

Department of External Affairs

CLASSIFIED

File No. 42-8-9-3-1CAO

TRANSFERRED TO P...

Document

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

Vol. 3
From 70/06/1
To 70/07/31

References to Related Files

File No.	Subject
<div data-bbox="427 1182 1565 1680" data-label="Text"> <p>PUBLIC ARCHIVES DEPT. OF RECORDS CENTRE DEPOT DES ARCHIVES PUBLIQUES OTTAWA</p> </div> <div data-bbox="300 1169 1519 2217" data-label="Text"> <p>CLOSED</p> </div> <div data-bbox="1001 1532 1692 2029" data-label="Text"> <p>ACCESS TO INFORMATION L'ACCES A L'INFORMATION EXAMINED BY / EXAMINE PAR: <i>[Signature]</i> DATE / DATE: 13 March 1989</p> </div> <div data-bbox="1001 1787 1301 2029" data-label="Text"> <p>DECLASSIFIED</p> </div> <div data-bbox="1037 1948 1428 2163" data-label="Text"> <p>L411-203</p> </div>	

PUBLIC RECORDS ORDER

RETENTION PERIOD AND DISPOSITION

DIVISIONAL SYMBOL

P.C. 1966 - 1749 - AUTHORITY

5 YRS. (2A - 3D)

ACRO

PUBLIC ARCHIVES APPROVALS

AND...

THEN TRANSFER TO P.A.C.
FOR SELECTIVE RETENTION

NOS 68/001 & 69/063

V.3

VOL. 3

File No. 42-8-9-3-1CAO

CLOSED

National Archives :-

The following Cabinet Paper
is subject to s. 69(i)
until July 1990 and
thereafter it must not be
released without clearance
by P.C.O.

"Record of Cabinet Decision"
June 9, 1970 - Compromised
by Cabinet on June 11, 1970.

ACCESS TO INFORMATION L'ACCES A L'INFORMATION EXAMINED BY / EXAMINÉ PAR: G. G. Hughes
DATE / DATE: 13 March 1989

CLOSED  **VOLUME**
VOLUME **COMPLET**

DATED FROM 70/06/1 TO 70/07/31
À CONTER DU JUSQU' AU

AFFIX TO TOP OF FILE — À METTRE SUR LE DOSSIER

DO NOT ADD ANY MORE PAPERS — NE PAS AJOUTER DE DOCUMENTS

FOR SUBSEQUENT CORRESPONDENCE SEE — POUR CORRESPONDANCE ULTÉRIEURE VOIR

FILE NO. — DOSSIER N° 42-8-9-3-1CAO	VOLUME 4
--	-------------

TEL.: 866-2351

ORGANISATION DE L'AVIATION
CIVILE INTERNATIONALE



ORGANIZACIÓN DE AVIACIÓN
CIVIL INTERNACIONAL

(CS)

INTERNATIONAL CIVIL AVIATION ORGANIZATION

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

4879310AC
21 -

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

E 1/17 - 70/160

Subject: Assembly Resolutions
A17-1 and A17-19

Action Required: (1) To give wide publicity
to Resolution A17-1 and (2) to notify ICAO
of measures taken on Assembly Resolutions

J-74

FLÉ
Kopuhone
M, J...
OUN (Toggie)
24 July 1970
OK.
A

Sir,

1. I have the honour to inform you that under separate cover I am transmitting to you the preliminary edition of a document containing the text of the resolutions adopted by the 17th Session (Extraordinary) of the Assembly, held in Montreal from 16 to 30 June 1970. In this letter, I should like to draw your attention to two of these resolutions, A17-1 and A17-19.

Resolution A17-1

2. Resolution A17-1 contains a Declaration by the Assembly on the subject of unlawful interference with international civil aviation and its facilities. In recommending its adoption by the Assembly, the Executive Committee emphasized that the Declaration should be given the widest publicity by ICAO and by individual governments. ICAO will do this through its public information services (ICAO Bulletin, press-releases, etc), and I invite your Government to do the same by such means as it considers appropriate. One possibility mentioned during the discussion at the Assembly was to display the Declaration in prominent places at international airports.

I would not do much good!

Resolution A17-19

3. As requested by the Assembly in this resolution, the President of the ICAO Council on 16 July 1970 addressed a letter to the Heads of Government of

30 The Representative of Canada
on the Council of ICAO
International Aviation Building
MONTREAL

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25.7.8

- 2 -

... all States invited to the Extraordinary Session. A copy of it is attached; the Declaration mentioned in the second paragraph of the letter is that contained in Resolution A17-1.

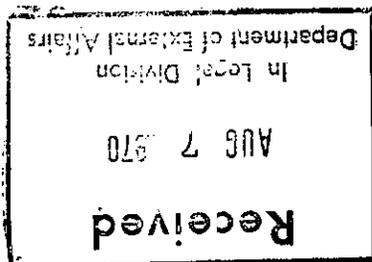
4. I should be grateful if you would kindly let me know, in due time, of the measures taken by your Government in response to the resolutions of the Assembly mentioned in that letter.

Accept, Sir, the assurances of my highest consideration.

T. J. Baum
for B. T. Twigt
Secretary General

Enclosure:

Copy of President's letter to
Heads of Government



ATTACHMENT to State Letter E 1/17 - 70/160

TEXT OF LETTER FROM THE PRESIDENT OF THE COUNCIL
TO HEADS OF GOVERNMENT

16 July 1970

[Note.- The salutation varied according to whether the letter was addressed to a President, a Prime Minister or a Monarch.]

I have the honour to inform you that the Assembly of the International Civil Aviation Organization met in Extraordinary Session, in Montreal, from 16 to 30 June 1970, to consider the problem of unlawful interference with international civil aviation and its facilities and try to find adequate solutions. The Assembly requested me to communicate its conclusions to the Heads of Government of all States invited to the Session, since the resolutions adopted are of great importance for the safety of international civil aviation.

The Extraordinary Session, which was attended by ninety-one of the one hundred and nineteen Contracting States of the Organization, adopted a Declaration, a copy of which is attached. The urgent appeal addressed to all States by the Assembly testifies to the seriousness of the situation faced by international civil aviation because of acts of violence directed against it. The Declaration demonstrates the unanimous desire to put an end to such acts and to preserve the confidence of the peoples of the world in the most vital means of transport of our times.

In other resolutions, the Assembly:

- requested States to introduce the security measures, developed by it, for the protection of air passengers, civil aviation personnel, civil aircraft, civil airports and other civil aviation facilities;
- recommended measures for adoption by States to alleviate the consequences of unlawful seizures of aircraft;
- urged States that have not yet done so to become parties to the Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo, 1963) and invited them, even before becoming parties, to give effect to the principles of Article 11 of that Convention;

- 2 -

- called upon States to become parties, as soon as possible, to the future convention on unlawful seizure of aircraft to be developed by a diplomatic conference that will meet in The Hague on 1 December 1970;
- urged that all unlawfully seized aircraft and their cargoes be returned and all their passengers and crews be permitted to continue their journey;
- urged States to enact criminal laws carrying severe penalties for all forms of unlawful interference with international civil aviation and its facilities;
- called upon States to strengthen existing arrangements for the extradition of persons making criminal attacks on international civil aviation; and
- called for the preparation by ICAO of an international convention on acts of unlawful interference other than unlawful seizure of aircraft.

The texts of all the resolutions adopted by the Assembly are being transmitted by the Secretary General of ICAO to the appropriate department of your Government.

The Assembly also directed me to invite the Heads of Government to take the necessary measures, as a matter of urgency, for the implementation of the resolutions adopted by it, and to emphasize that such action is in the interest of all States. I am confident that your Government will wish to implement them, so that international civil air transport may continue to fulfill its mission of creating and preserving friendship and understanding among the peoples of the world and promoting the economic development of all nations.

Accept,, the assurances of my highest consideration.

Walter Binaghi
President of the Council
International Civil Aviation Organization

etc
ect
etc



44-7-9-3-ICAO
21/3

Clark
OK
File
JK

DEPARTMENT OF JUSTICE
MINISTÈRE DE LA JUSTICE

Ottawa 4,
July 20, 1970

TO: FLE
FROM: ACRD
JUL 23 1970
ATT'N: Mr. Clark

Dear Mr. Clark:

Re: 179220-4

I have your note of June 16, 1970, together with enclosures. These documents arrived while I was in Montreal attending the Seventeenth Session (Extraordinary) of the ICAO Assembly.

I have read the comments of the Government of Barbados on Article 4 of the Draft Convention on Unlawful Seizure of Aircraft, and note that in the view of that Government "...it would seem necessary to amend Article 4 of the Draft Convention by adding a paragraph to it which would permit those States which consider it desirable to extend their jurisdiction over 'the offence' when it has been committed on an aircraft, not registered in that State, but operated by a national of, or a body established in, that State."

You will recall, of course, that we had some informal discussions concerning a rather similar proposal contained in Working Paper 18, presented by the United States of America at the said Assembly. I believe I had mentioned, that in my opinion, the law of Canada at the present time does not permit the Courts of this country to exercise jurisdiction over any offence which may have been committed on board an aircraft which is not registered in Canada, and which does not land in Canada, even though the aircraft may be operated by employees of a Canadian company or by Canadian nationals, unless the offence takes place in Canadian air space.

Mr. L.S. Clark,
Legal Division,
Department of External Affairs,
Ottawa 4, Ontario.

. . . 2

FLE

19/28/7

Received
JUL 28 1970
In Legal Division
Department of External Affairs

- 2 -

My own personal feeling is that it would be unnecessary for any State to claim jurisdiction over an offence which has been committed in the circumstances described in the Barbados paper because the State in which the aircraft is registered and the State in which it lands may exercise jurisdiction.

I note that the proposal is to add a new paragraph to Article 4 of the Draft Convention on Unlawful Seizure which would permit any contracting State to establish such jurisdiction, but would not require it to do so. It seems that if Canada were to become a party to a Convention containing such a provision, we would have to accept the decision of another State to claim jurisdiction over the 'offence' if it was committed on board an aircraft registered in Canada when such aircraft is operated by a national of that other State, even if it does not land there. Thus, if a national of the United States of America were to 'operate' a Canadian registered aircraft on an international flight, and it was unlawfully seized, the United States of America could claim jurisdiction over the 'offence' even though the aircraft did not take-off or land in the USA.

I think it is clear that such a result would not be in Canada's best interests and I would, therefore, not recommend that Canada support the Barbados proposal.

Yours truly,



P. Sorokan,
for Director,
Advisory and International
Law Section.



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

1-18 *file*

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

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

902 ÉDIFICE DE L'AVIATION INTERNATIONALE, MONTRÉAL

902 INTERNATIONAL AVIATION BUILDING, MONTREAL

TÉLÉPHONE: 879-4788

TELEPHONE: 879-4788

428-9-2-1/CAO
2 |

17 July 1970.

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

F-11

TO: FILE
FROM: ACRD
JUL 23 1970
[Signature]

Attention: Legal Division

Dear Sir:

Attached are two copies of State Letter LM 2/3.3 -
70/154 of 14 July 1970, concerning the convening of Eighteenth
Session of the Legal Committee from 29 September to 13 October
1970. At the kind invitation of the Government of the United
Kingdom, the Session will be held in that Country, at a site
which will be announced later.

Attached to this State Letter are:

Assembly Resolution B/6,
Provisional Agenda of the 18th (Special) Session
of the Legal Committee.

It will be noted that we are requested, as soon as
possible, to indicate whether Canada will be represented at this
Session of the Legal Committee.

The ICAO Secretariat would be grateful if our Government
would send comments, if any, at the earliest possible date,
concerning the subject of preparation of a draft convention on
acts of unlawful interference against international civil aviation,
other than those covered by the draft Convention on Unlawful
Seizure of Aircraft, in order that all comments so received may
be made available to the Legal Committee.

Yours truly,

[Signature]

L.M.E. Brennan,
Administrative Officer.

Encls.

FILE

15/28/7

Received
JUL 28 1970
In Legal Division
Department of External Affairs

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

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

Ministry of Transport, (2)
Attention: Law Branch

The Deputy Minister, Dept.of Finance, (2)
Attention: Mr. D.C. Bignell,
International Programmes Division.

Department of Justice, (2)
Attention: Mr. P. Sorokan

ORGANISATION DE L'AVIATION
CIVILE INTERNATIONALE



ORGANIZACIÓN DE AVIACIÓN
CIVIL INTERNACIONAL

INTERNATIONAL CIVIL AVIATION ORGANIZATION

(CS, NCS)

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:

LM 2/3.3 - 70/154

14 July 1970

Subject: Convening of Eighteenth Session
of the Legal Committee

Action Required: (1) To indicate whether
will participate and (2) to send comments

Sir,

... I have the honour to state that on 2 July 1970 the Council, in accordance with the direction of the 17th Session (Extraordinary) of the Assembly in Resolution B/6, of which a copy is attached, decided to convene a special (Eighteenth) Session of the Legal Committee of the Organization. At the kind invitation of the Government of the United Kingdom, the Session will be held in that country, at a site which will be announced later, from 29 September to 13 October 1970.

... The task of the Legal Committee at that Session would be to prepare a draft convention on acts of unlawful interference against international civil aviation: these are acts other than those covered by the draft Convention on Unlawful Seizure of Aircraft which latter draft convention is to be considered, with a view to its approval, by an international conference of plenipotentiaries at The Hague from 1 to 16 December 1970, to which conference your Government was invited by my letter No. LM 1/2.3, LM 1/3.3 - 70/53 dated 4 April 1970. It is to be emphasized that the holding of the conference and the draft Convention on Unlawful Seizure of Aircraft are not intended to be affected in any way by the calling of the Eighteenth Session of the Legal Committee which, as stated above, would have the separate task of preparing another draft convention. Attached is the provisional agenda of the special (Eighteenth) Session of the Legal Committee.

30 The Representative of Canada
on the Council of ICAO
International Aviation Building
MONTREAL

- 2 -

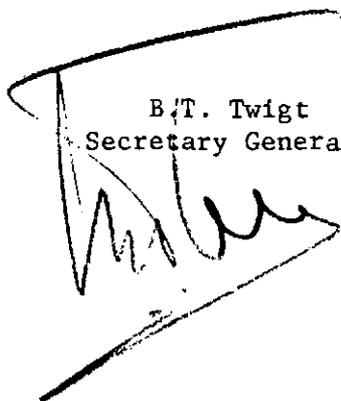
The objects of this letter are to give you as much advance notice as possible of this urgently convened special Session of the Legal Committee and, on behalf of the Council, to invite your Government to be represented at that Session.

Certain documentation for the Session will be sent to you very soon. In the meantime, I should be grateful if your Government would send its comments as soon as possible concerning the subject of preparation of a draft convention on acts of unlawful interference against international civil aviation (other than those covered by the draft Convention on Unlawful Seizure of Aircraft) in order that all comments so received may be made available to the Legal Committee.

I should also appreciate it if you would indicate whether your Government will be represented at the Session of the Legal Committee mentioned above.

Accept, Sir, the assurances of my highest consideration.

B.T. Twigt
Secretary General



Enclosures:

Assembly Resolution B/6
Provisional agenda of Eighteenth
Session of the Legal Committee

ATTACHMENT to State letters LM 2/3.3 - (70/154
(70/155)

ASSEMBLY RESOLUTION B/6

Proposed convention on acts of unlawful interference against
international civil aviation

WHEREAS acts of unlawful interference directed against international civil aviation 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;

THE ASSEMBLY:

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

CONSIDERING that for the purpose of deterring such acts, there is a need to provide for appropriate measures to facilitate prosecution of those who commit them;

CONSIDERING that it is necessary to adopt provisions additional to those of international agreements in force;

- (1) DIRECTS the Council of ICAO to convene the Legal Committee, if possible not later than November 1970, in order to prepare, as the matter of first priority on its Work Programme, a draft convention on acts of unlawful interference against international civil aviation (other than those covered by the draft convention on unlawful seizure of aircraft) with a view to adoption of the convention at a diplomatic conference as soon as practicable and if possible not later than the summer of the Northern Hemisphere in 1971;
- (2) DIRECTS the Legal Committee, in preparing the draft convention, to take into account the opinions expressed at this Assembly.

- - - - -

ATTACHMENT to State letters LM 2/3.3 - (70/154
(70/155)

PROVISIONAL AGENDA
OF THE EIGHTEENTH (SPECIAL) SESSION OF THE LEGAL COMMITTEE

- Item 1: Adoption of the Final Agenda of the Session
- Item 2: Report of the Secretariat
- Item 3: Acts of unlawful interference against international civil aviation (other than those covered by the draft convention on unlawful seizure of aircraft): Preparation of a draft convention on this subject
- Item 4: Date, Place and Provisional Agenda of the Nineteenth Session of the Committee
- Item 5: Report on Work done at the Session

- END -

ORGANISATION DE L'AVIATION
CIVILE INTERNATIONALE



ORGANIZACIÓN DE AVIACIÓN
CIVIL INTERNACIONAL

INTERNATIONAL CIVIL AVIATION ORGANIZATION

(CS, NCS)

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

WHEN REPLYING, PLEASE QUOTE:
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INDÍQUESE EN LA RESPUESTA ESTA REFERENCIA:

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30 The Representative of Canada
on the Council of ICAO
International Aviation Building
MONTREAL

- 2 -

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B/T. Twigt
Secretary General



Enclosures:

Assembly Resolution B/6
Provisional agenda of Eighteenth
Session of the Legal Committee

ATTACHMENT to State letters LM 2/3.3 - (70/154
(70/155)

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- Item 4: Date, Place and Provisional Agenda of the Nineteenth Session of the Committee
- Item 5: Report on Work done at the Session

- END -

TO: CAIRO, BEIRUT, HAVANA, VIENNA, BRU, COPENHAGEN,
 OSLO, HAGUE, MADRID, STOCKHOLM, BERN,
 LONDON, HELSINKI, WSRDC, TAVIV, PARIS, PERMISNY
 TOKYO, TEHRAN

FROM: UNDER SECRETARY OF STATE FOR EXTERNAL AFFAIRS,
 OTTAWA.

Security..... **CONFIDENTIAL**

Date..... July 14, 1970

Air or Surface..... Bag

No. of enclosures.....

The documents described below are for your information.

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

Copies	Description	Also referred to:
	Ref: Ourtel FLE-945 of July 6 re: ICAO Extraordinary Assembly. Texts of Resolutions presented or cosponsored by Canada; Statement on Canadian Initiative; Report to SSEA on Assembly.	

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.

TRANSMITTAL SLIP

40
2189
CONFIDENTIAL

TO: CAIRO, BEIRUT, HAVANA, VIENNA, BRU, COPENHAGEN,
ANN, OSLO, HAGUE, MADRID, STOCKHOLM, BERN,
LONDON, HELSINKI, WSHDC, TAVIV, PARIS, PERMISNY
TOKYO, TEHRAN

Security.....

Date..... July 14, 1970

FROM: UNDER SECRETARY OF STATE FOR EXTERNAL AFFAIRS,
OTTAWA.

Air or Surface... Bag

No. of enclosures.....

The documents described below are for your information.

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FICHE DE SERVICE
ACTION REQUEST

CABINET DU SEAE

OFFICE OF THE SSEA

Document disclosed under the Access to Information Act -
Date July 11/70
Document divulgué en vertu de la Loi sur l'accès à l'information

~~OUN~~ FLE

A: _____
To: _____
De: O/MIN/A.G.Vincent/mem
From: _____

Handwritten initials/signature

Lettre en date du July 9, 1970 de Mr. Charles H. Simpson, President,
Letter dated from Canadian Air Line Pilots
Association, 9675 Cote de Liesse
Sujet Extraordinary Assembly
Subject ICAO Road, Montreal 760, Quebec.

Action requise: - Action required:

Handwritten initials/signature

_____ Réponse pour la signature du Premier Ministre
Reply for Prime Minister's signature

_____ pour avis et retourner
for advice and return

_____ Réponse pour la signature du Ministre
Reply for Minister's signature

_____ noter et retourner
note and return

_____ Réponse au nom du P.M./ou Ministre
Reply on behalf of PM/or SSEA

_____ traduction
for translation

42-89-3-10AU
Handwritten number and signature

_____ Réponse pour la signature de
Reply for signature of:

Commentaires: _____
Comments: For appropriate action.

Porter à l'attention des archives du SEAE le _____
B.F. to Minister's registry on _____

Commentaires par D.C.O.: _____
D.C.O.'s comments: _____

000302

FICHE DE SERVICE
ACTION REQUEST

CABINET DU SEAE - OFFICE OF THE SSEA

Document disclosed under the Access to Information Act -
Document divulgué en vertu de la Loi sur l'accès à l'information
Date July 17/70

OUR FILE

BEST COPY AVAILABLE

A: _____
To: _____
De: O/MIN/A.G.Vincent/mem
From: _____

Lettre en date du July 9, 1970 de Mr. Charles H. Simpson, President,
Letter dated _____ from Canadian Air Line Pilots Association, 9675 Cote de Liesse

Sujet Extraordinary Assembly
Subject ICAO Road, Montreal 700, Quebec.

Action requise: - Action required:

- | | |
|---|---|
| _____ Réponse pour la signature du Premier Ministre
Reply for Prime Minister's signature | _____ pour avis et retourner
for advice and return |
| _____ Réponse pour la signature du Ministre
Reply for Minister's signature | _____ noter et retourner
note and return |
| _____ Réponse au nom du P.M./ou Ministre
Reply on behalf of PM/ or SSEA | _____ traduction
for translation |
| _____ Réponse pour la signature de _____
Reply for signature of: _____ | |

Commentaires: _____
Comments: For appropriate action.

Porter à l'attention des archives du SEAE le _____
B.F. to Minister's registry on _____

Commentaires par D.C.O.: _____
D.C.O.'s comments: _____

000303



CANADIAN AIR LINE PILOTS ASSOCIATION

HEADQUARTERS / 9675 COTE DE LIESSE ROAD / MONTREAL 760, CANADA / TEL. (514) 631-1895

CHARLES H. SIMPSON, PRESIDENT

July 9, 1970

The Honourable Mitchell Sharp
Secretary of State for External Affairs
House of Commons
Ottawa, Canada

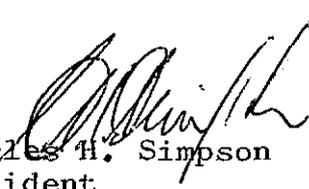
Dear Mr. Sharp:

The Canadian Air Line Pilots Association takes great pleasure in commending the Government of Canada for the strong, decisive stand which Canada took at the recent Extraordinary Assembly of the International Civil Aviation Organization.

The problem of unlawful interference with civil aviation is of great concern to the pilots of Canada, and of the whole world; it was very gratifying to see Canada take a leading part in the search for effective solutions.

Thank you for the concern you, and the Government of Canada, have shown in this matter.

Yours sincerely,


Charles H. Simpson
President

CHS:bs

12.16.7

Received
JUL 16 1970
In Legal Division
Department of External Affairs

REGISTRY
JUL 14 1970
O/SSEA

TEL.: 866-2551

ORGANISATION DE L'AVIATION
CIVILE INTERNATIONALE



ORGANIZACIÓN DE AVIACIÓN
CIVIL INTERNACIONAL

INTERNATIONAL CIVIL AVIATION ORGANIZATION

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

(CS, NCS)

FILE
file: 42-8-9-3-1
21

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

LM 2/3.3 - 70/154

14 July 1970

Subject: Convening of Eighteenth Session
of the Legal Committee

Action Required: (1) To indicate whether
will participate and (2) to send comments

Sir,

I have the honour to state that on 2 July 1970 the Council, in accordance with the direction of the 17th Session (Extraordinary) of the Assembly in Resolution B/6, of which a copy is attached, decided to convene a special (Eighteenth) Session of the Legal Committee of the Organization. At the kind invitation of the Government of the United Kingdom, the Session will be held in that country, at a site which will be announced later, from 29 September to 13 October 1970.

The task of the Legal Committee at that Session would be to prepare a draft convention on acts of unlawful interference against international civil aviation: these are acts other than those covered by the draft Convention on Unlawful Seizure of Aircraft which latter draft convention is to be considered, with a view to its approval, by an international conference of plenipotentiaries at The Hague from 1 to 16 December 1970, to which conference your Government was invited by my letter No. LM 1/2.3, LM 1/3.3 - 70/53 dated 4 April 1970. It is to be emphasized that the holding of the conference and the draft Convention on Unlawful Seizure of Aircraft are not intended to be affected in any way by the calling of the Eighteenth Session of the Legal Committee which, as stated above, would have the separate task of preparing another draft convention. Attached is the provisional agenda of the special (Eighteenth) Session of the Legal Committee.

30 The Representative of Canada
on the Council of ICAO
International Aviation Building
MONTREAL

- 2 -

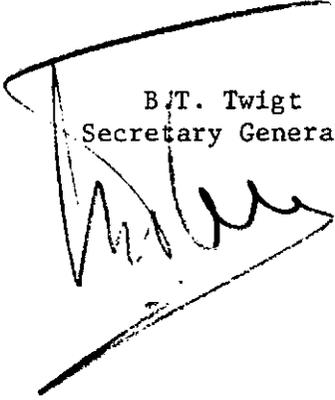
The objects of this letter are to give you as much advance notice as possible of this urgently convened special Session of the Legal Committee and, on behalf of the Council, to invite your Government to be represented at that Session.

Certain documentation for the Session will be sent to you very soon. In the meantime, I should be grateful if your Government would send its comments as soon as possible concerning the subject of preparation of a draft convention on acts of unlawful interference against international civil aviation (other than those covered by the draft Convention on Unlawful Seizure of Aircraft) in order that all comments so received may be made available to the Legal Committee.

I should also appreciate it if you would indicate whether your Government will be represented at the Session of the Legal Committee mentioned above.

Accept, Sir, the assurances of my highest consideration.

B.T. Twigt
Secretary General



Enclosures:

Assembly Resolution B/6
Provisional agenda of Eighteenth
Session of the Legal Committee

ATTACHMENT to State letters LM 2/3.3 - (70/154
(70/155

ASSEMBLY RESOLUTION B/6

Proposed convention on acts of unlawful interference against
international civil aviation

WHEREAS acts of unlawful interference directed against international civil aviation 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;

THE ASSEMBLY:

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

CONSIDERING that for the purpose of deterring such acts, there is a need to provide for appropriate measures to facilitate prosecution of those who commit them;

CONSIDERING that it is necessary to adopt provisions additional to those of international agreements in force;

- (1) DIRECTS the Council of ICAO to convene the Legal Committee, if possible not later than November 1970, in order to prepare, as the matter of first priority on its Work Programme, a draft convention on acts of unlawful interference against international civil aviation (other than those covered by the draft convention on unlawful seizure of aircraft) with a view to adoption of the convention at a diplomatic conference as soon as practicable and if possible not later than the summer of the Northern Hemisphere in 1971;
- (2) DIRECTS the Legal Committee, in preparing the draft convention, to take into account the opinions expressed at this Assembly.

ATTACHMENT to State letters LM 2/3.3 - (70/154
(70/155)

PROVISIONAL AGENDA
OF THE EIGHTEENTH (SPECIAL) SESSION OF THE LEGAL COMMITTEE

- Item 1: Adoption of the Final Agenda of the Session
- Item 2: Report of the Secretariat
- Item 3: Acts of unlawful interference against international civil aviation (other than those covered by the draft convention on unlawful seizure of aircraft): Preparation of a draft convention on this subject
- Item 4: Date, Place and Provisional Agenda of the Nineteenth Session of the Committee
- Item 5: Report on Work done at the Session

- END -

DEPARTMENT OF EXTERNAL AFFAIRS



MINISTÈRE DES AFFAIRES ÉTRANGÈRES

OTTAWA, July 13, 1970

Sent to ¹ Cdn Professors of Intl. Law

As you are aware, the International Civil Aviation Organization convened the Seventeenth (Extraordinary) Assembly in Montreal June 16-30 to discuss the question of international air safety.

