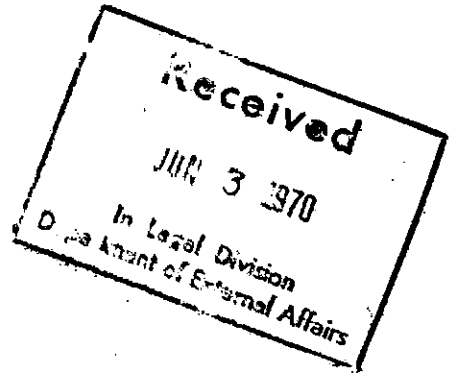
L.M.E. Brennan,
Administrative Officer.

Encls.

c.c.: The Under-Secretary of State for Ext.Affairs, (1)
→ Attention: United Nations Division

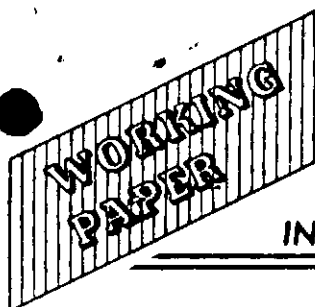
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JS-WP/747
DEN/154
17/2/70
ADDENDUM NO.5
22/5/70

INTERNATIONAL CIVIL AVIATION ORGANIZATION

COMMITTEE ON JOINT SUPPORT OF AIR NAVIGATION SERVICES

COUNCIL - SEVENTIETH SESSION

Subject No. 17.5: Joint Financing Agreement with Denmark

INCREASE IN THE COST LIMIT CONTAINED IN ARTICLE V OF THE 1956 DANISH JOINT
FINANCING AGREEMENT

(Presented by the Secretary of the Committee)

ADDENDUM NO. 5

The last reply has now been received on this matter, from Belgium, making it unanimous, and the Belgian reply is reproduced hereunder:

BELGIUM (translation)

In your State Letter of 31 December 1969, reference EC 8/66.5-69/321, you request the Belgian Government to consent to an increase in the limit set forth in Article V of the 1956 Agreement on the Joint Financing of Certain Air Navigation Services of Denmark.

At the 26 February 1970 meeting of the Joint Support Committee, I announced that the Belgian Authorities could only agree to the substance of your letter of 31 December 1969 on certain conditions.

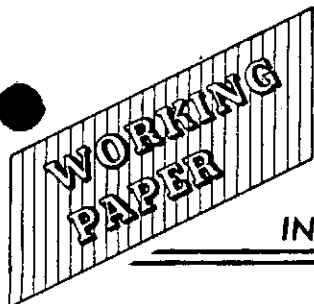
In your letter EC 8/66.5 of 27 February 1970, you requested me to invite the Belgian Government to review its position so that, in the interest of international co-operation, the ceiling of US\$3,142,379 applicable to 1969 and subsequent years' actual costs could be accepted unanimously. At the same time, you informed me that all the other contracting governments had unconditionally consented to the higher ceiling, which would not necessarily be reached in a forthcoming period. At my request, the appropriate Belgian departments agreed to re-examine the question.

Following upon this examination, the Belgian Government has, in a spirit of international co-operation, advised me that it associates itself with the other contracting governments and accepts the ceiling of US\$3,142,379 for the Danish Agreement applicable to 1969 and subsequent years' actual costs.

(1 page)

- END -

DISTR. 22/5 /70



file 1CAO-6
me.

INTERNATIONAL CIVIL AVIATION ORGANIZATION

C-WP/5186
20/5/70

COUNCIL - SEVENTIETH SESSION

325TH REPORT TO COUNCIL BY THE CHAIRMAN OF THE
COMMITTEE ON JOINT SUPPORT OF AIR NAVIGATION SERVICES
arising from its 1st Meeting, held 26 February 1970

Subject No. 17.5: Joint Financing Agreement with Denmark

APPROVAL OF INCREASE IN THE COST LIMIT CONTAINED IN ARTICLE V
OF THE 1956 DANISH JOINT FINANCING AGREEMENT

References: JS-WP/747, DEN/154 & Addenda
State Letter EC 8/66.5-69/321 of 31 December 1969
Doc 7726-JS/563 and Doc 7725-JS/562

1. The Committee, at its 1st Meeting of the 69th Session, held on 26 February 1970, considered the replies, reproduced at JS-WP/747 and its Addenda, of States parties to the 1956 Danish Joint Financing Agreement to the Secretary General's letter EC 8/66.5-69/321 dated 31 December 1969. This letter, which had been submitted in draft form to the Committee as JS-WP/741, transmitted a request by the Government of Denmark for an increase in the limit set forth in Article V of the Agreement up to an amount of US\$3,142,379, arrived at on the same basis as the 1956 Geneva Conference determined the Agreement's original cost limit, namely by adding:

| | US\$ |
|---|------------------|
| The total estimates for 1970 | : 2,917,368 |
| Margin (as per State Letter EC 8/66.5-69/321) | : 225,011 |
| | <u>3,142,379</u> |

2. It will be observed from JS-WP/747 and its Addenda that the 19 States, in addition to Denmark, that are parties to the Agreement have consented to this revised limit and to its application to 1969 and subsequent years' actual costs.

3. In view of the above, the Committee recommends that the Council take the following action pursuant to the second sentence of Article V of the Agreement:

Unanimous consent of the Contracting Governments having been obtained, the Council hereby increases the limit in Article V of the Agreement on the Joint Financing of Certain Air Navigation Services in Greenland and the Faroe Islands (Doc 7726-JS/563) to US\$3,142,379, this limit to apply to Denmark's actual costs under the Agreement commencing with the calendar year 1969.

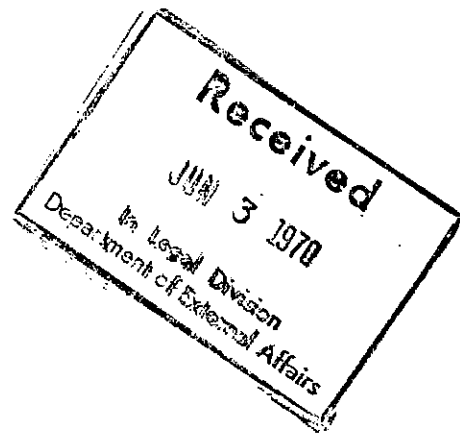
Respectfully submitted on behalf
of the Joint Support Committee

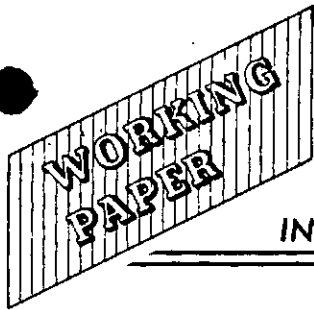
K.N.E. Bradfield
Chairman

(1 page)
E.F.S.

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DISTR. 25/5 /70





ECT (Miss Szlagoh)
C-WP/5185
19/5/70
42-8-4-ICAO-9.

INTERNATIONAL CIVIL AVIATION ORGANIZATION

COUNCIL - SEVENTIETH SESSION

Subject No. 14.1.1: International Standards and Recommended Practices (SARPS)

Subject No. 23: Languages, Interpretation and Translation in ICAO

LANGUAGE POLICY IN THE ADOPTION OF ANNEXES

(Presented by the Secretary General)

References: Doc 5701-C/672 (Council Minutes III-22)
Doc 6379-C/735 (Council Minutes V-25)

Background information

1. On 13 April 1948 (III-2; Doc 5701, pages 4 and 10) the Council adopted the resolution reproduced in Appendix A. On 3 December 1948 (V-25; Doc 6379, page 86) the Council amended the second and third clauses of the resolution as follows:

"2) The English text, so adopted, together with the texts in French and Spanish as prepared by the Secretariat, be transmitted by the Council to each Contracting State for the purpose hereinafter set forth;

3) Each Contracting State be invited to notify the Organization, not later than the date set for registering disapproval of a particular Annex or any part thereof, of the text selected by that State as its official text for the purpose of national implementation (including translation into its own national language if necessary) of the said Annex or part thereof and for any other effects provided for in the Convention;"

2. At the time the resolution was adopted and amended (1948), the texts of draft Annexes were presented to the Council in English only. This practice was discontinued in 1950 (in February 1950, the texts of amendments to Annex 1 were presented in the three languages). However, the 1948 resolution remained in force and has not been the subject of discussion in Council since its adoption. It should be noted that the invitation in clause 3) reproduced above has always been conveyed to States in the Forewords of Annexes (see the section "General Information" of the Foreword of any Annex).

3. As can be seen from clause 2) of the resolution, responsibility for the French and Spanish texts was left to the Secretariat. In the course of the 22 years in which this practice has been followed no difficulties have arisen. Only on a very

C-WP/5185

- 2 -

few occasions small errors of translation had been discovered after adoption by Council; each time, corrective action was immediately taken and Council Members and all other States informed. This shows that the translations have been accurate. During the last years, particularly since 1962, when the size of the Council was increased to twenty-seven, the texts in French and Spanish of the amendments to Annexes have been subject to greater scrutiny, not only by the Secretariat but also by a larger number of Council Members using those languages.

Action suggested by France

4. At the Council meeting on 15 May 1970 (LXX-2), the Representative of France suggested that the 1948 resolution should be modified to the effect that the Annexes or amendments thereto be adopted in the three languages. He explained that this was a logical step to follow as a consequence of the adoption of the Protocol on the Trilingual Text of the Chicago Convention.

5. To give effect to the suggestion by France, clauses 1) and 2) of the said resolution should be amended to read:

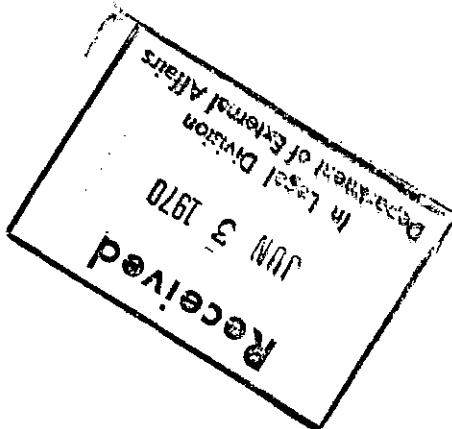
"1) Annexes to the Convention on International Civil Aviation be adopted
by the Council in English, French and Spanish;

2) The texts so adopted be transmitted by the Council to each Contracting
State for the purpose hereinafter set forth;"

6. Should the Council decide to amend the 1948 resolution in this sense, clauses 5) and 6) should be deleted, since the corrections of texts that they envisage could not be made if the three texts have been adopted by the Council. As to clause 4), it would seem unnecessary to retain it. Therefore, the revised resolution would consist of the two clauses in paragraph 5 above and of clause 3) reproduced in paragraph 1 above.

Action by the Council

7. The Council is invited to decide whether the 1948 resolution should be amended.



APPENDIX A

RESOLUTION ADOPTED BY THE COUNCIL ON 13 APRIL 1948

THE COUNCIL RESOLVES THAT:

- 1) Annexes to the Convention on International Civil Aviation be adopted by the Council in English;
- 2) The English text so adopted, together with the texts in French and Spanish as prepared by the Secretariat, be transmitted by the Council to each Contracting State for the purposes hereinafter set forth;
- 3) Each Contracting State be invited to notify the Organization, not later than the date set for registering disapproval of a particular Annex or any part thereof,
 - of the text elected by that State as its official text for the purpose of national implementation (including translation into its own national language, if necessary) of the said Annex or part thereof and for any other effects provided for in the Convention,
 - of its comments on inadequacies, if any, of the equivalence between the said text and the text adopted by the Council;
- 4) Any other inadequacies which may be discovered later be notified to the Organization;
- 5) Any corrections made by the Organization, on account of the comments received or otherwise, be communicated by the Organization to each Contracting State;
- 6) Any correction communicated to Contracting States be incorporated in the original text concerned.

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MESSAGE

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| | BAG: TEL AVIV, BEIRUT, HAVANA, CAIRO -CTC (MORISSET) | | | |

REF

SUB/SUJ ICAO EXTRAORDINARY ASSEMBLY: CANADIAN INITIATIVE

GRATEFUL YOU CALL SOONEST ON GULDIMANN, FEDERAL AIR OFFICE TO DISCUSS OUR PROPOSALS. YOU SHOULD ADVISE HIM OF FOLLOWING PRELIMINARY REACTIONS TO DISCUSSIONS WITH 8 OF 11 ECAC STATES:

- A) BELGIUM - FAVOURABLE, ALTHOUGH OPENING BILATERALS WOULD BE PROBLEM, NO BELGIAN OBJECTION IN PRINCIPLE;
- B) NETHERLANDS AND AUSTRIA - INTEREST, OPENING BILATERALS PRESENTS DIFFICULTIES;
- C) DENMARK AND NORWAY - INTEREST, BUT SUBJECT TO INITIAL DISCUSSION WITH NORDIC COLLEAGUES SCHEDULED FOR JUNE 4 IN COPENHAGEN;
- D) SPAIN - NON-COMMITAL;
- E) UK - CONSIDERABLY RESERVED;
- F) SWEDEN - NEGATIVE.

2. WE HAVE NOT YET RECEIVED REACTIONS OF FRG AND FINLAND, YOU SHOULD TELL GULDIMANN THAT IN OUR VIEW - AS INDICATED IN OUR TEL FILE-651 MAY 8- INITIATIVE WOULD NOT HAVE ANY CHANCE FOR SUCCESS FOR EUROPEANS UNWILLING

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(CLEARED with DOT (Sicotte) and
CTC (MORISSET) & sent at 7:30 pm Friday May 22)

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| SIG L.S. CLARK/DL | FILE | 2-7738 | SIG L.S. CLARK L.S. CLARK |

- 2 -

TO CO-SPONSOR AND STRONGLY SUPPORT IT (YOU MAY DRAW ON EXCHANGE OF TELS BETWEEN EXTERNAL AND EUROPEAN POSTS IN GENERAL DISCUSSION). GIVEN ABOVE REACTIONS AND SHORTNESS OF TIME LEFT IN WHICH TO GET CABINET APPROVAL OF INSTRUCTIONS FOR CANDEL^{TO} ASSEMBLY, WE ARE RECONSIDERING ADVISIBILITY OF ~~ENTIRE~~ PUTTING FORWARD PROPOSED DRAFT RESOLUTION IN JUNE. OUR FALL BACK POSITION COULD BE TO CIRCULATE AT ASSEMBLY, AS CANADIAN DOCUMENT OR AS JOINT PAPER WITH OTHER INTERESTED GOVERNMENTS, WORKING PAPER SETTING OUT CONTENTS OF OUR TELS FLE-651 AND FLE-649 FOR CONSIDERATION OF ICAO MEMBER STATES. DOCUMENT WOULD NOT BE DEBATED AT ASSEMBLY BUT WE WOULD ADVISE GOVERNMENTS THEIR COMMENTS WOULD BE USEFUL IN ASSISTING DECISION AS TO WHETHER FORMAL PROPOSAL WOULD BE PUT FORWARD AT 1971 REGULAR ASSEMBLY.

3. GRATEFUL FOR GULDIMANN'S COMMENTS ON FOREGOING AND ANY OTHER RELEVANT INFORMATION HE MAY PROVIDE YOU WITH.

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C O N F I D E N T I A L

FM COPEN MAY21/70 NO/NO STANDARD

TO TT EXTER 214 PRIORITY DE LDN

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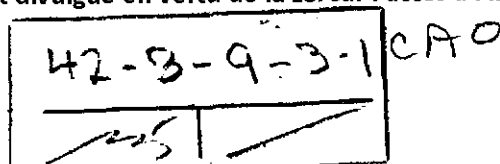
REF OURTEL 183 MAY11 AND STKHM TEL 302 MAY20

ICAO EXTRAORDINARY ASSEMBLY

MFA SAY THEY ARE NOT/NOT YET IN POSITION TO GIVE EVEN TENTATIVE
RESPONSE TO AIDE MEMOIRE BECAUSE OF NEED FOR SAS COUNTRIES
(DENMARK NORWAY SWEDEN)CONSULTATION AND COORDINATION.THIS PROCESS
IS TO TAKE PLACE AT MTG IN COPEN JUN04 OF QUOTE HUJACKING GROUP
UNQUOTE REP 3 COUNTRIES.ALSO MFA SEEMS TO LOOK ALMOST ENTIRELY
TO THE DEPT RESPONSIBLE FOR CIVIL AVIATION(DEPT OF PUBLIC WORKS
AND COMMUNICATIONS)TO FORMULATE DANISH VIEWPOINT AND TO SPEAK
FOR DENMARK.

2.THIS IS NOT/NOT GOOD ARRANGEMENT FROM OUR STANDPOINT.WE SHALL
TRY TO MEET EARLY NEXT WEEK WITH RESPONSIBLE OFFICIAL OF DEPT
OF PUBLIC WORKS TOGETHER WITH MFA IN ORDER TO PRESS CDN ARGUMENTS.
HOWEVER SWEDISH INFLUENCE LIKELY TO BE DECISIVE AT JUN04 MTG
IN OUR OPINION.

28.22.5



PPR - Protocol Division
Attn: Mrs. A. A. G. Corbet

UNCLASSIFIED

May 21, 1970

CUN - United Nations Division

Seventeenth Session (Extraordinary) of ICAO
Assembly: Hospitality

AFP

The Seventeenth Session (Extraordinary) of the ICAO Assembly will be held in Montreal from June 16 to 30. It has been agreed among the interested departments that the Canadian Government should host a reception on Wednesday, June 17, preferably at the Queen Elizabeth Hotel. A Submission to Cabinet is being prepared requesting inter alia authorization for a cocktail reception, expenses of which would be jointly shared between External Affairs and Transport. Either the Minister of Transport or the S.S.L.A. is expected to act as host.

2. We should be grateful if your division would reserve a suitable room at the Queen Elizabeth Hotel. While the guest list is not yet finalized we would estimate attendance should be between 300 to 350 people.

3. We shall provide you, as soon as possible, with further details but should be grateful if the reception room could be reserved urgently. For further details you could telephone Miss H. Loggie (28040).

[Miss] M.A. MACPHERSON

United Nations Division

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MESSAGE

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REF OURTEL FILE-651 MAY 6.

SUB/SUJ ICAO EXTRAORDINARY ASSEMBLY.

GRATEFUL TO KNOW PRELIMINARY FOR REACTION TO OUR PROPOSED JOINT
CDN-EUROPEAN INITIATIVE.

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TO TT EXTER 214 PRIORITY DE LDN

INFO HAGUE OSLO STKHM LDN PRIORITY

TT PARIS BRU BONN PRIORITY DE LDN WSHDC PRIORITY DE OTT

REF OURTEL 183 MAY11 AND STKHM TEL 302 MAY20

ICAO EXTRAORDINARY ASSEMBLY

MFA SAY THEY ARE NOT/NOT YET IN POSITION TO GIVE EVEN TENTATIVE

RESPONSE TO AIDE MEMOIRE BECAUSE OF NEED FOR SAS COUNTRIES

(DENMARK NORWAY SWEDEN)CONSULTATION AND COORDINATION.THIS PROCESS

IS TO TAKE PLACE AT MTG IN COPEN JUN04 OF QUOTE HUJACKING GROUP

UNQUOTE REP 3 COUNTRIES.ALSO MFA SEEMS TO LOOK ALMOST ENTIRELY

TO THE DEPT RESPONSIBLE FOR CIVIL AVIATION(DEPT OF PUBLIC WORKS

AND COMMUNICATIONS)TO FORMULATE DANISH VIEWPOINT AND TO SPEAK

FOR DENMARK.

2.THIS IS NOT/NOT GOOD ARRANGEMENT FROM OUR STANDPOINT.WE SHALL

TRY TO MEET EARLY NEXT WEEK WITH RESPONSIBLE OFFICIAL OF DEPT

OF PUBLIC WORKS TOGETHER WITH MFA IN ORDER TO PRESS CDN ARGUMENTS.

HOWEVER SWEDISH INFLUENCE LIKELY TO BE DECISIVE AT JUN04 MTG

IN OUR OPINION.

*Beatty / C/ffk
We'd better have another look at this*

ACTION COPY

FILE

*12-8-9-3-1CAO
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C O N F I D E N T I A L

FM STKHM MAY20/70 NO/NO STANDARD

TO TT EXTER 302 PRIORITY DE LDN

**INFO HAGUE COPEN OSLO HSNKI TT LDN DE HAGUE DOT(STONER)CTCOTT
(MORISSET)DE OTT**

BAG BRU BONN VIENN MDRID BERN PARIS WSHDC PRMNY TOKYO TAVIV

BERUT CAIRO HAVAN DE OTT

REF OURTEL 286 MAY12

ICAO EXTRAORDINARY ASSEMBLY

**KUMLIN CONTACTED US MAY19 WITH DISAPPOINTING RESPONSE TO CDN
PROPOSAL. IN BRIEF ALTHOUGH SWEDES AGREE THERE IS NEED TO PUT
PRESSURE ON COUNTRIES FAILING TO FULFIL INNATL OBLIGATIONS
THEY ARE NOT/NOT ATTRACTED TO CDN RESLN ON GROUNDS OF BOTH
PRACTICALITY AND CONVENIENCE.**

**2. KUMLIN SAID THAT AS SECOND PART OF RESLN CALLED FOR AMENDMENT
OF EXISTING BILATERALS ONLY QUOTE AT EARLIEST APPROPRIATE TIME
UNQUOTE SANCTIONS COULD NOT/NOT PRACTICALLY BE EXPECTED TO BE
EFFECTIVE. HE SUGGESTED NEED FOR DEADLINE BEFORE WHICH BILATERALS
SHOULD BE AMENDED ALTHOUGH HE ADMITTED THAT TIME REQUIRED TO
AMEND STAGGERING NUMBER OF EXISTING AGREEMENTS COULD EASILY
STRETCH UP TO TEN YEARS.**

**3. RE CONVENIENCE KUMLIN BROUGHT UP QUESTION AS TO WHO SHOULD
DECIDE WHETHER INDIVIDUAL COUNTRY HAD FAILED TO FULFIL ITS
OBLIGATIONS. IN CASE OF SINGLE COUNTRIES KUMLIN GAVE SWEDISH
VIEW THAT SINCE BILATERALS WERE OF ECONOMIC VALUE TO BOTH**

...2

6/21/8

PAGE TWO 302 CONFD

SIGNATORIES, COUNTRIES WOULD RARELY BE WILLING, EXCEPT FOR SPECIAL POLITICAL REASONS, TO ABROGATE AGREEMENTS. BESIDES, FAIRLY LARGE NUMBER OF COUNTRIES WOULD HAVE TO TAKE DECISIONS IN EACH INSTANCE IN ORDER TO RENDER SANCTIONS EFFECTIVE. KUMLIN WAS ALSO PESSIMISTIC ABOUT UTILITY OF USING INNATL BODY AS DECISION-MAKING FORUM SINCE NO/NO SUCH BODY COULD POSSIBLY ENFORCE SANCTIONS AMONG ITS MEMBERS EVEN IF DECISION COULD BE REACHED AS TO DESIRABILITY IN PRINCIPLE OF DOING SO.

4. KUMLIN SAID THAT SWEDES HAD REACHED THESE CONCLUSIONS THROUGH CONSULTATIONS WITH SWEDISH ORGANIZATIONS CONCERNED AND HAD NOT/NOT CONSULTED EVEN NORWEGIANS OR DANES LET ALONE OTHER ECAC MEMBERS. HE SAID THEY WERE CONFIDENT HOWEVER THAT VIEWS OF OTHER SCANDINAVIANS WOULD BE SIMILAR.

5. WE DID OUR BEST TO COUNTER SOME OF KUMLIN'S REMARKS, PARTICULARLY THOSE OUTLINED IN PARA 3 ABOVE AND MENTIONED POSSIBILITY OF WITHDRAWAL OF SERVICES INSTEAD OF SUSPENSION OF AGREEMENTS. KUMLIN REMAINED STEADFAST HOWEVER AND SAID SWEDES WERE UNABLE TO CONSIDER POSSIBLE FUTURE PARTICIPATION IN JOINT INITIATIVE

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MESSAGE

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| | BERN, PARIS, PERMISNY, WSHDC BAG: TOKYO, TAVIV, BEIRUT, CAIRO, HAVANA. | | | |
| | DOT(STONER), CTC(MORISSET). | | | |

REE OSLO TEL 189 MAY 12.

SUB/SUJ ICAO EXTRAORDINARY ASSEMBLY: PROPOSAL TO LINK BILATERAL AIR AGREEMENTS TO ICAO CONVENTIONS.

SINCE FINLAND HAS JOINED 10 ECAC STATES AS CO-CONVENOR OF ICAO SPECIAL ASSEMBLY, GRATEFUL YOU APPROACH MFA RE JOINT CDN-EUROPEAN INITIATIVE.

TEL FILE-651 MAY6 SETTING OUT INSTRUCTIONS AND TEL FILE-649 MAY7 CONTAINING TEXT OF DRAFT RESOL IN ENGLISH BEING TRANSMITTED TO YOU.

DISTRIBUTION
LOCAL/LOCALE

NO STD OUN, ECT, CAF, PDF, HDE, H.GOURDEAU(CDN REP ON ICAO COUNCIL)

| | | | |
|---------------------------|------------------|-----------|---------------------------|
| ORIGINATOR/REDACTEUR | DIVISION | TELEPHONE | APPROVED/AUTORISE |
| SIG..... L.S. Clark/on | FILE - LEGAL DIV | 2-7738 | SIG..... J.S. STANFORD |

EXT 18/BIL (REV 8/64)
(COMMUNICATIONS DIV)

000049

C.C.

(12/8/75)

ACTION COPY

FLE

File
per

12-8-9-3-10A0
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C O N F I D E N T I A L

FM VIENN MAY15/70 NO/NO STANDARD

TO EXTEROTT 447

INFO TT DOT(STONER) CTC(MORISSET) DE OTT

REF YOURTEL FLE651 MAY8

ICAO EXTRAORDINARY ASSEMBLY

AIDE MEMOIRE AND COPY OF DRAFT RESLN LEFT WITH INNATL ORGANIZATIONS
DIV OF MFA.DIV OFFICER SAID AUSTRIA,HAVING HAD ATTACK AGAINST
ONE OF ITS CIVIL AIRCRAFT,HAD BEEN AMONG MOVERS OF EXTRAORDINARY
SESSION AND WAS ANXIOUS SOME EFFECTIVE ACTION BE TAKEN.CDN PROPOSAL
WOULD THEREFORE BE STUDIED WITH QUOTE INTEREST UNQUOTE.NO/NO
SUBSTANTIVE COMMENT WAS OFFERED,OTHER THAN OBSERVATION MANY
STATES MIGHT BE RELUCTANT TO OPEN UP BILATERAL AGREEMENTS.LEGAL
DIV WILL STUDY NEXT WEEK WHEN WE WILL RETURN TO MINISTRY.

5/19/5

TO: Under-Secretary of State for External
 Affairs, Ottawa

FROM: Canadian Embassy, The Hague

Security... ~~CONFIDENTIAL~~

Date... May 15, 1970

Air or Surface... Airmail

No. of enclosures... 3

The documents described below are for your information.

Despatching Authority... A.W. Robertson/dc

42-89-135-1140
 25 | —

| Copies | Description | Also referred to: |
|--------|---|-------------------|
| 1 | Ref: Our telegram 437 of May 14, 1970 | |
| 1 | Aide Memoire - Extraordinary Assembly of ICAO | |
| 1 | Draft Resolution | |
| 1 | Talking points | |

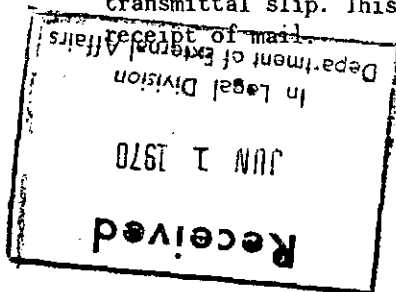
TO: OUN
 FROM: ACRD
 MAY 28 1970
 ATTN: [Signature]

OUN

5/1/6

INSTRUCTIONS

1. This form may be used in sending material for informational purposes from the Department to posts abroad and vice versa.
2. This form should *NOT* be used to cover documents requiring action.
3. The name of the person responsible for authorizing the despatch of the material should be shown opposite the words "Despatching Authority". This may be done by signature, name stamp or by any other suitable means.
4. The form should bear the security classification of the material it covers.
5. The column for "Copies" should indicate the number of copies of each document transmitted. The space for "No. of Enclosures" should show the total number of copies of all documents covered by the transmittal slip. This will facilitate checking on despatch and



A I D E M E M O I R E

Extraordinary Assembly of
International Civil Aviation Organization

June 16-30, 1970

Certain member states of I.C.A.O., which are also members of the European Civil Aviation Conference (E.C.A.C.), have initiated the convening by I.C.A.O. of an extraordinary session of its Assembly, which is to take place in Montreal from June 16 to 30. The purpose of this extraordinary session is to consider the question of international aviation security. These same E.C.A.C. member states have provided the proposed agenda of the forthcoming extraordinary session and have announced their intention to submit documentation and proposals for consideration by the Assembly.

The Canadian authorities, both because Canada is the host state of the organization and because it is one of the major air transport nations, are concerned as to how the international legal obligations of states, both under the 1963 Tokyo Convention as well as under any future conventions, could best be enforced. Neither the 1963 Tokyo Convention nor the Draft Convention on Unlawful Seizure (hijacking) contain clauses which provide for sanctions, should any contracting states refuse to implement any of their provisions. Such refusal would, of course, constitute

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- 2 -

a breach of the international legal obligations of such states but no penalty would be attached thereto.

Noting that international air transport is regulated by various bilateral air agreements governing air services and the landing rights of designated air lines, the Canadian authorities have therefore decided that one method of providing effective sanctions against the failure of member states to implement their international legal obligations under the relevant international conventions would be directly to link those conventions with the bilateral air agreements concluded between member states. Accordingly, the Canadian authorities have drawn up a Draft Assembly Resolution embodying the concepts outlined above and providing for a legal right to terminate on short notice any bilateral air agreements with an offending state which has failed to implement its international legal obligations. They have in mind that at the forthcoming extraordinary Assembly such a draft resolution should be proposed, the purpose of which would be to link bilateral air agreements, already concluded or to be concluded between I.C.A.O. member states, to the present 1963 Tokyo Convention and to future conventions such as the Draft Convention on Unlawful Seizure (hijacking) and any other possible future conventions also dealing with armed attacks and sabotage.

If such a resolution were to be adopted and implemented, then any state (not only, for instance, the state of registration

...3

- 3 -

of a hijacked aircraft) having a bilateral air agreement with an offending state would have the right to terminate that agreement on short notice. It is further considered by the Canadian authorities that the implementation of such a resolution, even if only by a limited number (say a dozen) of the major providers of international air transport, would be likely to result in the creation of sufficient pressures on other states to ensure an important degree of implementation of their treaty obligations.

THE HAGUE, May 12, 1970.

May 13, 1970
CONFIDENTIAL

CANADIAN PROPOSAL FOR DRAFT RESOLUTION
LINKING BILATERAL AIR AGREEMENTS
TO ICAO CONVENTIONS

The Assembly,

Recalling its previous resolution A16-37 on the subject
of the unlawful seizure of aircraft;

Noting that the Tokyo Convention on Offences and Certain
Other Acts Committed on Board Aircraft came into force on
December 4, 1969;

Noting that a diplomatic conference has been convened in
The Hague on December 1-16, 1970 to consider the adoption of
a convention on the unlawful seizure of aircraft;

Conscious of the fact that the framework of scheduled
international civil air transport is based on bilateral air
agreements between states;

I Calls on all states to incorporate provisions in all
future bilateral air agreements which

(1) In the case where both parties are contracting states
to the Tokyo Convention (on Offences and Certain Other Acts
Committed on Board Aircraft) and to any other international
civil aviation organization convention or protocol relating to
unlawful interference with international air transport in force
at the time of the conclusion of bilateral air agreements,
explicitly to refer to such conventions or protocols;

- 2 -

(2) In the case where only one or neither party is a contracting state to the Tokyo Convention (on Offences and Certain Other Acts Committed on Board Aircraft) or to any other convention or protocol relating to unlawful interference with international air transport in force at the time of the conclusion of bilateral air agreements, to incorporate in the agreement the provisions of such conventions and protocols imposing obligations with respect to acts of unlawful interference with international civil aviation;

(3) In all cases, notwithstanding any other provision concerning termination, to permit either party to terminate the bilateral air agreement one month (or other suitable time limit: e.g. 10-15 days, etc.) after the communication of notice if the other party fails to implement its obligations

(a) Under the international conventions or protocols referred to or

(b) Under the articles of the bilateral agreement incorporating the provisions of international conventions and protocols;

II Call on all states to amend at the earliest appropriate time all their existing bilateral air agreements to incorporate provisions which

(1) In the case where both parties are contracting states to the Tokyo Convention (on Offences and Certain Other Acts Committed on Board Aircraft) and to any other international

May 13, 1970.

000057

- 3 -

civil aviation organization convention or protocol relating to unlawful interference with international air transport in force at the time of the conclusion of bilateral air agreements explicitly to refer to such conventions or protocols;

(2) In the case where only one or neither party is a contracting state to the Tokyo Convention (on Offences and Certain Other Acts Committed on Board Aircraft) or to any other convention or protocol relating to unlawful interference with international air transport in force at the time of the conclusion of bilateral air agreements to incorporate in the agreement the provisions of such conventions and protocols imposing obligations with respect to acts of unlawful interference with international civil aviation:

(3) In all cases, notwithstanding any other provision concerning termination to permit either party to terminate the bilateral air agreement one month (or other suitable time limit: e.g. 10-15 days, etc.) after the communicating of notice if the other party fails to implement its obligations

(a) Under the international conventions or protocols referred to or

(b) Under the articles of the bilateral agreement incorporating the provisions of international conventions and protocols.

May 13, 1970

TALKING POINTS

1. The Foreign Ministries in the capitals of the ten members of the European Civil Aviation Conferences concerned (i.e. Bern, Bonn, Brussels, Copenhagen, The Hague, London, Madrid, Oslo, Stockholm and Vienna) are being approached.
2. It is the Canadian view that, since it is these states which have proposed the agenda for the extraordinary Assembly and are submitting the major documentation, they would probably be in the best position to present a Draft Resolution of the type which Canada has in mind and would be more likely to meet with success in having such a Draft Resolution adopted.
3. Thus, if these ECAC states see merit in the Canadian proposal to link bilateral air agreements to ICAO Conventions, the Canadian authorities would envisage, at least initially, a joint European-Canadian initiative to be promoted as widely as possible both in advance of and at the forthcoming extraordinary Assembly.
4. Although the Canadian Draft Resolution has been drawn up in strong terms, the Canadian authorities recognize that it might well have to be softened. One probable change could be that the right to terminate bilateral agreements on short notice could instead be replaced merely by a right to suspend services to and from any

- 2 -

- offending state (in which case the relevant bilateral air agreement would, however, continue in existence).
5. The Canadian authorities have already held informal discussions with members of the Secretariat of ICAO, with the Director-General of IATO, Mr. Calpa, and with representatives on the Council of ICAO. In general, there has been a favourable reaction to the Canadian proposal, although it is recognized that to open up bilateral air agreements for discussion could give rise to certain problems for many states.
6. It appears that the growing international concern with unlawful interference with aviation has created a climate of opinion conducive to the initiation of new measures designed to prevent and deter such illegal activities. Nevertheless, it is also generally recognized that, in the final analysis, only active international cooperation and a willingness on the part of all states involved in international aviation to accept and implement their international legal obligations will lead to the solution of the grave problems now facing international civil transport.

*2 CARPA =
cbr airline libt
amvion*

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- 3 -

7. The Canadian authorities expect that, if the ECAC member states concerned agree to espouse the proposed Canadian Draft Resolution, its terms will probably be modified as a result of their own consultations. It is the hope of the Canadian authorities that once they have reached agreement on a common European approach, Canada would then be able to collaborate closely with them on the subsequent promotion of the proposal.

ACTION COPY

ADG
refer p. 2
EL

C O N F I D E N T I A L

FM MDRID MAY14/70

TO TT EXTER 661 DE PARIS

INFO PARIS TT LDN VIENN BERN DE PARIS BRU BONN HAGUE DE LDN

COPEN OSLO STKHM DE HAGUE WSHDC TOKYO DE OTT

DOTOTT(STONER)CTCOTT(MORISSET)DE OTT

BAG TAVIV BERUT CAIRO HAVAN DE OTT

REF YOURTEL FLE651 MAY8

ICAO EXTRAORDINARY ASSEMBLY

WE LEFT AIDE MEMOIRE AND COPY OF DRAFT RESLN TODAY WITH MFA AND
MADE ADDITIONAL POINTS SET OUT YOUR REFTEL.OFFICIAL RESPONSIBLE
FOR CIVIL AVIATION CHARACTERIZED CDN PROPOSAL AS QUOTE CLEVER
UNQUOTE BUT DID NOT/NOT MAKE SUBSTANTIVE COMMENT.HE UNDERTOOK
TO DISCUSS EARLY NEXT WEEK WITH FOREIGN MINISTRY LEGAL ADVISER
AND AIR MINISTRY.HE DID NOT/NOT MAKE COMMITMENT THAT SPAIN
WOULD CONSULT WITH OTHER MEMBERS OF ECAC BUT LEFT US WITH
IMPRESSION THAT THIS WOULD BE LIKELY SEQUEL TO INTERNAL
CONSIDERATION OF OUR APPROACH.

2.SPAIN WAS VERY INTERESTED IN QUESTION OF SECURITY OF AIRCRAFT,
PARTICULARLY IN VIEW OF BOMBING INCIDENTS THIS PAST WEEK INVOLVING
AIRCRAFT ENROUTE TO SPAIN.OFFICIAL ATTRIBUTED THESE INCIDENTS TO
SEASONAL EFFORTS ON PART OF OPPONENTS OUTSIDE SPAIN OF SPANISH
REGIME TO DISRUPT TOURIST TRAFFIC.HOWEVER,RECENT INCIDENTS WERE
MUCH MORE SERIOUS THAN PAST DISSEMINATION OF RUMOURS REGARDING
CHOLERA EPIDEMICS IN SPAIN ETC.

13/15/5

Olga Refer to naval list plan. EQ

ACTION COPY

FLE.

C O N F I D E N T I A L

FM HAGUE MAY14/70 NO/NO STANDARD

TO TT EXTER 437 PRIORITY DE LDN

INFO LDN COPEN OSLO STKHM TT PARIS BRU BONN DE LDN.

TAVIV BERUT CAIRO BERN DE PARIS WSHDC TOKYO HAVAN DE OTT

DOT(STONER)CTC(MORISSET)DE OTT

BAG MDRID DE OTT HSNKI DE HAG

REF YORTELS FLE649 FLE651 AND FLE652 MAY8

ICAO EXTRAORDINARY ASSEMBLY-PROPOSAL TO LINK BILATERAL AIR AGREE-
MENTS TO ICAO CONVENTIONS

AIDE MEMOIRE AND DRAFT RSLNS GIVEN TO DE MEESTER(DEPUTY COUNSEL-
LOR INNATL TRANSPORT MFA AND MEMBER NETHERLANDS DEL JUN ASSEMBLY)
MORNING MAY14.

2.FOLLOWING PROLONGED DISCUSSION CDN PROPOSAL DE MEESTER EXPRESSED
PERSONAL INTEREST. HE WILL CONSULT MFA AND OTHER INTERESTED NETHER-
LANDS AUTHORITIES DURING NEXT WEEK AND HOPES TO BE ABLE TO GIVE
US PRLIMINARY REACTION SOON AFTERWARDS.

3.IN DISCUSSION HE BROUGHT UP SAME POSSIBLE OBJECTION TO OPENING
BILATERALS AS HAVE BRITS AND SWISS(REF LDN TEL 1577 MAY13 AND BERN
TEL 184 MAY13).IT OCCURS TO US THIS OBJECTION COULD PERHAPS BE
MET IN PART IF CDN PROPOSAL WERE TO BE SO REWORDED AS TO MAKE
CLEAR THAT EXISTING BILATERALS WOULD BE OPENED UP ONLY IN ORDER
TO INCORPORATE PROPOSED REFS TO ICAO CONVENTIONS AND FOR NO/NO
OTHER REASON.

good point

ACTION COPY

FLE

Original for reference

ef

Chapman
0/1
Fab

C O N F I D E N T I A L

FM BRU MAY14/70

TO TT EXTER 500 PRIORITY DE LDN

INFO LDN TT BONN HAGUE PARIS DE LDN BERN VIENN MDRID DE PARIS COPEN.

OSLO STKHM HSNKI DE HAGUE WSHDC TOKYO DE OTT

DOTOTT(STONER) CTCOTT(MORISSET) DE OTT

BAG:TAVIV CAIRO HAVAN DE OTT

REF YOURTELS FLE649,651 AND 652 MAY8

**ICAO EXTRAORDINARY ASSEMBLY-PROPOSAL TO LINK BILATERAL AIR AGREEMENTS
TO ICAO CONVENTIONS**

**HANDED DRAFT CDN RESLN AND EXPLANATORY AIDE-MEMOIRE TODAY TO DE
VOGELAERE, HEAD OF COMMUNICATIONS, MFA.**

**2. PRELIMINARY PERSONAL RESPONSE FAVOURABLE BUT MATTER WILL HAVE TO
BE DISCUSSED AT MTG MAY21 WITH AERONAUTIC ADMIN OFFICIALS BEFORE
MORE SUBSTANTIVE BELGIAN GOVT VIEW AVAILABLE. PRACTICAL DIFFICULTIES
IN AMENDING 53 BELGIAN BILATERALS WOULD POSE MAJOR OBSTACLE TO
ADOPTION OF DRAFT RESLN ALTHOUGH DE VOGELAERE DOES NOT/NOT CONSIDER
AT THIS TIME THAT THERE WOULD BE ANY BELGIAN OBJECTION OF PRINCIPLE
TO OPENING UP OF BILATERALS FOR DISCUSSION.**

**3. BOTH DE VOGELAERE AND MME RENAUD, RESPONSIBLE AT MFA FOR AVIATION
MATTERS, EMPHASIZED THAT BELGIAN OFFICIAL AND PUBLIC OPINION STRONGLY
FAVOURS EFFECTIVE INNATL LEGISLATION TO INHIBIT HIJACKING AND MFA
RECOGNIZES NEED TO FIND SOME FORMULA FOR EFFECTIVE SANCTIONS.**

**4. WILL MEET AGAIN WITH DE VOGELAERE ON MAY21 OR 22. HE WILL,
INCIDENTALLY, BE BELGIAN DEL TO SPECIAL ASSEMBLY SESSION.**

428-9-3-1070
28/13

ACTION COPY

42-8-9-3-1-CAOK

C O N F I D E N T I A L

FM PRMNY MAY14/70

TO EXTER(FLE)647

REF LDN TEL 1577 MAY13 CLARK/LEE TELECON MAY14

ICAO EXTRAORDINARY ASSEMBLY

PARA 2 REFTEL MAKES TWO IMPORTANT POINTS WHICH CALL FOR COMMENT:

(A) WHILE CDN PROPOSAL DOES, INDEED CONTEMPLATE FUTURE CONVENTIONS

IE ONES NOT/NOT YET DEVELOPED, YOU WILL BE AWARE THAT IN ACCORDANCE

WITH ICAO PROCEDURES, THESE WOULD HAVE TO BE DRAFTED WITHIN AND ADOPTED

BY ICAO LEGAL CTTEE, APPROVED BY ICAO COUNCIL BEGIN UNDERLINING AND

END UNDERLINING ADOPTED BY A DIPLO CONFERENCE. THIS PROCESS

VIRTUALLY ASSURES THAT ANY EVENTUAL ICAO CONVENTION RELATING TO

UNLAWFUL INTERFERENCE WITH CIVIL AVIATION WOULD BE ACCEPTABLE TO

MAJOR PROVIDERS OF INNATL AIR TRANSPORT IE WSHDC GROUP; (B) RESLN

DRAFTED SO AS TO PROVIDE SPECIFICALLY FOR CONCLUSION OF FUTURE

BILATERAL AIR AGREEMENTS BETWEEN STATES NOT/NOT PARTIES TO CONVEN-

TIONS, BY STIPULATING THAT BILATERALS BETWEEN COUNTRIES ONE OR BOTH

OF WHICH ARE NOT/NOT CONTRACTING STATES TO RELEVANT ICAO CONVENTIONS

SHALL QUOTE INCORPORATE PROVISIONS UNQUOTE OF INNATL INSTRUMENTS

RELATING TO UNLAWFUL INTERFERENCE/ IT SHOULD BE NOTED THAT STATES

MAY AVOID BECOMING PARTIES TO MULTILATERAL INSTRUMENTS NOT/NOT

BECAUSE THEY REFUSE IN PRINCIPLE TO ACCEPT CERTAIN OOLIGATIONS

CONTAINED THEREIN BUT BECAUSE THEY DO NOT/NOT WANT TO UNDERTAKE SUCH

OOLIGATIONS VISAVIS PARTICULAR CONTRACTING STATES. THUS THEY MAY

WELL AGREE TO INCORPORATE MULTILATERAL PROVISIONS IN BILATERAL AIR

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2/15/5

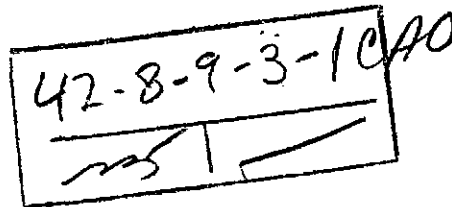
PAGE TWO 647 CONFD

AGREEMENTS WITH THIRD STATES.

