

SEE INSTRUCTIONS—
INSIDE FRONT COVER.

VOIR AU VERSO POUR LES INSTRUCTIONS.

SUBJECT - SUJET _____ AVIATION

SUB-SUBJECT - SOUS-SUJET UNLAWFUL INTERFERENCE WITH AIR TRANSPORTATION

FILE TITLE - TITRE DU DOSSIER ANTI-HIJACKING AGREEMENT - CANADA/CUBA

1
VOL.

670 - 11

FROM - DE

TO - A DEC 1, 1971

[illegible]

670 - 11

VOL. 1



TO - À

FROM - DE

File No. - N° du dossier

C70-11

Vol No.
N° du vol.

Subject - Sujet

Anti-Hijacking Agreement -
Canada - Cuba

Period - Période

From - De

1969

To - À

5/12/71

Scheduled Retention Period - Durée de conservation prévue

40 YRS. CA

Disposal Authority - Autorisation de disposition

TP-111

Security Classification - Classification de sécurité

Confidential

Signature

Date

THE ATTACHED IS SUBMITTED TO YOU FOR REVIEW. PLEASE INDICATE DISPOSAL ACTION TO BE TAKEN AND RETURN AS SOON AS POSSIBLE.
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Remarks - Remarques:

J. E. Lundy
Signature

28/9/84
Date

**CLOSED
VOLUME**



**VOLUME
COMPLET**

DATED FROM
À COMPTER DU

TO
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°

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CANADA

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FOR SUBSEQUENT CORRESPONDENCE SEE — POUR CORRESPONDANCE ULTÉRIEURE VOIR

FILE NO. — DOSSIER N°

VOLUME

CONFIDENTIAL

602-10

11392

BY HAND.

Ottawa, Ontario,
K1A 0N5.

1 December, 1971.

Mr. P.A. Bissonnette,
Assistant Under-Secretary of State
for External Affairs,
Department of External Affairs,
East Block,
Wellington Street,
Ottawa, Ontario,
K1A 0G2.

Dear Sir:

Re: Canada-Cuba Hijacking Agreement.

I attach hereto a Memorandum to Cabinet concerning the Canada-Cuba Hijacking Agreement. The Memorandum has been duly signed by the Minister of Justice and the Minister of Transport and remains to be signed by the Minister of External Affairs.

I would appreciate it if you would arrange to have it executed by the Minister of External Affairs and forwarded in the normal way to the Privy Council Office.

It may be that the Department of External Affairs will wish to insert a paragraph under the heading "Public Relations Considerations" as I understand that portion was left blank in case your Department might wish to add something at the last moment.

Yours very truly,

ORIGINAL SIGNED BY
JOHN T. GRAY

John T. Gray,
Senior Ministry Executive, Legal.

Att:

000005

8A
Mr. Lay
To note Am 12 minute to
Minister & Minister Com 0000006
MS.

MINISTRY OF TRANSPORT
OFFICE OF DEPUTY MINISTER
DEC 1 1971

OFFICE OF THE
DEPUTY MINISTER
TRANSPORT.

To: Minister -

Remarks

An interesting reaction -
surely this is reasonable to
set out - even if it is to
be secret.

I agree
[Signature]
[Signature]
.....O.G.S.....

Date ...November..30,..1971.

MEMORANDUM
GOVERNMENT OF CANADA



NOTE DE SERVICE
GOUVERNEMENT DU CANADA

602-10

FROM
DE

Mr. John T. Gray,
Counsel

TO
À

Mr. O.G. Stoner,
Deputy Minister.

SUBJECT
SUJET

Re: Canada-Cuba Hijacking Agreement.

SECURITY - CLASSIFICATION - DE SÉCURITÉ	
CONFIDENTIAL	
OUR FILE - N° DE RÉFÉRENCE	602-10
YOUR FILE - N° DE RÉFÉRENCE	
DATE	November 30, 1971.

*Maunter
an interesting
reaction - similar to
this is relevant to
set out why it
is to be secret.*

I discussed your suggestion concerning the Public Relations considerations with Peter Sorokan who has advised me that the Public Relations considerations portion was left blank as a result of representations from the Department of External Affairs.

John T. Gray
John T. Gray,
Senior Ministry Executive, Legal.

Mr. Gray -

I would think Memo should
include reference to Public Relations
considerations.

O.G.S.

29-11-71

000009

MEMORANDUM

GOVERNMENT OF CANADA



NOTE DE SERVICE

GOUVERNEMENT DU CANADA

JTG:pn

FROM
DE

Mr. John T. Gray,
Counsel.

TO
A

Mr. O.G. Stoner,
Deputy Minister

SUBJECT
SUJET

Re: Canada-Cuba Hijacking Agreement.

The original Memorandum to Cabinet respecting the above matter has now been received duly executed by the Minister of Justice and requires the signature of the Ministers of Transport and External Affairs. I have accordingly drafted the attached memo to the Minister for your signature.

John T. Gray
John T. Gray,
Senior Ministry Executive, Legal.

Aet:

*P.S. Needless to say, they have given
up on today's cabinet meeting*

JTG

*→
I would think Memo should include
reference to Public Relations Considerations*

RECEIVED

NOV 29 1971

OFFICE OF THE
DEPUTY MINISTER
TRANSPORT.

000010

MINISTRY OF TRANSPORT
OFFICE OF DEPUTY MINISTER

To:

Mr. Bray

Remarks

Memo to Cabinet signed by
Minister & ret'd to you to
forward to office of Sec of
State for External affairs as
requested in Mr. Forokan's
letter Nov 29/71. M. Abraham

Date

Dec 1/71

MINISTRY OF TRANSPORT
OFFICE OF DEPUTY MINISTER

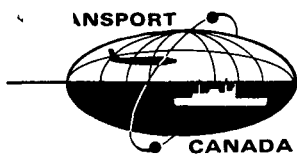
To: Minister -

Remarks I gather this will not come forward today.

*Minister signed
Dec 1*

.....O.G.S.

Date ..November 29th, 1971.



DEPUTY MINISTER OF TRANSPORT
SOUS-MINISTRE DES TRANSPORTS

CONFIDENTIAL

November 29, 1971.

MEMORANDUM TO THE MINISTER.

Re: Canada-Cuba Hijacking Agreement.

Further to my memo of November 26, respecting the above matter, attached is the original Memorandum to Cabinet duly signed by the Honourable John Turner. I would appreciate it if you would sign the agreement whereupon it will be forwarded to the Minister of External Affairs for his signature.

You will remember that the Cabinet Document is merely a revision of an earlier Cabinet Document which you had signed.


O.G. Stoner.

Together this will not come forward today

Att:

THIS DOCUMENT IS THE PROPERTY OF THE GOVERNMENT OF CANADA

CONFIDENTIAL

, 1971

MEMORANDUM TO THE CABINET

Re: CANADA-CUBA HIJACKING AGREEMENT - NEGOTIATIONS WITH THE GOVERNMENT OF CUBA.

SUBJECT AND PURPOSE

The purpose is to seek approval for instructions for the Canadian Delegation engaged in negotiating, and authorization for the Secretary of State for External Affairs to sign, a Canada-Cuba Agreement on Unlawful Interference with Aircraft and Ships.

BACKGROUND

2. In response to representations by Air Canada and in conformity with the major Canadian role in the U.N. and ICAO on the hijacking question, the Secretary of State for External Affairs authorized the Canadian Ambassador in Havana to approach the Cuban Foreign Ministry in May 1969 to express Canadian Government interest in negotiating a bilateral aircraft hijacking agreement. (There had not then been, nor has there been since, any case of an aircraft hijacked from Canada to Cuba). Preliminary discussions, through our Embassy to Cuba, resulted in Canada providing the text of a draft Accord on "unlawful seizure" (hijacking) of aircraft (not ships) in December 1969. Following postponement of formal negotiations scheduled for Havana in early 1970, arrangements were made for a Canadian Delegation to go to Cuba in February 1971 for a "first round" of talks. When agreeing to the timing and site for these negotiations, the Cuban Foreign Minister stated that the discussions would be based on the Canadian draft text and a 1969 Cuban Law "on the Diversion of Air or Sea Craft". He also emphasized that any bilateral Accord would have to apply to the hijacking of ships as well as aircraft. The Secretary of State for External Affairs approved instructions for the Canadian Delegation to negotiate on the basis of:

1. The Canadian draft text, suitably modified (a) to include the unlawful diversion of maritime vessels, (b) to take into account the provisions of the Hague Convention for the Suppression of Unlawful Seizure of Aircraft, which was signed by Canada on December 16, 1970 and (c) to reflect recommendations of the Ministry of Transport and the Departments of Justice and External Affairs, provided they were consistent with the Canadian Extradition Act, the 1904 U.K. - Cuba Extradition Treaty which is currently in force between Canada and Cuba, and relevant domestic and international law;
2. The 1969 Cuban Law on the Diversion of Air and Sea Craft, the major provisions of which related to (a) strict reciprocity, (b) the right to grant political asylum in certain circumstances, and (c) surrender and punishment of offenders.

THE HAVANA NEGOTIATIONS

3. The Canadian Delegation, headed by Mr. P.A. Bissonnette, Assistant Under-Secretary of State for External Affairs, and composed of representatives of the Department of Justice and the Department of External Affairs and an Adviser from Air Canada (acting on behalf of C.P. Air as well) was in Havana February 12-22. On February 20 the Cuban Delegation, headed by the Vice-Minister of Foreign Affairs, Captain C. Chain Soler, tabled their version of a draft Accord. It faithfully reflected the 1969 Cuban Law and did not take

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- 2 -

into account the Canadian text. In addition to the hijacking of air and sea craft, it covered offences endangering the safety of both types of craft, violation of all national penal laws and regulations on board, and illegal entry to and exit from national territory. The Cuban draft applied to all aircraft and ships, specifically including military craft. It also provided for the return of offenders by means of "summary and urgent proceedings".

4. The initial important question to be resolved related to the scope of the proposed Agreement. While the Canadian Delegation was primarily concerned with unlawful seizure only, the Cubans wished the Accord to apply to a wide variety of offences and other proscribed acts involving air or sea craft, as noted above. It was eventually agreed that the Accord should cover unlawful acts of seizure, appropriation, diversion, and other wrongful exercise of control of civil aircraft in flight (excluding domestic flights) and ships at sea by means of force, threat of force, or other means of intimidation. Both sides further agreed that applicability to other offences endangering the safety of aircraft and ships would be closely studied.

5. A second important issue concerned the extradition of alleged offenders. The Canadian Delegation insisted that the bilateral Agreement should be fully compatible with the existing Extradition Treaty. The Cubans favoured a simplified summary procedure by which surrender could be expeditiously effected. In the event, it was agreed that the proposed Accord would be read in conjunction with any extradition treaty in force between the parties and that surrender would be as expeditious as possible.

6. The third question of particular importance related to military craft. While the Canadian side indicated that they did not properly belong in an Agreement of the type envisaged, in view of the importance which the Cubans attached to the question it was agreed that Canada would give the matter further consideration.

7. The fourth important issue concerned the grounds for refusal to surrender alleged offenders. It was agreed that extradition could be refused if the relevant individual was a national of the requested state or if the relevant offence was one of a political character. (The extradition treaty in force contains similar provisions.) The Cubans also undertook to study a Canadian proposal which would allow refusal if the alleged offender would be liable to the death penalty if convicted.

8. At the conclusion of the February negotiations, a confidential Agreed Statement of Record was signed by the respective Heads of Delegation. In addition to setting out the extent of agreement between the two sides, this document includes an undertaking on the part of the Canadian Delegation to provide, as soon as possible, the text of a revised draft Accord which would take into account the results of the first stage of discussions. Also, a joint Press Release was issued on February 22 indicating that further negotiations directed toward the signing of a formal agreement would take place in Ottawa "in the near future".

The Revised Canadian Draft Text

9. The draft Agreement annexed hereto reflects an appreciation of Cuban concerns on key issues, while preserving the Canadian interest in maintaining consistency between what Canada is prepared to accept in a bilateral Accord with Cuba and the Canadian position taken on the hijacking question in various international fora. Nevertheless the Canadian Delegation at the Ottawa negotiations will require a measure of flexibility in order to deal with Cuban observations, comments and possible amendments to this draft, which will likely be provided only once the "second round" begins. In this revised text, the scope of offences covered takes into account: (1) the

...3

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1970 Hague Convention; (2) the Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation which was signed by Canada on September 23, 1971 (this Convention does not deal with hijacking but with the related field of acts of sabotage and armed attacks against international civil aviation and facilities); and (3) the relevant section in the Criminal Code as at present in force (Section 232). While omitting applicability to military ships, the draft does include a reference to military aircraft engaged in the transport of civilians.

INTERDEPARTMENTAL CONSULTATIONS

10. This memorandum, as well as the draft agreement annexed hereto, was prepared following a series of consultations among officials of the Department of Justice, Ministry of Transport and Department of External Affairs.

PUBLIC RELATIONS CONSIDERATIONS

11.

CAUCUS CONSULTATIONS

12.

LIBERAL PARTY RESOLUTIONS

13. Not applicable.

RECOMMENDATIONS

14. (a) That the text of the revised draft agreement annexed hereto be transmitted as soon as possible to the Cuban Government by the Department of External Affairs.
- (b) That an invitation be issued by the Government of Canada to the Government of Cuba, through the Department of External Affairs, to send a Delegation to Ottawa at a mutually convenient time to resume negotiations directed toward the conclusion of a bilateral Agreement on Unlawful Interference with Aircraft and Ships.
- (c) That a Canadian Delegation, to be headed by Mr. P.A. Bissonnette, Assistant Under-Secretary of State for External Affairs, with supporting Delegates from the Department of Justice, Ministry of Transport and Department of External Affairs, assisted as appropriate by Advisers from other Government Departments and Agencies and from Canadian international air carriers, be authorized to negotiate a Canada-Cuba Agreement which is generally along the lines of the revised Canadian text, provided however that modifications which are mutually acceptable to the two Delegations may be made if they are compatible with the Canadian Extradition Act, the 1904 U.K. - Cuba Extradition Treaty which is currently in force between Canada and Cuba, and relevant domestic and international law.

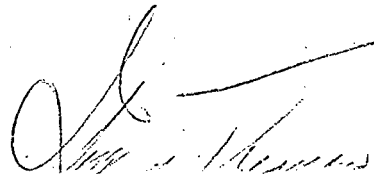
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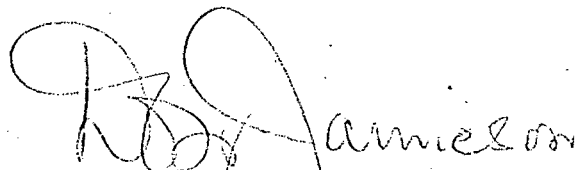
ENC 4

- (d) That, should the Canadian Delegation so recommend, the Secretary of State for External Affairs be authorized to sign on behalf of the Government of Canada, subject to ratification, a Canada-Cuba Agreement on Unlawful Interference with Aircraft and Ships.