Attached for your general information are copies of the following:-

- (a) The resolutions considered in Committee B (Legal) and passed by the Assembly;
- (b) The text of the Canadian Statement made in Committee B on the Canadian resolution relating to the "Canadian Discussion Paper on Linking Bilateral Air Agreements to ICAO Conventions Relating to Unlawful Interference with Civil Aviation";
- (c) The resolution containing the "Solemn Declaration" - of which Canada was a co-sponsor - adopted by the Assembly on June 29, 1970; and
- (d) The resolution, also co-sponsored by Canada, on the return of hijacked aircraft, passengers and crew, recommended by the Executive Committee and adopted by the Assembly.

When the final reports on the subjects taken up in the Legal Committee are available from ICAO, we shall transmit them to you.

Yours sincerely,

Deputy Head,
Legal Division.

RESOLUTION B/1

WIDER ACCEPTANCE OF THE TOKYO CONVENTION ON OFFENCES AND CERTAIN OTHER ACTS
COMMITTED ON BOARD AIRCRAFT (TOKYO, 1963)

WHEREAS the safety and freedom of transit of passengers and crew must be a paramount consideration of all States following the unlawful seizure of an aircraft;

WHEREAS the Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft undertakes to assure the safety of passengers and crew following the unlawful seizure of an aircraft;

WHEREAS it is desirable that Article 11 of the Tokyo Convention becomes a universally accepted international standard for the treatment to be accorded passengers and crews following the unlawful seizure of an aircraft;

THE ASSEMBLY:

NOTING the spread of instances of unlawful seizure of aircraft throughout the world, and

NOTING that statements made by a number of States represented at the Assembly have indicated that such States will shortly become parties to the Tokyo Convention, but that a comparatively small number of States have become parties to the said Convention despite two separate previous requests for accession to that Convention by the Assembly and by the United Nations General Assembly;

URGES again that all States become parties to the Tokyo Convention as soon as possible;

URGES Contracting States to inform the ICAO Council of the action taken by them with a view to becoming parties to the Tokyo Convention;

INVITES States again, even before ratification of, or adherence to, the Tokyo Convention, to give effect to the principles of Article 11 of that Convention.

.....

RESOLUTION B/2

MEASURES RECOMMENDED FOR ADOPTION TO ALLEVIATE THE CONSEQUENCES OF AN
UNLAWFUL SEIZURE

WHEREAS it is desirable that measures be recommended for adoption by States in order to alleviate the consequences of an unlawful seizure of aircraft;

THE ASSEMBLY RECOMMENDS THAT

- (1) States should take all appropriate measures to restore control of an unlawfully diverted aircraft to its lawful commander or to preserve his control of the aircraft and to return, as soon as practicable, the aircraft and its cargo to the persons lawfully entitled to possession;
- (2) States should permit the passengers and crew of an unlawfully diverted aircraft to continue their journey on the same aircraft without delay or as soon as arrangements can be made for other transportation in the event the unlawfully diverted aircraft is unserviceable;
- (3) States should develop and utilize measures for the safety and care of passengers and crew of unlawfully diverted aircraft until their journey can be continued;
- (4) States should adopt measures for the notification to the States of registry of an unlawfully diverted aircraft when such aircraft has landed in their territory;
- (5) When a State has taken into custody any person suspected of committing an unlawful diversion of an aircraft in flight, it should immediately notify the State of nationality of that person, the State of registration of the aircraft and, if it considers it advisable, any other interested States of the fact that such person is in custody;
- (6) The State of registry of an unlawfully diverted aircraft, the State of nationality of a person taken into custody on suspicion of having committed the unlawful diversion, and any other interested State should supply expeditiously to the State of landing any relevant information which is available regarding the person taken into custody;
- (7) Without prejudice to its obligations under paragraphs 1 and 2 hereof, the State of landing, in accordance with its national law, should inquire into the aeronautical aspects of the act of unlawful diversion and dispatch its findings to the State of registry and to the Council of the International Civil Aviation Organization as soon as it is possible to do so;

- (8) The State of registry of an aircraft which has been unlawfully diverted should, in accordance with its national law, forward, as soon as practicable, a report on the aeronautical aspects of the incident to the Council of the International Civil Aviation Organization for analysis and evaluation;
- (9) In situations in which an aircraft is leased to, and operated by, a carrier of a State other than the State of registry, the State of the carrier should have the same rights and responsibilities recommended herein for the State of registry.

.....

RESOLUTION B/3

EXPEDITIOUS RATIFICATION OF THE CONVENTION ON UNLAWFUL SEIZURE OF AIRCRAFT

WHEREAS the unlawful seizure of aircraft poses a grave menace to the safe operation of international civil air services and undermines the confidence of the people of the world in the safety of international civil aviation;

WHEREAS the Legal Committee of the Organization has completed a draft international convention to deal with the problem of unlawful seizure of aircraft, and

WHEREAS a diplomatic conference will convene on December 1, 1970, to consider that draft convention;

THE ASSEMBLY

NOTING the spread of instances of unlawful seizure throughout the world, and

NOTING the urgent need for an international convention as a means of dealing more effectively with the unlawful seizure of aircraft;

CALLS UPON States invited to attend the diplomatic conference and to make every reasonable effort at such conference to agree on a convention based upon the draft convention prepared by the Legal Committee, and

CALLS UPON States invited to the diplomatic conference thereafter to give consent to be bound by such convention with all possible expedition.

.....

RESOLUTION B/4

REPORTS TO THE COUNCIL

WHEREAS the unlawful seizure of aircraft poses a grave menace to the safe operation of international civil air services and undermines the confidence of the people of the world in the safety of international civil aviation;

WHEREAS reporting by the Contracting States of relevant information regarding the circumstances in which unlawful seizure of aircraft has taken place will be of great value to the Organization in analyzing the effectiveness of aviation security and safety measures in such cases;

WHEREAS the draft convention on unlawful seizure of aircraft drawn up by the Legal Committee has left open for the diplomatic conference the question whether Contracting parties should be requested to report to the Council relevant information regarding unlawful seizure of aircraft;

THE ASSEMBLY:

CALLS UPON the States which will be invited to the diplomatic conference to agree to a provision in the draft convention which would require States parties to the future convention to report to the Council as rapidly as possible all relevant information regarding the unlawful seizure of civil aircraft.

.....

RESOLUTION B/5

PROPOSED SIMPLIFICATION OF CONVENTION-MAKING PROCEDURES

THE ASSEMBLY:

NOTES the recommendation submitted by IATA in A17-WP/33 under paragraph 4(b) to the effect that the proposed convention on unlawful seizure of aircraft should contain:

- (1) a requirement for the signatory States to submit it within a specified period to the appropriate authority in each State, for ratification, parliamentary approval, or whatever other constitutional process is required in the State concerned to bring the convention into effect;
- (2) a requirement to give notice to ICAO if States found it impossible to become parties to the convention within a specified period, and

REQUESTS the Secretariat to circulate to Member States for study A17-WP/33 and the more detailed document made available by IATA on proposed simplification of convention-making procedures, and

REQUESTS the ICAO Council, through the appropriate body, to give further consideration to this subject matter in connection with future development of draft international conventions on air law.

.....

RESOLUTION B/6

PROPOSED CONVENTION ON ACTS OF UNLAWFUL INTERFERENCE AGAINST INTERNATIONAL
CIVIL AVIATION

WHEREAS acts of unlawful interference directed against international civil aviation 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;

THE ASSEMBLY:

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

CONSIDERING that for the purpose of deterring such acts, there is a need to provide for appropriate measures to facilitate prosecution of those who commit them;

CONSIDERING that it is necessary to adopt provisions additional to those of international agreements in force;

DIRECTS the Council of ICAO to convene the Legal Committee, if possible not later than November 1970, in order to prepare, as the matter of first priority on its Work Programme, a draft convention on acts of unlawful interference against international civil aviation (other than those covered by the draft convention on unlawful seizure of aircraft) with a view to adoption of the convention at a diplomatic conference as soon as practicable and if possible not later than the summer of the Northern Hemisphere in 1971;

DIRECTS the Legal Committee, in preparing the draft convention, to take into account the opinions expressed at this Assembly.

.....

RESOLUTION B/7

CRIMINAL LAWS RELATING TO THE UNLAWFUL SEIZURE OF AIRCRAFT

WHEREAS the unlawful seizure of aircraft and other forms of unlawful interference with international civil aviation and its facilities pose a grave menace to the safe operation of international civil air services and undermine the confidence of the people of the world in the safety of international civil aviation;

WHEREAS deterrence of such acts can be greatly facilitated through the enactment by Contracting States of national criminal laws providing severe penalties for such acts, and through vigorous efforts by Contracting States to assure that the perpetrators of such acts are tried.

THE ASSEMBLY:

NOTING that not all Contracting States have national criminal laws dealing with all cases of unlawful seizure of aircraft and other forms of unlawful interference with international civil aviation, its facilities and services.

URGES Contracting States which have not already done so to enact, with all possible expedition, national criminal laws carrying severe penalties for the unlawful seizure of aircraft and other forms of unlawful interference with international civil aviation and its facilities.

.....

RESOLUTION B/8

STRENGTHENING OF EXISTING ARRANGEMENTS FOR EXTRADITION

WHEREAS acts which unlawfully interfere with international civil aviation jeopardize the safety thereof, seriously affect the operation of international air services and undermine the confidence of the peoples of the world in the safety of international civil aviation;

THE ASSEMBLY:

CALLS UPON Contracting States to strengthen existing arrangements on extradition by making the necessary provisions in international law or treaty for criminal attacks on international civil aviation to be made an extraditable offence.

.....

RESOLUTION B/9

CIRCULATION OF PAPER LINKING BILATERAL AIR AGREEMENTS TO ICAO INTERNATIONAL
CONVENTIONS RELATING TO UNLAWFUL INTERFERENCE WITH CIVIL AVIATION, ADOPTED
BY THE ASSEMBLY JUNE 29, 1970

THE ASSEMBLY:

RECOGNIZING that scheduled international air transport is generally regulated by bilateral air agreements between States;

CONSCIOUS of the great contribution that the Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft and future International Civil Aviation Organization conventions relating to unlawful interference with international civil aviation can make towards preventing and deterring such acts;

NOTES the 'Canadian discussion paper on linking bilateral air agreements to ICAO international conventions relating to unlawful interference with civil aviation' contained in A17-WP/19;

REQUESTS the Secretariat to circulate it to Member States for study; and

REQUESTS the Council to refer it to the appropriate body for thorough consideration of the subject matter, in connection with the development of international law to deal with acts of unlawful interference with international civil aviation.

.....

STATEMENT BY DELEGATE OF CANADA, MR. L.S. CLARK,
IN COMMITTEE B (LEGAL COMMITTEE) JUNE 26, 1970.

Mr. Chairman:

At the beginning of this Extraordinary Assembly, the Canadian Delegation submitted Working Paper No. 19 on the question of linking bilateral air agreements to ICAO Conventions relating to unlawful interference with civil aviation. Our major objective in putting forward this Discussion Paper was to encourage the examination, by the appropriate ICAO body, of a possible new approach towards securing the enforcement of international obligations under these ICAO Conventions.

At the present time, the only relevant Convention in force is the 1963 Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft. However, the Canadian Delegation is hopeful that, shortly after the Diplomatic Conference which is to take place in The Hague this December, a new convention on unlawful seizure of aircraft will come into force. We have witnessed at this Assembly the initiation of steps leading to the drafting and eventual adoption of a third international instrument dealing with unlawful interference - one on violence against aircraft - including sabotage and armed attacks against civil airlines and aviation facilities.

Despite the significant contribution that such conventions make towards preventing and deterring illegal activities against civil aviation, it should be noted that there are no enforcement provisions in either of the two instruments of which texts exist, and it would appear unlikely that agreement will be reached on including such a provision in the future convention on unlawful interference with civil aviation.

-2-

As indicated in our Discussion Paper, Canada has been giving careful consideration to the general question of enforcement of ICAO Conventions. While it is recognized that failure to abide by and implement conventional obligations on the part of Contracting States would constitute a breach of international legal obligations, no sanction is attached to such breach.

Scheduled international air transport is generally based on a framework of bilateral air agreements. Accordingly, we have come to believe that directly linking such agreements to the appropriate ICAO Conventions might be an effective method of providing for a system of penalties which might be invoked against States which failed to implement their obligations under Conventions to which they are parties. However, there is also the problem of States which, for various reasons, are not in a position or are not able to become parties to these multilateral Conventions. For example, some States may not sign or ratify ICAO Conventions, not because they are unwilling to accept the obligations contained therein, but because they are unable to undertake such obligations with respect to other States which are or may become parties to the international instruments in question.

To explain our proposal very briefly, Mr. Chairman, we are suggesting there is merit in directing that a thorough study should be made by the competent ICAO body of the question of annexing, to all existing bilateral air agreements between the Member States of this Organization, a special clause setting out the appropriate provisions of the Tokyo Convention and any other relevant ICAO Convention in force at the time in question, which deal with unlawful interference, and of the insertion of a similar special clause in all future bilateral air agreements

between Member States. The intention would be that, in the event that a State refused or failed to implement its international obligations under the special clause, any other State which has a bilateral air agreement with the offending State would have the right, notwithstanding any other provision respecting termination or suspension in the agreement itself, to suspend operation of the bilateral air agreement on short notice. Such suspension - to have maximum effect - would likely be exercised only after appropriate consultations with other States having bilateral agreements with the offending State.

We recognize that the question of amending, even by an annex, which would not open to alteration, addition or any other change, the existing provisions of bilateral agreements, might nevertheless present difficulties for certain States. For this reason, it is the view of the Canadian Delegation that thorough consideration of the entire question by the appropriate body of experts is the best way in which to proceed with a suggestion of this type.

Accordingly, the Canadian Delegation would now like formally to propose the Resolution contained in Working Paper No.87 which, if adopted by this Assembly, would request the Secretariat to distribute the Canadian Discussion Paper to all Contracting States and would request the Council to refer it to the appropriate body for the comprehensive study which such a proposal requires. As I have just indicated, Mr. Chairman, the Canadian Delegation is aware of the difficulties and complexities presented by the substantive issues dealt with in Discussion Paper WP/49. However, we would hope that it could be generally agreed that it does deserve study. Mr. Chairman, we find ourselves in agreement with a number of Delegations which

-4-

have suggested that, if possible, the Committee agree not to engage in debate on the Discussion Paper itself but leave this to the appropriate ICAO body, such as the Legal Committee or any special sub-committee which may be established to deal with questions resulting from this Assembly, to which the document would be referred by the Council.

As we indicated in Working Paper No.49, it is the Canadian position that every effort must be made by this Organization to develop an effective international legal framework to deter and prevent acts of unlawful interference with international civil aviation. In this connection, this Assembly - meeting here in extraordinary session - has an obligation to consider all recommendations and proposals which can be of assistance in achieving this objective. It is in this spirit, Mr. Chairman, that the Canadian Resolution has been put forward and, we would hope, that the Committee will agree to refer the Discussion Paper to the Council, in the same manner as other proposals presented to this Assembly have been referred, for thorough study.

Thank you, Mr. Chairman.

.....

DECLARATION BY THE ASSEMBLY

WHEREAS international civil air transport helps to create and preserve friendship and understanding among the peoples of the world and promotes commerce between nations;

WHEREAS acts of violence directed against international civil air transport and airports and other facilities used by such transport jeopardize the safety thereof, seriously affect the operation of international air services and undermine the confidence of the peoples of the world in the safety of international civil air transport;

WHEREAS Contracting States, noting the increasing number of acts of violence against international air transport, are gravely concerned with the safety and security of such air transport;

THE ASSEMBLY

CONDEMNNS all acts of violence which may be directed against aircraft, aircraft crews and passengers engaged in international civil air transport;

CONDEMNNS all acts of violence which may be directed against civil aviation personnel, civil airports and other facilities used by international civil air transport;

URGENTLY CALLS

UPON States not to have recourse, under any circumstances, to acts of violence directed against international civil air transport and airports and other facilities serving such transport;

URGENTLY CALLS

UPON States, pending the coming into force of appropriate international conventions, to take effective measures to deter and prevent such acts and to ensure, in accordance with their national laws, the prosecution of those who commit such acts.

ADOPTS THE FOLLOWING DECLARATION:

The Assembly of the International Civil Aviation Organization

Meeting in Extraordinary Session to deal with the alarming increase in acts of unlawful seizure and of violence against international civil air transport aircraft, civil airport installations and related facilities;

Mindful of the principles enunciated in the Convention on International Civil Aviation;

Recognizing the urgent need to use all of the Organization's resources to prevent and deter such acts;

SOLEMNLY

- (1) Deplores acts which undermine the confidence placed in air transport by the peoples of the world.
- (2) Expresses regret for the loss of life and injury and damage to important economic resources caused by such acts.
- (3) Condemns all acts of violence which may be directed against aircraft, crews and passengers engaged in, and against civil aviation personnel, civil airports and other facilities used by, international civil air transport.
- (4) Recognizes the urgent need for a consensus among States in order to secure widespread international cooperation in the interests of the safety of international civil air transport.
- (5) Requests concerted action on the part of States towards suppressing all acts which jeopardize the safe and orderly development of international civil air transport.
- (6) Requests application, as soon as possible, of the decisions and recommendations of this Assembly so as to prevent and deter such acts.

.....

RESOLUTION VI/1

RETURN OF UNLAWFULLY SEIZED AIRCRAFT, THEIR CREWS, PASSENGERS AND CARGOES

NOTING the principle that when an aircraft is unlawfully seized, the State in which the aircraft lands should permit its passengers and crew to continue their journey as soon as practicable and should return the aircraft and its cargo to the persons lawfully entitled to possession;

STRESSING the desirability of all aircraft and their cargoes unlawfully seized being returned to the persons lawfully entitled to possession and all their passengers and crews being permitted to proceed to their original destination;

THE ASSEMBLY URGES that all unlawfully seized aircraft and their cargoes be returned to the persons lawfully entitled to possession and all their passengers and crews be permitted to continue their journey as soon as practicable.

.....

File ✓
Diary
Div

DOJ (Sicotte)
Justice (Sorokan)
H. Gourdeau-IEAO
OIN

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BEST COPY AVAILABLE

OTTAWA, July 13, 1970

Rev. Gordon K. Stewart,
Secretary, Committee on the Church and International Affairs,
The United Church of Canada,
85 St. Clair East,
Toronto, Ontario.

42-89-3-1CPO
21

Dear Reverend,

This will refer to your telegram of June 19 concerning the recently concluded Seventeenth (Extraordinary) Session of the Assembly of the International Civil Aviation Organization.

In noting your support for the proposals put forward by the Canadian Airline Pilots' Association, we are pleased to inform you that the Canadian Delegation to the Extraordinary Assembly co-operated closely with all members of the International Federation of Airline Pilots Association (IFALPA) Observer Delegation, including the CALPA officials.

As you are doubtless aware, Canada was a major co-sponsor of the Resolution containing the "Solemn Declaration" of the Assembly, which was adopted unanimously on June 30. Attached for your general information is a copy of the text of the Resolution.

In addition, we are also forwarding herewith a copy of the Resolution, of which Canada was a co-sponsor, on the release of hijacked aircraft, passengers and crew, also unanimously adopted by the Assembly.

Your interest in the grave threat to international air safety posed by acts of unlawful interference with civil aviation is greatly appreciated by the Canadian Government. We are certain that you will agree that this serious problem can only be dealt with on the basis of concerted international co-operation and we can assure you that Canada will continue to expend every effort towards constructing an effective international legal framework to prevent and deter these illegal acts.

Yours sincerely,

EDWARD G. LEE

Legal Division,
Department of External Affairs.

BEST COPY AVAILABLE

OTTAWA, July 13, 1970

Rev. Canon Maurice P. Wilkinson,
Acting General Secretary,
The Canadian Council of Churches,
140 St. Clair Avenue E.,
Toronto 290, Ontario.

#289-3-ICAO
21

Dear Reverend,

This will refer to your letter of June 17 concerning the recently concluded Seventeenth (Extraordinary) Session of the Assembly of the International Civil Aviation Organization.

In noting your support for the proposals put forward by the Canadian Airline Pilots' Association, we are pleased to inform you that the Canadian Delegation to the Extraordinary Assembly co-operated closely with all members of the International Federation of Airline Pilots Association (IFALPA) Observer Delegation, including the CALPA officials.

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Yours sincerely,

EDWARD G. LEE
Legal Division,
Department of External Affairs.

ACTION COPY

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

DE HAVAN JUL 13/70

A EXTER 519 PRIORITE

REF VOTRETEL FLE945 JUL 7

ASSEMBLEE EXTRAORDINAIRE DE LOACI:INITIATIVE CDNNE

LA REVUE CUBAINE HEBDOMADAIRE CIT BOHEMIA FINCIT JUL 10 A REPRODUIT LE DISCOURS DE MORINAS JUN 16 SOUS LE TITRE CIT LES DETOURNEMENTS DAVIONS UN BOUMERANG LANCE CONTRE CUBA PAR LE GOUVT IMPERIALISTE DES ETATS UNIS DAMERIQUE FINCIT. CONCERNANT LA DECLARATION ADOPTEE UN PARA INTRODUCTIF DIT TEXTUELLEMENT: CIT LE DOCU APPROUVE A LUNANIMITE NENTRAINE PAS--COMME LAVAIENT PREVU DES DELS DE QUELQUES PAYS--DENGAGEMENTS INNATAUX FERMES. ELLE RECOMMANDE AUX 119 ETATS-MEMBRES DADOPTER DES MESURES CONTRE LINTERFERENCE AERIENNE ET EXHORTE A PENSER COMMENT, DANS UNE AUTRE REUNION PREVUE AU MILIEU DE 71 A TOKYO, ON POURRAIT COORDONNER UN MECANISME INNATL JURIDIQUE CONTRE CEUX QUI VIOLENT LES REGLEMENTS DU TRANSPORT AERIEN FINCIT.

2. LE PARA PRECITE PLUS LE DISCOURS DE MORINAS QUI NAPPORTE AUCUN CHANGEMENT A LA THESE CUBAINE ORIGINELLE ME PORTENT A CROIRE QUE LA DEL CUBAINE NA EMBOITE LE PAS AVEC LES AUTRES QUE POUR NETRE PAS TROP ISOLEE ET AVEC LE SENTIMENT QUE LES MESURES DE COERCITION ENVISAGEES NE SONT PAS POUR DEMAIN. LE GOUVT CUBAIN RETROUVERA JIMAGINE SA RAIDEUR EN LA MATIERE LORSQUIL SAGIRA EVENTUELLEMENT DACTION PLUS IMMED.

3. CONFORMEMENT AU PARA 6 DE VOTRE REFTTEL JE NEN AI PAS MOINS EXPRIME LA GRATITUDE DE NOTRE DEL AU DIRECTEUR CUBAIN DU PROTOCOLE

MAYRAND

206 July 14
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July 8, 1970

MEMORANDUM FOR THE MINISTER

42-8-9-3-1c 40
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ICAO Seventeenth (Extraordinary) Assembly

This is a brief report for your information on the ICAO Assembly which was convened in Montreal from June 16 to 30, at the request of 11 European States following the Swissair and Austrian Airlines sabotage incidents last February, to discuss international air safety. The Canadian Delegation, headed by the Assistant Deputy Minister (General) of the Ministry of Transport, Mr. G. Sicotte, and including officers from the Ministry of Transport, the Canadian Transport Commission, the Department of Justice and this Department, played an active role, and, in particular, took a leading position with respect to three resolutions adopted by the Assembly.

Canadian Initiative

In accordance with the Instructions approved by Cabinet early in June, the Delegation undertook an initiative to promote enforcement of international legal obligations under the 1963 Tokyo Convention and future ICAO conventions relating to unlawful interference with civil aviation. The Canadian proposal concerned the linking of bilateral air agreements to these ICAO instruments by means of a special clause to be annexed to existing, and expressly included in future, bilateral agreements, setting out the relevant articles of the international conventions. This clause would also permit, notwithstanding any termination or suspension provision in the agreement itself, suspension of operation of the agreement on short notice, by either party in the event the other party failed to implement its international obligations under the clause. A "Canadian Discussion Paper on Linking Bilateral Air Agreements to ICAO International Conventions Relating to Unlawful Interference with Civil Aviation" giving the background to and detailing the proposal was submitted to the ICAO Secretariat just prior to the opening of the Assembly and was circulated to all Delegations as a Conference Working Paper.

Because of the many problems and complexities which would be involved in amending all bilateral air agreements, several governments, including those of the USA, Australia and the Scandinavian countries, had serious reservations about the Canadian initiative. Accordingly, the Delegation decided to present and promote a resolution (attached as Appendix I) which would: (a) recognize the role of bilateral air agreements in scheduled international air transport; (b) refer to the contribution to law and order

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... the air made by the Tokyo Convention and other ICAO unlawful interference conventions; and notes: (a) the Canadian Discussion Paper; and would request the Secretariat to: (1) circulate the Paper to ICAO Member States for study; and (2) request the Council to refer it to the appropriate body for thorough consideration. In the event, the resolution was passed in the Assembly's Legal Committee by 31-0 with 13 abstentions and unanimously adopted by plenary. Given the opposition to the principles contained in the Canadian proposal on the part of several States with which Canada has close relations, we do not intend to press for action by the Council on the resolution at this time. In our view, the major objective of making ICAO Member States aware of a possible new approach to enforcing international legal obligations under ICAO conventions has been accomplished and the matter may, for the time being, be left to individual governments to study.

Return of Hijacked Aircraft

... At the original request of the Japanese Delegation, the Canadian Delegation agreed to co-sponsor a resolution (attached as Appendix II) urging that "all unlawfully seized aircraft and their cargoes be returned to the persons lawfully entitled to possession and all their passengers and crew be permitted to continue their journey as soon as practicable". Belgium, Korea, Malaysia, Sierra Leone and Switzerland also became co-sponsors and the resolution was passed in the Executive Committee 55-0 with 5 abstentions and adopted unanimously by plenary.

Solemn Declaration of Seventeenth Assembly

... From the point of view of publicity, perhaps the single most important achievement of the special Assembly was the unanimous adoption of a Solemn Declaration (which is generally becoming known as "The Montreal Declaration"). The initial draft of the relevant resolution (attached as Appendix III) was prepared by the Canadian, Swiss and Guatemalan Delegations. Eventually Indonesia, Japan, Madagascar, Senegal, Tanzania and other States joined as co-sponsors.

The resolution consists of two parts: (I) the first in standard resolution language condemns all acts of violence against (a) aircraft, aviation personnel and passengers engaged in international civil air transport; and (b) against civil airports and facilities used by international civil air transport; and urgently calls upon States (c) not to use, under any circumstances, acts of violence against such transport, civil airports and other air transport facilities; and (d) pending the coming into force of appropriate international conventions, to take effective measures to deter and prevent acts of violence and prosecute those who commit them. (II) The second part is in the form of a Solemn Declaration which (1) deplores acts against international air safety; (2) expresses regret for loss of life, injury and damage; (3) condemns acts of violence; (4) recognizes the need for international co-operation; (5) requests concerted international action to suppress unlawful acts; and (6) requests application, as soon as possible, of the Assembly's decision and recommendations to prevent and deter such acts.

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- 3 -

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The resolution was passed in the Executive Committee with only Cuba reserving its position and, as indicated above, was adopted unanimously by plenary. (The Cuban Representative was absent at that particular time: The Canadian and several other Delegations had stressed to the Cubans the importance we attached to the unanimous adoption of the Declaration and this may have contributed to their conscious decision not to take part in the plenary vote.)

Other Results of the Assembly

A number of resolutions - on security and safety procedures, techniques and equipment - were adopted on the recommendation of the Technical Committee. These will be receiving the careful attention of the Ministry of Transport and other interested government departments and agencies. Another important decision of the Assembly was the adoption of a resolution Directing the ICAO Legal Committee to meet this autumn and to prepare a new international convention on unlawful interference, other than hijacking, with international air transport, for referral to a Diplomatic Conference not later than September 1971. (In particular, this instrument will deal with sabotage and armed attacks against airliners and aviation facilities.) The new convention, together with the Tokyo Convention and the Hijacking Convention to be taken up at the Hague this December, will thus constitute the international legal framework developed by ICAO to combat the grave threat posed to international civil aviation by illegal acts against air safety.

A. E. RITCHIE

A.E.R.