2.TELS FROM POSTS IN ECAC CAPITALS(EG OERN 184 MAY13)INDICATE THAT
CDN PROPOSAL WILL LIKELY BE DISCUSSED BY EUROPEANS SHORTLY.THIS WOULD
INEVITABLY INVOLVE BRITS.

3.RECOMMEND YOU TRANSMIT FOREGOING TO LDN AND INFO ADDRESSEES OF
REFTEL.

File ✓
Div.
Diary
E.G.L.



May 14, 1970.

The Canadian Government has under consideration a proposal which would link bilateral air agreements to ICAO Unlawful Interference Conventions and provide a legal basis for suspension of air services or termination of bilateral agreements in the event of failure to implement international obligations set out in the ICAO instruments. This proposal might be put forward at the Assembly in the form of a draft resolution or in a working document to be circulated to ICAO Member States for study and comment in preparation for an initiative at the next regular Session of the Assembly, scheduled for 1971.

To date only relevant instrument in force is 1963 Tokyo Convention; draft ICAO Convention on Unlawful Seizure (Hijacking) - to be subject of diplomatic conference at The Hague this December - and possible future Convention on Armed Attacks and Sabotage (which USA favours) would also eventually be relevant.

Major question is how international legal obligations under such treaties are to be enforced since neither Tokyo nor draft Hijacking Convention provides for sanctions. Refusal by contracting States to implement any provisions would of course be breach of their international obligations; however, at present, no penalty is attached to such breach. Entire framework of international civil aviation is based on bilateral air agreements. Almost all scheduled international air transport is regulated by such accords which govern air services by, and landing rights of, designated airlines. Accordingly, we consider that directly linking

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bilaterals to relevant international conventions would be the best method of providing an effective sanction for failure to implement international legal obligations.

We are thinking of a draft Assembly Resolution which embodies concept outlined above and provides for legal right to terminate, on short notice, bilateral air agreements with an offending state, i.e. state which fails to implement international legal obligations. It should be noted that if such a resolution were adopted and implemented, any state (not only E.G. state of registration of a hijacked aircraft) which had bilateral with an offending state, would have right to terminate agreement on short notice. Implementation of such resolution even if only by a dozen major providers of international air transport would likely create sufficient pressure to ensure an important degree of implementation of treaty obligations.

Such a provision might, for example,

(i) require that both parties to the air agreement must also be parties to all international legal instruments relating to the deterrence and prevention of unlawful acts against civil aviation.

(ii) It could even go beyond that to provide that failure to implement all obligations under such multilateral treaties could be grounds for denouncement of the bilateral air agreement.

(iii) Furthermore, consideration might be given to permitting any State, not only state of registration of a hijacked aircraft or of an aircraft otherwise unlawfully interfered with, with which the delinquent

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- 3 -

state has a bilateral to denounce the bilateral. In this way an effective sanction against failure to implement international instruments could be developed.

We are now in the process of consulting the ten member governments of the European Civil Aviation Community who had sought the convening of the ICAO Special Assembly about these ideas. Canadian officials will keep the Government of Israel informed of our position on this matter.

MESSAGE

| | | | | | |
|-------|-----------------------------|------------------|--------|---------------|----------------------|
| FM/DE | EXTEROTT | MAY 13 20 43 '70 | DATE | FILE/DOSSIER | SECURITY SECURITE |
| | | | MAY 13 | 42-8-9-3-1CAO | |
| | | | | | CONFIDENTIAL |
| TO/A | PARIS | NO | | | PRECEDENCE |
| | | FILE- 694 | | | IMMEDIATE <i>EL</i> |
| INFO | PERMISNY (CLARK) | | | | |
| | DOT (STONER) CTC (MORISSET) | | | | |

REF YOURTEL 1377 MAY11.

SUB/SUJ ICAO SPECIAL ASSEMBLY.

WE WOULD PREFER THAT YOU DO NOT/NOT APPROACH THE FRENCH CONCERNING OUR INITIATIVE UNTIL WE HAVE HAD A CHANCE TO DISCUSS IT FIRST WITH THE 10 ECAC MEMBERS WHO PROPOSED THE CONVENING OF THE ICAO SPECIAL ASSEMBLY. DEPENDING ON THEIR REACTION WE WILL THEN DECIDE WHETHER TO CONSULT THE OTHER MEMBERS OF THE ECAC WHO, ALTHOUGH THEY HAD THE OPPORTUNITY TO DO SO, DID NOT/NOT JOIN IN THE REQUEST FOR A SPECIAL ICAO ASSEMBLY.

DISTRIBUTION
LOCAL/LOCALE

NO STD

OUN, GAF, ECT

H.GOURDEAU-CDN REP ON ICAO COUNCIL

| | | | |
|---------------------------------------|------------------|-----------|------------------------------------|
| ORIGINATOR/REDACTEUR | DIVISION | TELEPHONE | APPROVED/AUTORISE |
| SIG..... <i>E. Lee</i> E.G. Lee/on | FILE - LEGAL DIV | 2-2104 | SIG..... <i>E. Lee</i> E.G. Lee |

Original for reference
ACTION COPY
FILE *Chak o/R.*
4289-3-13 *ICAO* *Jul*

C O N F I D E N T I A L

FM LDN MAY13/70 NO/NO STANDARD

TO EXTER 1577 PRIORITY

INFO BRU BONN HAGUE PARIS TT VIENN MDRID BERN DE PARIS COPEN

OSLO STKHM DE HAGUE WSHDC TOKYO DOTOTT CTCOTT DE OTT

REF YOURTELS FLE649 AND 651 MAY8

ICAO EXTRAORDINARY ASSEMBLY

WE CALLED ON FCO YESTERDAY AND LEFT WITH THEM TEXT OF CDN PROPOSED DRAFT RESLN.TEXT,AS MADE AVAILABLE TO BRITS INCLUDING EXPLANATORY NOTE,BEING SENT TO OTT BY BAG.

2.FCO REACTION WAS CONSIDERABLY RESERVED THEY SEEMED TO SEE CDN PROPOSAL AS SUGGESTING ADOPTION OF A BLANK CHEQUE SINCE SOME OF CONVENTIONS WHICH MIGHT BE RELEVANT HAVE NOT/NOT YET BEEN DEVELOPED. THEY ALSO SEEMED TO SEE AGREEMENT TO SUCH A RESLN AS IN EFFECT CONSTITUTIONG REFUSAL TO CONCLUDE BILATERAL AIR SVC AGREE-MENTS WITH COUNTRIES WHICH MIGHT NOT/NOT BE PREPARED TO BECOME PARTIES TO VARIOUS CONVENTIONS INVOLVED AND IN ANY CASE COMPLICATING ALREADY DELICATE BARGAINING ELEMENTS IN NEGOTIATION OF BILATERAL AIR AGREEMENTS.A FURTHER BRIT CONCERN WAS THAT THEY WERE NOT/NOT DISPOSED TO CONTEMPLETE REOPENING THEIR EXISTING BILATERAL AIR AGREEMENTS WHICH IN THEIR VIEW WOULD RESULT IN MOST CASES IN A LESS FAVOURABLE BARGAIN OVERALL AS FAR AS UK IS CONCERNED.

3.FCO DID UNDERTAKE TO DISCUSS CDN DRAFT RESLN WITH OTHER DEPTS CONCERNED IN WHITEHALL BUT LEFT IMPRESSION THAT THEY DID NOT/NOT

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21.13.5

PAGE TWO 1577 CONFD NO/NO STANDARD

EXPECT REACTION FROM THEM WOULD BE FAVOURABLE. THEY WERE NOT/NOT
PREPARED AT LEAST AT THIS STAGE TO UNDERTAKE RAISING CDN PROPOSAL
WITH OTHER MEMBERS OF ECAC.

4. WE ARE ALSO SENDING BY BAG VARIOUS PAPER PREPARED BY BRIT IN
CONNECTION WITH PROPOSED EXTRAORDINARY SESSION IN EVENT THAT YOU
HAVE NOT/NOT RECEIVED THEM THROUGH CONTACTS IN MTL.

*Wga - references
pse. 2/12*
ACTION COPY

FLE

*keen
C/ptk o/r*

*428-93/CAO file
2/12*

C O N F I D E N T I A L

FM COPEN MAY13/70

TO TT EXTER 195 PRIORITY DE LDN

INFO HAGUE LDN OSLO STKHM

BAG PARIS BRU BONN WSHDC DE OTT

REF OURTEL 183 MAY11

ICAO EXTRAORDINARY ASSEMBLY: PROPOSAL TO LINK BILATERALS TO ICAO
CONVENTION

MFA(AKAPPEL) ADVISED MAY12 THAT OUR AIDE MEMOIRE AND DRAFT RSLN
ARE UNDER URGENT STUDY BY DANISH AUTHORITIES. HOWEVER, EXPECTED
CONSULTATIONS BETWEEN SAS COUNTRIES WILL PROBABLY TAKE FEW DAYS
BEFORE FURTHER COMMENT AVAILABLE.

16.14.5

000073

Olga for reference

hee

ACTION COPY

128-9-3-15
215

FLE 1040 CLK o/r

Feb

C O N F I D E N T I A L

FM BERN MAY13/70

TO TT EXTER 184 DE PARIS

INFO PARIS TT LDN VIENN MDRID DE PARIS BRU BONN HAGUE DE LDN COPEN

OSLO STKHM HSNKI DE HAGUE WSHDC TOKYO DE OTT

DOTOTT(STONER) CICOTT(MORISSET)DE OTT

BAG TAVIV BERUT CAIRO HAVAN DE OTT

REF YOURTELS FLE649, FLE651 AND FLE652 MAY8

ICAO EXTRAORDINARY ASSEMBLY-PROPOSAL TO LINK BILATERAL AIR
AGREEMENTS TO ICAO CONVENTIONS

HANDED EXPLANATORY AIDE MEMOIRE AND DRAFT CDN RESLN TODAY TO
MUNCH VICE DIR FEDERAL AIR OFFICE IN ABSENCE OF GULDIMANN.

2. SWISS VERY INTERESTED AND PROMISE EARLY REACTION ON RETURN
GULDIMANN NEXT WEEK PARTICULARLY APPRECIATE CDN INITIATIVE.

3. MUNCH COMMENTED THAT SOMEWHAT SIMILAR PROPOSAL HAD ALREADY BEEN
DISCUSSED WITH ECAC FELLOW MEMBERS BUT HE DID NOT/NOT ELABORATE.
HOWEVER MUNCH ADDED SWITZERLAND NOW HAS SEVENTY BILATERAL AIR
AGREEMENTS WITH OTHER STATES AND HE FORESAW PRACTICAL AS WELL AS
POLITICAL PROBLEMS IN PROPOSAL TO SEEK AMENDMENTS TO ALL SUCH
BILATERALS. AS YOU KNOW MOST BILATERALS RESULT FROM EXTENDED
HORSE TRADING AND THUS RELUCTANCE TO REOPEN NEGOTIATIONS AS
YOU HAVE FORESEEN YOURSELF.

4. WILL REPORT FURTHER SOONEST

ROBERTS

22.13. 5

000074

TRANSMITTAL SLIP

TO: THE UNDER SECRETARY OF STATE
FOR EXTERNAL AFFAIRS, OTTAWA
FROM: THE OFFICE OF THE HIGH COMMISSIONER
FOR CANADA, LONDON

Security: CONFIDENTIAL
Date: MAY 13, 1970
Air or Surface: AIR
No. of enclosures: TWO

The documents described below are for your information.

Despatching Authority: R.E. LATIMER/al

42-8-9-3-10 A0
251

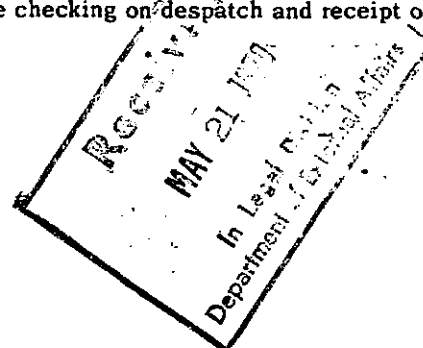
| Copies | Description | Also referred to: |
|--------|---|-------------------|
| 1 | SUB: ICAO EXTRAORDINARY ASSEMBLY REF: LONDON TELEGRAM <u>1577</u> MAY 13/70 | |
| 1 | PAPER PRESENTED TO FCO WITH COVERING NOTE - ICAO EXTRAORDINARY ASSEMBLY: PROPOSAL TO LINK BILATERAL AIR AGREEMENTS TO ICAO CONVENTIONS | |
| 1 | BRITISH PAPER - ASSEMBLY - SEVENTEENTH SESSION (EXTRAORDINARY). | |

TO: DUN
FROM: ACRD
MAY 20 1970
ATTN: Miss Hoggins



INSTRUCTIONS

1. This form may be used in sending material for informational purposes from the Department to posts abroad and vice versa.
2. This form should *NOT* be used to cover documents requiring action.
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4. The form should bear the security classification of the material it covers.
5. The column for "Copies" should indicate the number of copies of each document transmitted. The space for "No. of Enclosures" should show the total number of copies of all documents covered by the transmittal slip. This will facilitate checking on despatch and receipt of mail.



CONFIDENTIAL

**ICAO EXTRAORDINARY ASSEMBLY: PROPOSAL TO
LINK BILATERAL AIR AGREEMENTS TO ICAO
CONVENTIONS**

We have been asked to pass to the British authorities as members of the European Civil Aviation Conference, for their consideration, the attached draft resolution for possible submission to the Extraordinary Session of the ICAO Assembly called for June 16 to 30 to take up the question of international aviation security. It will be noted that this resolution calls for the linking of bilateral air agreements with ICAO Conventions on unlawful interference with international aviation in order to ensure the effective enforcement of such Conventions.

The Canadian authorities have in mind the lack of sanctions in the 1963 Tokyo Convention and in the draft ICAO Convention on Unlawful Seizure to be considered at the conference at The Hague in December. They have also in mind the relevance of the proposed resolution for a possible convention on armed attacks and sabotage. While refusal by contracting states to implement any provisions of such conventions would be a breach of their international obligations, at present no penalty is attached to such breach.

In order to provide sanctions it is suggested that bilateral air agreements which govern air services by and landing rights of designated airlines might include provision for the legal right to terminate them on short notice with any state which fails to implement its international obligations. It should be noted that the resolution would give any state the right to terminate its bilateral agreement with the offending state and not just the offended state. In the view of the Canadian authorities such a resolution, even if implemented by only a dozen of the major providers of international air transport, would likely create sufficient pressure to ensure an important degree of implementation of treaty obligations.

11th May, 1970.

CONFIDENTIAL

ICAO EXTRAORDINARY ASSEMBLY - JUNE 16 - 30, 1970

DRAFT RESOLUTION LINKING BILATERAL AIR AGREEMENT TO ICAO CONVENTIONS

The Assembly recalling its previous resolution A16-37 on the subject of unlawful seizure of aircraft; noting that the Tokyo Convention on offences and certain other acts committed on board aircraft comes into force on December 4, 1969; noting that a Diplomatic Conference has been convened in The Hague December 1-16, 1970 to consider adoption of the Convention of Unlawful Seizure of Aircraft; conscious of fact that framework of scheduled international civil air transport is based on bilateral air agreements between states;

- (1) calls on all states to incorporate provisions in all future bilateral air agreements which -
 - (i) in case where both parties are contracting states to Tokyo convention (on offenses and certain other acts committed on board aircraft) and any other international civil aviation organization convention or protocol relating to unlawful interference with international air transport in force at the time of conclusion of bilateral air agreements explicitly refer to such conventions or protocols;
 - (ii) in case where only one or neither party is contracting state to Tokyo Convention (on offenses and certain other acts committed on board aircraft) or to any other convention or protocol relating to unlawful interference with international air transport in force at the time of conclusion of bilateral air agreements incorporate in the agreement provisions of such conventions and protocols imposing obligations with respect to acts of unlawful interference with international civil aviation; and
 - (iii) in all cases, notwithstanding any other provision concerning termination permit either party to terminate bilateral air agreement one month (or other suitable time limit, e.g. 10-15 days, etc.) after communication of notice if other party fails to implement its obligations
 - (a) under international conventions or protocols referred to, or
 - (b) under articles of bilateral agreement incorporating provisions of international conventions and protocols;

CONFIDENTIAL

- 2 -

- (2) calls on all states to amend at the earliest appropriate time all existing bilateral air agreements to incorporate provisions which
- (i) in case where both parties are contracting states to Tokyo Convention (on offences and certain other acts committed on board aircraft) and any other international civil aviation organization convention or protocol relating to unlawful interference with international air transport in force at time of conclusion of bilateral air agreements explicitly refer to such conventions or protocols;
 - (ii) in case where only one or neither party is contracting state to Tokyo Convention (on offences and certain other acts committed on board aircraft) or to any other convention or protocol relating to unlawful interference with international air transport in force at time of conclusion of bilateral air agreements incorporate in the agreement provisions of such conventions and protocols imposing obligations with respect to acts of unlawful interference with international civil aviation; and
 - (iii) in all cases notwithstanding any other provision concerning termination permit either party to terminate bilateral air agreement one month (or other suitable time limit, e.g. 10-15 days, etc.) after communication of notice if other party fails to implement its obligations
 - (a) under international conventions or protocols referred to, or
 - (b) under articles of bilateral agreement incorporating provisions of international conventions and protocols.

ACTION COPY

Wga - pro for
refer as usual **FLE**
ELK *Alph*
Fule

C O N F I D E N T I A L

FM OSLO MAY12/70 NO/NO STANDARD

TO TT EXTER 189 PRIORITY DE LDN

INFO HAGUE COPEN STKHM HSNKI TT LDN DE HAGUE BRU BONN PARIS DE LDN

VIENN MDRID BERN DE PARIS WSHDC TOKYO DE OTT

DOTOTT(STONER CTCOTT(MORISSET) DE OTT

BAG TAVIV BERUT CAIRO HAVAN DE OTT

REF YOURTELS FLE651 AND FLE649 MAY8

ICAO EXTRAORDINARY ASSEMBLY;PROPOSAL TO LINK BILATERAL AIR
AGREEMENTS TO ICAO CONVENTIONS

I HANDED AIDE MEMOIRE AND DRAFT RESLN THIS MORNING TO SKARSTEIN
HEAD ECONOMIC DEPT MFA WITH APPROPRIATE EXPLANATIONS DRAWN FROM
REFTELS.HE WAS ACCOMPANIED BY RASMUSSEN HEAD OF CIVIL AVIATION
DIV WHO WILL BE ATTENDING JUN ASSEMBLY MTG.

2.SKARSTEIN SAID NORWAY HAD BEEN IN VANGUARD OF NATIONS WORKING
FOR APPROPRIATE COUNTER-MEASURES.HE THOUGHT OUR POLICIES WERE
SIMILAR.SPEAKING PERSONALLY HE EXPRESSED INTEREST IN OUR PROPOSAL
AND UNDERTOOK TO HAVE IT STUDIED URGENTLY AND TO GET IN TOUCH
WITH ME AGAIN SOONEST.THEY WILL ALSO CONSIDER SUGGESTION THAT
THEY CONSULT WITH THEIR FELLOW ECAC MEMBERS.I GATHER THEY WILL
FIRST CONSULT WITH NORDIC COUNTERPARTS.INCIDENTALLY YOU MAY WISH
TO INSTRUCT OUR EMB IN HSNKI ALSO TO MAKE REPRESENTATIONS AS I
WAS TOLD THAT FINLAND HAD JOINED WITH ECAC MEMBERS IN CALLING FOR
CONVENING OF EXTRAORDINARY ICAO ASSEMBLY SESSION.

3.RASMUSSEN MENTIONED THAT IDEA OF LINKING BILATERALS TO ICAO

...2

42-8-9-3-1CAO
2/17

6.13.5

PAGE TWO 189 CONFD

CONVENTIONS HAD BEEN MENTIONED AT WSHDC MTG IN DEC BUT HAD BEEN
DROPPED BECAUSE OF LACK OF TIME. HE SAID WAY WAS THEREFORE CLEAR
TO RAISE IT AGAIN

GRANDE

Not really. One or two Dubs at Wash might have dismissed it
informally among themselves, but we were never approached
on this
/22
19/5/20

ACTION COPY

Classe 9/r
FLE *File*

C O N F I D E N T I A L

FM SIKHM MAY12/70 NO/NO STANDARD

TO TT EXTER 286 IMMED DE LDN

INFO HAGUE TT LDN DE HAGUE DOTOTT(STONER)CTCOTT(MORISSET)DE OTT

BAG TAVIV BERUT CAIRO HVANA BRU BONN VIENN MDRID BERN PARIS

WSHDC TOKYO DE OTT COPEN OSLO

REF YOURTEL FLE651 MAY8

ICAO EXTRAORDINARY ASSEMBLY

AS MORE SENIOR OFFICIALS WERE UNAVAILABLE ON SUCH SHORT NOTICE

WE GAVE AIDE-MEMOIRE TO KIMLIN, FIRST SECRETARY IN CIVIL

AVIATION SECTION MFA. AS ANTICIPATED KIMLIN SAID THAT HE WOULD

HAVE TO CIRCULATE CDN PROPOSAL TO OTHER SWEDISH AUTHORITIES

CONCERNED (DEPT COMMUNICATIONS, CIVIL AVIATION BOARD AND SAS)

BEFORE GIVING REPLY. ON PERSONAL BASIS HOWEVER, HE MENTIONED THAT

{ SWEDES HAD HOPED ASSEMBLY DISCUSSION WOULD BE CONDUCTED

{ PRIMARILY ON TECHNICAL AND LEGAL LEVELS. HE SAID THAT ALTHOUGH

{ POSITIVE ASPECTS OF PROPOSAL WERE APPARENT, NEGATIVE ASPECT IN

{ TERMS OF POLITICALLY EXPLOSIVE POTENTIAL VIS A VIS SOME COUNTRIES

{ WOULD ALSO HAVE TO BE TAKEN INTO ACCOUNT ***** }

9.12.5

000082



VOUS RE DOSSIER
OUR FILE NO.
NOTRE DOSSIER 152-3/12
FILE (Mr. C. J. [unclear])
(Transfer Section)

LE REPRÉSENTANT DU CANADA AU CONSEIL DE
L'ORGANISATION DE L'AVIATION CIVILE
INTERNATIONALE

902 ÉDIFICE DE L'AVIATION INTERNATIONALE, MONTRÉAL

TÉLÉPHONE: 879-4788

THE REPRESENTATIVE OF CANADA ON THE COUNCIL OF
THE INTERNATIONAL CIVIL AVIATION
ORGANIZATION

902 INTERNATIONAL AVIATION BUILDING, MONTREAL

TELEPHONE: 879-4788

12 May 1970.

Mr. Clark
The Under-Secretary of State
for External Affairs,
Ottawa, Ont.

42-8-9-3-1CAO
21 -

Attention: Legal Division

Dear Sir:

Enclosed, for information, are two copies of
State Letter LE 3/12 - 70/91 of 8 May 1970, indicating
that on 7 April 1970 the Organization received an
instrument of ratification by the Government of Nigeria
to the Convention on Offences and Certain Other Acts
Committed on Board Aircraft.

Yours truly,

L.M.E. Brennan

L.M.E. Brennan,
Administrative Officer.

Encls.

c.c.: The Under-Secretary of State for Ext. Affairs, (2)
Attention: United Nations Division

The Director, Legal Services & Counsel, DOT (2)
Attention: Mr. C.K. Kennedy

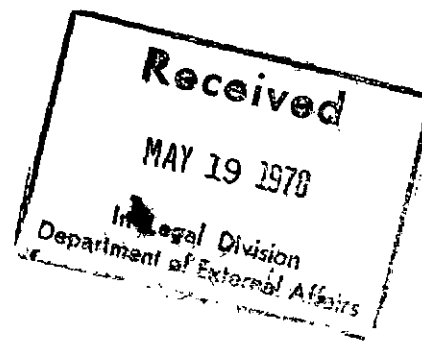
The Director, International Relations Branch, (2)
International Transport Policy Committee.

The Assistant Deputy Minister, General, (6)
Department of Transport.

The Assistant Deputy Minister, Air, (2)
Department of Transport.

Department of Justice, (2)
Attention: Mr. J.M. Bentley

OLIN



ORGANISATION DE L'AVIATION
CIVILE INTERNATIONALEORGANIZACIÓN DE AVIACIÓN
CIVIL INTERNACIONAL

INTERNATIONAL CIVIL AVIATION ORGANIZATION

(CS, DNCS)

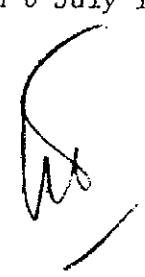
INTERNATIONAL AVIATION BUILDING
1080 UNIVERSITY STREET
MONTREAL 101, P.Q. CANADAWHEN REPLYING, PLEASE QUOTE;
RÉFÉRENCE À RAPPELER DANS LA RÉPONSE;
INDÍQUESE EN LA RESPUESTA ESTA REFERENCIA:

LE 3/12 - 70/91

8 May 1970

Subject: Convention on Offences and Certain
Other Acts Committed on Board Aircraft
Action Required: None - for information

The Secretary General of the International Civil Aviation Organization presents his compliments and, in accordance with Article 26 of the Convention on Offences and Certain Other Acts Committed on Board Aircraft, done at Tokyo on 14 September 1963, has the honour to state that on 7 April 1970 the Organization received an instrument of ratification by the Government of Nigeria of the said Convention. Accordingly, in accordance with Article 21, paragraph 1, the Convention will enter into force for Nigeria on 6 July 1970.



ORGANISATION DE L'AVIATION
CIVILE INTERNATIONALEORGANIZACIÓN DE AVIACIÓN
CIVIL INTERNACIONAL

INTERNATIONAL CIVIL AVIATION ORGANIZATION

(CS, DNCS)

INTERNATIONAL AVIATION BUILDING
1080 UNIVERSITY STREET
MONTREAL 101, P.Q. CANADAWHEN REPLYING, PLEASE QUOTE:
RÉFÉRENCE À RAPPELER DANS LA RÉPONSE:
INDÍQUESE EN LA RESPUESTA ESTA REFERENCIA:

LE 3/12 - 70/91

8 May 1970

Subject: Convention on Offences and Certain
Other Acts Committed on Board Aircraft
Action Required: None - for information

The Secretary General of the International Civil Aviation Organization presents his compliments and, in accordance with Article 26 of the Convention on Offences and Certain Other Acts Committed on Board Aircraft, done at Tokyo on 14 September 1963, has the honour to state that on 7 April 1970 the Organization received an instrument of ratification by the Government of Nigeria of the said Convention. Accordingly, in accordance with Article 21, paragraph 1, the Convention will enter into force for Nigeria on 6 July 1970.

File ✓
Diary
Div.

OTTAWA, May 11, 1970

Our File: 42-8-9-3-10 A0

| | |
|----|----|
| 25 | 12 |
|----|----|

Mr. Peter Sorokan,
Advisory & International Law Section,
Department of Justice,
Justice Building,
O t t a w a.

Dear Peter,

With reference to your letter of May 1 regarding unlawful interference with civil aviation, you will by now doubtless have received copies of the explanatory Memorandum and draft ICAO Assembly Resolution which we prepared for the Inter-Departmental Civil Aviation Committee and which were forwarded to you on April 24.

You will also be interested in seeing copies of letters sent to your Deputy Minister, dated May 6, from the Under-Secretary of State for External Affairs to the Deputy Minister of Transport and to the Chairman of the International Transport Policy Committee of the C.T.C., and a telegram of instructions to our Missions in the capitals of the ten states members of the European Civil Aviation Conference (ECAC) as well as the texts, in English and in French, of the draft Assembly Resolution.

I will be absent from Ottawa during the week of May 11 but would be pleased to discuss developments with you when I return during the week of May 19.

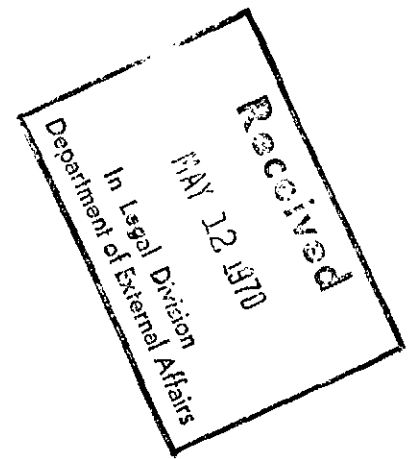
Best regards.

Yours sincerely,

EDWARD G. LEE
L.S. Clark,
Legal Division.

2. KAPPELL ALSO ENQUIRED INFORMALLY WHETHER ANY INFO YET AVAILABLE
RE CDN REPRESENTATION TO SPECIAL SESSION.

31/12/5



ACTION COPY.

Am check for further action
I sent tel on May 11/70 saying wait until
CONFIDENTIEL

DE PARIS MAI 11/70

A EXTER 1377 IMMED

INFO DOTOTT(STONER)CTCOTT(MORISSET)DE OTT

REF VOTRETEL FLE651 MAI 8 A LDN

OACI ASSEMBLEE EXTRAORDINAIRE

NOUS NOTONS QUE VOTRE REFTTEL NOUS ETAIT ADRESSE A TITRE D'INFO
SEULEMENT. PRESUMONS CEPENDANT QUE VOUS DESIREZ QUE NOUS FASSIONS
AUPRES DES AUTORITES FRANCAISES MEMES DEMARCHES QUE CELLES A ETRE
EFFECTUEES DANS AUTRES CAPITALES EUROPEENNES. VEUILLEZ NOUS CONFIRMER
VOTRE INTENTION.

2. COMME VOUS LE SAVEZ, FRANCE EST PAYS DES PLUS INFLUENTS PARMI LES
20 MEMBRES DU CEAC ET DEVRAIT NATURELLEMENT ETRE MISE AU COURANT
DE NOS INTENTIONS AU MEME TITRE QUE SES PARTENAIRES. NOUS AVONS
DAILLEURS RAPPORTS REGULIERS ET UTILES AVEC RESPONSABLES DE LAVIATION
CIVILE AU QUAI QUI SERAIENT NATURELLEMENT TRES INTERESSES DE
CONNAITRE VOTRE PROJET.

as there 10 ans
Call (Slogak 2-5640)
Get names of all members of ECAC =, not only those who covered the assembly.

are on ECAC but not one of 10 who requested assembly

① *who get initial reaction*

Hold off for few days on intention is to big fresh in however want initial reaction of 10 ECAC members



BOARD OF TRADE
CIVIL AVIATION BRANCH
SOLICITOR'S DEPARTMENT

Shell Mex House, Strand, LONDON W.C.2

Telex: 22110/22119

Telegrams: Civilair, London, Telex

Telephone: Temple Bar 1207, ext. 449

8 May 1970

Your reference:

Our reference:

L S Clark Esq
Legal Officer
Department of External Affairs
Ottawa
CANADA

Dear Mr Clark

ICAO : 17TH (EXTRAORDINARY) ASSEMBLY

The United Kingdom has submitted to ICAO papers on a proposal for an international convention on violence against aircraft and on the carrier's right to search. Unfortunately we were not able to meet the 30th April deadline and ICAO may not be able to circulate the papers before the Assembly meets, or at any rate not long before then. I am therefore sending you an advance copy, as you may wish to have the opportunity of studying it before the meeting.

Yours sincerely

Gillian M E White

MISS G M E WHITE

42-8-9-3-ICAO

Received

MAY 12 1970

In Legal Division
Department of External Affairs

ASSEMBLY - SEVENTEENTH SESSION (EXTRAORDINARY)

Sub-item b) : consideration of arrangements under which those responsible for criminal actions endangering civil air transport can be brought to justice.

PROPOSAL FOR AN INTERNATIONAL CONVENTION ON
VIOLENCE AGAINST AIRCRAFT.

(Presented by the United Kingdom)

1. It is considered that if those who interfere with the safety of aircraft are to be brought to justice, it is important that the State in the best position to apprehend the offender, the State where the act takes effect and the State of the aircraft concerned should all have jurisdiction over the offence and that provision should be made to facilitate the extradition of offenders.
2. The problems which exist at present can perhaps be illustrated by the following example:-

X, Y and Z conspire in State A to place a bomb on an aircraft registered in State B while that aircraft is at an airport in State C. Z then goes to State C and places the bomb on the aircraft and the bomb explodes, destroying the aircraft while it is flying over State D. State A may well be in the best position to apprehend X and Y, who are still in that State. However, it may be that conspiracy to commit a crime abroad is not an offence in State A. State C may be in the best position to apprehend Z, who is still in its territory, but State C may not have jurisdiction because the explosion has not taken place in its territory. State B or State D may request State A to extradite X and Y, but even if it is a party to extradition arrangements State A may be unable to accede to the request by reason of the double criminality rule. This is a rule, applied by some States, which prohibits extradition unless the acts complained of if committed in like circumstances would constitute an offence under the law of the requested State. Similarly State C may be unable to extradite Z.

In such circumstances, X, Y and Z would not be brought to justice. It is possible to envisage many other similar examples.

3. In order to avoid such a situation, it is suggested that consideration should be given to a convention which would provide that violence against aircraft is to be an offence and would include appropriate measures to facilitate the prosecution and extradition of offenders. It is proposed that the main features of the convention should be along the following lines:-

(a) The Offence

Any of the following acts or omissions if done without lawful authority should constitute the offence of violence against aircraft:-

- (i) taking or placing on board an aircraft any device likely to cause damage to the aircraft or to any person or property therein;
- (ii) causing such a device to be taken or placed on board an aircraft (including mailing a package containing such a device for carriage by air);

- (iii) activating such a device (including discharging a firearm) or causing such a device to be activated on board an aircraft;
- (iv) placing or activating any device (including discharging a firearm) or causing any device to be placed or activated in such a position or manner as to be likely to cause damage to an aircraft or any person or property therein;
- (v) any other act or omission, whether or not of a similar nature to the foregoing, calculated to cause damage to an aircraft or any person or property therein;
- (vi) attempting or conspiring to commit any of the acts or omissions set out in (i) to (v) above.

(b) Punishment

The offence should be punishable by severe penalties (compare Article 3 of the draft Convention on Unlawful Seizure of Aircraft).

(c) Jurisdiction

The following States should be required to establish their jurisdiction over the offence -

- (i) the State where the offence is committed;
- (ii) the State of registration of the aircraft concerned;
- (iii) in the case of a conspiracy, the State where the conspiracy is made and the State where the offence in question is to be carried out;
- (iv) in the case where the offence is committed in one State but damage to an aircraft or to persons or property on board occurs in another State (e.g. where a parcel containing a bomb is posted in State A and blows up an aircraft over State B), both States.

The above jurisdictions are intended to be cumulative. It should also be considered whether the State where the operator has his principal place of business should exercise jurisdiction where an aircraft is operated by an operator whose principal place of business is in a State other than the State of registration of the aircraft concerned.

The convention should provide (as does Article 4, paragraph 2 of the draft Convention on Unlawful Seizure of Aircraft) that it does not exclude any criminal jurisdiction exercised in accordance with national law. It may be thought that, in view of its gravity, the offence might have the character of an international offence in the sense that any State where the offender is found should have jurisdiction irrespective of the nationality of the offender or the place where he committed the offence. It is suggested that consideration should be given to this point.

(d) Arrest etc. of Offenders

There should be provision (on the lines of Article 6 of the Draft Convention on Unlawful Seizure of Aircraft) for any State where an alleged offender is present to take steps to ensure his presence.

(e) Prosecution

There should be provision (on the lines of Article 7 of the Draft Convention on Unlawful Seizure of Aircraft) for any State which does not extradite an alleged offender to submit the case to its competent authorities for their decision whether to prosecute him.

(f) Extradition

There should be provision (on the lines of Article 8 of the Draft Convention on Unlawful Seizure of Aircraft) for the offence to be an extraditable offence and to be treated as having been committed not only where it occurred but also in the States required by the convention to establish jurisdiction.

(g) Measures of Assistance

Provision should be made (on the lines of Article 10 of the Draft Convention on Unlawful Seizure of Aircraft) requiring States to afford one another assistance in connection with proceedings. There should also be provision requiring a State which has reason to believe that an act of sabotage will or may be committed, to inform all States likely to be affected.

4. In view of the urgency of this matter it would be desirable for the diplomatic conference later this year to conclude an international instrument dealing with Violence against Aircraft as well as the Convention on Unlawful Seizure of Aircraft. This would necessitate the Assembly exercising its power to amend Resolution A7-6 so as to dispense with the preparation of a text by the Legal Committee and the lapse of six months following its communication by the Council to Contracting States. However, it would be important to ensure that consideration of an international instrument on Violence against Aircraft did not delay the conclusion of the Convention on Unlawful Seizure of Aircraft, and also that each instrument should be capable of ratification independently.

ASSEMBLY - SEVENTEENTH SESSION (EXTRAORDINARY).

Sub-item a): preventing criminal action of any kind that may endanger the safety of air transport.

CARRIER'S RIGHT TO SEARCH.

(Presented by the United Kingdom).

It is suggested that the Assembly might usefully consider whether provision should be included in an international agreement covering-

1. The carrier's right to search passengers and their baggage;
2. The carrier's right to open and examine cargo or mail submitted to him for carriage by air; -
3. The part to be played in any such search or examination by the competent authorities of the State in which the search or examination is made;
4. Whether, and if so, to what extent, the carrier is to be liable for delay occasioned by such search or examination or for any damage or injury caused thereby. Damage to other people's baggage might occur, for example, if a bomb carried in a passenger's suitcase exploded while the suitcase was being searched.

The United Kingdom has submitted a separate paper under sub-item (b) of the provisional Agenda, proposing that there should be an international convention or protocol providing that violence against aircraft shall be an offence and including provision to facilitate the prosecution and extradition of offenders. It is for consideration whether provisions on search and examination should be included in any such document.

File ✓
Diary
Div.

BEST COPY AVAILABLE

GAF - African & Middle Eastern Division

CONFIDENTIAL

FLE - Legal Division

May 8, 1970

Your Memorandum of April 15, 1970

ICAO Extraordinary Assembly: Proposal to Link
Bilateral Air Agreements to ICAO Conventions.

12-8-9-3-1 C A D

...

Attached for your information are copies of 3 telegrams signed by the Under-Secretary (after clearance with the Deputy Minister of Transport and the Chairman of the International Transport Policy Committee of the Canadian Transport Commission).

our

2. If the ECAC Governments decide to proceed with this joint Canadian-European initiative at ICAO in June, we would recommend consultations with them on the question of approaching the Arab states to explain our proposal and to attempt to blunt any reaction that the initiative is aimed in particular at them. In our view, such approaches might well - in light of the Jordan Prime Minister's letter to the Director General of IATA (a copy of which we sent to you earlier this week) - succeed in securing Arab agreement not to actively oppose the draft resolution.

3. In this event, we would also recommend, if the initiative is proceeded with, that the Israeli Ambassador here be called in and given an explanation of our motives and objectives in launching our proposal. At such time we could indicate our strong view that agreement on the part of the Israelis to leave the lobbying and promoting for the draft resolution at Montreal to us and the Europeans i.e. the Israeli Delegation offering a "low profile" on this item, would result in a greater chance for success rather than actively supporting it.

EDWARD G. LEE

Legal Division

File
Diary
Div

BEST COPY AVAILABLE

OUN - U.N. Division

RESTRICTED

FILE - Legal Division

May 8, 1970

ICAO Assembly: Representations from CALPA.

42-8-9-3-16 A0
21

... Attached for your information is a copy of a letter to the Prime Minister from CALPA and the acknowledgement from the Prime Minister's office.

HCT
Press Office

2. Mr. Clark of this Division had the opportunity of discussing this exchange of correspondence with the General Counsel of CALPA on May 6 who advised that no further reply to the letter to the Prime Minister would be required. As you know, a CALPA Delegation called on the Minister of Justice during the afternoon of May 6 to discuss measures that could be taken against unlawful interference with aircraft - in particular a Criminal Code amendment specifically referring to unlawful seizure (hijacking).

3. As a result of the discussion between Mr. Clark and the CALPA official, we are of the view that the Association's request for a "stronger statement from the Prime Minister of Canada" might be acceded to by issuing a press release during the ICAO Extraordinary Assembly. You will recall that a decision in principle has been taken to give a reception in Montreal, hosted by a Cabinet Minister (likely Mr. Sharp or Mr. Jamieson) for all Delegates attending the assembly. The announcement of this reception in a press release issued by the Prime Minister's office could provide an opportunity for a statement strongly condemning acts of unlawful interference with civil aviation. The resulting publicity would not only satisfy CALPA but underline the keen interest Canada has in preserving international air safety and supporting measures to prevent and deter unlawful acts against civil aviation.

4. If you agree, we would suggest that once the final decision to give the reception in Montreal has been made, you prepare a Memorandum to the Press Office recommending the issuing of a press release, including the type of statement mentioned above.

EDWARD G. LEE

Legal Division

File ✓
Diary
Div. Diary

C.C. OUN
ECT
M. Bissonnette
Mr. Langley
H. Gourdeau - ICAO
Dept. of Justice - Dep. Min.

FILE/ L.S. Clark/ on

42-8-9-3-10 A0
25 | 1

BEST COPY AVAILABLE

CONFIDENTIAL

OTTAWA, May 6, 1970

Dear Mr. Morisset,

ICAO Extraordinary Assembly: Proposal
to Link Bilateral Air Agreements to
ICAO Conventions.

You will recall that the meeting of the Inter-Departmental Committee on Civil Aviation on April 29 gave its approval in principle to a Canadian initiative at the ICAO Extraordinary Assembly, which is to take place in Montreal June 16-30.

We have now had the opportunity of discussing our proposal for a draft Resolution linking bilateral air agreements to ICAO Conventions and providing a sanction for failure to implement international legal obligations, with the ICAO Secretariat, the Director-General and the Legal Adviser of IATA, several ICAO Council representatives and officials of the Canadian Airline Pilots' Association (CALPA). In general, their reaction to the proposed Resolution was favourable and the prevailing opinion was that a well-organized effort on the part of a group of influential co-sponsors could well result in adoption by the Assembly of a resolution of the type we have in mind. It would appear from these consultations that success in this regard will depend on our ability to interest a number of important ICAO Member States in co-sponsoring and promoting the draft Resolution.