Secretary of State for External Affairs



Minister of Justice



Minister of Transport

DRAFT
ENGLISH VERSION
17 November 1971

AGREEMENT BETWEEN CANADA AND THE
REPUBLIC OF CUBA CONCERNING UNLAWFUL
INTERFERENCE WITH AIRCRAFT AND SHIPS

CANADA

- and -

THE REPUBLIC OF CUBA

Desiring to cooperate to their mutual benefit and to
strengthen the bonds of understanding and goodwill which now exist between
them; and

Desiring to provide for the consequences arising out of unlawful
interference with aircraft and ships,

HAVE AGREED AS FOLLOWS:

ARTICLE I

GENERAL

1. In this Agreement,

(a) "aircraft" means

- (i) a civil aircraft registered under the laws
of a party, or operated under lease or charter by
 - (A) a person resident in the territory of a
party, or
 - (B) a corporation established under the laws
of a party or one of its constituent
units, or
- (ii) an aircraft used by the armed forces of a party
for the purpose of transporting civilians;

(b) "person responsible" means the person or persons who

- (i) has or have, or
- (ii) is or are alleged to have committed an
unlawful interference;

(c) "ship" means any ship or vessel of any nature whatsoever,

- (i) registered under the laws

- 2 -

of a party, or

(ii) operated under any of the laws

of a party or of any of its constituent units;

(d) "surrender" means the surrender of a person for extradition by one party at the request of the other for an extraditable offence committed in relation to an unlawful interference; and

(e) "unlawful interference" means

(i) the use of force, the threat thereof or any other form of intimidation in order to effect

(A) an unlawful act of interference with, or seizure, appropriation or diversion of, or

(B) any wrongful exercise of control over an aircraft in flight or a ship on the high seas; or

(ii) the placing, with intent to cause death or bodily harm to persons, of anything upon, or the doing of anything to, any aircraft or ship that is likely to cause death or bodily harm to persons.

2. This Agreement does not apply where

(a) the aircraft or ship in respect of which an unlawful interference has been committed does not leave, or returns to, the territory of the party in which it commenced its flight or voyage, and

(b) the person responsible is still on board the aircraft or ship.

3. Subject to paragraph 2, this Agreement applies to every unlawful interference and its provisions shall be read in conjunction with and subject to any agreement entered into by the parties or applying to or between them, heretofore or hereafter establishing procedures for extradition between the parties as it may apply at the time of the unlawful interference.

...3

ARTICLE II

OBLIGATION OF PARTY IN WHOSE TERRITORY AN AIRCRAFT OR
SHIP OF THE OTHER IS FOUND FOLLOWING UNLAWFUL INTERFERENCE

1. When an aircraft or a ship of one party is found in the territory of the other after unlawful interference has taken place in respect of such aircraft or ship, the party in whose territory the aircraft or ship is found shall

- (a) immediately notify the appropriate diplomatic or consular representative of the other party of the presence of the aircraft or ship;
- (b) in accordance with its laws, take all reasonable means to apprehend the person responsible and thereafter
 - (i) inform the other party of the identity of the person responsible and of all relevant facts regarding him and the circumstances connected with his apprehension, and
 - (ii) give duly authorized representatives of the other party access to him for interviewing purposes;
- (c) take all necessary measures to facilitate the continuation of the journey, without delay, of the passengers and crew aboard the aircraft or the ship, as the case may be, together with their possessions; and
- (d) make immediate arrangements to have the aircraft or the ship and any cargo therein returned to the operator of the aircraft or ship with the least possible delay.

2. Nothing in this Agreement shall be construed to exclude, in respect of an unlawful interference, the exercise by either party of any criminal jurisdiction conferred by its national law.

...4

ARTICLE III

SURRENDER OF PERSON RESPONSIBLE
FOR UNLAWFUL INTERFERENCE

1. When there has been an unlawful interference, the party in whose territory the person responsible is found shall surrender him to the other party as expeditiously as possible, when, at the request of the other party, he is duly committed for extradition in accordance with the laws of the requested party governing extradition procedures and any agreement applying thereto.

2. A party may refuse to comply with a requisition for the surrender of a person responsible if it is determined by such authority as it may have designated for the purpose, that

- (a) the requisition is made for the purpose of securing control over the person responsible so that he may be prosecuted or punished for an offence of a political character;
- (b) the person responsible is a national of the requested state; or
- (c) at the time the requisition is made,
 - (i) the person responsible is liable to the death penalty with respect to the offence for which extradition is requested and the law of the requested party does not provide for the death penalty for the same, or substantially the same, offence, and
 - (ii) the requesting party has not provided such assurances as the requested party considers sufficient that the death penalty will not be imposed or, if imposed, will not be carried out.

3. If pursuant to paragraph 2, a party refuses to comply with a requisition for the surrender of a person responsible, that party is obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution; those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that party.

ARTICLE IV

COMING INTO FORCE, DURATION AND TERMINATION

1. This Agreement is subject to ratification.
2. Instruments of ratification shall be exchanged at Havana.
3. This Agreement comes into force thirty days after the day on which the exchange of instruments of ratification takes place.
4. Either of the parties may terminate this Agreement at any time by giving notice to the other of termination.
5. This Agreement shall cease to have effect six months after the receipt of notice of termination.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Agreement in the English, French and Spanish languages, the three texts being equally authentic.

DONE in duplicate at Ottawa this day of
one thousand nine hundred and seventy-

FOR CANADA

.....

FOR THE REPUBLIC OF CUBA

.....



PS:ef

BY HAND

DEPARTMENT OF JUSTICE
MINISTÈRE DE LA JUSTICE

CONFIDENTIAL

Ottawa, November 29, 1971

11-280

MEMORANDUM TO: MR. JOHN T. GRAY
SENIOR MINISTRY EXECUTIVE, LEGAL
DEPARTMENT OF TRANSPORT

FROM: PETER SOROKAN

RE: CANADA-CUBA HIJACKING AGREEMENT
220121

I attach hereto a Memorandum to Cabinet dealing with the above matter. The Memorandum has already been signed by the Minister of Justice. It would be appreciated if you could arrange to have the Minister of Transport sign the Memorandum and thereupon deliver it by hand to the office of the Secretary of State for External Affairs.

I believe the matter is scheduled for consideration by Cabinet Committee this afternoon at 3:30 p.m.

P.S.

PS: I believe you should know that the Minister of Transport and the Secretary of State for External Affairs signed a Memorandum on this subject in July, 1971. Since then, changes have been made to the Draft Agreement providing for the prosecution of offenders if they are not extradited. There is also a second amendment clarifying a slight ambiguity in the Agreement.

DEPARTMENT OF JUSTICE

November 23, 1971.

MEMORANDUM FOR: THE DEPUTY MINISTER

FROM: PETER SOROKAN

RE: 220121

In the Spring of 1969 we were consulted by the Department of External Affairs with regard to a proposed Bilateral Agreement between Canada and Cuba providing for the mutual extradition of hijackers. A preliminary Draft Agreement was prepared by us and transmitted by External Affairs to the Cuban authorities last in 1969.

The first round of negotiations took place in Havana in February 1971 and resulted in the formulation of an Agreed Statement of Record dated February 20th, 1971 according to which the Canadian Delegation agreed to provide a revised Draft Agreement covering aircraft and ships and otherwise taking into account the results of the first stage of negotiations with a view to facilitating the conclusion of a Bilateral Accord in Ottawa.

On July 20th, 1971 a revised Draft Agreement attached to a Memorandum to Cabinet, was submitted to the Minister through Mr. Christie (you were out of town at the time).

After reviewing the material, the Minister did not feel he could sign the Memorandum to Cabinet until he had further discussions concerning:

- (1) Canada's global policies regarding hijacking; and
- (2) the manner in which hijacking is dealt with in the proposed new Canada-U.S. Extradition Treaty.

At a meeting in the Minister's office about this matter on September 14th, 1971, the Minister took the position that the Agreement should oblige each party to prosecute an offender if the offender is not extradited. It also appeared that there was some ambiguity in one of the provisions of the Agreement relating to its non-application to "domestic" flights.

In paragraph 4 of the attached Memorandum to Cabinet there is a statement to the effect that we agreed in Havana that the Accord should cover inter alia unlawful acts of seizure of civil aircraft in flight excluding domestic flights. The word "domestic" was used to describe a certain type of flight which was understood by both negotiating teams to mean a flight which does not leave, or returns to, the territory of

.../2

- 2 -

the country in which it commenced its flight with the person responsible still on board. A good example of the kind of flight we want to exclude is the recent hijacking in Western Canada, where, although the aircraft left Canadian airspace and in fact landed in a foreign country, it nevertheless returned to Canada with the alleged offender still on board. In such circumstances we do not feel it necessary or desirable to undertake any international obligations.

The Agreement has now been amended so as to remove the said ambiguity and to oblige each party to prosecute if it does not extradite an offender. It has been discussed with Messrs. T.B. Smith and C. Kennedy both of whom agree with its present form.

Instructions for the Canadian Delegation are now being sought from Cabinet and it would accordingly be appreciated if you would arrange to have the Minister sign the attached Memorandum to Cabinet if you are generally in agreement with it.

P. SORDAN

P.S.

Encl.

P.S. Although a French version of the proposed Agreement is not attached there is one being prepared and it will be appended to the documents which are presented to Cabinet.

MEMORANDUM

GOVERNMENT OF CANADA



NOTE DE SERVICE

GOUVERNEMENT DU CANADA

FROM
DE

X.L.

TO
A

Mr. Walter McLeish,
D.G.C.A.

SUBJECT
SUJET

Canada-Cuba Hijacking Agreement
- Negotiations with the Government of Cuba

SECURITY - CLASSIFICATION - DE SÉCURITÉ

CONFIDENTIAL

OUR FILE - N/RÉFÉRENCE

602-10

YOUR FILE - V/RÉFÉRENCE

DATE

November 26, 1971.

Annexed hereto is a confidential memorandum to Cabinet covering proposed discussions with the Government of Cuba in respect of the hijacking problem.

As you are aware Mr. Peter Sorokan on the Minister's behalf attended with Mr. P. A. Bissonnett and Mr. L. C. Clarke upon Cuban authorities in Havana in February last for the purposes of discussing the nature of an agreement which might be concluded between Canada and Cuba on this issue.

Originally it was intended that Canada in accordance with the rationale reached in the first round discussions would transmit to the Government of Cuba a draft agreement for consideration by the Cuban authorities. Preparation and submission of such a draft has been somewhat delayed by reason of other more demanding issues confronting the Department of External Affairs but they have now reached the situation where it is intended to seek approval of the Cabinet in respect of a draft agreement to be submitted as soon as possible to the Cuban authorities. The draft agreement which is annexed to the attached memorandum to Cabinet has received the approval of the Department of External Affairs and the Justice Department and would appear to incorporate all requirements of the Ministry of Transport as these were incorporated in the original memorandum and agreement of July last.

The Deputy Minister has requested that I put this document in your hand so that you will be fully acquainted and in agreement with the progress of this matter.

In the event you have any questions or difficulties I would suggest you call Mr. Peter Sorokan direct.

.../2

- 2 -

You will recall that a similar memorandum to Cabinet was signed by the Minister of Transport in July last but that the Minister of Justice failed to sign the same by reason of one small omission respecting "Extradition of the Offender" otherwise the memorandum to Cabinet and the draft agreement are in the precise same form.

Original Signed by
C. K. KENNEDY
Assistant Counsel

C. K. Kennedy,
Assistant Counsel

CKK:bb

MEMORANDUM

GOVERNMENT OF CANADA



NOTE DE SERVICE

GOUVERNEMENT DU CANADA

FROM
DE

Mr. C.K. Kennedy,
Assistant Counsel.

TO
A

Mr. O.G. Stoner,
Deputy Minister.

SUBJECT
SUJET

Re: Canada-Cuba Hijacking Agreement -
Negotiations with the Government
of Cuba.

SECURITY - CLASSIFICATION	CKK ipms
OUR FILE	CONFIDENTIAL VIRÉFÉRENCE
YOUR FILE - VIRÉFÉRENCE	
DATE	26 November, 1971.

As you are no doubt aware the Department of External Affairs have for some time now been involved with the subject of a Canada-Cuba Hijacking Agreement which would apply to both ships and aircraft.

While there never has been an aircraft hijacked to Cuba the subject matter has been one of interest to our major airlines, so much so that a Canadian delegation headed by Mr. P.A. Bissonnette, Assistant Under-Secretary of State for External Affairs visited Havana in mid-February last for the purpose of determining whether or not an accord might be reached with the Government of Cuba.

The consequence of Mr. Bissonnette's visit to Cuba was the development of a formulation which it was felt would meet certain criteria required by the Cuban authorities. At the same time the formulation remained true to Canadian attitudes generally, in so far as the hijacking issue was concerned. The principal point at issue in so far as the Cuban authorities were concerned was that the agreement would apply to the unlawful diversion of maritime vessels. This represented an extension of the principles which had been incorporated into the Hague Convention for the suppression of unlawful seizure of aircraft, but did not, in so far as officials in the Department of Justice or External Affairs were concerned, produce any inconsistencies in our law as it should be applied to maritime matters.

.....2

- 2 -

Since the Minister of Transport has already agreed to the formulation shown in the amended memorandum to Cabinet and draft agreement (a similar memorandum was signed by him in July 1971) the Minister of External Affairs has expressed the hope that the Minister of Transport will have no difficulty in so far as signing the revised version, the original of which is presently held by Mr. Turner. (Evidently Mr. Turner failed to sign the July version by reason of one small requirement in respect of extradition.)

Accordingly you may expect to receive a by-hand transmission of the original memorandum to Cabinet for execution by the Minister of Transport in the very near future, presuming same meets Mr. Turner's wishes.

I spoke to Andre Bissonnette and he feels that ratification of the Hijacking and Sabotage Conventions could not precede enactment of the Criminal Law Amendment Act. He said it would break all precedents and present considerable difficulties with the Provinces particularly in those areas where matters do not fall exclusively within federal jurisdiction.

Mr. McLeish has been advised as per your request.

Original Signed by
C. K. KENNEDY
Assistant Counsel

C.K. Kennedy
Assistant Counsel

MINISTRY OF TRANSPORT
OFFICE OF DEPUTY MINISTER

To: Mr. Stoner

602-10

Remarks Mr. Kennedy called further to
your conversation with him this morning

The Canada-Cuba hijacking agreement
which requires the Minister's signature
is one which the Minister signed in
July last, but when it was transmitted
to Mr. Turner he did not sign it, for
there was one small question re
"extradition of offenders" which Mr.
Turner wanted clarified.

Memo to Cabinet which we now have is
precisely the same memo, with one small
change, that the Minister signed in
July - so he feels Minister could sign
again.

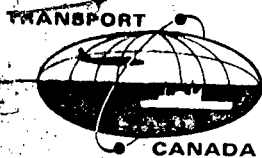
Original is still with Mr. Turner, but
Mr. Kennedy has 2 copies. He feels we
should get Minister's signature since
Cabinet wish to discuss next week.....

Date Nov. 26/71.....

MG

Special Record

W
S



DEPUTY MINISTER OF TRANSPORT
SOUS-MINISTRE DES TRANSPORTS

602-10

10072

Original to
Minister
Nov 26
M

November 26, 1971

MEMORANDUM TO THE MINISTER:

Re: Canada-Cuba Hijacking Agreement -
Negotiations with the Government
of Cuba.