Clifford
ECT (Regard)
ETC (Mouvement)
42-8-9-3-ICAO + file
[Signature]



CANADIAN AIR LINE PILOTS ASSOCIATION

HEADQUARTERS / 9675 COTE DE LIESSE ROAD / MONTREAL 760, CANADA / TEL. (514) 631-1895

July 7, 1970

Mr. Lorne S. Clark
Legal Officer
Department of External Affairs
Ottawa

Dear Lorne:

It was a pleasure to meet with you again and to be able to collaborate with you at the recent meeting of the ICAO Extraordinary Assembly.

The Canadian Air Line Pilots Association, and I, want to commend the Government of Canada, and the Canadian Delegation, for the strong, activist stand which Canada took at the Conference.

I am particularly pleased that Canada put forward the proposal to link international obligations with respect to unlawful interference with civil aviation, with bilateral air agreements. It was the most dynamic and new proposal presented at the Conference, and indicated a courageous political attitude on the part of Canada.

As you know, I am of the opinion that this plan is very significant. In the near future I intend to review its various aspects, taking into consideration various comments and objections which have been made. I will let you know of my conclusions as soon as I can.

Thank you again for your collaboration.

Yours sincerely,

John T. Keenan

John T. Keenan
General Counsel

JTK:bs

12/14/7

Received
JUL 14 1983
In Legal Division
Department of External Affairs



AIR SERVICES
SERVICES DE L'AIR

DEPARTMENT OF TRANSPORT
MINISTÈRE DES TRANSPORTS

Ottawa, Ontario,
July 7, 1970.

Miss Margaret Loggie,
External Affairs,
Room 418, Daly Bldg.,
Ottawa, Ontario.

Re: 17th Assembly I.C.A.O.

TO: DUN
FROM: ACRD
JUL 10 1970
ATT'N: <i>[Signature]</i>

J 67

Dear Miss Loggie:

At the delegation meeting in Mr. Gourdeau's office on Tuesday, June 30, 1970, a request was made for each delegate to make notes of the main issues of the Assembly from his particular point of interest.

As Mr. McAree will be doing a summary on his return on behalf of Committee "A", I shall confine my remarks to those items concerning aircraft and flight operations, with the intent of supplementing his report.

Due to the wide diversity of backgrounds of the overseas delegates to Committee "A" relatively little time was spent on technical subjects. Frequently speakers would talk eloquently on technical matters with which they were obviously not thoroughly familiar and with their elequence gained supporters who were glad to "learn" from such a distinguished delegate.

The Australia delegation had several experts in attendance, an excellent spokesman to phrase their thoughts and, in my opinion, contributed most to the discussions in Committee "A". The U.S.A. contributed the best papers, the most information and obviously have the most experience with the problem of hijacking.

The spokesman for U.K. was very inflexible in most discussions, and brought many of his Pilot Labour Union problems to the meeting with him. The delegates of France added nothing but delay and confusion.

DUN

The regular I.F.A.L.P.A. delegate, Captain Stone detracted from the effectivity of his remarks by "talking down" to people who were not technically oriented. Captain Forsburg, President of I.F.A.L.P.A. was more dignified and thereby effective in his contributions, and, aided by Australia, avoided some of the pitfalls which could have detracted from flight safety.

A.I.T.A. were very effective and kept a reasonable balance in most cases on the dollars vs safety scale.

Specific items dealing with flight operations on which I would like to comment are as follows:

- (a) Canadian flight crews should be advised that the carriage of a personal weapon on International flights may in some countries subject them to severe penalties. As the Assembly left the decision whether or not flight crews should be armed to the States, it seems probable many Canadian crews will (or are) carrying their own personal "deterrent".
- (b) The following areas should receive study by our Air Regulations Branch in view of the decisions reached.
 - (i) Possible installation of an ejection chute for disposing of explosive devices detected while in flight. (Regulation 507).
 - (ii) Possible locking of gangway doors between cabin and flight deck.
 - (iii) Authority and responsibility of a guard on board as related to the Pilot-in-Command.
 - (iv) Regulation 802B(b) to carry arms on board aircraft.
 - (v) Regulation 101(6) or other to include the situation of an aircraft being hijacked.
 - (vi) Authority of the Pilot-in-Command of an aircraft on the ground while under the direction of a hijacker.

... 3

- 3 -

- (c) The following areas should receive study by our Airworthiness Branch in view of decisions reached:
- (i) Design of chutes for ejecting bombs from pressurized aircraft in flight.
 - (ii) Smoke disposal methods on aircraft using bleed air for pressurization.
 - (iii) Fire detection and control in the holds of aircraft with "Class D" compartments.
 - (iv) Establishing which holds in an aircraft should be used to stow cargo and mail which in the event of an explosion, would be least likely to cause immediate loss of control.

Other branches such as Telecommunications will need to be advised of the

- (i) Planned universal S.S.R. code or code word to indicate hijacking.
- (ii) Allocation of emergency priority by A.T.C. to a hijacked aircraft.

Although the above areas are not of direct concern to your Department, undoubtedly liaison will take place with I.C.A.O. to establish the action being taken by other States.

I believe it would be helpful to future Civil Aviation delegates to have some briefing on the following points prior to attending an I.C.A.O. Assembly:

- (a) The structure of I.C.A.O. Secretariat.
- (b) Representative Bodies of I.C.A.O.
- (c) Definitions as used by I.C.A.O. (i.e. ATC. - an expression understood by pilots universally becomes A.T.S. in I.C.A.O.)
- (d) Rules of Procedure of I.C.A.O.
- (e) A list of the relevant conventions (in this case Tokyo and Chicago).

Yours truly,


(Allan MacNutt),
Air Carrier Inspector.

c.c. H.R. Finley, A/CAR.
D.C. McAree, A.O.S.C.

000338



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DEPARTMENT OF JUSTICE
MINISTÈRE DE LA JUSTICE
10 Notre-Dame St. East,
MONTREAL

Foley

July 6, 1970.

The Under-Secretary of State,
Department of External Affairs,
Ottawa, Ontario.
Attention: Mr. L.S. Clark

FILE
REC'D
JUL 14 1970
MULLER, OR.

Re: Our file no. 2229
International Civil Aviation Organization

Dear Sir:

I refer to your letter of June the 3rd, 1970, to the attention of Mr. Coderre of the civil law section of our Department as well as the letter dated May the 29th, bearing the signature of the Under-Secretary of your Department to Mr. Twigt, the Secretary-General of ICAO.

I would like, first of all, to point out that this latest incident concerning the immunity of the Organization did not involve any writ of garnishment but merely the service of summonses for the purpose of obtaining the testimony of some members of the staff of the Organization in connection with a private law suit involving, on one hand, a company by the name of Candib Ltd. and, on the other hand, Foundation-Scottish Properties, a subsidiary company of the C.P.R. These summonses were issued at the request of the legal Department of the C.P.R.

One of the summonses in question was served upon Mr. Twigt at his personal residence and I might mention here that such a service is lawful under the laws of the Province of Quebec. ✓

I am pleased to report that this incident is now closed. On one hand, the attorneys for the C.P.R. have agreed to refrain from calling as witness both Mr. Lewis and Miss Roche, who are employees of the Organization. They have also agreed to

*I would like to
speak to you
about the
inter dept
integration
please
your office
later.*

2/...

FILE

10.15.7

Received
JUL 15 1970
In Local Division
Department of External Affairs

- 2 -

exempt Mr. Twigt from giving evidence in open Court, as the latter was prepared to give evidence voluntarily but in private. A motion to this effect was granted by the Superior Court and, as a matter of fact, Mr. Twigt was questioned in his own office on June the 26th, 1970. ✓

As to the suggestion contained in your letter of June the 3rd, to the effect that an inter-departmental meeting be organized to discuss the whole question of ICAO's immunity and the steps that could be taken to ensure that such immunity is preserved, I suggest that this matter be taken up by your Department with Mr. Coderre of our Department.

A copy of this letter is being forwarded to Mr. Coderre, for his information.

Yours truly,

Gaspard Côté

Gaspard Côté.

/lc

File ✓
Diary
Div
Tel

MESSAGE

	DATE	FILE/DOSSIER	SECURITY SECURITE
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INFO	TOKYO BY BAG, TEHRAN BY BAG DOT(STONER), CTC(MORISSET), JUSTICE(SOROKAN)		

RECOURTELS FLK-651 MAY6, FLK-811, JUNE 11, FLK-833 JUNE 12.

SUB/SUJ ICAC EXTRAORDINARY ASSEMBLY: CIN INITIATIVE.

QUOTE DISCUSSION PAPER ON LINKING BILATERAL AIR AGREEMENTS TO ICAC INTERNL CONVENTIONS RELATING TO UNLAWFUL INTERFERENCE WITH CIVIL AVIATION UNQUOTE (AS SET OUT IN THIRD REFTEL) DATED JUNE 15 WAS FORMALLY CIRCULATED BY ICAC SECRETARIAT TO ALL DELS AS ASSEMBLY WORKING PAPER. FOLLOWING DISCUSSIONS WITH LARGE NUMBER OF DELS, INCLUDING THOSE FROM ELEVEN ICAC STATES, WE DECIDED TO PRESENT RESLN ON CDN PAPER IN CTTEE A (LEGAL). AFTER PREAMBULAR PARAS (A) RECOGNIZING THAT SCHEDULED INTERNATL AIR TRANSPORT WAS GENERALLY REGULATED BY BILATERAL AIR AGREEMENTS; (B) CONSCIOUS OF GREAT CONTRIBUTION THAT TOKYO CONVENTION, FUTURE ICAC CONVENTIONS COULD MAKE TOWARDS PREVENTING UNLAWFUL ACTS; AND (C) NOTING CDN PAPER; RESLN REQUESTED (1) SECRETARIAT TO CIRCULATE CDN PAPER TO ICAC STATES; AND (2) COUNCIL TO REFER IT TO APPROPRIATE BODY FOR THOROUGH CONSIDERATION.

2. AT EARLY STAGE OF ASSEMBLY, ISRAELI AND ARAB DELS ADVISED THEY HAD NO/NO OBJECTION TO PROPOSAL THAT GENERAL QUESTION OF LINKING BILATERALS TO ICAC CONVENTIONS RECEIVE DETAILED STUDY IN APPROPRIATE ICAC BODY.

...2

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AFRO-ASIANS AND LATIN-AMERICANS ALSO INDICATED THEY COULD SUPPORT THIS APPROACH. ONLY OPPOSITION (AS EXPECTED) CAME FROM USA, AUSTRALIA AND SCANDINAVIANS. PARTLY IN APPRECIATION FOR CANDEL'S ~~EFFORTS~~ EFFORTS TO SUCCESSFULLY PROMOTE ADOPTION OF QUOTE SOLEMN DECLARATION UNQUOTE - TO WHICH THEY ATTACHED GREAT IMPORTANCE, UK DEL AGREED TO SUPPORT CDN RESLN. EVENTUALLY AFTER LENGTHY DISCUSSION AND INTENSE PRESSURE ON PART OF ISRAELI DEL, USA AGREED NOT/NOT TO OPPOSE OUR RESLN IN CTTEE BUT TO ABSTAIN WITH PRIOR EXPLANATION OF VOTE.

3. CANDEL FORMALLY PROPOSED RESOLUTION, SECONDED BY ~~DM~~ CAMEROON, JAPAN AND KOREA, IN CTTEE ON JUNE 26. IFALPA (PILOTS' ASSOCIATION) REP MADE STRONG REMARKS IN SUPPORT. USA DEL THEN ^{MADE} ~~SAID~~ STATEMENT OUTLINING AMERICAN OBJECTIONS TO PRINCIPLES CONTAINED IN CIN DISCUSSION PAPER. BY PREARRANGEMENT, IRAQI REP (WITH WHOM WE HAD PARTICULARLY CLOSE RAPPORT THROUGHOUT ASSEMBLY) INTERVENED TO TAKE ISSUE WITH USA PRESENTATION AND TO STRESS CDN RESLN DID NOT/NOT DEAL WITH SUBSTANTIVE ISSUES AND THAT IT WAS QUOTE LOGICAL; RATIONAL AND REASONABLE FOR ICAO TO STUDY THE SUBJECT FURTHER UNQUOTE.

4. CTTEE VOTE WAS 31 () 0 () 13 AND RESLN WAS THUS RECOMMENDED TO PLENARY. ASSEMBLY ADOPTED IT UNANIMOUSLY ON JUNE 29 WITHOUT DEBATE AND WITHOUT CHANGE.

5. IN OUR VIEW, BY INTRODUCING CDN PAPER AND SECURING ITS OFFICIAL CIRCULATION BY ICAO SECRETARIAT, WE HAVE SUCCEEDED IN DRAWING ATTENTION TO PRINCIPLES CONTAINED THEREIN AND IN MAKING INTERNATL COMMUNITY AWARE OF A POSSIBLE NEW APPROACH TOWARDS SECURING ENFORCEMENT OF ICAO CONVENTIONAL PROVISIONS. AT PRESENT TIME, WE DO NOT/NOT INTEND TO PRESS MATTER IN COUNCIL NOR TO PROMOTE CONSIDERATION OF QUESTION IN ANY ICAO CTTEE. SHOULD ANOTHER COUNCIL REP RAISE SUBJECT, WE WILL CONSIDER CDN POSITION TO BE ADOPTED, IN LIGHT OF DEVELOPMENTS.

6. IF SUITABLE OCCASION ARISES, YOU SHOULD REFER TO GRATITUDE OF CANDEL FOR COOPERATION RECEIVED FROM DELS OF STATES TO WHICH YOU ARE ACCREDITED. YOU MAY ALSO SAY ^{WE ARE} ~~CDN GOVT GENERALLY~~ WELL PLEASSED WITH RESULTS OF ASSEMBLY AND

IN PARTICULAR WITH UNANIMOUS ADOPTION OF QUOTE SOLEMN DECLARATION UNQUOTE
OF WHICH WE WERE COSPONSOR (AND WHICH CANDEL, TO GREAT EXTENT, DRAFTED).
TEXTS OF RESLNS PRESENTED OR COSPONSORED BY CDA, STATEMENT ON CDN INITIATIVE
IN CTTEE, ~~CTTEE REPORTS ON GEN RESLNS~~ AND REPORT TO SSEA ON ASSEMBLY GOING
FORWARD BY BAG.

File ✓
Diary
Div

42-8-9-3-10A0
25 13

OTTAWA, July 3, 1970

Dr. R.H. Mankiewicz,
Professor of Law,
McGill University,
Institute of Comparative and Foreign Law,
Chancellor Day Hall,
3644 Peel Street,
Montreal 112, Quebec.

Dear Prof. Mankiewicz,

In the absence of Mr. Beasley, who is at present abroad, I wish to acknowledge with thanks your letter of June 15 and enclosures.

Your report to the IIA on the ICDO draft convention on hijacking, your paper on hijacking and illegal interferences with civil aviation and the other papers dealing with crimes on board aircraft and revision of the Warsaw Convention will be a most useful addition to the air law documentation section of our legal library.

Yours sincerely,

EDWARD G. LEE

Deputy Head,
Legal Division,
Department of External Affairs



NEWS RELEASE

42-8-9-3-2
ICAO

MONTREAL, CANADA

FOR IMMEDIATE RELEASE

WORLD AVIATION COMMUNITY MOBILIZED
TO HALT UNLAWFUL INTERFERENCE

MONTREAL, 3 July 1970 -- In what has been considered an outstanding example of co-operative atmosphere and effort, the world's civil aviation community gathered in Montreal for two weeks of hard work to bring to an end the frightening trend of unlawful interference with international civil aviation. Upon its conclusion, the worldwide gathering had produced more positive and far-reaching results than was ever expected.

Grim facts reveal the need for action. From the beginning of 1969 until the end of June 1970, there were 118 incidents of unlawful seizure of civil aircraft and 14 incidents of sabotage and armed attacks against civil aviation. These involved airlines of 47 nations around the world with more than 7,000 passengers representing 83 different nationalities. In this period, 96 people were killed and 57 injured as a result of such unlawful acts as "hijacking", sabotage and armed attacks. These facts emphasize that unlawful interference with civil aviation and its facilities is not the particular problem of any one nation or of any one region, but has exploded into a worldwide hazard to the safe development and growth of international civil aviation.

The Extraordinary Assembly of the International Civil Aviation Organization (ICAO), held in Montreal from 16 to 30 June, was initially convened upon the request of 11 European nations due to the increasing incidence of unlawful interference with international civil aviation throughout the world. Delegations from 91 of 119 ICAO Contracting States attended the Extraordinary Assembly, in addition to 1 non-Contracting State (USSR) and 12 international organizations.



- 2 -

Elected officers of the Assembly were Mr. P.M.J. Nottet of Belgium as President, Mr. John S. Malecela of Tanzania as Vice President, Mr. Robert P. Boyle of the United States as Chairman of the Committee on Security Measures, and Dr. Carlos Gomez-Jara of Spain as the Chairman of the Committee on Legal Action.

The Assembly agenda was required to develop adequate legal arrangements and security measures aimed at the discouragement of unlawful interference with civil aviation and its facilities and the protection of air travellers, crews and employees of civil aviation. During the opening Plenary Session, the President of the ICAO Council, Walter Binaghi, appealed to all Delegations to maintain the traditional ICAO spirit of co-operation and to refrain from introducing political issues into an Assembly where world attention was focused for assurance that adequate legal and security measures would be taken for reasons of public safety alone.

The Assembly then proceeded to concentrate on legal and technical aspects of unlawful interference; and political differences were not raised as topics for discussion.

The Assembly concentrated on three basic areas of attention --- immediate organization and development of security responsibility and authority for international airports --- preventive security measures for use against acts of unlawful seizure of civil aircraft, sabotage and armed attacks against civil aviation and its facilities --- eventual legal measures in the form of international treaties and national legislation dealing specifically with the aforementioned problems.

Detailed action on the most salient points taken by the Assembly has called for the following:

1. ORGANIZATION

- i) ICAO development of a vast range of special security measures to be presented to States as specifications and practices against unlawful seizure of civil aircraft, acts of sabotage and armed attacks on civil aviation and its facilities. ICAO will also develop these measures further into formal international Standards and Recommended Practices for adoption by Member States, in addition to provision of other guidance material for the use of States.

- 3 -

- ii) Development of international airport security committees composed of appropriately competent authorities to implement required security measures with top-level national coordinators wherever necessary.
- iii) Continuation of maximum co-operation between ICAO and appropriate international organizations in efforts to solve problems of unlawful interference ... exchange of information between States, either through ICAO or directly, related to increasing adequate physical security controls in plans of existing airports and new airports ... sharing research and development on weapons and explosives detection ... and the dissemination of such information to ICAO Member States as soon as it can be organized.
- iv) Preparation of an official letter from the President of the ICAO Council to the Heads of Government of all States invited to the Extraordinary Assembly, informing them of its conclusions and requesting them to take urgent measures to implement resolutions, which were adopted in the interest of public safety for all States.

2. SECURITY MEASURES

a) Unlawful Seizure of Civil Aircraft

- i) Development and implementation of detection systems and procedures for use against "hijackers", and for weapons. These range from highly sophisticated technological detection apparatus, to training of aviation industry personnel in the basic psychological behaviour characteristics of "hijackers", etc.
- ii) Development and implementation of measures to be taken by aircraft crew in flight and ground-based facilities during an act of unlawful seizure.
- iii) Development and implementation of measures to be taken on the ground during an act of unlawful seizure, i.e. when seized aircraft lands in transit for fuel, etc.
- iv) Development and implementation of adequate announcement in airport areas to warn and discourage potential "hijackers".
- v) Development of cooperation with public information media to warn and discourage potential perpetrators from unlawful acts against civil aviation.

b) Sabotage

- i) Development and implementation of adequate systems and procedures for detecting explosive devices in air mail, air cargo and passenger baggage, and their disposal when found.
- ii) Development and implementation of adequate protection of "clean" mail, cargo and baggage throughout process from inspection to delivery aboard aircraft.
- iii) Development and implementation of adequate inspection and protection of aircraft on the ground, as well as vital ground-based facilities used for flight guidance and control operations.
- iv) Development and implementation of adequate security isolation areas at airports for aircraft in high risk situations.
- v) Development and implementation of adequate security clearance and identification of air transport industry personnel in airport areas.
- vi) Development and implementation of adequate areas and procedures for isolating transit passengers from airport visitors, and incoming and departing passengers, in order to minimize certain possible risks.
- vii) Development and implementation of adequate emergency measures to be taken in case of an explosion occurring in an aircraft, either in flight or on the ground, by flight crew, air traffic controllers, airport authorities, etc.

c) Armed Attacks

- i) Development and implementation of adequate surveillance systems and procedures over airport area, airport perimeter, and surrounding area.
- ii) Development and implementation of adequate physical protection for passengers and aircraft on the ground, during take-off from runways, and during flight approach and landing operations.
- iii) Development and implementation of adequate high-security isolation areas for passengers and aircraft on the ground, in the case of high-risk situations.
- iv) Development and implementation of strengthened airport security systems and guard personnel, i.e. surveillance, monitoring, electrical fencing, armed patrols, etc.

- 5 -

3. LEGAL ACTION

- i) Development of a special international treaty on unlawful interference with civil aviation, dealing with sabotage and other violent unlawful acts. This has been stressed as urgent, with draft treaty to be prepared by the ICAO Legal Committee in late 1970, for a Diplomatic Conference in mid 1971 to bring it to conclusion.
- ii) Early ratification of ICAO treaty on Unlawful Seizure, which is now scheduled for preparation by a Diplomatic Conference in December at The Hague. This treaty calls for return of aircraft to control of its commander, assistance to passengers and crew for continuation of their journey, and the apprehension, prosecution or extradition of the "hijacker".
- iii) Enactment of national legislation in all States, where such legislation does not yet exist, to apply severe penalties for the unlawful seizure of aircraft and other forms of unlawful interference with international civil aviation and its facilities.

Important as all the decisions were, the most important result was the adoption of a declaration whereby the Extraordinary Assembly

CONDEMNNS all acts of violence which may be directed against aircraft, aircraft crews and passengers engaged in international civil air transport;

CONDEMNNS all acts of violence which may be directed against civil aviation personnel, civil airports and other facilities used by international civil air transport;

URGENTLY
CALLS UPON States not to have recourse, under any circumstances to acts of violence directed against international civil air transport and airports and other facilities serving such transport;

URGENTLY
CALLS UPON States, pending the coming into force of appropriate international conventions, to take effective measures to deter and prevent such acts and to ensure, in accordance with their national laws, the prosecution of those who commit such acts.

SOLEMNLY
(1) Deplores acts which undermine the confidence placed in air transport by the peoples of the world.

- (2) Expresses regret for the loss of life and injury and damage to important economic resources caused by such acts.
- (3) Condemns all acts of violence which may be directed against aircraft, crews and passengers engaged in, and against civil aviation personnel, civil airports and other facilities used by, international civil air transport.
- (4) Recognizes the urgent need for a consensus among States in order to secure widespread international cooperation in the interests of the safety of international civil air transport.
- (5) Requests concerted action on the part of States towards suppressing all acts which jeopardize the safe and orderly development of international civil air transport.
- (6) Requests application, as soon as possible, of the decisions and recommendations of this Assembly so as to prevent and deter such acts.

The International Civil Aviation Organization was established in 1944 as the official world-wide medium through which international standards and procedures are developed in technical matters, safety, orderly economic growth and air law. The Organization has 119 Member States and has its headquarters in Montreal, with Regional Offices in Bangkok, Cairo, Dakar, Lima, Mexico City and Paris.

- END -

UNITED NATIONS

Press Services
Office of Public Information
United Nations, N.Y.

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FROM: OUN
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42-8-9-3-1000
21

Press Release ICAO/570
1 July 1970

ICAO REPORTS ON ACTION TO PROTECT WORLD'S AIR TRAVELLERS

Copy OR
File - 7/2/70
JPC

(The following is reproduced as received from ICAO, Montreal.)

The following report was issued in Montreal today by the extraordinary session of the International Civil Aviation Organization (ICAO) assembly:

From the beginning of 1969 to this day, there have been 118 incidents of unlawful seizure of civil aircraft and 14 incidents of sabotage and armed attacks against civil aviation.

These incidents involved the aircraft of 87 nations around the world and over 7,000 innocent passengers representing 83 different countries around the world.

In this period of time, 96 people have been killed and 57 people injured. Of those who committed such unlawful acts, only 72 have been apprehended in one way or another.

These facts emphasize that the unlawful interference with civil aviation is not the particular problem of one nation or one region, but has exploded into a world-wide hazard to the safe development and growth of international civil aviation.

These are the background facts behind the action taken in Montreal at the extraordinary assembly of the ICAO. This assembly, held in Montreal from 16 to 30 June, was initially convened at the request of 11 European nations due to the increasing incidence of unlawful interference of civil aviation throughout the world.

Delegations from 91 of 119 ICAO contracting States attended the assembly, in addition to 1 non-contracting State (Soviet Union) and 12 international organizations.

(more)

Received
JUL 20 1970
In Legal Division
Department of External Affairs

Press Release ICAO/570
1 July 1970

The assembly agenda pointed to the need to develop adequate legal arrangements and security measures aimed at the discouragement of unlawful interference of civil aviation and the protection of air travellers, crews and employees in civil aviation.

During the opening plenary session, the President of ICAO Council, Walter Binaghi, appealed to all delegations to maintain the traditional ICAO spirit of co-operation and to refrain from introducing political issues into an assembly where the world's attention was focussed for assurance that adequate legal and security measures would be taken for reasons of public safety alone.

The assembly then proceeded to concentrate on the legal and technical aspects of unlawful interference; political differences were not raised as topics for discussion.

The assembly concentrated on three basic areas of attention — immediate organization and development of security responsibility and authority for international airports; preventive security measures for use against acts of unlawful seizure of civil aircraft, sabotage and armed attacks; and eventual legal measures in the form of international treaties and national legislation dealing specifically with afore-mentioned problems.

Salient Points

Detailed action on the most salient points taken by the assembly has called for the following:

— ICAO development of a vast range of special security measures to be presented to States as specifications and practices against the unlawful seizure of civil aircraft, acts of sabotage and armed attacks on civil aviation and its facilities;

— ICAO will also develop these measures further into formal international standards and recommended practices for adoption by member States, in addition to provision of other guidance material for the use of States;

— Development of international airport security committees composed of appropriately competent authorities to implement required security measures with top-level national co-ordinators wherever necessary;

— Continuation of maximum co-operation between ICAO and appropriate international organizations in efforts to solve problems of unlawful interference;

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-- Exchange of information between States, either through ICAO or directly related to increasing adequate physical security controls in plans of existing airports and new airports;

-- Sharing research and development on weapons and explosives detection;

-- And dissemination of such information to ICAO member States as soon as organized; and

-- Preparation of an official letter from the President of the ICAO Council to Heads of Government of all States invited to the extraordinary assembly, informing them of the conclusions and requesting them to take urgent measures to implement the resolutions which were adopted in the interest of public safety for all States.

Security Measures

The following security measures were also urged:

-- development and implementation of detection systems and procedures for use against "hijackers", and for weapons; these range from highly sophisticated technological detection apparatus, to training of aviation industry personnel in the basic psychological behaviour and characteristics of "hijackers";

-- measures to be taken by aircraft crew in flight and ground-based facilities during an act of unlawful seizure;

-- measures to be taken on the ground during an act of unlawful seizure, as when a seized aircraft lands in transit for fuel;

-- development and implementation of adequate announcements in airport areas to warn and discourage potential "hijackers"; and

-- development of co-operation with the public information media to warn and discourage potential perpetrators for unlawful acts against civil aviation.

Sabotage

The following measures against sabotage were urged:

-- adequate systems and procedures for detecting explosive devices in air mail, air cargo and passenger baggage, and their disposal when found;

-- adequate protection of "clean" mail, cargo and baggage throughout the process from inspection to delivery aboard aircraft;

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- adequate inspection and protection of aircraft on the ground, as well as vital ground-based facilities used for flight guidance and control operations;
- adequate security isolation areas at airports for aircraft in high-risk situations;
- adequate security clearance and identification of air transport industry personnel in airport areas;
- adequate areas and procedures for isolating transit passengers from airport visitors, and incoming and departing passengers, in order to minimize certain possible risks; and
- adequate emergency measures to be taken in case of explosion occurring in aircraft, either in flight or on the ground, by the flight crew, air traffic controllers and airport authorities.