The ICAO Secretariat and the IATA Director-General indicated to us, and we agreed, that the ten ECAC states which initiated the convening of the Assembly and proposed its agenda have a particular responsibility to put forward concrete proposals for consideration at the June meeting. For this reason and because of the lack of time in which Canada, acting alone, could consult with a large number of governments before the Assembly, we are of the opinion that we should approach the ECAC countries with a view

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Mr. G. Morisset, Chairman,
International Transport Policy Committee,
Canadian Transport Commission,
Congill Building, 275 Slater Street,
Room 1720,
O t t a w a.

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to securing their agreement to undertake a joint European-Canadian initiative along the lines discussed at the Inter-Departmental meeting. If this is acceptable to them, we would collaborate closely in preparation for the Assembly and co-operate in promoting the draft Resolution as widely as possible. If the Europeans are not willing to put their efforts behind such a proposal, it would in any case be unlikely to succeed.

We would, therefore, recommend that the Canadian Missions in the ECAC capitals be instructed to call on the respective Foreign Ministries to seek their agreement to espouse the initiative and sponsor and promote the draft Resolution as a joint European-Canadian proposal. We would provide them with our present draft and an explanatory Aide-Memoire.

...
...
Accordingly, I am attaching for your consideration the text of a telegram to the relevant Missions as well as copies, in English and French, of the draft Resolution in question. I should be grateful if you would advise me by telephone (2-4803) as soon as possible as to whether you are in agreement with our recommendation, so that the telegram can be released. Any comments or observations would also be appreciated. I am also writing the Deputy Minister of Transport for his approval, and I am sending a copy of this letter to the Deputy Minister of Justice and the Canadian Representative on the ICAO Council.

Yours sincerely,

A. E. RITCHIE

Under-Secretary.

File ✓
Diary
Div.

c.c. OUN
ECT
M.Bissonnette
Mr.Langley
H.Gourdeau - ICAO
Dep.Minister of Justice

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CONFIDENTIAL

OTTAWA, May 6, 1970

Mr. O.G. Stoner,
Deputy Minister,
Department of Transport,
Hunter Building,
O t t a w a.

ICAO Extraordinary Assembly: Proposal
to Link Bilateral Air Agreements to
ICAO Conventions.

Dear Mr. Stoner,

You will recall that the meeting of the Inter-Departmental Committee on Civil Aviation on April 29 gave its approval in principle to a Canadian initiative at the ICAO Extraordinary Assembly, which is to take place in Montreal June 16-30.

We have now had the opportunity of discussing our proposal for a draft Resolution linking bilateral air agreements to ICAO Conventions and providing a sanction for failure to implement international legal obligations, with the ICAO Secretariat, the Director-General and the Legal Adviser of IATA, several ICAO Council Representatives and officials of the Canadian Airline Pilots' Association (CALPA). In general, their reaction to the proposed Resolution was favourable and the prevailing opinion was that a well-organized effort on the part of a group of influential co-sponsors could well result in adoption by the Assembly of a resolution of the type we have in mind. It would appear from these consultations that success in this regard will depend on our ability to interest a number of important ICAO Member States in co-sponsoring and promoting the draft Resolution.

The ICAO Secretariat and the IATA Director-General indicated to us, and we agreed, that the ten ECAC states which initiated the convening of the Assembly and proposed its agenda have a particular responsibility to

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put forward concrete proposals for consideration at the June meeting. For this reason and because of the lack of time in which Canada, acting alone, could consult with a large number of governments before the Assembly, we are of the opinion that we should approach the ECAC countries with a view to securing their agreement to undertake a joint European-Canadian initiative along the lines discussed at the Inter-Departmental meeting. If this is acceptable to them, we would collaborate closely in preparation for the Assembly and co-operate in promoting the draft Resolution as widely as possible. If the Europeans are not willing to put their efforts behind such a proposal, it would in any case be unlikely to succeed.

We would, therefore, recommend that the Canadian Missions in the ECAC capitals be instructed to call on the respective Foreign Ministries to seek their agreement to espouse the initiative and sponsor and promote the draft Resolution as a joint European-Canadian proposal. We would provide them with our present draft and an explanatory Aide-Memoire.

...
... Accordingly, I am attaching for your consideration the text of a telegram to the relevant Missions as well as copies, in English and French, of the draft Resolution in question. I should be grateful if you would advise me by telephone (2-4003) as soon as possible as to whether you are in agreement with our recommendation, so that the telegram can be released. Any comments or observations would also be appreciated. I am also writing the Chairman of the International Transport Policy Committee of the C.T.C. for his approval, and I am sending a copy of this letter to the Deputy Minister of Justice and the Canadian Representative on the IDAO Council.

Yours sincerely,

A. E. RITCHIE

Under-Secretary.

File ✓
Diary
Div.
Tel.

MESSAGE

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| FM/DE | EXTEROTT | DATE | FILE/DOSSIER | SECURITY SECURITE | | |
| | | MAY 6 | 12-8-9-3-1 | CONFIDENTIAL | | |
| TO/A | VIENNA, BRU, COPENHAGEN, BONN, HAGUE, OSLO, MADRID, STOCKHOLM, BERNE, LDN. | NO | | PRECEDENCE | | |
| | | FILE-651 | | IMMEDIATE | | |
| INFO | WSHDC, TOKYO, PARIS | | | | | |
| | BAG: TAVIV, BEIRUT, CAIRO, HAVANA. | | | | | |
| | DOT(STONER), CTC(MORISSET) | | | | | |

REF

SUB/SUJ ICAO EXTRAORDINARY ASSEMBLY: PROPOSAL TO LINK BILATERAL AIR AGREEMENTS TO ICAO CONVENTIONS.

AS YOU MAY KNOW, 10 ICAO MEMBER STATES WHO ARE ALSO MEMBERS OF EUROPEAN CIVIL AVIATION CONFERENCE (ECAC), INITIATED CONVENING BY ICAO OF EXTRAORD SESSION OF ASSEMBLY IN MTL JUNE 16-30 TO TAKE UP QUESTION OF INTERNATL AVIATION SECURITY. SINCE THEY WERE RESPONSIBLE FOR CALLING OF SESSION, ECAC STATES PROVIDED AGENDA AND ARE TO SUBMIT DOCUMENTATION AND PROPOSALS FOR ASSEMBLY'S CONSIDERATION.

2. AS HOST STATE OF ORGANIZATION AND MAJOR AIR TRANSPORT NATION, WE HAVE BEEN STUDYING POSSIBILITY OF CDN INITIATIVE AT ASSEMBLY, SPECIFICALLY, SPONSORING AND PROMOTING DRAFT RESLN WHICH WOULD LINK BILATERAL AIR AGREEMENTS WITH ICAO CONVENTIONS ON UNLAWFUL INTERFERENCE WITH INTERNATL AVIATION. TO DATE ONLY RELEVANT INSTRUMENT IN FORCE IS 1963 TOKYO CONVENTION; DRAFT ICAO CONVENTION ON UNLAWFUL SEIZURE (HIJACKING) - TO BE SUBJECT OF DIPLO CONFERENCE AT THE HAGUE THIS DEC - AND POSSIBLE FUTURE CONVENTION ON ARMED ATTACKS AND SABOTAGE (WHICH USA FAVOURS) WOULD ALSO EVENTUALLY BE RELEVANT.

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| ORIGINATOR/REDACTEUR | DIVISION | TELEPHONE | APPROVED/AUTORISE |
| SIG.....L.S. CLARK/CH..... | FILE - LEGAL DIV. | 2-7738 | SIG.....(SIGNED) A. J. MITCHELL..... |

3. MAJOR QUESTION IS HOW INTERNATL LEGAL OBLIGATIONS UNDER SUCH TREATIES ARE TO BE ENFORCED SINCE NEITHER TOKYO NOR DRAFT HIJACKING CONVENTION PROVIDES FOR SANCTIONS. REFUSAL BY CONTRACTING STATES TO IMPLEMENT ANY PROVISIONS WOULD OF COURSE BE BREACH OF THEIR INTERNATL OBLIGATIONS; HOWEVER, AT PRESENT, NO/NO PENALTY IS ATTACHED TO SUCH BREACH. ~~ENTIRE FRAMEWORK OF INTERNATL CIVIL AVIATION IS BASED ON BILATERAL AIR AGREEMENTS.~~ ALMOST ALL SCHEDULED INTERNATL AIR TRANSPORT IS REGULATED BY ^{bilateral air agreements} ~~SUCH AGREEMENTS~~ WHICH GOVERN AIR SERVICES BY, AND LANDING RIGHTS OF, DESIGNATED AIRLINES. ACCORDINGLY, WE CONSIDER THAT DIRECTLY LINKING BILATERALS TO RELEVANT INTERNATL CONVENTIONS WOULD BE BEST METHOD OF PROVIDING AN EFFECTIVE SANCTION FOR FAILURE TO IMPLEMENT INTERNATL LEGAL OBLIGATIONS.

4. FOLLOWING TEL SETS OUT DRAFT ASSEMBLY RESLN WHICH EMBODIES CONCEPT OUTLINED ABOVE AND PROVIDES FOR LEGAL RIGHT TO TERMINATE, ON SHORT NOTICE, BILATERAL AIR AGREEMENTS WITH AN OFFENDING STATE I.E. STATE WHICH FAILS TO IMPLEMENT INTERNATL LEGAL OBLIGATIONS. IT SHOULD BE NOTED THAT IF SUCH A RESLN WERE ADOPTED AND IMPLEMENTED, ANY STATE (NOT/NOT ONLY E.G. STATE OF REGISTRATION OF A HIJACKED AIRCRAFT) WHICH HAD BILATERAL WITH AN OFFENDING STATE, WOULD HAVE RIGHT TO ^{AGREEMENT} ~~TERMINATE AGREEMENT~~ ON SHORT NOTICE. IMPLEMENTATION OF SUCH RESLN EVEN IF ONLY BY DOZEN MAJOR PROVIDERS OF INTERNATL AIR TRANSPORT WOULD LIKELY CREATE SUFFICIENT PRESSURE TO ENSURE AN IMPORTANT DEGREE OF IMPLEMENTATION OF TREATY OBLIGATIONS.

5. GRATEFUL YOU CALL ON ICAO REQUEST AND LEAVE TEXT OF DRAFT RESLN AND EXPLANATORY AIDE-MEMOIRE DRAWING ON ABOVE. INFORM INTERLOCUTORS THAT SIMILAR CALLS BEING MADE IN CAPITALS OF ALL TEN ECAC MEMBERS. YOU SHOULD EXPLAIN THAT IN OUR VIEW, AS THESE STATES HAVE SET ASSEMBLY AGENDA AND ARE SUBMITTING MAJOR DOCUMENTATION, THEY ARE IN BEST POSITION TO PRESENT DRAFT RESLN OF TYPE SUGGESTED AND MORE LIKELY TO MEET WITH SUCCESS. IF ECAC STATES SEE MERIT IN PROPOSAL OF LINKING BILATERALS TO ICAO CONVENTIONS, WE WOULD ENVISAGE, AT LEAST INITIALLY, A JOINT EUROPEAN-COM INITIATIVE WHICH WOULD BE PROMOTED AS WIDELY AS

POSSIBLE IN ADVANCE OF AND AT THE ASSEMBLY.

6. YOU SHOULD POINT OUT THAT RESLN HAS BEEN DRAFTED IN STRONG TERMS ON UNDERSTANDING THAT IT MIGHT WELL BE WATERED DOWN. IN PARTICULAR, RIGHT TO TERMINATE BILATERALS ON SHORT NOTICE COULD BE REPLACED BY RIGHT TO SUSPEND SERVICES - TO AND FROM OFFENDING STATE - IN WHICH CASE BILATERAL WOULD LEGALLY CONTINUE TO EXIST. YOU SHOULD ALSO REFER TO INFORMAL DISCUSSIONS WE HAVE HAD WITH ICAO SECRETARIAT, IATA DIR-GENL, CALPA, AND REPS ON ICAO COUNCIL. IN GENERAL, REACTION TO PROPOSAL HAS BEEN FAVOURABLE ALTHOUGH, INEVITABLY, OPENING UP BILATERAL AIR AGREEMENTS FOR DISCUSSION WILL RAISE A NUMBER OF PROBLEMS FOR MANY STATES. HOWEVER, IT WOULD APPEAR THAT GROWING CONCERN WITH UNLAWFUL INTERFERENCE WITH AVIATION ON PART OF INTERNATL COMMUNITY HAS ENCOURAGED A CLIMATE OF OPINION CONDUCTIVE TOWARDS INITIATING NEW STEPS DESIGNED TO PREVENT AND DETER SUCH ACTS. NEVERTHELESS, IT IS GENERALLY RECOGNIZED THAT IN FINAL ANALYSIS, ONLY ACTIVE INTERNATL COOPERATION AND WILLINGNESS ON PART OF ALL STATES INVOLVED IN INTERNATL AVIATION TO ACCEPT AND IMPLEMENT INTERNATL LEGAL OBLIGATIONS CAN LEAD TO SOLUTION OF GRAVE PROBLEMS WHICH THREATEN CIVIL AIR TRANSPORT.

7. SHOULD ECAC STATES AGREE TO ESPOUSE OUR PROPOSAL, DRAFT RESLN WILL DOUBTLESS BE MODIFIED AS RESULT OF DISCUSSIONS AMONG THEMSELVES. WE WOULD HOPE THAT AFTER THEY HAVE REACHED AGREEMENT ON COMMON EUROPEAN APPROACH, WE COULD COLLABORATE CLOSELY WITH THEM ON POSITION TO BE TAKEN AT ASSEMBLY.

8. GRATEFUL FOR REPORT ON INITIAL REACTION SOONEST AND INDICATION AS TO WHETHER RESPECTIVE MFA'S AGREEABLE TO TAKING UP QUESTION WITH FELLOW ECAC MEMBERS.

9. FOR BRU, MADRID, BERNE (PARIS FOR INFO ONLY): FRENCH TEXT OF DRAFT RESLN BEING FORWARDED BY TEL.

✓, RITCHIE

File ✓
Diary
Div.
Tel.

MESSAGE

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| FM/DE | EXTEROTT | DATE | FILE/DOSSIER | SECURITY SECURITE |
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| TO/A | BRU, MADRID, BERN, PARIS | NO | | PRECEDENCE |
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| INFO | PAR VALESE: BETHOOTH, CAIRE, HAVANE DOT(STONER) CTC(MORTISSET) | | | |
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REF NOTES TEL FILE-651 DU 6 MAI.

SUB/SUJ OACI ASSEMBLEE EXTRAORDINAIRE: AVANT-PROJET DE LA RESOLUTION
AYANT POUR BUT DE RELIER LES ACCORDS AERIENS BILATERAUX AUX
CONVENTIONS DE L'OACI.

SUIT LE TEXTE DE LA RESOLUTION. CIT L'ASSEMBLEE RAPPELANT SA RESOLUTION
ANTERIEURE A16-37 AU SUJET DE LA CAPTURE ILLECITE D'AERONEFS; NOTANT QUE
LA CONVENTION DE TOKYO SUR LES INFRACTIONS ET CERTAINS AUTRES ACTES
SURVENANT A BORD DES AERONEFS EST ENTRE EN VIGUEUR LE 1 DECEMBRE 1969;
NOTANT QU'UNE CONFERENCE DIPLOMATIQUE DOIT SE REUNIR A LA HAYE DU 1ER AU
16 DECEMBRE 1970 POUR ENVISAGER L'ADOPTION D'UNE CONVENTION SUR LA CAPTURE
ILLECITE D'AERONEFS; CONSCIENTE DU FAIT QUE LA STRUCTURE DES TRANSPORTS
AERIENS CIVILS INTERNATIONAUX ^{réguliers} EST FONDÉE SUR LES ACCORDS AERIENS
BILATERAUX ENTRE ETATS;

1) PRIE INSTAUMENT TOUS LES ETATS DE:

INCORPORER DANS TOUS LES ACCORDS AERIENS BILATERAUX A VENIR DES
DISPOSITIONS QUI - (I) AU CAS OU LES DEUX PARTIES SONT DES ETATS
CONTRACTANTS DE LA CONVENTION DE TOKYO (SUR LES INFRACTIONS ET CERTAINS
AUTRES ACTES SURVENANT A BORD DES AERONEFS) ET DE TOUTE AUTRE

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| SIG..... J.C. JARLEY/CT | FILE - DIR. JURIDIQUES | 2-7738 | SIG (SIGNED) A. M. RICHARD |

CONVENTION OU PROTOCOLE DE L'ORGANISATION DE L'AVIATION CIVILE

INTERNATIONALE CONCERNANT LES INTERVENTIONS ILLICITES CONTRE LES TRANSPORTS AERIENS INTERNATIONAUX, QUI EST EN VIGUEUR AU MOMENT DE LA CONCLUSION DES ACCORDS AERIENS BILATERAUX, SE REFERENCE EXPLICITEMENT A CES CONVENTIONS OU PROTOCOLES; (II) AU CAS OU AUCUNE DES DEUX PARTIES OU UNE PARTIE SEULEMENT EST UN ETAT CONTRACTANT DE LA CONVENTION DE TOKYO (SUR LES INFRACTIONS ET CERTAINS AUTRES ACTES SURVENANT A BORD DES AERONEFS) ET DE TOUTE AUTRE CONVENTION OU PROTOCOLE CONCERNANT LES INTERVENTIONS ILLICITES CONTRE LES TRANSPORTS AERIENS INTERNATIONAUX QUI EST EN VIGUEUR AU MOMENT DE LA CONCLUSION DES ACCORDS AERIENS BILATERAUX, ^{incluant dans l'accord} ~~se réfèrent~~ LES DISPOSITIONS DES DITES CONVENTIONS ET PROTOCOLES QUI IMPOSENT DES OBLIGATIONS A L'EGARD DES ACTES D'INTERVENTION ILLICITE CONTRE L'AVIATION CIVILE INTERNATIONALE; ET (III) DANS TOUS LES CAS, NOTOBBSTANT TOUTE AUTRE DISPOSITION CONCERNANT LA RESILIATION, PERMETTENT A L'UNE OU L'AUTRE PARTIE DE METTRE FIN A L'ACCORD AERIEN BILATERAL UN MOIS (OU TOUT AUTRE DELAI CONVENABLE PAR EXEMPLE 10, 15 JOURS) APRES NOTIFICATION, SI L'AUTRE PARTIE NE REMPLIT PAS LES OBLIGATIONS QU'ELLE A (A) EN VERTU DES CONVENTIONS OU PROTOCOLES INTERNATIONAUX DEJA MENTIONNES, ^{incluant dans l'accord} ~~se réfèrent~~ LES DISPOSITIONS DES CONVENTIONS ET PROTOCOLES INTERNATIONAUX;

2) PRETENDANT TOUTS LES ETATS DE:

MODIFIER LE PLUS TOT POSSIBLE TOUTS LES ACCORDS AERIENS BILATERAUX EXISTANTS AFIN D'Y FAIRE ENTRER DES DISPOSITIONS (AU LIEU DE REPETER CE QUI SUIT: CIT TELLES QUE CELLES ENONCES AU PARAGRAPHE 1 DU DISPOSITIF PRECIT) QUI -
(I) AU CAS OU LES DEUX PARTIES SONT DES ETATS CONTRACTANTS DE LA CONVENTION DE TOKYO (SUR LES INFRACTIONS ET CERTAINS AUTRES ACTES SURVENANT A BORD DES AERONEFS) ET DE TOUTE AUTRE CONVENTION OU PROTOCOLE DE L'ORGANISATION DE L'AVIATION CIVILE INTERNATIONALE CONCERNANT LES INTERVENTIONS ILLICITES CONTRE LES TRANSPORTS AERIENS INTERNATIONAUX QUI EST EN VIGUEUR AU MOMENT DE LA CONCLUSION DES ACCORDS AERIENS BILATERAUX, SE REFERENCE EXPLICITEMENT A CES CONVENTIONS OU PROTOCOLES;

(II) AU CAS OU AUCUNE DES DEUX PARTIES OU UNE PARTIE SEULEMENT EST UN ETAT CONTRACTANT DE LA CONVENTION DE TOKYO (SUR LES INFRACTIONS ET CERTAINS AUTRES ACTES SURVEILLANT A BORD DES AERONEFS) ET DE TOUTE AUTRE CONVENTION OU PROTOCOLE CONCERNANT LES INTERVENTIONS ^{ILLECITES} ~~INTERDITES~~ CONTRE LES TRANSPORTS AERIENS INTERNATIONAUX QUI EST EN VIGUEUR AU MOMENT DE LA CONCLUSION DES ACCORDS AERIENS BILATERAUX, ^{encluant dans l'accord} ~~PERMETTENT~~ LES DISPOSITIONS DES CONVENTIONS ET PROTOCOLES QUI IMPOSENT DES OBLIGATIONS A L'EGARD DES ACTES D'INTERVENTION ILLECITE CONTRE L'AVIATION CIVILE INTERNATIONALE; ET

(III) DANS TOUTS LES CAS, NOTOBSTANT TOUTE AUTRE DISPOSITION CONCERNANT LA RESILIATION, PERMETTENT A L'UNE OU L'AUTRE PARTIE DE METTRE FIN A L'ACCORD AERIEN BILATERAL UN MOIS (OU TOUT AUTRE DELAI CONVENABLE PAR EXEMPLE 10, 15 JOURS) APRES NOTIFICATION, SI L'AUTRE PARTIE NE REMPLIT PAS LES OBLIGATIONS QU'ELLE A (A) EN VERTU DES CONVENTIONS OU PROTOCOLES INTERNATIONAUX DEJA MENTIONNES, OU (B) EN VERTU DES ARTICLES ^{de l'accord bilatéral qui encluent} ~~QUI PERMETTENT~~ LES DISPOSITIONS DES CONVENTIONS ET PROTOCOLES INTERNATIONAUX. FIN C ET

E. RITCHIE

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| TO/A | VIZIRIA HBU COPEN BOMI HAGUE OSLO MERID STKLM BERN LHM | | | FILE-649 | DESD |
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REF *Omitted FLE - 651 MAY 6*

SUB/SUB ICAO EXTRAORDINARY ASSEMBLY, DRAFT RESIN LOKING
BILATERAL AIR AGREEMENT TO ICAO CONVENTIONS

SET OUT BELOW IS TEXT OF DRAFT RESIN.

ENCLOS: QUOTE THE ASSEMBLY, RECALLING ITS PREVIOUS RESIN AL6-37 ON SUBJ
OF UNLAWFUL SEIZURE OF AIRCRAFT; NOTING THAT TOKYO CONVENTION ON OFFENCES
AND CERTAIN OTHER ACTS COMMITTED ON BOARD AIRCRAFT COMES INTO FORCE ON
DECL/69; NOTING THAT DIPLOMATIC CONFERENCE HAS BEEN CONVENED IN HAGUE,
DECL-16/70, TO CONSIDER ADOPTION OF CONVENTION OF UNLAWFUL SEIZURE OF
AIRCRAFT; CONSCIOUS OF FACT THAT FRAMEWORK OF ^{*scheduled*} INNA TL CIVIL AIR TRANSPORT
IS BASED ON BILATERAL AIR AGREEMENTS BETWEEN STATES; (1) CALLS ON ALL
STATES TO: INCORPORATE PROVISIONS IN ALL FUTURE BILATERAL AIR AGREEMENTS
WHICH - (1) IN CASE WHERE BOTH PARTIES ARE CONTRACTING STATES TO TOKYO
CONVENTION (ON OFFENCES AND CERTAIN OTHER ACTS COMMITTED ON BOARD AIRCRAFT)
AND ANY OTHER INNA TL CIVIL AVIATION ORGANIZATION CONVENTION OR PROTOCOL
RELATIVE TO UNLAWFUL INTERFERENCE WITH INNA TL AIR TRANSPORT IN FORCE AT
TIME OF CONCLUSION OF BILATERAL AIR AGREEMENTS, EXPLICITLY REFER TO

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CC: OMN ECT POF PDE H.COURDEAU (CIN REP ICAO COUNCIL)
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| SIG. <i>L.S. CLARK/IS</i> | <i>FLE</i> | <i>2-7738</i> | SIG. <i>(SIGNED) A.E. RITCHIE</i> |

EXT 18/BIL (REV 5/64)
(COMMUNICATIONS DIV)

A.E. Ritchie
A.E. RITCHIE

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SUCH CONVENTIONS OR PROTOCOLS; (11) IN CASE WHERE ONLY ONE OR NEITHER PARTY IS CONTRACTING STATE TO TOKYO CONVENTION (ON OFFENCES AND CERTAIN OTHER ACTS COMMITTED ON BOARD AIRCRAFT) OR TO ANY OTHER CONVENTION OR PROTOCOL RELATING TO UNLAWFUL INTERFERENCE WITH INNATL AIR TRANSPORT IN FORCE AT TIME OF CONCLUSION OF BILATERAL AIR AGREEMENTS, ^{incorporate in the agreement} ~~that~~ PROVISIONS OF SUCH CONVENTIONS AND PROTOCOLS IMPOSING OBLIGATIONS WITH RESPECT TO ACTS OF UNLAWFUL INTERFERENCE WITH INNATL CIVIL AVIATION; AND (111) IN ALL CASES, NOTWITHSTANDING ANY OTHER PROVISION CONCERNING TERMINATION, PERMIT EITHER PARTY TO TERMINATE BILATERAL AIR AGREEMENT ONE MONTH (OR OTHER SUITABLE TIME LIMIT EG 10 - 15 DAYS ETC) AFTER COMMUNICATION OF NOTICE, IF OTHER PARTY FAILS TO IMPLEMENT ITS OBLIGATIONS, A) UNDER INNATL CONVENTIONS OR PROTOCOLS REFERRED TO, OR B) UNDER ARTICLES ^{of bilateral agreement incorporating} ~~that~~ PROVISIONS OF INNATL CONVENTIONS AND PROTOCOLS;

(2) CALLS ON ALL STATES TO AMEND, AT EARLIEST APPROPRIATE TIME, ALL EXISTING BILATERAL AIR AGREEMENTS TO INCORPORATE PROVISIONS (AS AN ALTERNATIVE TO REPEATING WHAT FOLLOWS: QUOTE AS SET OUT IN OPERATIVE PARA 1 UNQUOTE) WHICH

(1) IN CASE WHERE BOTH PARTIES ARE CONTRACTING STATES TO TOKYO CONVENTION (ON OFFENCES AND CERTAIN OTHER ACTS COMMITTED ON BOARD AIRCRAFT) AND ANY OTHER INNATL CIVIL AVIATION ORGANIZATION CONVENTION OR PROTOCOL RELATING TO UNLAWFUL INTERFERENCE WITH INNATL AIR TRANSPORT IN FORCE AT TIME OF CONCLUSION OF BILATERAL AIR AGREEMENTS, EXPLICITLY REFER TO SUCH CONVENTIONS OR PROTOCOLS; (11) IN CASE WHERE ONLY ONE OR NEITHER PARTY IS CONTRACTING STATE TO TOKYO CONVENTION (ON OFFENCES AND CERTAIN OTHER ACTS COMMITTED ON BOARD AIRCRAFT) OR TO ANY OTHER CONVENTION OR PROTOCOL RELATING TO UNLAWFUL INTERFERENCE WITH INNATL AIR TRANSPORT IN FORCE AT TIME OF CONCLUSION OF BILATERAL AIR AGREEMENTS, ^{incorporate in the agreement} ~~that~~ PROVISIONS OF SUCH CONVENTIONS AND PROTOCOLS IMPOSING OBLIGATIONS WITH RESPECT TO ACTS OF UNLAWFUL INTERFERENCE WITH INNATL CIVIL AVIATION; AND (111) IN ALL CASES NOTWITHSTANDING ANY OTHER PROVISION CONCERNING TERMINATION, PERMIT EITHER PARTY TO TERM INATE

- 3 -

BILATERAL AIR AGREEMENT ONE MONTH (OR OTHER SUITABLE TIME LIMIT EG 10 - 15
DAYS ETC) AFTER COMMUNICATION OF NOTICE, IF OTHER PARTY FAILS TO IMPLEMENT
ITS OBLIGATIONS. A) UNDER IMIATL CONVENTIONS OR PROTOCOLS REFERRED TO, OR
B) UNDER ARTICLES *of bilateral agreement incorporating* ~~PROVIDING~~ PROVISIONS OF IMIATL CONVENTIONS AND PROTOCOLS.

UNQUOTE ENDS

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EXTERNAL AFFAIRS



AFFAIRES EXTÉRIEURES

Under-Secretary through:

- 1) OUN (Mr. Sharpe)
2) ECT (Mr. Reynolds)
3) Mr. Langley - PDE
4) M. Bissonnette - PDF

SECURITY
Sécurité

CONFIDENTIAL

DATE May 6, 1970

NUMBER
Numéro

FLE - Legal Division

TO
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FROM
De

REFERENCE
Référence

SUBJECT
Sujet ICAO Extraordinary Assembly: Proposal to Link Bilateral
Air Agreements to ICAO Conventions.

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| FILE | DOSSIER |
| OTTAWA | 42-8-9-3-1CAO |
| MISSION | |

ENCLOSURES
Annexes

DISTRIBUTION

OUN(Sharpe)
ECT(Reynolds)
M.Bissonnette
Mr.Langley

On April 29, the Inter-Departmental Committee on Civil Aviation approved in principle the recommendation of the Inter-Departmental Committee on Unlawful Interference with International Air Transport that Canada undertake an initiative at the forthcoming ICAO Extraordinary Assembly in Montreal, June 16-30. This initiative relates to the sponsorship and promotion of a draft Resolution linking bilateral air agreements to ICAO unlawful interference conventions and providing a sanction for failure to implement international legal obligations.

2. Following discussions with the ICAO Secretariat, the Director-General of IATA, the Canadian Airline Pilots' Association (CALPA), and representatives on the ICAO Council, we have concluded that this initiative might best be pursued jointly with the 10 European states which were responsible for the convening of the Assembly.

- ... 3. Attached for your signature, if you agree, are letters to the Deputy Minister of Transport and the Chairman of the International Transport Policy Committee of the Canadian Transport Commission (with copies to the Deputy Minister of Justice and the Canadian Representative on the ICAO Council) seeking their approval to our instructing our Missions in the relevant European capitals to approach the respective Foreign Ministries in this regard. If they are in agreement to our proposal, we are requesting that they advise you, as soon as possible, by telephone so that the attached telegram of instructions to Posts can be released by you.

4. When the reaction of the Europeans to our proposal has been received we shall prepare, in collaboration with DOT and CTC, a Submission to Cabinet requesting authority to pursue the joint initiative.

E. P. Lee
Legal Division

8.5.10/05



DEPARTMENT OF JUSTICE
MINISTÈRE DE LA JUSTICE

Ottawa 4,
May 4, 1970.

222649

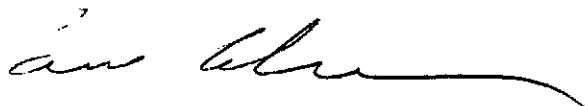
Re: I.C.A.O. Garnishee Writ

Dear Sir:

I acknowledge receipt of a letter dated May 1, 1970, for your legal division, in this matter.

I am informed by our Montreal office that the problem has now been settled and that it is in order for us to close our file.

Yours truly,


Paul Coderre, Q.C.,
Director,
Civil Law Section.

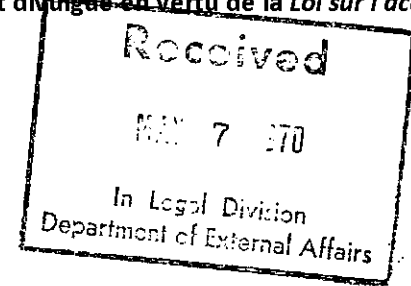
The Under-Secretary of State,
Department of External Affairs,
Ottawa, Ontario.

hee
CPH
sub
PC/hs
42-89-3-1/CAO
21 13
TO: FLE
FROM: ACRO
MAY 6 1970
M. Clark

N/R

FLE

30.7.5



AIR CANADA

PLACE VILLE MARIE, MONTREAL 2, CANADA

IAN E. MCPHERSON
GENERAL COUNSEL
CONSEILLER JURIDIQUE GENERAL

April 27, 1970

Our File: 18-A-6

42-8-9-3-10A
251 12

Mr. L.S. Clark
Legal Division
External Affairs
Daly Building
Mackenzie & Rideau Streets
Ottawa, Ontario

Re: Seventeenth Session of the ICAO Legal
Committee - Unlawful Seizure of Aircraft
(Hijacking)

Dear Lorne:

Thank you for your letter of April 1st enclosing your Confidential Report of March 23rd on the above matter. Last week on very short notice the CTC called a meeting to consider the position that Canada might take at the Seventeenth Session (Extraordinary) of the ICAO Assembly in June. Unfortunately I could not attend but had a brief chat with Norvell Norton who I understand was to chair the meeting and it was agreed that External, Justice/R.C.M.P and the D.O.T. would be more interested than the CTC. Air Canada is, of course, prepared to make any contribution it can and in this respect I told Norvell that I would be attending a meeting of the Sub-Committee on Hijacking of the IATA Legal Committee in Geneva on May 21st and 22nd and would be in touch with the Canadian authorities thereafter.

Although CALPA was represented on the Canadian delegation of the Seventeenth Session of the ICAO Legal Committee I feel that the scope of the General Assembly meeting may indicate that the interests of the carriers can be better represented by an advisor with broader expertise.

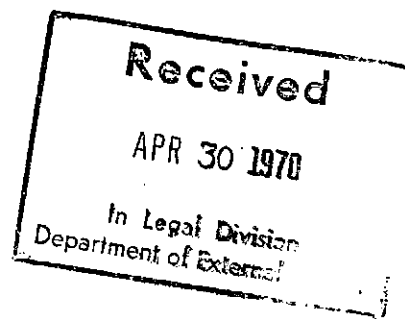
Reverting to your Report of March 23rd, it is suggested that Canada may still wish to consider the suggestion of the Under-Secretary of the U.N. that States could become parties to the new convention on signature. This suggestion is along the lines of that raised by me last year re the expediting of the application of new conventions.

Yours sincerely,

Ian E. McPherson.

31/30/4

000115



File ✓
Diary
Div. Diary

BEST COPY AVAILABLE

OUN - U.N. Division,
ECT - Transportation, Communication & Energy Div.
FLE - Legal Division.

RESTRICTED

April 16, 1970

ICAO Extraordinary Assembly, Montreal, June 16-30:
Inter-Departmental Meeting, Wednesday, April 22.

12-8-9-3-1/CAO

21

An Inter-Departmental meeting to discuss the composition of, and instructions for, the Canadian Delegation to the ICAO Assembly has been arranged for Wednesday, April 22 at 2:30p.m. in the Conference Room of the Conhill Building (Room 1700). We should be grateful if your Department could be represented and would also appreciate if you could give some thought to the question of instructions for the Delegation. By copy of our Memorandum of April 9, you will be aware of our proposal that consideration be given to a Canadian initiative related to bilateral air agreements. We would hope that the Inter-Departmental meeting will discuss this question and decide whether this or a similar initiative is worth pursuing. In any event, instructions for the Delegation would have to be approved by the Secretary of State for External Affairs and the Minister of Transport.

H. Bissonnette
H. Norinset-CTC
G. Sicotte-DOT
T.G. H.W. - DOT
R. Assie - CTC
P. Serokan-DOJ
H. Norton- CTC

J. A. BEESLEY

Legal Division.

EXTERNAL AFFAIRS

AFFAIRES EXTÉRIEURES



MEMORANDUM

TO FILE (Mr. Clark)

SECURITY CONFIDENTIAL
Sécurité

FROM GAF
De

DATE April 15, 1970

REFERENCE Berne Telegram 138 of April 13
Référence

NUMBER
Numéro

SUBJECT ICAO Meetings on Unlawful Interference with International
Sujet Civil Aviation

| FILE | DOSSIER |
|-------------------------|---------|
| OTTAWA 42-8-9-3-ICAO | |
| MISSION | |

ENCLOSURES
Annexes

1

DISTRIBUTION

OUN

The attached telegram from Berne should, we believe, have come in the first instance to your Division. We have kept a copy but are forwarding herewith the action copy plus remaining spares for your disposal.

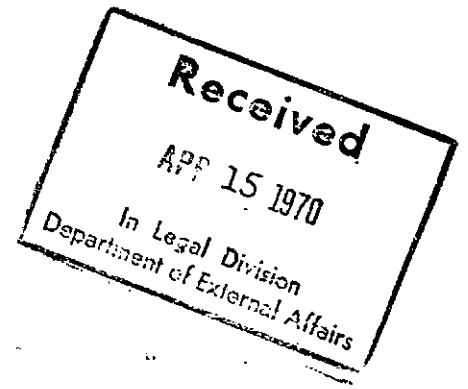
2. In passing on this message, we might mention a possibility which had occurred to us earlier, upon noting the results of the recent visit to Jordan by the Director-General of IATA. Insofar as unlawful interference with international civil air transport has become an element in the Arab/Israeli conflict, the position of Arab governments in respect of any measures formulated in international bodies like ICAO evidently is of considerable importance.

3. In recent months several Arab governments have indicated a disposition to adopt a responsible and constructive attitude toward the problems of unlawful interference. It appears to us that Canada might be well placed to exercise some influence in encouraging the Arabs to play a constructive role in the June ICAO meeting, particularly since we are the host country. While we would not wish to arouse undue optimism on this score, we wonder whether you might consider it worthwhile between now and June to have our missions concerned make low-keyed approaches to several Arab governments, indicating our awareness of the constructive interests they have indicated in this subject and our hope that this could be translated into Arab support for whatever effective measures may come under consideration at the forthcoming ICAO meeting.

Robert F. Leveson

African and Middle Eastern Division

15/15/4



C O N F I D E N T I A L

FM BERN APR13/70

TO EXTER 138

REF OURTELS 68 AND 70 FEB26

CIVIL AVIATION-ICAO AND SWITZERLAND

FURTHER TO REFEELS HAVE TODAY AGAIN VISITED GULDIMANN, CHIEF SWISS OFFICE FEDERAL DE LAIR TO DISCUSS DEVELOPMENTS FOLLOWING URGENT ICAO MTG IN MTL AND ECAC MTG IN PARIS MAR3-4 FOLLOWING SWISSAIR CRASH AT WURENLINGEN.

2. ALTHOUGH MUCH OF CONTENT OUR CONVERSATIONS WITH GULDIMANN PERHAPS ALREADY WELL KNOWN TO YOU WE PASS HIGHLIGHTS OF OUR CONVERSATION AND CAN REPORT IN GREATER DEPTH IF REQUESTED.

(1) NOW AGREED EXTRAORDINARY ASSEMBLY ICAO BE CONVENED MTL JUN16 TO JUN30. (2) ORIGINAL SITE PROPOSED FOR EXTRAORDINARY ASSEMBLY WAS SWITZERLAND BUT LATER CHANGED TO MTL AFTER SWISS TOOK VISA CONTROL ACTION AGAINST ARAB NATLS. (3) GULDIMANN STATES ALWAYS MORE DIFFICULT TO ACHIEVE QUORUM IN MTL BUT IF QUORUM OF SIXTY STATES NOT/NOT REACHED CONFERENCE WILL BE PROMPTLY CHANGED FROM EXTRAORDINARY ASSEMBLY TO TECHNICAL CONFERENCE. (4) MEMBER STATES NOW INVITED TO SUBMIT PAPERS BEFORE END APR COVERING, (A) LEGAL QUESTIONS, (B) TERMS OF REF OF EXTRAORDINARY ASSEMBLY, (C) TECHNICAL PROCEDURES (SAFETY MEASURES), (D) DETAILED TECHNICAL PROBLEMS IE PASSENGER CONTROL AT AIRPORTS AND PASSENGER AND FREIGHT CONTROL INTO CRITICAL AREAS.

3. IT SHOULD BE NOTED ALL SUBJ PAPERS REMAIN IN TECHNICAL AREA

...2

PAGE TWO 138 CONFD

AS FORESEEN IN OURTEL 68 WITH ICAO SEEKING TO AVOID POLITICAL INVOLVEMENT.

4.GULDIMANN FURTHER REPORTS SPECIAL ICAO HIJACKING CONFERENCE PROBABLY IN HAGUE DEC1/70 AT DIPLO LEVEL.HE EXPECTS POSITIVE RESULTS FROM BOTH ABOVE-MENTIONED CONFERENCES.

5.DURING RECENT ICAO SPECIAL MTG MTL GULDIMANN HELD PRIVATE MTGS WITH REPS ARAB STATES(LEBANON,UAR,TUNISIA)WHOSE ATTITUDE WAS POSITIVE AND WHO PROMISED SUPPORT FOR TECHNICAL PROPOSALS IN AREAS SUGGESTED FOR AGENDA OF EXTRAORDINARY ASSEMBLY.

6.RECENTLY HAMMERSKJOLD DIRGEN IATA VISITED BERN ENROUTE RETURN FROM MIDEAST WHERE INTER ALIA HE VISITED AMMAN INCLUDING PRIVATE MTG WITH YASSER ARAFAT WHO EXPRESSED FULL SUPPORT OF MEASURES TO CURB HIJACKING AND SABOTAGE.

7.HAVING INITIATED DEMANDS FOR EXTRAORDINARY ASSEMBLY ICAO,SWISS NOW TAKING LESS PROMINENT POSITION BUT WILL BE ACTIVE IN TECHNICAL SENSE

ROBERTS

ACTION COPY *File*

GAF

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| 42-8-9-3-1CAO |
| <i>ms</i> |

C O N F I D E N T I A L

FM BERN APR13/70

TO EXTER 138

REF OURTELS 68 AND 70 FEB26

CIVIL AVIATION-ICAO AND SWITZERLAND

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ROBERTS

Mr. Les Huckfield: Will my hon. Friend ignore the support of the illegal Rhodesian régime given by the benches opposite, and at the same time tell the House what investigations his Department is making into sanctions breaking by firms based in this country?

Mr. Foley: If we receive any evidence of companies in this country evading sanctions, they will be prosecuted through the courts, as has been the case in the past.

14. Mr. Boyd-Carpenter asked the Secretary of State for Foreign and Commonwealth Affairs how many countries maintain trade missions in Rhodesia; which countries so do; and what changes in this respect have taken place since 2nd March, 1970.

Mr. Foley: There are no separate trade missions in Southern Rhodesia. This has been the position since shortly after the illegal declaration of independence.

Mr. Boyd-Carpenter: In view of the absence of what the hon. Gentleman calls separate trade missions, has there been a diminution in the flow of trade from those countries to which the hon. Gentleman referred a few minutes ago as benefitting from the restrictions resulting from sanctions on British trade?

Mr. Foley: If the right hon. Gentleman is referring to trade from Rhodesia with countries which have closed their consulates, with the exception of South Africa and Portugal the answer is "Yes".

Mr. Philip Noel-Baker: Will the Government now reconsider their decision about air communications and realise that if air communications were cut off all other factors would be greatly increased in efficacy?

Mr. Foley: There is another Question on the Order Paper about that.

27. Mr. Biggs-Davison asked the Secretary of State for Foreign and Commonwealth Affairs why, in view of its educational character, the export to Rhodesia of the Battle of Britain film has been stopped; and whether he will make a statement.

Mr. Foley: As I explained in reply to a Question from the hon. Member for Tynemouth (Dame Irene Ward) on 16th

March, only education and news film is licensed for export to Southern Rhodesia. The film, "The Battle of Britain" is not an educational film in the accepted meaning of those words.—[Vol. 798, c. 12.]