Herewith please find copy of a memorandum to Cabinet with an annexed agreement in the above matter. Mr. Turner presently holds the original for signature.

You will recall having signed a similar memorandum in July at which time I understand the Minister of Justice withheld his signature on the grounds of one small alteration which he required in respect of the extradition of offenders.

Accordingly you may expect to receive from Mr. Turner sometime next week the original memorandum for your execution. I understand that Legal Services have checked with External Affairs on the possibility of ratification of the Hijacking and Sabotage Conventions in advance of passage of the Criminal Law Amendment Act. External Affairs say this would break all precedents and at the same time could present considerable difficulties in negotiations with the Provinces in respect of those areas which do not fall within federal jurisdiction. ✓

O. G. Stoner.



x I thought this would have been helpful but lawyers outvoted me - I know we have done before but...

MEMORANDUM

GOVERNMENT OF CANADA



NOTE DE SERVICE

GOUVERNEMENT DU CANADA

CKK:pn:ms

SECURITY - CLASSIFICATION - DE SÉCURITÉ	
CONFIDENTIAL	
OUR FILE — N/RÉFÉRENCE	602-10
YOUR FILE — V/RÉFÉRENCE	
DATE	
26 November, 1971.	

FROM
DE

Mr. C.K. Kennedy,
Assistant Counsel.

TO
A

Mr. O.G. Stoner,
Deputy Minister.

SUBJECT
SUJET

Re: Canada-Cuba Hijacking Agreement -
Negotiations with the Government
of Cuba.

As you are no doubt aware the Department of External Affairs have for some time now been involved with the subject of a Canada-Cuba Hijacking Agreement which would apply to both ships and aircraft.

While there never has been an aircraft hijacked to Cuba the subject matter has been one of interest to our major airlines, so much so that a Canadian delegation headed by Mr. P.A. Bissonnette, Assistant Under-Secretary of State for External Affairs visited Havana in mid-February last for the purpose of determining whether or not an accord might be reached with the Government of Cuba.

The consequence of Mr. Bissonnette's visit to Cuba was the development of a formulation which it was felt would meet certain criteria required by the Cuban authorities. At the same time the formulation remained true to Canadian attitudes generally, in so far as the hijacking issue was concerned. The principal point at issue in so far as the Cuban authorities were concerned was that the agreement would apply to the unlawful diversion of maritime vessels. This represented an extension of the principles which had been incorporated into the Hague Convention for the suppression of unlawful seizure of aircraft, but did not, in so far as officials in the Department of Justice or External Affairs were concerned, produce any inconsistencies in our law as it should be applied to maritime matters.

*Mr. Stoner to Minister
sent in Nov 26
with copy of Memo to Cabinet*

.....2

ENTERED
ON CARDS 000033

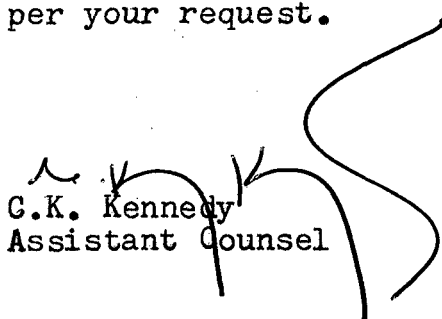
- 2 -

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Mr. McLeish has been advised as per your request.


G.K. Kennedy
Assistant Counsel

THIS DOCUMENT IS THE PROPERTY OF THE GOVERNMENT OF CANADA

CONFIDENTIAL

, 1971

MEMORANDUM TO THE CABINET

Re: CANADA-CUBA HIJACKING AGREEMENT - NEGOTIATIONS WITH THE GOVERNMENT OF CUBA.

SUBJECT AND PURPOSE

The purpose is to seek approval for instructions for the Canadian Delegation engaged in negotiating, and authorization for the Secretary of State for External Affairs to sign, a Canada-Cuba Agreement on Unlawful Interference with Aircraft and Ships.

BACKGROUND

2. In response to representations by Air Canada and in conformity with the major Canadian role in the U.N. and ICAO on the hijacking question, the Secretary of State for External Affairs authorized the Canadian Ambassador in Havana to approach the Cuban Foreign Ministry in May 1969 to express Canadian Government interest in negotiating a bilateral aircraft hijacking agreement. (There had not then been, nor has there been since, any case of an aircraft hijacked from Canada to Cuba). Preliminary discussions, through our Embassy to Cuba, resulted in Canada providing the text of a draft Accord on "unlawful seizure" (hijacking) of aircraft (not ships) in December 1969. Following postponement of formal negotiations scheduled for Havana in early 1970, arrangements were made for a Canadian Delegation to go to Cuba in February 1971 for a "first round" of talks. When agreeing to the timing and site for these negotiations, the Cuban Foreign Minister stated that the discussions would be based on the Canadian draft text and a 1969 Cuban Law "on the Diversion of Air or Sea Craft". He also emphasized that any bilateral Accord would have to apply to the hijacking of ships as well as aircraft. The Secretary of State for External Affairs approved instructions for the Canadian Delegation to negotiate on the basis of:

1. The Canadian draft text, suitably modified (a) to include the unlawful diversion of maritime vessels, (b) to take into account the provisions of the Hague Convention for the Suppression of Unlawful Seizure of Aircraft, which was signed by Canada on December 16, 1970 and (c) to reflect recommendations of the Ministry of Transport and the Departments of Justice and External Affairs, provided they were consistent with the Canadian Extradition Act, the 1904 U.K. - Cuba Extradition Treaty which is currently in force between Canada and Cuba, and relevant domestic and international law;
2. The 1969 Cuban Law on the Diversion of Air and Sea Craft, the major provisions of which related to (a) strict reciprocity, (b) the right to grant political asylum in certain circumstances, and (c) surrender and punishment of offenders.

THE HAVANA NEGOTIATIONS

3. The Canadian Delegation, headed by Mr. P.A. Bissonnette, Assistant Under-Secretary of State for External Affairs, and composed of representatives of the Department of Justice and the Department of External Affairs and an Adviser from Air Canada (acting on behalf of C.P. Air as well) was in Havana February 12-22. On February 20 the Cuban Delegation, headed by the Vice-Minister of Foreign Affairs, Captain C. Chain Soler, tabled their version of a draft Accord. It faithfully reflected the 1969 Cuban Law and did not take

CONFIDENTIAL

- 2 -

into account the Canadian text. In addition to the hijacking of air and sea craft, it covered offences endangering the safety of both types of craft, violation of all national penal laws and regulations on board, and illegal entry to and exit from national territory. The Cuban draft applied to all aircraft and ships, specifically including military craft. It also provided for the return of offenders by means of "summary and urgent proceedings".

4. The initial important question to be resolved related to the scope of the proposed Agreement. While the Canadian Delegation was primarily concerned with unlawful seizure only, the Cubans wished the Accord to apply to a wide variety of offences and other proscribed acts involving air or sea craft, as noted above. It was eventually agreed that the Accord should cover unlawful acts of seizure, appropriation, diversion, and other wrongful exercise of control of civil aircraft in flight (excluding domestic flights) and ships at sea by means of force, threat of force, or other means of intimidation. Both sides further agreed that applicability to other offences endangering the safety of aircraft and ships would be closely studied.

5. A second important issue concerned the extradition of alleged offenders. The Canadian Delegation insisted that the bilateral Agreement should be fully compatible with the existing Extradition Treaty. The Cubans favoured a simplified summary procedure by which surrender could be expeditiously effected. In the event, it was agreed that the proposed Accord would be read in conjunction with any extradition treaty in force between the parties and that surrender would be as expeditious as possible.

6. The third question of particular importance related to military craft. While the Canadian side indicated that they did not properly belong in an Agreement of the type envisaged, in view of the importance which the Cubans attached to the question it was agreed that Canada would give the matter further consideration.

7. The fourth important issue concerned the grounds for refusal to surrender alleged offenders. It was agreed that extradition could be refused if the relevant individual was a national of the requested state or if the relevant offence was one of a political character. (The extradition treaty in force contains similar provisions.) The Cubans also undertook to study a Canadian proposal which would allow refusal if the alleged offender would be liable to the death penalty if convicted.

8. At the conclusion of the February negotiations, a confidential Agreed Statement of Record was signed by the respective Heads of Delegation. In addition to setting out the extent of agreement between the two sides, this document includes an undertaking on the part of the Canadian Delegation to provide, as soon as possible, the text of a revised draft Accord which would take into account the results of the first stage of discussions. Also, a joint Press Release was issued on February 22 indicating that further negotiations directed toward the signing of a formal agreement would take place in Ottawa "in the near future".

The Revised Canadian Draft Text

9. The draft Agreement annexed hereto reflects an appreciation of Cuban concerns on key issues, while preserving the Canadian interest in maintaining consistency between what Canada is prepared to accept in a bilateral Accord with Cuba and the Canadian position taken on the hijacking question in various international fora. Nevertheless the Canadian Delegation at the Ottawa negotiations will require a measure of flexibility in order to deal with Cuban observations, comments and possible amendments to this draft, which will likely be provided only once the "second round" begins. In this revised text, the scope of offences covered takes into account: (1) the

...3

CONFIDENTIAL

- 3 -

1970 Hague Convention; (2) the Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation which was signed by Canada on September 23, 1971 (this Convention does not deal with hijacking but with the related field of acts of sabotage and armed attacks against international civil aviation and facilities); and (3) the relevant section in the Criminal Code as at present in force (Section 232). While omitting applicability to military ships, the draft does include a reference to military aircraft engaged in the transport of civilians.

INTERDEPARTMENTAL CONSULTATIONS

10. This memorandum, as well as the draft agreement annexed hereto, was prepared following a series of consultations among officials of the Department of Justice, Ministry of Transport and Department of External Affairs.

PUBLIC RELATIONS CONSIDERATIONS

11.

CAUCUS CONSULTATIONS

12.

LIBERAL PARTY RESOLUTIONS

13. Not applicable.

RECOMMENDATIONS

- 14.
- (a) That the text of the revised draft agreement annexed hereto be transmitted as soon as possible to the Cuban Government by the Department of External Affairs.
 - (b) That an invitation be issued by the Government of Canada to the Government of Cuba, through the Department of External Affairs, to send a Delegation to Ottawa at a mutually convenient time to resume negotiations directed toward the conclusion of a bilateral Agreement on Unlawful Interference with Aircraft and Ships.
 - (c) That a Canadian Delegation, to be headed by Mr. P.A. Bissonnette, Assistant Under-Secretary of State for External Affairs, with supporting Delegates from the Department of Justice, Ministry of Transport and Department of External Affairs, assisted as appropriate by Advisers from other Government Departments and Agencies and from Canadian international air carriers, be authorized to negotiate a Canada-Cuba Agreement which is generally along the lines of the revised Canadian text, provided however that modifications which are mutually acceptable to the two Delegations may be made if they are compatible with the Canadian Extradition Act, the 1904 U.K. - Cuba Extradition Treaty which is currently in force between Canada and Cuba, and relevant domestic and international law.

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- (d) That, should the Canadian Delegation so recommend, the Secretary of State for External Affairs be authorized to sign on behalf of the Government of Canada, subject to ratification, a Canada-Cuba Agreement on Unlawful Interference with Aircraft and Ships.

Secretary of State for External Affairs

Minister of Justice

Minister of Transport

DRAFT
ENGLISH VERSION
17 November 1971

AGREEMENT BETWEEN CANADA AND THE
REPUBLIC OF CUBA CONCERNING UNLAWFUL
INTERFERENCE WITH AIRCRAFT AND SHIPS

CANADA

- and -

THE REPUBLIC OF CUBA

Desiring to cooperate to their mutual benefit and to
strengthen the bonds of understanding and goodwill which now exist between
them; and

Desiring to provide for the consequences arising out of unlawful
interference with aircraft and ships,

HAVE AGREED AS FOLLOWS:

ARTICLE I

GENERAL

1. In this Agreement,
 - (a) "aircraft" means
 - (i) a civil aircraft registered under the laws
of a party, or operated under lease or charter by
 - (A) a person resident in the territory of a
party, or
 - (B) a corporation established under the laws
of a party or one of its constituent
units, or
 - (ii) an aircraft used by the armed forces of a party
for the purpose of transporting civilians;
 - (b) "person responsible" means the person or persons who
 - (i) has or have, or
 - (ii) is or are alleged to have committed an
unlawful interference;
 - (c) "ship" means any ship or vessel of any nature whatsoever,
 - (i) registered under the laws

- 2 -

of a party, or

(ii) operated under any of the laws

of a party or of any of its constituent units;

(d) "surrender" means the surrender of a person for extradition by one party at the request of the other for an extraditable offence committed in relation to an unlawful interference; and

(e) "unlawful interference" means

(i) the use of force, the threat thereof or any other form of intimidation in order to effect

(A) an unlawful act of interference with, or seizure, appropriation or diversion of, or

(B) any wrongful exercise of control over an aircraft in flight or a ship on the high seas; or

(ii) the placing, with intent to cause death or bodily harm to persons, of anything upon, or the doing of anything to, any aircraft or ship that is likely to cause death or bodily harm to persons.

2. This Agreement does not apply where

- (a) the aircraft or ship in respect of which an unlawful interference has been committed does not leave, or returns to, the territory of the party in which it commenced its flight or voyage, and
- (b) the person responsible is still on board the aircraft or ship.

3. Subject to paragraph 2, this Agreement applies to every unlawful interference and its provisions shall be read in conjunction with and subject to any agreement entered into by the parties or applying to or between them, heretofore or hereafter establishing procedures for extradition between the parties as it may apply at the time of the unlawful interference.

...3

ARTICLE II

OBLIGATION OF PARTY IN WHOSE TERRITORY AN AIRCRAFT OR
SHIP OF THE OTHER IS FOUND FOLLOWING UNLAWFUL INTERFERENCE

1. When an aircraft or a ship of one party is found in the territory of the other after unlawful interference has taken place in respect of such aircraft or ship, the party in whose territory the aircraft or ship is found shall
 - (a) immediately notify the appropriate diplomatic or consular representative of the other party of the presence of the aircraft or ship;
 - (b) in accordance with its laws, take all reasonable means to apprehend the person responsible and thereafter
 - (i) inform the other party of the identity of the person responsible and of all relevant facts regarding him and the circumstances connected with his apprehension, and
 - (ii) give duly authorized representatives of the other party access to him for interviewing purposes;
 - (c) take all necessary measures to facilitate the continuation of the journey, without delay, of the passengers and crew aboard the aircraft or the ship, as the case may be, together with their possessions; and
 - (d) make immediate arrangements to have the aircraft or the ship and any cargo therein returned to the operator of the aircraft or ship with the least possible delay.
2. Nothing in this Agreement shall be construed to exclude, in respect of an unlawful interference, the exercise by either party of any criminal jurisdiction conferred by its national law.

...4

ARTICLE III

SURRENDER OF PERSON RESPONSIBLE
FOR UNLAWFUL INTERFERENCE

1. When there has been an unlawful interference, the party in whose territory the person responsible is found shall surrender him to the other party as expeditiously as possible, when, at the request of the other party, he is duly committed for extradition in accordance with the laws of the requested party governing extradition procedures and any agreement applying thereto.