Armed Attacks

The following actions were urged regarding armed attacks:

- development and implementation of adequate surveillance systems and procedures over the airport area, the airport perimeter and the surrounding area;
- adequate physical protection for passengers and aircraft on the ground, during take-off from runways, and during flight approach and landing operations;
- adequate high-security isolation areas for passengers and aircraft on the ground, in the case of high-risk situations; and
- development and implementation of strengthened airport security systems and guard personnel, surveillance, monitoring, electrical fencing and armed patrols.

Legal Action

The following decisions were taken regarding legal action:

- development of a special international treaty on unlawful interference with civil aviation, dealing with sabotage and other violent unlawful acts; this stressed as urgent, with a draft treaty to be prepared by the ICAO Legal Committee in late 1970, for a diplomatic conference in mid-1971 to bring it to conclusion;

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-- early ratification of an ICAO treaty on unlawful seizure now scheduled for preparation by the diplomatic conference in December at The Hague; this treaty calls for the return of aircraft to the control of the commander, assistance to passengers and crew for continuation of their journey, and the apprehension, prosecution or extradition of the "hijacker"; and

-- enactment of national legislation in all States, where such legislation does not yet exist, to apply severe penalties for unlawful seizure of aircraft and other forms of unlawful interference with international civil aviation and its facilities.

Declaration Adopted

Important as all decisions were, the most important result was the adoption of a declaration whereby the extraordinary assembly:

-- condemns all acts of violence directed against aircraft, aircraft crews and passengers engaged in international civil air transport;

-- condemns all acts of violence directed against civil aviation personnel, civil airports and other facilities used by international civil air transport;

-- urgently calls upon States not to have recourse, under any circumstances, to acts of violence directed against international civil air transport and airports and other facilities serving such transports;

-- urgently calls upon States, pending the coming into force of appropriate international conventions, to take effective measures to deter and prevent such acts and to ensure, in accordance with their national laws, the prosecution of those who commit such acts;

-- solemnly deplores acts which undermine the confidence placed in air transport by peoples of the world;

-- expresses regret for the loss of life and injury and damage to important economic resources caused by such acts;

-- condemns all acts of violence which may be directed against aircraft, crews and passengers engaged in, and against civil aviation personnel, civil airports and other facilities used by, international civil air transport;

-- recognizes the urgent need for a consensus among States in order to secure widespread international co-operation in the interests of the safety of international civil air transport;

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— requests concerted action on the part of States towards suppressing all acts which jeopardize the safe and orderly development of international civil air transport; and

— requests the application, as soon as possible, of the decisions and recommendations of this assembly so as to prevent and deter such acts.

Officers

The officers of the assembly were as follows:

President, P.M.J. Nottet (Belgium).

Vice-President, John S. Malecela (United Republic of Tanzania).

Chairman of Security Measures Committee, Robert P. Boyle (United States); and

Chairman of Legal Action Committee, Carlos Gomez Jara (Spain).

* * * * *

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TO / À
Sous-secrétaire d'Etat
aux Affaires extérieures, OTTAWA.

NO. Le 30 juin 1970.

QUANTITY QUANTITÉ	REFERENCE — RÉFÉRENCE	DESCRIPTION — DESCRIPTION
1	Re: notre télégramme No. 369 du 18 juin re; OACI - Document d'étude	<div style="border: 1px dashed black; padding: 5px; display: inline-block;"> <p>1089-310 AD</p> </div>
	DE: L'Ambassade du Canada, Beyrouth, Liban.	<div style="border: 1px solid black; padding: 5px;"> <p>TO: FILE</p> <p>FROM: ACRO</p> <p>JUL 14 1970</p> <p>ATTN: M. Clark</p> </div>

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ÀSous-secrétaire d'Etat
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1	Re: notre télégramme No. 369 du 18 juin re; OACI - Document d'étude	<p style="text-align: right;">12-9-931</p> <p style="text-align: center;">DE: L'Ambassade du Canada, Beyrouth, Liban.</p> <p style="text-align: right;">FILE</p> <p style="text-align: right;">Mr. Clark,</p>
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A I D E - M E M O I R E

Vu son rôle majeur dans le domaine du transport aérien international et comme hôte de l'Organisation de l'aviation civile internationale, le Canada se préoccupe particulièrement de la menace sérieuse créée par l'incidence croissante d'actes d'intervention illicite contre l'aviation civile, tels que les détournements d'aéronefs, les attaques armées et les sabotages.

Après l'étude de la question touchant l'exécution des obligations juridiques internationales sous la convention de Tokyo de 1963, et toutes futures conventions pertinentes de l'OACI, le Canada en est venu à la conclusion qu'un moyen efficace d'assurer l'application la plus étendue des dispositions déjà existantes serait obtenu en liant directement les accords aériens bilatéraux aux conventions de l'OACI.

Les autorités canadiennes proposent donc: (1) que les accords aériens bilatéraux existants soient amendés en y annexant une clause spéciale (évitant ainsi de remettre en discussion des dispositions déjà incluses dans l'accord) qui énoncerait les dispositions appropriées de la convention de Tokyo, et de toutes autres conventions pertinentes en vigueur de l'OACI, relatives aux interventions illicites et qui stipulerait qu'une ou l'autre des parties est autorisée à suspendre l'exécution de l'accord aérien à brève échéance si l'autre partie refusait de remplir ses obligations juridiques internationales aux termes de la dite clause annexée; (2) que les accords aériens bilatéraux futurs incorporent la clause spéciale réitérant les dispositions des conventions et permettant la suspension de l'exécution de l'accord bilatéral à brève échéance.

Les autorités canadiennes espèrent qu'une fois complétée l'étude approfondie de la question par l'agence appropriée de l'OACI, il sera possible de se mettre d'accord sur le texte d'une résolution à soumettre à l'Assemblée de Vienne en 1971, demandant aux états d'amender les accords aériens bilatéraux déjà existants et d'incorporer la clause spéciale précitée dans les accords aériens futurs.

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La proposition canadienne ne vise pas un état ou un groupe d'états en particulier mais elle est formulée par souci sincère de renforcer la coopération internationale en vue d'assurer la mise en oeuvre de façon la plus étendue possible des dispositions juridiques rédigées et proposées par une agence spécialisée de l'Organisation des Nations-Unies, l'OACI.

La délégation canadienne à Montréal se fera un plaisir de maintenir la liaison avec les autres délégations qui partageront l'intérêt canadien à contribuer à la prévention d'actes préjudiciables à la sécurité aérienne internationale.

BEYROUTH, le 15 juin 1970

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Le 15 juin 1970.

Document d'étude canadien sur la question
de relier les accords aériens bilatéraux
aux conventions internationales de l'OACI
relatives aux interventions illicites
contre l'aviation civile.

La session extraordinaire de l'assemblée de l'OACI a été convoquée pour traiter de la question grave et urgente de la sécurité aérienne internationale. De l'avis du gouvernement canadien, les préoccupations croissantes de la communauté internationale à cet égard ont fait naître un climat d'opinion favorable à l'adoption de nouvelles mesures visant à empêcher les actes d'intervention illicite contre les transports aériens internationaux. On reconnaît néanmoins que seule une coopération internationale effective et la volonté de la part de tous les états qu'intéresse l'aviation civile internationale, d'accepter et d'exécuter des obligations juridiques internationales peuvent, en fin de compte, conduire à la solution des graves problèmes qui mettent actuellement en danger les transports aériens dans le monde entier.

2. Le gouvernement canadien a étudié les problèmes que pose l'application des conventions de l'OACI relatives aux interventions illicites contre l'aviation civile. Jusqu'ici, le seul traité pertinent en vigueur est la convention de Tokyo de 1963 relative aux infractions et certains autres actes survenant à bord des aéronefs, à laquelle le Canada et 22 autres états sont actuellement parties. Le projet de convention sur la capture illicite d'aéronefs, que le comité juridique de l'OACI a approuvé à sa 17^{ème} session tenue en février et en mars de cette année, doit faire l'objet des délibérations d'une conférence diplomatique qui se réunira à La Haye du 1^{er} au 16 décembre. Lorsqu'il entrera en vigueur, cet instrument tombera aussi dans la catégorie des traités de l'OACI relatifs aux interventions illicites. Ni la convention de Tokyo, ni le nouveau projet de convention ne prévoient de sanctions juridiques dans les cas où leurs dispositions ne sont pas observées. Le refus des états contractants de s'acquitter de leurs obligations en vertu de ces instruments implique, bien entendu, un manquement aux obligations juridiques internationales de ces états; toutefois, aucune peine ne s'attache actuellement à cette violation.

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3. C'est un fait bien connu que les services réguliers de transports aériens internationaux sont généralement fondés sur un ensemble d'accords aériens bilatéraux. Ces accords régissent les services aériens et les droits d'atterrissage de transporteurs aériens désignés. Le gouvernement canadien estime par conséquent que relier directement les accords aériens bilatéraux aux conventions de l'OACI relatives aux interventions illicites contre l'aviation civile équivaut à un régime de sanctions efficaces en cas de refus d'exécution des obligations juridiques internationales contractées en vertu des conventions. Ce serait aussi un moyen efficace d'assurer l'application la plus étendue possible des dispositions des conventions, même à l'égard des états qui, pour des raisons spéciales ou particulières, ne désirent pas devenir parties à ces instruments.

4. Le présent document traite d'une seule catégorie de conventions de l'OACI: celles qui se rattachent aux interventions illicites contre l'aviation civile, c'est-à-dire, (a) la capture illicite ou le détournement d'aéronefs et (b) les accords futurs; et de trois catégories d'états: (a) les états membres de l'OACI; (b) les états qui sont ou vraisemblablement deviendront parties à la convention de Tokyo (et qui deviendront probablement parties aux futures conventions pertinentes de l'OACI et (c) les états qui ne sont pas et ne deviendront probablement pas parties à la convention de Tokyo (ni aux futures conventions pertinentes de l'OACI). Bien que l'OACI n'ait compétence qu'à l'égard des états membres de l'organisation, l'exécution des décisions de l'OACI par les états membres pourrait bien influencer sur les relations avec les états non-membres dans les domaines que visent les décisions.

A. ACCORDS AERIENS BILATERAUX EXISTANTS

Une décision de l'OACI de relier les accords aériens bilatéraux aux conventions applicables pourrait obliger tous les états contractants à prévoir une clause spéciale qu'on devrait annexer (par échange de notes) à tous les accords aériens bilatéraux existants auxquels l'état en question est partie. Cette clause énoncerait les dispositions précises - de la convention de Tokyo et de toute autre convention pertinente de l'OACI en vigueur au moment où la clause est ajoutée à l'accord bilatéral - qui imposent des obligations relativement aux interventions illicites contre l'aviation civile internationale. Cette clause spéciale stipulerait alors que, nonobstant toute autre disposition de

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de l'accord bilatéral concernant la dénonciation ou la suspension, l'une ou l'autre des parties est autorisée à suspendre l'exécution de l'accord un mois après la communication d'un avis à l'autre partie, si cette autre partie refuse de remplir ses obligations juridiques internationales aux termes de la clause annexée.

B. ACCORDS AERIENS BILATERAUX FUTURS

Une décision de l'OACI de relier les accords aériens bilatéraux aux conventions applicables pourrait obliger tous les états contractants à faire entrer dans tous les accords aériens bilatéraux à venir auxquels l'état en question devient partie, une clause spéciale énonçant les dispositions de la convention de Tokyo et de toute autre convention pertinente de l'OACI en vigueur du moment de la conclusion de l'accord bilatéral, qui imposent des obligations relativement aux interventions illicites contre l'aviation civile internationale. La clause spéciale permettrait, comme il est mentionné ci-dessus, de suspendre l'exécution de l'accord bilatéral sur préavis d'un mois en cas de refus de remplir les obligations juridiques internationales.

5. Les accords aériens bilatéraux entre deux états parties à la convention de Tokyo ou aux conventions pertinentes futures de l'OACI, auxquels sont annexées ou qui comportent des dispositions conventionnelles, réaffirmeraient simplement des obligations juridiques internationales existantes, tout en assurant, conformément à la proposition canadienne, qu'une sanction existe à l'égard de leur violation. En ce qui concerne les états membres qui ne sont pas et ne deviendront probablement pas parties à la convention de Tokyo et aux conventions pertinentes futures de l'OACI, on doit remarquer que les états peuvent éviter de devenir parties à ce genre d'instrument multilatéral, non parce qu'ils refusent en principe d'accepter certaines obligations qu'il renferme, mais parce qu'ils ne veulent pas assumer ce genre d'obligations à l'égard d'états contractants particuliers. Dans ce cas, il semblerait acceptable de faire entrer les dispositions multilatérales pertinentes dans les accords aériens bilatéraux.

6. Nous espérons que lorsqu'une étude complète aura été faite de la proposition énoncée dans le présent document, il sera décidé que l'OACI adopte une résolution priant les états à annexer aux accords aériens bilatéraux existants et à faire entrer dans les accords aériens bilatéraux futurs une clause spéciale renfermant les dispositions de la convention de Tokyo et des conventions pertinentes futures de l'OACI, relatives à l'intervention illicite et prévoyant la suspension de l'exécution des accords

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aériens sur préavis à court délai, en cas de violation des obligations énoncées dans ladite clause. Si cette résolution était adoptée et mise en oeuvre, tout état qui aurait un accord aérien bilatéral avec un état contrevenant - soit un état qui violerait les obligations internationales fixées dans l'annexe ou le texte de l'accord aérien conformément à la résolution - aurait le droit de suspendre l'exécution de l'accord aérien sur préavis à court délai. Ainsi, la sanction pourrait être invoquée non seulement par l'état qui subit directement l'action de l'état contrevenant, mais par tous les états qui ont des relations aériennes bilatérales avec l'état qui manque à ses obligations internationales. Il est clair que la mise en oeuvre de cette résolution, ne serait-ce que de la part des principaux pays fournisseurs de transport aérien international, créerait une certaine pression pour que soit assurée dans une importante mesure l'exécution des obligations conventionnelles. De toute manière, si l'état contrevenant prenait des mesures pour remplir ses obligations durant la période entre la communication de l'avis et la date effective de la suspension de l'exécution de l'accord aérien, l'avis de suspension pourrait toujours être retiré. La décision première de communiquer l'avis selon lequel l'exécution de l'accord aérien bilatéral avec l'état contrevenant sera suspendue devra évidemment être laissée à la discrétion de chaque état; la résolution envisagée de l'OACI ne peut comporter aucun élément d'automatisme.

7. Si l'OACI décidait éventuellement d'accepter et d'entériner la proposition ci-dessus, ce serait un pas important vers la mise au point d'un cadre juridique international efficace, propre à décourager et à empêcher les actes d'intervention illicite contre l'aviation civile internationale et contribuerait d'une façon substantielle au maintien de la sécurité aérienne internationale.

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A I D E - M E M O I R E

Le présent aide-mémoire a pour objet de tirer au clair la position du Canada qui, en qualité de pays d'accueil, a offert de contribuer à l'établissement du nouveau siège de l'Organisation de l'aviation civile internationale; il vise notamment à élucider certains points d'une lettre que le secrétaire général de l'OACI a adressée à tous les Etats adhérents, le 28 avril 1970 (référence A6/5 - 70/86).

En 1968, l'Assemblée de l'OACI, à sa 16e session, a adopté une résolution qui autorisait le secrétaire général à examiner les problèmes relatifs à la nécessité d'agrandir les locaux du siège de l'Organisation. Auparavant, le Gouvernement canadien avait confirmé qu'il souhaite toujours fournir les locaux nécessaires à l'OACI et, en mai 1969, il offrait officiellement la somme annuelle de \$900,000 pour permettre à l'OACI de s'installer dans des locaux appropriés. Cette offre était fondée sur une évaluation de l'OACI estimant que la superficie nécessaire aux locaux de l'Organisation devait être de 130,000 pieds carrés et sur le taux nominal de location actuel payé par l'OACI, à savoir \$1.00 le pied carré. L'offre du Canada représentait donc une augmentation appréciable du montant de la subvention annuelle de \$500,000 mise par le Canada à la disposition de l'OACI depuis 1967 pour loger son siège social.

En novembre 1969, l'OACI a révisé ses calculs et porté la superficie requise de 130,000 à 200,000 pieds carrés. Cette révision à la hausse entraîne un accroissement des fonds nécessaires pour permettre à l'OACI d'occuper l'immeuble de son choix, c'est-à-dire un immeuble qui réponde parfaitement à l'idée du siège de l'OACI et qui soit situé dans le centre-ville de Montréal. Pour satisfaire aux nouvelles exigences de l'OACI, les autorités canadiennes, sans mentionner un montant d'argent précis, ont admis que le Gouvernement canadien devrait réviser sa première offre de \$900,000. En même temps, les autorités canadiennes ont de nouveau confirmé que le Canada avait la ferme intention de coopérer pleinement à fournir l'installation nécessaire; elles ont également convenu que le Conseil devrait faire le choix d'un projet.

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Par la suite, le Conseil de l'OACI a adopté le projet Schreiber qui a été soumis en conséquence à l'approbation des Etats membres dans la lettre du secrétaire général, en date du 28 avril. Le Conseil évalue à \$1,290,000 (dollars canadiens) par année le coût initial d'occupation d'une superficie de 200,000 pieds carrés, conformément au projet en question et sous l'empire d'un bail de 30 ans.

Le 13 mai 1969, le représentant du Canada au Conseil de l'OACI a adressé une lettre au secrétaire général dans laquelle il reconnaît l'augmentation probable de certains frais, par exemple, l'exploitation et l'entretien de l'immeuble, l'impôt foncier et l'impôt municipal. Les autorités canadiennes sont disposées à établir avec le secrétaire général une formule de partage équitable, à cet égard, par exemple à faire face à la hausse des impôts, et sont d'avis que l'OACI devrait être prête à faire face à l'accroissement des frais d'exploitation et d'entretien de l'immeuble.

Enfin, les autorités canadiennes désirent commenter la demande du Conseil, à savoir que "le contrat de location des nouveaux locaux au siège soit passé entre l'OACI et le Gouvernement canadien plutôt qu'entre l'OACI et le promoteur avec la garantie du Gouvernement canadien". Les autorités seraient disposées à recommander que le Canada fasse fonction de garant pour que le bail soit satisfaisant entre l'OACI et l'entrepreneur; elles estiment qu'une telle garantie répond parfaitement aux besoins de l'Organisation. Se rendant compte que des obstacles formidables s'opposent à ce que le Canada joue le rôle de bailleur, elles sont disposées à discuter cette éventualité avec le secrétaire général. Quoi qu'il en soit les autorités canadiennes se font un plaisir d'offrir les services de conseillers-experts durant la négociation du bail, si de tels services sont requis.

Il est à espérer que la présente mise au point de la position du Canada sur ces aspects de la question du nouveau siège social sera utile aux Etats membres lorsqu'ils s'apprêteront à répondre à la lettre du secrétaire général.

BEYROUTH, le 15 juin 1970

File - 42-8-9-3-16
Diary
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RESOLUTION B/9

CIRCULATION OF PAPER LINKING BILATERAL AIR AGREEMENTS TO ICAO INTERNATIONAL CONVENTIONS RELATING TO UNLAWFUL INTERFERENCE WITH CIVIL AVIATION, ADOPTED BY THE ASSEMBLY JUNE 29, 1970

THE ASSEMBLY:

RECOGNIZING that scheduled international air transport is generally regulated by bilateral air agreements between States;

CONSCIOUS of the great contribution that the Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft and future International Civil Aviation Organisation conventions relating to unlawful interference with international civil aviation can make towards preventing and deterring such acts;

NOTES the "Canadian discussion paper on linking bilateral air agreements to ICAO international conventions relating to unlawful interference with civil aviation" contained in A17-WP/19;

REQUESTS the Secretariat to circulate it to Member States for study; and

REQUESTS the Council to refer it to the appropriate body for thorough consideration of the subject matter, in connection with the development of international law to deal with acts of unlawful interference with international civil aviation.

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STATEMENT BY DELEGATE OF CANADA, MR. L.S. CLARK,
IN COMMITTEE B (LEGAL COMMITTEE) JUNE 26, 1970.

Mr. Chairman:

At the beginning of this Extraordinary Assembly, the Canadian Delegation submitted Working Paper No.19 on the question of linking bilateral air agreements to ICAO Conventions relating to unlawful interference with civil aviation. Our major objective in putting forward this Discussion Paper was to encourage the examination, by the appropriate ICAO body, of a possible new approach towards securing the enforcement of international obligations under these ICAO Conventions.

At the present time, the only relevant Convention in force is the 1963 Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft. However, the Canadian Delegation is hopeful that, shortly after the Diplomatic Conference which is to take place in The Hague this December, a new convention on unlawful seizure of aircraft will come into force. We have witnessed at this Assembly the initiation of steps leading to the drafting and eventual adoption of a third international instrument dealing with unlawful interference - one on violence against aircraft - including sabotage and armed attacks against civil airlines and aviation facilities.

Despite the significant contribution that such conventions make towards preventing and deterring illegal activities against civil aviation, it should be noted that there are no enforcement provisions in either of the two instruments of which texts exist, and it would appear unlikely that agreement will be reached on including such a provision in the future convention on unlawful interference with civil aviation.

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As indicated in our Discussion Paper, Canada has been giving careful consideration to the general question of enforcement of ICAO Conventions. While it is recognized that failure to abide by and implement conventional obligations on the part of Contracting States would constitute a breach of international legal obligations, no sanction is attached to such breach.

Scheduled international air transport is generally based on a framework of bilateral air agreements. Accordingly, we have come to believe that directly linking such agreements to the appropriate ICAO Conventions might be an effective method of providing for a system of penalties which might be invoked against States which failed to implement their obligations under Conventions to which they are parties. However, there is also the problem of States which, for various reasons, are not in a position or are not able to become parties to these multilateral Conventions. For example, some States may not sign or ratify ICAO Conventions, not because they are unwilling to accept the obligations contained therein, but because they are unable to undertake such obligations with respect to other States which are or may become parties to the international instruments in question.

To explain our proposal very briefly, Mr. Chairman, we are suggesting there is merit in directing that a thorough study should be made by the competent ICAO body of the question of annexing, to all existing bilateral air agreements between the Member States of this Organization, a special clause setting out the appropriate provisions of the Tokyo Convention and any other relevant ICAO Convention in force at the time in question, which deal with unlawful interference, and of the insertion of a similar special clause in all future bilateral air agreements

between Member States. The intention would be that, in the event that a State refused or failed to implement its international obligations under the special clause, any other State which has a bilateral air agreement with the offending State would have the right, notwithstanding any other provision respecting termination or suspension in the agreement itself, to suspend operation of the bilateral air agreement on short notice. Such suspension - to have maximum effect - would likely be exercised only after appropriate consultations with other States having bilateral agreements with the offending State.

We recognize that the question of amending, even by an annex, which would not open to alteration, addition or any other change, the existing provisions of bilateral agreements, might nevertheless present difficulties for certain States. For this reason, it is the view of the Canadian Delegation that thorough consideration of the entire question by the appropriate body of experts is the best way in which to proceed with a suggestion of this type.

Accordingly, the Canadian Delegation would now like formally to propose the Resolution contained in Working Paper No.87 which, if adopted by this Assembly, would request the Secretariat to distribute the Canadian Discussion Paper to all Contracting States and would request the Council to refer it to the appropriate body for the comprehensive study which such a proposal requires. As I have just indicated, Mr. Chairman, the Canadian Delegation is aware of the difficulties and complexities presented by the substantive issues dealt with in Discussion Paper WP/49. However, we would hope that it could be generally agreed that it does deserve study. Mr. Chairman, we find ourselves in agreement with a number of Delegations which

...4

have suggested that, if possible, the Committee agree not to engage in debate on the Discussion Paper itself but leave this to the appropriate ICAO body, such as the Legal Committee or any special sub-committee which may be established to deal with questions resulting from this Assembly, to which the document would be referred by the Council.

As we indicated in Working Paper No. 49, it is the Canadian position that every effort must be made by this Organisation to develop an effective international legal framework to deter and prevent acts of unlawful interference with international civil aviation. In this connection, this Assembly - meeting here in extraordinary session - has an obligation to consider all recommendations and proposals which can be of assistance in achieving this objective. It is in this spirit, Mr. Chairman, that the Canadian Resolution has been put forward and, we would hope, that the Committee will agree to refer the Discussion Paper to the Council, in the same manner as other proposals presented to this Assembly have been referred, for thorough study.

Thank you, Mr. Chairman.

.....

ACTION COPY

*Refer to file
CWO
ect
L. Amador Qui
+ Clapham
ELH*

FLE

42-24-3-10A0

*Jul
fr*

C O N F I D E N T I E L
DE HAVAN JUN25/70
A EXTER 472 PRIORITE
REF NOTRETEL 450 JUN16

ASSEMBLEE EXTRAORDINAIRE DE L OACI

AYANT REMIS LE JUN15 NOTRE AIDE-MEMOIRE A UN FONCTIONNAIRE SUBALTERNE, POUR GAGNER DU TEMPS, JE SUIS RETOURNE AU MINISTERE LE 23 ALORS QUE JAI ETE RECU PAR LE CHEF SUPPLEANT DE LA DIRECTION JURIDIQUE TOMAS ALMODOVAR. RECEPTION TRES COURTOISE MAIS DONT JE NAI RIEN PU TIRER SI CE NEST LA CONCLUSION QUE LE GOUVT CUBAIN NE VOULAIT PAS ENCORE ME DEVOILER SON ATTITUDE SUR NOTRE PROJET DE LIER LES ACCORDS BILATERAUX AUX CONVENTIONS DE L OACI.

2. ALMODOVAR SEST EN EFFET CONTENTE DE ME DIRE ET REPETER QUE LA DEL CUBAINE SEN EXPLIQUERAIT A MTL. SACHANT DAVANCE DE QUOI JE VENAIS LUI PARLER IL AVAIT APPORTE LE TEXTE DE LA LOI CUBAINE SEP16/69 QUI OBSERVA-T-IL CONTIENT LALPHA ET LOMEGA DE LA PENSEE OFFICIELLE CUBAINE EN LA MATIERE.

3. UN MSG DE PRENSA LATINA EN EN PROVENANCE DE MTL ET PARU DANS GRANMA JUN17 DECELE TOUTEFOIS LIMPORTANCE QUATTACHENT LES AUTORITES CUBAINES A NOTRE PROJET ET JE NE DOUTE PAS QUE LASPECT SANCTIONS LEUR SOIT TRES DESAGREABLE.

4. DES CUBAINS INTELLIGENTS EFFECTUENT MEME UN RAPPROCHEMENT ENTRE CE PROJET ET LA RECENTE DECISION DU GOUVT CUBAIN (PAS/PAS ANNONCEE PUBLICQUEMENT JUSQUA CE JOUR) DE NE PLUS ACCEPTER LES DEMANDES DE CUBAINS SOUMISES APRES LE MAI31 EN VUE DE LEUR DEPART PAR LESPAGNE ET LE

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PAGE DEUX 472 CONFD

MEXIQUE. CELA PARAIT EXAGERE A PREMIERE VUE MAIS ON PEUT TOUJOURS
AVOIR DES SURPRISES AVEC FIDEL LORSQUE QUELQUE CHOSE LE BLESSE.

MAYRAND

File ✓
 Diary
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MESSAGE

FM/DE	EXTEROTT	DATE	FILE/DOSSIER	SECURITY
		JUNE 24	12-89-3-1 CA ²⁰	SECURITE
			21	CONFIDENTIAL
TO/A	BEIRUT, HBU, HERN, PARIS	NO	PRECEDENCE	
		FILE-896	IMMEDIATE	
INFO	DOT(STOER), CTC(MORISSET), JUSTICE(SOROKAN), FEGHIZY			

REF COURTEL FILE-834, JUNE 12, AND PARIS TEL 1910 JUNE 19.

SUB/SUJ ICAO EXTRAORDINARY ASSEMBLY: CDT DISCUSSION PAPER.