Mr. Biggs-Davison: Is not this an entirely educational film, being the history of the Battle of Britain? Are the Government not ashamed of their childishness? Were they, perhaps, irked by the fact that one of the "Few" had "Rhodesia" on his shoulder?

Mr. Foley: There is no question of our being ashamed. It is purely and simply a question of definition. This film was produced as a commercial film, for commercial distribution and showing. If the hon. Member wants me to define what I mean by an educational film I can tell him that it is a film produced exclusively for instructional purposes for showing in schools or other institutions, or by the B.B.C. or Independent Television for use in schools.

Mr. Winnick: Is not there a case for this film being shown in Rhodesia, so that the Rhodesia Front and its allies can learn how an earlier system of racial tyranny was defeated?

Mr. Foley: That is a useful point.

Mr. Lambton: Will the hon. Gentleman put in the Library a list of all the films exported to Rhodesia since independence?

Mr. Foley: Yes.

Aircraft (Hijacking)

4. Sir R. Russell asked the Secretary of State for Foreign and Commonwealth Affairs if he will state the latest position regarding the draft Convention for the prevention of hijacking of aircraft drawn up by the Legal Committee of the International Civil Aviation Organisation.

Mr. Luard: The draft Convention has recently been approved by the International Civil Aviation Organisation Council and is being remitted to member States for consideration and comment. It is to be considered by an international diplomatic conference at The Hague in December when we hope that the text of the Convention may be agreed.

Sir R. Russell: First, does the Minister think that December is early enough

to deal with this problem in view of what happened last week and the fact that we have eight months to wait? Secondly, in view of the action taken by the North Korean Government in returning the plane, passengers and crew but not the hijackers, what is the attitude of the Communist States to this Convention?

Mr. Luard: On the first part of the supplementary question, we regret as much as the hon. Gentleman does the delay which is inevitable before this conference can meet. But this arises from the rules of procedure of the International Civil Aviation Organisation, which require an interval of at least six months during which member States may examine any proposed Convention after it has been drafted.

On the second part of the supplementary question, I am afraid that it is not for me to answer for the Communist countries concerned, but naturally we hope that they will become parties to this Convention, like other member States.

Mr. Leslie Huckfield: Is not my hon. Friend aware of the very serious state of this problem? Will he persuade the President of the Board of Trade, following the recent European conference, to put forward interim proposals for immediate agreement?

Mr. Luard: Her Majesty's Government certainly share the concern felt in the House and elsewhere about this very pressing problem. I think that my hon. Friend refers perhaps as much to the question of the sabotage of aircraft as hijacking. He will probably know that there is to be a conference on this subject in Montreal in June. It is our hope that some progress will be made there to reaching agreement on the measures to be taken against attacks of this kind.

Mr. Sandys: Will the Government consider asking all other Governments to refuse landing rights to the aircraft of countries which give asylum to hijackers?

Mr. Luard: That is one of the possibilities to be considered, but I think that the right hon. Gentleman will know that under the terms of the proposed Convention hijacking will become an offence and it will be open to countries to extradite hijackers from other countries, whether the offence has been committed in that other country or in a State

in which the aircraft lands with the alleged offenders still on board.

Sir B. Janner: Does not my hon. Friend realise that the delay in taking effective measures is conducive to the situation escalating? Why has he not learned the lesson of cases in which planes were blown up, indicating the kind of thing which may happen throughout the world? What will he do immediately about the matter?

Mr. Luard: My hon. Friend can be assured that we have learned the lessons of the recent incidents, and we are as concerned as he is to make rapid progress in this matter. But I have already explained why it is not possible for the conference to take place earlier. Under the rules of procedure of the I.C.A.O. six months must be allowed to enable the proposed Convention to be considered by member States.

Sir A. V. Harvey: Does the hon. Gentleman realise that the British Government bear a very heavy responsibility in this matter? The first serious hijacking was of the H.S.125 with Mr. Tshombe on board, and the Government did nothing whatever about it. Is he to leave this matter until the end of the year? If so, he can reckon on the Federation of World Pilots taking action of its own accord. Surely he must give a lead.

Mr. Luard: The hon. Gentleman knows that we did everything which it was in our power to do over the hijacking of President Tshombe. What we are considering now is not a unilateral measure by the British Government but an attempt to bring about an international agreement. I am sure that the whole House will agree that this is what is required, and not some particular step by Her Majesty's Government. It is not in our power to ensure when a conference on an international Convention takes place. We should like the conference to take place as early as possible. It has been arranged for December, and it is not possible, under the rules of the I.C.A.O. for it to take place earlier.

Sir Alec Douglas-Home: The hon. Gentleman has sensed the feeling on both sides of the House about this extraordinarily dilatory procedure. Surely, with an emergency of this kind, the rules

could be bent by common consent of the countries concerned to serve the purpose of stopping this hijacking.

Mr. Luard : The right hon. Gentleman is condemning a dilatory procedure, not of the Government but of the I.C.A.O. His criticism should be directed at that organisation. We would welcome an earlier conference, but it is not possible for us unilaterally to alter the rules of procedure of this organisation.

Sir Alec Douglas-Home : I am not asking the hon. Gentleman or the Government to alter the rules of procedure, but surely they should get together the leading countries concerned to see whether the rules can be altered by consent.

Mr. Luard : I am willing to give an assurance that we shall look into this matter to see whether it is possible, with the agreement of the other members of the organisation, to arrange for the conference to take place earlier.

Anglo-Italian Relations

5. Mr. Dodds-Parker asked the Secretary of State for Foreign and Commonwealth Affairs what progress is being made, following the declaration after the visit of President Saragat, in the furtherance of closer relations with Italy, particularly in the technological field.

Mr. George Thomson : Good progress is being made. After the successful inaugural meeting of the Anglo-Italian Science and Technology Committee in Rome on 14th and 15th January, we look forward to holding the second meeting in London, probably in June. Her Majesty's Government look forward to working increasingly closely with Italy in the advanced technologies.

Mr. Dodds-Parker : As time goes on, can the right hon. Gentleman give details of the very important technological work carried out between the two countries and make certain that this is not just another bombastic statement following a State visit?

Mr. Thomson : Yes, I will be happy to keep the House informed about developments.

South Africa (Ambassador's Statement)

9. Mr. Winnick asked the Secretary of State for Foreign and Commonwealth Affairs if the public statement by the British Ambassador to South Africa in Capetown on 14th January, 1970, on Anglo-South African friendship, in which he remarked on anti-apartheid demonstrations in the United Kingdom, was made with his authority.

Mr. Foley : Her Majesty's Ambassador's remarks in Capetown on 14th January were in reply to questions from reporters who boarded his ship on arrival. In such circumstances the Secretary of State's prior authority is not required.

Mr. Winnick : Is my hon. Friend aware that this speech seems to have given the impression that anti-apartheid activities in Britain were undesirable? Should not the Ambassador now be told that this type of statement from him is not required as part of his duties in South Africa?

Mr. Foley : The Ambassador's remarks were not reported in full. I assure my hon. Friend that our Ambassador is fully aware of the Government's policies on apartheid and that his task, of which he is aware, is to propagate and to fulfil the obligations placed upon him by Her Majesty's Government.

Duncan Report

10. Mr. Judd asked the Secretary of State for Foreign and Commonwealth Affairs if he will now make a statement on Her Majesty's Government's plans to implement the Duncan Report on overseas representation.

30. Mr. Moonman asked the Secretary of State for Foreign and Commonwealth Affairs what action he now proposes to take on the Duncan Report; and if he will make a further statement.

Mr. George Thomson : As I told the House on 2nd February, the Duncan Report is looked upon by Her Majesty's Government as a set of general guidelines for the organisation of our overseas posts for the 1970s. On this basis an

Document disclosed under the Access to Information Act
Document divulgué en vertu de la loi sur l'accès à l'information

TRANSMITTAL SLIP

TO: THE UNDER SECRETARY OF STATE
FOR EXTERNAL AFFAIRS, OTTAWA

FROM: THE OFFICE OF THE HIGH COMMISSIONER
FOR CANADA, LONDON

Security UNCLASSIFIED
Date April 10, 1970
Air or Surface AIR
No. of enclosures ONE

The documents described below are for your information.

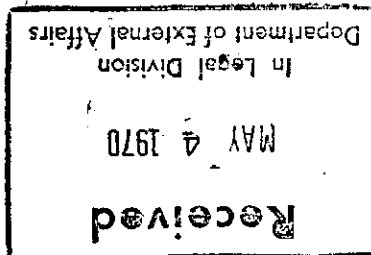
Despatching Authority D.R. HILL/al

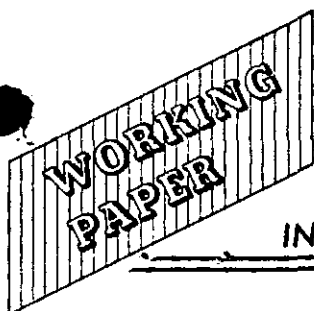
42-8-9-3-10A0
1/1

| Copies | Description | Also referred to: |
|--------|---|---|
| 1 | Exchange in House of Commons on April 6, 1970 REF: OURTEL 1187 APR10 SUB:DRAFT ICAO CONVENTION ON HIJACKING | DEPARTMENT OF TRANSPORT, OTTAWA D.V.A. APR 14 1970 Mr Roberts AFN |

INSTRUCTIONS

1. This form may be used in sending material for informational purposes from the Department to posts abroad and vice versa.
2. This form should *NOT* be used to cover documents requiring action.
3. The name of the person responsible for authorizing the despatch of the material should be shown opposite the words "Despatching Authority". This may be done by signature, name stamp or by any other suitable means.
4. The form should bear the security classification of the material it covers.
5. The column for "Copies" should indicate the number of copies of each document transmitted. The space for "No. of Enclosures" should show the total number of copies of all documents covered by the transmittal slip. This will facilitate checking on despatch and receipt of mail.





C-WP/5151
8/4/70

INTERNATIONAL CIVIL AVIATION ORGANIZATION

COUNCIL - SEVENTIETH SESSION

Subject No. 52: Unlawful Interference with International Civil Aviation and its Facilities

42-8-9-3-ICAO

COMMITTEE ON UNLAWFUL INTERFERENCE

(Presented by the Secretary General)

References: Council Resolution of 10 April 1969
(C-Min. LXVI-26 (Closed))
C-Min. LXVII-2 (Closed)
C-WP/5091
C-Min. LXVIII-15 and 16 (Closed)
Doc 8849-C/990

The Committee

1. By a Resolution of 10 April 1969 (C-Min. LXVI-26 (Closed)) the Council established, in accordance with Article 52 of the Chicago Convention, a Committee of 11 members chosen from among the Members of the Council, to implement Clause (3) of that Resolution under the terms of reference appearing in the Appendix to the Resolution.
2. In Clause (7) of the Resolution the Council decided "to review annually the question of whether the Committee should be continued and the composition of its membership".
3. The present membership of the Committee is as follows (C-Min. LXVII-2 (Closed)):

| | |
|-----------|----------------|
| Australia | Nigeria |
| Colombia | Senegal |
| France | Spain |
| Guatemala | United Kingdom |
| Indonesia | United States |
| Lebanon | |

Report of the Committee

4. The Committee's report, C-WP/5091, was considered by the Council on 10 and 11 December 1969: see C-Min. LXVIII-15 and 16 (Closed). The booklet Doc 8849-C/990 was thereafter sent to Contracting States.

4.1 The Committee has, since then, held a few meetings.

Action

5. The Council has to take a decision under Clause (7) of its Resolution of 10 April 1969.

000129

- END -

DISTR. 6 / 4 / 70



YOUR FILE NO.
VOTRE DOSSIER
OUR FILE NO.
NOTRE DOSSIER

32

LE REPRÉSENTANT DU CANADA AU CONSEIL DE
L'ORGANISATION DE L'AVIATION CIVILE
INTERNATIONALE

902 ÉDIFICE DE L'AVIATION INTERNATIONALE, MONTRÉAL

TÉLÉPHONE: 879-4788

THE REPRESENTATIVE OF CANADA ON THE COUNCIL OF
THE INTERNATIONAL CIVIL AVIATION
ORGANIZATION

902 INTERNATIONAL AVIATION BUILDING, MONTREAL

TELEPHONE: 879-4788

2 April 1970.

The Under-Secretary of State for External Affairs,
Ottawa, Ontario.

Attention: Mr. L.S. Clark, Legal Division

Dear Sir:

Further to previous documentation relating to the
Seventeenth Session of the Assembly which was handed to you by
Mr. Gourdeau on 25 March 1970, attached is one copy each of the
undernoted documents:

State Letter SA 17/1 - 70/41, dated 23 March 1970

State Letter SA 17/1 - 70/48, dated 1 April 1970

Assembly Working Papers, A17-WP/1, 2, 3 and 4

Yours truly,

L.M.E. Brennan
L.M.E. Brennan,
Administrative Officer.

Encls.

| |
|------------------------|
| TO: <i>FILE</i> |
| FROM: ACRD |
| APR 7 1970 |
| ATTN: <i>Mr. Clark</i> |

FILE
28.7.4

000130

ORGANISATION DE L'AVIATION
CIVILE INTERNATIONALE



ORGANIZACIÓN DE AVIACIÓN
CIVIL INTERNACIONAL

INTERNATIONAL CIVIL AVIATION ORGANIZATION

(CS)

INTERNATIONAL AVIATION BUILDING
1080 UNIVERSITY STREET
MONTREAL 101, P.Q. CANADA

WHEN REPLYING, PLEASE QUOTE:
RÉFÉRENCE À RAPPELER DANS LA RÉPONSE:
INDÍQUESE EN LA RESPUESTA ESTA REFERENCIA:

SA 17/1 - 70/41 - 48

Subject: Invitation to attend the Seventeenth
Session (Extraordinary) of the Assembly
on 16 June 1970

Action Required: 1) To arrange attendance
2) If documentation is submitted, to reach
ICAO before 30 April 1970

23 March 1970

Sir,

I have the honour to inform you that on 16 March 1970, the Council, at the request of ten Contracting States* made under Article 48 (a) of the Convention, decided to convene an Extraordinary Session of the Assembly to deal with the subject of security in international civil aviation. The Seventeenth Session (Extraordinary) will be held in Montreal from 16 to 30 June 1970 and I am inviting you to be represented.

The first Plenary will start at 1100 hours on 16 June; it will be preceded by an informal meeting of Heads of delegations at 1000 hours.

* Austria, Belgium, Denmark, Federal Republic of Germany,
Kingdom of the Netherlands, Norway, Spain, Sweden,
Switzerland and the United Kingdom

41681

- 2 -

Delegations and Credentials

In accordance with Article 48 (b) of the Convention, all Contracting States have an equal right to be represented at the Assembly. Rule 3 of the Standing Rules of Procedure of the Assembly (Doc 7600/2) specifies that no person shall represent more than one State. Rule 4 indicates that delegations of Contracting States may be composed of delegates, alternates and advisers and that one of the delegates should be designated as the Chief Delegate.

As prescribed in Rule 6 of the same Rules, delegations should be provided with credentials signed on behalf of the State concerned by a person duly authorized to do so, specifying the name of each member of the delegation and indicating the capacity in which he is to serve. The credentials are to be deposited with the Secretary General.

Agenda and Documentation

... The Provisional Agenda of the Seventeenth Session, as prepared by the requesting States, is attached (A17-WP/1). Its approval by the Assembly is governed by Rule 12 of the Standing Rules of Procedure of the Assembly.

Documentation prepared by the Secretariat will be transmitted to you as early as possible. A basic reference document is Doc 8849-C/990, 'Action by the Council and Other Decisions Taken and Work Done by ICAO on the Subject of Unlawful Interference with International Civil Aviation and its Facilities', which was sent to you under cover of my letter LE 4/26 - 70/6 dated 16 January 1970.

It is hoped that States and international organizations will present documentation on the various aspects of the Provisional Agenda. The early opening date gives little time for translation and distribution of that documentation and for this reason I am requesting that any working papers you may wish to submit be as concise as possible and be transmitted so that they reach me not later than 30 April 1970. It may prove impossible to distribute, by the opening of the Session, any paper that arrives after 30 April or that, because of its volume, involves a substantial translation and production effort; of course, this will not apply if the paper is sent in the three working languages of ICAO.


- - - - -

I am sure that the importance of the subject to be considered by the Assembly is recognized by all States and I would like to express the hope that your Government will be represented. In deciding on the composition of the delegation, it should be noted that it is planned to establish two committees that will meet simultaneously and will deal, respectively, with the technical and legal aspects of the Agenda.

- 3 -

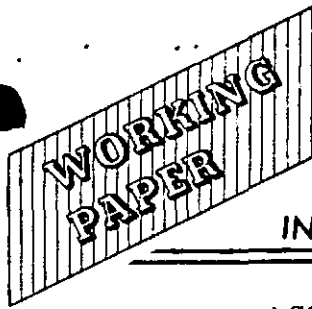
It is recommended that hotel reservations in Montreal for delegations to the Assembly should be made as soon as possible. We shall be glad to assist if we are notified of your accommodation requirements soon enough.

Accept, Sir, the assurances of my highest consideration.


for B. T. Twigt
Secretary General

Enclosure:

Provisional Agenda - A17-WP/1 P/1



INTERNATIONAL CIVIL AVIATION ORGANIZATION

A17-WP/1

P/1

23/3/70

ASSEMBLY - SEVENTEENTH SESSION (EXTRAORDINARY)

PROVISIONAL AGENDA

(Prepared by the ten requesting States*)

- i. Development of adequate security standards and procedures, for application by ICAO States in international civil aviation, aimed at the protection of air passengers, civil aviation personnel and civil aircraft by
 - a) preventing criminal action of any kind that may endanger the safety of air transport; and
 - b) consideration of arrangements under which those responsible for criminal actions endangering civil air transport can be brought to justice.

* Austria, Belgium, Denmark, Federal Republic of Germany, Kingdom of the Netherlands, Norway, Spain, Sweden, Switzerland and the United Kingdom

- END -

ORGANISATION DE L'AVIATION
CIVILE INTERNATIONALEORGANIZACIÓN DE AVIACIÓN
CIVIL INTERNACIONAL

INTERNATIONAL CIVIL AVIATION ORGANIZATION

INTERNATIONAL AVIATION BUILDING
1080 UNIVERSITY STREET
MONTREAL 101, P.Q. CANADA

(CS)

WHEN REPLYING, PLEASE QUOTE:
RÉFÉRENCE À RAPPELER DANS LA RÉPONSE:
INDIQUESE EN LA RESPUESTA ESTA REFERENCIA:

SA 17/1 - 70/48

1 April 1970

Subject: Seventeenth Session (Extraordinary)
of the AssemblyAction Required: Note information regarding
convening of the Meeting

The Secretary General of the International Civil Aviation Organization presents his compliments and, further to his letter SA 17/1 - 70/41 of 23 March has the honour to convey the following information in respect of the Seventeenth Session (Extraordinary) of the Assembly.

1. Site and Dates of the Assembly

The Assembly will be held at the Headquarters of the Organization, International Aviation Building, 1080 University Street, Montreal, Canada, from 16 to 30 June 1970.

2. Opening Plenary

As advised in the above-referenced letter the first Plenary will convene at 1100 hours on 16 June and will be preceded by an informal meeting of Heads of Delegations at 1000 hours.

3. Registration of Participants (i.e. Chief Delegates, Delegates, Alternates, Advisers and Observers)

The Registration Desk located on the 10th floor of the International Aviation Building will be open from 1000 hours to 1700 hours on Monday, 15 June, for the convenience of participants who may wish to register prior to the opening of the Meeting. Registration will be continued from 0900 hours on Tuesday, 16 June.

- 2 -

4. General Information

a) Postal address of the Meeting

ICAO Assembly
International Civil Aviation Organization
1080 University Street
Montreal 101, P.Q., Canada

b) Cable address

ICAO Montreal or OACI Montreal

c) Hotel Reservations

A list of hotels within easy access of the International Aviation Building is attached for the convenience of participants. The rates, applicable in February 1970, will require confirmation when reservations are placed.

It is recommended that participants place reservations directly with the hotel of their choice at their earliest convenience as Montreal hotels are normally quite busy during the month of June. The Secretariat will be glad to assist in placing hotel reservations if preferred.

PAR

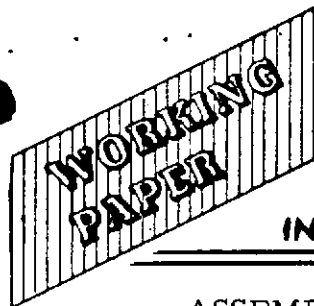
Enclosures:

- 1) List of Representative Hotels
- 2) Map of Montreal

ATTACHMENT to State letters)
PIECE JOINTE aux lettres) SA 17/1 - (70/48
ADJUNTO a las comunicaciones) (70/49

LEADING HOTELS IN MONTREAL - GRANDS HOTELS DE MONTREAL - PRINCIPALES HOTELES EN MONTREAL
DAILY RATES TARIFS A LA JOURNEE PRECIOS DIARIOS

| HOTELS | ADDRESSES ADRESSES DIRECCIONES | UNITS UNITES CUARTOS | PERS. 1 Can. \$ | PERS. 2 Can. \$ | PERS. 3 Can. \$ |
|---|--------------------------------------|----------------------------|--------------------------|-----------------------|-----------------------|
| BERKELEY 849-7351 | 1188 Sherbrooke West | 100 | Min. 12.00 Max. 15.00 | 16.00 20.00 | 18.50 25.00 |
| BONAVENTURE 878-2332 | 1 Place Bonaventure | 398 | Min. 17.00 Max. 36.00 | 25.00 44.00 | 30.00 49.00 |
| CHATEAU CHAMPLAIN 878-1688 | Place du Canada | 614 | Min. 18.00 Max. 24.50 | 23.00 29.50 | 28.00 34.50 |
| CAPRI 739-2771 | 6445 Décarie | 105 | Min. 9.50 Max. 13.50 | 15.50 17.50 | 18.50 20.50 |
| DE LA SALLE 866-6492 | 1240 Drummond | 174 | Min. 11.00 Max. 17.00 | 12.00 20.00 | 18.00 24.00 |
| LAURENTIEN 866-4571 | 1130 Peel | 1002 | Min. 11.00 Max. 15.00 | 15.00 20.00 | 18.50 23.50 |
| LE MARTINIQUE 866-4611 | 1005 Guy | 205 | Min. 12.50 Max. 20.00 | 16.50 30.00 | 20.50 34.00 |
| MONTREAL AEROPORT HILTON 631-2411 | 12505 Ch. Côte-de-Liesse Rd. | 288 | Min. 16.00 Max. 18.00 | 21.00 23.00 | 25.00 28.00 |
| QUEEN'S 866-2531 | 700 Peel | 315 | Min. 6.50 Max. 10.50 | 10.50 17.00 | 16.50 20.00 |
| QUEEN ELIZABETH (THE) 861-3511 | 900 Dorchester West | 1200 | Min. 16.00 Max. 33.00 | 21.00 40.00 | 26.00 45.00 |
| RITZ-CARLTON 842-4212 | 1228 Sherbrooke West | 300 | Min. 17.00 Max. 22.00 | 22.00 25.00 | 25.00 28.00 |
| SHERATON MONT ROYAL 842-7777 | 1455 Peel | 1012 | Min. 12.50 Max. 19.00 | 17.50 24.00 | 21.50 28.00 |
| WINDSOR 866-9611 | 1170 Peel | 280 | Min. 11.00 Max. 16.00 | 19.00 24.00 | 24.00 29.00 |



A17-WP/1
P/1
23/3/70

INTERNATIONAL CIVIL AVIATION ORGANIZATION

ASSEMBLY - SEVENTEENTH SESSION (EXTRAORDINARY)

PROVISIONAL AGENDA

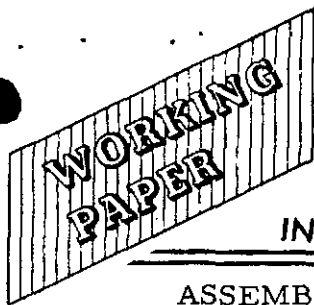
(Prepared by the ten requesting States*)

1. Development of adequate security standards and procedures, for application by ICAO States in international civil aviation, aimed at the protection of air passengers, civil aviation personnel and civil aircraft by
 - a) preventing criminal action of any kind that may endanger the safety of air transport; and
 - b) consideration of arrangements under which those responsible for criminal actions endangering civil air transport can be brought to justice.

* Austria, Belgium, Denmark, Federal Republic of Germany, Kingdom of the Netherlands, Norway, Spain, Sweden, Switzerland and the United Kingdom

- END -

DISIR.31 / 3/70



A17-WP/2
P/2
25/3/70

INTERNATIONAL CIVIL AVIATION ORGANIZATION
ASSEMBLY - SEVENTEENTH SESSION (EXTRAORDINARY)

Suggestions concerning consideration of the Provisional Agenda
(Presented by the Secretary General)

Reference: A17-WP/1 P/1

Terminology used in the Provisional Agenda

1. When examining the request for an Extraordinary Session of the Assembly, the Council noted that the Provisional Agenda prepared by the ten requesting States (see A17-WP/1) contains the terms "standards" and "procedures". Under the Convention, it is the Council and not the Assembly that adopts standards (Articles 54 (1) and 90). Article 37 also refers to "standards" and to "procedures". In order to avoid any confusion, the Council suggests that the terms "standards" and "procedures" be replaced by other terms, such as "rules", "measures", "practices" or "specifications". Of course, in addition to the Assembly preparing specifications for immediate implementation by Contracting States, the Assembly may also invite the Council to adopt similar specifications as standards, recommended practices or procedures.

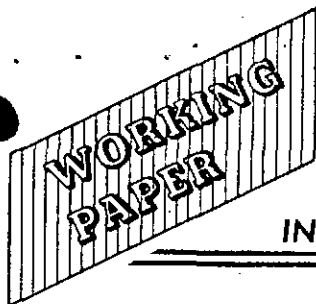
Consideration of sub-item a) of the Provisional Agenda

2. The Council suggests that under sub-item a) the following subjects could, inter alia, be considered:

- i) Security measures for the protection of aircraft on the ground and in the processing of passengers, baggage, mail and freight.
- ii) Security measures in the vicinity of airports.
- iii) Security measures aboard aircraft in flight.
- iv) Additional security elements to be incorporated in the design and construction of aircraft and airports.

- END -

DISTR. 31 / 3/70



A17-WP/3
25/3/70

INTERNATIONAL CIVIL AVIATION ORGANIZATION

ASSEMBLY - SEVENTEENTH SESSION (EXTRAORDINARY)

Sub-item a): preventing criminal action of any kind that may endanger the safety of air transport.

SECURITY MEASURES ABOARD AIRCRAFT IN FLIGHT

(Presented by the Secretary General)

1. As a result of the Council's action on Resolution A16-37, the question of how to prevent the unlawful seizure of aircraft was referred, not only to the Legal Committee but also to the Air Navigation Commission and the Air Transport Committee "for consideration of aspects falling within their respective fields of interest and for report to the Council". This was in accordance with the Council's determination to explore all possible avenues that might lead to a solution of the problem.
2. The Air Navigation Commission examined numerous suggestions aimed at thwarting unlawful seizures of aircraft in flight. Its Report to Council on this examination is appended hereto. The Council noted the views of the Commission and took them into account when adopting its Resolution of 11 December 1969. Measures that might be taken aboard aircraft to prevent unlawful seizures were also discussed by the Committee on Unlawful Interference established by the Council. Those that have been approved by Council appear in Doc 8849-C/990*, at page 11, under the heading "(ii) In-flight". To some extent the "Other measures" referred to on pages 11 and 12 of the same document also have "in-flight" implications.
3. It is expected that States and International Organizations will furnish, on time, further information and proposals on security measures aboard aircraft in flight to prevent acts of unlawful interference.

(5 pages)

* Sent to all Contracting States under cover of letter LE 4/26-70/6, dated 16 January 1970.

DISIR.31 / 3/70

A17-WP/3

ATTACHMENT

ATTACHMENT

COUNCIL - SIXTY-SIXTH SESSION

1251ST REPORT TO COUNCIL BY THE PRESIDENT OF THE AIR NAVIGATION COMMISSION

Subject No. 16 and 16.3: Unlawful Seizure of Aircraft (ANC Task No. 67.1-1/68)

SUMMARY

The Air Navigation Commission has examined suggestions made to prevent unlawful seizures of aircraft in flight. It decided that as it would not be proper for it to propose measures that could involve a degree of risk to the aircraft, or its occupants, no measure can be suggested by which the unlawful seizure of aircraft can be prevented in flight. The Commission believes that reliance will have to be placed on preventive or deterrent measures in other fields - measures which are outside its sphere of activity.

References: Resolution A16-37
C LXV-6, 7, 8 and 9
C-WP/4885
AN-WP/3550
AN-WP/3555
ANC LX-5
ANC LX-13

1. Introduction

On 9, 11, 13 and 16 December 1968 (LXV-6, 7, 8 and 9, respectively), the Council considered the action to be taken on Assembly Resolution A16-37. It decided on 9 December 1968 (LXV-6) that the question of how to prevent the unlawful seizure* of aircraft should be referred not only to the Legal Committee but also to the Air Navigation Commission and the Air Transport Committee "for consideration of aspects falling within their respective fields of interest and report to the Council".

* See C-WP/4885, para. 2, for the meaning of "unlawful seizure" as used in Resolution A16-37 and in this paper.

A17-WP/3

ATTACHMENT

A-2

2. Possible preventive measures

The measures that might be considered by the Air Navigation Commission and Air Transport Committee to prevent the unlawful seizure of aircraft, in the context of this study, are distinct from any remedies which may be developed by action in the legal field. Such measures comprise preventive actions which may be taken

a) on the ground; and

b) in flight.

(a) above, covers such actions as the screening of passengers and their hand baggage to ensure that, in so far as possible, would-be offenders and weapons do not gain admission to the aircraft. These matters are the concern of the Air Transport Committee. The Commission is concerned with (b).

3. Perpetrators of unlawful seizures of aircraft

The Commission noted that the record of the numerous unlawful seizures of aircraft indicated that the motives of those involved have been varied and in many cases difficult to determine. However, there is evidence that in a great many cases the perpetrators were mentally unstable or in a highly excitable mental condition. This factor has an important bearing on the preventive measures that can be taken to thwart them, and needs to be taken into account when considering possible preventive measures.

4. Actions that have been suggested to thwart illegal seizures in flight

The Commission examined numerous proposals which have been made to thwart illegal seizures of aircraft in flight. Among the more serious examined were those represented by the following:

- i) bullet-proofing the door and partition between the passenger cabin and flight deck;
- ii) arming crews or carrying security agents on board;
- iii) rigging "booby traps" in the floor or ceiling;
- iv) fitting devices for discharging tranquilizing drugs in the form of darts, etc.
- v) fitting devices for emitting immobilizing gases in the passenger compartment;
- vi) manoeuvring the aircraft violently or adopting extreme measures, such as deliberate and rapid cabin decompression, to restrict the mobility of offenders.

A-3

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ATTACHMENT

5. Analysis of preventive measures proposed

5.1 The Commission was aware of the fact that in at least one State a regulation is in effect which provides that, except during take-off and landing, the pilot-in-command of a large aircraft carrying passengers shall ensure that the door separating the flight crew compartment from the passenger cabin is closed and locked during flight. This regulation was aimed at thwarting illegal seizures of aircraft in flight but on the basis of experience gained to-date the Commission was of the opinion that it was not effective. Numerous examples existed of culprits enforcing their demands by threatening the lives of hostages, usually members of the cabin crew. The same deficiency would exist for the suggestion in 4 i) that the flight deck be made bullet-proof. This latter suggestion would also suffer from the disadvantage that it would impose some economic penalty on the operator.

5.2 The suggestions contained in 4 ii), iii) and iv) above, (arming of crews etc., the rigging of booby traps and the discharge of tranquilizing drugs, respectively) all suffer from the very real danger that the preventive devices or measures are not foolproof and that the perpetrator of the unlawful seizure may detect what is afoot before they become effective and make the first and possibly disastrous move. It was considered too, that certain of the devices covered by these suggestions are likely to be as much of a menace to passengers, crews, and servicing personnel as they would be to the persons attempting unlawful seizures. The Commission also considered that a further very important consideration was the possibility that the perpetrator may have an accomplice or accomplices.

5.3 The means suggested in 4 v) (emission of immobilizing gases) also seems to suffer from defects. Apart from the question of whether or not it would be effective quickly enough there remains the possibility that the gas may affect not only passengers but also the crew. It was also considered that there would be an adverse passenger reaction to all the suggestions contained in 4 ii), iii), iv) and v) once it became known that such potentially dangerous weapons etc. were being carried aloft for use in flight at the earliest signs of any suspected unlawful seizure.

5.4 The suggestion in 4 vi) (violent manoeuvres, rapid de-compression, etc.) was rejected by the Commission on the ground of the serious risk of injury to passengers, even without taking into consideration the possibility of structural damage to the aircraft and consequent loss of control.

6. The risks - Compliance with demands vs. resistance

6.1 The Commission decided that it would not be proper for it to propose measures that would, or could, entail a degree of risk to the aircraft or its occupants. A determination must be made by the pilot-in-command in each particular case of what constitutes the lesser potential danger - flying to an enforced destination or non-compliance with the demands of, or attempting to disarm, a possibly desperate man, probably of unstable mentality and incapable of rationality. However, had it been possible to accept a degree of risk to the aircraft, or its occupants, the Commission might have been able to make certain suggestions.

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ATTACHMENT

A-4

6.2 It was considered that among the hazards associated with enforced diversion are the risk of collision with other aircraft, the possibility that the destination may be beyond the range of endurance, be below aerodrome meteorological minima or otherwise unsuitable for landing by the aircraft concerned. However, it was noted that the record to-date indicated that compliance with an offender's demands had not resulted in the loss of any aircraft or its occupants. Aircraft had on more than one occasion been permitted to land to take on more fuel before proceeding to the enforced destination. On the other hand obvious risks would be incurred by physical attempts to restrain miscreants. Apart from the chances that passengers and crew may be killed or wounded, by indiscriminate shooting within an aircraft, it is possible for even a single bullet to cause explosion or fire by the rupture of oxygen, hydraulic or electrical systems or by the piercing of a fuel tank. The destruction of vital controls is another possibility. Unless in an area under considerable stress, bullet holes through the aircraft's skin would be unlikely to result in explosive de-compression of pressurized aircraft at altitude, but a shot through the windscreen could well prove catastrophic. The explosion of a bomb or hand-grenade within an aircraft would in nearly all cases, be disastrous.

7. Conclusions

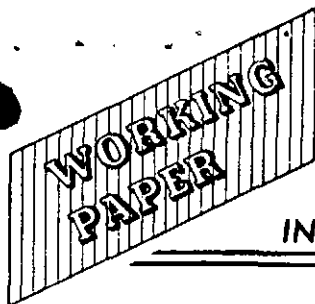
In view of the considerations in 6.1 above, the Commission is unable to suggest any measures which might be taken in the air to prevent the unlawful seizure of aircraft. It believes that reliance will, therefore, have to be placed on preventive or deterrent measures which are outside its ambit.

7.2 Although not in any way eliminating the possibility of unlawful seizure and consequently not strictly within the scope of this study, the Commission considers that a method of automatically sending coded signals to inform an air traffic services unit that an aircraft is being unlawfully diverted is a valuable safety measure. Consequently, it considered the possibility of developing such a system and agreed to bring the question to the attention of the 6th Air Navigation Conference under an existing suitable agenda item.

8. Action by the Council

The Council is invited to note this report.

L.C. Jacobe
President
Air Navigation Commission



INTERNATIONAL CIVIL AVIATION ORGANIZATION

AL7-WP/4
1/4/70

ASSEMBLY - SEVENTEENTH SESSION (EXTRAORDINARY)

Sub-item b): consideration of arrangements under which those responsible for criminal actions endangering civil air transport can be brought to justice.

Sub-item b) of the item on the Provisional Agenda

(Presented by the Secretary General)

Scope of Sub-item b)

1. The ten States which called for the convening of the present Extraordinary Session of the Assembly have been requested to indicate what topics or points for discussion are intended to be covered by sub-item b) of the Provisional Agenda proposed by them (see AL7-WP/1). The replies received from those States will be circulated to all States as documentation.

Documentation

2. A booklet entitled "Action by the Council and Other Decisions Taken and Work Done by ICAO on the Subject of Unlawful Interference with International Civil Aviation and its Facilities", Doc 8849-C/990, was sent to Contracting States with letter LE 4/26-70/6 dated 16 January 1970⁽¹⁾. It refers to (1) unlawful seizure of aircraft, and (2) sabotage or armed attack directed against aircraft or ground facilities used for international air transport. As regards unlawful seizure of aircraft, the work done by the legal Subcommittee, referred to in Part V at page 13 of the booklet, was carried further, and completed, by the Legal Committee of ICAO which, at its Seventeenth Session held in Montreal from 9 February to 11 March 1970, prepared a draft convention on unlawful seizure of aircraft. That draft (attached hereto) is being circulated⁽²⁾ to States and international organizations with a request for their comments. The Council has also decided to convene an international conference of plenipotentiaries to which that draft convention will be submitted with a view to its approval. The conference will be held from 1 to 16 December 1970.

3. It is hoped that States and international organizations invited to the Extraordinary Session of the Assembly will send their comments relating to sub-item b) of the item on the Provisional Agenda so that these could be included in the documentation which would be available to the Assembly.

⁽¹⁾ to non-contracting States and international organizations with letter SA 17/1-70/42 dated 23 March 1970.

⁽²⁾ with letter of the Secretary General IM 1/2.3-IM 1/3.3-70/53 dated 4 April 1970, together with the Report of the Legal Committee, Doc 8865 LC/159, 16/3/70 (reference pages 19 to 33).

A17-WP/4
1/4/70
Attachment

ATTACHMENT

DRAFT CONVENTION

THE STATES PARTIES TO THIS CONVENTION

CONSIDERING that unlawful acts of seizure or exercise of control of aircraft in flight jeopardize the safety of persons and property, seriously affect the operation of international air services, and undermine the confidence of the peoples of the world in the safety of civil aviation;

CONSIDERING that the occurrence of such acts is a matter of grave concern;

CONSIDERING that for the purpose of deterring such acts, there is an urgent need to make them punishable as an offence and to provide for appropriate measures to facilitate prosecution and extradition of offenders;

CONSIDERING, in consequence, that it is necessary to adopt provisions additional to those of international agreements in force and in particular to those of the Convention signed at Tokyo on 14 September 1963 on Offences and Certain Other Acts Committed on Board Aircraft,

HAVE AGREED AS FOLLOWS:

Article 1

Any person who on board an aircraft in flight:

(a) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes or exercises control of that aircraft, or attempts to perform any such act, or

(b) is an accomplice of a person who performs or attempts to perform any such act,

commits an offence (hereinafter referred to as "the offence").

Article 2

1. For the purposes of this Convention, an aircraft is considered to be in flight from the moment when power is applied for the purpose of take-off until the moment when the landing run ends.

2. This Convention shall not apply to aircraft used in military, customs or police services.

A17-WP/4
Attachment

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3. This Convention shall apply only if the place of take-off or the place of landing of the aircraft on board which the offence is committed is situated outside the territory of the State of registration of that aircraft.

4. In the cases mentioned in Article 5 this Convention shall not apply if the place of take-off and the place of landing of the aircraft on board which the offence is committed are situated within the territory of the same State where that State is one of those referred to in that Article.

Article 3

Each Contracting State undertakes to make the offence punishable by severe penalties.

Article 4

1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over the offence in the following cases:

- (a) when the offence is committed on board an aircraft registered in that State;
- (b) when the aircraft lands in its territory with the alleged offender still on board.

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

Article 5

The Contracting States 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 registration for the purposes of this Convention and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

Article 6

1. Upon being satisfied that the circumstances so warrant, any Contracting State in the territory of which the alleged offender is present, shall take him into custody or take other measures to ensure his presence. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is reasonably necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary enquiry into the facts.

3. Any person in custody pursuant to paragraph 1 shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national.

4. When a State, pursuant to this Article, has taken a person into custody, it shall immediately notify the State of registration of the aircraft and the State of nationality of the detained person 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 his detention. The State which makes the preliminary enquiry contemplated in paragraph 2 of this Article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

Article 7

The Contracting State which has taken measures pursuant to Article 6, paragraph 1 shall, if it does not extradite the alleged offender, be obliged to submit the case to its competent authorities for their decision whether to prosecute him. These authorities shall take their decision in the same manner as in the case of other offences.

Article 8

1. The offence shall be deemed to be included as an extraditable offence in any extradition treaty existing between Contracting States. Contracting States undertake to include the offence as an extraditable offence in every extradition treaty to be concluded between them.

2. The Contracting States which do not make extradition conditional on the existence of a treaty shall recognize the offence as an extraditable offence between themselves subject to the conditions established by the law of the State requested to extradite.

3. The offence shall be treated, for the purpose of extradition between Contracting States, as if it had been committed not only in the place in which it occurred but also in the territory:

- (a) of the State of registration of the aircraft;
- (b) of every State in which the aircraft lands with the alleged offender still on board.

Article 9

1. When any of the acts mentioned in Article 1 (a) has occurred or is about to occur, Contracting States shall take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve his control of the aircraft.

2. In the cases contemplated in the preceding paragraph, the Contracting State in which the aircraft lands shall permit its passengers and crew to continue their journey as soon as practicable, and shall return the aircraft and its cargo to the persons lawfully entitled to possession.

Article 10

Contracting States shall, in accordance with the applicable law, afford one another the greatest measure of assistance in connection with proceedings brought in respect of the offence.

File ✓
Diary
Div. Diary
c.c. G. Sicotte, DOT
T.B. Smith, DOJ

CONFIDENTIAL

March 23, 1970

Report on the Seventeenth Session of the
ICAO Legal Committee: Unlawful Seizure
of Aircraft (Hijacking).

42-8-9-3-KAO
21

... The ICAO Legal Committee considered the Report of the Special Legal Sub-Committee on Unlawful Seizure of Aircraft (which included a draft Convention on this subject) from March 2 to 11, 1970. The Conference was attended by 42 Member States of ICAO, and 2 non-Contracting States and Representatives of 6 international organizations - who had observer status. (Delegation list attached as Appendix A). The Canadian Delegation was composed of:

| | | |
|----------------|----------------------------------|------------|
| Mr. R.H. Evans | - Department of Transport | - Delegate |
| Mr. L.S. Clark | - Department of External Affairs | - Delegate |
| Mr. P. Sorokan | - Department of Justice | - Advisor |
| Mr. J. Keenan | - General Counsel, CALPA* | - Observer |

... At the conclusion of its session, the Legal Committee approved a revised draft Convention on Unlawful Seizure of Aircraft (attached as Appendix B), which is at present being circulated by ICAO to Member States for observation and comment. This draft Convention will be the subject of a Diplomatic Conference to be held this autumn, when a final text will be adopted and opened for signature and ratification.

... At the beginning of its consideration of the unlawful seizure item, the Legal Committee heard a number of general statements including in particular ones by the Under-Secretary General and Legal Counsel of the United Nations, Mr. C.A. Stavropoulos and Ambassador S. Rosemne of the Permanent Mission of Israel to the United Nations. Summaries of these two statements are attached as Appendix C (complete texts have been transmitted to interested Departments, Divisions and Posts).

The Committee agreed that the new Convention should take the form of an international legal instrument capable of signature and ratification independently of the 1963 Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft; however its provisions relating to matters also dealt with in the Tokyo Convention should be such as to avoid posing any problems to States desiring to become parties to both Treaties. It was also decided that it would be desirable for the Convention to have a preamble and that the one prepared by the Sub-Committee could provide a suitable basis for discussion at the Diplomatic Conference. Accordingly, the Legal Committee draft retains the text of the Sub-Committee's preamble.