2. A party may refuse to comply with a requisition for the surrender of a person responsible if it is determined by such authority as it may have designated for the purpose, that

- (a) the requisition is made for the purpose of securing control over the person responsible so that he may be prosecuted or punished for an offence of a political character;
- (b) the person responsible is a national of the requested state; or
- (c) at the time the requisition is made,
 - (i) the person responsible is liable to the death penalty with respect to the offence for which extradition is requested and the law of the requested party does not provide for the death penalty for the same, or substantially the same, offence, and
 - (ii) the requesting party has not provided such assurances as the requested party considers sufficient that the death penalty will not be imposed or, if imposed, will not be carried out.

3. If pursuant to paragraph 2, a party refuses to comply with a requisition for the surrender of a person responsible, that party is obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution; those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that party.

ARTICLE IV

COMING INTO FORCE, DURATION AND TERMINATION

1. This Agreement is subject to ratification.
2. Instruments of ratification shall be exchanged at Havana.
3. This Agreement comes into force thirty days after the day on which the exchange of instruments of ratification takes place.
4. Either of the parties may terminate this Agreement at any time by giving notice to the other of termination.
5. This Agreement shall cease to have effect six months after the receipt of notice of termination.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Agreement in the English, French and Spanish languages, the three texts being equally authentic.

DONE in duplicate at Ottawa this day of
one thousand nine hundred and seventy-

FOR CANADA

.....

FOR THE REPUBLIC OF CUBA

.....

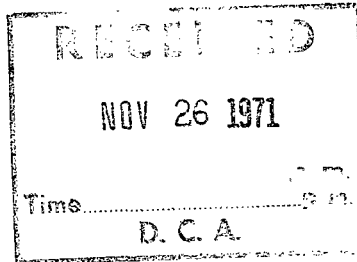
MEMORANDUM

GOVERNMENT OF CANADA



NOTE DE SERVICE

GOUVERNEMENT DU CANADA



SECURITY - CLASSIFICATION - DE SÉCURITÉ
<u>CONFIDENTIAL</u>
OUR FILE - <u>RÉFÉRENCE</u>
<u>602-10</u>
YOUR FILE - <u>VIRÉFÉRENCE</u>
DATE
November 26, 1971.

040008

FROM
DE

TO
A

Mr. Walter McLeish,
D.G.C.A.

SUBJECT
SUJET

Canada-Cuba Hijacking Agreement
- Negotiations with the Government of Cuba

Annexed hereto is a confidential memorandum to Cabinet covering proposed discussions with the Government of Cuba in respect of the hijacking problem.

As you are aware Mr. Peter Sorokan on the Minister's behalf attended with Mr. P. A. Bissonnett and Mr. L. C. Clarke upon Cuban authorities in Havana in February last for the purposes of discussing the nature of an agreement which might be concluded between Canada and Cuba on this issue.

Originally it was intended that Canada in accordance with the rationale reached in the first round discussions would transmit to the Government of Cuba a draft agreement for consideration by the Cuban authorities. Preparation and submission of such a draft has been somewhat delayed by reason of other more demanding issues confronting the Department of External Affairs but they have now reached the situation where it is intended to seek approval of the Cabinet in respect of a draft agreement to be submitted as soon as possible to the Cuban authorities. The draft agreement which is annexed to the attached memorandum to Cabinet has received the approval of the Department of External Affairs and the Justice Department and would appear to incorporate all requirements of the Ministry of Transport as these were incorporated in the original memorandum and agreement of July last.

The Deputy Minister has requested that I put this document in your hand so that you will be fully acquainted and in agreement with the progress of this matter.

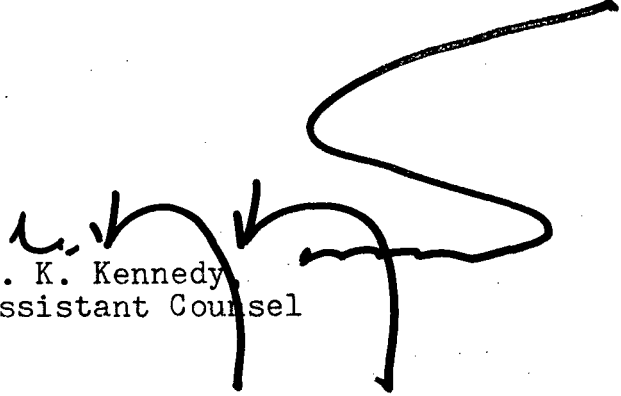
In the event you have any questions or difficulties I would suggest you call Mr. Peter Sorokan direct.

.../2

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- 2 -

You will recall that a similar memorandum to Cabinet was signed by the Minister of Transport in July last but that the Minister of Justice failed to sign the same by reason of one small omission respecting "Extradition of the Offender" otherwise the memorandum to Cabinet and the draft agreement are in the precise same form.



C. K. Kennedy
Assistant Counsel

CKK:bb

THIS DOCUMENT IS THE PROPERTY OF THE GOVERNMENT OF CANADA

CONFIDENTIAL

, 1971

MEMORANDUM TO THE CABINET

Re: CANADA-CUBA HIJACKING AGREEMENT - NEGOTIATIONS WITH THE GOVERNMENT OF CUBA.

SUBJECT AND PURPOSE

The purpose is to seek approval for instructions for the Canadian Delegation engaged in negotiating, and authorization for the Secretary of State for External Affairs to sign, a Canada-Cuba Agreement on Unlawful Interference with Aircraft and Ships.

BACKGROUND

2. In response to representations by Air Canada and in conformity with the major Canadian role in the U.N. and ICAO on the hijacking question, the Secretary of State for External Affairs authorized the Canadian Ambassador in Havana to approach the Cuban Foreign Ministry in May 1969 to express Canadian Government interest in negotiating a bilateral aircraft hijacking agreement. (There had not then been, nor has there been since, any case of an aircraft hijacked from Canada to Cuba). Preliminary discussions, through our Embassy to Cuba, resulted in Canada providing the text of a draft Accord on "unlawful seizure" (hijacking) of aircraft (not ships) in December 1969. Following postponement of formal negotiations scheduled for Havana in early 1970, arrangements were made for a Canadian Delegation to go to Cuba in February 1971 for a "first round" of talks. When agreeing to the timing and site for these negotiations, the Cuban Foreign Minister stated that the discussions would be based on the Canadian draft text and a 1969 Cuban Law "on the Diversion of Air or Sea Craft". He also emphasized that any bilateral Accord would have to apply to the hijacking of ships as well as aircraft. The Secretary of State for External Affairs approved instructions for the Canadian Delegation to negotiate on the basis of:

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- 2 -

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4. The initial important question to be resolved related to the scope of the proposed Agreement. While the Canadian Delegation was primarily concerned with unlawful seizure only, the Cubans wished the Accord to apply to a wide variety of offences and other proscribed acts involving air or sea craft, as noted above. It was eventually agreed that the Accord should cover unlawful acts of seizure, appropriation, diversion, and other wrongful exercise of control of civil aircraft in flight (excluding domestic flights) and ships at sea by means of force, threat of force, or other means of intimidation. Both sides further agreed that applicability to other offences endangering the safety of aircraft and ships would be closely studied.

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8. At the conclusion of the February negotiations, a confidential Agreed Statement of Record was signed by the respective Heads of Delegation. In addition to setting out the extent of agreement between the two sides, this document includes an undertaking on the part of the Canadian Delegation to provide, as soon as possible, the text of a revised draft Accord which would take into account the results of the first stage of discussions. Also, a joint Press Release was issued on February 22 indicating that further negotiations directed toward the signing of a formal agreement would take place in Ottawa "in the near future".

The Revised Canadian Draft Text

9. The draft Agreement annexed hereto reflects an appreciation of Cuban concerns on key issues, while preserving the Canadian interest in maintaining consistency between what Canada is prepared to accept in a bilateral Accord with Cuba and the Canadian position taken on the hijacking question in various international fora. Nevertheless the Canadian Delegation at the Ottawa negotiations will require a measure of flexibility in order to deal with Cuban observations, comments and possible amendments to this draft, which will likely be provided only once the "second round" begins. In this revised text, the scope of offences covered takes into account: (1) the

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- 3 -

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INTERDEPARTMENTAL CONSULTATIONS

10. This memorandum, as well as the draft agreement annexed hereto, was prepared following a series of consultations among officials of the Department of Justice, Ministry of Transport and Department of External Affairs.

PUBLIC RELATIONS CONSIDERATIONS

11.

CAUCUS CONSULTATIONS

12.

LIBERAL PARTY RESOLUTIONS

13. Not applicable.

RECOMMENDATIONS

14. (a) That the text of the revised draft agreement annexed hereto be transmitted as soon as possible to the Cuban Government by the Department of External Affairs.
- (b) That an invitation be issued by the Government of Canada to the Government of Cuba, through the Department of External Affairs, to send a Delegation to Ottawa at a mutually convenient time to resume negotiations directed toward the conclusion of a bilateral Agreement on Unlawful Interference with Aircraft and Ships.
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CONFIDENTIAL

- 4 -

- (d) That, should the Canadian Delegation so recommend, the Secretary of State for External Affairs be authorized to sign on behalf of the Government of Canada, subject to ratification, a Canada-Cuba Agreement on Unlawful Interference with Aircraft and Ships.

Secretary of State for External Affairs

Minister of Justice

Minister of Transport

DRAFT
ENGLISH VERSION
17 November 1971

AGREEMENT BETWEEN CANADA AND THE
REPUBLIC OF CUBA CONCERNING UNLAWFUL
INTERFERENCE WITH AIRCRAFT AND SHIPS

CANADA

- and -

THE REPUBLIC OF CUBA

Desiring to cooperate to their mutual benefit and to
strengthen the bonds of understanding and goodwill which now exist between
them; and

Desiring to provide for the consequences arising out of unlawful
interference with aircraft and ships,

HAVE AGREED AS FOLLOWS:

ARTICLE I

GENERAL

1. In this Agreement,
 - (a) "aircraft" means
 - (i) a civil aircraft registered under the laws
of a party, or operated under lease or charter by
 - (A) a person resident in the territory of a
party, or
 - (B) a corporation established under the laws
of a party or one of its constituent
units, or
 - (ii) an aircraft used by the armed forces of a party
for the purpose of transporting civilians;
 - (b) "person responsible" means the person or persons who
 - (i) has or have, or
 - (ii) is or are alleged to have committed an
unlawful interference;
 - (c) "ship" means any ship or vessel of any nature whatsoever,
 - (i) registered under the laws

- 2 -

of a party, or

(ii) operated under any of the laws

of a party or of any of its constituent units;

(d) "surrender" means the surrender of a person for extradition by one party at the request of the other for an extraditable offence committed in relation to an unlawful interference; and

(e) "unlawful interference" means

(i) the use of force, the threat thereof or any other form of intimidation in order to effect

(A) an unlawful act of interference with, or seizure, appropriation or diversion of, or

(B) any wrongful exercise of control over an aircraft in flight or a ship on the high seas; or

(ii) the placing, with intent to cause death or bodily harm to persons, of anything upon, or the doing of anything to, any aircraft or ship that is likely to cause death or bodily harm to persons.

2. This Agreement does not apply where

(a) the aircraft or ship in respect of which an unlawful interference has been committed does not leave, or returns to, the territory of the party in which it commenced its flight or voyage, and

(b) the person responsible is still on board the aircraft or ship.

3. Subject to paragraph 2, this Agreement applies to every unlawful interference and its provisions shall be read in conjunction with and subject to any agreement entered into by the parties or applying to or between them, heretofore or hereafter establishing procedures for extradition between the parties as it may apply at the time of the unlawful interference.

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ARTICLE II

OBLIGATION OF PARTY IN WHOSE TERRITORY AN AIRCRAFT OR
SHIP OF THE OTHER IS FOUND FOLLOWING UNLAWFUL INTERFERENCE

1. When an aircraft or a ship of one party is found in the territory of the other after unlawful interference has taken place in respect of such aircraft or ship, the party in whose territory the aircraft or ship is found shall

- (a) immediately notify the appropriate diplomatic or consular representative of the other party of the presence of the aircraft or ship;
- (b) in accordance with its laws, take all reasonable means to apprehend the person responsible and thereafter
 - (i) inform the other party of the identity of the person responsible and of all relevant facts regarding him and the circumstances connected with his apprehension, and
 - (ii) give duly authorized representatives of the other party access to him for interviewing purposes;
- (c) take all necessary measures to facilitate the continuation of the journey, without delay, of the passengers and crew aboard the aircraft or the ship, as the case may be, together with their possessions; and
- (d) make immediate arrangements to have the aircraft or the ship and any cargo therein returned to the operator of the aircraft or ship with the least possible delay.

2. Nothing in this Agreement shall be construed to exclude, in respect of an unlawful interference, the exercise by either party of any criminal jurisdiction conferred by its national law.

ARTICLE III

SURRENDER OF PERSON RESPONSIBLE
FOR UNLAWFUL INTERFERENCE

1. When there has been an unlawful interference, the party in whose territory the person responsible is found shall surrender him to the other party as expeditiously as possible, when, at the request of the other party, he is duly committed for extradition in accordance with the laws of the requested party governing extradition procedures and any agreement applying thereto.

2. A party may refuse to comply with a requisition for the surrender of a person responsible if it is determined by such authority as it may have designated for the purpose, that

- (a) the requisition is made for the purpose of securing control over the person responsible so that he may be prosecuted or punished for an offence of a political character;
- (b) the person responsible is a national of the requested state; or
- (c) at the time the requisition is made,
 - (i) the person responsible is liable to the death penalty with respect to the offence for which extradition is requested and the law of the requested party does not provide for the death penalty for the same, or substantially the same, offence, and
 - (ii) the requesting party has not provided such assurances as the requested party considers sufficient that the death penalty will not be imposed or, if imposed, will not be carried out.

3. If pursuant to paragraph 2, a party refuses to comply with a requisition for the surrender of a person responsible, that party is obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution; those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that party.

ARTICLE IV

COMING INTO FORCE, DURATION AND TERMINATION

1. This Agreement is subject to ratification.
2. Instruments of ratification shall be exchanged at Havana.
3. This Agreement comes into force thirty days after the day on which the exchange of instruments of ratification takes place.
4. Either of the parties may terminate this Agreement at any time by giving notice to the other of termination.
5. This Agreement shall cease to have effect six months after the receipt of notice of termination.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Agreement in the English, French and Spanish languages, the three texts being equally authentic.

DONE in duplicate at Ottawa this day of
one thousand nine hundred and seventy-

FOR CANADA

.....

FOR THE REPUBLIC OF CUBA

.....

602-10

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xl ff
Department of External Affairs



Canada

Ministère des Affaires extérieures

Ottawa, June 15, 1971

CONFIDENTIAL

Dear Sir,

Re: Canada-Cuba Hijacking Agreement

Thank you for your letter of June 8 on this subject. Due to his absence from Ottawa this week, Mr. Bissonnette has asked me to transmit to you the following comments on the revised draft Agreement attached to your letter.

A. Preamble

You will recall that according to Point VI of the Agreed Statement of Record signed in Havana February 20, the Preamble to the bilateral accord is to be drafted at the "end of negotiations". The text to be approved by Cabinet and sent to the Cubans at this stage should not therefore contain any Preamble.