PLEASE AMEND PARA 5 OF CDT DISCUSSION PAPER TO READ AS FOLLOWS:

CIT:

(CONTENT: AS ATTACHED)

FIN CIT.

DISTRIBUTION NO STD
 LOCAL/LOCALE

ORIGINATOR/REDACTEUR	DIVISION	TELEPHONE	APPROVED/AUTORISE
SIG.....L.C. O'Leary/CA.....	FILE LEGAL	2-7738	SIG.....EDWARD G. LEE.....

Le présent document traite d'une seule catégorie de conventions de l'OACI: celles qui se rattachent aux interventions illicites contre l'aviation civile, c.-à-d., a) la capture illicite ou le détournement d'aéronefs et b) les attaques à main armée et le sabotage. Il vise deux catégories d'accords aériens bilatéraux, soit a) les accords existants et b) les accords futurs. Il a trait à trois catégories d'Etats: a) les Etats membres de l'OACI; b) les Etats qui sont ou vraisemblablement deviendront parties à la Convention de Tokyo (et qui deviendront probablement parties aux futures conventions pertinentes de l'OACI) et c) les Etats qui ne sont pas et ne deviendront probablement pas parties à la Convention de Tokyo (ni aux futures conventions pertinentes de l'OACI). Bien que l'OACI n'ait compétence qu'à l'égard des Etats membres de l'Organisation, l'exécution des décisions de l'OACI par les Etats membres pourrait bien influencer sur les relations avec les Etats non-membres dans les domaines qui visent les décisions.

MESSAGE

File ✓
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DATE	FILE/DOSSIER	SECURITY SECURITE
JUNE 22	42-8-9.3-101	

FM/DE EXTEROTT

TO/A H. GOURDEAU, CDN REP ON ICAO COUNCIL
 1080 UNIVERSITY STREET, MONTREAL, QUEBEC

NO PRECEDENCE
 FILE-880

INFO

REF

SUB/SUJ

SET OUT BELOW IS FRENCH TEXT OF JUSTICE PAPER.

CIT

(CONCENTRE: AS ATTACHED)

FIN CIT

DISTRIBUTION LOCAL/LOCALE NO STD

ORIGINATOR/REDACTEUR	DIVISION	TELEPHONE	APPROVED/AUTORISE
SIG..... L.S. Clark/oh	FLE - LEGAL DIV	2-7738	EDWARD G. LEE SIG..... E.G. Lee

ASSEMBLEE DE L'ORGANISATION DE L'AVIATION CIVILE
INTERNATIONALE - 17^e SESSION (EXTRAORDINAIRE)

Sous-question b): étude des arrangements permettant de traduire en justice les personnes responsables d'actes criminels mettant en danger les transports aériens civils.

(point présenté par le Canada)

La coopération de tous les Etats qui jouissent des bienfaits de l'aviation civile est indispensable si l'on veut traduire en justice les personnes responsables d'actes criminels mettant en danger les transports aériens civils. Chaque Etat doit être disposé à accepter certaines obligations, y compris de modestes restrictions touchant l'exercice de sa puissance souveraine, en retour de la connaissance et de l'assurance du fait que d'autres Etats sont également disposés à accepter et à exécuter des engagements analogues à l'avantage collectif de tous.

Il est donc proposé que chaque Etat soit encouragé:

1. s'il ne l'a pas déjà fait, à ratifier la Convention de Tokyo sur les infractions et certains autres actes commis à bord des aéronefs.
2. à devenir partie à la convention sur la Capture illicite des aéronefs, dont une version doit être examinée plus tard cette année par une conférence diplomatique.
3. à adopter des lois nationales, là où n'existe encore aucune législation de ce genre, décrétant que c'est une infraction pour quiconque de:
 - a) capturer illicitement un aéronef civil en cours de vol ou en exercer illicitement la maîtrise (p. ex. détournement d'avion);
 - b) avec l'intention de compromettre la sécurité de toute personne, placer quoi que ce soit à bord d'un aéronef, ou faire quoi que ce soit à un aéronef, qui puisse causer la mort ou des blessures aux personnes (p. ex. attaques au sol ou sabotage); et
 - c) apporter ou faire apporter à bord d'un aéronef civil des armes à feu, des explosifs ou d'autres objets qui puissent mettre en danger les personnes ou les biens à bord des aéronefs, sauf dans les cas où ces articles sont introduits à bord d'un aéronef avec le consentement du propriétaire ou de l'exploitant de ce dernier en toute connaissance de la nature des articles en question.

Il est en outre proposé que l'Organisation de l'aviation civile internationale soit encouragée à élargir son rôle en prenant de nouvelles mesures pour restreindre tous les genres d'intervention illicite contre la sécurité de l'aviation civile, y compris les attaques au sol et le sabotage.

File ✓
Diary
Div.

42-8-9-3-1040
OTTAWA, June 19, 1970

Mr. H.C. Norton,
Senior Counsel, Legal Services,
Canadian Transport Commission,
275 Slater Street,
O t t a w a.

Dear Mr. Norton,

This will refer to your letter of June 4 concerning the draft minutes of the Seventeenth Session of the ICAO Legal Committee which met in Montreal February-March of this year.

After reviewing the draft transmitted to you by Mr. Roy, I would like to offer the following comments:

- (a) Paragraph 13 of the 32nd meeting: Delete everything after "as it was at present"; and amend last phrase to read "as it is at present";
- (b) Paragraph 16 of the 35th meeting: Insert "States" after "would exclude those"; delete everything after "relationship with the aircraft"; and add "...other than registration as would be the case when the owner was not the operator. A great number of aircraft flying today probably were not operated by the owner. Many airlines did not own their aircraft; they merely operated them".

I would, however, prefer that these comments be subject to Mr. Evans' approval since he also spoke at this Session and at the 35th meeting in particular. I would also suggest that Mr. Evans (to whom I am copying this letter) might wish to examine paragraph 1 of the 36th meeting to ensure it conforms with the amendment he put forward and the remarks he made on that occasion.

Yours sincerely,

L. S. CLARK

L.S. Clark,
Legal Division.

ACTION COPY

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25 | 13

FLE

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

FM PARIS JUN19/70

TO EXTER 1910

INFO LDN TT BRU DE LDN WSHDC DE OTT BERN BERUT DE PARIS

REF VOTRETEL FLE841 JUN15

OACI:SESSION EXTRAORDINAIRE-INITIATIVE CDN

SUPPOSONS QUE VOTRE REFTEL CONSTITUE CLARIFICATION DEMANDEE DANS
TEL 2021 JUN15 DE LONDRES.MALHEUREUSEMENT NAYANT RECU VOTRETEL
FLE834 QUE LE JUN15 IL NE NOUS FUT PAS POSSIBLE EFFECTUER DEMARCHE
EN TEMPS UTILE,PERSONNE RESPONSABLE DE CES QUESTIONS AU QUAI SETANT
DEJA RENDUE A MTL.

2.POUR TOUT EMPLOI FUTUR DU TEXTE TRANSMIS VOTRETEL FLE834,VOUS
SIGNALONS UNE OMISSION DE DEUX LIGNES AU PARA 5 APRES CIT DETOURNE-
MENT DAERONEFS ET (B)FINCIT.

*We'll look into this
for*

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JUNE 24 file*

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

FM PARIS JUN19/70

TO EXTER 1910

INFO LDN TT BRU DE LDN WSHDC DE OTT BERN BERUT DE PARIS

REF VOTRETEL FLE841 JUN15

OACI:SESSION EXTRAORDINAIRE-INITIATIVE CDN

SUPPOSONS QUE VOTRE REFTEL CONSTITUE CLARIFICATION DEMANDEE DANS
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EN TEMPS UTILE,PERSONNE RESPONSABLE DE CES QUESTIONS AU QUAI SETANT
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MENT DAERONEFS ET (B)FINCIT.

CANADIAN PACIFIC • CANADIAN NATIONAL

TELECOMMUNICATIONS

CANADIEN PACIFIQUE • CANADIEN NATIONAL

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CANADIAN GOVERNMENT REPRESENTATIVE I C A O

SESSION OF INTERNATIONAL CIVIL AVIATION ORGANIZATION

INTERNATIONAL AVIATION BLDG 1080 UNIVERSITY ST MTL

CHURCH AND INTERNATIONAL AFFAIRS COMMITTEE OF THE UNITED

CHURCH OF CANADA MEETING JUNE 17 1970 URGES SUPPORT OF

POSITION OF CANADIAN AIRLINE PILOTS ASSOCIATION AND

INTERNATIONAL FEDERATION OF AIRLINE PILOTS ASSOCIATION

IN SEEKING TO HAVE ALL STATES REGARD INTERFERENCE WITH OR
ATTACKS ON CIVIL AVIATION AS

17 1970

REPRESENTATIVE OF CANADA TO
I. C. A. O.
JUN 19 1970
AM 7 8 9 10 11 12 1 2 3 4 5 6 PM

CANADIAN PACIFIC • CANADIAN NATIONAL

TELECOMMUNICATIONS

CANADIEN PACIFIQUE • CANADIEN NATIONAL

RAN347 CANADIAN GOVERNMENT MTL SECOND SHEET

Jun 19 11 23 AM '70

AN INTERNATIONAL CRIME THE COMMITTEE ALSO REQUEST FIRM

SUPPORT FOR INTERNATIONAL UNDERTAKING FOR IMMEDIATE

RETURN OF HIJACKED AIRCRAFTS CREW AND PASSENGERS AND

FOR EXTRADITION OR TRIAL AND PUNISHMENT OF HIJACKERS REV GORDON

K STEWART SECRETARY COMMITTEE ON THE CHURCH AND INTERNATIONAL

AFFAIRS THE UNITED CHURCH OF CANADA

-RAN347-

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R E S T R I C T E D

DE BERUT JUN18/70

A EXTER 369 IMMED

REF VOS TELS FLE833 ET FLE834 JUN12

OACI

SUITE A VOS INSTRUCTIONS CE NEST QUHIER SEULEMENT QUE SADAKA SECGEN DU MAE A PU ME DONNER UN RENDEZ VOUS AU COURS DUQUEL JE LUI AI REMIS LE DOCU DETUDE SOUS COUVERT DE LAIDE MEMOIRE SUGGERE PAR VOUS(COPIE PAR LET).

2.SADAKA A PRIS CONNAISSANCE DE CES DOCUS SANS FAIRE DE COMMENTAIRES DE SUBSTANCE.IL NOUS A CEPENDANT DEMANDE POURQUOI NOUS NESSAYERIONS PAS PLUTOT DE PREVOIR DES SANCTIONS DANS LE TEXTE DES CONVENTIONS MULTILATERALES TELLE QUE CELLE DE TOKYO PLUTOT QUE DANS CELUI DES CONVENTIONS BILATERALES.SELON LUI POUR LES PAYS ACQUIS AU PRINCIPE DES SANCTIONS,LUNE OU LAUTRE TECHNIQUE FERAIT SANS DOUTE PEU DE DIFFERENCE SAUF QUE LE RECOURS A LA CONVENTION MULTILATERALE LUI PARAITRAIT PLUS SIMPLE ET PLUS EFFICACE.JAI DIT A SADAKA QUE DEL LIBANAISE POURRAIT SENQUERIR DIRECTEMENT A CE SUJET AUPRES DE NOTRE DEL A LA PRESENTE REUNION DE LOACI.

to put sanctions directly into multilateral treaty, you have to get agreement of all parties. By bilateral agmt i.e. indirect method, the major countries could force a certain measure of implementation. (Signer is striving not a lawyer!)

8/18/6



Healy Brennan
14 Feb 1970
MS

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

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

902 ÉDIFICE DE L'AVIATION INTERNATIONALE, MONTRÉAL

902 INTERNATIONAL AVIATION BUILDING, MONTREAL

TÉLÉPHONE: 879-4788

TELEPHONE: 879-4788

17 June 1970.

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

Attention: Legal Division.

42893-10A8
2

Dear Sir:

Enclosed, for information, are two copies of State Letter, LE 3/12 - 70/128, dated 11 June 1970, indicating that, on 26 May 1970, the Organization received an instrument of ratification by the Government of Japan of the Convention on Offences and Certain Other Acts Committed on Board Aircraft.

Also enclosed, for information, are two copies of State Letter, LE 3/12 - 70/131, dated 17 June 1970, indicating that the Organization received on 3 June 1970 an instrument of accession by the Government of the Republic of the Ivory Coast to this Convention.

TO: *FLE*
FROM: ACSD
JUN 23 1970
ATTN: *mil/pe OR*

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,
Ministry of Transport, Attn: Mr. C.K. Kennedy (2)
- The Director, International Relations Branch,
International Transport Policy Committee (2)
- The Administrator, Canadian Air Transportation
Administration, Ministry of Transport (2)
- The Assistant Deputy Minister, General,
Ministry of Transport (6)
- Department of Justice,
Attention: Mr. J.M. Bentley (2)

ENTERED IN
CANADA TREATY REGISTER
MS

FLE

30.25.6

ORGANISATION DE L'AVIATION
CIVILE INTERNATIONALEORGANIZACIÓN DE AVIACIÓN
CIVIL INTERNACIONAL

INTERNATIONAL CIVIL AVIATION ORGANIZATION

(CS, DNCS)

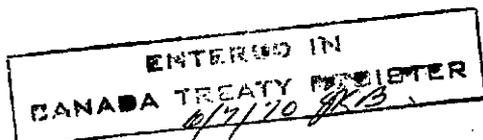
INTERNATIONAL AVIATION BUILDING
1080 UNIVERSITY STREET
MONTREAL 101, P.Q. CANADAWHEN REPLYING, PLEASE QUOTE:
RÉFÉRENCE À RAPPELER DANS LA RÉPONSE:
INDÍQUESE EN LA RESPUESTA ESTA REFERENCIA:

LE 3/12 - 70/128

11 June 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 26 May 1970 the Organization received an instrument of ratification by the Government of Japan of the said Convention. Accordingly, in accordance with Article 21, paragraph 1, the Convention will enter into force for Japan on 24 August 1970.



30 The Representative of Canada
on the Council of ICAO
International Aviation Building
MONTREAL

ORGANISATION DE L'AVIATION
 CIVILE INTERNATIONALE



ORGANIZACIÓN DE AVIACIÓN
 CIVIL INTERNACIONAL

INTERNATIONAL CIVIL AVIATION ORGANIZATION

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

(CS, DNCS)

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

LE 3/12 - 70/128

11 June 1970

Subject: Convention on Offences and Certain
 Other Acts Committed on Board Aircraft
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ENTERED IN
 CANADIAN AIR FORCE REGISTER
 6/7/70 JRB

30 The Representative of Canada
 on the Council of ICAO
 International Aviation Building
 MONTREAL

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, DNCS)

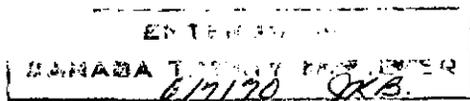
WHEN REPLYING, PLEASE QUOTE:
RÉFÉRENCE À RAPPELER DANS LA RÉPONSE:
INDÍQUESE EN LA RESPUESTA ESTA REFERENCIA:

LE 3/12 - 70/131

17 June 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 3 June 1970 the Organization received an instrument of accession by the Government of the Republic of the Ivory Coast to the said Convention. Accordingly, in accordance with Article 22, paragraph 2, the Convention will enter into force for the Republic of the Ivory Coast on 1 September 1970.



30 The Representative of Canada
on the Council of ICAO
International Aviation Building
MONTREAL

ORGANISATION DE L'AVIATION
CIVILE INTERNATIONALEORGANIZACIÓN DE AVIACIÓN
CIVIL INTERNACIONAL

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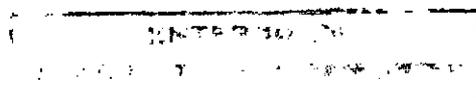
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30 The Representative of Canada
on the Council of ICAO
International Aviation Building
MONTREAL

O/SSEA
O/USSEA
Parl. Secty
Press Office
File ✓
Diary
Div

c.c. Mr. D.H. Proudfoot for the
Minister of Transport

H. Eichner - DOT
E.L. WEE - FLE

June 17, 1970

42-8-9-3-10A0
21 -

BEST COPY AVAILABLE

ANTICIPATED QUESTIONS
HOUSE OF COMMONS

ICAO Extraordinary Assembly: Canadian
Proposal on Linking Bilateral Air Agreements to
ICAO Conventions.

QUESTION:

Would the Secretary of State for External Affairs (Minister of Transport) inform the House about the Canadian proposal at the Special International Civil Aviation Organization (ICAO) Assembly now underway in Montreal - reported in today's press - on suspending bilateral air agreements with States which do not return hijackers or aircraft saboteurs for prosecution?

ANSWER:

Canada has submitted a Working Paper to the ICAO Assembly which recommends a thorough study by the ICAO Council or Legal Committee on the question of linking bilateral air agreements to ICAO conventions dealing with hijacking and attacks against civil aircraft. The Canadian Paper suggests that after such a study, a subsequent Assembly (the next regular session is scheduled to take place in Vienna in June 1971) could adopt a resolution calling for implementation of our proposal. The proposal, as submitted to ICAO, would provide a legal basis, by means of a special clause annexed to bilateral air agreements, for suspension of operation of the air agreements with any State which refuses or fails to implement its international obligations under the ICAO conventions.

.....2

BEST COPY AVAILABLE

- 2 -

SUPPLEMENTARY
QUESTION:

Is the Canadian Government prepared to cancel a bilateral air agreement, which has been the object of long and difficult negotiations, with a country which refuses to return to Canada for prosecution the hijacker of a Canadian aircraft?

ANSWER:

The Government's position is that widespread international co-operation is required to deter and prevent attacks and other illegal acts against civil air transport. In the event that international agreement on our proposal to enforce legal obligations is secured, we would have the right to suspend operation of an air agreement with a State refusing to return a hijacker to any State, not only to Canada, whose aircraft had been hijacked. The decision as to whether we would exercise that right would, of course, depend on the circumstances of the particular case.

SUPPLEMENTARY
QUESTION:

Could the Minister inform the House on the progress of hijacking talks with Cuba?

ANSWER:

The Government has provided the Cuban authorities with a number of proposals which could be included in a Canada-Cuba agreement. We understand these are at present under study by the responsible Cuban officials and we will be advised of their comments in due course.



Le Conseil canadien des Églises

The Canadian Council of Churches

40 ST. CLAIR AVE. E., TORONTO 290, ONTARIO TEL. 921-4152 CABLE ADDRESS: CANOIKOS, TORONTO

42-89-311
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Fide
[Signature]

Canadian Government Representatives,
ICAO Session,
International Civil Aviation Organization,
International Aviation Building,
1080 University St.,
Montreal 3, P.Q.

June 17, 1970

REPRESENTATIVE OF CANADA TO
I. C. A. O.

JUN 19 1970

AM 7 8 9 10 11 12 1 2 3 4 5 6 PM

Dear Sirs:

It has come to our attention that the International Federation of Air Line Pilots Associations are today making representations at the ICAO session to press for international governmental action to deal with the hazard to life and safety of the travelling public arising from the increasing frequency of airliner hijacking. As Secretary of the Religion-Labour Council of Canada and Acting General Secretary of the Canadian Council of Churches, I personally urge that you as our Canadian Government representatives at the ICAO sessions take all possible civilized measures to eliminate such attacks on civil aviation and to restore safe travel conditions on the national and international airways of the world. Such action is demanded both on behalf of the citizen travelling public and on behalf of the responsible air line pilots whose lives are equally, if not more, in jeopardy as a result of the dangerous acts of these air line hijackers.

The proposals put forward by the Canadian Air Line Pilots Associations appear to us to be a reasonable and effective line of approach to the problem, namely:

"Adoption of a solemn and binding undertaking by all States that they will regard interference with or attacks on civil aviation, for whatever reason, as an international crime which they will in no circumstances condone.

"Any State failing to subscribe to such an undertaking would be judged to have renounced its obligation to uphold safety and the rule of law and would therefore forfeit any right to enjoy the benefits of belonging to the responsible international air transport community."

We recognize that there are major problems involved in the implementation of such proposals but we also urge that there are major hazards involved in failure to attempt their implementation. We feel sure that we can continue to look for courageous Canadian leadership in this important international field.

Yours faithfully,

Maurice P. Wilkinson
Maurice P. Wilkinson (Rev. Canon)
Acting General Secretary

MPW/r

c.c. Mr. Thomas E. Elden
Dictated but not personally signed

PRESIDENT
Rev. A. B. B. Moore, B.A., B.D., D.D., LL.D.

GENERAL SECRETARY
Rev. T. E. F. Honey, B.A., S.T.M., D.D.

ASSOCIATE SECRETARIES
Rev. E. S. Mackay, M.A., O.D.
Rev. Canon M. P. Wilkinson, M.A., L.Th.

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

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TO EXTER 450 PRIORITY

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ICTAO EXTRAORDINARY ASSEMBLY

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ICAO EXTRAORDINARY ASSEMBLY:CDN PROPOSAL

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OPPORTUNITY TO DELIVER COPY OF DISCUSSION PAPER.DEL MEMBERS ARE

FAMILIAR WITH OUR PROPOSAL BECAUSE OF EARLIER REPRESENTATIONS

HOWEVER AND FO WILL FORWARD COPY OF PAPER TO THEM AT ICAO CONFERENCE.

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C. [Signature]

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REF YOURTELS FLE814 JUN11 FLE833 JUN12

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

INFORM THAT REFTELS REACHED LDN, IT IS NOT/NOT CLEAR TO US WHETHER
(A)CABINET HAS NOW APPROVED REVISED CDN INITIATIVE AT ICAO
ASSEMBLY OR (B)WHETHER MISSIONS OTHER THAN CAIRO BERUT AND HAVAN
(ONLY ACTION ADDRESSEES OF OPERATIVE TEL FLE814)ARE NOW INTENDED
TO TAKE ACTION ON THESE TWO TELS.PLEASE CLARIFY.

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MESSAGE

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SUB/SUJ ICAO ASSEMBLY: CDM PROPOSAL

IF YOU THINK IT APPROPRIATE, YOU MAY DRAW ON FIRST REPTTEL TO PROVIDE
 RESPECTIVE MFAS WITH COPY OF CDM DISCUSSION PAPER SUBMITTED TO ICAO.

DISTRIBUTION
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Your Memorandum of June 3.

ICAO Extraordinary Assembly: Instructions for
Canadian Delegation.

CONFIDENTIAL

June 15, 1970

42-8-9-3-1CAO
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... Attached are the instructions we have prepared for the items
assigned to this Division by the Memorandum under reference.

Legal Division

A17-WP/8

INTERNATIONAL TRANSPORT
WORKERS FEDERATION (ITF)

Issues:

- A) The ITF calls for the adoption of a binding declaration by all governments that unlawful interference of any kind, and for any cause, with the safe and peaceful operation of civil aviation shall constitute an international crime which every State shall solemnly contract never to condone and shall undertake to try to prevent with all the means at its disposal.
- B) The member organizations of the ITF would support and assist sanctions i.e. the immediate and complete withdrawal of all services, benefits and privileges provided by airlines and international bodies or agencies, both governmental and non-governmental, against any State refusing or failing to act against persons or groups within its jurisdiction organizing or participating in attacks against civil aircraft or civil aviation installations.
- C) The ITF wishes to see the draft ICAO Convention on Unlawful Seizure of Aircraft strengthened in particular respects.
- D) The ITF stresses the vital need to speed up the process of finalization, signature, ratification and implementation of the draft Convention on Unlawful Seizure (and possibly, any new convention relating to unlawful interference with civil aviation).

Comments:

- A) It is not clear what the ITF means by "a binding declaration by all governments". In this context, only a multilateral convention or other type of international legal instrument could be binding, and then only on Contracting States. Any resolution or other type of declaration by the ICAO Assembly would not be binding even on Member States which voted for it.

On the question of "an international crime", to date there are extremely few universally accepted international crimes e.g. genocide and piracy. It would appear that, despite the gravity and seriousness of acts of unlawful interference with aviation, this type of crime is not in the same class as "international crimes". However, as between States parties to an international agreement making a specific offence a crime under the agreement, a crime could, of course, be "internationalized". From the use of the word "contract", it seems the ITF does have in mind some sort of international agreement.

- B) The question of sanctions against an offending State involves many serious implications which would require a great deal of study, perhaps by a competent organ of ICAO such as the Legal Committee or a special Legal Sub-Committee.

.....2

- C) The draft ICAO Convention will be the subject of a Diplomatic Conference at the Hague December 1 to 16, 1970. Any attempt to substantially revise or amend the Convention between now and December could well result in the need for postponing the Diplomatic Conference. While it is recognized that there may be deficiencies in the present draft, any delay in bringing it into force would be counter-productive in the sense of progress in dealing with hijacking on the international plane.
- D) IATA has recently proposed that consideration be given to definitive signature i.e. a combined signature and ratification process, with respect to the draft Hijacking Convention. While most States, including Canada, observe the normal treaty process which involves separate signature and ratification, this question could be looked into with a view to speeding up the traditional method of bringing a treaty into force. In any case, it is to be hoped that Canada will be prepared to ratify the ICAO Convention on Unlawful Seizure, provided it remains substantially the same as the present draft.

/at an early date

Instructions:

- A) The Delegation should support any resolution condemning acts of unlawful interference with civil aviation of any kind and for any cause. If there appears to be general support for a new ICAO convention to deal with aspects of unlawful interference not covered by the 1963 Tokyo Convention nor the draft Hijacking Convention, the Delegation can support a study by the competent ICAO organ (likely the Legal Committee) of the usefulness of elaborating a new international instrument. Should the relevant decision call specifically for elaboration of a new convention, the Delegation - after making appropriate comments regarding our preference for uniform parallel legislation - may vote in favour if a majority of the Assembly adopts this view.
- B) The Delegation should make known the Canadian view that the question of sanctions requires detailed study and that the present Assembly is not particularly well equipped to undertake this in the short time available. Insofar as the debate on sanctions is compatible with the thesis of the Canadian Discussion Paper on Linking Bilateral Air Agreements to ICAO Conventions, the Delegation should take the position that they are a valid means of enforcing international legal obligations.
- C) The Delegation should exert every effort to ensure that there is no substantive discussion on the provisions of the draft ICAO Convention on Unlawful Seizure of Aircraft so as to avoid postponement of the December Conference in the Hague and any delay in bringing the new instrument into force.
- D) The Delegation should reserve the Canadian position with respect to speeding up the process of bringing a treaty into force, while expressing sympathy with the general objective.

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A17-WP/11

INTERNATIONAL AIR TRANSPORT
ASSOCIATION (IATA)

Issues:

- A) IATA urges ratification and accession to the Tokyo Convention and the speeding up of the lengthy and time consuming ratification process with respect to new conventions.
- B) IATA calls for the urgent development of "international legislation" to deal with armed attacks against civil aircraft on the ground and the placing on board aircraft or shipment of unauthorized explosive devices and other dangerous goods intended to damage aircraft. An international offence should be created.
- C) States should consider elaborating a convention which would be "a renunciation by the signatory States of all forms of attacks and sabotage against civil aircraft and of their passengers as an instrument of government policy, both in peace time and in war time".

Comments:

- A) With respect to speeding up the treaty ratification process, see comments on WP/8.
- B) With respect to international legislation and international offence, see comments on WP/8.
- C) Since attacks against civil aircraft and sabotage, except in time of war (and possibly other conflicts), are universally accepted as illegal, it would seem unlikely that any State would admit to such acts being government policy. Accordingly, renunciation by means of a special convention would probably not gain much support at the Assembly. In time of war (and perhaps other conflict) it would be extremely difficult, if not impossible, to enforce provisions of this type of a convention.

Instructions:

- A) The Delegation should co-sponsor any resolution urging signature of, ratification of or accession to the Tokyo Convention (ratified by Canada on November 7, 1969).
- B) See comments on WP/8.
- C) If there is general agreement that the renunciation convention should be studied by a competent ICAO organ, the Delegation may support this. The Delegation should, however, make known its reservations about the usefulness of such a convention.

.....