.....2

* Canadian Airline Pilots' Association

The major questions with which the Committee was concerned were :
a) definition of unlawful seizure and establishment of the offence under national law; b) jurisdiction; c) detention, prosecution and punishment of hijackers; and d) extradition.

a) Definition and Establishment of Offence

It was decided to expand the English language definition of unlawful seizure to include "by force or threat thereof or by any other form of intimidation" (Article 1). Thus the Convention will apply not only to threats or acts of physical violence but also other forms of coercion e.g. blackmail, by a person on board an aircraft in flight unlawfully seizing or otherwise exercising control of that aircraft. Proposals to broaden the offence even further to include acts of fraud or bribery, and "interference" as well as "seizure", were rejected.

A Canadian suggestion that the Convention require States parties to make punishable "the acts constituting the offence" rather than "the offence" (Article 3) - in order to avoid requiring Contracting States to create a specific offence under domestic law, was also rejected. However, the Director of the ICAO Legal Bureau gave his considered opinion that the draft Convention as approved would not require the creation of a specific offence provided that national law made punishable what is described in Article 1 as "the offence". Accordingly, in his view, Canada would not have to enact an amendment to the Criminal Code to enable us to ratify the Convention (see Recommendations below).

b) Jurisdiction

The Sub-Committee's decision to provide for jurisdiction over an offence by the state of registration of the aircraft - as is the case under the Tokyo Convention, was approved (Article 4.1.(a)). In addition, the Legal Committee decided to require a State party to establish jurisdiction when a hijacked aircraft lands in its territory with the alleged offender still on board. (Article 4.1.(b)). This goes much further than the earlier draft which imposed mandatory jurisdiction only where the hijacker also disembarked from the aircraft in its territory. Also, the Convention specifically refrains from excluding any criminal jurisdiction exercised in accordance with national law.

c) Detention, Prosecution and Punishment of Hijackers

A Contracting State, "if the circumstances so warrant", in whose territory the hijacker is found must "take him into custody or take other measures to ensure his presence". (Article 6(1)). The custody or other measures shall be for a length of time sufficient to permit criminal or other extradition proceedings to be initiated. This provision extends the obligations contained in

the Sub-Committee draft which required only the Contracting State where the hijacked aircraft landed and the alleged offender disembarked, to take him into custody. Under the revised draft any State party in whose territory the hijacker is found, including a State to which he has fled subsequent to the hijacking, must apprehend him.

The Contracting State must, if it does not extradite the hijacker, "submit the case to its competent authorities for their decision whether to prosecute". (Article 7). This language is somewhat stronger than that contained in the earlier draft; however it still does not require mandatory extradition or prosecution, only extradition or submission to the authorities which may decide to prosecute.

The Legal Committee decided that instead of requiring punishment "~~commensurate~~ with the gravity of such offence" (Sub-Committee draft), the offence should be "punishable by severe penalties". (Article 3).

d) Extradition

Under the Convention unlawful seizure is to be "deemed to be included as an extraditable offence in any extradition treaty" in force as between Contracting States. In addition, States parties "undertake to include the offence as an extraditable offence in every extradition treaty to be concluded between them". (Article 8(1)). The latter provision is slightly weaker than the corresponding Article 1 in the Sub-Committee draft which provided that the offence shall be deemed to be included in future as well as existing extradition treaties. The present text requires specific inclusion in future extradition treaties between Contracting States.

The offence is to be recognized as extraditable as between Contracting States which do not make extradition conditional on the existence of a treaty. In such a case extradition is to be "subject to the conditions established by the law of the State requested to extradite". (Article 8(2)) .

For the purpose of extradition, the offence is to be treated as having been committed not only where it occurred "but also in the territory: a) of the State of registration of the aircraft; b) of every State in which the aircraft lands with the alleged offender still on board". (Article 8(3)) . Accordingly, any or all of these States could request extradition of a hijacker from a Contracting State in whose territory he was found.

.....4

The Legal Committee discussed at some length the question of retaining the precise wording of Article 11(1) of the Tokyo Convention - relating to the restoration of control of a hijacked aircraft to its lawful commander. In the event, it was decided to alter the language slightly to refer to "the acts mentioned in Article 1(A)". Thus, when any of the acts descriptive of, or defining, unlawful seizure has occurred or is about to occur, Contracting States are to take all appropriate measures to restore control to, or preserve the control of, the aircraft commander (Article 9(1)). The Tokyo Convention provision relating to the release of the passengers and crew of a hijacked aircraft and its return, together with the cargo on board, to the operator of the aircraft is incorporated, as is, into the draft Convention (Article 9(2)).

Limitation on the Scope of the Convention

As in the case of the Tokyo Convention, (in conformity with the terms of reference of ICAO itself as set out in Article 3 of the Chicago Convention) the draft Convention does not apply "to aircraft used in military, customs or police services" (Article 2(2)) i.e. only to civil aircraft. It also does not apply to essentially domestic flights within the state of registration of the aircraft - even if foreign territory is overflown during the course of the flight (Article 2(3)). However, when Contracting States establish joint air transport operating organizations or international operating agencies to operate aircraft, the Convention does not apply if the flight is essentially domestic as regards any single state which is a member of such organization or agency even though it is not the state in which the aircraft is registered. (Article 2(4)).

Question Requiring Further Consideration:

Aircraft Not Owned by the Operator

Traditionally, international air transport has been primarily concerned with the state of registration of the aircraft and both the Tokyo and the draft Convention provide for this State to have jurisdiction over offences. At the instigation of the Barbados Delegate (who proposed an amendment to the Convention) the Legal Committee spent considerable time considering whether the State - where the company or other legal entity which operates an aircraft under lease or charter is incorporated, should also have jurisdiction. The related matter of treating the offence, for the purpose of extradition, as having been committed in the territory of the State in which the operator of the aircraft has its Head Office or principal place of business, was also discussed. Eventually the Committee decided not to amend the draft Convention in this regard but to appoint a member of the U.K. Delegation and a member of the Netherlands Delegation as Rapporteurs to study the question of aircraft registered in one State but operated by a national of, or a body having its Head Office in, another State. The Canadian Delegation supported both the Barbados initiative and the proposal to appoint the Rapporteurs (see Recommendations).

RECOMMENDATIONS

(1) Creation of Offence of Unlawful Seizure of Aircraft:

The general view of Delegations attending the Legal Committee Session was that States should make unlawful seizure - using this or other appropriate terminology, a specific offence under national criminal law. Many Representatives expressed the view that Article 3 of the draft Convention in fact requires such action. (As indicated above, the Director of the ICAO Legal Bureau disagrees.) With respect to extradition between Contracting States, the existence of a specific offence in both the requesting and requested States would undoubtedly facilitate the operation of the Convention. Accordingly, it is recommended that arrangements be made for inter-departmental consultations with a view to having the Department of Justice consider the possibility of amending the Canadian Criminal Code to provide for a particular offence relating to unlawful seizure of aircraft.

(2) Chartered or Leased Aircraft:

As mentioned above, the problem raised by aircraft not owned by the operator is being studied by two Rapporteurs. It is recommended that the Departments of Transport and External Affairs consult together on this question to decide whether a Canadian submission should be made to the Rapporteurs and, if so, what it should contain.

(3) Diplomatic Conference:

The Government of the Netherlands has informed ICAO that it is willing to host the Diplomatic Conference on Unlawful Seizure of Aircraft in the late autumn of 1970, subject to agreement on mutually satisfactory financial arrangements. It is recommended that: a) a Canadian Delegation take part in the Conference; b) the Head of the Canadian Delegation be authorized to sign the Convention subject to ratification - provided it is substantially similar to the draft approved by the Legal Committee; and c) that the appropriate inter-departmental consultations and other necessary steps relating to Canadian ratification of the Convention be initiated in advance of the Diplomatic Conference, so that the time required for the deposit of Canadian ratification after signature can be reduced to a minimum.

.....6

-6-

CONCLUSION

The text of the draft Convention approved by the Legal Committee is generally acceptable to Canada. Section 5(a) of our Criminal Code, enacted in 1959, allows Canada to implement the obligations of the Convention relating to jurisdiction, without the need for additional legislation. The provisions dealing with the offence of unlawful seizure and extradition can also be interpreted so that we could become a party to the Convention before creating a specific offence under our criminal law. However, in the view of the Canadian Delegation to the Legal Committee Session, it would be preferable if the Criminal Code could be amended to provide for a specific offence as described in Article 1 of the draft Convention.

LIST OF DELEGATIONS ATTENDING THE SESSION

Contracting States

Argentina
Australia
Barbados
Belgium
Brazil
Bulgaria
Canada
Chile
China (Republic of)
Colombia
Congo (People's Republic of)
Czechoslovak Socialist Republic
Denmark
Finland
France
Germany (Federal Republic of)
Hungary
India
Indonesia
Israel
Italy
Jamaica

Japan
Lebanon
Madagascar Republic
Netherlands (Kingdom of the)
New Zealand
Norway
Paraguay
Philippines
Polish People's Republic
Senegal
Spain
Sweden
Switzerland
Tanzania (United Republic of)
Thailand
Trinidad and Tobago
Tunisia
United Kingdom
United States of America
Yugoslavia
Zambia

Non-Contracting States

San Marino
Union of Soviet Socialist Republics

International Organizations

IATA (International Air Transport Association)
ICC (International Chamber of Commerce)
IFALPA (International Federation of Airline Pilots' Association)
ILA (International Law Association)
ICPO-INTERPOL (International Criminal Police Organization)
United Nations

DRAFT CONVENTION

APPENDIX B

THE STATES PARTIES TO THIS CONVENTION

CONSIDERING that unlawful acts of seizure or exercise of control of aircraft in flight jeopardize the safety of persons and property, seriously affect the operation of international air services, and undermine the confidence of the peoples of the world in the safety of civil aviation;

CONSIDERING that the occurrence of such acts is a matter of grave concern;

CONSIDERING that for the purpose of deterring such acts, there is an urgent need to make them punishable as an offence and to provide for appropriate measures to facilitate prosecution and extradition of offenders;

CONSIDERING, in consequence, that it is necessary to adopt provisions additional to those of international agreements in force and in particular to those of the Convention signed at Tokyo on 14 September 1963 on Offences and Certain Other Acts Committed on Board Aircraft,

HAVE AGREED AS FOLLOWS:

Article 1

Any person who on board an aircraft in flight:

(a) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes or exercises control of that aircraft, or attempts to perform any such act, or

(b) is an accomplice of a person who performs or attempts to perform any such act,

commits an offence (hereinafter referred to as "the offence").

Article 2

1. For the purposes of this Convention, an aircraft is considered to be in flight from the moment when power is applied for the purpose of take-off until the moment when the landing run ends.

2. This Convention shall not apply to aircraft used in military, customs or police services.

8 AUG 1974
3. This Convention shall apply only if the place of take-off or the place of landing of the aircraft on board which the offence is committed is situated outside the territory of the State of registration of that aircraft.

4. In the cases mentioned in Article 5 this Convention shall not apply if the place of take-off and the place of landing of the aircraft on board which the offence is committed are situated within the territory of the same State where that State is one of those referred to in that Article.

Article 3

Each Contracting State undertakes to make the offence punishable by severe penalties.

Article 4

1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over the offence in the following cases:

- (a) when the offence is committed on board an aircraft registered in that State;
- (b) when the aircraft lands in its territory with the alleged offender still on board.

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

Article 5

The Contracting States 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 registration for the purposes of this Convention and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

Article 6

1. Upon being satisfied that the circumstances so warrant, any Contracting State in the territory of which the alleged offender is present, shall take him into custody or take other measures to ensure his presence. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is reasonably necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary enquiry into the facts.

3. Any person in custody pursuant to paragraph 1 shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national.

4. When a State, pursuant to Article 6, paragraph 1, has taken measures pursuant to Article 6, paragraph 1, into custody, it shall immediately notify the State of registration of the aircraft and the State of nationality of the detained person 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 his detention. The State which makes the preliminary enquiry contemplated in paragraph 2 of this Article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

Article 7

The Contracting State which has taken measures pursuant to Article 6, paragraph 1 shall, if it does not extradite the alleged offender, be obliged to submit the case to its competent authorities for their decision whether to prosecute him. These authorities shall take their decision in the same manner as in the case of other offences.

Article 8

1. The offence shall be deemed to be included as an extraditable offence in any extradition treaty existing between Contracting States. Contracting States undertake to include the offence as an extraditable offence in every extradition treaty to be concluded between them.

2. The Contracting States which do not make extradition conditional on the existence of a treaty shall recognize the offence as an extraditable offence between themselves subject to the conditions established by the law of the State requested to extradite.

3. The offence shall be treated, for the purpose of extradition between Contracting States, as if it had been committed not only in the place in which it occurred but also in the territory:

- (a) of the State of registration of the aircraft;
- (b) of every State in which the aircraft lands with the alleged offender still on board.

Article 9

1. When any of the acts mentioned in Article 1 (a) has occurred or is about to occur, Contracting States shall take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve his control of the aircraft.

2. In the cases contemplated in the preceding paragraph, the Contracting State in which the aircraft lands shall permit its passengers and crew to continue their journey as soon as practicable, and shall return the aircraft and its cargo to the persons lawfully entitled to possession.

Article 10

Contracting States shall, in accordance with the applicable law, afford one another the greatest measure of assistance in connection with proceedings brought in respect of the offence.

- - - - -

MONTREAL 4 MARCH 1970

TO EXTERNAL OTTAWA

FROM CANADIAN DEL ICAO

7CU
KSUBJECT - LEGAL COMMITTEE: HIJACKING FOR FLE REPEAT TO DOT (SICOTTE)
UNITED NATIONS UNDER SEGGEN AND LEGAL ADVISER (STAVROPOULOS) ADDRESSED
LEGAL COMMITTEE THIRD MARCH PM ON BEHALF OF SECRETARY GENERAL. HE
EXTENDED OFFER OF EVERY ASSISTANCE BY WORKD BODY TOWARDS ICAO EFFORTS
TO SPEEDY PREPARATION AND IMPLEMENTATION OF HIJACKING CONVENTION.
RECOUNTING INVOLVEMENT OF UNITED NATIONS WITH PROBELM SINCE NINETEEN
SIXTY EIGHT, HE OUTLINED PERSONAL INTERVENTIONS BY U. THAN IN ELAL AND
TWA INCIDENTS.

2. SEGGEN HIMSELF VIEWED QUESTION OF UNLAWFUL SEIZURE AS ONE OF MAJOR
PREOCCUPATIONS FACING INTERNATIONAL COMMUNITY TODAY. IN COMMENDING
EFFORTS OF ICAO TO DEAL WITH PROBLEM SPEAKER STRESSED FACT THAT QUOTE
POLITICAL ASPECT OF MATTER WHICH UNDOUBTEDLY COMPLICATES TASK
SHOULD NOT DETER YOU FROM ESSENTIALLY EXPERT AND LEGAL WORK OF LAYING
DOWN NEW RULES OF LAW WHICH ARE LOGICAL AND WORKABLE UNTUOTE.

3. UNDER SEGGEN THEN GOVE BACKGROUND ON RESOLUTION ON FORCIBLE DIVER-
SION OF AIRCRAFT ADOPTED LAST SESSION AND HIGHLIGHTING UN ACTIONS
TO MARCHAL WORLD PUBLIC OPINION AND TO URGE STATES TO TAKE APPROPRIA-
TE ACTION TO DISCOURAGE INTERFERENCE WITH INTERNATIONAL CIVIL
AVIATION. HE STRESSED THAT EVERY EFFORT HAD BEEN MADE IN GENERAL AS-
SEMBLY TO TREAT ITEM IN A TECHNICAL MANNER AVOIDING TO EXTEND POSSIBLE
POLITICAL, POLITICAL MOTIVATION OF MOST ACTS OF HIJACKING SHOULD NOT

...2

PAGE TWO UNN UNCLAS

BE GIVEN UNDUE WEIGHT BUT PROBLEM SHOULD BE DEALT WITH AS BASICALLY CRIMINAL IN NATURE. QUOTE PROBLEM OF ASYLUM WHICH IS UNDOUBTEDLY DIFFICULT SHOULD NOT BE IN FOREFRONT OF YOUR MIND UNQUOTE.

4. TO SPEED UP PROCESS OF BRINGING CONVENTION INTO FORCE SPEAKER SUGGESTED THAT POSSIBILITY OF ALLOWING STATES TO BECOME PARTIES ON SIGNATURE I. E. WITHOUT HAVING TO DEPOSIT INSTRUMENT OF RATIFICATION SHOULD BE GIVEN CONSIDERATION. HE ALSO ADVOCATED LIMITING NUMBER OF PARTIES REQUIRED TO BRING CONVENTION INTO FORCE TO A MINIMUM.

5. STAVROPOULOS INTENDS TO REMAIN IN MONTREAL UNTIL 5 MARCH.

CORRECTION THIRD LINE READ LEGAL

0403 1409 GT

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EXTERNAL A OTT

DOTMARINFO MTL

EXTRACT FROM TELEGRAM OF MARCH 4, 1970 FROM CANADIAN DEL ICAO:
LEGAL COMMITTEE MEETING - STATEMENT BY ISRAELI REPRESENTATIVE.

ISRAELI REP (ROSENHE) GAVE LENGTHY MEASURED ADDRESS QUOTE IN
SHADOW OF RECENT GRAVE EVENTS UNQUOTE AND RECOUNTED NUMBER OF
ATTACKS AGAINST CIVIL AIRCRAFT FOR WHICH HE BLAMED POLITICAL
TERRORISM WHICH IN HIS VIEW MADE USUAL TYPE OF HIJACKING
INCIDENT SEEM MUNDANE. REP CALLED FOR UNIVERSAL ACCEPTANCE OF
TOKYO CONVENTION PRINCIPLE RELATING TO IMMEDIATE RELEASE OF
HIJACKED AIRCRAFT, PASSENGERS, CARGO AND CREW. IN ISRAELI VIEW
ADOPTION OF EFFECTIVE MEASURES BY LEGAL COMMITTEE WOULD REQUIRE
INCLUSION IN CONVENTION OF ALL ILLEGAL ACTS AGAINST INTERNATIONAL
CIVIL AVIATION. HE THEN MADE SPECIFIC REFERENCE TO INTERNATIONAL
RESPONSIBILITY OF STATES FOR ILLEGAL ACTS ORIGINATING FROM THEIR
TERRITORY. MOTIVATION FOR SUCH ACTS SHOULD BE IRRELEVANT.
ENCITEMENT AND ASSISTANCE BOTH BEFORE AND AFTER SHOULD EQUALLY BE
SUBJECT TO PROSECUTION UNDER TERMS OF CONVENTION. ROSENHE THEN
EMPHASIZED THAT INTERNATIONAL RESPONSIBILITY OF STATES IMPLICATED IN
ILLEGAL ACTS AGAINST INTERNATIONAL CIVIL AVIATION LEFT THEM OPEN TO
QUOTE SANCTION ACTIVITY UNQUOTE. IN EXTREME CASES THESE COULD BE
SANCTIONS CONTEMPLATED BY UN CHARTER AND CHICAGO CONVENTION.
SUMMING UP, ISRAELI REP SAID PROBLEM TO BE SOLVED WAS MORE GENERAL
THAN SCOPE OF PRESENT DRAFT CONVENTION. CONSIDERATION SHOULD BE
GIVEN TO BROADENING IT AND SUPPLEMENTING CERTAIN PROVISIONS
CONCERNING WHICH HIS DEL RESERVED RIGHT TO MAKE SPECIFIC PROPOSALS.

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EXTERNAL AFFAIRS



AFFAIRES EXTÉRIEURES

MEMORANDUM

TO
A FLE

FROM
De ECT

REFERENCE
Référence UN Division's Memorandum of March 13

SUBJECT
Sujet ICAO Conference on Interference with Civil
Aviation and Sabotage

SECURITY
Sécurité Unclassified

DATE March 23, 1970

NUMBER
Numéro

| FILE | DOSSIER |
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| OTTAWA | 42-8-9-3-ICAO |
| MISSION | 2 - |

ENCLOSURES
Annexes

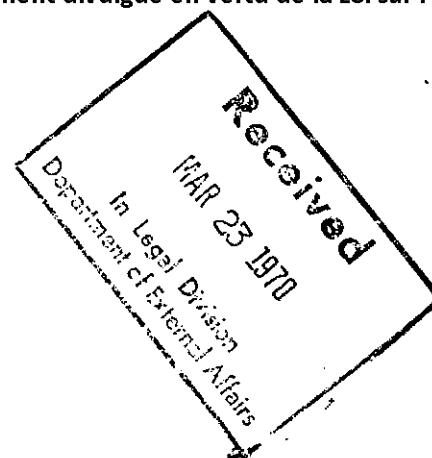
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OUN
DOT (HOW)
Mr. Reynolds
(on return)

In view of our responsibility for civil aviation matters in this Department, we confirm our interest in any discussions relating to interference with civil aviation.

John F. ...
Transport, Communications
and Energy Division

12/23/3



DEPARTMENT OF EXTERNAL AFFAIRS

Subject..... ICA O

MAR 20 1970

MONTREAL STAR

Date..... Tackling terror

through ICAO

THE International Civil Aviation Organization at last is beginning to show new signs of action on problems which it admits are undermining the "confidence of the peoples of the world in the safety of civil aviation." The quotation is from the preamble to the resolution to a draft treaty scheduled for consideration by a conference on hijacking next fall. It takes the whole issue about as far as ICAO itself can go in the creation of international law.

In the meantime, the agency is going to see what can be done about preventive measures. One of the more optimistic signs for the success of the extraordinary general assembly here in June rests in the new attitude toward united action displayed by some of the European nations which demanded the meeting. Austria and Switzerland, for instance, are not among those that ratified the first convention on hijacking and crimes in the air. But they have both been hit by mad terrorists. Strangely, no such new attitude has been shown by Greece; at least it was not among the ten states required for calling the assembly.

The invitation now going out to the nations of the world is to provide "adequate safety standards and procedures," encompassing procedures on baggage, mail and freight, security on the ground and in the air, and airport and aircraft construction. Fortunately the nature of the agenda indicates that legal complications, on which international agencies so frequently bog down, should be avoided. To capitalize on the new concern of the Europeans—an 18-nation conference there led to the demand for the assembly—it is strange that the assembly was not held in Geneva, but factors of psychology were perhaps outweighed by the technical facilities available in Montreal.

The international cynicism which so far has blocked effective action on the broader problems of hijacking has been of concern within ICAO, which has borne the brunt of public condemnation. In many areas, however, the agency can only tell world governments what it feels they should do, as in its convention drafted in 1963 which is still not international law. What it proposes for consideration in the fall beefs up the original. It calls for punishment and extradition, as the original did not. Its chances for universal acceptance depend on whether the world's powers want to provide deterrents to terror and murder. It's as simple as that.

2-8-9-3-1
21-

- YES IT IS, BETWEEN
THE PARTIES!

DEPARTMENT OF EXTERNAL AFFAIRS

Subject Unlawful Interference
Hijacking

Date March 19 10 Publication M.H. Sanette

*File
for*

Special ICAO meet set

UNITED NATIONS —
(Reuters) — The United Nations announced yesterday that the International Civil Aviation Organization will take up the question of attacks aboard civilian planes and other acts of air piracy, at special meeting in Montreal in June.

A UN spokesman said the governing council of ICAO will convene the special session for 15 days beginning June 16 "to discuss the general topic of illegal acts endangering air travellers and aircraft personnel."

The move came after a dramatic incident aboard an Eastern Airlines flight to Boston from New York Tuesday in which a pilot was wounded and his co-pilot slain by a passenger.

The UN. has been under strong pressure to initiate international action following several air hijacking and acts of sabotage affecting civilian aircraft in recent months.

The spokesman read out a telegram from the ICAO to Secretary-General U Thant announcing the convening of the extraordinary meeting but could give no further details.

File ✓
Diary
Div. Diary
Tel. Diary

MESSAGE

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| DATE | | FILE/DOSSIER | SECURITY SECURITE |
| MAR 13 | | 42-8-9-3-1000 2 | RESTRICTED |
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| TO/A | TAVIV, CAIRO, BEIRUT, HAVANA, BERNE, BOMN, VIENNA | FLE-369 | ROUTINE |
| INFO | PERMISNY, WSHDC, LDN, PARIS, GVA | | |

REF

SUB/SUJ ICAO: AIRCRAFT HIJACKING.

ICAO LEGAL CTTEE CONCLUDED XVII SESSION MAR11 BY APPROVING DRAFT CONVENTION ON UNLAWFUL SEIZURE OF AIRCRAFT - RELATING ONLY TO HIJACKING, NOT/NOT TO ARMED ATTACKS OR SABOTAGE. CONVENTION, SOMEWHAT STRONGER THAN EARLIER SPECIAL SUBCTTEE DRAFT, REQUIRES CONTRACTING STATES TO HAVE NATL LEGISLATION TO DEAL WITH OFFENCES OF UNLAWFUL SEIZURE AND TO PROVIDE FOR JURISDICTION OVER OFFENCES, AND LAYS DOWN PRINCIPLES REGARDING PROSECUTION AND EXTRADITION OF OFFENDERS. IT IS EXPECTED THAT A SPECIAL CONFERENCE WILL BE HELD IN THE AUTUMN TO ADOPT THE CONVENTION.
2. DETAILED REPORT OF CDN DEL TO LEGAL CTTEE MTO WILL BE FORWARDED BY BAG ALSO SHORTLY. WE SHALL KEEP YOU INFORMED REGARDING DEVELOPMENTS ON SWISS-AUSTRIAN PROPOSAL FOR CONVENING OF INTERNATL AVIATION SECURITY CONFERENCE- LIKELY TO TAKE FORM OF SPECIAL ICAO ASSEMBLY.

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EXTERNAL AFFAIRS



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ÉRIEURES

UNCLASSIFIED

March 5, 1970.

TO
A The Under-Secretary of State
for External Affairs, OTTAWA

FROM
De Office of the High Commissioner
for Canada, LONDON

REFERENCE
Référence Our Telegram 713 of February 27, 1970

SUBJECT
Sujet ICAO: Safety of Civil Aviation

NUMBER
Numéro

431

| FILE | DOSSIER |
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| OTTAWA | |
| 25-3-2-A/I | |
| MISSION | |
| 1-7-42-8-4-ICAO 19 | |

ENCLOSURES
Annexes

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DOT OTTAWA
ICAO DEL.
MONTREAL

In our telegram under reference, we noted the marked dissatisfaction among both Government and Opposition back-benchers at the response of U.K. ministers to meeting the challenges to civil aviation presented by the recent crash of the Swiss airliner en route to Israel. What was particularly regretted was the absence of any statement by an FCO Minister on the international ramifications of the Swiss crash, and the role that the U.K. Government was seeking in cooperation with other governments to deal with the issues posed by it. It was therefore decided that the Foreign Secretary should make a special statement on the subject after Questions on March 2, reviewing the U.K. position on the various initiatives now before ICAO and other bodies on the questions of hijacking and terrorism in civil aviation. While the statement contains nothing remarkably new that we have not already reported, it provides a useful summary of U.K. views and copies are attached (together with the ensuing supplementaries)-for those mainly concerned with the subject in Ottawa.

42-8-9-3-ICAO

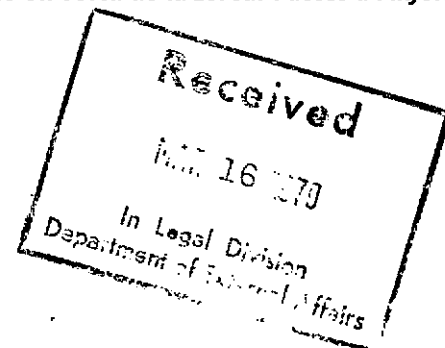
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h e L
CANADA HOUSE.

| |
|-------------------|
| TO: GAF |
| FROM: ACRL |
| MAR 10 1970 |
| ATTN: Mr. Elliott |

GAF

ACRE



CIVIL AIRLINERS (SECURITY)

The Secretary of State for Foreign and Commonwealth Affairs (Mr. Michael Stewart): With your permission, Mr. Speaker, and that of the House, I should like to make a statement on the security of aircraft.

Immediately after the disaster on the 21st February, the Foreign and Commonwealth Office spokesman expressed deep regret at the disaster. I should like to repeat this here and to express the sincere sympathy of Her Majesty's Government with the Swiss Government and with the relatives of the victims of the tragedy. On 23rd February, our Ambassador in Israel conveyed to Mrs. Meir our very deep regret.

The cause of this disaster has still not been established with certainty. Her Majesty's Government do, however, strongly condemn the increasing violence directed against civil aircraft in recent years. There is widespread and justifiable concern, and we must hope that all nations will now resolve to find a solution to this problem.

My right hon. Friend the President of the Board of Trade has already informed the House on 25th February of the action we are taking domestically and internationally. We shall be sending representatives to the meeting in Paris tomorrow of European civil aviation administrations which will discuss with other European Governments and with the airlines what further practical steps should be taken to minimise the risk of any further loss of life.

This is, however, only a first step, because the problem is worldwide. We have welcomed and fully support the initiative taken by the Swiss Government for the convening of a special conference under the auspices of the International Civil Aviation Organisation to discuss aviation security. I.C.A.O. is the appropriate Specialised Agency of the United Nations, and we regard it as the proper forum for the groundwork on this subject.

We are taking a leading part in the proceedings of I.C.A.O., which has already produced the Tokyo convention on offences committed on board aircraft. Our ratification of this convention was among the 12 which brought it into force

last December, and we hope that other ratifications will follow.

In addition, the Legal Committee of I.C.A.O. is studying a draft convention designed to provide an effective framework for bringing those who unlawfully seize control of aircraft to justice. We took part in a meeting of 13 Governments, whose countries are leading providers of air services, held in Washington in December. This followed a resolution of the United Nations General Assembly, for which we voted, which urged full support for the speedy preparation and implementation of the convention.

We shall continue to play a full and active part in I.C.A.O. and in the United Nations to ensure the safety of those who travel by air.

Mr. Maudling: We are grateful to the Foreign Secretary for that statement. But is he quite certain that it is wise to lump together the hijacking of aircraft and the placing of bombs on aircraft? These are two different things. The hijacker, presumably, although he may be careless of other people's lives, does not want to destroy the aircraft and in many cases may be a political refugee. I gather that the problem in connection with the hijacker is to establish the legal situation, which is a difficult matter.

Is it not true that those who place bombs aboard aircraft are part and parcel of the general international campaign of terrorism, which in any language is attempted or actual murder? Should not this second stage be dealt with far more urgently than can be done through I.C.A.O.?

Mr. Stewart: I accept that these are two different problems, although both the placing of bombs on aircraft and the attempt to hijack aircraft may place entirely innocent persons at very grave risk. The two situations have that much in common. I believe that I.C.A.O. and, perhaps, subsequently the United Nations are the proper channels through which to deal with both these problems. I agree, however, that they are two separate problems and that the placing of bombs aboard aircraft is the more urgent.

Sir R. Russell: Can the Foreign Secretary say when the Legal Committee of I.C.A.O. will complete its consideration of the hijacking convention and when it will be published?

15 C 25

Mr. Stewart: I am sorry that I cannot give a definite answer, but, I hope, as soon as possible.

Mr. John Mendelson: In the discussions between the 13 Governments who are the main providers of air services, and in the United Nations, will my right hon. Friend insist that action must be taken against those Governments who allow on their soil these terrorist groups to prepare their murderous assaults, and that joint action must be taken against them immediately and not a long time after such an incident occurs?

Mr. Stewart: I agree that it is right to take action against Governments who behave in that manner. What we have to decide—and it is not easy—is what effective action can be taken. That is the purpose of the international discussions.

Mr. Doughty: Will the Foreign Secretary see that the quickest possible steps are taken to provide security at airports and that, if necessary, legislation is passed here even allowing passengers who may be under suspicion to be searched before boarding aircraft?

Mr. Stewart: That is, perhaps, a matter more for my right hon. Friend the President of the Board of Trade.

Sir Dingle Foot: Is it not a fact that the placing of bombs on aircraft has been strongly and publicly condemned in Cairo by the Government of the United Arab Republic?

Mr. Stewart: Yes, Sir. That is so.

Mr. Lubbock: Will the right hon. Gentleman bear in mind that it is not Governments of these countries who may be responsible? If it proves that the perpetrators of outrages such as the Swissair disaster are citizens of a certain country which refuses to take firm measures against the organisations which employ the perpetrators of these outrages, will the right hon. Gentleman introduce a motion in I.C.A.O. calling for a complete boycott of air services to those countries? Furthermore, can he explain why it is taking so long for the resolution of the Swiss Government to be considered by I.C.A.O.?

Mr. Stewart: I do not think that there has been unnecessary delay about this. To get effective measures would be a very

[MR. STEWART.]
difficult an complicated matter, although I hope that it will not be delayed unduly for that reason.

In reply to the earlier part of the hon. Member's question, I would mention, as I did in my statement, that the cause of the Swissair disaster has not yet been established with certainty. I would not want to go into too many hypothetical speculations at this stage.

Mr. Shiwell: My right hon. Friend will appreciate that the civilian air pilots are very much concerned in this matter. Can he say whether, at the meeting which, I understand, is to be held in Paris tomorrow, the international pilots' association will be represented?

Mr. Stewart: I think so, but I cannot be certain. It is a discussion between both Governments and airlines.

Mr. Biggs-Davison: Have the Government yet done anything at all to try to secure the arrest of Francis Bodenan, who was responsible for the hijacking of a British aircraft and the kidnapping therefrom of President Tshombe, who has since died in illegal captivity?

Mr. Stewart: The hon. Member should put that Question on the Order Paper.

Mr. Biggs-Davison: I have.

Mr. Rankin: Despite what my right hon. Friend has told us, is he aware that at the weekend a British Air Line Pilots' Association officer was able to move about a prohibited area of London Airport uninterrupted and not even challenged, and, during that period, could have planted as many bombs as he wanted on British aircraft which were parked in that prohibited part of the airport?

Mr. Stewart: Yes, I have seen the statement, but this is a matter for my right hon. Friend the President of the Board of Trade.

Several Hon. Members rose—

Mr. Speaker: Order. Mr. Crossman. Statement.

RHODESIA

Mr. Faulds: On a point of order. Before the Foreign Secretary leaves the Chamber—I am sorry not to have given you notice of this, Mr. Speaker, but I think that you will appreciate the point of it as I proceed—may I say that I do not think that I am the only Member to find it rather unsatisfactory that on an important and fundamental issue like the question of Rhodesia the Foreign Secretary should seek to smuggle in his statement on it with other Questions in general. Is it not possible for you to refuse permission to Ministers to do that in such cases?

Mr. Speaker: It is possible for a Minister to answer Questions in the way he wishes to, either during Question Time or afterwards. I do not think that the Foreign Secretary has smuggled anything in.

The Secretary of State for Foreign and Commonwealth Affairs (Mr. Michael Stewart): Further to that point of order. I must protest against the phrase "smuggle in". I should like to make it clear that if this is what the House wants I am quite prepared to make statements till I am blue in the face, but that would take up a good deal of time, and I was trying to provide information to the House on a number of subjects.

Hon. Members: Hear, hear.

Several Hon. Members rose—

Mr. Speaker: Order. The point of order has been dealt with by the Chair and by the Foreign Secretary. Mr. Crossman.

NURSING SERVICES (INQUIRY)

The Secretary of State for Social Services (Mr. Richard Crossman): With permission, Mr. Speaker, I wish to make a statement on further Government measures to ensure that the nursing services are equipped to meet the demands of the present and the future.

I am glad that agreement has been reached in the Whitley Council on higher pay for all nurses in the National Health Service. But I have never considered that pay was the only problem in nursing and, as a matter of urgency, I am now

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McElhott
GAF

not in Paris
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AIRLINE SAFETY: SWISSAIR CRASH

42-8-9-3-1CAD
20-1-154
17 | *154*

BRIT MINISTERS WHO HAVE BEEN CLOSELY QUESTIONED IN COMMONS THIS WEEK ON PRESUMED TERRORIST ATTACKS ON SWISS AND AUSTRIAN AIRCRAFT LAST WEEKEND HAVE CAREFULLY LTD THEIR COMMENTS TO EXPRESSIONS OF SHOCK AND REGRET OVER SWISS TRAGEDY, AVOIDING ANY ASSIGNMENT OF RESPONSIBILITY TO ONE SIDE OR THE OTHER. THIS CAUTIOUS POSITION HAS BEEN UNDERLINED BY FACT THAT PRESIDENT OF BOT, RESPONSIBLE FOR AVIATION, HAS SPOKEN FOR GOVT, DESPITE STRONG PRESSURE FROM OPPOSITION AND LABOUR BACKBENCHERS FOR A STATEMENT BY FCO MINISTER IN VIEW OF WIDER INATL IMPLICATIONS OF THESE DISASTERS. AS IN OTHER CAPITALS, BRIT AIRLINES HAVE ON THEIR OWN INITIATIVE TAKEN EMERGENCY MEASURES TO CONTROL AND INSPECT PERSONAL BAGGAGE AND AIR FREIGHT DESTINED FOR ISRAEL, WHICH HAVE RESULTED IN SOME DELAYS. WE UNDERSTAND COMPARABLE PRECAUTIONS ARE BEING TAKEN ON FLTS TO ARAB COUNTRIES. BACKBENCHERS PRESSED GOVT TO INTERVENE, WITHOUT SUCCESS, TO REMOVE WHAT THEY CONSIDERED TO BE DISCRIMINATORY TREATMENT GIVEN TO ISRAELI BOUND PLANES. ISRAELI EMB HAS MADE REPRESENTATIONS TO UK AUTHORITIES ALONG LINES OF THOSE REPORTED IN YOURTEL GAF279 TO TAVIV AND ISRAELI

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PAGE TWO 713 RESTR NO/NO STANDARD

FOREIGN MINISTER CAN BE EXPECTED TO PURSUE THESE DURING HIS CURRENT VISIT HERE.

2.FCO INFO ON SWISS INITIATIVE AT ICAO IS LTD TO THAT IN BERN TEL 68.CROMARTIE OF FCOS NEW AVIATION AND TELECOMMUNICATIONS DEPT TOLD US YESTERDAY THAT BRITS WILL GIVE STRONG SUPPORT TO SWISS INITIATIVE, BELIEVING ICAO TO BE THE MOST APPROPRIATE FORUM TO CONSIDER ALL ASPECTS OF VIOLENT INTERFERENCE WITH CIVIL AVIATION AS ESSENTIALLY TECHNICAL PROBLEM.IN BRIEF STATEMENTS IN HOUSE OF COMMONS FEB25, PRESIDENT OF BOT MADE PUBLIC ANNOUNCEMENT ON THESE LINES.IN ADDITION, MASON SAID UK WOULD PARTICIPATE AT SENIOR TECHNICAL LEVEL IN THE EMERGENCY MTG OF EUROPEAN CIVIL AVIATION COUNCIL WHICH HAS BEEN CONVENED IN PARIS ON MAR3-4 TO CONSIDER PRACTICAL MEASURES WHICH EUROPEAN GOVTS AND AIRLINES SHOULD TAKE TO DEAL WITH POSSIBLE REPETITION OR EXTENSION OF LAST WEEKENDS ACTIVITIES.IN FCO VIEW THESE DISCUSSIONS WOULD COMPLEMENT NOT/NOT DUPLICATE OR ELIMINATE NEED FOR INATL DISCUSSION ENVISAGED IN SWISS INITIATIVE.

CONFIDENTIAL

FM TAVIV FEB26/70 NO/NO STANDARD

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INFO PARIS CAIRO BERUT PRIORITY IT LDN PRIORITY DE PARIS MOSCO

PRIORITY DE LDN CANFORCED WSHDC PRMNY PRIORITY DE OTT

REFOURTEL 82 FEB23

INNATL CIVIL AVIATION AND TERRORISM

MFA ASST DIRGEN SASSON TOLD ME YESTERDAY ESSENCE OF WHAT ISRAEL WANTS OUT OF PROPOSED CONFERENCE IS ARAB DECLARATION RENOUNCING ACTIVITY OF TERRORISTS DIRECTED AGAINST CIVIL AVIATION, WITH APPROPRIATE GUARANTEES. ASPIRATIONS OF REGRET LIKE JORDANS NOT/NOT GOOD ENOUGH.

ACCORDING TO SASSON TERRORISTS TRIED AFTER 6 DAY WAR TO ESTABLISH THEMSELVES IN OCCUPIED TERRITORIES AND FAILED THEN THEY MOVED TO EAST BANK OF JORDAN BUT IDF USING LATEST TECHNOLOGICAL DEVICES MADE LIFE UNTENABLE FOR THEM THERE. UNDER THIS PRESSURE TERRORISTS MOVED INTO HILLS AND SPLIT WITH ONE WING ENTERING LEBANON. MEANWHILE AT LEAST 75 PER CENT OF THOSE SENT TO INFILTRATE ISRAELI HELD TERRITORY NEVER RETURNED TO BASE. IN THESE CIRCUMSTANCES TERRORISTS STARTED THEIR OPERATIONS ABROAD. ALTHOUGH THEY HAD BATTENED ON ARAB COUNTRIES AND COULD OCCASSIONALLY DEFY INDIVIDUAL GOVTS, IN FACT THEY HAD NOWHERE ELSE TO GO FOR SUSTENANCE. HENCE ARAB GOVTS ACTING IN UNISON HAD SANCTION WHICH COULD ALWAYS BRING TERRORISTS TO HEEL.

IN MY VIEW, SASSONS PROPOSAL REQUIRING ARAB GOVTS TO HALT TERRORIST

...2

PAGE TWO 90 CONFD

ACTIVITIES IN AREA WHERE ISRAELIS HAVE FAILED AND TO DO SO
TOGETHER, FALLS INTO QUOTE GOOD FIELD NO/NO HIT UNQUOTE CATEGORY.

MCGAUGHEY

ACTION COPY

GAF *File pl done*
RR *13.3.70*

C O N F I D E N T I A L

FM BERN FEB26/70

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PRMNY CANFORCED IMMEDIATE DE OTT MOSCO IMMEDIATE DE LDN

REF YOURTEL GAF274 FEB24, OURTEL 68 FEB26

ISRAELI REPRESENTATIONS RE CIVIL AVIATION

IN OUR REFTTEL OF TODAY PARAS WE MENTIONED SWISS FPD WAS MTG

THIS MORNING TO AGREE FINAL SWISS POSITION PRIOR TO GULDIMANN'S

DEPARTURE FOR MTL SAT. GELZER OF FPD HAS JUST PHONED US TO

OUTLINE CONTENT OF MTG WHICH DOES NOT/NOT GREATLY CHANGE INFO

CONTAINED OURTEL.

2. GULDIMANN WILL CONTACT AND CONSULT WITH SEC GEN AND CDN REP ICAO

SHORTLY AFTER ARRIVAL MTL. IT IS NOT/NOT ANTICIPATED THAT IMMEDIATE

ACTION WILL BE TAKEN BY ICAO MEMBERS ALTHOUGH THERE IS EVIDENT

URGENCY TO ARRIVE AT MTG OF MINDS SOONEST. THUS GULDIMANN

WILL TEST TEMPERATURE IN MTL BY MEANS OF FULL DISCUSSION OF ANY

POSSIBLE ACTIONS AND WILL REPORT CLIMATE TO BERN. IT IS CLEAR

THAT ANY ICAO MTG WHETHER OF TECHNICAL NATURE OR EXTRAORDINARY

ASSEMBLY WOULD REQUIRE SUBSTANTIAL PREPARATION.