B. Article I. 1(a): Leased Aircraft

During the February negotiations, the Canadian Delegation provided the Cubans with the draft of a provision on leased aircraft which was taken directly from the ICAO Hijacking Convention. The Report of March 3 on the negotiations states on Page 3 "The Cubans were generally prepared to accept the definition incorporated in the Hague Convention". If we are now to depart from the language of Article 4. (1)(c) of that instrument - which will in any event be the applicable provision as between Canada and other parties to the treaty when we ratify the Hague Convention - we will have to be prepared to offer explanations. Unless you believe there are compelling reasons to the contrary, we would prefer to see Article I. 1 (a)(i) re-drafted as follows:

"A civil aircraft (A) registered under the laws of a party, or (B) leased without crew to a lessee who has his principle place of business, or if the lessee has no such place of business, his permanent residence in the territory of a party, or"

Mr. T. B. Smith,
Department of Justice,
Justice Building,
Ottawa, Ontario

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ON CANADA
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C. Article I. 1(c): Ships

The original text proposed in the draft Agreement which was discussed at the May 5 interdepartmental meeting was cleared with the Ministry of Transport and was fully acceptable to our Department, with the substitution of "constituent units" for "subdivisions", on the understanding that it effectively excluded applicability to military vessels. The present re-formulation i.e. "operated over any of the laws of a party or any of [its] constituent units" might possibly permit an interpretation which would cover military vessels, since they are doubtless operated under some statutory authority. For this reason, and to avoid any possible misunderstanding with the Cubans on this question, we prefer the original language (with the slight amendment mentioned above) which restricts operation to lease or charter.

We also see an advantage, from a presentational point of view, to moving the definition of "ship" so that it immediately follows the definition of "aircraft". Paragraph 1(c) would thus become 1(b) with consequential changes elsewhere in Article I.

D. Article I. 1(e): Unlawful Interference

The Hague Convention describes "force or threat thereof or by any other form of intimidation" as the unlawful means by which seizure or exercise of control of an aircraft is to be effected for the purposes of the treaty. Evidently, seizure and exercise of control are thus two separate kinds of activity. The Agreed Statement of Record of February 20 states in Point I (I) "the accord should cover unlawful acts of seizure, appropriation, diversion and other wrongful exercise of control." It will be recalled that the Canadian Delegation was not enthusiastic about the Agreement referring to "appropriation"; however it was decided that if "appropriation" were merged with "seizure", "diversion" and "wrongful exercise of control", it might well lose any particular applicability and thus partake more of the general kind of acts described in the definition of "unlawful interference". For this reason, we would recommend that the illegal activities set out in Article I. 1(e) A and B be combined as they are in Article 1(a) of the Hague Convention and as they were in the draft Agreement discussed on May 5.

Also, the phrase "in order to effect" raises the question of motivation on the part of the offender, which should be avoided.

The phrase "a ship in the course of a voyage on the high seas" may possibly restrict the applicability of the Agreement. Would it, for example, cover a ship at anchor on the high seas for a lengthy period of time? On balance, as agreed interdepartmentally, we believe "a ship on the high seas" would be a better formulation.

Taking the above comments into account, Article I. 1(e) would thus read as follows:

"unlawful interference" means

- 3 -

- (i) any unlawful act, by the use of force, the threat thereof or any other form of intimidation, of interference with, or seizure, appropriation, diversion or wrongful exercise of control of, an aircraft in flight or a ship on the high seas except where the flight or voyage commences and terminates within the territory of one party; or"

E. Article III (1): Extradition Procedures

As Article I. (2) refers to "establishing procedures for extradition", the present Article, should - to be consistent - state either "governing procedures for extradition" or "governing extradition procedures".

F. Article III. 2(c): Death Penalty

Point III (III) of the Agreed Statement of Record indicates the Cubans are to study a Canadian proposal on refusing extradition where the alleged offender faces the death penalty. While the language of the present re-draft is very similar to the text of our first official draft which was given to the Cubans, we have now had an opportunity to re-examine this question. As you are aware, Cuba does have a death penalty for hijacking and the possibility may arise that what is a capital offence under current Canadian law may be committed during the course of an act of "unlawful interference". Accordingly, we would like to draw your attention to Article VII of the draft Canada-USA Extradition Treaty which is now being negotiated. We believe that a formulation based on that text might well be adopted in the Agreement with Cuba. The following provision is therefore recommended in substitution for the one in the draft under review:

"at the time the requisition is made,

- (i) the person responsible is liable to the death penalty with respect to the offence for which extradition is requested and the law of the requested party does not provide for the death penalty for the same, or substantially the same offence and
- (ii) the requesting party does not provide such assurances as the requested party considers sufficient that the death penalty shall not be imposed or, if imposed, shall not be executed"

G. Article III. 3: Deportation

In our view this additional provision, which was not in any previous drafts of the Agreement and has not been discussed interdepartmentally, raises a very important question. We are not aware of any Canadian extradition treaty which contains a similar limitation. Since deportation is a subject totally distinct from extradition (and the present

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- 4 -

Agreement will be - for the purpose of the Canadian Extradition Act - an "extradition arrangement") we believe that this paragraph should be deleted. As you know, the possibility of "expeditious surrender" of alleged offenders was discussed in Havana and the Canadian Delegation stated that, normally, deportation was a lengthy, involved process while extradition was often simpler and quicker. (The Paterson case in Vancouver early this year was different since it involved extradition to a "contiguous" territory.) Inclusion of the provision proposed could well raise the expectations of the Cubans, which we would wish to avoid, that Canada would be willing to deport a hijacker and thus deprive him of the protection which the extradition process affords.

H. Number of Copies of the Agreement

Since there should be one set of authentic texts of the Agreement in all three languages for each party, "Done In Triplicate" should be replaced by "Done In Duplicate".

We have noted your suggestions with respect to the Memorandum to Cabinet to which the draft Agreement will be attached. Accordingly, Paragraph 2 will have the following sentence inserted in parentheses immediately following the sentence which concludes with "hijacking agreement":

"(There had not then been, nor has there been since, any case of aircraft hijacking from Canada to Cuba)".

Also, we have amended Paragraph 2.1(c) to read:

"....the 1904 U.K.-Cuba Extradition Treaty which is currently in force between Canada and Cuba".

Similarly, Recommendation 3 has also been amended to include this phrase.

We should be grateful for any observations you may have on the comments on the revised draft Agreement by June 18 the latest. We would like to have the Memorandum to Cabinet signed by the Ministers of Justice and Transport and the Secretary of State for External Affairs early next week so that Cabinet approval, which is required before transmitting the draft to the Cubans, can be secured at an early date.

Yours sincerely,

EDWARD G. LEE

for J.A. Beesley,
Legal Adviser.

MEMORANDUM

GOVERNMENT OF CANADA



NOTE DE SERVICE

GOUVERNEMENT DU CANADA

CKK:br

FROM
DE

Assistant Counsel.

TO
À

Mr. M.M. Fleming,
D.A.A.

SUBJECT
SUJET

Draft Canada/Cuba Bilateral Agreement on
"Unlawful Seizure of Ships and Aircraft"

SECURITY - CLASSIFICATION - DE SÉCURITÉ

CONFIDENTIAL

OUR FILE - RÉFÉRENCE

602-10 (XL)

YOUR FILE - RÉFÉRENCE

DATE

June 8, 1971.

*Date of letter to
External changed
to June 18th &
released from
DAA's office June 21st
DAA*

As you are probably aware, I have been representing ^{2/6} the Department at the Department of External Affairs in connection with the latter's endeavour to formulate the above Bilateral Agreement.

Mr. Sorokan has been on the discussions as well and attached hereto are confidential draft Agreements and Cabinet Submissions relative to the matter.

Nothing is now provided in the draft Agreement which is in any way contrary to the provisions of our Aeronautics Act or Canada Shipping Act, as far as I can determine. Since the Agreement basically provides for the same sort of things as are provided for in the Hague (hijacking) Convention (i.e. continuance of the journey, release of aircraft crew, personnel, etc), I would recommend release of the enclosed letter as soon as possible in order that matters may be further proceeded with.

*Release
DAA
Concern with
release of
enclosed letter
7/1/71
DAA
2/1/6*

Attach.

RECEIVED

JUN-14 1971

THE

D. C. A.

2.15
C. K. Kennedy,
Assistant Counsel.

RECEIVED IN CAR

JUN 15 1971

*Any comment? If not pl indicate
Confidence*

*Recommend release
of letter - DAA have no comments*

DAA 11/6

000059

DRAFT
ENGLISH VERSION
1 June 1971

AGREEMENT BETWEEN CANADA AND THE
REPUBLIC OF CUBA CONCERNING UNLAWFUL
INTERFERENCE WITH AIRCRAFT AND SHIPS

CANADA

- and -

THE REPUBLIC OF CUBA

Desiring to cooperate to their mutual benefit and
to strengthen the bonds of understanding and goodwill which
now exist between them; and

Desiring to provide for the consequences arising
out of unlawful interference with aircraft and ships,
HAVE AGREED AS FOLLOWS:

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GENERAL

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(i) a civil aircraft registered under the
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(A) a person resident in the territory
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(B) a corporation established under
the laws of a party or one of its
constituent units, or

(ii) an aircraft used by the armed forces
of a party for the purpose of transporting
civilians.

(b) "person responsible" means the person or
persons who

(i) has or have, or

(ii) is or are alleged to have
committed an unlawful interference;

(c) "ship" means any ship or vessel of any
nature whatsoever, registered under the
laws of a party, or operated under

any of the laws of a party or any of constituent units.

(d) "surrender" means the surrender of a person for extradition by one party at the request of the other for an extraditable offence committed in relation to an unlawful interference;

(e) "unlawful interference" means

(i) the use of force, the threat thereof or any other form of intimidation in order to effect

(A) an unlawful act of interference with, or seizure, appropriation or diversion of, or

(B) any wrongful exercise of control over

an aircraft in flight or a ship in the course of a voyage on the high seas except where the flight or voyage commences and terminates within the territory of one party; or

(ii) the placing with intent to cause death or bodily harm to persons, of anything upon or the doing of anything to any aircraft or ship that is likely to cause death or bodily harm to persons.

2. This Agreement applies to every unlawful interference and its provisions shall be read in conjunction with and subject to any agreement entered into by the parties or applying to or between them, heretofore or hereafter establishing procedures for extradition between the parties as it may apply at the time of the unlawful interference.

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ARTICLE 11

OBLIGATION OF PARTY IN WHOSE TERRITORY AN AIRCRAFT OR
SHIP OF THE OTHER IS FOUND FOLLOWING UNLAWFUL INTERFERENCE

1. When an aircraft or a ship of one party is found in the territory of the other after unlawful interference has taken place in respect of such aircraft or ship, the party in whose territory the aircraft or ship is found shall

(a) immediately notify the appropriate diplomatic or consular representative of the other party of the presence of the aircraft or ship;

(b) in accordance with its laws, take all reasonable means to apprehend the person responsible and thereafter

(i) inform the other party of the identity of the person responsible and of all relevant facts regarding him and circumstances connected with his apprehension, and

(ii) give duly authorized representatives of the other party access to him for interviewing purposes;

(c) take all necessary measures to facilitate the continuation of the journey, without delay of the passengers and crew aboard the aircraft or the ship, as the case may be, together with their possessions; and

(d) make immediate arrangements to have the aircraft or the ship and any cargo therein returned to the operator of the aircraft or ship with the least possible delay.

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- 4 -

2. Nothing in this Agreement shall be construed to exclude in respect of an unlawful interference, the exercise by either party of any criminal jurisdiction conferred by its national law.

ARTICLE III

SURRENDER OF PERSON RESPONSIBLE FOR UNLAWFUL INTERFERENCE

1. When there has been an unlawful interference, the party in whose territory the person responsible is found shall surrender him to the other party as expeditiously as possible, when, at the request of the other party, he is duly committed for extradition in accordance with the laws of the requested party governing extradition procedure and any agreement applying thereto.

2. A party may refuse to comply with a requisition for the surrender of a person responsible if it is determined by such authority as it may have designated for the purpose, that

(a) the requisition is made for the purpose of securing control over the person responsible so that he may be prosecuted or punished for an offence of a political character;

(b) the person responsible is a national of the ~~of the~~ requested state; or

(c) at the time the requisition is made,

(i) the person responsible is liable to the death penalty for the offence on which the requisition for his surrender is based, and

(ii) the law of the requested party does not provide for the death penalty for the same, or substantially the same, offence.

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3. This article does not apply when, following an unlawful interference, the person responsible therefor is, in accordance with its immigration laws, deported by the party in whose territory he is found, to the territory of the other party.

ARTICLE IV

COMING INTO FORCE, DURATION AND TERMINATION

1. This Agreement is subject to ratification.
2. Instruments of ratification shall be exchanged at Havana.
3. This Agreement comes into force thirty days after the day on which the exchange of instruments of ratification takes place.
4. Either of the parties may terminate this Agreement at any time by giving notice to the other of termination.
5. This Agreement shall cease to have effect six months after the receipt of notice of termination.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Agreement in English, French and Spanish languages, the three texts being equally authentic.

DONE in triplicate at Ottawa, this day of
one thousand nine hundred and seventy-one.

FOR CANADA

.....

FOR THE REPUBLIC OF CUBA

.....

THIS DOCUMENT IS THE PROPERTY OF THE GOVERNMENT OF CANADA

CONFIDENTIAL

DRAFT MEMORANDUM TO THE CABINET

Re: CANADA-CUBA HIJACKING AGREEMENT - NEGOTIATIONS WITH THE GOVERNMENT OF CUBA.

SUBJECT AND PURPOSE

1. The purpose is to seek approval for instructions for the Canadian Delegation engaged in negotiating, and authorization for the Secretary of State for External Affairs to sign, a Canada-Cuba Agreement on Unlawful Interference with Aircraft and Ships.

BACKGROUND

2. In response to representations by Air Canada and in conformity with the major Canadian role in the U.N. and ICAO on the hijacking question, the Secretary of State for External Affairs authorized the Canadian Ambassador in Havana to approach the Cuban Foreign Ministry in May 1969 to express Canadian Government interest in negotiating a bilateral aircraft hijacking agreement. Preliminary discussions, through our Embassy to Cuba, resulted in Canada providing the text of a draft Accord on "unlawful seizure" (hijacking) of aircraft (not ships) in December 1969. Following postponement of formal negotiations scheduled for Havana in early 1970, arrangements were made for a Canadian Delegation to go to Cuba in February 1971 for a "first round" of talks. When agreeing to the timing and site for these negotiations, the Cuban Foreign Minister stated that the discussions would be based on the Canadian draft text and a 1969 Cuban Law "on the Diversion of Air or Sea Craft". He also emphasized that any bilateral Accord would have to apply to the hijacking of ships as well as aircraft. The Secretary of State for External Affairs approved instructions for the Canadian Delegation to negotiate on the basis of,

1. The Canadian draft text, suitably modified (a) to include the unlawful diversion of maritime vessels, (b) to take into account the provisions of the Hague Convention for the Suppression of Unlawful Seizure of Aircraft, which was signed by Canada on December 16, 1970 and (c) to reflect recommendations of the Ministry of Transport and the

Departments of Justice and External Affairs, provided they were consistent with the Canadian Extradition Act, the existing Canada-Cuba Extradition Treaty and relevant domestic and international law;

2. The 1969 Cuban Law on the Diversion of Air and Sea Craft - the major provisions of which related to (a) strict reciprocity, (b) the right to grant political asylum in certain circumstances and (c) surrender and punishment of offenders.