A17-WP/13

ISRAEL

Issues:

- A) Israel calls for a solemn declaration setting out certain principles.
- B) Israel wishes to strengthen the draft ICAO Convention on Unlawful Seizure of Aircraft and make such an act an international crime.
- C) Israel urges the elaboration of a new international convention making the placing on board an aircraft of any device intended to cause damage an international crime entailing severe punishment.
- D) Israel wishes to promote general agreement on the non-applicability of the excuse of political motivation with respect to unlawful interference.
- E) Israel wants to see sanctions by the international community against any country enabling or abetting "international crimes" by providing support, protection, encouragement or shelter to the authors of acts of unlawful interference.
- F) Israel wishes widespread immediate effect to be given to Article 11 of the Tokyo Convention.
- G) Israel calls for the establishment by the Assembly of a Standing Committee on Acts Endangering Civil Aviation to replace the eleven member ICAO Council Committee on Unlawful Interference.

Comments:

- A) See comments on WP/8.
- B) See comments on WP/8.
- C) See comments on WP/8.
- D) */substantial* The Canadian Delegation at the ICAO Sub-Committee and Legal Committee meetings which drafted the Hijacking Convention took the view that, in principal, acts of unlawful interference should in all cases be considered non-political offences. There was ~~an~~ opposition to this view and it was not reflected in the final draft of the Convention.
- E) See comments on WP/8.
- F) Canada ratified the Tokyo Convention on November 7, 1969.

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- G) The ICAO Council Committee on Unlawful Interference was established by a Council Resolution of April 10, 1969. If this Committee were to be replaced, it would be up to the Council to take action. The Israeli request would, therefore, require the adoption by the Assembly of specific instructions to the Council. It is contemplated that the President of the Extraordinary Assembly should be a member of a new special committee. However, the official status of the Assembly President ends with the conclusion of the Assembly itself.

Instructions:

- A) The Delegation can support "a solemn declaration" of the type envisaged by Israel. However, instead of denouncing countries abetting acts of unlawful interference, the declaration should be amended to call on States to refrain from such acts. In addition, the phrase "at all cost" in A.1.(E) of WP/13 should be deleted.
- B) See comments on WP/8.
- C) See comments on WP/8.
- D) The Delegation should state that Canada is of the view that acts of unlawful interference with aircraft should in all cases be considered non-political offences, subject to the contrary being proved in a court of law. The question of political motivation for an offence should not be relevant with respect to prosecution of the author of such acts but should be taken into account only after the alleged offender has been acquitted or served his sentence.
- E) See comments on WP/8.
- F) . The Delegation should support the widespread implementation of the Tokyo Convention as a whole. If there is general agreement to single out Article 11 (which the Israelis and others would like to see become acceptable as declarative of general international law) the Delegation may support this.
- G) The Delegation may support a resolution calling for a review, by the ICAO Council, of the terms of reference and composition of the Committee on Unlawful Interference. However, unless there is widespread support for the abolition of the Committee and its replacement, the Delegation should not go on record as being in favour of the Council taking specific action with respect to the Committee. The Council should be left a measure of discretion on this question.

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A17-WP/14

UNITED STATES

(The Canadian Views have already been advised
to the U.S. Authorities.)

Issues:

The use of rewards as a means of discouraging hijacking, sabotage and other acts of violence against international air transport.

Comments:

This is a question which merits some degree of study.

Instructions:

The Delegation should make known the Canadian view that rather than encourage Contracting States, international organizations, etc. to consider the offering of monetary rewards, the draft resolution should be reworded 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.

.....

"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 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.

b) The Canadian view is that the question of providing for reports to the Council in the hijacking convention is a matter to be decided by the Diplomatic Conference scheduled to take place in The Hague, December 1 - 16. Accordingly, the Assembly should not consider this matter and there is no need for an Assembly resolution on this question.

A17-WP/19

BRAZIL

Instructions:

If necessary, the Delegation can support the Brazilian proposal to discuss the items set out in the Working Paper.

.....

A17-WF/21

UNITED STATES

(The Canadian Views have already been advised
to the U.S. Authorities.)

Issues:

Expeditious ratification of the Hijacking Convention.

Comments:

It is the Canadian view that ICAO Assembly resolutions should be able to stand on their own without unnecessary references to particular points in time.

Instructions:

The Delegation should support the U.S. draft resolution while suggesting the deletion of "in recent months" and the insertion of "to sign and" after "Contracting States" in the final operative paragraph; "thereafter" could also be deleted.

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A17-WF/22

UNITED STATES

(The Canadian Views have already been
advised to the U.S. Authorities.)

Issues:

Continuing ratification of the Tokyo Convention.

Instructions:

The Delegation may offer to co-sponsor the U.S. draft resolution.
However, for the reasons indicated in connection with WP/21, it should be
suggested that "in recent months" be deleted.

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A17-WF/23

BEST COPY AVAILABLE

UNITED STATES

(The Canadian Views have already been
advised to the U.S. Authorities.)

Issues:

Action by the Council and its Committees.

Comments:

- A) The giving of instructions to the Council on the subject of unlawful interference is an appropriate function of the Assembly. The Committee on Unlawful Interference with International Civil Aviation and its Facilities was established and its terms of reference set out in the Council Resolution of April 10, 1969. While the proposed U.S. amendment to these terms of reference - contained in the draft resolution - appears acceptable, the close supervision of the Committee by the Council contemplated in operative paragraph 3 might be taken by members of the Committee as a reflection on their ability to carry out the tasks assigned to them.
- B) 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 instructions to the Council "to direct its President" are a different matter from instructions to the Council as a whole, it does not seem appropriate for this paragraph to be "tacked on" to what precedes it in the present text of the draft resolution.

Instructions:

- A) If an appropriate occasion arises, the Delegation should put forward the following drafting suggestions with respect to the draft 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";

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-2-

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

- B) 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 draft resolution, the Delegation should suggest that operative paragraph 5 should be deleted. (If the U.S. insists, it can be the subject of a separate resolution, on which the Delegation should abstain unless it appears likely to receive a substantial majority.)

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A17-MF/24

THE REPUBLIC OF KOREA

Issues:

The role of ICAO on hijacking.

Comments:

It is not clear who should make the proposal that "ICAO exercise its good offices to settle the disputes...." i.e. whether it should be ICAO itself or an organ thereof (e.g. the Council) or the state of registration of the aircraft.

Instructions:

The Delegation may support any decision that the good offices of ICAO should be available on demand. However, there should not be any element of automaticity with respect to good offices. Thus, any Member State should have the right to decline an offer of good offices.

.....

A17-WP/27

SWITZERLAND

Issues:

- A) Preparation of a new International Convention.
- B) Urgent measures should be proposed to the ICAO Council before the end of 1970; an interim report on the progress of work should be submitted by the Council to the 1971 Assembly; contracting states should report before the end of 1970 on measures they have taken.
- C) Amendment ^{to} on Chicago Convention.
 - 1) New article to follow article 13;
 - 2) New article to follow article 28.

Comments:

- A) See comments on WP/8.
- B) It would seem that this proposal is acceptable, provided it has general support.
- C)
 - 1) The question of rapid and free legal assistance in the prosecution of offenders requires detailed study. It is not clear from the Working Paper to whom this assistance should be provided, i.e., to the authorities in the state of landing of the aircraft, to the airlines, etc.
 - 2) There are no restrictions as to what kind of "measures" a contracting state might be compelled to take to prevent or repress offences.

Instructions:

- A) See Working Paper 8.
- B) If it appears there is general support for this proposal, the delegation may also support it.
- C)
 - 1) If there is general agreement on amending the Chicago Convention as proposed, the delegation should obtain clarification on what is meant by "rapid and free legal assistance in prosecution and perpetration of such offences" and seek specific instructions from Ottawa.

- 2 -

2) The delegation should suggest that the proposed draft article be amended to read "all reasonable measures that a contracting state is compelled to take..."

A17-WP/28

UNITED KINGDOM

Issues:

Carriers right to search.

Comments:

This question requires detailed study.

Instructions:

The delegation may support any resolution referring this matter to the competent ICAO organ for study. If it is decided by the Assembly that a new ICAO International Convention should be drafted to deal with armed attacks and sabotage, the delegation should suggest that the United Kingdom proposal be taken up by the body which will elaborate a draft international legal instrument.

AL7-WP/29

UNITED KINGDOM

Issues:

Proposal for an International Convention on Violence Against Aircraft.

Comments:

See Working Paper 8. The British Working Paper sets out a suitable basis for the elaboration of a convention by the Legal Committee of a special sub-committee. However, the United Kingdom evidently has in mind that The Hague Conference in December consider not only the draft ICAO Hijacking Convention but also a new Convention on Violence Against Aircraft - provided agreement is received to waive the normal ICAO rules relating to the preparation of conventions. This matter will therefore require substantive discussion in the Assembly.

Instructions:

See Working Paper 8. If there appears to be general agreement on the advisability of drafting a new ICAO Convention, the delegation can support this approach. The delegation should keep in close touch with the United Kingdom delegation on the question of waiving the normal ICAO rules and establishing a committee or sub-committee to elaborate the new instrument. No commitment should be made on the part of Canada with respect to specific provisions in such a convention since this is a matter which will be discussed in depth in the ICAO Committee or Sub-Committee. Ottawa should be kept fully informed of developments with respect to the British proposal and additional guidance sought.

AL7-WP/30

INTERNATIONAL FEDERATION OF AIR
LINE PILOTS ASSOCIATIONS (IFALPA)

Issues:

IFALPA Calls for:

- A) Widespread adherence to the Tokyo Convention, and when it is adopted, the new Hijacking Convention.
- B) The conclusion of a separate international instrument to deal with sabotage and armed aggression against civil aviation.
- C) A "universal declaration of intent by states to the effect that, in cases where extradition to the state of primary jurisdiction is not contemplated, the political motives of the offender" will be irrelevant.
- D) The ICAO Legal Committee to draft model legislation ^{which} will be recommended for universal adoption.
- E) Sanctions against states which do not comply with a "binding declaration never in any circumstance to condone acts of unlawful seizure or other attacks on civil aircraft.

Comments:

- A) Canada agrees with this position.
- B) See comment on Working Paper 8 and Working Paper 15.
- C) See comment on Working Paper 13.
- D) Some states have already enacted specific criminal provisions to deal with unlawful interference, e.g., U.S.A., many others, e.g., Canada and the United Kingdom, have legislation ready to be introduced. Rather than draft model laws the Legal Committee might more usefully indicate what elements should be covered in legislation enacting specific criminal offences.
- E) See comment on Working Paper 8.

Instructions:

- A) The delegation should support any resolution calling for adherence to the Tokyo Convention and, eventually, the ~~Hijacking~~ Hijacking Convention on Unlawful Seizure.

- 2 -

- B) See instructions on Working Paper 8.
- C) See instructions on Working Paper 13.
- D) The delegation should support any request that ICAO continue to distribute texts of national legislation dealing with unlawful interference. The delegation should indicate the difficulties which may be involved if the Legal Committee should attempt to draft model legislation at this late date when the question of particular criminal offences has been under study in many states during the past few years.
- E) See instructions on Working Paper 8.

MESSAGE

	DATE	FILE/DOSSIER	SECURITY SECURITE
	JUN 15 17 55 '75 JUNE 15	42-8-9-3-ICAO	UNCLASS
FM/DE			
TO/A	MR. H. GOURDEAU, CDN REP ON ICAO COUNCIL, INTL CIVIL AVIATION BLDG. MONTREAL	NO FLE-836	PRECEDENCE IMMEDIATE
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SUB/SUJ

GRATEFUL YOU SUBMIT ENGLISH, FRENCH AND SPANISH TEXTS OF GDN DISCUSSION PAPER ON LINKING BILATERAL AIR AGREEMENTS TO ICAO INTERNATL CONVENTIONS RELATING TO UNLAWFUL INTERFERENCE WITH CIVIL AVIATION TO ICAO SECRETARIAT IMMEDIATELY. TEXTS PROVIDED TO YOU ON JUNE 11 AND 12 HAVE BEEN APPROVED.

UNDER-SECRETARY OF STATE
FOR EXTERNAL AFFAIRS

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Mr. Clappe - O.R.

INSTITUTE
OF
COMPARATIVE AND FOREIGN LAW



McGILL UNIVERSITY

CHANCELLOR DAY HALL
3644 PEEL STREET
MONTREAL 112, QUEBEC
CANADA

PERSONAL

June 15, 1970

John

Mr. Alan Beesley
Head of the Legal Division
Department of External Affairs
Ottawa, Ontario

Dear Mr. Beesley:

Following Thursday's conversation, I have the pleasure to enclose herewith my report to the ILA on the ICAO draft convention on hijacking which has been distributed to the members of the ILA Air Law Committee and will be published, with some editorial amendments, in the forthcoming issue of the Revue française de Droit aérien.

I am also enclosing, in case you may be interested, a paper on hijacking and the legal interferences with civil aviation published in the 1969 Annuaire français de Droit international which, I understand, is now available but which I have not yet received.

I am sending you separately offprints of previous papers dealing with crimes on board aircraft and some aspects of the attempts to revise the Warsaw Convention.

I am also enclosing herewith a list of papers I had published during the last years. The pre-eminence therein of papers on air and space law is explained by the fact that, as you are aware, I spent some 20 years with ICAO (Legal Bureau).

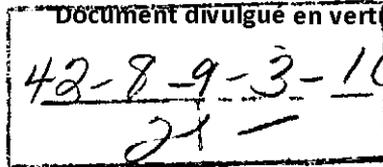
retained by Mankiewicz

Sincerely yours,

Dr. R.H. Mankiewicz
Professor of Law

RHM/al
Encls. 3

P.S. This letter was to be sent last Friday - show the "notation" but Montreal.



June 12, 1970.

INTERNATIONAL CIVIL AVIATION ORGANIZATION
ASSEMBLY - 17th SESSION (EXTRAORDINARY)

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

(presented by Canada)

If those responsible for criminal actions endangering civil air transport are to be brought to justice, it must be done with the cooperation of all States which enjoy the benefits of civil aviation. Each State ought to be prepared to accept certain obligations, including modest limitations on the exercise of its Sovereign power, in return for the knowledge and assurance that other States are also prepared to accept and discharge similar undertakings for the collective benefit of all.

Consequently, it is submitted that each State should be encouraged:

1. if it has not already done so, to ratify the Tokyo Convention on Offences and Certain other Acts Committed on Board Aircraft.
2. to become a party to the convention on Unlawful Seizure of Aircraft, a draft of which is scheduled to be considered by a diplomatic conference later this year.
3. to enact domestic legislation, where no such legislation now exists, making it an offence for anyone,
 - a) to unlawfully seize or exercise control of a civil aircraft in flight, (ie, hijacking);
 - b) with intent to endanger the safety of any person, to place anything upon or do anything to any aircraft, that is likely to cause death or bodily injury to persons (ie, ground attacks or sabotage); and
 - c) to bring onto a civilian aircraft or to cause to be brought thereon, firearms, explosives, or other things that might endanger persons or property on board aircraft, except when such goods are brought onto an aircraft with the consent, given with the knowledge of the nature of the goods concerned, of the owner or operator thereof.

It is further submitted that The International Civil Aviation Organization should be encouraged to extend its involvement to include the taking of further measures to curtail all types of unlawful interference with the safety of civil aviation including ground attacks and sabotage.

ASSEMBLEE DE L'ORGANISATION DE L'AVIATION CIVILE
INTERNATIONALE - 17^e SESSION (EXTRAORDINAIRE)

Sous-question b): étude des arrangements permettant de traduire en justice les personnes responsables d'actes criminels mettant en danger les transports aériens civils.

(point présenté par le Canada)

La coopération de tous les Etats qui jouissent des bienfaits de l'aviation civile est indispensable si l'on veut traduire en justice les personnes responsables d'actes criminels mettant en danger les transports aériens civils. Chaque Etat doit être disposé à accepter certaines obligations, y compris de modestes restrictions touchant l'exercice de sa puissance souveraine, en retour de la connaissance et de l'assurance du fait que d'autres Etats sont également disposés à accepter et à exécuter des engagements analogues à l'avantage collectif de tous.

Il est donc proposé que chaque Etat soit encouragé:

1. s'il ne l'a pas déjà fait, à ratifier la Convention de Tokyo sur les infractions et certains autres actes commis : à bord des aéronefs.
2. à devenir partie à la convention sur la Capture illicite des aéronefs, dont une version doit être examinée plus tard cette année par une conférence diplomatique.
3. à adopter des lois nationales, là où n'existe encore aucune législation de ce genre, décrétant que c'est une infraction pour quiconque de:
 - a) capturer illicitement un aéronef civil en cours de vol ou en exercer illicitement la maîtrise (p. ex. détournement d'avion);
 - b) avec l'intention de compromettre la sécurité de toute personne, placer quoi que ce soit à bord d'un aéronef, ou faire quoi que ce soit à un aéronef, qui puisse causer la mort ou des blessures aux personnes (p. ex. attaques au sol ou sabotage); et
 - c) apporter ou faire apporter à bord d'un aéronef civil des armes à feu, des explosifs ou d'autres objets qui puissent mettre en danger les personnes ou les biens à bord des aéronefs, sauf dans les cas où ces articles sont introduits à bord d'un aéronef avec le consentement du propriétaire ou de l'exploitant de ce dernier en toute connaissance de la nature des articles en question.

Il est en outre proposé que l'Organisation de l'aviation civile internationale soit encouragée à élargir son rôle en prenant de nouvelles mesures pour restreindre tous les genres d'intervention illicite contre la sécurité de l'aviation civile, y compris les attaques au sol et le sabotage.

MESSAGE

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		JUNE '12	42-8-9-3-1 CAO 2	SECURITE
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INFO	DOT (STONER), CTC (MORISSET), JUSTICE (SOROKAN)			
	<i>VERMISNY</i>			

REF OURTEL FLE-833 JUNE 12.
SUB/SUJ ICAO EXTRAORDINARY ASSEMBLY: CDN PROPOSAL TO LINK BILATERAL AIR AGREEMENTS TO ICAO CONVENTIONS.

FRENCH TEXT OF CDN DISCUSSION PAPER AS FOLLOWS:

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(COMCENTRE: AS ATTACHED)

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SIG..... <i>[Signature]</i> L.S. Mark/SH	FLE - LEGAL DIV.	2-7738	SIG..... <i>[Signature]</i> J.A. Beesley

MESSAGE

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		JUNE 12 1970	1218-9-3-ICAO	CONFIDENTIAL
TO/A	CAIRO, BEIRUT, HAVANA, VIENNA, BRU, JUNE 12, BONN 5 3 '70 HAGUE, OSLO, MADRID, STKLM, BERN, LDN, HELSINKI,	NO	PRECEDENCE	
		FILE-833	IMMEDIATE	
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REE OURTEL FLE-814 JUNE 11.

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

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File ✓
Diary
Div

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FUN - Consular Division

UNCLASSIFIED

FLE - Legal Division

June 12, 1970

Your Memorandum of June 10.

Granting of Visas for IEAO Meetings.

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

The instruments relevant to this question are the Privileges and Immunities (United Nations) Act 1947* and the Headquarters Agreement between Canada and IEAO of 1951.

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2. The 1947 Statute enacts as Canadian law the Convention on Privileges and Immunities of the United Nations which was adopted by the General Assembly in 1946. Article IV, Section 11 of the Convention provides as follows:

Representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, shall, while exercising their functions and during their journey to and from the place of meeting, enjoy the following privileges and immunities:

- a) immunity from personal arrest or detention and from seizure of their personal baggage, and, in respect of words spoken or written and all acts done by them in their capacity as representatives, immunity from legal process of every kind;
- b) inviolability for all papers and documents;
- c) the right to use codes and to receive papers or correspondence by courier or in sealed bags;
- d) exemption in respect of themselves and their spouses from immigration restrictions, aliens registration or national service obligations in the state they are visiting or through which they are passing in the exercise of their functions;
- e) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;
- f) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys; and also,
- g) such other privileges, immunities and facilities not inconsistent with the foregoing as diplomatic envoys enjoy, except that they shall have no right to claim exemption from customs duties on goods imported (otherwise than as part of their personal baggage) or from excise duties or sales taxes."

Section 16 further provides:

"In this article the expression "representatives" shall be deemed to include all delegates, deputy delegates, advisers, technical experts and secretaries of delegations."

(This is somewhat amplified in Article I Section 1(f) of the Headquarters Agreement which states:

"The expression "Representatives of Members" means representatives of States that are members of the International Civil Aviation Organization and shall be deemed to include all delegates, deputy delegates, advisers, technical experts and secretaries of delegations, which secretaries include the equivalent of third secretaries of diplomatic missions but not the clerical staff.")

Article III Section 12 of the Headquarters Agreement sets out in greater detail the subject covered by Section 11 of the Convention:

"Except in so far as in any particular case any privilege or immunity is waived by the Member States whom they represent, Representatives of Members, while exercising their functions and during their journey to and from the place of meeting, shall enjoy the following privileges and immunities:

- a) Immunity from personal arrest or detention and from seizure of their personal baggage, and, in respect of words spoken or written and all acts done by them in their capacity as Representatives, immunity from legal process of every kind; this immunity from legal process shall continue to be accorded notwithstanding that the persons concerned are no longer the Representatives of Members;
- b) Inviolability for all papers and documents;
- c) The right to use codes and to receive papers or correspondence by courier or in sealed bags;
- d) Exemption in respect of themselves and their spouses and relatives dependent on them from immigration restrictions, aliens registration or national service obligations;
- e) The same facilities in respect of currency or exchange restrictions as are accorded to diplomatic envoys;
- f) The privilege of exemption (in respect of themselves and their families) from examination of baggage and other effects and admission thereof free of duty and taxes;

.....3

- g) The privilege of admission of articles for their personal or family use free of duty and taxes at all times, provided that any articles which was exempted from duty and taxes shall be subject thereto at the existing rates if sold or otherwise disposed of in Canada within a period of one year in the case of articles other than motor vehicles, and two years in the case of motor vehicles, from the date of acquisition and the vendor shall be liable for such duties and taxes;
- h) The privilege of exemption from excise duty imposed under the Excise Act on domestic spirits and tobacco purchased from licensed manufacturers in Canada;
- i) The privilege of exemption from excise and/or sales tax on domestic spirits, wine and tobacco products when purchased direct from licensed manufacturers for the personal use of the applicant, and on automobiles, ale, beer and stout when purchased under appropriate certificate from licensed manufacturers, provided that any article which was exempted from these taxes shall be subject thereto at the existing rates if sold or otherwise disposed of within a period of one year from the date of purchase and the vendor shall be liable for such tax;
- j) Exemption from federal income tax as the Government of Canada accords to diplomatic envoys."

3. It will be seen from a study of the above provisions that there is no obligation on Canada to issue visas promptly to ICAO Representatives nor to facilitate in any particular manner their entry into Canada. However, we would draw your attention to Article VII, Sections 25 and 26 of the Convention (as contained in the 1947 Act) which states:

Section 25 "Applications for visas (where required) from the holders of United Nations laissez-passer, when accompanied by a certificate that they are travelling on the business of the United Nations, shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel."

Article 26 "Similar facilities to those specified in section 25 shall be accorded to experts and other persons who, though not the holders of United Nations laissez-passer, have a certificate that they are travelling on the business of the United Nations."

4. From our review of the relevant instruments, it would therefore appear that the only obligations incumbent on Canada with respect to visas relates to applications received from holders of United Nations laissez-passer.

EDWARD G. LEE

Legal Division

File ✓
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MESSAGE

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	JUNE 12	42-6-9-3-ICAO 2	CONFIDENTIAL
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REF OURTEL FILE-811, JUNE 11.

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

SET OUT BELOW IS TEXT OF CDN DISCUSSION PAPER BEING SUBMITTED TO ICAO.

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2. FOR BEIRUT ~~(S)~~ BRU, BERN AND PARIS: FRENCH TEXT IN FOLLOWING TEL.

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

SHOULD INFO IN REFTEL, PARTICULARLY PARAS 2(D), (E) AND (F), BE
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SUB/SUJ ICAO EXTRAORDINARY ASSEMBLY: CDN PROPOSAL TO LINK BILATERAL AIR AGREEMENTS TO ICAO CONVENTIONS.

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**DOCUMENT D'ETUDE CANADIEN SUR LA QUESTION DE RELIER LES ACCORDS
AERIENS BILATERAUX AUX CONVENTIONS INTERNATIONALES DE L'OACI
RELATIVES AUX INTERVENTIONS ILLICITES CONTRE L'AVIATION CIVILE.**

La session extraordinaire de l'Assemblée de l'OACI a été convoquée pour traiter de la question grave et urgente de la sécurité aérienne internationale. De l'avis du Gouvernement canadien, les préoccupations croissantes de la communauté internationale à cet égard ont fait naître un climat d'opinion favorable à l'adoption de nouvelles mesures visant à empêcher les actes d'intervention illicite contre les transports aériens internationaux. On reconnaît néanmoins que seules une coopération internationale effective et la volonté de la part de tous les Etats qu'intéresse l'aviation civile internationale, d'accepter et d'exécuter des obligations juridiques internationales peuvent, en fin de compte, conduire à la solution des graves problèmes qui mettent actuellement en danger les transports aériens dans le monde entier.

Le Gouvernement canadien a étudié les problèmes que pose l'application des conventions de l'OACI relatives aux interventions illicites contre l'aviation civile. Jusqu'ici, le seul traité pertinent en vigueur est la Convention de Tokyo de 1963 relative aux infractions et certains autres actes survenant à bord des aéronefs, à laquelle le Canada et 22 autres Etats sont actuellement parties. Le projet de Convention sur la capture illicite d'aéronefs, que le Comité juridique de l'OACI a approuvé à sa dix-septième session tenue en février et en mars de cette année, doit faire l'objet des délibérations d'une Conférence diplomatique qui se réunira à La Haye du 1er au 16 décembre 1970. Lorsqu'il entrera en vigueur, cet instrument tombera aussi dans la catégorie des traités de l'OACI relatifs aux interventions illicites. Ni la Convention de Tokyo ni le nouveau projet de Convention ne prévoient des sanctions juridiques dans les cas où leurs dispositions ne sont pas observées. Le refus des Etats contractants de s'acquitter de leurs obligations en vertu de ces instruments implique, bien entendu, un manquement aux obligations juridiques internationales de ces Etats; toutefois, aucune peine ne s'attache actuellement à cette violation.

C'est un fait bien connu que les services réguliers de transports aériens internationaux sont généralement fondés sur un ensemble d'accords aériens bilatéraux. Ces accords régissent les services aériens et les droits d'atterrissage de transporteurs aériens désignés. Le Gouvernement canadien estime par conséquent que relier directement les accords aériens bilatéraux aux conventions de l'OACI relatives aux interventions illicites contre l'aviation civile équivaut à un régime de sanctions efficaces en cas de refus d'exécution des obligations juridiques internationales contractées en vertu des conventions. Ce serait aussi un moyen efficace d'assurer l'application la plus étendue possible des dispositions des conventions, même à l'égard des Etats qui, pour des raisons spéciales ou particulières, ne désirent pas devenir parties à ces instruments.

Le présent document traite d'une seule catégorie de conventions de l'OACI: celles qui se rattachent aux interventions illicites contre l'aviation civile, c.-à-d., a) la capture illicite ou le débournement d'aéronefs et b) les accords futurs, et de trois catégories d'Etats: a) les Etats membres de l'OACI; b) les Etats qui sont ou vraisemblablement deviendront parties à la Convention de Tokyo (et qui deviendront probablement parties aux futures con-

ventions pertinentes de l'OACI) et g) les Etats qui ne sont pas et ne deviendront probablement pas parties à la Convention de Tokyo (ni aux futures conventions pertinentes de l'OACI). Bien que l'OACI n'ait compétence qu'à l'égard des Etats membres de l'Organisation, l'exécution des décisions de l'OACI par les Etats membres pourrait bien influencer sur les relations avec les Etats non-membres dans les domaines que visent les décisions.

A) Accords aériens bilatéraux existants

Une décision de l'OACI de relier les accords aériens bilatéraux aux conventions applicables pourrait obliger tous les Etats contractants à prévoir une clause spéciale qu'on devrait annexer (par échange de notes) à tous les accords aériens bilatéraux existants auxquels l'Etat en question est partie.