4. WITH REF PARA3 OUR REFTTEL SWISS FPD FULLY AGREES WITH

GULDIMANN THAT TECHNICAL RATHER THAN POLITICAL APPROACH SHOULD

BE FOLLOWED

ROBERTS

ACTION COPY

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FM BERN FEB26/70

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INFO PARIS IMMED TT LDN TAVIV CAIRO BERUT IMMED DE PARIS MOSCO

IMMED DE LDN WSHDC PRMNY CANFORCED IMMED DE OTT

REF YOURTEL GAF274 FEB24

ISRAELI REPRESENTATIONS RE CIVIL AVIATION

ACTING ON REFTTEL WE CALLED ON GULDIMANN DIR SWISS FEDERAL AIR
OFFICE AND SWISS REP ICAO. IN DISCUSSION IT DEVELOPED THAT PRESS
REPORTS RE QUOTE SWISS INITIATIVE UNQUOTE ARE MORE SPECIFIC
THAN ACTUAL SWISS ACTIONS.

2. GULDIMANN ON AUTHORITY HAS CABLED REQUEST TO COUNCIL PRESIDENT
ICAO PROPOSING EARLY ICAO MTG WHICH COULD BE EITHER PURELY
TECHNICAL CHARACTER OR MIGHT BE EXTRAORDINARY ASSEMBLY PERMITTED
UNDER ICAO CONSTITUTION AT REQUEST OF TEN MEMBERS.

3. SWISS FROM EXPERIENCE SEEM TO PREFER TECHNICAL APPROACH AS ICAO
STATUS AS UN TECHNICAL AGENCY MAKES POLITICAL ACTION DIFFICULT
AND OFTEN UNFRUITFUL. PRESENTLY GULDIMANN ENVISAGES ANOTHER TECHNICAL
ANNEX TO QUOTE CHCGO CONVENTION UNQUOTE SIMILAR TO ANNEX EIGHT.
HE HAS IN-MIND A SPECIFIC ANNEX ON SECURITY.

4. SWISS WILL ENDEAVOUR TO RETAIN QUESTION AND ACTIONS IN ICAO
RATHER THAN TRANSFERRING TO UN CTTEES WHERE POSITIVE RESULTS
DOUBTFUL.

5. ECAC MEETS PARIS MAR3 AND 4 AND WILL DISCUSS FULLY QUESTIONS OF
SECURITY AND AIRPORT CONTROL. WILL ALSO CONSIDER SWISS REQUEST FOR

...2

PAGE TWO 68 CONFD

SOME FORM OF EARLY ICAO MTG. SWISS ENVISAGE NO/NO DIFFICULTY IN
SECURING SUPPORT NINE OTHER EUROPEAN MEMBERS IF DECISION TO
DEMAND EXTRAORDINARY ASSEMBLY ICAO IS REACHED.

6. SWISS FPD MTG THIS MORNING TO AGREE FINAL SWISS POSITION
PRIOR TO GULDIMANN DEPARTURE FOR MTL SAT. WILL TELEX FURTHER
PRECISIONS LATER TODAY AFTER THIS MTG.

7. TODAY IS DAY OF NATL MOURNING IN SWITZERLAND. ALL FLAGS AT HALF
STAFF AND INDIGNATION REMAINS HIGH. NATL MEMORIAL SERVICE AT
ZURICH THIS AFTERNOON

ROBERTS

INTERNATIONAL AIR TRANSPORT ASSOCIATION

P.O. BOX 31
1215 GENEVA AIRPORT
SWITZERLAND, TEL. (022) 346021



NEWS

1155 MANSFIELD STREET
MONTREAL 113, P.Q., CANADA
TELEPHONE: (514) 866-1011

Enc: UN Div (Roberts) 2
Legal (Clark)
+ file 42-8-9-3-1
AS

DATE February 26, 1970

NO. 8

IMMEDIATE RELEASE

IATA WELCOMES PLANS FOR WORLDWIDE CIVIL AIRCRAFT SECURITY CONFERENCE

42-8-9-3-1CAO
2 -

The International Air Transport Association supports the initiative taken by the Swiss government to convene an international conference on the security of civil air transport. Director General, Knut Hammar skjöld, said that IATA would be pleased to participate in such a meeting and to provide governments with its knowledge of the subject.

Werner Guldemann, Chief of the Swiss Federal Air Office, yesterday submitted a formal request for the International Civil Aviation Organization to arrange an immediate international aircraft security conference or call a special ICAO Assembly.

IATA is under strong pressure from the public and its member airlines to call an international security conference of its own. However, it is believed at present that the problem could best be handled by governments through ICAO supported by other elements of international air transport if such meeting is convened at an early date. IATA hopes that the initiative

- more -

72 IATA WELCOMES PLANS FOR SECURITY CONFERENCE

by the Swiss government will find a prompt and positive response by world governments. The Association would make any necessary preparation for such a meeting.

Parallel with the projected worldwide security conference, IATA will continue to make every effort to increase airline security by concrete directives and encourage action by governments or airlines to improve the situation on a local or regional basis.

- IATA -

INTERNATIONAL AIR TRANSPORT ASSOCIATION

P.O. BOX 315
1215 GENEVA AIRPORT
SWITZERLAND TEL. (022) 346021



NEWS

1155 MANSFIELD STREET
MONTREAL 113, P.Q., CANADA
TELEPHONE: (514) 866-1011

enc = Mr. Freljord
Chub - FLE
+ file 42-8-9-3-1
AS

DATE February 23, 1970
NO. 7

IMMEDIATE RELEASE

IATA SEVERELY CONDEMNS AGGRESSIONS AGAINST CIVIL AIRCRAFT

42-8-93-1CA^o
2 —

Pending investigation of the exact causes of most recent aggressions against a Swissair and an Austrian Airlines aircraft, the International Air Transport Association today severely condemned the actions of violence against innocent air travellers and the public service of international air transport committed during recent weeks.

Director General Knut Hammarskjöld expressed the hope that no government or authority will harbor, support or protect directly or indirectly persons who are committing acts with intention to kill airline passengers and crew. He referred to the resolution of the Annual General Meeting in Amsterdam last October and restated the three-point program for action by governments, airport authorities and airlines issued by IATA in January 1969.

The airlines are doing whatever is legally in their power to protect their passengers, crews and aircraft. They cannot, however, succeed fully in their efforts without the equally energetic actions from governments through legislation and severe punishment of the criminals and from airports and related

- more -

/2 IATA SEVERELY CONDEMNS AGGRESSIONS

authorities especially at transit airports, which is considered to be the weak link in the chain of counter actions as proved by recent incidents.

IATA has recently reminded the international airport organizations of their responsibility and will pursue action through its Security Advisory Committee and other appropriate means.

During the last year the Director General has repeatedly made suggestions at critical moments for increased protection at airports. This action will be intensified and followed up by initiating necessary inspection of effectiveness of measures.

Mr. Hammarskjöld again expressed the opinion that governments not prosecuting promptly and severely aggressors against the public service of air transport will have to share the responsibility for the escalation of these crimes.

- IATA -

NOTE TO EDITOR: The following is text of IATA AGM Resolution:

The Annual General Meeting is deeply concerned that the public air transport services conducted by members of IATA under appropriate authority of governments and the safety of passengers, crew and the safe transport of cargo and mail continue to be threatened by the number of unlawful interferences with aircraft.

Accordingly, the Annual General Meeting

1. urges members to support, in accordance with law, measures which are taken by their respective governments in order to maintain safe, regular and economic civil air transportation in the interests

3 IATA SEVERELY CONDEMNS AGGRESSIONS

of the peoples of the world, all of which are the prime objectives of IATA,

2. calls upon States and international governmental organizations which alone have the power to deal effectively with unlawful interference with aircraft, as a matter of urgency, to take all measures, individually or collectively, necessary to end any further unlawful interference with aircraft in public air transport services and to support any action already taken or which may be taken by the United Nations or ICAO on this serious problem,

3. directs the Director General to continue, with the full support of the member airlines, to use his good offices to achieve these objectives.

The Under-Secretary
PDS
Mr. Bissonnette
Mr. Langley

OUN

FLE

ECT (Mr. Fulford)

FPR

Mr. McGill

Mr. J.M. Robinson

Mr. Lang
Mr. Mackenzie
Mr. Sharpe
File

42-8-9-3-ICAO

7 -

Approximate Text:

MR. DIEFENBAKER: Could the SSEA tell the House what progress is being made by ICAO in imposing sanctions on those nations who approve aircraft terrorism and is Canada joining with other nations to quarantine airlines which condone hijackings.

P - 3

Hon. MITCHELL SHARP (Secretary of State for External Affairs):

Well, Mr. Speaker, as the right hon. gentleman knows, Canada has been probably more active in this field than any other country. We have been supporting measures of this kind in ICAO. We have been supporting activity that is going on within the United Nations, and we have been carrying on bilateral discussions ourselves with Cuba which we hope will contribute something to the cessation of these activities at least in one direction. The question is an extremely difficult one because of the difficulties of finding appropriate sanctions that will indeed prevent this kind of activity, but I can assure the right hon. gentleman that we are actively promoting all measures that seem to us are likely to help. The most important measure of course is one that we have not yet got agreement on, and that is that those who indulge in such activities should be made available for trial either at home or in the countries whose aircraft they affect.

P - 4

Mr. DUFFENBACHER: Will the minister say whether or not there are in addition to the one named example of what he has endeavoured to have done, other ideas of what Canada has advanced? Secondly, I repeat the question I asked earlier, What are the possibilities of there being joint action by nations in the United Nations to bring about a cessation or at least to render less attractive the opportunities for those who have hijacking in mind?

Mr. SHARP: Well, Mr. Speaker, I can assure you that this is our objective as it is the objective of everyone in this House, but it is very difficult to know how to take sanctions against individuals who put bombs on aircraft, particularly when there is no country that will take any responsibility for being any part of the activity. If it were possible to name the guilty party and bring him to trial and see justice was done the matter would not require very much explanation, but as the right hon. gentleman knows it is much easier to deal with those who can be brought before the courts than it is those who disclaim any responsibility whatever.

Mr. DIEFENBAKER: Mention was made by the minister of Cuba. Now, has the government of Canada any purpose in mind of placing Cuba as it were on a sanctions list? I am not talking of individuals having sanctions against them, but Cuba seems to be in a position where it has a welcome mat for all those who wish to hijack.

Mr. SHARP: Yes, Mr. Speaker, that is the purpose of the agreement we are working out with the Cuban government, namely, to see that anyone who engages in hijacking will be returned for trial.

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| Confidential | | Routing Symbol Symbole d'acheminement | Date Jan. 16/70 |
| TO: A: Mr. Lorne E. Clark | | | <input checked="" type="checkbox"/> Comment <input checked="" type="checkbox"/> Observations |
| Legal Division, | | | <input type="checkbox"/> For your information <input type="checkbox"/> Pour votre gouverne |
| Dept. of External Affairs, | | | <input type="checkbox"/> Per our conversation <input type="checkbox"/> Selon notre conversation |
| Room 518 - Daly Bldg. | | | <input type="checkbox"/> Approval <input type="checkbox"/> Approbation |
| Ottawa. | | | <input type="checkbox"/> Discuss with me <input type="checkbox"/> Discuter avec moi |
| | | | <input type="checkbox"/> Take appropriate action <input type="checkbox"/> Prendre les mesures appropriées |

REMARKS:

REMARQUES:

Every month we are required to brief the Minister of Transport on questions likely to come up in Parliament and I have drafted this for possible insertion in the "Minister's General Information Book".

In view of our discussion yesterday (Jan. 15) on the possibility of the issuance of a press release on the eve of the departure of our delegation for Havana, I should be obliged for your guidance on the advisability of the last sentence hereunder.

OK
Gilles Sicotte,
Assistant Deputy Minister,
General.

FROM:
DE:

2-2396

Routing Symbol
Symbole d'acheminement

3/19/1

CONFIDENTIAL

D R A F T

January 16, 1970

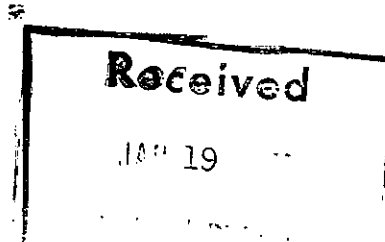
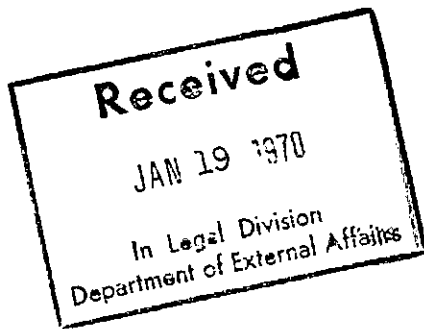
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| 42-8-9-3-10A6 |
| 25 |

UNLAWFUL SEIZURE OF AIRCRAFT - HIJACKING

This has become a serious problem in International Civil Aviation and states members of the International Civil Aviation Organization are concerting measures in various international fora with a view to ^{decreasing} reducing the prevalence of illegal seizure of aircraft and elaborating an international framework to deal with such acts. The Council of the ICAO has a committee whose task is to examine incidents of hijacking with a view to developing measures and procedures to safeguard International Civil Aviation and the legal committee of the organization, which will meet in February and March 1970, in Montreal, will draft for adoption of member states an international convention respecting the unlawful seizure of aircraft.

The Canadian Government is actively engaged in the work of the ICAO and will be represented at the Montreal meeting. In addition we are in consultation with the Governments of other countries which are leading providers of air services for the purpose of exchanging views on the most appropriate solution to the problem of the illegal seizure of aircraft.

Finally, a Canadian delegation is going to Havana in early February to negotiate with the Cuban authorities a bi-lateral agreement between the two countries for the return of hijacked aircraft, passengers and crews and for the prosecution or extradition of hijackers.





YOUR FILE NO.
VOTRE DOSSIER
OUR FILE NO.
NOTRE DOSSIER

152-3/12

LE REPRÉSENTANT DU CANADA AU CONSEIL DE
L'ORGANISATION DE L'AVIATION CIVILE
INTERNATIONALE

902 ÉDIFICE DE L'AVIATION INTERNATIONALE, MONTRÉAL

TÉLÉPHONE: 879-4788

THE REPRESENTATIVE OF CANADA ON THE COUNCIL OF
THE INTERNATIONAL CIVIL AVIATION
ORGANIZATION

902 INTERNATIONAL AVIATION BUILDING, MONTREAL

TELEPHONE: 879-4788

16 January 1970.

The Under-Secretary of State for External Affairs,
Ottawa, Ontario.

Attention: Legal Division

| |
|-------------|
| 42-8-9-3-10 |
| 25 13 |

Dear Sir:

Enclosed, for information, are two copies of State
Letter LE 4/26 - 70/6, dated 16 January 1970 with attached Doc 8449 -
C/900, "Action by the Council and Other Decisions Taken and Work done
by ICAO on the Subject of Unlawful Interference with International
Civil Aviation and its Facilities".

TO: FLE
FROM: ACRD

JAN 21 1970

ATTN: Mr. Clark

Yours truly,

L.M.E. Brennan

L.M.E. Brennan,
Administrative Officer.

Encls.

C.c. The Under-Secretary of State for External Affairs,
Attention: United Nations Division

(2)

The Director, Legal Services & Counsel,
Department of Transport, Attention: Mr. C.K. Kennedy

(2)

The Director, International Relations Branch,
International Transport Policy Committee

(2)

The Assistant Deputy Minister, General,
Department of Transport

(6)

The Department of Justice, Attention: Mr. J.M. Bentley

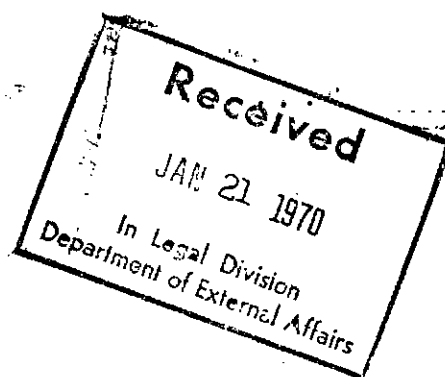
(2)

The Assistant Deputy Minister, Air,
Department of Transport

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FLE

28/21/1



ORGANISATION DE L'AVIATION
CIVILE INTERNATIONALE



ORGANIZACIÓN DE AVIACIÓN
CIVIL INTERNACIONAL

INTERNATIONAL CIVIL AVIATION ORGANIZATION

(CS)

INTERNATIONAL AVIATION BUILDING
1080 UNIVERSITY STREET
MONTREAL 3, P.Q., CANADA

WHEN REPLYING, PLEASE QUOTE:
RÉFÉRENCE À RAPPELER DANS LA RÉPONSE:
INDÍQUESE EN LA RESPUESTA ESTA REFERENCIA:

LE 4/26 - 70/6

16 January 1970

Subject: Unlawful Interference with International
Civil Aviation and its Facilities

Action Required: Consideration of the measures
adopted by the Council on 11 December 1969

Sir,

I have the honour to inform you that on 11 December 1969, at the Sixteenth Meeting of its Sixty-Eighth Session, the Council adopted certain measures which might assist Contracting States in taking appropriate steps to prevent the occurrence of acts of unlawful interference with international civil aviation and its facilities, and decided to communicate the said measures to Contracting States for their consideration.

In this connection, the Council approved the issue, for distribution to States, of Doc 8849-C/990, "Action by the Council and Other Decisions Taken and Work Done by ICAO on the Subject of Unlawful Interference with International Civil Aviation and its Facilities", a copy of which is enclosed. Part IV of the document contains the measures referred to above.

Accept, Sir, the assurances of my highest consideration.

B.T. Twigt
Secretary General

Enclosure: Doc 8849-C/990

TEL.: UNIVERSITY 6-2551

ORGANISATION DE L'AVIATION
CIVILE INTERNATIONALE



ORGANIZACIÓN DE AVIACIÓN
CIVIL INTERNACIONAL

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1080 UNIVERSITY STREET
MONTREAL 3, P.Q., CANADA

LM 2/2.3

WHEN REPLYING, PLEASE QUOTE:
RÉFÉRENCE À RAPPELER DANS LA RÉPONSE:
INDÍQUESE EN LA RESPUESTA ESTA REFERENCIA:

15 January 1970

42-8-9-3-1CAO
ms

Further to the Secretary General's letters LM 2/2.1-69/282 dated 14 November 1969 (to States) and LM 2/2.1-69/291 dated 21 November 1969 (to Organizations), the following additional documents, relating to the Seventeenth Session of the Legal Committee to be held in Montreal on 9 February 1970, are sent herewith:

LC/Working Drafts Nos. 744-2 (1)
744-2 (2)
744-2 (3)
744-2 (4)
744-2 (5)
744-2 (6)
744-2 (7)
744-2 (8)
744-3

745-2 (3)
745-2 (4)
745-2 (5)
745-2 (6)
745-2 (7)
745-2 (8)
745-3



LC/Working Draft No. 744-2(1)
15/12/69

L E G A L C O M M I T T E E

SEVENTEENTH SESSION

(February - March 1970)

Agenda Item No. 4: Unlawful Seizure of Aircraft

COMMENTS OF NEW ZEALAND

1. Need for Convention

New Zealand agrees that an international agreement on the subject of Unlawful Seizure of Aircraft is vitally necessary. With the exception of the matters set out in these comments New Zealand agrees with the outline of the draft.

2. Tokyo Convention

The New Zealand opinion is that any Convention on Unlawful Seizure of Aircraft should be capable of signature and ratification apart from the Tokyo Convention. This country, and we understand other countries, have not yet signed or ratified the Tokyo Convention because of difficulties in accepting that Convention in full. Nevertheless we recognize the necessity for immediate action on Unlawful Seizure of Aircraft and would not wish to be excluded from signing such a Convention because of a prior requirement to sign the Tokyo Convention.

3. Ne bis in idem

New Zealand is firmly of the opinion that a clause article on the rule "Ne bis in idem" should be included in the Convention. One of the difficulties in accepting the Tokyo Convention is the question of multiple jurisdiction and we feel that this matter should be specifically included in the present Convention.

4. General

Apart from the comments set out above New Zealand wishes to make the following comments on the draft Convention.

- a) The word "force" in Article 1 should be specifically defined. It should not be limited to physical force but should include forms of coercion. Similarly force should not be limited to force applied to a member of the crew of the aircraft but should include any person on the aircraft.
- b) We strongly agree with the provisions of Article 8.

- END -



LC/Working Draft No. 744-2 (2)
30/12/69

LEGAL COMMITTEE

SEVENTEENTH SESSION

(February - March 1970)

Agenda Item No. 4: Unlawful Seizure of Aircraft

COMMENTS OF DENMARK

In reply to your letter of 16th October, 1969, (ref. IM 2/2.3-69/255) I have the honour to inform you that the Danish Government will be ready to support the Draft Convention made by the Subcommittee during the second meeting of that committee, the draft being considered a valuable basis for the work of the Legal Committee.

However, I would like to make the following comments on the draft:

- 1) To Art. 1 in Annex C, Draft Convention prepared by the Subcommittee, and paragraphs 10.5 and 11 in Report II.

It is agreed that the intention of the author of the act should not be made a condition for considering the act as an offence, but it is felt that the proposal to exclude cases of interference with the operation of the aircraft needs further study. It is true that acts of mere interference "might be of trivial nature, very different from the sort of case with which the Subcommittee was concerned" (paragraph 10.6), but it could also be stated that cases of mere interference may be of very serious nature, constituting dangers as great as in the cases of seizure of control. Apparently it has been considered to be so in Art. 9 which commits States to take measures to restore control of the aircraft also in the case of an act of (mere) interference. It will be in the power of the courts to measure out the punishment in accordance with the seriousness of the offence in each separate case and therefore we see no objection to the inclusion of interference. For consideration we propose the following drafting of Art. 1 (a):

"unlawfully commits, by force or threat thereof, an act of interference, seizure, or other wrongful exercise of control of that aircraft, or attempts to perform any such act, or "

- 2) To Art. 2, paragraph 3, of the Draft Convention and paragraph 9 of Report II.

We are of the opinion that this paragraph should be deleted as it excludes from the scope of the convention not just purely domestic flights but even, as the case may be, international flights, namely in such cases where an aircraft on an internationally scheduled flight takes off on the territory of the State of registration and is being brought to land again on that same territory after the occurrence

of the offence. Such cases are of international interest and should be covered by the convention. But even purely domestic flights may have international aspects, e.g. if the offender has tried to bring the aircraft to land on foreign territory. In such cases the applicability of the Convention should not depend on whether the offender succeeds in his purpose or not.

In this connection we should like to point out that as long as the aircraft has not in fact landed again on the territory of the State of registration, from where it took off, other Contracting States will be justified in trying, and will be under obligation to try to take measures in pursuance of Art. 9, paragraph 1, of the Draft Convention. Such measures may be taken and may in fact result in the restoring of control of the aircraft to its lawful commander. Should then the legality of such measures depend on whether finally the aircraft does land on the territory of the State of registration or outside that territory?

If the deletion of Art. 2, paragraph 3, cannot be agreed upon, the above-mentioned questions seem to require further consideration.

As far as there is made a reference in the last sentence of paragraph 9 of Report II to the possible application of Art. 11 of the Tokyo Convention, it should be recalled that there are two conditions for the applicability of the Tokyo Convention (except as provided in its Chapter III) which are not included in the Draft Convention, namely: (1) the aircraft in question must be registered in a Contracting State, and (2) the aircraft must be in flight or on the surface of the high seas or of any other areas outside the territory of any State (Art. 1, paragraph 2).

3) To Art. 4 of the Draft Convention and paragraph 13 of Report II.

As mentioned in my letter of 22nd September, 1969, the present drafting of paragraph 1 (b) may give rise to some difficulties in many States in so far as it requires States to establish their jurisdiction over the offence also in the cases where the fact that the offender leaves the aircraft in a certain State constitutes the only link between the offence and that State. In such States the extradition rules should suffice. Denmark, therefore, would have preferred the redrafting proposed in the mentioned letter (quoted in paragraph 13.1 of the Report II).

If there should still be a majority against such a provision, Denmark will not, however, object to a provision as proposed by the Subcommittee. On the other hand we want, however, to draw the attention to the fact that the provision proposed by the Subcommittee may give rise to difficulties of international law as to States which have not adhered to the Convention. We therefore propose for consideration to insert in the Draft Convention a provision according to which the Convention shall subject no State to obligations which would conflict with the other international obligations of such State.

4) To Art. 6 of the Draft Convention and paragraph 14, confer 13.1 of Report II.

According to Danish law an alleged hijacker may be detained in anticipation of extradition even in cases where the concrete offence does not fall within Danish criminal jurisdiction.



LC/Working Draft No. 744-2 (3)
30/12/69

L E G A L C O M M I T T E E

SEVENTEENTH SESSION

(February - March 1970)

Agenda Item No. 4: Unlawful Seizure of Aircraft

COMMENTS OF SWITZERLAND

In accordance with your request, we have the honour to express the following views on the questions dealt with in the Report of the Subcommittee on Unlawful Seizure of Aircraft (LC/SC SA-Report 2 - 3/10/69).

1. Form of the International Agreement

We clearly give our preference to an independent international agreement.

2. Preamble

We have no objections to express against the preamble, but the reference to a specific convention (Tokyo) should be left aside.

3. Definition

We entirely approve the views of the Subcommittee.

4. Extradition

In many extradition treaties, acts punishable only by a fine are not considered as extraditable offences. If, in accordance with the applicable penal law, only a fine were involved, one would not know exactly whether the offender must be extradited even in that case. For greater clarity, Article 8 should be supplemented by a provision whereby the offender will be extradited "no matter what may be the penalty stipulated by the applicable national penal law".

5. The Rule of "non bis in idem"

We support the inclusion of such a rule. We could approve the text submitted by the Subcommittee (Annex B).

6. Provision of Evidence

We wish to raise for the Legal Committee the question whether the terms of Article 11 suffice. When a Contracting State declares that its legislation gives it no possibility of effectively providing information, the proposed text is useless. The Contracting States should at least be forced to furnish the necessary evidence.

7. Annex C, Draft Convention

We wish to have the work on the basis of the draft submitted speeded up.

- END -



LC/Working Draft No. 744-2 (4)
30/12/69

LEGAL COMMITTEE

SEVENTEENTH SESSION

(February - March 1970)

Agenda Item No. 4: Unlawful Seizure of Aircraft

COMMENTS OF AUSTRALIA

Australia supports generally the principles set out in the Draft Convention accompanying the report of the Sub-Committee of the Legal Meeting; it is considered, however, that Article 3 of the Draft Convention should be amended on the lines of the Council Resolution of Thursday, 11 December, concerning this matter, emphasizing that severe penalties be imposed for the offence.

This is consistent with Australian domestic legislation applicable to acts of unlawful interference and other offences committed on Australian registered aircraft engaged in flights commencing in Australia or flights intended to end in Australia.

This legislation provides imprisonment for 20 years for the offence of taking control of such aircraft by force or violence while any other person, not being an accomplice to the person committing the offence, is on board the aircraft.

The Australian legislation also provides the death penalty for doing any act capable of prejudicing the safe operation of such aircraft with intent to cause the death of a person or with reckless indifference to the safety of the life of a person.

Comments on the detailed provisions of the Draft Convention are being prepared and will be forwarded in time for the forthcoming meeting of the Legal Committee in February 1970.

- END -



LC/Working Draft No. 744-2 (5)
30/12/69

L E G A L C O M M I T T E E

SEVENTEENTH SESSION

(February - March 1970)

Agenda Item No. 4: Unlawful Seizure of Aircraft

COMMENTS OF UPPER VOLTA

With reference to the report of the Subcommittee on Unlawful Seizure of Aircraft, Upper Volta, a signatory to the Tokyo Convention, approves the terms of this report as well as the draft Convention set forth in Annex C.

- END -



LC/Working Draft No. 744-2 (6)
30/12/69

LEGAL COMMITTEE

SEVENTEENTH SESSION

(February - March 1970)

Agenda Item No. 4: Unlawful Seizure of Aircraft

COMMENTS OF THE REPUBLIC OF CHINA

With respect to Doc 8838-LC/157, this Administration has no particular comments at the present time but hopes that a convention governing unlawful seizure of aircraft could be concluded in the not too distant future.

- END -



LC/Working Draft No. 744-2(7)
6/1/70

L E G A L C O M M I T T E E

SEVENTEENTH SESSION

(February - March 1970)

Agenda Item No. 4: Unlawful Seizure of Aircraft

COMMENTS OF CANADA

- (a) Article 1 declares that a person who carries out a particular act or is an accomplice of such a person, commits an offence.

Article 3 would impose an obligation on states parties to the Convention to make the specific offence i.e. the one described in Article 1 punishable under national law.

It may well be desirable for all states parties to enact legislation incorporating the language of Article 1 to make unlawful seizure of aircraft a specific offence and thus achieve uniformity. In fact, however, many states do not have and may not be in a position to ensure they will have in the near future, a particular offence of unlawful seizure under their criminal law. Such states, among which is Canada, may therefore have to lay a number of charges against an alleged perpetrator of unlawful seizure which, taken together, cover the offence as described in the Convention. Accordingly, it is submitted that Article 3 be amended to read as follows:

"Each Contracting State undertakes to make the acts
constituting the offence punishable in a manner
commensurate with the gravity of such offence."

- (b) Article 6(3) sets out an obligation to assist an alleged offender to immediately communicate with the nearest appropriate representative of his state of nationality. This provision implicitly indicates that such communication should be effected only if the alleged offender so wishes. In order, however, to make this abundantly clear it is suggested that the phrase "if he so desires" be inserted before "be assisted in communicating". In addition, since the family, place of business and other interests of the alleged offender may well not be in the state of nationality (from which he might indeed be fleeing), it is also suggested that the words "or permanent resident" might be added to the end of the provision. Article 6(3) incorporating these suggestions would then read as follows:

"Any person in custody pursuant to paragraph 1 shall,
if he so desires, be assisted in communicating
immediately with the nearest appropriate representative
of the state of which he is a national or permanent
resident."

LC/Working Draft No. 744-2(7)

- 2 -

- (c) Article 7 requires that Contracting States give consideration to extraditing an alleged offender. If it is decided not to extradite, the case is to be submitted to the competent authorities to decide whether or not legal proceedings should be initiated against him. In many states immigration or other officials at the port of entry are competent to decide if an alien is to be allowed to disembark or officially land in the state. A decision by such an official not to permit disembarkation or landing, would, in effect, decide that the alleged offender is not to be held pending extradition proceedings and that legal proceedings are not to be initiated against him within the state of landing. Since the relevant official has competence under national law to make the decision with respect to disembarkation or landing, it can be contended that the case has been submitted to the competent authority, in accordance with the provisions of this article.

It is our understanding that the intent of Article 7 was to ensure that a national authority competent to decide whether (1) the alleged offender shall be held in custody pending extradition proceedings; (2) criminal proceedings shall be initiated against him under national law; or (3) he shall be dealt with in some other manner e.g. deported or granted political asylum, should be seized of the case.

It is therefore suggested that, in order to better reflect the above, and to ensure that it will operate so that the case will reach a level of national authority which is concerned with initiating legal proceedings - and not merely a level dealing with admission into the territory of a state, the Article be amended to read as follows:

"The Contracting State which has taken measures pursuant to Article 6 paragraph 1 shall, if it does not extradite the alleged offender, be obliged to submit the case to such of its authorities as are competent to make a decision to initiate legal proceedings against him. These authorities shall take their decision in the same manner as in the case of other offences."

- END -



LC/Working Draft No. 744-2 (8)
6/1/70

L E G A L C O M M I T T E E

SEVENTEENTH SESSION

(February - March 1970)

Agenda Item No. 4: Unlawful Seizure of Aircraft

COMMENTS OF JAPAN

In view of the current circumstances that frequent occurrence of hijacking endangers a great deal the safety of international civil aviation, the Japanese Government recognizes the necessity of constituting an international convention as a means of preventing unlawful seizure of civil transport aircraft and expresses its preliminary views on the Report of the Second Session of the Legal Subcommittee on Unlawful Seizure of Aircraft as follows:

1. General comments

- (a) We consider generally satisfactory the draft text of the Convention proposed in the Report referred to above.
- (b) We support the view agreed upon in the meeting as stated in paragraph 6 of the Report.
- (c) We cannot agree to include the provisions of "ne bis in idem" in the Convention for the following reasons:
 - (i) The recognition of the judgment by a court of other States is likely to create the partiality of punishment in the relation of our national laws which have different provisions in the degree of punishment from those in other States;
 - (ii) It is not considered appropriate to accept the rule "ne bis in idem" exceptionally in the unlawful seizure of aircraft, nevertheless it has been ruled out in the case of other piracy.

2. Specific comments

- (a) Re Article 4
We consider it appropriate to grant the jurisdiction to the States as prescribed in subparagraphs (a) and (b). However, we consider that study should be undertaken so as to cover the similar case in a chartered flight.
- (b) Re Article 7
We agree with the provision of Article 7.
- (c) Re Article 8
We agree with the provision of Article 8 as well as the view of the Subcommittee as appears in paragraph 18 of the Report.

- END -

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LC/Working Draft No. 744-3
22/12/69

L E G A L C O M M I T T E E

SEVENTEENTH SESSION

(February - March 1970)

Agenda Item No. 4: Unlawful Seizure of Aircraft

TEXT OF RESOLUTION OF UNITED NATIONS GENERAL ASSEMBLY

... Reproduced in the Attachment hereto is the text of a Resolution¹⁾
which the General Assembly of the United Nations, at its 1831st plenary meeting,
held on 12 December 1969, adopted by 77 votes to 1, with 18 abstentions.

¹⁾ Extract from UN Doc A/7845

ATTACHMENT

Forcible diversion of civil aircraft in flight

The General Assembly,

Deeply concerned over acts of unlawful interference with international civil aviation,

Considering it necessary to recommend effective measures against hijacking in all its forms, or any other unlawful seizure or exercise of control of aircraft,

Mindful that such acts may endanger the life and health of passengers and crew in disregard of commonly accepted humanitarian considerations,

Aware that international civil aviation can only function properly in conditions guaranteeing the safety of its operations and the due exercise of the freedom of air travel,

1. Calls upon States to take every appropriate measure to ensure that their respective national legislations provide an adequate framework for effective legal measures against all kinds of acts of unlawful interference with, seizure of, or other wrongful exercise of control by force or threat thereof over, civil aircraft in flight;

2. Urges States in particular to ensure that persons on board who perpetrate such acts are prosecuted;

3. Urges full support for the efforts of the International Civil Aviation Organization directed towards the speedy preparation and implementation of a convention providing for appropriate measures, inter alia, with respect to making the unlawful seizure of civil aircraft a punishable offence and to the prosecution of persons who commit that offence;

4. Invites States to ratify or accede to the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed in Tokyo on 14 September 1963, in conformity with the Convention.



IC/Working Draft No. 745-2 (3)
30/12/69

L E G A L C O M M I T T E E

SEVENTEENTH SESSION

(February - March 1970)

Agenda Item No. 3: Question of Revision of the Warsaw Convention of 1929
as Amended by the Hague Protocol of 1955

COMMENTS OF DENMARK

Ad IC/SC Warsaw - Report II, paragraphs 7 and 8, Rule of Liability

While still preferring the present rule in Art. 20, Section (1), of the Warsaw Convention - as was stated in my letter of 15th September, 1966, - Denmark will have no serious objections against the establishing of a rule of absolute liability. If such a rule is adopted it will in our opinion be necessary - and I refer in this connection to my above-mentioned letter of 15th September, 1966, - to insert a provision, either in addition to Art. 17 or by a revision of Art. 20, Section (1), making it a condition that the damage was caused by or as a consequence of the acts or omissions of the air carrier or his servants or otherwise by, or as a consequence of the use of the aircraft and its appliances or on account of its properties. Otherwise, the air carrier would be made liable for all the damages - irrespective of the way in which they were occasioned - sustained by a passenger during the time from his embarkation to his disembarkation of the aircraft.

Ad IC/SC Warsaw - Report II, paragraph 10, Armed Conflict

We would consider it preferable if there were included a general defence in the case of armed conflict as proposed by the majority of the Subcommittee.

- END -



LC/Working Draft No. 745-2 (4)
30/12/69

L E G A L C O M M I T T E E

SEVENTEENTH SESSION

(February - March 1970)

Agenda Item No. 3: Question of Revision of the Warsaw Convention of 1929
as Amended by the Hague Protocol of 1955

COMMENTS OF SWITZERLAND

In accordance with your request, we have the honour to express the following views on the questions dealt with in the report of the Subcommittee on the revision of the Warsaw Convention (LC/SC Warsaw-Report 2-19/9/69).

1. Rule of Liability

If it is possible to establish a limit of liability in the order of \$100,000, we support the principle of objective liability.

2. Defenses of the Air Carrier

We would give preference to the following rules:

- Exclusion of sabotage as a defense;
 - Exclusion of armed conflict or civil disturbance as defenses;
- nevertheless, we could possibly also accept provisions which would provide, in the case of non-scheduled flights, a rule that would be in accordance with Article 17A of the draft of the Subcommittee.
- Admission of carrier's own fault or contributory fault as a defense.

3. Limitation of Liability

It appears to us to be reasonable to limit the liability to a \$100,000; but we could also adopt a limit of \$83,000.

4. Dual Limit

We believe that it is obvious that provision should be made for a single limit of liability.

5. Costs of Litigation

The rule put forward by the Subcommittee (LC/SC Warsaw - Report 2 Annex G) is in principle admissible.

6. Revision of the Limit

It is our view that, if provision is made for objective liability with a limit of a \$100,000, it is not indispensable to have an automatic adjustment of the limit; however, we could possibly also accept such an adjustment if the following conditions were fulfilled:

- a) The adjustment should take place not annually, but at longer intervals - for example, every four years.
- b) Provision should not be made for an adjustment for an indeterminate period; on the contrary, the necessity of an adjustment should be examined at quite long intervals - for example, every twenty years.

LC/Working Draft No. 745-2 (4)

- 2 -

7. Passenger Ticket; Notice

We share the opinion of the Subcommittee.

8. Wilful Misconduct (Dol)

For practical reasons and in spite of a certain uneasiness of a dogmatic nature, we could accommodate ourselves to the second version of Article 25 of the draft of the Subcommittee.

9. Recourse

We share the opinion of the Subcommittee.

10. Jurisdiction

The addition of a new forum, proposed by the United States, does not seem to us to be urgent in any event, although it does not appear to be unacceptable.

11. Delay

We share the opinion of the Subcommittee.

Having regard to the Diplomatic Conference contemplated for 1970, we consider it moreover to be appropriate that the work of the Legal Committee be henceforth strictly concentrated on the provisions which must be adapted when the system of absolute liability is introduced or whose amendment would probably not be questioned. The question of a more extensive revision should be carried over to the period after the Diplomatic Conference.

- END -



LC/Working Draft No. 745-2 (5)
30/12/69

L E G A L C O M M I T T E E

SEVENTEENTH SESSION

(February - March 1970)

Agenda Item No. 3: Question of Revision of the Warsaw Convention of 1929
as Amended by the Hague Protocol of 1955

COMMENTS OF UPPER VOLTA

I have the honour to inform you that the position of Upper Volta concerning the revision of the Warsaw/Hague Convention has developed since 5 February 1968 and it appears to us to be more logical to seek from now on to establish a single limit which would be reasonable and take into account the needs and resources of all States large or small.

- END -



LC/Working Draft No. 745-2 (6)
30/12/69

L E G A L C O M M I T T E E

S E V E N T E E N T H S E S S I O N

(February - March 1970)

Agenda Item No. 3: Question of Revision of the Warsaw Convention of 1929
as Amended by the Hague Protocol of 1955

C O M M E N T S O F T H E R E P U B L I C O F C H I N A

After a preliminary study of Doc 8839-LC/158, this Administration considers most of the views of the Subcommittee acceptable. With particular reference to public policy, I should like to suggest that the question of "wilful misconduct" be carefully examined by the Legal Committee.

- E N D -



LC/Working Draft No. 745-2 (7)
2/1/70

LEGAL COMMITTEE

SEVENTEENTH SESSION

(February - March 1970)

Agenda Item No. 3: Question of Revision of the Warsaw Convention of 1929
as Amended by the Hague Protocol of 1955

COMMENTS OF IUAI

It is noted that the Report (LC/SC Warsaw - Report II) up to and including paragraph 20 relates solely to the question of the carrier's liability for death or injury suffered by a passenger in an accident.

By way of introductory comment, it is clear that with the various regimes of law applicable to carriage by air today, there exists a situation which is unsatisfactory to the travelling public, to the carriers and their insurers, and all other parties concerned. At least three different forms of notice - one laid down by the Warsaw Convention, one by the Warsaw Convention as amended at The Hague, and the third by CAB 18900 - are now required for various types of carriage, and claims arising out of the same accident may be governed by the Warsaw Convention, the Warsaw Convention as amended at The Hague, CAB 18900, or differing municipal laws, with the possibility that the limits for claims brought under the first three types of carriage may be broken by the individual decisions of Municipal Courts. There is a large degree of uncertainty, which from the insurers' point of view tends to make the underwriting of the risk more difficult.

The many difficulties which the ICAO Legal Subcommittee have had to face in attempting to find a solution to this problem are fully appreciated by the IUAI, in particular the wide difference which still exists between the United States and other States in the damages awarded for death or personal injury, and the continuing search for a method which will ensure a fair, speedy and universal system for the effecting of settlements of passenger claims without recourse to litigation.

The opportunity is taken to make some comments on Report II dated 19th September 1969, as requested at paragraph 24 of that Report.

Paragraph 7 - Rule of Liability

The IUAI does not in principle oppose the adoption of the rule of absolute or strict liability linked with an increased limit, provided that it is coupled with a procedure which will ensure speedy settlements, without extensive

litigation. This might present some difficulty, particularly when attempting to apply such a procedure in the United States, but it might be partially achieved if there could be a formula for the assessment of damages in the new Convention.

Paragraph 10 - Armed Conflict

The IUAI feels strongly that there should be a defence in regard to "armed conflict". However, it seems that "armed conflict" needs definition. Will it extend, for example, to damage caused as a result of shooting between the carrier's security guard and a hijacker or between rival political factions, or is it to be limited only to conflict between third parties having no direct connection with the carrier or any of the passengers?

Paragraph 11 - Contributory Negligence

This doctrine should be retained, but the words "in accordance with provisions of its own law" would appear to require clarification.

Paragraph 15 - Costs of Litigation

This provision might have little effect in certain States, particularly the U.S.A., where the system of costs for litigation is different from other States. It is suggested that the article might be worded to make the system effective in the U.S.A. and to couple it with a procedure of an open offer by letter or a payment into court of a sum in settlement with a penalty in costs if the offer exceeds the award. This might have the effect of cutting down wasteful litigation.

Paragraph 17 - Ticket Notice

The elimination of the requirement for a statement in the ticket is most desirable. It is suggested that the only reference to documents and conditions of carriage in the new Convention should be a reference making it clear beyond all doubt that the absence or irregularity of documents of carriage should not affect in any way the question of the liability of the carrier under the Convention.

Paragraph 18 - Wilful Misconduct

It seems that if there is to be an absolute or strict liability system, then Article 25 of the Warsaw Convention, or Article 25 and 25 A(3) of the Warsaw Convention as amended at The Hague, should be eliminated so as to ensure that the increased limit be an unbreakable one. It would also appear that the formula of Article 12 of the Rome Convention, or a restricted version thereof, would not be acceptable in the context of an unbreakable limit for it would undoubtedly give rise to litigation. IUAI letter to ICAO of 21st February 1969 also has reference in this connection. *)

*) See LC/SC Warsaw WD 18 at p. 185-186, Doc 8839-IC/158-1.

In short, the elimination of any provision for breaking of the liability limit seems to be an integral part of the package in which the absolute liability system is coupled with the proposal for the new increased limit.