THE HAVANA NEGOTIATIONS

3. The Canadian Delegation, headed by Mr. P.A. Bissonnette, Assistant Under-Secretary of State for External Affairs, and composed of representatives of the Department of Justice and the Department of External Affairs and an Adviser from Air Canada (acting on behalf of C.P. Air as well) was in Havana February 12-22. On February 20 the Cuban Delegation, headed by the Vice-Minister of Foreign Affairs, Captain C. Chain Soler, tabled their version of a draft Accord. It faithfully reflected the 1969 Cuban Law and did not take into account the Canadian text. In addition to the hijacking of air and sea craft, it covered offences endangering the safety of both types of craft, violation of all national penal laws and regulations on board, and illegal entry to and exit from national territory. The Cuban draft applied to all aircraft and ships, specifically including military craft. It also provided for the return of offenders by means of "summary and urgent proceedings".

4. The initial important question to be resolved related to the scope of the proposed Agreement. While the Canadian Delegation was primarily concerned with unlawful seizure only, the Cubans wished the Accord to apply to a wide variety of offences and other proscribed acts involving air or sea craft, as noted above. It was eventually agreed that the Accord should cover unlawful acts of seizure, appropriation, diversion, and other wrongful exercise of control of civil aircraft in flight (excluding domestic flights) and ships at sea by means of force, threat of force, or other means of intimidation. Both sides further agreed that applicability to other offences endangering

the safety of aircraft and ships would be closely studied.

5. A second important issue concerned the extradition of alleged offenders. The Canadian Delegation insisted that the bilateral Agreement should be fully compatible with the existing Extradition Treaty. The Cubans favoured a simplified summary procedure by which surrender could be expeditiously effected. In the event, it was agreed that the proposed Accord would be read in conjunction with any extradition treaty in force between the parties and that surrender would be as expeditious as possible.

6. The third question of particular importance related to military craft. While the Canadian side indicated that they did not properly belong in an Agreement of the type envisaged, in view of the importance which the Cubans attached to the question, it was agreed that Canada would give the matter further consideration.

7. The fourth important issue concerned the grounds for refusal to surrender alleged offenders. It was agreed that extradition could be refused if the relevant individual was a national of the requested state or if the relevant offence was one of a political character. (The extradition treaty in force contains similar provisions.) The Cubans also undertook to study a Canadian proposal which would allow refusal if the alleged offender would be liable to the death penalty if convicted.

8. At the conclusion of ^{the/}February negotiations, a confidential Agreed Statement of Record was signed by the respective Heads of the Delegation. In addition to setting out the extent of agreement between the two sides, this document includes an undertaking on the part of the Canadian Delegation to provide, as soon as possible, the text of a revised draft Accord which would take into account the results of the first stage of discussions. Also, a joint Press Release was issued on February 22 indicating that further negotiations directed towards the signing of a formal agreement would take place in Ottawa "in the near future".

The Revised Canadian Draft Text

9. The draft Agreement annexed hereto was prepared following a series of interdepartmental consultations. It reflects an appreciation of

- 4 -

Cuban concerns on key issues, while preserving the Canadian interest in maintaining consistency between what Canada is prepared to accept in a bilateral Accord with Cuba and the Canadian position taken on the hijacking question in various international fora. Nevertheless the Canadian Delegation at the Ottawa negotiations will require a measure of flexibility in order to deal with Cuban observations, comments and possible amendments to this draft, which will likely be provided only once the "second round" begins. In this revised text, the scope of offenses covered takes into account both the 1970 Hague Convention and the draft ICAO unlawful interference convention (which is much broader than the "unlawful seizure" ^{dealt with/} in the Hague instrument) which is to be the subject of a diplomatic conference in Montreal this September, as well as the relevant section in the Criminal Code as at present in force (Section 220). While omitting applicability to military ships, the draft does include a reference to military aircraft engaged in the transport of civilians .

RECOMMENDATIONS

1. That the text of the revised draft agreement annexed hereto be transmitted to the Cuban Government by the Department of External Affairs as soon as possible.
2. That an invitation be issued by the Government of Canada to the Government of Cuba, through the Department of External Affairs, to send a Delegation to Ottawa at a mutually convenient time to resume negotiations directed towards the conclusion of a bilateral Agreement on Unlawful Interference with Aircraft and Ships.
3. That a Canadian Delegation to be headed by Mr. P.A. Bissonnette, Assistant Under-Secretary of State for External Affairs, with supporting Delegates from the Department of Justice, the Ministry of Transport and the Department of External Affairs, assisted by Advisers from other Government Departments and Agencies and from Canadian international air carriers, as deemed appropriate, be authorized to negotiate a Canada-Cuba Accord which is generally along the lines of the revised Canadian text provided however that modifications which are mutually acceptable as between the two Delegations may be

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- 5 -

made if they are compatible with the Canadian Extradition Act, the existing Canada-Cuba extradition treaty and relevant domestic and international law.

4. That the Secretary of State for External Affairs be authorized to sign on behalf of the Government of Canada, subject to ratification, a Canada-Cuba Agreement on Unlawful Interference with Aircraft and Ships should the Canadian Delegation recommend that he do so.

CRK:br

602-10 (XL)

CONFIDENTIAL

OTTAWA: June 8, 1971.

Mr. P. A. Bissonnette,
Assistant Under-Secretary,
The Under-Secretary of State for
External Affairs,
Department of External Affairs,
Ottawa, Ontario.
K1A 0G2.

Dear Sir:

Re: Draft Canada-Cuba Hijacking Agreement

The draft Memorandum to Cabinet accompanying your letter dated May 31, 1971 has been reviewed in the Department and the only suggestion which we might offer in relation thereto bears upon the reference made in the concluding sentence to your paragraph No. 9 as it appears on page 4 of the draft.

It occurs to us that it might be useful to point out so called "military ships" are specifically excluded from the existing provisions of the Canada Shipping Act (see section 721, Canada Shipping Act) whereas the Minister of National Defence has, at present, some statutory responsibility under the Aeronautics Act.

Existing Air Regulations, it will be noted, are stated to apply to "all aircraft in Canada and all Canadian aircraft when flown outside of Canada subject to the exclusion of military aircraft of Her Majesty when manoeuvring under the authority of the Minister of National Defence". Hence, a military aircraft engaged in the transport of civilians could conceivably, under certain circumstances, be regarded as being subject to the authority of the Aeronautics Act and the Air Regulations.

Yours truly,

C. K. Kennedy,
Assistant Counsel.



ACTION REQUEST - FICHE DE SERVICE

GOVERNMENT OF CANADA

GOUVERNEMENT DU CANADA

FILE NO.—DOSSIER N°

DATE

TO—À

FROM—DE

☐ PLEASE CALL
PRIÈRE D'APPELER

TEL. NO.—N° TEL.

EXTENSION—POSTE

☐ WANTS TO SEE YOU
DÉSIRE VOUS VOIR

DATE

TIME—HEURE

☐ WILL CALL AGAIN
DOIT RAPPÉLER

☐ ACTION
DONNER SUITE

☐ APPROVAL
APPROBATION

☐ COMMENTS
COMMENTAIRES

☐ DRAFT REPLY
PROJET DE RÉPONSE


☐ MAKE
FAIRECOPIES

☐ NOTE AND FILE
NOTER ET CLASSER

☐ NOTE & RETURN
NOTER ET RETOURNER

☐ NOTE & FORWARD
NOTER ET FAIRE SUIVRE
CALL RECEIVED BY
MESSAGE REÇU PARTIME
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Special
Records

Please place on file 602-10.

DRAFT
ENGLISH VERSION
1 June 1971

AGREEMENT BETWEEN CANADA AND THE
REPUBLIC OF CUBA CONCERNING UNLAWFUL
INTERFERENCE WITH AIRCRAFT AND SHIPS

CANADA

- and -

THE REPUBLIC OF CUBA

Desiring to cooperate to their mutual benefit and
to strengthen the bonds of understanding and goodwill which
now exist between them; and

Desiring to provide for the consequences arising
out of unlawful interference with aircraft and ships,
HAVE AGREED AS FOLLOWS:

ARTICLE I

GENERAL

1. In this Agreement,

(a) "aircraft" means

(i) a civil aircraft registered under the
laws of a party, or operated under
lease or charter by

(A) a person resident in the territory
of a party, or

(B) a corporation established under
the laws of a party or one of its
constituent units, or

(ii) an aircraft used by the armed forces
of a party for the purpose of transporting
civilians.

(b) "person responsible" means the person or
persons who

(i) has or have, or

(ii) is or are alleged to have
committed an unlawful interference;

(c) "ship" means any ship or vessel of any
nature whatsoever, registered under the
laws of a party, or operated under

any of the laws of a party or any of constituent units.

(d) "surrender" means the surrender of a person for extradition by one party at the request of the other for an extraditable offence committed in relation to an unlawful interference;

(e) "unlawful interference" means

(i) the use of force, the threat thereof or any other form of intimidation in order to effect

(A) an unlawful act of interference with, or seizure, appropriation or diversion of, or

(B) any wrongful exercise of control over

an aircraft in flight or a ship in the course of a voyage on the high seas except where the flight or voyage commences and terminates within the territory of one party; or

(ii) the placing with intent to cause death or bodily harm to persons, of anything upon or the doing of anything to any aircraft or ship that is likely to cause death or bodily harm to persons.

2. This Agreement applies to every unlawful interference and its provisions shall be read in conjunction with and subject to any agreement entered into by the parties or applying to or between them, heretofore or hereafter establishing procedures for extradition between the parties as it may apply at the time of the unlawful interference.

3...

ARTICLE II

OBLIGATION OF PARTY IN WHOSE TERRITORY AN AIRCRAFT OR
SHIP OF THE OTHER IS FOUND FOLLOWING UNLAWFUL INTERFERENCE

1. When an aircraft or a ship of one party is found in the territory of the other after unlawful interference has taken place in respect of such aircraft or ship, the party in whose territory the aircraft or ship is found shall

(a) immediately notify the appropriate diplomatic or consular representative of the other party of the presence of the aircraft or ship;

(b) in accordance with its laws, take all reasonable means to apprehend the person responsible and thereafter

(i) inform the other party of the identity of the person responsible and of all relevant facts regarding him and circumstances connected with his apprehension, and

(ii) give duly authorized representatives of the other party access to him for interviewing purposes;

(c) take all necessary measures to facilitate the continuation of the journey, without delay of the passengers and crew aboard the aircraft or the ship, as the case may be, together with their possessions; and

(d) make immediate arrangements to have the aircraft or the ship and any cargo therein returned to the operator of the aircraft or ship with the least possible delay.

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- 4 -

2. Nothing in this Agreement shall be construed to exclude in respect of an unlawful interference, the exercise by either party of any criminal jurisdiction conferred by its national law.

ARTICLE III

SURRENDER OF PERSON RESPONSIBLE FOR UNLAWFUL INTERFERENCE

1. When there has been an unlawful interference, the party in whose territory the person responsible is found shall surrender him to the other party as expeditiously as possible, when, at the request of the other party, he is duly committed for extradition in accordance with the laws of the requested party governing extradition procedure and any agreement applying thereto.

2. A party may refuse to comply with a requisition for the surrender of a person responsible if it is determined by such authority as it may have designated for the purpose, that

(a) the requisition is made for the purpose of securing control over the person responsible so that he may be prosecuted or punished for an offence of a political character;

(b) the person responsible is a national of the of the requested state; or

(c) at the time the requisition is made,

(i) the person responsible is liable to the death penalty for the offence on which the requisition for his surrender is based, and

(ii) the law of the requested party does not provide for the death penalty for the same, or substantially the same, offence.

- 5 -

3. This article does not apply when, following an unlawful interference, the person responsible therefor is, in accordance with its immigration laws, deported by the party in whose territory he is found, to the territory of the other party.

ARTICLE IV

COMING INTO FORCE, DURATION AND TERMINATION

1. This Agreement is subject to ratification.
2. Instruments of ratification shall be exchanged at Havana.
3. This Agreement comes into force thirty days after the day on which the exchange of instruments of ratification takes place.
4. Either of the parties may terminate this Agreement at any time by giving notice to the other of termination.
5. This Agreement shall cease to have effect six months after the receipt of notice of termination.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Agreement in English, French and Spanish languages, the three texts being equally authentic.

DONE in triplicate at Ottawa, this day of
one thousand nine hundred and seventy-one.

FOR CANADA

.....

FOR THE REPUBLIC OF CUBA

.....

602-10

Office of
The Under Secretary of State
for External Affairs



Cabinet du
Sous-Secrétaire d'Etat
aux Affaires extérieures

CONFIDENTIAL

1058

Ottawa, K1A 0G2

May 31, 1971

Dear Mr. Kennedy,

Re: Draft Canada-Cuba Hijacking Agreement

Following interdepartmental consultations held since the return of the Canadian Delegation to Havana in February, it was agreed that our Department would prepare a draft Memorandum to the Cabinet and the Department of Justice a revised draft Canada-Cuba Agreement.

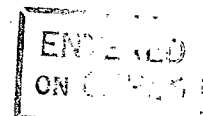
Attached is a draft Memorandum to Cabinet for your comments. Approval without change or any minor alterations can be made by telephone (2-6876) either to me or to Mr. L.S. Clark of our Legal Operations Division (2-7738).

I am sending a similar letter to Mr. T.B. Smith.

Yours sincerely,

P.A. Bissonnette,
Assistant Under-Secretary

Mr. C.K. Kennedy,
Legal Section,
Ministry of Transport,
Hunter Building,
OTTAWA.



THIS DOCUMENT IS THE PROPERTY OF THE GOVERNMENT OF CANADA

CONFIDENTIAL

DRAFT MEMORANDUM TO THE CABINET

Re: CANADA-CUBA HIJACKING AGREEMENT - NEGOTIATIONS WITH THE GOVERNMENT
OF CUBA.

SUBJECT AND PURPOSE

1. The purpose is to seek approval for instructions for the Canadian Delegation engaged in negotiating, and authorization for the Secretary of State for External Affairs to sign, a Canada-Cuba Agreement on Unlawful Interference with Aircraft and Ships.