Cette clause énoncerait les dispositions précises - de la Convention de Tokyo et de toute autre convention pertinente de l'OACI en vigueur au moment où la clause est ajoutée à l'accord bilatéral - qui imposent des obligations relativement aux interventions illicites contre l'aviation civile internationale. Cette clause spéciale stipulerait alors que, nonobstant toute autre disposition de l'accord bilatéral concernant la dénonciation ou la suspension, l'une ou l'autre des parties est autorisée à suspendre l'exécution de l'accord un mois après la communication d'un avis à l'autre partie, si cette autre partie refuse de remplir ses obligations juridiques internationales aux termes de la clause annexée.

B) Accords aériens bilatéraux futurs

Une décision de l'OACI de relier les accords aériens bilatéraux aux conventions applicables pourrait obliger tous les Etats contractants à faire entrer dans tous les accords aériens bilatéraux à venir auxquels l'Etat en question devient partie, une clause spéciale énonçant les dispositions de la Convention de Tokyo et de toute autre convention pertinente de l'OACI en vigueur au moment de la conclusion de l'accord bilatéral, qui imposent des obligations relativement aux interventions illicites contre l'aviation civile internationale. La clause spéciale permettrait, comme il est mentionné ci-dessus, de suspendre l'exécution de l'accord bilatéral sur préavis d'un mois en cas de refus de remplir les obligations juridiques internationales.

Les accords aériens bilatéraux entre deux Etats parties à la Convention de Tokyo ou aux conventions pertinentes futures de l'OACI, auxquels sont annexées ou qui comportent des dispositions conventionnelles, réaffirmeraient simplement des obligations juridiques internationales existantes, tout en assurant, conformément à la proposition canadienne, qu'une sanction existe à l'égard de leur violation. En ce qui concerne les Etats membres qui ne sont pas et ne deviendront probablement pas parties à la Convention de Tokyo et aux conventions pertinentes futures de l'OACI, on doit remarquer que les Etats peuvent éviter de devenir parties à ce genre d'instrument multilatéral, non parce qu'ils refusent en principe d'accepter certaines obligations qu'il renferme, mais parce qu'ils ne veulent pas assumer ce genre d'obligations à l'égard d'Etats contractants particuliers. Dans ce cas, il semblerait acceptable de faire entrer les dispositions multilatérales pertinentes dans les accords aériens bilatéraux.

Nous espérons que lorsqu'une étude complète aura été faite de la proposition énoncée dans le présent document, il sera décidé que l'OACI adopte une résolution priant les Etats à annexer aux accords aériens bilatéraux existants et à faire entrer dans les accords aériens bilatéraux futurs une clause spéciale renfermant les dispositions de la Convention de Tokyo et des conventions pertinentes futures de l'OACI, relatives à l'intervention illicite et prévoyant la suspension de l'exécution des accords aériens sur préavis à court délai, en cas de violation des obligations énoncées dans ladite clause. Si cette résolution était adoptée et mise en oeuvre, tout Etat qui avait un accord aérien bilatéral avec un Etat contrevenant - soit un Etat qui violait les obligations internationales fixées dans l'annexe ou le texte de l'accord aérien conformément à la résolution - aurait le droit de suspendre l'exécution de l'accord aérien sur préavis à court délai. Ainsi, la sanction pourrait être invoquée non seulement par l'Etat qui subit directement l'action de l'Etat contrevenant, mais par tous les Etats qui ont des relations aériennes bilatérales avec l'Etat qui manque à ses obligations internationales. Il est clair que la mise en oeuvre de cette résolution, ne serait-ce que de la part des principaux pays fournisseurs de transport aérien international, créerait une certaine pression pour que soit assurée dans une importante mesure l'exécution des obligations conventionnelles. En tout cas, si l'Etat contrevenant prend des mesures pour remplir ses obligations durant la période entre la communication de l'avis et la date effective de la suspension de l'exécution de l'accord aérien, l'avis de suspension peut toujours être retiré. La décision première de communiquer l'avis selon lequel l'exécution de l'accord aérien bilatéral avec l'Etat contrevenant sera suspendue doit évidemment être laissée à la discrétion de chaque Etat; la résolution envisagée de l'OACI ne peut comporter aucun élément d'automatisme.

Si l'OACI décidait éventuellement d'accepter et d'entériner la proposition ci-dessus, ce serait un pas important pour la mise au point d'un cadre juridique international efficace visant à décourager et à empêcher les actes d'intervention illicite contre l'aviation civile internationale et contribuerait d'une façon substantielle au maintien de la sécurité aérienne internationale.

OFFICE OF DEPUTY MINISTER

Fate

To:


Mr. Clark

Remarks:

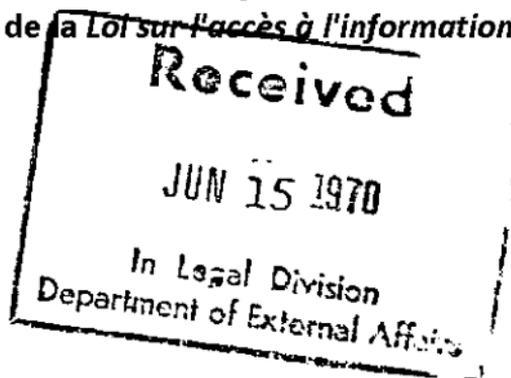
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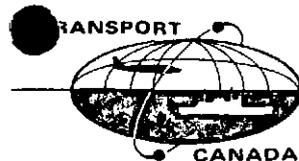
O.G. Stoner

June 11/70

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Date





DEPUTY MINISTER OF TRANSPORT
SOUS-MINISTRE DES TRANSPORTS

42-8-9-3-10
21

June 11, 1970.

Dear Mr. Pratte:

I am attaching a copy of a draft Working Paper which the Canadian Delegation proposes to submit to the Seventeenth (Extraordinary) Session of ICAO to be held in Montreal, June 16 to June 30, 1970.

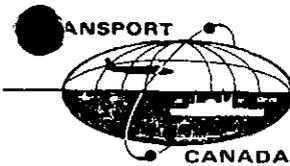
The Delegation would be pleased to receive your comments on this draft. In view of the time constraint, arrangements have been made to have Mr. L.S. Clark of the legal division of External Affairs contact your officers by telephone to obtain verbal comments. We would, of course, welcome written comments as well.

Yours sincerely,

Original Signed By
O. G. STONER

O. G. Stoner

Mr. Y. Pratte, Q.C.,
Chairman,
Air Canada,
Place Ville Marie,
Montreal, P.Q.



DEPUTY MINISTER OF TRANSPORT
SOUS-MINISTRE DES TRANSPORTS

June 11, 1970.

Dear Mr. Gilmour:

I am attaching a copy of a draft Working Paper which the Canadian Delegation proposes to submit to the Seventeenth (Extraordinary) Session of ICAO to be held in Montreal, June 16 to June 30, 1970.

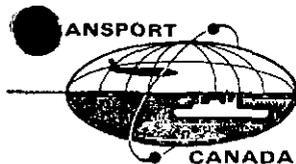
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Yours sincerely,

Original signed by
O. G. STONER

O. G. Stoner

Mr. J.C. Gilmour,
President,
CP Air,
1281 West Georgia Street,
Vancouver 105, B.C.



DEPUTY MINISTER OF TRANSPORT
SOUS-MINISTRE DES TRANSPORTS

June 11, 1970.

Dear Mr. Simpson:

I am attaching a copy of a draft Working Paper which the Canadian Delegation proposes to submit to the Seventeenth (Extraordinary) Session of ICAO to be held in Montreal, June 16 to June 30, 1970.

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Yours sincerely,

O. G. Stoner
O. G. STONER

Captain C.H. Simpson,
President,
Canadian Air Line Pilots Association,
Montreal International Airport,
Dorval, P.Q.

File ✓
Diary
Div
Tel

MESSAGE

FM/DE	EXTERTOTT	DATE	FILE/DOSSIER	SECURITY SECURITE
		JUNE 11	12-8-9-3-1 ICAO	CONFIDENTIAL
TO/A	CAIRO, BEIRUT, HAVANA	NO		PRECEDENCE
		FILE-814		IMMEDIATE
INFO	VIENNA, BRU, COPEN, BONN, HAGUE, OSLO, MURID, STKLA, BERG, LON, HELSINKI, WSHDC, TAVIV, PARIS, TOKYO-BY BAO DOT (SPONER), CTC (MORISSET), JUSTICE (SOROKAN)			

REE COMTELS FILE-619 AND FILE-651 MAY 7.

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

STAFF AND DEFENSE CTES HAS AGREED TO RECOMMEND TO CABINET (APPROVAL EXPECTED BEFORE END OF WEEK) THAT AUTHORITY BE GIVEN FOR CIN DISCUSSION PAPER ON THIS SUBJ TO BE SUBMITTED AT ICAO ASSEMBLY SCHEDULED FOR MTL JUNE 16-30. GRATEFUL YOU ~~WILL BE KEPT ADVISED~~ ~~WILL BE KEPT ADVISED~~ LEAVE ADVANCE COPY OF PAPER WITH M.F.A.

2. DOCU SHOULD BE COVERED BY AIDE-MEMOIRE DRAWING ON FOLLOWING POINTS: (A) CDA AS MAJOR INTERNATL AIR TRANSPORT NATION AND HOST STATE OF ICAO IS PARTICULARLY CONCERNED AT GRAVE THREAT TO AIR SAFETY POSED BY INCREASING INCIDENCE OF ACTS OF UNLAWFUL INTERFERENCE WITH CIVIL AVIATION, I.E. HIJACKING AND ARMED ATTACKS AND SABOTAGE; (B) AFTER STUDYING QUESTION OF ENFORCEMENT OF INTERNATL LEGAL OBLIGATIONS UNDER 1963 TOKYO CONVENTION AND FUTURE RELEVANT ICAO CONVENTIONS, WE HAVE CONCLUDED THAT DIRECTLY LINKING BILATERAL AIR AGREEMENTS TO ICAO INSTRUMENTS COULD PROVIDE AN EFFECTIVE SANCTION SYSTEM AND SECURE WIDE APPLICATION OF CONVENTIONAL PROVISIONS; (C) WE PROPOSE THAT: 1) EXISTING BILATERAL AIR AGREEMENTS BE AMENDED BY ...2

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ORIGINATOR/REDACTEUR	DIVISION	TELEPHONE	APPROVED/AUTORISE
SIG..... L.S. Clark/ch	FILE - LEGAL	2-7738	SIG..... EDWARD G. LEE

-2-

ANNEXING SPECIAL CLAUSE (THUS NOT/NOT OPENING FOR DISCUSSION PROVISIONS ALREADY INCLUDED IN AGREEMENT) SETTING OUT ARTICLES, OF TOKYO CONVENTION AND OTHER RELEVANT ICAO CONVENTIONS IN FORCE AT TIME IN QUESTION, RELATING TO UNLAWFUL INTERFERENCE. CLAUSE WOULD THEN SPECIFICALLY PERMIT ONE PARTY TO SUSPEND OPERATION OF AIR AGREEMENT ON SHORT NOTICE IN EVENT OTHER PARTY FAILED TO IMPLICATE INTERNATIONAL LEGAL OBLIGATIONS UNDER THE ANNEX; 2) FUTURE BILATERAL AIR AGREEMENTS INCORPORATE SPECIAL CLAUSE REITERATING CONVENTIONAL PROVISIONS AND PERMITTING SUSPENSION OF OPERATION OF AGREEMENT ON SHORT NOTICE; (D) WE WOULD HOPE THAT, AFTER THOROUGH STUDY BY APPROP ICAO ORGAN, AGREEMENT COULD BE REACHED ON TEXT OF A RESOL - WHICH COULD BE PUT FORWARD AT 1971 ICAO ASSEMBLY IN VIENNA - CALLING ON STATES TO AMEND EXISTING BILATERAL AIR AGREEMENTS AND INCORPORATE SPECIAL CLAUSE OUTLINED ABOVE IN FUTURE AIR AGREEMENTS; (E) CDN PROPOSAL IS NOT/NOT DIRECTED AT ANY PARTICULAR STATE OR GROUP OF STATES BUT IS SINCERELY MOTIVATED BY NEED TO STRENGTHEN INTERNATIONAL COOPERATION TO ENSURE THAT LEGAL PROVISIONS DRAFTED IN, AND PROPOSED BY, COMPETENT U.N. SPECIALIZED AGENCY I.E. ICAO, ARE IMPLEMENTED ON AS WIDE A BASIS AS POSSIBLE; (F) CANDEL AT ITL WILL BE PLEASED TO MAINTAIN CONTACT WITH OTHER DELS WHICH SHARE CDN INTEREST IN CONTRIBUTING TOWARDS DETERRENCE AND PREVENTION OF ACTS PREJUDICIAL TO INTERNATIONAL AIR SAFETY.

3. TEXT OF CDN DISCUSSION PAPER WILL BE FORWARDED BY TEL SHORTLY.

File ✓
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MESSAGE

FM/DE	EXTEROTT	DATE	FILE/DOSSIER	SECURITY SECURITE
		JUNE 11	12-8-9-3-1 CAO	RESTRICTED
TO/A	USHIC (MORISSET AND REYNOLDS)	NO	PRECEDENCE	
		FILE-821	IMMEDIATE	
INFO				

REF CLARK/MORISSET TELECON JUNE 11.

SUB/SUJ ICAO EXTRAORDINARY ASSEMBLY: CITU DISCUSSION PAPER.

SET OUT BELOW IS TEXT OF DRAFT PAPER. GRATEFUL YOU ADVISE COMMENTS TODAY OR EARLY AM JUNE 12 SINCE DOCU MUST BE SUBMITTED TO ICAO JUNE 12. ALSO GRATEFUL YOU GIVE COPY TO CAMERON OF CPAIR AND INVITE HIS COMMENTS. FOR YOUR INFO: PAPER HAS ALREADY BEEN CLEARED WITH DEPT OF JUSTICE AND MACPHERSON OF AIR CDA AND DOT APPROVAL EXPECTED IMMEDIATELY.

2. TEXT BEGINS

(COMMENTS: AS ATTACHED)

TEXT ENDS.

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ORIGINATOR/REDACTEUR	DIVISION	TELEPHONE	APPROVED/AUTORISE
SIG..... L.S. Clark/on	FILE - LEGAL DIV	2-7738	SIG..... EDWARD G. LEE

CANADIAN DISCUSSION PAPER ON LINKING BILATERAL AIR
AGREEMENTS TO ICAO INTERNATIONAL CONVENTIONS RELATING
TO UNLAWFUL INTERFERENCE WITH CIVIL AVIATION

The Extraordinary session of the ICAO Assembly has been convened to take up the urgent and serious question of international air safety. It is the view of the Government of Canada that the growing concern with this matter on the part of the international community is encouraging a general climate of opinion conducive towards the consideration of new steps designed to prevent and deter acts of unlawful interference with international civil aviation. Nevertheless, it is recognized that, in the final analysis, only active international co-operation and a willingness on the part of all States involved in international civil aviation to accept and implement international legal obligations can lead to a resolution of the grave problems which are today threatening air transport throughout the world.

The Government of Canada has been considering the problems of enforcement of ICAO conventions relating to unlawful interference with civil aviation. To date, the only relevant treaty in force is the 1963 Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft, to which Canada and 22 other States are parties at the present time. The draft Convention on Unlawful Seizure of Aircraft, which was approved by the Seventeenth ICAO Legal Committee meeting in February-March of this year, is scheduled to be the subject of a Diplomatic Conference at the Hague December 1 to 16, 1970. When this instrument comes into force, it too would fall into the category of ICAO treaties dealing with unlawful interference. Neither the Tokyo Convention nor the new draft Convention provide for legal sanctions in the event of non-compliance with their provisions. Refusal by Contracting States to implement their obligations under them would, of course, involve a breach in their international legal obligations; however, at present, no penalty is attached to such breach.

It is well known that scheduled international air transport is generally based on a framework of bilateral air agreements. These agreements govern air services by, and the landing rights of, designated air carriers. The Government of Canada is of the view, therefore, that directly linking bilateral air agreements to ICAO conventions relating to unlawful interference with civil aviation could provide a system of effective sanction for failure to implement international legal obligations under the conventions. This would also be an effective means of securing the widest possible application of the provisions of these conventions, even with respect to States which, for special or particular reasons, do not wish to become parties to them.

This Discussion Paper is concerned with one class of ICAO conventions: those relating to unlawful interference with civil aviation i.e. (a) unlawful seizure or hijacking and (b) armed attacks and sabotage. It is concerned with two classes of bilateral air agreements:

(a) existing agreements and (b) future agreements. It is concerned with three classes of States: (a) ICAO Member States; (b) States which are or are likely to become parties to the Tokyo Convention (and which are likely to become parties to future relevant ICAO conventions) and (c) States which are not, and are not likely to become, parties to the Tokyo Convention (nor to future relevant ICAO conventions). While ICAO has competence only with regard to Member States of the Organization, implementation of ICAO decisions by Member States may well affect relations with non-member States in the area with which the decisions are concerned.

A) Existing Bilateral Air Agreements

An ICAO decision to link bilateral air agreements to relevant conventions could require all Contracting States to provide for a special clause to be annexed (by Exchange of Notes) to all existing bilateral air agreements to which such a State was a party. This clause would set out the specific provisions - of the Tokyo Convention and any other relevant ICAO convention in force at the time of annexing the clause to the bilateral agreement - imposing obligations relating to unlawful interference with international civil aviation. The special clause would then stipulate that, notwithstanding any other provision in the bilateral agreement concerning termination or suspension, either party is permitted to suspend operation of the agreement one month after communication of notice to the other party, if the other party fails to implement its international legal obligations under the annexed clause.

B) Future Bilateral Air Agreements

An ICAO decision to link bilateral air agreements to relevant conventions could require all Contracting States to incorporate a special clause in all future bilateral air agreements to which such a State becomes a party setting out the provisions, of the Tokyo Convention and any other relevant ICAO convention in force at the time of conclusion of the bilateral agreement, imposing obligations relating to unlawful interference with international civil aviation. The special clause would then, as indicated above, permit suspension of operation of the bilateral agreement on one month's notice in the case of failure to implement international legal obligations under the clause.

Bilateral air agreements, between two States parties to the Tokyo Convention or to future relevant ICAO conventions which have annexed to them or incorporate conventional provisions would merely be re-affirming existing international legal obligations while, in accordance with the Canadian proposition, ensuring that a sanction is

available for their breach. As regards Member States which are not, and are not likely to become, parties to the Tokyo Convention and future relevant ICAO conventions, it should be noted that States may avoid becoming parties to this type of multilateral instrument not because they refuse in principle to accept certain obligations contained therein but because they do not want to undertake such obligations with respect to particular Contracting States. In this case, it would appear that incorporation of the pertinent multilateral provisions in bilateral air agreements with third States may well be acceptable.

It is hoped that after a thorough study has been made of the proposal set out in this Discussion Paper, it will be decided that ICAO should adopt a resolution calling on States to annex to existing bilateral air agreements and incorporate in future bilateral air agreements a special clause containing the provisions, of the Tokyo Convention and future relevant ICAO conventions, relating to unlawful interference and providing for the suspension of operation of the air agreements on short notice in the event of breach of the obligations set out in this clause. If such a resolution were adopted and implemented, any State which had a bilateral air agreement with an offending State - a State which was in breach of its international obligations as annexed to or incorporated in the air agreement pursuant to the resolution - would have the legal right to suspend operation of the air agreement on short notice. Thus, the sanction would be available not only to the State directly affected by the action of the offending State but to all States having bilateral air connections with the State in breach of its international obligations. It is clear that implementation of such a resolution even if only by the major providers of international air carriage could create a certain pressure to ensure an important degree of compliance with the conventional obligations. In any case, if the offending State takes steps to comply with its obligations during the period between communication of notice and the date of the suspension of operation of the air agreement becoming effective, the notice of suspension could always be withdrawn. The original decision to communicate notice that operation of the bilateral air agreement with the offending State will be suspended, must, of course, be left up to individual States; there can be no element of automaticity in the proposed ICAO resolution.

An eventual decision by ICAO to accept and endorse the proposal outlined above could constitute an important step towards further developing an effective international legal framework to deter and prevent acts of unlawful interference with international civil aviation and contribute significantly towards the maintenance of international air safety.

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MESSAGE

FOR THE
 COMMISSIONER
 GENERAL

FM/DE	EXTEROTT	DATE	FILE/DOSSIER	SECURITY
		JUN 11 21	42-8-9-3- <i>FLC</i>	RESTRICTED
TO/A	WSHD: (MORISSET AND REYNOLDS)	NO	PRECEDENCE	
		FLE-824	IMMEDIATE	
INFO				

REF CLARK/MORISSET TELECON JUNE 11.

SUB/SUJ ICAO EXTRAORDINARY ASSEMBLY: CDN DISCUSSION PAPER.

SET OUT BELOW IS TEXT OF DRAFT PAPER. GRATEFUL YOU ADVISE COMMENTS TODAY OR EARLY AM JUNE 12 SINCE DOCU MUST BE SUBMITTED TO ICAO JUNE 12. ALSO GRATEFUL YOU GIVE COPY TO CAMERON OF CPAIR AND INVITE HIS COMMENTS. FOR YOUR INFO: PAPER HAS ALREADY BEEN CLEARED WITH DEPT OF JUSTICE AND MACPHERSON OF AIR CDA AND DOT APPROVAL EXPECTED IMMINENTLY.

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(COMCENTRE: AS ATTACHED)

TEXT ENDS.

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SIG..... I. S. CLARK/oh	FLE - LEGAL DIV	2-7738	SIG..... E. J. Lee

MESSAGE

FM/DE	EXTEROTT	EXTEROTT	DATE	FILE/DOSSIER	SECURITY
			JUN 11 21	42-8-9/3-1 CPD	SECURITE
TO/A	CAIRO, BEIRUT, HAVANA		NO	PRECEDENCE	
			FILE-814	IMMEDIATE	
INFO	VIENNA, BRU, COPEN, BONN, HAGUE, OSLO, MDRID, STKLM, BERN, LDN,				
	HELSINKI, WSHDC, TAVIV, PARIS, TOKYO-BY BAG				
	DOT(STONER), CTC(MORISSET), JUSTICE(SOROKAN)				

REF OURTELS FLE-649 AND FLE-651 MAY 7.

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

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~~PLEASE~~ LEAVE ADVANCE COPY OF PAPER WITH M.F.A.

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ANNEXING SPECIAL CLAUSE (THUS NOT/NOT OPENING FOR DISCUSSION PROVISIONS ALREADY INCLUDED IN AGREEMENT) SETTING OUT ARTICLES, OF TOKYO CONVENTION AND OTHER RELEVANT ICAO CONVENTIONS IN FORCE AT TIME IN QUESTION, RELATING TO UNLAWFUL INTERFERENCE. CLAUSE WOULD THEN SPECIFICALLY PERMIT ONE PARTY TO SUSPEND OPERATION OF AIR AGREEMENT ON SHORT NOTICE IN EVENT OTHER PARTY FAILED TO IMPLEMENT INTERNATL LEGAL OBLIGATIONS UNDER THE ANNEX; 2) FUTURE BILATERAL AIR AGREEMENTS INCORPORATE SPECIAL CLAUSE REITERATING CONVENTIONAL PROVISIONS AND PERMITTING SUSPENSION OF OPERATION OF AGREEMENT ON SHORT NOTICE; (D) WE WOULD HOPE THAT, AFTER THOROUGH STUDY BY APPROP ICAO ORGAN, AGREEMENT COULD BE REACHED ON TEXT OF A RESLN - WHICH COULD BE PUT FORWARD AT 1971 ICAO ASSEMBLY IN VIENNA - CALLING ON STATES TO AMEND EXISTING BILATERAL AIR AGREEMENTS AND INCORPORATE SPECIAL CLAUSE OUTLINED ABOVE IN FUTURE AIR AGREEMENTS; (E) CDN PROPOSAL IS NOT/NOT DIRECTED AT ANY PARTICULAR STATE OR GROUP OF STATES BUT IS SINCERELY MOTIVATED BY NEED TO STRENGTHEN INTERNATL COOPERATION TO ENSURE THAT LEGAL PROVISIONS DRAFTED IN, AND PROPOSED BY, COMPETENT U.N. SPECIALIZED AGENCY I.E. ICAO, ARE IMPLEMENTED ON AS WIDE A BASIS AS POSSIBLE; (F)CANDEL AT MTL WILL BE PLEASED TO MAINTAIN CONTACT WITH OTHER DELS WHICH SHARE CDN INTEREST IN CONTRIBUTING TOWARDS DEFERRENCE AND PREVENTION OF ACTS PREJUDICIAL TO INTERNATL AIR SAFETY.

3. TEXT OF CDN DISCUSSION PAPER WILL BE FORWARDED BY TEL SHORTLY.

AIR CANADA



PLACE VILLE MARIE, MONTREAL 2, CANADA

IAN E. MCPHERSON
GENERAL COUNSEL
CONSEILLER JURIDIQUE GENERAL

42893-1CAO
21-

June 11, 1970

Mr. Gilles Sicotte
Assistant Deputy Minister, General
Department of Transport
Ottawa, Ontario

J-63

TO: FILE
FROM: ACRD
JUN 16 1970
ATTN: Mr. Sicotte

Re: 17th (Extraordinary) Assembly of
ICAO

Dear Mr. Sicotte:

As I have not seen the documentation for the 17th (Extraordinary) Assembly of ICAO I do not know whether you have received a copy of the enclosed IATA document entitled "Proposed Simplification of Convention-Making Procedures". In any event you will recall that on August 29, 1969, I wrote to Mr. D. Gingras, Legal Division, Department of External Affairs, with a copy to you, requesting consideration be given to the expediting of State adherence to international aviation conventions. On September 5, 1969, the Under-Secretary of State for External Affairs wrote to me with a copy to you expressing interest in the proposal.

I have not had an opportunity to study in depth the current IATA proposal but I strongly endorse its objective and hope that the Canadian delegation to the 17th Assembly will give it every consideration and that at the Diplomatic Conference which will consider unlawful seizure of aircraft during the month of December, 1970, procedures can be established whereby the Convention will be quickly implemented.

No attachments!

Yours sincerely,

Ian E. McPherson

cc: Under Secretary of State for External Affairs
(For the attention of Head of Legal Division: For the attention of Mr. L. Sparck)

Stamp: JUN 16 1970

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9/2/70

7.17.6

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

FM HSNKI JUN11/70

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BAG BONN VIENN BERN PARIS BERUT CAIRO DE LDN MDRID PRMNY TOKYO

TAVIV HAVAN DE OTT

REF OURTEL 222 MAY28

ICAO EXTRAORDINARY ASSEMBLY PROPOSAL

42-8-9-3-16AD
2-13

FOLLOWED UP OUR DISCUSSION OF MAY27 WITH RANTANEN WHO RPTD

HIS PRAISE OF CDN MOTIVES AND AIMS BUT INDICATED THAT

FINLAND FAVOURED A QUOTE SLOWER APPROACH UNQUOTE TO

HIJACKING QUESTION. FINNISH CAUTION FOLLOWS

CONSULTATION WITH FELLOW NORDICS AND AFTER CONSIDERATION

IMPLICATIONS CDN DRAFTT RESLN ON

RENEGOTIATION BILATERILS. FINNS RECOMMEND PROPOSAL BE REFERRED

TO COUNCIL OR LEGAL CTTEE FOR FURTHER STUDY.

That is what we are doing.

22/12/6

Received
JAN 22 1970
Deputy Legal Division
Department of External Affairs



DEPARTMENT OF JUSTICE
MINISTÈRE DE LA JUSTICE

42-893-1CAO
2. 13

963

Ottawa 4,
June 10, 1970.

TO: FLE
FROM: ACRD
JUN 12 1970
ATTN: Phil [unclear]

222649

Re: ICAO Summonses to
Witnesses

Dear Sir:

Attention Mr. L.S. Clark

I acknowledge receipt of a letter from the Under-Secretary of State for External Affairs dated June 3, 1970 relating to the summoning of witnesses being officials of ICAO in Montreal.