Paragraph 21 - Delay

Delay claims in regard to passengers could have considerable significance for insurers if they were linked to a regime of absolute liability. Consequently the IUAI very much favours the proposal put forward in the Subcommittee, but suggests that the period of carriage should be specified, and consideration given to limiting it to the actual carriage by air from time of actual embarkation to time of actual disembarkation.

It is the IUAI's strongly held view that any new Convention should be at least as widely acceptable as the Warsaw Convention, and that it should be brought into force with the minimum of delay commensurate with the achievement of the adoption of a universally acceptable formula. It is also our indisputable opinion that, whilst premiums for the insurance of airline liability to passengers represent such a small proportion of the cost of operating aircraft, they should not be taken out of perspective when arriving at the format for a new International Convention of such importance - in this respect our (reiterated) views do not coincide with the statements of the Representatives of those countries who feel otherwise.

These comments by the IUAI are based on the practical experience of its members, in the handling and disposal of claims and it is hoped that they will be found of assistance to the ICAO in its further deliberations, and as a contribution to the ultimate aim of achieving a fair and speedy relief of the financial effects of injury or death within the framework of the respective rights and liabilities given by law to both passengers and carriers.

- END -



LC/Working Draft No. 745-2 (8)
6/1/70

L E G A L C O M M I T T E E

SEVENTEENTH SESSION

(February - March 1970)

Agenda Item No. 3: Question of Revision of the Warsaw Convention of 1929
as Amended by the Hague Protocol of 1955

COMMENTS OF FINLAND

Generally speaking the Government of Finland is of the opinion that the Committee and the ICAO Secretariat have been doing excellent work and succeeded in defining guidelines towards final solution in all particular points that seem to need revision in the existing Warsaw-Hague system. Considering future proceedings it would be desirable on the following stages to restrict the revision work into the questions now taken up by the Subcommittee. The following preliminary comments will deal with the different questions in the order of their presentation.

Rule of Liability. The idea of strict liability is acceptable taking into account the proposed ideas of general defences and contributory negligence.

General Defences. The conclusions reached by the majority of the Subcommittee seem to be acceptable in principle. Sabotage and hijacking as general defences hardly conform with the concept of strict liability. Armed conflict, on the other hand, is of different character. Armed conflict as a general defence may, however, raise some difficulties. We might ask whether the concept of armed conflict is sufficiently clear in both legal and practical aspects. Furthermore, the inclusion or exclusion of armed conflict as a general defence may have some still unknown effects on insurance premiums. These problems connected with armed conflict may need further study and information.

Limitation of Liability. It is obvious that the liability of air carriers should be limited. It is obvious also that the limit of liability is the most essential point in the whole problem. Finland has no objection to the limit of \$83,000, and for the sake of unanimity it is willing to go even to the limit of \$100,000. Furthermore, a single limit is preferable for both legal and practical reasons.

Costs of Litigation. The Government of Finland is willing to accept the system which would empower the court to award costs of litigation to the successful plaintiff.

Revision of Limit. The idea of periodic revision of limit is in principle acceptable. It is also obvious that the ordinary procedure of revision of the Convention is too heavy and unpractical for this purpose. On the other hand the automatic revision of the limit in the proposed form might raise some difficulties. Further study might be useful in order to find more definite proposals in this respect.

LC/Working Draft No. 745-2 (8)

- 2 -

"Wilful misconduct". For practical reasons and taking into account the quite high limit of liability, an unbreakable limit is desirable. This question may, however, need further study from the legal point of view.

Recourse. The carrier's right of recourse should be guaranteed and retained.

The Government of Finland has no objections to the conclusions under items Contributory Negligence, Ticket-notice and Delay. As for Jurisdiction, the ideas presented in the Subcommittee Report are still under consideration.

- END -



LC/Working Draft No. 745-3
16/12/69

L E G A L C O M M I T T E E

SEVENTEENTH SESSION

(February - March 1970)

Agenda Item No. 3: Question of Revision of the Warsaw Convention of 1929
as Amended by the Hague Protocol of 1955

AIR CONVEYANCE OF INSURED ITEMS

(Formal Opinion Adopted by UPU Congress)

...

Attached is a copy of a Formal Opinion (Voeu) adopted by
the Congress of UPU in Tokyo in October 1969.

This document was sent by UPU to ICAO and thereafter was
transmitted by the Secretary General of ICAO to the Chairman of the Legal
Committee.

- - - - -

LC/Working Draft No. 745-3
Attachment

- 3 -

Formal opinion

Air conveyance of insured items

Congress,

In view of resolution C 29, paragraph (b), of the 1964 Vienna Congress, wherein the Executive Council was instructed "to inquire into the possibilities of laying down uniform standards for the conveyance by air of insured items",

Whereas the study on this subject undertaken by the Executive Council and summarized in the Comprehensive report on the work of the Executive Council (Congress - Doc 2) has shown that the lack of uniformity in regard to declaration of value is due in most cases to the different maximum values for which airlines accept liability,

Whereas the International Air Transport Association (IATA) is not opposed to asking its members each to adopt the same liability,

Whereas the question of the airlines' liability towards third parties - i.e. users of the Post - has also been raised during discussions,

Whereas a study undertaken to settle this question within the framework of the Convention of the Universal Postal Union has shown that the aforementioned Convention is not the appropriate instrument for this purpose, but that the Warsaw Convention which regulates the liability of airlines in respect of passengers and freight, and which at present expressly excludes postal items, seems to be the Act in which the problem of air transport companies' liability towards third parties has its proper place,

Whereas the International Civil Aviation Organization (ICAO) has stated that the question of amending the Warsaw Convention with the aim of making it applicable to the international air conveyance of items sent through the Post has not been studied by ICAO but that any resolution that might be adopted by the Tokyo Congress on this subject will be taken into consideration by its Legal Committee in the event of a revision of that Convention,

Endorsing the suggestion of the Executive Council,

Expresses the formal opinion that postal administrations should lend their good offices and cooperate with the governments of their countries with a view to amending or merely supplementing the provisions of the Warsaw Convention with regard to international air transport and, if necessary, their national legislation for the purpose of regulating liability for postal items within the limits prescribed by the Acts of the Universal Postal Union.

- END -

| | | |
|--|---|---|
| TO: <i>Name - Nom</i> | Routing Symbol Symbole d'acheminement | Date January 7, 1970 |
| A: Mr. L. S. Clark, | | <input checked="" type="checkbox"/> Comment <u>please</u> Observations |
| Legal Division, Department of External Affairs. | | <input type="checkbox"/> For your information Pour votre gouvernement |
| | | <input type="checkbox"/> Per our conversation Selon notre conversation |
| | | <input type="checkbox"/> Approval Approbation |
| | | <input type="checkbox"/> Discuss with me Discuter avec moi |
| | | <input type="checkbox"/> Take appropriate action Prendre les mesures appropriées |

REMARKS:

REMARQUES:

Our Minister will be visiting his colleague, the U.S. ^{Secy} Minister of Transport, ^{ation} next week, and has to be briefed on topics which may come up during their interview. Would the attached be suitable? I would appreciate your phoning me (2-2396).

Mr. B. J. (B. J. B. J.)
I made suggested amendments
over the phone to Sicotte, who
agreed. *for*
7/1/70

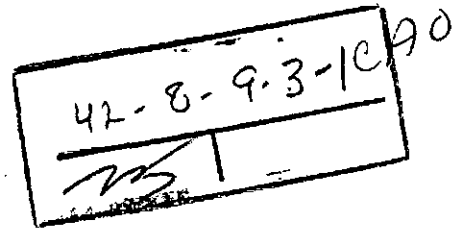
FROM:
 DE: Gilles Sicotte

Routing Symbol
Symbole d'acheminement

~~CONFIDENTIAL~~

D R A F T

HIJACKING



Canada and the United States are participating in measures taken in various international fora, particularly ICAO, with a view to reducing the prevalence ^{and elaborating an int'l framework to deal with such acts} of those practices, which have become a serious problem in international civil aviation. At a meeting in Washington last month we participated with other representatives of the major providers of civil aviation services in discussions of the various means to this end. Generally, U.S. and Canadian officials think alike in this regard and are agreed that

- a) all countries should be encouraged to subscribe to the Tokyo Convention on Crimes and Other Acts Committed Aboard Aircraft;
- b) a parallel proposed international agreement on the prevention of hijacking and the punishment of hijackers to be reviewed at the ICAO Legal Committee next month should be brought to completion and submitted for adoption [by ICAO member states] as a matter of urgency;
- c) the [Sub]Committee [of] the ICAO Council [charged [with] reviewing incidents of hijacking should be more effective.

Most of the measures contemplated in this area are of a legal nature ^{the objective of which is to promote a uniform type of legislation} and tend to [universalize] legislation which will ensure the punishment of hijackers. The United States have been encouraging other countries to make "hijacking" a specific offence ^{under} in their criminal [legislation] and ensure ^{extraditability} [the ~~extraditability~~ for] this crime. Although we do not have a specific provision in the Criminal Code to this effect, our penal laws provide ample means of coping with incidents of hijacking and, where necessary, our extradition treaties are being reviewed to ^{deal with this type} provide ^{extraditability} for ~~extraditability~~ in such cases ^{as} between Canada and other countries.

The United States have also been working on preventive schemes to detect potential hijackers before they board an airplane. Although we have not developed any particular technique ourselves in this area, outside normal protective measures at the airports, we are along with other like-minded countries following with interest the new schemes which the United States ^{are} developing.

....2

-2-

There is no area of contention between the United States and Canada in regard to this subject, therefore, but Mr. Volpe might mention the very keen concern which the U.S. authorities have over the problem of hijacking. It would be appropriate to assure him that we share this concern and that Canadian officials are working wholeheartedly - as is well known to U.S. officials there - toward the improvement of the situation by international co-operation.

[It is of interest in this connection that] ^{for your information} we are just about ^{ready} to engage in a negotiations - reportedly [just] approved by Fidel Castro - with the Cuban authorities on a bilateral agreement between Canada and Cuba for the return of hijacked airplanes, passengers and crews and ^{prosecution} [punishment] or extradition of hijackers. If Mr. Volpe raises this question or enquires about the state of our negotiations, it would be in order to explain that preliminary discussions have been held and [that a proposed agreement will be discussed, probably in Havana, at the end of the month between Canadian and Cuban officials.] ^{we are hopeful} that negotiations will take place in the near future.



YOUR FILE NO.
VOTRE DOSSIER

OUR FILE NO. 152-3/12
NOTRE DOSSIER

LE REPRÉSENTANT DU CANADA AU CONSEIL DE
L'ORGANISATION DE L'AVIATION CIVILE
INTERNATIONALE

902 ÉDIFICE DE L'AVIATION INTERNATIONALE, MONTRÉAL

TÉLÉPHONE: 879-4788

THE REPRESENTATIVE OF CANADA ON THE COUNCIL OF
THE INTERNATIONAL CIVIL AVIATION
ORGANIZATION

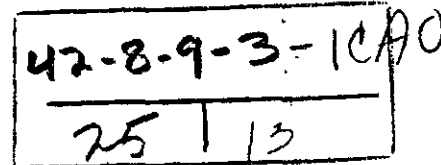
902 INTERNATIONAL AVIATION BUILDING, MONTREAL

TELEPHONE: 879-4788

8 December 1969

The Under-Secretary of State for External Affairs,
Ottawa, Ontario.

Attention: Legal Division



Dear Sir:

Attached, for information, are two copies of State
Letter S 2/11.2, LE 4/26 - 69/280, dated 4 December 1969,
concerning unlawful interference with International Civil
Aviation and its facilities.

It will be noted that the Secretariat would appreciate
receiving reports on incidents of unlawful seizure of aircraft
and any relevant information on the non-political aspects of such
incidents which occurred after 10 April 1969, with the exception
of those on which a detailed report has already been sent.

Yours truly,

L.M.E. Brennan,
Administrative Officer.

Encls.

C.c. The Under-Secretary of State for External Affairs,
Attention: United Nations Division (2)

The Director, Legal Services & Counsel,
Department of Transport, Attention: Mr. C.K. Kennedy (2)

The Director, International Relations Branch,
International Transport Policy Committee (2)

The Assistant Deputy Minister, General,
Department of Transport (6)

The Department of Justice, Attention: Mr. J.M. Bentley (2)

The Department of Transport, Attn: ICAO Co-ordinator (2)

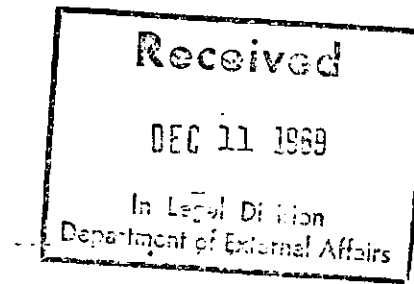
TO: FLE
FROM: ACRD

DEC 10 1969

ATTN:

38/11/12

FLE



ORGANISATION DE L'AVIATION
CIVILE INTERNATIONALEORGANIZACIÓN DE AVIACIÓN
CIVIL INTERNACIONAL

INTERNATIONAL CIVIL AVIATION ORGANIZATION

INTERNATIONAL AVIATION BUILDING
1080 UNIVERSITY STREET
MONTREAL 101, P.Q. CANADA

(CS)

WHEN REPLYING, PLEASE QUOTE:
RÉFÉRENCE À RAPPELER DANS LA RÉPONSE:
INDÍQUESE EN LA RESPUESTA ESTA REFERENCIA:S 2/11.2)
LE 4/26) - 69/280

4 December 1969

Subject: Unlawful Interference with Inter-
national Civil Aviation and its Facilities
Action Required: Reports on incidents of
unlawful seizure of aircraft

Sir,

I have the honour to refer to my letter LE 4/26 - 69/128 of 24 April 1969 with which I sent you a copy of the Resolution adopted by the Council on 10 April 1969. It will be recalled that in paragraph (3) i) of that Resolution the Council invited all Contracting States directly concerned to furnish it with a report on all non-political aspects of cases of unlawful interference.

The Committee which has been established under paragraph (4) of the above-mentioned Resolution prepared, in connection with paragraph 2 of its Terms of Reference and Working Procedures, three lists of points which might be covered by States in preparing their reports on incidents of unlawful seizure of aircraft. List A (Attachment A hereto) would be relevant for the reports prepared by the State of registry of an unlawfully seized aircraft, List B (Attachment B hereto) for reports prepared by the State to which an unlawfully seized aircraft was diverted and List C (Attachment C hereto) for reports prepared by the State of embarkation of the person who committed or attempted the act of unlawful seizure.

Any further relevant information on the non-political aspects of incidents of unlawful seizure of aircraft would also be appreciated. Since the Committee is developing measures to discourage the occurrence of acts

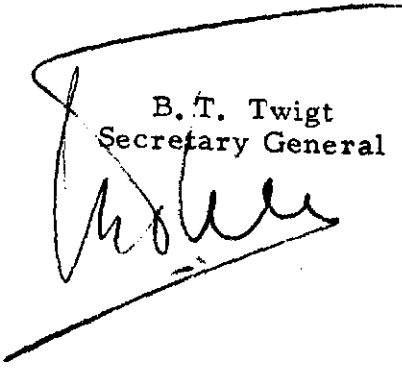
- 2 -

of unlawful interference, it would be very grateful if you could also provide information on the current and, if possible, future situation of the persons who unlawfully seized the aircraft.

The reports would concern all incidents that occurred after 10 April 1969 with the exception of those on which a detailed report has been already sent.

Accept, Sir, the assurances of my highest consideration.

B. T. Twigt
Secretary General



Enclosure:

List of points for report
(A, B and C)

ATTACHMENT A

POINTS RELATING TO REPORT

Addressed to the State of Registry
of an unlawfully seized aircraft

(Note: This is issued in connexion with paragraph 2 of the Terms of Reference and Working Procedures of the ICAO Council's Committee on Unlawful Interference with International Civil Aviation.)

It would be useful if the State concerned made available information on the points mentioned below. Any further relevant information on the non-political aspects of the incident would also be appreciated.

1. GENERAL

- 1.1 Date of the unlawful seizure
- 1.2 Nationality and registration marks of the aircraft
- 1.3 Airline (or owner/operator)
- 1.4 Type of flight (scheduled, non-scheduled, general aviation and whether domestic or international)
- 1.5 Type and mark of aircraft
- 1.6 Aerodrome of departure
- 1.7 Aerodrome of intended landing
- 1.8 Aerodrome of embarkation of the person(s) who committed or attempted the act of unlawful seizure
- 1.9 Were any measures in effect at the aerodrome of embarkation of the person(s) in 1.8 to screen passengers and their hand baggage? (If so, please give details).

- 2 -

1. 10 Number of persons on board

1. 10. 1 Passengers _____

1. 10. 2 Crew - Flight _____

Crew - Cabin (male _____ female _____)

1. 11 Was an intermediate diversionary landing made to obtain additional fuel or for any other reasons?

1. 12 If there was an intermediate diversionary landing:

1. 12. 1 Give numbers of any passengers or crew that disembarked at that aerodrome.

1. 12. 2 Supply details of any technical/operational difficulties of the type covered by Items 3. 8, 3. 9, 3. 10, 4. 1, 4. 2 and 4. 3.

2. DETAILS OF THE UNLAWFUL ACT

2. 1 Time (GMT) and approximate position when the act of unlawful seizure was committed

2. 2 Number of persons who committed or attempted the act of unlawful seizure

2. 3 Did this person(s) enter the flight deck at any time?

2. 4 Name(s) of this person(s)

2. 5 Did this person(s) hold a single or return ticket(s)?

2. 6 Did this person(s) hold economy or first class ticket(s)?

2. 7 Where was the person(s) seated in the aircraft?

2. 8 Means of coercion adopted by the said person(s)

2. 9 Were any weapons actually seen by

(i) Crew?

(ii) Passengers?

2. 10 Was any attempt made by the crew or passengers to resist the person(s) who committed the act or attempt of unlawful seizure? (If so, give details).

- 3 -

- 2.11 Was physical violence towards the flight crew or cabin crew or passengers involved? (If so, give details).
- 2.12 Were any shots fired or explosive devices detonated?
- 2.13 Was there any other illegal act, such as theft, carried out on board?
- 2.14 Were any demands made on the crew by the person(s) who committed the act or attempt of unlawful seizure?
- 2.15 Crew's reaction to 2.14 (Give details of any action to reason with the said person(s) etc.)

3. THE DIVERTED FLIGHT

- 3.1 Time and position of the aircraft when your air traffic services authorities became aware that it was not complying with its flight plan and had been diverted
- 3.2 Were your air traffic services able to maintain adequate separation between the diverted aircraft and other traffic?
- 3.3 Did the diversion cause disturbance to other traffic? (If so, give details).
- 3.4 Did the person(s) committing or attempting the illegal seizure interfere or attempt to interfere with the controls of the aircraft?
- 3.5 Did the person(s) prevent radio communications being established?
- 3.6 If the answer to 3.5 is "no", were any difficulties experienced from other causes in obtaining
 - 3.6.1 meteorological information and air traffic services?
 - 3.6.2 runway and other aerodrome information?
- 3.7 Was there any difficulty of communication (i. e. language problems or other difficulties) between the person(s) who committed the act or attempt of unlawful seizure and the crew?
- 3.8 In the opinion of the pilot-in-command, was any hazard to safety involved due to
 - 3.8.1 a lack of communications?
 - 3.8.2 a landing being effected in the prevailing meteorological conditions?

- 4 -

- 3.8.3 a lack of adequate fuel reserves, taking into account that due to operational considerations landing at an alternate aerodrome in the State to which the aircraft was diverted may have been necessary?
- 3.8.4 any operational limitations considering the type of aircraft involved and the circumstances of the landing (day/night, instrument approach, etc.) in relation to the available aerodrome and ground facilities?
- 3.8.5 any other causes? (If so, give details).

3.9 Was the landing effected without incident, additional to those enumerated in 3.8? (If not, supply details).

3.10 Did the aircraft carry sufficient and suitable equipment, including maps, charts, instrument approach charts, etc., for the diversionary route and for landing at the diversionary aerodrome or at an alternate aerodrome in the State to which the aircraft was diverted?

4. CONSEQUENCES OF THE UNLAWFUL ACTION

4.1 Were any injuries sustained by passengers, crew, the persons who committed or attempted the act of unlawful seizure or persons on the ground?

4.2 Were any difficulties or embarrassment experienced in connexion with public health, or animal/plant quarantine regulations?

4.3 Was the aircraft or any aerodrome facilities damaged? (If so, give details).

5. SUBSEQUENT ACTION

5.1 Was the aircraft returned to the control of the captain?

5.2 Were there any technical/operational reasons which delayed departure of the aircraft (maintenance requirements, unavailability of parts, suitable fuel, etc.)?

5.3 Were all passengers and all crew members permitted to depart on the aircraft?

5.4 Did the persons who unlawfully seized or attempted to seize the aircraft give any reasons for their action?

5.5 Please provide any further details that you may consider useful, such as:

- 5.5.1 Summary of the crew's narrative account of the unlawful seizure.
- 5.5.2 Characteristics and background of the person(s) who committed the unlawful seizure, e. g. behaviour at airport if known, previous criminal or mental record.

ATTACHMENT B

POINTS RELATING TO REPORT

Addressed to the State to which an aircraft
unlawfully seized is diverted

(Note: This is issued in connexion with
paragraph 2 of the Terms of Reference
and Working Procedures of the ICAO
Council's Committee on Unlawful Inter-
ference with International Civil Aviation.)

It would be useful if the State concerned made available information on the points mentioned below. Any further relevant information on the non-political aspects of the incident would also be appreciated.

The supplying of such information should not be construed as obliging the State concerned to interrogate the crew or passengers or to delay the release of the aircraft or the crew and passengers in the normal course.

1. GENERAL

- 1.1 Date of the unlawful seizure
- 1.2 Nationality and registration marks of the aircraft
- 1.3 Airline (or owner/operator)
- 1.4 Aerodrome of intended landing
- 1.5 Aerodrome of landing
- 1.6 Aerodrome of embarkation of the person(s) who committed or attempted the act of unlawful seizure
- 1.7 Number of persons on board
 - 1.7.1 Passengers _____
 - 1.7.2 Crew - Flight _____
 - Crew - Cabin (male _____ female _____)

- 2 -

2. DETAILS OF THE UNLAWFUL ACT

- 2.1 Number of persons who committed the act of unlawful seizure
- 2.2 Was this person(s) accompanied by any other person(s) who took no active part in the unlawful seizure?
- 2.3 Nationality(ies) of this person(s)
- 2.4 Name(s) of this person(s)
- 2.5 Age(s) of this person(s)
- 2.6 Sex of this person(s)
- 2.7 How much baggage did this person(s) have?
 - 2.7.1 cabin
 - 2.7.2 checked
- 2.8 If firearms were involved as a means of coercion, give make, type and serial number.

3. THE DIVERTED FLIGHT

- 3.1 Time and position of aircraft when your air traffic services authorities became aware that the aircraft had been illegally seized and was being diverted to an aerodrome in your territory
- 3.2 Were your air traffic services able to maintain adequate separation between the diverted aircraft and other traffic?
- 3.3 Did the diversion cause disturbance to other traffic? (If so, give details).
- 3.4 Were any difficulties experienced in:
 - 3.4.1 Communicating with the aircraft?
 - 3.4.2 Providing meteorological information and air traffic services to the aircraft?
 - 3.4.3 Providing runway and other aerodrome information to the aircraft?

- 3 -

- 3.5 In your opinion, was any hazard to safety involved due to:
- 3.5.1 a lack of communications?
 - 3.5.2 a landing being effected in the prevailing meteorological conditions?
 - 3.5.3 a lack of adequate fuel reserves, taking into account that due to operational considerations landing at an alternate aerodrome in your State may have been necessary?
 - 3.5.4 any operational limitations considering the type of aircraft involved and the circumstances of the landing (day/night, instrument approach, etc.) in relation to the available aerodrome and ground facilities?
 - 3.5.5 any other causes? (If so, give details).
- 3.6 Was the landing effected without incident, additional to those enumerated in 3.5? (If not, supply details).
4. CONSEQUENCES OF THE UNLAWFUL ACTION
- 4.1 Were any injuries sustained by passengers, crew, the persons who committed or attempted the act of unlawful seizure or persons on the ground?
 - 4.2 Were any difficulties or embarrassment experienced in connexion with public health, or animal/plant quarantine regulations?
 - 4.3 Were any aerodrome facilities damaged? (If so, supply details).
5. SUBSEQUENT ACTION
- 5.1 Were there any technical/operational reasons which delayed departure of the aircraft (maintenance requirements, unavailability of parts, suitable fuel, etc.)
 - 5.2 Were all passengers and all crew members permitted to depart on the aircraft?
 - 5.3 Did the persons who unlawfully seized the aircraft give any reasons for their action?
 - 5.4 Has he (they) revealed any information which might suggest that other unlawful seizures will take place? (If so, please supply the information he (they) has given).
 - 5.5 Was he(they) given psychiatric, psychological or physical examinations upon apprehension?
 - 5.6 Was he(they) under the influence of drugs or alcohol?

ATTACHMENT C

POINTS RELATING TO REPORT

Addressed to the State of Embarkation
where other than the State of Registry

(Note: This is issued in connexion with paragraph 2 of the Terms of Reference and Working Procedures of the ICAO Council's Committee on Unlawful Interference with International Civil Aviation.)

It would be useful if the State concerned made available information on the points mentioned below. Any further relevant information on the non-political aspects of the incident would also be appreciated.

1. GENERAL

- 1.1 Date of the unlawful seizure
- 1.2 Nationality and registration marks of the aircraft
- 1.3 Airline (or owner/operator)
- 1.4 Aerodrome of embarkation of the person(s) who committed or attempted the act of unlawful seizure
- 1.5 Name(s) of this person(s)
- 1.6 Were any measures in effect at the aerodrome of embarkation of the person(s) in 1.4 to screen passengers and their hand baggage? (If so, please give details).
- 1.7 Please provide any further details that you may consider useful, such as:
 - 1.7.1 Characteristics and background of the person(s) who committed the unlawful seizure, e. g. behaviour at airport if known, previous criminal or mental record

2. THE DIVERTED FLIGHT

- 2.1 Time and position of the aircraft when your air traffic services authorities became aware that it was not complying with its flight plan and had been diverted

- 2 -

- 2.2 Were your air traffic services able to maintain adequate separation between the diverted aircraft and other traffic?
- 2.3 Did the diversion cause disturbance to other traffic? (If so, give details).

- END -

ORGANISATION DE L'AVIATION
CIVILE INTERNATIONALEORGANIZACIÓN DE AVIACIÓN
CIVIL INTERNACIONAL

INTERNATIONAL CIVIL AVIATION ORGANIZATION

INTERNATIONAL AVIATION BUILDING
1080 UNIVERSITY STREET
MONTREAL 101, P.Q. CANADA

(CS)

WHEN REPLYING, PLEASE QUOTE:
RÉFÉRENCE À RAPPELER DANS LA RÉPONSE:
INDÍQUESE EN LA RESPUESTA ESTA REFERENCIA:S 2/11.2)
LE 4/26) - 69/280

4 December 1969

Subject: Unlawful Interference with Inter-
national Civil Aviation and its Facilities
Action Required: Reports on incidents of
unlawful seizure of aircraft

Sir,

I have the honour to refer to my letter LE 4/26 - 69/128 of 24 April 1969 with which I sent you a copy of the Resolution adopted by the Council on 10 April 1969. It will be recalled that in paragraph (3) i) of that Resolution the Council invited all Contracting States directly concerned to furnish it with a report on all non-political aspects of cases of unlawful interference.

The Committee which has been established under paragraph (4) of the above-mentioned Resolution prepared, in connection with paragraph 2 of its Terms of Reference and Working Procedures, three lists of points which might be covered by States in preparing their reports on incidents of unlawful seizure of aircraft. List A (Attachment A hereto) would be relevant for the reports prepared by the State of registry of an unlawfully seized aircraft, List B (Attachment B hereto) for reports prepared by the State to which an unlawfully seized aircraft was diverted and List C (Attachment C hereto) for reports prepared by the State of embarkation of the person who committed or attempted the act of unlawful seizure.

Any further relevant information on the non-political aspects of incidents of unlawful seizure of aircraft would also be appreciated. Since the Committee is developing measures to discourage the occurrence of acts

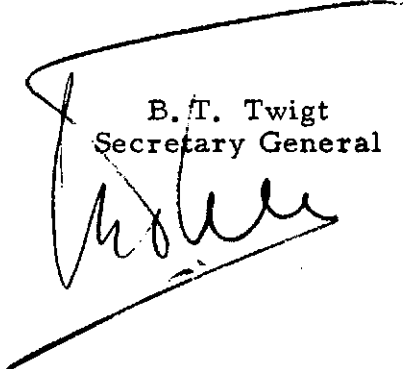
- 2 -

of unlawful interference, it would be very grateful if you could also provide information on the current and, if possible, future situation of the persons who unlawfully seized the aircraft.

The reports would concern all incidents that occurred after 10 April 1969 with the exception of those on which a detailed report has been already sent.

Accept, Sir, the assurances of my highest consideration.

B.T. Twigt
Secretary General



Enclosure:

List of points for report
(A, B and C)

ATTACHMENT A

POINTS RELATING TO REPORT

Addressed to the State of Registry
of an unlawfully seized aircraft

(Note: This is issued in connexion with paragraph 2 of the Terms of Reference and Working Procedures of the ICAO Council's Committee on Unlawful Interference with International Civil Aviation.)

It would be useful if the State concerned made available information on the points mentioned below. Any further relevant information on the non-political aspects of the incident would also be appreciated.

1. GENERAL

- 1.1 Date of the unlawful seizure
- 1.2 Nationality and registration marks of the aircraft
- 1.3 Airline (or owner/operator)
- 1.4 Type of flight (scheduled, non-scheduled, general aviation and whether domestic or international)
- 1.5 Type and mark of aircraft
- 1.6 Aerodrome of departure
- 1.7 Aerodrome of intended landing
- 1.8 Aerodrome of embarkation of the person(s) who committed or attempted the act of unlawful seizure
- 1.9 Were any measures in effect at the aerodrome of embarkation of the person(s) in 1.8 to screen passengers and their hand baggage? (If so, please give details).

- 2 -

1.10 Number of persons on board

1.10.1 Passengers _____

1.10.2 Crew - Flight _____

Crew - Cabin (male _____ female _____)

1.11 Was an intermediate diversionary landing made to obtain additional fuel or for any other reasons?

1.12 If there was an intermediate diversionary landing:

1.12.1 Give numbers of any passengers or crew that disembarked at that aerodrome.

1.12.2 Supply details of any technical/operational difficulties of the type covered by Items 3.8, 3.9, 3.10, 4.1, 4.2 and 4.3.

2. DETAILS OF THE UNLAWFUL ACT

2.1 Time (GMT) and approximate position when the act of unlawful seizure was committed

2.2 Number of persons who committed or attempted the act of unlawful seizure

2.3 Did this person(s) enter the flight deck at any time?

2.4 Name(s) of this person(s)

2.5 Did this person(s) hold a single or return ticket(s)?

2.6 Did this person(s) hold economy or first class ticket(s)?

2.7 Where was the person(s) seated in the aircraft?

2.8 Means of coercion adopted by the said person(s)

2.9 Were any weapons actually seen by

(i) Crew?

(ii) Passengers?

2.10 Was any attempt made by the crew or passengers to resist the person(s) who committed the act or attempt of unlawful seizure? (If so, give details).

- 3 -

- 2.11 Was physical violence towards the flight crew or cabin crew or passengers involved? (If so, give details).
- 2.12 Were any shots fired or explosive devices detonated?
- 2.13 Was there any other illegal act, such as theft, carried out on board?
- 2.14 Were any demands made on the crew by the person(s) who committed the act or attempt of unlawful seizure?
- 2.15 Crew's reaction to 2.14 (Give details of any action to reason with the said person(s) etc.)

3. THE DIVERTED FLIGHT

- 3.1 Time and position of the aircraft when your air traffic services authorities became aware that it was not complying with its flight plan and had been diverted
- 3.2 Were your air traffic services able to maintain adequate separation between the diverted aircraft and other traffic?
- 3.3 Did the diversion cause disturbance to other traffic? (If so, give details).
- 3.4 Did the person(s) committing or attempting the illegal seizure interfere or attempt to interfere with the controls of the aircraft?
- 3.5 Did the person(s) prevent radio communications being established?
- 3.6 If the answer to 3.5 is "no", were any difficulties experienced from other causes in obtaining
 - 3.6.1 meteorological information and air traffic services?
 - 3.6.2 runway and other aerodrome information?
- 3.7 Was there any difficulty of communication (i. e. language problems or other difficulties) between the person(s) who committed the act or attempt of unlawful seizure and the crew?
- 3.8 In the opinion of the pilot-in-command, was any hazard to safety involved due to
 - 3.8.1 a lack of communications?
 - 3.8.2 a landing being effected in the prevailing meteorological conditions?

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- 3.8.3 a lack of adequate fuel reserves, taking into account that due to operational considerations landing at an alternate aerodrome in the State to which the aircraft was diverted may have been necessary?
- 3.8.4 any operational limitations considering the type of aircraft involved and the circumstances of the landing (day/night, instrument approach, etc.) in relation to the available aerodrome and ground facilities?
- 3.8.5 any other causes? (If so, give details).

3.9 Was the landing effected without incident, additional to those enumerated in 3.8? (If not, supply details).

3.10 Did the aircraft carry sufficient and suitable equipment, including maps, charts, instrument approach charts, etc., for the diversionary route and for landing at the diversionary aerodrome or at an alternate aerodrome in the State to which the aircraft was diverted?

4. CONSEQUENCES OF THE UNLAWFUL ACTION

- 4.1 Were any injuries sustained by passengers, crew, the persons who committed or attempted the act of unlawful seizure or persons on the ground?
- 4.2 Were any difficulties or embarrassment experienced in connexion with public health, or animal/plant quarantine regulations?
- 4.3 Was the aircraft or any aerodrome facilities damaged? (If so, give details).

5. SUBSEQUENT ACTION

- 5.1 Was the aircraft returned to the control of the captain?
- 5.2 Were there any technical/operational reasons which delayed departure of the aircraft (maintenance requirements, unavailability of parts, suitable fuel, etc.)?
- 5.3 Were all passengers and all crew members permitted to depart on the aircraft?
- 5.4 Did the persons who unlawfully seized or attempted to seize the aircraft give any reasons for their action?
- 5.5 Please provide any further details that you may consider useful, such as:
 - 5.5.1 Summary of the crew's narrative account of the unlawful seizure.
 - 5.5.2 Characteristics and background of the person(s) who committed the unlawful seizure, e. g. behaviour at airport if known, previous criminal or mental record.

ATTACHMENT B

POINTS RELATING TO REPORT

Addressed to the State to which an aircraft
unlawfully seized is diverted

(Note: This is issued in connexion with paragraph 2 of the Terms of Reference and Working Procedures of the ICAO Council's Committee on Unlawful Interference with International Civil Aviation.)

It would be useful if the State concerned made available information on the points mentioned below. Any further relevant information on the non-political aspects of the incident would also be appreciated.

The supplying of such information should not be construed as obliging the State concerned to interrogate the crew or passengers or to delay the release of the aircraft or the crew and passengers in the normal course.

1. GENERAL

- 1.1 Date of the unlawful seizure
- 1.2 Nationality and registration marks of the aircraft
- 1.3 Airline (or owner/operator)
- 1.4 Aerodrome of intended landing
- 1.5 Aerodrome of landing
- 1.6 Aerodrome of embarkation of the person(s) who committed or attempted the act of unlawful seizure
- 1.7 Number of persons on board
 - 1.7.1 Passengers _____
 - 1.7.2 Crew - Flight _____
 - Crew - Cabin (male _____ female _____)

- 2 -

2. DETAILS OF THE UNLAWFUL ACT

- 2.1 Number of persons who committed the act of unlawful seizure
- 2.2 Was this person(s) accompanied by any other person(s) who took no active part in the unlawful seizure?
- 2.3 Nationality(ies) of this person(s)
- 2.4 Name(s) of this person(s)
- 2.5 Age(s) of this person(s)
- 2.6 Sex of this person(s)
- 2.7 How much baggage did this person(s) have?
 - 2.7.1 cabin
 - 2.7.2 checked
- 2.8 If firearms were involved as a means of coercion, give make, type and serial number.

3. THE DIVERTED FLIGHT

- 3.1 Time and position of aircraft when your air traffic services authorities became aware that the aircraft had been illegally seized and was being diverted to an aerodrome in your territory
- 3.2 Were your air traffic services able to maintain adequate separation between the diverted aircraft and other traffic?
- 3.3 Did the diversion cause disturbance to other traffic? (If so, give details).
- 3.4 Were any difficulties experienced in:
 - 3.4.1 Communicating with the aircraft?
 - 3.4.2 Providing meteorological information and air traffic services to the aircraft?
 - 3.4.3 Providing runway and other aerodrome information to the aircraft?

- 3 -

- 3.5 In your opinion, was any hazard to safety involved due to:
- 3.5.1 a lack of communications?
 - 3.5.2 a landing being effected in the prevailing meteorological conditions?
 - 3.5.3 a lack of adequate fuel reserves, taking into account that due to operational considerations landing at an alternate aerodrome in your State may have been necessary?
 - 3.5.4 any operational limitations considering the type of aircraft involved and the circumstances of the landing (day/night, instrument approach, etc.) in relation to the available aerodrome and ground facilities?
 - 3.5.5 any other causes? (If so, give details).
- 3.6 Was the landing effected without incident, additional to those enumerated in 3.5? (If not, supply details).
4. CONSEQUENCES OF THE UNLAWFUL ACTION
- 4.1 Were any injuries sustained by passengers, crew, the persons who committed or attempted the act of unlawful seizure or persons on the ground?
 - 4.2 Were any difficulties or embarrassment experienced in connexion with public health, or animal/plant quarantine regulations?
 - 4.3 Were any aerodrome facilities damaged? (If so, supply details).
5. SUBSEQUENT ACTION
- 5.1 Were there any technical/operational reasons which delayed departure of the aircraft (maintenance requirements, unavailability of parts, suitable fuel, etc.)
 - 5.2 Were all passengers and all crew members permitted to depart on the aircraft?
 - 5.3 Did the persons who unlawfully seized the aircraft give any reasons for their action?
 - 5.4 Has he (they) revealed any information which might suggest that other unlawful seizures will take place? (If so, please supply the information he (they) has given).
 - 5.5 Was he(they) given psychiatric, psychological or physical examinations upon apprehension?
 - 5.6 Was he(they) under the influence of drugs or alcohol?

ATTACHMENT C

POINTS RELATING TO REPORT

Addressed to the State of Embarkation
where other than the State of Registry

(Note: This is issued in connexion with paragraph 2 of the Terms of Reference and Working Procedures of the ICAO Council's Committee on Unlawful Interference with International Civil Aviation.)

It would be useful if the State concerned made available information on the points mentioned below. Any further relevant information on the non-political aspects of the incident would also be appreciated.

1. GENERAL

- 1.1 Date of the unlawful seizure
- 1.2 Nationality and registration marks of the aircraft
- 1.3 Airline (or owner/operator)
- 1.4 Aerodrome of embarkation of the person(s) who committed or attempted the act of unlawful seizure
- 1.5 Name(s) of this person(s)
- 1.6 Were any measures in effect at the aerodrome of embarkation of the person(s) in 1.4 to screen passengers and their hand baggage? (If so, please give details).
- 1.7 Please provide any further details that you may consider useful, such as:
 - 1.7.1 Characteristics and background of the person(s) who committed the unlawful seizure, e. g. behaviour at airport if known, previous criminal or mental record

2. THE DIVERTED FLIGHT

- 2.1 Time and position of the aircraft when your air traffic services authorities became aware that it was not complying with its flight plan and had been diverted

- 2 -

- 2.2 Were your air traffic services able to maintain adequate separation between the diverted aircraft and other traffic?
- 2.3 Did the diversion cause disturbance to other traffic? (If so, give details).

- END -

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my /

TO SEE:

Legal (C. L. H.)
T.C. (Gazette)
File
R

2 December 1969.

The Assistant Deputy Minister, Air,
Department of Transport,
#3 Building,
Ottawa, Ont.

Dear Sir:

Enclosed, for information, is a copy of each
of the following:

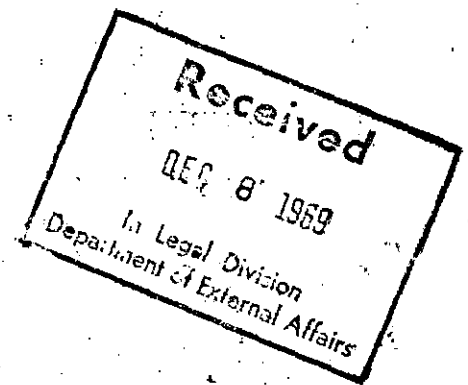
- C-WP/5078 - Report for the third quarter - 1 July to 30
September 1969.
- C-WP/5085 - Report of the Joint Inspection Unit on "Selected
Ideas for Improving Field Operations".
- C-WP/5091 - Unlawful Interference with Intl. Civil Aviation
and its Facilities.

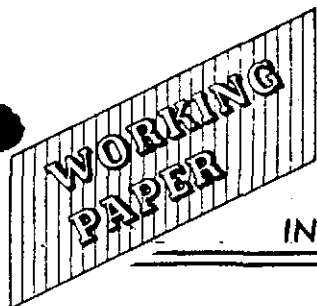
Yours truly,

L.M.E. Brennan
L.M.E. Brennan,
Administrative Officer.

Encls.

- c.c.: The Under-Secretary of State for Ext. Affairs, (2)
Attention: United Nations Division
- The Deputy Minister, Dept. of Finance, (1)
Attention: Mr. D.C. Bignell,
International Programmes Division.
- The Director, International Relations Branch (2)





C-WP/5091
28/11/69

INTERNATIONAL CIVIL AVIATION ORGANIZATION

COUNCIL - SIXTY-EIGHTH SESSION

Subject No. 52: Unlawful Interference with International Civil Aviation and Its Facilities

UNLAWFUL INTERFERENCE WITH INTERNATIONAL CIVIL AVIATION
AND ITS FACILITIES

FIRST REPORT TO COUNCIL BY THE CHAIRMAN OF THE
COMMITTEE ON UNLAWFUL INTERFERENCE

SUMMARY

Presented herewith is the first Report of the Committee on Unlawful Interference.

Action recommended: See paragraphs 15 and 18

Reference: Council Resolution of 10 April 1969
(C -Min. LXVI-26 (Closed))

Introductory

1. By a Resolution adopted on 10 April 1969 (C-Min. LXVI-26 (Closed)) the Council established, under Article 52 of the Convention on International Civil Aviation, a Committee to implement Clause (3) of the said Resolution under the terms of reference appearing in the Appendix to the Resolution.

2. On 13 May 1969 (C-Min. LXVII-2 (Closed)) the Council decided that the Committee on Unlawful Interference with International Civil Aviation and its Facilities established on 10 April 1969 would be constituted as follows:

| | |
|-----------|----------------|
| Australia | Nigeria |
| Colombia | Senegal |
| France | Spain |
| Guatemala | United Kingdom |
| Indonesia | United States |
| Lebanon | |

3. On 19 June 1969 the Committee elected Mr. Y. Diallo (Senegal) as Chairman and Mr. C.F. Butler (United States) as Vice-Chairman. Since that date the Committee has held 24 meetings.

General

4. Following the establishment of its working procedures and plan of action during the first three meetings - which included the decision to hold a series of meetings with experts from international organizations, the invitation to

(11 pages)

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representatives of Members of the Committee to provide information on incidents of unlawful interference, etc. - the Committee for the time being concentrated its attention on the general aspects of the problem and spent considerable time on listening to and questioning representatives of certain international organizations⁽¹⁾ invited to be present at specified meetings as observers. Of the international organizations so invited, IATA, IFALPA and ICPO responded and, in addition to appearing before the Committee by their representatives, made written presentations which were found to be very useful. The rest of the invited organizations believed that they could not make a worthwhile contribution towards solving the problem at this time, and either declined the invitation to send observers or did not supply any documentation, at the same time, however, expressing their full support for the project and offering their co-operation.