BACKGROUND

2. In response to representations by Air Canada and in conformity with the major Canadian role in the U.N. and ICAO on the hijacking question, the Secretary of State for External Affairs authorized the Canadian Ambassador in Havana to approach the Cuban Foreign Ministry in May 1969 to express Canadian Government interest in negotiating a bilateral aircraft hijacking agreement. Preliminary discussions, through our Embassy to Cuba, resulted in Canada providing the text of a draft Accord on "unlawful seizure" (hijacking) of aircraft (not ships) in December 1969. Following postponement of formal negotiations scheduled for Havana in early 1970, arrangements were made for a Canadian Delegation to go to Cuba in February 1971 for a "first round" of talks. When agreeing to the timing and site for these negotiations, the Cuban Foreign Minister stated that the discussions would be based on the Canadian draft text and a 1969 Cuban Law "on the Diversion of Air or Sea Craft". He also emphasized that any bilateral Accord would have to apply to the hijacking of ships as well as aircraft. The Secretary of State for External Affairs approved instructions for the Canadian Delegation to negotiate on the basis of,

1. The Canadian draft text, suitably modified (a) to include the unlawful diversion of maritime vessels, (b) to take into account the provisions of the Hague Convention for the Suppression of Unlawful Seizure of Aircraft, which was signed by Canada on December 16, 1970 and (c) to reflect recommendations of the Ministry of Transport and the

Departments of Justice and External Affairs, provided they were consistent with the Canadian Extradition Act, the existing Canada-Cuba Extradition Treaty and relevant domestic and international law;

2. The 1969 Cuban Law on the Diversion of Air and Sea Craft - the major provisions of which related to (a) strict reciprocity, (b) the right to grant political asylum in certain circumstances and (c) surrender and punishment of offenders.

THE HAVANA NEGOTIATIONS

3. The Canadian Delegation, headed by Mr. P.A. Bissonnette, Assistant Under-Secretary of State for External Affairs, and composed of representatives of the Department of Justice and the Department of External Affairs and an Adviser from Air Canada (acting on behalf of C.P. Air as well) was in Havana February 12-22. On February 20 the Cuban Delegation, headed by the Vice-Minister of Foreign Affairs, Captain C. Chain Soler, tabled their version of a draft Accord. It faithfully reflected the 1969 Cuban Law and did not take into account the Canadian text. In addition to the hijacking of air and sea craft, it covered offences endangering the safety of both types of craft, violation of all national penal laws and regulations on board, and illegal entry to and exit from national territory. The Cuban draft applied to all aircraft and ships, specifically including military craft. It also provided for the return of offenders by means of "summary and urgent proceedings".

4. The initial important question to be resolved related to the scope of the proposed Agreement. While the Canadian Delegation was primarily concerned with unlawful seizure only, the Cubans wished the Accord to apply to a wide variety of offences and other proscribed acts involving air or sea craft, as noted above. It was eventually agreed that the Accord should cover unlawful acts of seizure, appropriation, diversion, and other wrongful exercise of control of civil aircraft in flight (excluding domestic flights) and ships at sea by means of force, threat of force, or other means of intimidation. Both sides further agreed that applicability to other offences endangering

the safety of aircraft and ships would be closely studied.

5. A second important issue concerned the extradition of alleged offenders. The Canadian Delegation insisted that the bilateral Agreement should be fully compatible with the existing Extradition Treaty. The Cubans favoured a simplified summary procedure by which surrender could be expeditiously effected. In the event, it was agreed that the proposed Accord would be read in conjunction with any extradition treaty in force between the parties and that surrender would be as expeditious as possible.

6. The third question of particular importance related to military craft. While the Canadian side indicated that they did not properly belong in an Agreement of the type envisaged, in view of the importance which the Cubans attached to the question, it was agreed that Canada would give the matter further consideration.

7. The fourth important issue concerned the grounds for refusal to surrender alleged offenders. It was agreed that extradition could be refused if the relevant individual was a national of the requested state or if the relevant offence was one of a political character. (The extradition treaty in force contains similar provisions.) The Cubans also undertook to study a Canadian proposal which would allow refusal if the alleged offender would be liable to the death penalty if convicted.

8. At the conclusion of ^{the/}February negotiations, a confidential Agreed Statement of Record was signed by the respective Heads of the Delegation. In addition to setting out the extent of agreement between the two sides, this document includes an undertaking on the part of the Canadian Delegation to provide, as soon as possible, the text of a revised draft Accord which would take into account the results of the first stage of discussions. Also, a joint Press Release was issued on February 22 indicating that further negotiations directed towards the signing of a formal agreement would take place in Ottawa "in the near future".

The Revised Canadian Draft Text

9. The draft Agreement annexed hereto was prepared following a series of interdepartmental consultations. It reflects an appreciation of

- 4 -

Cuban concerns on key issues, while preserving the Canadian interest in maintaining consistency between what Canada is prepared to accept in a bilateral Accord with Cuba and the Canadian position taken on the hijacking question in various international fora. Nevertheless the Canadian Delegation at the Ottawa negotiations will require a measure of flexibility in order to deal with Cuban observations, comments and possible amendments to this draft, which will likely be provided only once the "second round" begins. In this revised text, the scope of offenses covered takes into account both the 1970 Hague Convention and the draft ICAO unlawful interference convention (which is much broader than the "unlawful seizure" ^{dealt with/} in the Hague instrument) which is to be the subject of a diplomatic conference in Montreal this September, as well as the relevant section in the Criminal Code as at present in force (Section 220). While omitting applicability to military ships, the draft does include a reference to military aircraft engaged in the transport of civilians.

RECOMMENDATIONS

1. That the text of the revised draft agreement annexed hereto be transmitted to the Cuban Government by the Department of External Affairs as soon as possible.
2. That an invitation be issued by the Government of Canada to the Government of Cuba, through the Department of External Affairs, to send a Delegation to Ottawa at a mutually convenient time to resume negotiations directed towards the conclusion of a bilateral Agreement on Unlawful Interference with Aircraft and Ships.
3. That a Canadian Delegation to be headed by Mr. P.A. Bissonnette, Assistant Under-Secretary of State for External Affairs, with supporting Delegates from the Department of Justice, the Ministry of Transport and the Department of External Affairs, assisted by Advisers from other Government Departments and Agencies and from Canadian international air carriers, as deemed appropriate, be authorized to negotiate a Canada-Cuba Accord which is generally along the lines of the revised Canadian text provided however that modifications which are mutually acceptable as between the two Delegations may be

. . . . 5

- 5 -

made if they are compatible with the Canadian Extradition Act, the existing Canada-Cuba extradition treaty and relevant domestic and international law.

4. That the Secretary of State for External Affairs be authorized to sign on behalf of the Government of Canada, subject to ratification, a Canada-Cuba Agreement on Unlawful Interference with Aircraft and Ships should the Canadian Delegation recommend that he do so.

602-10

STG*m

CONFIDENTIAL

10 March 1971

Dear Mr. Ritchie:

Thank you for your letter dated March 4, 1971 and the report which was enclosed on the Canada-Cuba hijacking negotiations which took place in Havana between February 15-20, 1971.

I have noted with interest the program of the negotiations to date, together with the future action which is contemplated. As there are a number of issues which pertain directly to the Ministry of Transport I feel sure that you will agree that there should be representation from this Ministry in further talks which take place.

I would be grateful if you would let me know when these are contemplated in order that we may put forward the names of our representatives.

Yours sincerely,

Original Signed par
O. G. STONER

O. G. Stoner.

Mr. A.E. Ritchie,
Under-Secretary of State
for External Affairs,
East Block,
Wellington Street,
Ottawa 4, Ontario.

mailed 2/11
000084

STG:m

602-10

CONFIDENTIAL

10 March 1971

MEMORANDUM TO THE MINISTER

Canada - Cuba Hi-jacking Negotiations

We have now been advised by External Affairs that in June of 1969 an approach was made to the Cuban Government, through our Ambassador in Havana, advising of Canadian interest in a hi-jacking treaty. On December 3, 1969 the Cuban Foreign Minister was provided, through our Embassy, with a draft bilateral accord on "Unlawful Seizure of Aircraft in Flight". The situation remained dormant until November 21, 1970 when the Cuban Foreign Minister advised our Ambassador that his Government was prepared to negotiate a hi-jacking agreement with Canada and it was agreed that week-long discussions should commence in Havana on February 15, 1971.

At the time of the November contact the Cubans made it clear that they would be willing to negotiate on the basis of the original Canadian draft provided their law 1226 of September 1969 "On the Diversion of Air and Sea Craft" was given equal weight and that any eventual agreement would have to cover the hi-jacking of ships as well as aircraft. This information was transmitted to the Department of Justice which undertook a preliminary study of the question and prepared, for the private use of the Canadian Delegation, an informal revised draft of the Canadian text extending certain provisions to ships.

The Canadian Delegation, led by P.A. Bissonnette of External Affairs and composed of representation from Justice and Air Canada, met with the Cubans in Havana between February 15-20, 1971 and it is reported that the negotiations achieved a fair measure of success. A number of major areas of difference, however, still remain, such as the insistence by the Cubans of the inclusion in the agreement of military craft as well as civil craft, the scope of the agreement as it pertains to the safety of transport and also the leasing of ships and aircraft.

In the light of our responsibilities here in the Ministry for the safety of the public travelling on marine and air civil transport services, it seems very strange that we were not invited by External Affairs to participate either in the talks in preparation for the negotiations or in the negotiations themselves. I have written a letter to Mr. Ritchie in External Affairs pointing this out and asking if he would advise when further talks are to take place in order that we might put forward the names of appropriate representatives to assist in the discussions.

Original sent par
O. G. STONER

O. G. Stoner

*Original to min
for arch 11
1000085*

DMEA:

1. I am concerned over our lack of representation - so will Minister. OGS

- (1) please boil down to one page for memo to Minister.
- (2) We should reply to Ritchie thanking him and saying we would like to be included in further talks - CATA or Mr. Gray or both - why were we not on delegation - I understood we were to be! OGS

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602-10

10 March 1971

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NOTE TO MR. STONER

I have prepared herewith for the information of the Minister a resumé of the report of the recent Canada-Cuba hi-jacking negotiations. I have pointed out your surprise that the Ministry of Transport was not represented in these talks and have advised that you are writing to Ed Ritchie advising of this and suggesting that Transport be included in future talks. This letter is also enclosed.

As this matter was being coordinated with John Gray, it came to light that two additional incidents involving External Affairs, similar to this, recently occurred, and I am attaching for your information a copy of a memorandum from XL to SADM on the subject. It is proposed that when all of the details concerning these incidents are at hand we will provide you with a complete précis on the subject.


S. T. Grant



RECEIVED

MAR 10 1971

OFFICE OF THE
DEPUTY MINISTER
TRANSPORT

000087

JTG:br

Mr. G.A. Scott,
S.A.D.M.

108-10-3 (XL)

March 5, 1971.

X.L.

Attached for your consideration is a memo which was prepared under my supervision respecting the need for an International Transport Co-ordination Bureau or some alternative co-ordinating authority within the Ministry. The third paragraph on page 1 of the memo briefly deals with a similar problem on an inter-departmental scale which requires consideration. A practice has evolved under which External Affairs officers call meetings of working groups including senior officials of other departments without any agenda or working papers and without any clearly defined purpose. At the other extreme, meetings are called on a few hours notice to consider extensive documentation. As an example, I have received several requests from Terry Bacon, one of the most junior officers of the Legal Division of External Affairs to attend meetings at which he acted as Chairman when ADM's were present. This week I received at 4:00 p.m. on one day a notice of a meeting for the following day. The enclosed agenda was dated a week earlier. One purpose of the meeting was to settle instructions and the composition of a delegation which had already left for Europe. The meetings proved to be such a waste of time I have recently sent the most junior officer available or in some cases did not send anyone. To my mind this situation is becoming unacceptable. The interests of the Minister are not being served when matters respecting international transportation are being left in the hands of such junior officers and when we are consulted so late that we are for all practical purposes not consulted at all. A reassessment of the situation appears to be warranted.

ICAO has always prided itself on its record of dealing with international commercial aviation on a non-political level. The advent of a predominance of ambitious young External Affairs officers has resulted in a deterioration of this ideal as far as Canadian delegations are concerned.

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Our technical and legal people who attend international meetings have, for the first time, been obliged to try to ride herd on their ebullient diplomatic co-delegates. Most international meetings by themselves are a different enough chore for a conscientious delegate without being faced with dissention and strife between the members of the delegation. I must report that our people have recently experienced difficulties at almost every meeting with their External Affairs counterparts (and also in one case with a CTC representative).

I would be prepared to write the Legal Branch of External Affairs complaining of the situation if you think this advisable. Alternatively, I could draft a letter for your signature or for Mr. Stoner's signature taking the matter up at a higher level. A word or two on a personal level might suffice. I would appreciate receiving your comments or instructions.

John T. Gray,
Senior Ministry Executive, Legal.

602-10

8 March 1971

Done
NOTE TO MR. STONER

Attached hereunder is a copy of a report on the first round of negotiations with the Cubans on a bilateral agreement on hi-jacking. The ultimate agreement will likely include, at the request of the Cubans, the unlawful seizure of ships and military craft as well as civil craft.

*Stu Team concerned
over our lack of
reply - so
will
Minister
DD*

S. T. Grant
S. T. Grant

① *plus work done
to one page for
memo to Minister*

② *we should reply to
Ritchie Monaghan here
and saying we would like
to be included in further
talks - CATA or Mr Gray or
both - why were we not
on delegation - I understood that*

RECEIVED
MAR 8 1971
OFFICE OF THE
DEPUTY MINISTER
TRANSPORT

000090
to H. B. W.

602-10

① DNEA



Office of
The Under Secretary of State
for External Affairs

Cabinet du
Sous-Secrétaire d'Etat
aux Affaires extérieures

13522

CONFIDENTIAL

March 4, 1971

Dear Mr. Stoner,

As you know, a Canadian Delegation recently returned from Havana where negotiations took place with the Cuban Government on a prospective bilateral Agreement on hijacking and, possibly, other related offences.

Attached for your general information is a copy of a Report on these negotiations.

A copy is also being provided to the Deputy Minister of Justice.

Yours sincerely,

Under-Secretary of State
for External Affairs

Deputy Minister
Ministry of Transport
Hunter Building
Ottawa, Ontario

RECEIVED

MAR 5 1971

OFFICE OF THE
DEPUTY MINISTER
TRANSPORT

ENTERED
ON CARDS

000091

CONFIDENTIAL

March 3, 1971

REPORT ON CANADA - CUBA HIJACKING NEGOTIATIONS:
HAVANA, FEBRUARY 15-20, 1971

A Canadian Delegation, headed by Assistant Under-Secretary of State for External Affairs, Mr. P.A. Bissonnette, and composed of our Ambassador to Cuba, Mr. K.C. Brown, Mr. L.S. Clark of Legal Operations Division in the Department of External Affairs, Mr. P. Sorokan of the Department of Justice and the General Counsel of Air Canada, Mr. I. McPherson, (acting on behalf of C.P. Air as well as Air Canada) arrived in Havana on February 12. The Members of the Cuban Delegation, headed by the Vice-Minister of Foreign Affairs, Capt. C. Chain Soler, were on hand at the airport and made a point of demonstrating the sincerity of their welcome and their interest in securing a mutual acceptable outcome from the negotiations. While a number of general points relating to the bilateral talks were discussed at a dinner for the Head of the Canadian Delegation on February 12, substantive negotiations began on February 15 at the Cuban Foreign Ministry. The Counsellor of the Canadian Embassy, Mr. W.T. Warden, attended all meetings and was in effect a member of the Canadian Delegation. At the conclusion of the negotiations an "Agreed Statement of Record" (attached as Annex I) was signed by the two Heads of Delegation.