We are once again referring this matter to our Montreal solicitor, Mr. Gaspard Côté who may be reached at the following address and telephone number:

Department of Justice,
10 Notre Dame Street East,
Montreal, Quebec.
879-4975.

I shall await the comments of Mr. Côté regarding your suggestion of arranging for an interdepartmental meeting to discuss this matter. Indeed, Mr. Côté has already given much consideration to the problem of ICAO's immunity of jurisdiction and provided us with comments which we have in turn relayed to Mr. D.S. Maxwell, Deputy Minister of Justice.

It may be in the circumstances that the position to be adopted by Mr. Maxwell will have for effect to dispense

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

...2

FLE

22.16.6

Received
JUN 16 1970
In Legal Division
Department of External Affairs

...2

with the holding of such interdepartmental meeting..

Yours very truly,



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

FCN/IE June/SD

EXTERNAL AFFAIRS

AFFAIRES EXTÉRIEURES



MEMORANDUM

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TO / À : FIE
FROM / De : FCN
REFERENCE / Référence : OUN memorandum of June 5, 1970
SUBJECT / Sujet : Granting of Visas for ICAO meetings

SECURITY / Sécurité : UNCLASSIFIED
DATE : June 10, 1970
NUMBER / Numéro :

FILE	DOSSIER
OTTAWA 42-8-9-3-1-CAO	
MISSION	2 -

ENCLOSURES / Annexes

DISTRIBUTION

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We are attaching a copy of OUN memorandum of June 5, 1970. You will note that the letter of May 21, 1970 attached to OUN's memo from the President of the Council, ICAO to the Representative of Canada on the Council suggests that we make some special arrangements to ensure that visas are granted rapidly to representatives of Bulgaria, Czechoslovakia, Hungary, Poland and Romania attending ICAO meetings.

2. It has been our practice to apply the normal 3-week processing period to visa applications from delegates to ICAO from these countries although, in practice, it is often necessary to accelerate processing because of late applications. It is not true that we take a month or more as the President of the Council was informed and we are, therefore, not quite as uncooperative as it would appear. Nevertheless, it does seem reasonable that we should explore the possibility of having a special arrangement for representatives to ICAO since Montreal is the headquarters of this UN agency.

3. Before we consult other Divisions concerned, we would appreciate your letting us know if there is anything in the ICAO agreements which commits us to issuing visas promptly to delegates to ICAO from countries whose citizens require Canadian Visas, as we would like to make sure that we are not overlooking a commitment previously made by us.

Consular Division.

EXTERNAL AFFAIRS



AFFAIRES ÉTRANGÈRES

TO
A PCN

FROM
De OUN

REFERENCE
Références

SUBJECT
Sujet Granting of Visas for ICAO Meetings

SECURITY
Sécurité

DATE

NUMBER
Numéro

RESTRICTED

June 5,

May 23, 1970

FILE	DOSSIER
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MISSION	

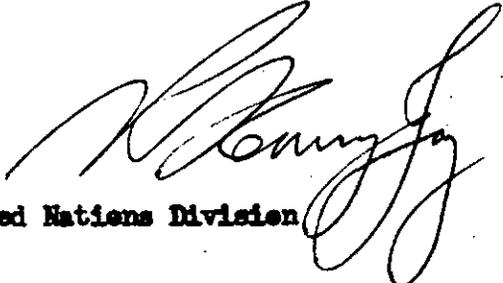
ENCLOSURES
Annexes

DISTRIBUTION

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...

Attached is a copy of a letter from the President of the ICAO Council concerning the granting of visas to delegates of certain Eastern European countries for the purpose of attending ICAO meetings in Montreal. We should be grateful for your comments on the problem generally and especially on the suggestions in the second paragraph of Page 2 for expediting applications.


United Nations Division

ORGANISATION DE L'AVIATION
CIVILE INTERNATIONALE



ORGANIZACION
CIVIL

INTERNATIONAL CIVIL AVIATION ORGANIZATION

INTERNATIONAL CIVIL AVIATION ORGANIZATION
100 UNIVERSITY STREET
MONTREAL 3, P.Q. CANADA

MAY 21 1970

AH PM

719910411100400

CONFIDENTIAL

WHEN REPLYING, PLEASE QUOTE REFERENCE A H/2
RÉFÉRENCE À RAPPELER DANS LA RÉPONSE.
INDIQUESE EN LA RESPUESTA ESTA REFERENCIA

21 May 1970

Dear Mr. Gourdeau,

As you are aware, I visited recently several countries in Europe. In five of them (Bulgaria, Czechoslovakia, Hungary, Poland and Romania) the problem of obtaining rapidly Canadian visas to attend ICAO meetings was raised with me. I was told that a month or more elapses between the day the request for a visa is made and the day it is granted.

*701
maximilien
2/11/70 - USSF
3" - O/P
C. Courdeau*

This presents a serious problem. As in many countries of the world, the Director of Civil Aviation has first to obtain the approval of his Minister to send delegates to a particular meeting. The request for the visa is then channelled through the Ministry of Foreign Affairs. All this requires a certain time. If we add to it a long delay in obtaining the visa, the result is that the Director of Civil Aviation has to decide about two months before a meeting starts who are the officers he will send. This is hardly satisfactory in a dynamic activity as civil aviation.

Another unsatisfactory aspect of the question is the uncertainty created by the long delay in obtaining the visa. Airline and hotel reservations must be made well in advance, particularly during certain periods of the year; therefore, delegates attending meetings must be sure that their passports will be ready by a certain date and that they can start their journey on the selected day.

I was aware of the problem because, from time to time, ICAO has received, close to the opening date of a meeting, cables from one or more of the countries mentioned above, asking us to help in accelerating the granting of the visa. I am glad to say that, after a telephone call from our External Relations Office, Ottawa has always obliged.

The number of instances when we have made these contacts has not been great. When I mentioned this fact to the Directors who were raising the matter, they replied that they only cabled as a last resort, because they did not want to embarrass Canada or ICAO. But they reiterated that the problem existed.

Mr. H. Gourdeau
Representative of Canada on the Council
902 International Aviation Building

- 2 -

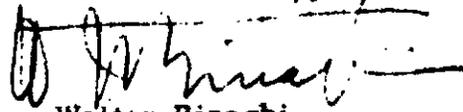
As far as we are aware, Canada has never refused a visa to a delegate of any country when coming to attend an ICAO meeting. Furthermore, delegates from the countries in question are not many; the same persons (almost invariably officers of the Civil Aviation Directorate) come to one or other of our meetings.

On the basis of these two facts, I wonder whether it would not be possible for Canada to make some special arrangements to ensure that visas are granted rapidly to delegates from the five countries. For instance, those responsible for granting visas in those countries could be authorized by Ottawa to extend them immediately provided the person requesting it is an official of the civil aviation department and is coming to attend an ICAO meeting. If this procedure is not possible, the authorization in question could be limited to extending visas immediately to certain individuals who generally come to ICAO meetings; in this case, we might be able to provide the few names that would be involved.

It was with hesitation that I made the suggestions in the preceding paragraph, because I realize that the question of granting visas is a delicate one. I am sure that there are other alternatives. My only concern is to ensure that delegates from all ICAO Contracting States attend our meetings and are able to plan their trip under the best possible conditions.

I should be grateful if you would discuss the subject with your Administration. I hope a solution will be found.

Yours sincerely,



Walter Binaghi
President of the Council

42-9-310AD
1-1
Jub
per

962

Ottawa 4,
June 10, 1970.

CONFIDENTIAL

TO: FLE
FROM: ACRD
JUN 15
ATTN: Mr. [Signature]

Dear Sir:

Re: 179220-2

This afternoon, I received a copy of the proposed discussion paper on linking bilateral air agreements to ICAO International Conventions, relating to unlawful interference with civil aviation.

As you are already aware of my general views regarding this matter, I should like at this time to make just one observation.

A number of countries which have been contacted by the Department of External Affairs indicated some concern about the reopening of existing bilateral air agreements. To overcome this concern, it has been proposed that existing bilateral agreements be reopened only for the specific purposes mentioned in the discussion paper, and that agreement with regard to those purposes might be achieved by an exchange of notes between the Parties to such agreements. I wonder whether in practice, this can be considered as a true solution to the objections. Surely, if one State proposes that an existing bilateral air agreement be modified by the addition of a special clause to be annexed to such agreement, the other State would also be free to insist that other clauses be included in the annex before it is prepared to agree to the change suggested by the first State.

*By 7070 Reson
was adopted
calling for re-
opening only for
this purpose.
it might be difficult
for states to propose
other clauses.*

... 2

Mr. G. Sicotte,
Assistant Deputy Minister (General),
Transport Department,
Hunter Building,
Ottawa 4, Ontario.

FLE

16.16.6

- 2 -

The problem, will of course, not arise if all States are prepared to reopen their bilateral air agreements solely for the purpose suggested in the discussion paper, but I seriously doubt whether in practice, the expected cooperation would be forthcoming.

Yours truly,

P. Sorokan,
for Director,
Advisory & International
Law Section.

cc: Mr. L.S. Clark, ✓
Dept. of Ext. Affairs.

Bissonnette
C. Bissonnette
File
je

PRIVY COUNCIL OFFICE



BUREAU DU CONSEIL PRIVÉ

cc: PDM (Under-Secretary and Mr. Barker)
PDS (Assoc. Under-Secretary)
PDF (Mr. P. A. Bissonnette)
OUN (Head, United Nations Div.)
FLE (Head, Legal Div.)
File

CONFIDENTIAL

The Cabinet Committee On External Policy And Defence

RECORD OF COMMITTEE DECISION

428-9-3-1/CAO
2

Meeting of June 9th, 1970

Instructions To The Delegation - ICAO Extraordinary Assembly, Montreal, June, 1970

The Committee agreed that:

(a) the Canadian delegation to the 17th Session (Extraordinary) of the International Civil Aviation Organization (ICAO) Assembly be authorized to participate actively in the work of the assembly, and specifically the delegation should:

(i) assist in promoting the development of technical procedures for the prevention of acts of unlawful interference with civil aviation; and

(ii) encourage member states to enact domestic legislation which would be consistent with existing Canadian law and, if approval is given by Cabinet for its preparation, which would be consistent with proposed changes in the Criminal Code regarding offences committed in respect of aircraft, including offences relating to hijacking of aircraft and to bringing on board aircraft firearms or other dangerous things;

- 2 -

CONFIDENTIAL

(b) the delegation be authorized to circulate a discussion paper linking bilateral air agreements with ICAO conventions concerning unlawful interference with civil aviation for the purpose of promoting the implementation of such conventions.

CONFIRMED BY THE CABINET ON JUNE 11TH, 1970



D. J. Leach,
Supervisor of Cabinet Documents.

ACTION COPY

See/ce/la
W. H. Clarke
~~CDN~~
FLE
W. H. Clarke
42893 CAP
2 13

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

FM BRU JUN9/70

TO TT EXTER 599 PRIORITY DE LDN

INFO TT BERN DE PARIS

DOTOTT(STONER)CTCOTT(MORRISSET)DE OTT

REF OURTEL 554 MAY27

ICAO EXTRAORDINARY ASSEMBLY CDN INITIATIVE

DE VOGELAERE, HEAD OF COMMUNICATIONS MINISTRY FOREIGN AFFAIRS, INFORMS US THAT AERONAUTICAL AUTHORITIES CONSIDER NECESSITY OF AMENDING 57 EXISTING BELGIAN BILATERALS WOULD POSE INSUPERABLE MATERIAL OBSTACLE TO SUPPORT OF DRAFT CDN RESLN. BELGIANS CONSIDER AMENDMENTS WOULD EXPOSE CERTAIN COMMERCIAL ASPECTS OF BILATERALS TO RENEGOTIATION AS WELL, TO BELGIAN DISADVANTAGE.

2. AS TO FUTURE BILATERALS, BELGIANS CONSIDER THAT ACCORDS OF AN ECONOMIC AND COMMERCIAL NATURE SHOULD NOT/NOT INCLUDE POLITICAL ELEMENTS. DE VOGELAERE MAINTAINS THAT ALL STATES SIGNATORY TO CONVENTION TO BE DRAWN UP AT EXTRAORDINARY SESSION WOULD CONCLUDE THAT IT IS IN THEIR RESPECTIVE NATL INTERESTS TO ENFORCE TERMS OF CONVENTION.

10/10/6

Received
JUN 10 1970
In Legal Division
Department of External Affairs

ACTION COPY *File per*

FILE
42-8-9-3-1070
1 13

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

FM COPEN JUN8/70 NO/NO STANDARD

TO TT EXTER 247 DE LDN

INFO LDN STKHM OSLO HUGUE TT PARIS BRU BONN DE LDN WSHDC

DOT CTCOTT DE OTT

REF OURTEL 225 MAY27

ICAO EXTRAORDINARY ASSEMBLY:CDN INITIATIVE

ADAMSEN OF MFA SAID JUN4 MTG OF NORWAY, SWEDEN AND DENMARK

PRODUCED AS EXPECTED A RESERVED INDEED NEGATIVE POSITION ON

CDN INITIATIVE. HE ADDED THAT DENMARK FOR ITS PART WAS GRATEFUL

TO CDA FOR TAKING AN INITIATIVE EVEN IF THE CDN PLAN IS NOT/NOT

ACCEPTABLE AT THIS TIME.

26/8/6

SECRET
ACTION COPY *Fab*

FLE *A*

42-89-3-ICAO
8 13

R E S T R I C T E D

FM LDN JUN5/78 NO/NO STANDARD

TO EXTER 1934

REFYOURTEL FLE784 JUN4

ICAO ASSEMBLY:WESTERN CONSULTATIONS ON UNLAWFUL SEIZURE

MISS WHITE WAS GRATEFUL INFO REFTEL AND SAID SHE WOULD BE

AVAILABLE AT UK OFFICE,MTL ON JUN15 IF NECESSARY.

1/8/6



DEPARTMENT OF TRANSPORT
MINISTÈRE DES TRANSPORTS

YOUR FILE
VOTRE RÉF.

IN REPLY QUOTE
RÉF. À RAFFELER:

June 5, 1970.

42-8-9-3-10A0
25/19

MEMORANDUM TO ADMG

Re: ICAO Assembly - 17th Session
(Extraordinary)

Mr. T.B. Smith's letter of June 2, 1970 raises a question about consultations with CP Air and Air Canada on the proposed Canadian initiative at the Seventeenth Session of the ICAO Assembly. Upon receipt of the letter, I telephoned Mr. Sorokan, Mr. Azzie and Miss Loggie (it happened that Mr. Clark was in Miss Loggie's office) and advanced the following points:

- (1) Although no formal approach has yet been made to the carriers, Mr. Clark reported at the May 29 Delegation meeting that he had had informal consultations with Mr. MacPherson of Air Canada and with a senior executive of CP Air on this subject.
- (2) There was not enough time to arrange for formal consultation within the airlines before submission of the Memorandum to Cabinet.
- (3) As soon as External Affairs has prepared the draft Working Party, it will be formally submitted to the carriers for comment.
- (4) The wording of the Memorandum to Cabinet is quite general and does not appear to unduly restrict our freedom to make adjustments to the Working Paper to reflect the carriers' comments.

There seemed to be a concensus on these points, although some reservations were expressed about the last one.

A. R. Conboy

CC: Mr. Azzie
Mr. Sorokan
Mr. Clark
Miss Loggie

EXTERNAL AFFAIRS



AFFAIRES EXTÉRIEURES

File

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

FROM
De The Office of the High Commissioner
for Canada, LONDON

REFERENCE
Référence Our Telegram 1187 of April 9, 1970

SUBJECT
Sujet Draft ICAO Convention on Hijacking:
December Conference

SECURITY
Sécurité UNCLASSIFIED

DATE June 4, 1970

NUMBER
Numéro 962

JG

FILE	DOSSIER
OTTAWA 42-8-9-3-1CAO	
MISSION 242-8-4-1CAO	

ENCLOSURES
Annexes

DISTRIBUTION

Washington
PERMIS
New York
Department
of Transport,
Ottawa
ICAO DEL,
Montreal

In our telegram under reference, we indicated that the United Kingdom authorities had undertaken to look into the possibility of arranging for the above mentioned conference to be held at a somewhat earlier date in view of the strong feelings expressed in the House of Commons that the timetable envisaged for dealing with this matter was rather dilatory. In response to these representations, Mr. Luard, the responsible Minister of State in the Foreign and Commonwealth Office, indicated - in answer to a written question on May 28th - that, as a result of consultations conducted with other governments concerned with the ICA timetable, it would not be possible to secure general international agreement to bring forward the date of the December meeting.

[Signature]
CANADA HOUSE.

FLÉ

[Stamp]
[Signature]

FHE

25/15/6

MESSAGE

TOR/TOD
 COMCENTRE
 EXTERNA

DATE	FILE/DOSSIER	SECURITY SECURITE
JUNE 3	42-8-9-3-1 CAD	RESTRICTED

FM/DE EXTEROTT

JUN 4 15 18 '70

TO/A LDN(MILLER)

NO	PRECEDENCE
FILE-784	ROUTINE

INFO

REF CLARK LET MAY21.

SUB/SUJ ICAO ASSEMBLY: WESTERN CONSULTATIONS ON UNLAWFUL SEIZURE.

GRATEFUL YOU ADVISE MISS G.M.E. WHITE OF BOT ARRANGEMENTS BEING MADE FOR WESTERN CONSULTATIONS ON HIJACKING CONVENTION DURING COURSE OF ASSEMBLY. ALSO ADVISE HER CLARK WILL BE MEMBER OF CANDEL.

DISTRIBUTION LOCAL/LOCALE NO STD

ORIGINATOR/REDACTEUR	DIVISION	TELEPHONE	APPROVED/AUTORISE
SIG..... L.S. Clark/oh	FILE - LEGAL DIV	2-7738	SIG..... H.D. Copithorne

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

ACTION COPY

Handwritten signatures and notes:
Mr. Clark
Bel...
C...
FLE
42-8-9-3-100
2 P

CONFIDENTIAL

FM HAGUE JUN03/70

TO TT EXTER 504 PRIORITY DDE LDN

INFO LDN TT PARIS BRU EONN DE LDN BERN MDRID TAVIV BERUT CAIRO
DE PARIS WSHDC TOKYO HAVAN DOTOTT(STONER)CICOTT(MOFISSET)DE OTT
COPEN OSLO STKHM DE HAGUE

BAG HSNKI DE HAGUE

REF OURTEL 437 MAY14

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

WE FURTHER DISCUSSED CDN PROPOSAL WITH DE MEESTER, MFA, JUN23, IN PART TO SEEK MORE CONSIDERED NETHERLANDS REACTIONS AND ALSO TO CONVEY NEW CDN POSSIBLE FALLBACK POSITION(SUBMISSION OF WORKING PAPER)OUTLINED YOUR FLE736 MAY22.

2.WE WERE INFORMED THAT WHILE NO/NO OFFICIAL POSITION HAS YET BEEN TAKEN, LOCAL CIVIL AVIATION AUTHORITIES ARE APPARENTLY COMING TO SIMILAR CONCLUSIONS AS HAVE BRITS AND SWEDES AND THAT THEREFORE IT IS UNLIKELY NETHERLANDS WOULD BE ABLE TO SUPPORT CDN PROPOSAL EITHER IN ORIGINAL FORM OR THAT OF FIRST FALLBACK(SUSPENSION OF BILATERALS).DUTCH COLLEAGUE OF GULDIMANN REFERRED TO PARA1 BERN TEL 198 MAY26 IS PROBABLY ADMIRAL KRUY'S, NETHERLANDS DIRGEN CIVIAL AVIATION.

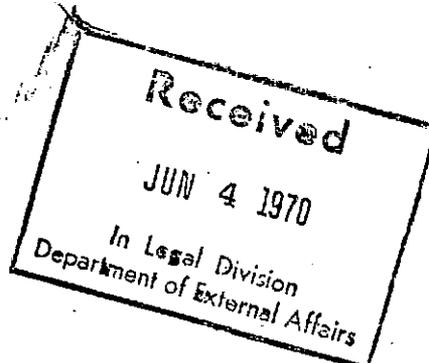
3.DE MEESTER WAS UNAWARE OF INFORMAL MTG OF DIRGEN OF ECAC COUNTRIES(PARAS BERN TEL)BUT WILL CONTACT KRUY'S PRIOR TO MTG TO BRING HIM UP TO DATE.APPARENTLY THESE MTGS ARE VERY MUCH OFF RECORD BUT TO EXTENT POSSIBLE AND IF TIME PERMITS HE WILL BRIEF US ON OUTCOME PRIOR TO HIS OWN DEPARTURE FOR CDA.

4.NETHERLANDS DEL ICAO EXTRAORDINARY ASSEMBLY NOT/NOT FINALIZED

11/4/6

C O N F I D E N T I A L PAGE TWO 504

BUT WILL COMPRISE AT LEAST FIVE OR SIX INCLUDING FOLLOWING:
DR SPANYARDE (HEAD LEGAL AND ECONOMIC SECTION, DEPT CIVIL AVIATION)
AS HEAD OF DEL. HE WILL BE ASSISTED BY DR CREPAS OF SAME DEPT;
DE MEESTER AND BOS (ASSISTANT TO RIPHAGEN) WILL BE REPS OF MFA.
DR MOK WILL REPRESENT JUSTICE MINISTRY. A KLM SECURITY OFFICER WILL
PROBABLY ALSO ATTEND PART TIME.



File ✓
 Diary
 Div
 Tel

MESSAGE

FM/DE	EXETEROTT	DATE	FILE/DOSSIER	SECURITY
		JUNE 3	12-8-9-3-1 CAD	SECURITE
TO/A	LDN(MILLER)	NO	PRECEDENCE	RESTRICTED
				FLB-784
INFO				

REF CLARK LET MAY 21.

SUB/SUJ ICAO ASSEMBLY: WESTERN CONSULTATIONS ON UNLAWFUL SEIZURE.

GRATEFUL YOU ADVISE HESS G.M.B. WHITE OF BOT ARRANGEMENTS BEING MADE FOR WESTERN CONSULTATIONS ON HIJACKING CONVENTION DURING COURSE OF ASSEMBLY. ALSO ADVISE HES CLARK WILL BE MEMBER OF CANDEL.

DISTRIBUTION LOCAL/LOCALE NO STD

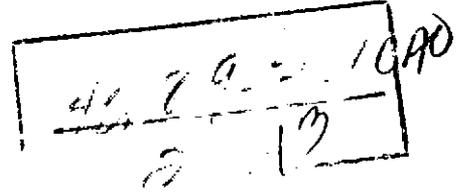
ORIGINATOR/REDACTEUR	DIVISION	TELEPHONE	APPROVED/AUTORISE
SIG..... L.S. Clark/oh.....	FLB - LEGAL DIV	2-7738	SIG..... M. D. COPITHORNE.....

File ✓
Diary
Div.

FILE/ L.S. CLARK/ oh

OTTAWA, June 3, 1970

Deputy Minister,
Department of Justice,
Justice Building,
O t t a w a.



Attention: Mr. R.P. Coderra, Civil Law Section

ICAO: Summonses to Witnesses

... Attached is a copy of a self-explanatory letter from the
Secretary-General of ICAO.

As in past instances of this nature, we should be grateful
if you would take the appropriate steps to ensure that the immunity of
this international Organization is preserved.

... On the question of abuses or violations of ICAO's immunity,
you may wish to consider the advisability of arranging for an inter-
departmental meeting to discuss this entire matter. It may also be worth
studying the possibility of inviting a representative of the Quebec
Department of Justice to attend such a meeting. (In this connection we
are attaching, for your general information, a copy of a letter from the
Under-Secretary to the Secretary-General of ICAO.) In the event you
believe this proposal worth exploring, we should be grateful if you would
contact Mr. L.S. Clark of our Legal Division (telephone 2-7738).

Thank you for your kind co-operation in this matter.

Under-Secretary of State
for External Affairs.

ORGANISATION DE L'AVIATION
CIVILE INTERNATIONALEORGANIZACIÓN DE AVIACIÓN
CIVIL INTERNACIONAL

*Belegay
Clark*

INTERNATIONAL CIVIL AVIATION ORGANIZATION

INTERNATIONAL AVIATION BUILDING
1080 UNIVERSITY STREET
MONTREAL 3, P.Q., CANADAWHEN REPLYING, PLEASE QUOTE:
RÉFÉRENCE À RAPPELER DANS LA RÉPONSE:
INDÍQUESE EN LA RESPUESTA ESTA REFERENCIA:

A 11/2 (Conf.)

27 May 1970

4

Sir,

Subject: Summonses to Witnesses

...

I send herewith a photocopy of a "Summons to Witnesses" issued by the Superior Court in its case No. 769 373. It is addressed to "Miss Roach, International Civil Aviation Organization ...". There is nobody of that name in ICAO. However, one of our officials is Miss Roche. In her absence one of her colleagues was handed over the summons in question by the process server.

Two other summonses in the same case were brought by the process server, one addressed to "Mr. Lewis, International Civil Aviation Organization ..." and the other to "Mr. Twigt, International Civil Aviation Organization ...". Mr. Lewis is the Chief, External Relations Office, ICAO.

Presumably the summonses relate in some manner to official matters of the Organization.

Therefore, Mr. Lewis will be refusing to accept the summons and so shall I, if the process server should come again. There being no "Miss Roach", the summons addressed to that individual was of course not served.

Again there was illegal entry of the premises of the Organization, in violation of the Agreement between ICAO and the Government of Canada and of the relevant Canadian statutory law.

I should be grateful if the Government of Canada would take appropriate action in the matter.

Accept, Sir, the assurance of my highest consideration.

B.T. Twigt
for B.T. Twigt
Secretary General

The Under-Secretary of State
for External Affairs,
Att.: Mr. L.S. Clark
Department of External Affairs,
Ottawa, Ont.

cc: The Representative of the Government
of Canada on the Council of ICAO
Montreal, P.Q.

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

SUPERIOR COURT

ELIZABETH THE SECOND, by the Grace of God of the United Kingdom, Canada
and Her other Realms and Territories Queen, Head of the Commonwealth, Defender
of the Faith.

No. 700 373

CANDIE COMPANY LIMITED,

Plaintiff

-vs-

FOUNDATION-SCOTTISH PROPERTIES LIMITED,

Defendant

TO:

1. Miss Roach,
2. International Civil Aviation Organization,
3. 1080 University Street,
4. Montreal, Que.
- 5.

WE COMMAND YOU, under the penalties prescribed by law, to appear
in person before Our Court, sitting in Room No. 37 at the Court House at
Montreal, 9:45 a.m.
on the 23rd day of June 1970 at TEN o'clock in the forenoon,
to testify of all that you know in a certain cause now pending before Our said
Court, between the abovenamed parties.

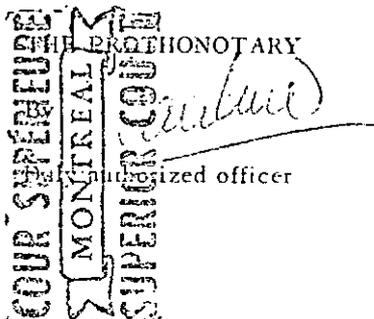
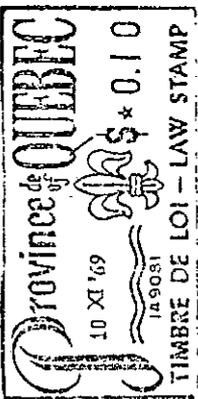
IN WITNESS WHEREOF, We have caused the Seal of Our Court to be
affixed hereto at Montreal,
this 10th day of November 1969.

THE PROTHONOTARY

By (Sgd) R. COUTURE

Duly authorized officer

(TRUE COPY)



Room No. 37

SUPERIOR COURT
MONTREAL

No. 769 373

CANDIB COMPANY LIMITED,

Plaintiff

-vs-

FOUNDATION-SCOTTISH PROPERTIES
LIMITED,

Defendant

SUMMONS TO WITNESSES
SUBPOENA

COPY for Miss Roach,
International Civil Aviation
Organization,
1030 University Street,
Montreal, Que.

For information witness may apply to

M tres Gadbois & Joannette,
Room 264, Windsor Station
Montreal 101, Que.

Attorney(s) for Defendant.