5. In addition to discussing the problem with the organizations mentioned above, the United States Representative on the Committee provided information, through his advisers (officials of the Federal Aviation Administration and the Air Transport Association of the United States), on the methods developed for preventing and reducing the incidents of unlawful seizure of aircraft in the United States.

6. Finally, the Committee examined and discussed various working papers, including some reporting on specific cases of unlawful interference with international civil aviation⁽²⁾. The Committee also developed lists of points that may be helpful to States in providing information on unlawful seizure of aircraft pursuant to the Council Resolution of 10 April 1969 referred to above. These lists have been sent to all Contracting States.

7. State Letter LE 4/26-69/128 of 24 April 1969, which brought to the attention of Contracting States the said Resolution, has so far elicited response from 16 States⁽³⁾, of which seven amount to mere acknowledgement, three offer

(1) International organizations invited for the purpose were: IATA (International Air Transport Association), IFALPA (International Federation of Air Line Pilots Associations), AOCI (Airport Operators Council International), ICAA (International Civil Airports Association), ICPO (International Criminal Police Organization), and IAOPA (International Council of Aircraft Owner and Pilot Associations). An additional invitation sent at a later date to the Fédération aéronautique internationale (FAI) has so far evoked no response.

(2) For the information of the Council, the Appendix to this paper enumerates the incidents of unlawful seizure of aircraft that have taken place since 10 April 1969.

(3) The States concerned are: Canada, Colombia, Cuba, Cyprus, Ethiopia, Ghana, Guatemala, Honduras, Luxembourg, Mexico, Pakistan, Panama, Switzerland, Syria, United Arab Republic, United States.

suggestions while the rest provide factual information on incidents. While several of the States involved have supplied information on actual cases of unlawful interference with international civil aviation and its facilities, very few have made comments on achieving the objectives of that Resolution or made any suggestions as requested in the penultimate paragraph of the said State Letter. It is hoped that the lists referred to in paragraph 6 above will prove useful to States and as a result more reports on incidents of unlawful seizure of aircraft will be received. It is the intention of the Committee to examine at a future occasion all such reports that have been received or may be forthcoming. As a result of such examination, the Committee may be able to draw additional conclusions and, as may be necessary, recommend to the Council specific preventive measures additional to those contained in this report.

Discussion

8. From the discussions in the Committee, it appears that "developing preventive measures and procedures to safeguard international civil aviation" has two clear aspects, namely that of general prevention and the other of specific prevention on the ground and in flight. These were considered separately by the Committee (see paragraphs 9 and 10 below) before arriving at the recommendations now made to the Council (see paragraph 15). It will be noted that not all the measures considered during the aforesaid discussions have been enumerated below, but only those that had been seriously advocated or which had obvious merit in the view of the Committee.

9. General prevention

- (a) To enact domestic legislation as soon as possible making the act of unlawful seizure of an aircraft an offence carrying severe penalties.

Note: The inclusion of this suggestion for consideration was decided in the Committee by voting (6 for, 1 against and 3 abstentions).

- (b) To ensure, as far as practicable, the prosecution and punishment of persons committing acts of unlawful seizure of aircraft.
- (c) Wide publicity to be given in news media of either the thwarted attempt or punishment meted out to the person concerned, and similar publicity in regard to the effective methods introduced for detecting the person intending to commit an act of unlawful seizure of aircraft.
- (d) Minimum publicity to be accorded by news media in cases of successful incidents of unlawful seizure of aircraft.
- (e) Display of posters at airports publicizing the penalties for such acts.

10. Specific prevention

- (i) On the ground

It is recognized that the following measures will need to be introduced and strictly enforced or implemented only in those areas which are particularly susceptible to incidents of

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unlawful interference with international civil aviation and its facilities.

- (a) To ensure the strict observance of the prohibition against the carriage of firearms and explosives on the person or in the hand-baggage of a passenger in an aircraft.
- (b) The selective screening or search of passengers and their hand-baggage at or near the gate position prior to embarkation to detect the presence of firearms or other articles capable of being used as weapons.
- (c) Surveillance of the embarkation area between the gate position and the boarding steps in order to ensure that no weapon is handed over to a passenger somewhere between those two points.
- (d) Strict airport security precautions - including provision of security fences, armed guards, etc. - to prevent access by unauthorized persons to aircraft or airport facilities or the "movement area" of the airport.
- (e) Special precautions to be taken by the crew before the commencement of flight in order to discover any stowaway or suspicious object.
- (f) Selective screening or search of accompanied or unaccompanied baggage.

(ii) In flight

The introduction of the measures enumerated below are particularly at the discretion of the States and the airlines who may consider their adoption, taking into account the economic factors involved, their wider usefulness with the advent of the jumbo jets, etc.

- (a) The cockpit should be separated from the passengers' cabin by a bullet-proof transparent door, or a door with a transparent port-hole, which can be locked from inside the cockpit.
- (b) Equipping the cockpit with closed-circuit TV so that the operating crew may at all times be aware of what was taking place in the passengers' cabin, the baggage compartment, etc.
- (c) Unarmed security guards to be carried on board aircraft.

Conclusions

11. The Committee considers that all the measures mentioned in paragraph 9 above should prove useful in reducing the incidence of unlawful interference with international civil aviation, particularly that of unlawful seizure of aircraft*, and strongly believes that the introduction of these measures would have the effect of discouraging those planning to commit such unlawful acts.

12. In regard to the measures of prevention suggested in paragraph 10 above, all those under (i) should prove useful. It is obvious that since all incidents of unlawful seizure of aircraft have been based on threats of violence, and sometimes the use of violence, any measures which seek to prevent the carriage of weapons in aircraft, at least in the passenger cabin, and to introduce security precautions to prevent this happening - which is the purpose of the suggestions in (i) (a), (b) and (c) - will be helpful. Although it is believed that the measure suggested in (i) (b) will prove to be an effective safeguard, there are certain reservations on the ground that such a measure may not be legal in some States. Arising from the factor just mentioned, considered in conjunction with the idea that the measure will need to be introduced only in a few particularly vulnerable areas, the latest system developed for detecting hidden weapons carried on the person or in the hand-baggage of a passenger holds much promise. It consists of a magnetometer device used, at or near the gate position at an airport, in conjunction with the knowledge of the behavioural characteristics of persons who in the past have committed acts of unlawful seizure of aircraft. This system, however, has so far been tested only in the United States, and only recently has been introduced as a normal procedure in conjunction with the service operated by one airline in the United States. Its application to other countries, therefore, will require examination of many factors and the system itself might need modifications and adjustment to suit the prevailing conditions in different States. Measures (i) (d), (e) and (f), on the other hand, are basically against acts of sabotage, and all of these should obviously be of help in cutting down the risk.

12.1 As to paragraph 10 (ii), since the basic consideration is to ensure the safety of flight, any suggestion that may endanger this has to be scrupulously avoided. Paragraph 10 (ii) (a) might provide the operating crew an interval of time in which to assess the situation before being compelled to unlock the cockpit door due to the threat of violence to non-operating crew members in the passenger cabin. Closed-circuit TV in the cockpit (suggestion (ii) (b)), apart from the advantage of keeping the operating crew informed of what was taking place in the passenger cabin, might also have other uses, such as the view into the baggage compartment and other parts of the aircraft to check whether everything was in order and working properly. On the other hand, the carriage of unarmed security guards in aircraft (suggestion (ii) (c)) is not considered to provide any real advantage and was not favoured by the Committee. In this connection, the views of the Air Navigation Commission are also pertinent; excepting 10 (ii) (b)

*The opinion was expressed that the measures mentioned in paragraph 9 (a) and (b) were outside the terms of reference of the Committee, but the majority was not in agreement with this view.

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which they did not examine, the other three were rejected (see the 1251st Report of the Air Navigation Commission to the Council - C-WP/4976 Restricted).

12.2 For the reasons explained above, the Committee favours the adoption of all the measures enumerated in paragraph 10 (i) and those in paragraph 10 (ii) (a) and (b), subject, however, to the qualifications mentioned at the beginning of each part of the said paragraph. It is the intention that an explanatory note along the lines indicated in the latter part of paragraph 12 above will be appended to the suggestion made in paragraph 10 (i) (b) when incorporated in the document mentioned in paragraph 17 below.

Other measures

13. Apart from the preventive measures considered above, the Committee also examined certain measures and procedures which might prove useful in preserving the safety of flight, or which would alleviate the consequences of an unlawful seizure, once the aircraft came under the control and direction of the person so seizing the aircraft. They are:

- (a) In certain areas where the risk of unlawful seizure of aircraft is great, charts and other information about possible diversionary destinations should be kept in aircraft operating in those areas.
- (b) In extreme circumstances, similar to (a) above, consideration might also have to be given to reserves of fuel to be carried by aircraft.
- (c) Guidance should be provided to crew members how to handle incidents of unlawful seizure of aircraft, and to maintain order on the aircraft concerned.
- (d) Special instructions should be issued to air traffic control services in areas where there is significant risk of incidents of unlawful seizure of aircraft on the treatment to be accorded to an unlawfully seized aircraft in the interest of its own safety and that of other air traffic.
- (e) In such areas where communication difficulties between the person unlawfully seizing an aircraft and members of the crew were likely to be experienced, language cards in two or more languages should be kept on board the aircraft.

- (f) The identification of an unlawfully seized aircraft should be immediately transmitted to the air traffic control services by a device which should not arouse the suspicion of the person so seizing the aircraft (e.g., the "Transponder").

13.1 The Committee was in favour of all the measures enumerated in (a) to (f) above as it believes that every practicable step should be taken to avoid a disaster as a result of unlawful seizure of aircraft. The Air Navigation Commission has also, in its report referred to in paragraph 12.1, favoured the adoption of a measure which would automatically "inform an air traffic services unit that an aircraft is being unlawfully diverted...".

13.2 Regarding measures to alleviate the consequences of an unlawful seizure of aircraft, the Committee was strongly in favour of the Council reminding again States of Resolution A16-37, in which the Assembly urged them to "become parties as soon as possible to the Tokyo Convention" and recommending to them that, in pursuance of the same Resolution, even before they ratify or adhere to that Convention, they "give effect to the principles of Article 11" by:

- (i) taking "all appropriate measures to restore control of the aircraft to its lawful commander or to preserve his control of the aircraft"; and
- (ii) permitting "its passengers and crew to continue their journey as soon as practicable," and returning "the aircraft and its cargo to the persons lawfully entitled to possession."

Action recommended

14. The Committee intends to pursue its inquiries and to continue deliberations further in order to exhaust all possibilities of recommending effective action, including material for inclusion in an Annex to the Convention, if required, towards achieving the objectives of the Council Resolution dated 10 April 1969.

15. Meanwhile, the Committee considers that, even at this stage, there are certain measures the adoption of which by the Council could assist Contracting States in taking "all appropriate measures to prevent the occurrence of any acts of unlawful interference so as to assure continued safety in international civil aviation". The measures which the Committee has favoured are as indicated in paragraphs 11, 12.2, 13.1 and 13.2 above, and the Committee recommends their adoption by the Council and communication to Contracting States.

16. The Committee gave consideration to the manner in which the recommendations of the Council for preventive and other measures should be transmitted to Contracting States. It reached the conclusion that it would be desirable to issue a comprehensive document containing all the recommendations that the Council may approve on the basis of the present report together with the text of other decisions already taken by ICAO and other material closely related to the subject of unlawful interference. Such a document would be useful to Governments in that it would provide in a consolidated form the basis on which they could take measures on the national level. It would also constitute a useful reference document for exchanges between ICAO and States and international organizations, and between two or more States. Finally, it would be a clear presentation of the result of the work so far undertaken by ICAO on the subject.

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17. The document that the Committee has in mind would have the same format as the "Statements by the Council to Contracting States on Charges for Airports and Route Air Navigation Facilities" (Doc 8718-C/975). It might be called "Recommendations by the ICAO Council and other actions taken on the subject of unlawful interference with international civil aviation and its facilities" and would consist of:

- brief preface (explaining that the decisions are those taken up to December 1969)
- Index
- text of A16-37
- text of Council Resolution of 16 December 1968 on unlawful seizure
- text of Council Resolution of 10 April 1969
- measures and procedures recommended by the Council (as referred to in para. 15 above)
- reference to the work of the Legal Committee and its Subcommittee on unlawful seizure and to State Letter transmitting draft Convention
- text of the United Nations General Assembly Resolution (now being discussed and if approved).

18. The Committee recommends that the Council approve publication of the document as described in paragraph 17 above.

Submitted,

Y. Diallo

Chairman, Committee
on Unlawful Interference

- - - - -

APPENDIX

List of incidents of unlawful interference with international civil aviation which occurred between 10 April 1969 to 13 November 1969.

- 1) 13 April 1969 - Unlawful seizure of Pan American World Airways' aircraft diverted to Cuba
- 2) 5 May 1969 - Unlawful seizure of National Airlines' aircraft diverted to Cuba
- 3) 20 May 1969 - Unlawful seizure of a Colombian Avianca aircraft diverted to Cuba
- 4) 26 May 1969 - Unlawful seizure of Northeast Airlines' aircraft diverted to Cuba
- 5) 9 June 1969 - Unlawful seizure of a Portuguese aircraft diverted to Brazzaville, Congo
- 6) 17 June 1969 - Unlawful seizure of a Trans World Airlines aircraft diverted to Cuba
- 7) 18 June 1969 - Armed attack against Ethiopian aircraft in Karachi
- 8) 20 June 1969 - Unlawful seizure of aircraft of the Colombian Urraca Airline diverted to Cuba
- 9) 22 June 1969 - Unlawful seizure of an Eastern Airlines aircraft diverted to Cuba
- 10) 26 June 1969 - Unlawful seizure of a United Airlines aircraft on a domestic flight diverted to Cuba
- 11) 28 June 1969 - Unlawful seizure of an Eastern Airlines aircraft on a domestic flight diverted to Cuba
- 12) 3 July 1969 - Honduras Airliner fired on from El Salvador
- 13) 3 July 1969 - Unlawful seizure of an Ecuadorian SAETA DC-3 aircraft on a domestic flight diverted to Cuba
- 14) 26 July 1969 - Unlawful seizure of a Continental Airlines DC-9 on a domestic flight diverted to Cuba
- 15) 26 July 1969 - Unlawful seizure of a Mexican Airlines DC-6 aircraft on a domestic flight diverted to Cuba
- 16) 31 July 1969 - Unlawful seizure of a Trans World Airlines Boeing 727 aircraft on a domestic flight diverted to Cuba

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APPENDIX (CONT'D)

- 17) 11 August 1969 - Unlawful seizure of an Ethiopian Airlines DC-3 aircraft on a domestic flight diverted to Sudan
- 18) 14 August 1969 - Unlawful seizure of a Northeast Airlines aircraft Boeing 727 on a domestic flight diverted to Cuba
- 19) 17 August 1969 - Unlawful seizure of an Olympic Airways aircraft on a domestic flight diverted to Albania
- 20) 18 August 1969 - Unlawful seizure of a United Arab Airlines aircraft on a domestic flight diverted to Saudi Arabia
- 21) 24 August 1969 - Unlawful seizure of a Colombian Avianco aircraft on a domestic flight diverted to Cuba
- 22) 29 August 1969 - Unlawful seizure of a Trans World Airlines aircraft on a flight from New York to Rome and Athens diverted to Damascus
- 23) 29 August 1969 - Unlawful Seizure of National Airlines aircraft on a domestic flight diverted to Cuba
- 24) 7 September 1969 - Unlawful seizure of an Eastern Airlines DC-8 aircraft on a flight from New York to San Juan diverted to Cuba
- 25) 7 September 1969 - Unlawful seizure of two Ecuadorian Air Force C-47 aircraft on a domestic flight one of which was diverted to Cuba
- 26) 13 September 1969 - Unlawful seizure of a Hondurian Airlines aircraft on a domestic flight diverted to San Salvador
- 27) 14 September 1969 - Unlawful seizure of an Ethiopian Airlines DC-6 aircraft on a domestic flight diverted to Aden
- 28) 16 September 1969 - Unlawful seizure of a Turkish Airways Viscount on a domestic flight diverted to Bulgaria
- 29) 24 September 1969 - Unlawful seizure of a National Airlines aircraft on a domestic flight diverted to Cuba
- 30) 8 October 1969 - Unlawful seizure of an Aerolineas Argentinas aircraft on a flight from Buenos Aires to Miami diverted to Cuba
- 31) 8 October 1969 - Unlawful seizure of a Brazilian Cruzeiro do Sul aircraft on a domestic flight diverted to Cuba

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APPENDIX (CONT'D)

- 32) 9 October 1969 - Unlawful seizure of a National Airlines DC-8 on a domestic flight diverted to Cuba
- 33) 19 October 1969 - Unlawful seizure of a Polish LOT Airlines aircraft on a flight from Warsaw to Brussels, with a stopover in East Berlin, diverted to West Berlin.
- 34) 21 October 1969 - Unlawful seizure of a Pan American Airways aircraft on a flight from Mexico City to Miami diverted to Cuba
- 35) 28 October 1969 - Unlawful seizure of Colombian twin-engined aircraft on domestic flight diverted to Cuba
- 36) 31 October 1969 - Unlawful seizure of TWA aircraft over California diverted to Eastern United States, Ireland and finally to Rome
- 37) 5 November 1969 - Unlawful seizure of Nicaraguan aircraft which was diverted to Cuba
- 38) 7 November 1969 - Unlawful seizure of Austral airlines (Argentina) aircraft on domestic flight diverted to Uruguay
- 39) 12 November 1969 - Unlawful seizure of Chilean Airlines Caravelle on a domestic flight diverted to Cuba, but attempt foiled before reaching destination.
- 40) 13 November 1969 - Unlawful seizure of Brazilian airliner diverted to Cuba.

- END -

TEL.: 866-2551

ORGANISATION DE L'AVIATION
CIVILE INTERNATIONALE



ORGANIZACIÓN DE AVIACIÓN
CIVIL INTERNACIONAL

*File on flying
Joz*

INTERNATIONAL CIVIL AVIATION ORGANIZATION

INTERNATIONAL AVIATION BUILDING
1080 UNIVERSITY STREET
MONTREAL 101, P.Q. CANADA

42-8-9-3-1040
37
21 November 1969

WHEN REPLYING, PLEASE QUOTE:
RÉFÉRENCE À RAPPELER DANS LA RÉPONSE:
INDIQUESE EN LA RESPUESTA ESTA REFERENCIA:

LM 2/2.3

Further to the Secretary General's letter LM 2/2.1-
69/282 dated 14 November 1969 the following documents, relating
to the Seventeenth Session of the Legal Committee to be held
in Montreal on 9 February 1970, are sent herewith:

LC/Working Draft Nos. 743
746
747
748
749
750



LC/Working Draft No. 743
11/11/69

L E G A L C O M M I T T E E

SEVENTEENTH SESSION

(February - March 1970)

NOTE ON DOCUMENTATION

The last document of the Sixteenth Session of the Legal Committee bore the number LC/Working Draft No. 742.

For the Seventeenth Session, the documents will consist of the following:

A. relating to Provisional Agenda item 3,
Question of Revision of the Warsaw Convention as Amended
by the Hague Protocol:

- (1) Doc 8839-LC/158-1: Documentation Vol. I of the Subcommittee,
comprising:
 - (i) Report of the Subcommittee on its 2nd session,
LC/SC Warsaw - Report II, 19/9/69;
 - (ii) Report of the Subcommittee on its 1st session,
LC/SC Warsaw - Report, 9/12/68;
 - (iii) LC/SC Warsaw WDs 1 to 40;
- (2) Doc 8839-LC/158-2: Documentation Vol. II of the Subcommittee.

Note: Other documents relating to this subject (Warsaw), when
issued, will be numbered in the series LC/Working Draft
No. 745, thus:

LC/Working Draft No. 745-1
LC/Working Draft No. 745-2
LC/Working Draft No. 745-3

- and so on.

B. relating to Provisional Agenda item 4,
Unlawful Seizure of Aircraft:

Doc 8838-LC/157, comprising:

- (i) Report of the Subcommittee on its 2nd session,
LC/SC SA - Report II, 3/10/69;
- (ii) Report of the Subcommittee on its 1st session,
LC/SC SA - Report, 21/2/69;
- (iii) LC/SC SA WDs 1 to 38.

LC/Working Draft No. 743

- 2 -

Note: Other documents relating to this subject (Unlawful Seizure), when issued, will be numbered in the series LC/Working Draft No. 744, thus:

LC/Working Draft No. 744-1

LC/Working Draft No. 744-2

LC/Working Draft No. 744-3

- and so on.

- C. Note on Documentation (this paper),
LC/Working Draft No. 743;
- D. relating to Provisional Agenda item 1,
Adoption of the Final Agenda and Proposed Work Schedule,
LC/Working Draft No. 746;
- E. relating to Provisional Agenda item 2,
Report of the Secretariat; LC/Working Draft No. 747;
- F. relating to Provisional Agenda item 5,
Review of the General Work Programme, LC/Working Draft No. 748;
- G. relating to Provisional Agenda item 6,
Election of the Chairman and Vice-Chairmen,
LC/Working Draft No. 749;
- H. relating to Provisional Agenda item 7,
Date, place and provisional agenda of the Eighteenth Session,
LC/Working Draft No. 750;
- I. any other documents (than those described above) relating to
the Seventeenth Session will be assigned numbers 751, 752 and
so on.

Note: With reference to item 8 of the Provisional Agenda, Report on Work done at the Session, no Working Draft is being issued.

- END -



L E G A L C O M M I T T E E

SEVENTEENTH SESSION

(February - March 1970)

Agenda Item No. 1: Adoption of the Final Agenda of the Session
and Proposed Schedule

Part I - Provisional Agenda

1. The Provisional Agenda of the Session, as approved by the Council, is set out below. The notes under each item are provided by the Secretariat.

Item 1: Adoption of the Final Agenda of the Session

Note: (1) Rule 11(a) of the Rules of Procedure of the Legal Committee (Doc 7669-LC/139) provides:
"The Committee shall fix the final agenda at its first meeting."

(2) LC/WD No. 746 (this paper).

Item 2: Report of the Secretariat

(Please see Note on this item in LC/WD No. 747)

Item 3: Question of Revision of the Warsaw Convention of 1929 as Amended
by the Hague Protocol of 1955

(Please see the Reports of the Subcommittee on this subject in Doc 8839-LC/158 and documents in the series (to be issued) LC/WD No. 745 (i.e., 745-1, 745-2, etc.)

Item 4: Unlawful Seizure of Aircraft

(Please see the Reports of the Subcommittee on this subject in Doc 8838-LC/157 and documents in the series (to be issued) LC/WD No. 744 (i.e., 744-1, 744-2, etc.)

Item 5: Review of the General Programme of Work of the Committee

(Please see Note on this item in LC/WD No. 748)

Item 6: Election of the Chairman and Vice-Chairmen of the Committee

(Please see Note on this item in LC/WD No. 749)

Item 7: Date, Place and Provisional Agenda of the Eighteenth Session
of the Committee

(Please see Note on this item in LC/WD No. 750)

Item 8: Report on Work Done at the Session

The parts of the report relating to the question of Revision of the Warsaw Convention as Amended by the Hague Protocol and the subject of Unlawful Seizure of Aircraft will have been dealt with under items 3 and 4 above. The present item, i.e., No. 8, concerns the rest of the report on the work of the Session.

Part II - Proposed Work Schedule

2. As stated in the letter of invitation to this Session, the Council, in approving the Provisional Agenda of this Session, agreed with the following plan:

- (a) the period 9 February to approximately 2 March should be devoted to the work on the subject in item 3 above, namely, Revision of the Warsaw Convention as Amended by the Hague Protocol, with the objective of preparing, at this Session, a final draft convention, or protocol, on that subject;
- (b) the period from 3 March upto approximately 10 March should be devoted to work on the subject in item 4 above, namely, Unlawful Seizure of Aircraft, with the objective of preparing a final draft convention, or protocol, on that subject at this Session.

Note: (1) If the Legal Committee finds that, for completion of its work, a couple of days beyond 10 March would be necessary, the Council has agreed that the Session may be extended accordingly.

- (2) The estimate of the Secretariat is that while items 1 and 2 of the Provisional Agenda could be dealt with on the opening day of the Session, it would be possible to find time within the Session for disposal of items 5 to 8.

Part III - Action

3. The Committee is invited to take decisions on -

- (a) the adoption of the Final Agenda; and
- (b) the work schedule specified above.

- END -



LC/Working Draft No. 747
17/11/69

L E G A L C O M M I T T E E

SEVENTEENTH SESSION

(February - March 1970)

Agenda Item No. 2: Report of the Secretariat

1. The questions for consideration by the Legal Committee at its Seventeenth Session are specified in LC/Working Draft No. 746, in which are set out the items on the Provisional Agenda of the Session, with brief notes or an indication of related Working Drafts, and a proposed Work Schedule.
2. The documentation for the Session issued as at this date, 17 November 1969, are specified in LC/Working Draft No. 743.
3. Comments which may be received from States and international organizations on any of the subjects on the Provisional Agenda will be made available to the Legal Committee in due course.
4. If, before the Seventeenth Session, there are any developments concerning other legal matters of significant interest to the Committee, the Secretariat will present a supplementary report, including information on any action taken by the General Assembly of the United Nations on the subject of Unlawful Seizure of Aircraft (the subject being described on the Agenda of the General Assembly as Forcible Diversion of Civil Aircraft in Flight).

- END -



LC/Working Draft No. 748
17/11/69

L E G A L C O M M I T T E E

SEVENTEENTH SESSION

(February - March 1970)

Agenda Item No. 5: Review of the General Programme of Work of the Committee

1. In September 1967 the Legal Committee, at its Sixteenth Session, established its general work programme. That work programme was set out in Annex G to the Report of the Sixteenth Session of the Legal Committee, Doc 8704 LC/155.

2. On 21 March 1968, the Council approved that general work programme as drawn up by the Legal Committee.

3. In September 1968 the Assembly decided to retain the list, and the order of priority, of the subjects in the work programme of the Legal Committee which, as stated above, had been established by the Legal Committee and approved by the Council.

4. On 9 December 1968, the Council decided that the question of Unlawful Seizure of Aircraft should be referred to the Legal Committee with a request to the Chairman to form a subcommittee to study this question. During 1969, the Subcommittee on that subject and the Subcommittee on Revision of the Warsaw Convention as Amended by the Hague Protocol held, each, two Sessions. Thus, in effect, both those subjects have been accorded top priority in the Legal Committee's general work programme.

5. Having regard to the foregoing decisions and facts, the general programme of work of the Legal Committee, divided in two parts, A and B, consists, ... at the present time, of the items set out in the Attachment hereto.

6. Action: The Committee is invited to determine its general work programme, as at the end of the Seventeenth Session, with indication of priority of the items, for submission to the Council for approval.

- - - - -

ATTACHMENT

Part A: Subjects of Current Study

1. Question of Revision of the Warsaw Convention of 1929 as Amended by the Hague Protocol of 1955
2. Unlawful Seizure of Aircraft
3. Liability of Air Traffic Control Agencies

Note: At its Sixteenth Session in September 1967 the Legal Committee considered the report of the second session of the Subcommittee on this subject. The Committee reaffirmed the objective that international rules should be comprised in a particular convention on liability of air traffic control agencies, without precluding the exploration, in the course of studies on this subject, of such problems as might arise in relation to the problems of damage caused by foreign aircraft to third parties on the surface and aerial collisions. The Committee decided that the Subcommittee should continue its work, taking into account the foregoing. The Subcommittee has not been convened since that time (1967).

4. Aerial Collisions

Note: The Legal Committee at its Fifteenth Session in September 1964 prepared a draft convention on this subject (Doc 8444 LC/151, 19/9/64, Attachment to Annex C). It did not regard the text as a definitive one. The Assembly (Fifteenth Session) decided in July 1965 that a subcommittee or working group should be established to study the draft convention in question in the light of any related problems, including problems common to that convention, the Rome Convention and the subject Liability of Air Traffic Control Agencies, the report of such subcommittee to be considered by the Legal Committee following consideration of the reports of the Subcommittees on the Rome Convention and on Liability of Air Traffic Control Agencies. As stated in the Notes on Item 3 above and Item 5 below, the Legal Committee decided, in 1967, that the last-mentioned Subcommittees should continue their work. A subcommittee or working group mentioned as above, namely, to study the draft convention on aerial collisions in the light of related problems common to that convention, the Rome Convention and the subject of Air Traffic Control Agencies has not been established.

5. Study of the Rome Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface (Rome 1952)

Note: At its Sixteenth Session in September 1967, the Legal Committee considered the report of the second session of the Subcommittee on the Revision of the Rome Convention. It was decided that the Subcommittee should continue to exist and that it should, in its further work, take into account the comments made during the Sixteenth Session of the Committee and comments which had already been received or might later be received from States. However, the Committee considered that the Subcommittee could only meet when more experience had been gained and material received in relation to the topics of sonic boom, nuclear damage and limitation of liability. According to the Legal Committee, it would be for its Chairman to determine, in consultation with the Chairman of the Subcommittee, when the Subcommittee should be reconvened. The Committee noted that one of the topics which could be studied by the Subcommittee was that of a standard form of a certificate of insurance or other security. It also expressed the view that its study of possible amendments to the Rome Convention should not deter States which were otherwise ready to take appropriate action in that regard from becoming parties to it.

6. Resolution B of the Guadalajara Conference

Note: This subject is concerned with legal problems affecting the regulation and enforcement of air safety which have been experienced by certain States when an aircraft registered in one State is operated by an operator belonging to another State. The Legal Committee at its Fifteenth Session in September 1964 decided that the best way of solving the problems in question would be the delegation of functions of the State of registry to the State of the operator of the aircraft concerned; that the Subcommittee on the subject should prepare model bilateral agreements to provide for such delegation; and that the Secretariat should send a Questionnaire to the States concerned with these problems in order to obtain factual information for use by the Subcommittee. It considered that the study of the practical problems in ECAC was to be welcomed. The Assembly at its Fifteenth Session (1965) recommended that the Chairman of the Legal Committee appoint a Rapporteur to study this subject and to keep in touch with other organizations working on the question. At its Sixth Session (June-July 1967) the ECAC adopted Recommendation No. 14

(Procedures for the expeditious interchange of aircraft without crew) (see Doc 8694 ECAC/6, pp. 62-63) which will be of interest to the ICAO Legal Committee in its study of Resolution B of the Guadalajara Conference. In view of priority accorded to other subjects, the Subcommittee on Resolution B of the Guadalajara Conference has not been convened nor has a Questionnaire been issued. In March 1967 the Chairman of the Legal Committee appointed a Rapporteur.

It may be of interest to the Legal Committee to note the action taken by the ECAC at its Second Intermediate Session in July 1969 when it adopted the following recommendation:

"Recommendation No. 4

Delegation of Annex 6 Functions:

WHEREAS Annex 6 to the Chicago Convention does not prevent the State of registry from delegating to another State the functions it is required to carry out under that Annex; and

WHEREAS such delegation of function might in certain cases facilitate interchange arrangements,

THE CONFERENCE RECOMMENDS

- 1) that, where interchange arrangements would thereby be facilitated and no substantial difficulties would thereby be created, the State of registry of the aircraft interchanged should to the extent considered necessary delegate to the State of the operator its function under Annex 6 of the Chicago Convention;
- 2) that the State of the operator should agree to exercise functions delegated by the State of registry under Annex 6; and
- 3) that the State of the operator should, if necessary, change its national regulations to the extent required to empower it both to accept such delegation of functions and to oblige the operator to fulfil the obligations imposed by Annex 6 wherever the aircraft of the operator may be."

In regard to Part A of the Work Programme of the Legal Committee, the Legal Commission of the Sixteenth Session of the Assembly (1968) decided to recommend that the Chairman of the Legal Committee should, when in his opinion the circumstances justify it, take the necessary measures to speed up the work on Item 5 (Resolution B of the Guadalajara Conference) without the order of priority of the items on the Programme being modified.

7. Legal Status of the Aircraft; aspects other than those found in the Tokyo Convention

Note: The adoption, at Tokyo on 14 September 1963, of the Convention on Offences and Certain Other Acts Committed on Board Aircraft marked the end of the Legal Committee's work on the corresponding aspects of the subject of the Legal Status of the Aircraft. The Subcommittee on the Legal Status of the Aircraft which had initially studied that subject had decided, at its meeting in Geneva in September 1956, to limit its study to criminal or other dangerous acts committed on board an aircraft, and had at the same time stated that it was understood that such study was undertaken without prejudice to possible future study of problems of a civil law nature, such as contracts and torts related to the legal status of the aircraft. No work has been done on the other aspects of the subject after it was included in Part A of the Legal Committee's work programme by the Fifteenth Session of the Assembly (1965).

Part B: Subjects on which no work should be undertaken unless and until a report had been submitted to the Council by the Secretary General or by the Chairman of the Legal Committee indicating the need for such work and Council had approved, or unless the Assembly or Council otherwise directed that active work should be undertaken

Note: At its Sixteenth Session, the Assembly instructed the Legal Committee to examine Part B of the Work Programme of the Legal Committee with a view to reducing the number of subjects in that Part. The subjects in question are:

- (1) Study of a system of guarantees for the payment of compensation in pursuance of the Warsaw Convention
- (2) Study with a view to unifying the rules relating to procedure in cases arising under conventions on air law and of the rules of procedure applicable to the execution of judgments
- (3) Research in regard to measures for promoting the uniform interpretation of international private air law conventions, and research in regard to measures to be taken in order to ensure (a) the international authority of judgments by competent tribunals on conventions in force on air matters and (b) the distribution and allocation of awards in pursuance of such conventions

Note: During its Thirteenth Session, the Legal Committee authorized its Chairman to appoint rapporteurs on the subjects numbered (1) and (2) above, but no such appointment has been made at the time of writing this paper. A new rapporteur has been appointed for the subject at (3) above.

(4) Consideration of problems concerning assistance on sea and land and remuneration therefor

Note: After the Council and the Legal Committee had studied this item during 1948 and States had been consulted through a questionnaire, the Legal Committee considered the replies and adopted at its Fourth Session (June 1949) a Report recommending that "when the Council has reached a conclusion on the basic policy to be followed in discharging the mutual obligations of the Contracting States under Article 25 of the Chicago Convention, the matter be referred again to the Legal Committee for further consideration of a draft convention covering remuneration between States for search and rescue operations". The Report noted also that "at the time a draft convention on remuneration is being prepared, it may be found desirable to revise the Brussels Convention and to consider the draft convention on Assistance to Aircraft on Land and related matters".

On 18 October 1949, the Council decided to defer consideration of the problems of financing search and rescue operations until action had been taken on the Search and Rescue Annex. Annex 12 (SAR) became effective on 1 December 1950. Since then no further developments have taken place on this subject with reference to any action by the Legal Committee.

(5) Résolution D of the Guadalajara Conference (New problems of private air law arising in connection with the hire, charter and interchange of aircraft, particularly in relation to the liability of a person who makes available to another an aircraft without crew)

Note: No action has been taken on this subject.

(6) Legal Status of the Aircraft Commander

Note: Pursuant to the decision taken by the Legal Commission of the Fourteenth Session of the Assembly, this subject, previously appearing in Part A, has been moved to Part B since certain questions related to this subject have been dealt with in the Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo, 1963).

- (7) Study of a possible consolidation of international rules contained in the Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface (Rome, 1952), the draft convention on aerial collisions and the subject of liability of air traffic control agencies

Note: At its Fifteenth Session, the Legal Committee decided to place this subject in Part B of its general work programme.

- (8) Liability in respect of nuclear material in relation to civil aviation

Note: The Assembly in 1965 recommended that this subject which previously appeared in Part A should be included in Part B, it being understood that the rapporteur on this subject would make reports to the Legal Committee as may be necessary.

- (9) Study of the Convention for the Unification of Certain Rules relating to the Precautionary Attachment of Aircraft (Rome 1933)

Note: The Legal Committee included this subject in Part B at its Sixteenth Session in September 1967.

- END -



LC/Working Draft No. 749
17/11/69

L E G A L C O M M I T T E E

SEVENTEENTH SESSION

(February-March 1970)

Agenda Item No. 6: Election of the Chairman and Vice-Chairmen of the Committee

NOTE ON THE ELECTION

1. At its Sixteenth Session, the Legal Committee amended Rule 6 of its Rules of Procedure with effect from the Seventeenth Session as follows:

"Rule 6 - Chairman and Vice-Chairmen

The Committee shall elect at the end of every second session, from among the representatives of States, a Chairman and three Vice-Chairmen. Such officers shall hold office from the time of their election until their successors are duly elected. They shall not be eligible for re-election for the next succeeding term."

As a transitional measure, the Committee, in electing its officers at the Sixteenth Session, decided that they would continue to hold office until their successors were elected at the end of the Seventeenth Session in accordance with Rule 6 of the Committee's Rules of Procedure as revised.

2. Accordingly, the election of the new officers would take place only at the end of the Seventeenth Session and those elected would remain in office until the end of the Nineteenth Session.

3. Since the establishment of the Legal Committee, the following have served as officers:

| | | |
|-----------------------------------|---------------|------------------|
| Mr. André Garnault (France) | Chairman |) Elected at the |
| Mr. Justice E. Alten (Norway) | Vice-Chairman |) First Session |
| Mr. C.S. Booth (Canada) | Vice-Chairman |) September 1947 |
| Mr. E.M. Loaeza (Mexico) | Chairman |) Elected at the |
| Mr. L. Clerc (Switzerland) | Vice-Chairman |) Fourth Session |
| Mr. H.W. Poulton (Australia) | Vice-Chairman |) June 1949 |
| Mr. E.T. Nunneley (United States) | Chairman |) Elected at the |
| Mr. P.A.T. De Smet (Belgium) | Vice-Chairman |) Sixth Session |
| Mr. A.A. Irungaray (Argentina) | Vice-Chairman |) June 1950 |

| | | |
|--|---------------|-------------------------|
| Mr. L. Clerc (Switzerland) | Chairman |) Elected at the |
| Gen. José Salvador Merino (Spain) | Vice-Chairman |) Eighth Session |
| Maj. K.M. Beaumont (United Kingdom) | Vice-Chairman |) September 1951 |
| Mr. T. Cavalcanti (Brazil) | Chairman |) Elected at the |
| Mr. K. Sidenbladh (Sweden) | Vice-Chairman |) Ninth Session |
| Mr. A. Ambrosini (Italy) | Vice-Chairman |) August-September 1953 |
| Maj. K.M. Beaumont (United Kingdom) | Chairman |) Elected at the |
| Mr. C. Gómez Jara (Spain) | Vice-Chairman |) Tenth Session |
| Mr. Diaeddine Saleh (Egypt) | Vice-Chairman |) September 1954 |
| Mr. A. Ambrosini (Italy) | Chairman |) Elected at the |
| Mr. S. Komachiya (Japan) | Vice-Chairman |) Eleventh Session |
| Mr. V.J. Delascio (Venezuela) | Vice-Chairman |) September 1957 |
| Mr. C. Gómez Jara (Spain) | Chairman |) Elected at the |
| Mr. G. Rinck (Federal Republic of Germany) | Vice-Chairman |) Twelfth Session |
| Mr. R. Golstein (Belgium) | Vice-Chairman |) August-September 1959 |
| Mr. K. Sidenbladh (Sweden) | Chairman |) Elected at the |
| Mr. C. Berezowski (Polish People's Republic) | Vice-Chairman |) Thirteenth Session |
| Mr. J.B. Diaz (Philippines) | Vice-Chairman |) September 1960 |
| Mr. R. Golstein (Belgium) | Chairman |) Elected at the |
| Mr. J.P. Houle (Canada) | Vice-Chairman |) Fourteenth Session |
| Mr. U.A. Fernández-Tavelli (Argentina) | Vice-Chairman |) August-September 1962 |
| Mr. V.J. Delascio (Venezuela) | Chairman |) Elected at the |
| Mr. W. Guldimann (Switzerland) | Vice-Chairman |) Fifteenth Session |
| Mr. B.S. Gidwani (India) | Vice-Chairman |) September 1964 |
| Mr. F.X. Ollassa (Congo/Brazzaville) | Vice-Chairman |) |
| Mr. W. Guldimann (Switzerland) | Chairman |) Elected at the |
| Mr. D. Pardo Tovar (Colombia) | Vice-Chairman |) Sixteenth Session |
| Mr. A. El Hicheri (Tunisia) | Vice-Chairman |) September 1967 |
| Mr. N. Nakano (Japan) | Vice-Chairman |) |

4. Action: The Committee, at the end of this (17th) Session, has to elect the Chairman and three Vice-Chairmen who will hold office from the end of the Seventeenth Session until the end of the Nineteenth Session.

- END -



LC/Working Draft No. 750
17/11/69

L E G A L C O M M I T T E E

SEVENTEENTH SESSION

(February - March 1970)

Agenda Item No. 7: Date, Place and Provisional Agenda of the Eighteenth Session of the Committee

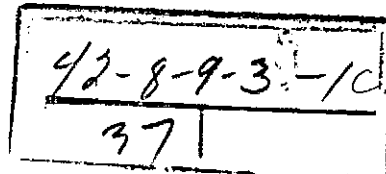
1. According to Rules 1 and 3 of the Rules of Procedure, "The Committee shall normally hold an annual session. Additional sessions may be held, if necessary" and "The sessions of the Committee shall be convened at such times and places as may be directed by the Council".
2. Rule 10(a) provides: "At the end of each session, the Committee shall determine a provisional agenda for the next session".
3. The Committee will no doubt consider the question of the place, time and provisional agenda of its next session, in the light of the decisions it will have taken during the Seventeenth Session, particularly those in connection with its general work programme (Agenda Item No. 5).

Action

4. Any views which the Committee may decide to transmit to the Council concerning the place and time and the provisional agenda of its Eighteenth Session will be incorporated in the Report of the Session.

- END -

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Hijacking*



U N C L A S S I F I E D

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HSNKI HAVAN TOKYO

ICAOMONTREAL DE OTT

XXIV UNGA:6TH CTTEE:MTG 1154 NOV18. HIJACKING AND VIENN LAW OF
TREATIES CONFERENCE RESLN RELATING TO ARTICLE 66 AND COSTS OF
CONCILIATION

NETHERLANDS REP ON BEHALF OF 28 COSPONSORS INTRODUCED AGENDA ITEM
105 RESLN ON THE FORCIBLE DIVERSION OF CIVIL AIRCRAFT IN FLT
(A/C6/L771). COPY OF TEXT OF STATEMENT BY BAG TO OTT ONLY (FOR
FURTHER DISTR). DEBATE (IF ANY) ON RESLN TO FOLLOW AGENDA ITEM 88
DEFINITION OF AGGRESSION.

2. NIGERIA REP THEN INTRODUCED ITEM 94. RESLN RELATING TO ARTICLE
66 OF THE VIENN CONVENTION ON THE LAW OF TREATIES AND ANNEX THERETO
(A/C6/L774). COSPONSORS WISH TO INCLUDE ONE FURTHER PREAMBULAR PARA
REFERRING TO SECGENS REPORT AC6.397 OF OCT11 ON FINANCIAL
IMPLICATIONS. THEY ALSO WISH TO INCLUDE A PARA RE REMUNERATION FOR
CONCILIATION COMMISSIONERS (DOLLARS 1000 PER COMMISSIONER, DOLLARS
2000 FOR CHAIRMAN) IN 6TH CTTEE REPORT. DEBATE ON RESLN DEFERRED TO
NOV19 MTG WHEN NEW TEXTS AVAILABLE.