BACKGROUND

The first approach to the Cuban Government concerning Canadian interest in a hijacking treaty was made through our Ambassador in Havana, on instructions, in June, 1969. On December 3, 1969, we provided the Cuban Foreign Ministry, through the Embassy, with a draft bilateral Accord on "unlawful seizure" of civil aircraft in flight. Prospective dates for formal negotiations early in 1970 were postponed indefinitely, since the Cubans were not prepared to proceed, apparently because of lack of authority from Prime Minister Castro. The entire project remained dormant until November 21, 1970, when Foreign Minister Roa officially advised our Ambassador that his Government was now prepared to negotiate a hijacking agreement with Canada. Following several contacts both between the Embassy and the Foreign Ministry in Havana and the Department of External Affairs and the Cuban Embassy in Ottawa, the date of February 15 was agreed upon for the commencement of approximately week-long discussions in Havana.

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- 2 -

CANADIAN POSITION

While no detailed reaction to the Canadian draft Accord was ever provided by the Cubans, we were given to understand in fairly precise terms that any eventual Agreement would have to cover the hijacking of ships as well as aircraft. This information was transmitted to the Department of Justice which undertook a preliminary study of the question and prepared, for the private use of the Canadian Delegation, an informal revised draft of the Canadian text extending certain provisions to ships. The Cubans also indicated their willingness to negotiate on the basis of the original Canadian draft provided their Law 1226 of September 1969 "On the Diversion of Air and Sea Craft" was given equal weight.

Accordingly, the Canadian Delegation was instructed to base its position on:

(1) The text of the draft Accord, suitably modified (a) to include ships; (b) to take into account the 1970 Hague Convention on aircraft hijacking; and (c) to reflect the advice of officials from the three Departments concerned: Justice, Transport and External Affairs, which advice would take into account the Canadian Extradition Act, the existing Canada-Cuba Extradition Treaty and relevant domestic and international law; and

(2) Cuban Law 1226.

It was expected that the first round of discussions in Havana would concentrate on comparing the Canadian text and the Cuban Law and isolate specific issues. A second round could then take place in Ottawa to resolve these questions and to formalize a bilateral Agreement.

CUBAN POSITION

At the first meeting on February 20, the Cuban Delegation tabled their version of a draft Accord. This was virtually entirely based on Law 1226 and did not take into account the Canadian text. In addition to the hijacking of air and sea craft, it covered offences endangering the safety of both types of craft, violation of all national penal law and regulations on board, and illegal entry into or exit from national territory. The Cuban draft was to apply to all aircraft and ships, including military, and to sports and recreation boats. It also provided for the return of offenders by means of "summary and urgent proceedings".

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- 3 -

MAJOR ISSUES

The initial important question which had to be resolved at the negotiating table related to the scope of the proposed bilateral Agreement. The Canadian Delegation had come to Havana primarily to discuss "unlawful seizure or other wrongful exercise of control of aircraft" - i.e. hijacking. While it had been agreed that the possibility of an eventual treaty dealing with the hijacking of ships could also be examined, the Canadian view was that this matter would require detailed study (which had not yet been undertaken). However, in addition to hijacking, the Cubans wanted the Accord to cover all kinds of offences and other proscribed acts involving air or sea craft, as noted above. A second problem concerned the return of alleged offenders. The Canadian side insisted that the procedures to be set out in the bilateral agreement should be fully compatible with the existing Canada-Cuba Extradition Treaty. The Cuban Delegation favoured a simplified summary procedure by which surrender could be expeditiously effected. Initially, they refused even to acknowledge the current validity of the 1904 Extradition Treaty. A third important matter related to military craft which, in the Canadian view, did not properly belong in an accord of the type envisaged. The fourth issue of some significance concerned grounds for refusal to surrender alleged offenders. Both Delegations were of the view that the Agreement should stipulate that nationals of the requested state and persons whose surrender was wanted in connection with offences of a political nature could be refused. In addition however, the Canadian side wished to permit refusal if offenders would be liable to the death penalty in the event of their conviction. There was, from the first, broad general agreement on articles relating to notification of hijackings, apprehension of and access to offenders, and release or return of craft, passengers, crew, baggage and cargo.

PROGRESS OF NEGOTIATIONS

(a) Scope of the Agreement: The Canadian Delegation made it clear that offences totally unconnected with the safety of transport had no place in the prospective accord. Violation of immigration laws and regulations and common criminal acts committed on board air or sea craft which did not directly affect their safety were not materially relevant. For their part, the Cuban Delegation insisted that the bilateral Agreement apply to the hijacking of all types of ships as well as air craft and to unlawful acts endangering their safety. It was agreed in principle that only aircraft and ships registered-or, possibly, operated under lease-in Canada or Cuba would be covered, although the precise definition of leased ships was left for further study. (The Statement of Accord indicates that the question of leased aircraft should also be studied, but it appeared that the Cubans were generally prepared to accept the definition incorporated in the Hague Convention).

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- 4 -

(b) Return of Alleged Offenders: The Canadian Delegation emphasized the validity and applicability of the 1904 Canada-Cuba Extradition Treaty. Eventually the Cubans agreed that the prospective Accord should be read in conjunction with any treaty in force between Canada and Cuba with respect to extradition. However they emphasized their view, which the Canadian Delegation accepted, that the Agreement stipulate that extradition be effected as expeditiously as possible.

(c) Military Craft: Because of the obvious importance which the Cubans attach to the Accord applying to military craft, the Canadian Delegation undertook to examine this matter further. Nevertheless, the view was strongly expressed that, in principle, the Agreement should cover only craft used for other than military, customs or police services.

(d) Refusal to Surrender Offenders: The Canadian Delegation explained the extremely limited applicability of capital punishment under current Canadian law. The Cubans agreed to give this question serious consideration. While they did not indicate whether they could accept the Canadian proposal as presented, the Cuban Delegation evidently understood it was a general problem for Canada and not an issue specifically related to the present negotiations.

(e) Statement of Record and Press Release: Towards the conclusion of the negotiations, at the request of the Cubans, both Delegations prepared drafts of an Agreed Statement of Record. After comparing the drafts, the Cubans quickly consented to using the Canadian version as a basis for a mutual acceptable document. In the event, two original English and two original Spanish texts of the paper attached as Annex I were prepared and signed, with the respective Heads of Delegation retaining one of each. In addition a Press Release was drafted by the Canadian Delegation and, after acceptance by the Cubans with a minor alteration, issued on February 22, the day of the departure from Havana of the Canadian Delegation. A copy is attached as Annex II.

(f) Future Action

It is evident from the Statement of Record that a number of questions require further detailed study by the various interested Government Departments before initiation of the second round of negotiations. Among these are the following:

1. The inclusion in the accord of unlawful seizure of ships; in particular, (a) the definition of ships; (b) limitations on the applicability of the Agreement to ships e.g. covering offences committed on the high seas only; and (c) leased ships.

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- 5 -

2. Possible revision of the draft Accord to cover offences endangering the safety of aircraft and ships; in particular, (a) the type of offences to be dealt with; and (b) restrictions involving the place where the offences are committed e.g. only on board aircraft or ships, or actions directed against such craft from elsewhere.

3. Re-drafting the Agreement in such a way as to (a) implicitly cover military craft; or (b) explicitly preclude its application to craft used in military, customs or police services; or (c) specifically provide for only limited obligations with respect to military craft e.g. return of craft, cargo, etc. but without specifying how alleged offenders must be dealt with i.e. no priority to be given to extradition.

4. In addition to the above, a question which was not discussed by the two Delegations requires some examination on the Canadian side. This concerns passengers or crew members of diverted craft who, though not directly involved in any offence, do not wish to return to the state of registration or operation of the craft. In principle, it would seem that the provisions of any eventual Accord should not obligate the state of disembarkation to compulsorily repatriate such persons.

CONCLUSION

From the Canadian point of view the Havana negotiations achieved a fair measure of success. Agreement was reached on several major issues and the remaining areas of difference have been clearly identified. The Cubans have demonstrated their desire to make progress and it would appear that there in fact exists a firm basis for a mutually acceptable bilateral Accord. After appropriate interdepartment consultations, a new revised draft text which takes fully into account the first round of discussions will be prepared and transmitted to the Cubans (as agreed in the Statement of Accord). Once they have had an opportunity to study it, arrangements can be made for the second round of negotiations to take place in Ottawa.

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ANNEX "A"

Canada-Cuba Negotiations, Havana, February 15 to February 20: Agreed Statement of Record.

Negotiations between Canada and Cuban Government Delegations took place in Havana, February 15 to 20, 1971, concerning unlawful seizure (hijacking) of aircraft in flight and ships at sea and other offences affecting international navigation. The negotiations were based on drafts of a Bilateral Agreement presented by the respective delegations.

The results of these negotiations are as follows:

I. Scope of the Bilateral Agreement.

(I) Both delegations agreed that the accord should cover unlawful acts of seizure, appropriation, diversion and other wrongful exercise of control of civil aircraft in flight (excluding flights between two points within the territory of one party) and ships at sea by means of force, threat of force, or other means of intimidation.

(II) Both delegations further agreed to study closely the question of the accord covering other offences endangering the safety of aircraft and ships.

(III) The two sides also agreed that the accord would apply to aircraft and ships registered under the laws of Canada and Cuba. The question of leased aircraft and ships will be studied.

(II) Notification, apprehension of and access to the offender, and return of craft.

Both delegations agreed that where an offence covered by the accord has been committed and the craft concerned arrives in the territory of one of the parties, that party shall immediately notify the diplomatic or consular representatives of the other party; take all practicable measures, in accordance with its laws, to apprehend the alleged offender; inform the other

- 2 -

party of his identity; permit its diplomatic or consular representatives to interview him; facilitate the departure of the passengers and crew (other than alleged offenders) together with their possessions; and return the craft and cargo to persons lawfully entitled thereto.

III. Surrender of the Alleged Offender.

(I) The two delegations agreed that any accord entered into would be read in conjunction with the treaty in force with respect to extradition between Canada and Cuba and would stipulate that extradition would be effected as expeditiously as possible.

(II) Both sides were also in agreement that surrender of an alleged offender could be refused if he is a national of the requested state or if the relevant offence is of a political character.

(III) The Cuban delegation undertook to study a Canadian proposal which would allow refusal by one party of a request from the other party to surrender an alleged offender if he would be liable to the death penalty in the event of his conviction.

IV. Military Craft.

There was no agreement as to whether the accord would apply to military craft. However, in view of the importance which the Cuban delegation attaches to this question, the Canadian delegation agreed to give it further consideration.

V. Languages of the Agreement.

The two delegations agreed there would be authentic English, French, and Spanish texts of the accord.

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VI. Preamble.

Both delegations agreed that the preamble would be drafted at the end of the negotiations so that it could be related to the content of the accord.

VII. Further Action

The Canadian delegation undertook to provide, as soon as possible, a revised Draft Agreement taking into account the results of the first stage of negotiations with a view to facilitating the conclusion of a bilateral accord at the forthcoming negotiations in Ottawa.

The two delegations wish to record their satisfaction at the spirit of mutual understanding and conciliation shown during this first stage of negotiations and their awareness that an Agreement on the subject will contribute towards the security of international transport by air and sea.

Havana, February 20, 1971.

ANNEX "B"

On February 20, the Canadian and Cuban Delegations concluded the talks held in Havana. After a full and frank exchange of views concerning the issues to be included in a bilateral treaty, it was agreed that further negotiations directed towards its conclusion would take place in Ottawa in the near future.

The Havana meetings took place after a series of contacts between Canadian and Cuban officials over a period of more than a year. The Heads of the respective Delegations, the Assistant Under-Secretary of State for External Affairs of Canada, Mr. P. A. Bissonnette, and the Vice-Minister of External Relations of Cuba, Capt. C. Chain, expressed their mutual satisfaction at the spirit of understanding and conciliation which prevailed in the conversations. The results thereof will be submitted to the Governments of Canada and Cuba for consideration. Both delegations likewise wished to record their view that an agreement on the subject will contribute to the security of international air and sea transport.

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FM HAVAN 200 FEB22/71

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INFO WSHDC TT PRMNY MXICO LDN DE OTT

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REF OURTEL 198 FEB22

---CDA-CUBA HIJACKING NEGOTIATIONS:AGREED RECORD

BY WAY OF CLARIFYING REF IN SECOND SENTENCE PARA ONE AGREED RECORD

TO QUOTE DRAFTS UNQUOTE, CLARK ASKED US TO INFORM YOU THAT CUBANDEL

AT OUTSET OF TALKS FEB15 PROVIDED CDN SIDE WITH DRAFT BASED VERY

CLOSELY ON CUBAN LAW 1226 SEP69.

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2/23/71

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FOR INFORMATION

FOR INFORMATION

SECURITY - SÉCURITÉ
CONFIDENTIAL

DATE

February 22, 1971.

TO - A

Mr. M. T. Gray, M.O.T.

☐ RETAIN
CONSERVER

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E.G. Lee / Legal Operator 000103

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REF OURTEL 197 FEB22

---CDA-CUBA HIJACKING NEGOTIATIONS: AGREED RECORD OF HAVAN TALKS
FOLLOWING IS AGREED TEXT OF RECORD OF TALKS WHICH CONCLUDED FEB20:
QUOTE: CDA-CUBA NEGOTIATIONS, HAVAN, FEB15 TO FEB20: AGREED STATEMENT
OF RECORD

NEGOTIATIONS BETWEEN CDA AND CUBAN GOVT DELS TOOK PLACE IN HAVAN,
FEB15 TO 20, 1971, CONCERNING UNLAWFUL SEIZURE (HIJACKING) OF AIRCRAFT IN
FLT AND SHIPS AT SEA AND OTHER OFFENCES AFFECTING INNATL NAVIGATION.
THE NEGOTIATIONS WERE BASED ON DRAFTS OF A BILATERAL AGREEMENT
PRESENTED BY THE RESPECTIVE DELS.

THE RESULTS OF THESE NEGOTIATIONS ARE AS FOLLOWS:

I. SCOPE OF THE BILATERAL AGREEMENT

(I) BOTH DELS AGREED THAT THE ACCORD SHOULD COVER UNLAWFUL ACTS
OF SEIZURE, APPROPRIATION, DIVERSION AND OTHER WRONGFUL EXERCISE OF
CONTROL OF CIVIL AIRCRAFT IN FLT (EXCLUDING FLTS BETWEEN TWO POINTS IN
THE TERRITORY OF ONE PARTY) AND SHIPS AT SEA BY MEANS OF FORCE, THREAT
OF FORCE, OR OTHER MEANS OF INTIMIDATION.

(II) BOTH DELS FURTHER AGREED TO STUDY CLOSELY THE QUESTION OF THE
ACCORD COVERING OTHER OFFENCES ENDANGERING THE SAFETY OF AIRCRAFT AND
SHIPS.

(III) THE TWO SIDES ALSO AGREED THAT THE ACCORD WOULD APPLY ...2

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PAGE TWO 198 CONFD

TO AIRCRAFT AND SHIPS REGISTERED UNDER THE LAWS OF CDA AND CUBA. THE QUESTION OF LEASED AIRCRAFT AND SHIPS WILL BE STUDIED.

II. NOTIFICATION, APPREHENSION OF AND ACCESS TO OFFENDER, AND RETURN OF CRAFT

BOTH DELS AGREED THAT WHERE AN OFFENCE COVERED BY THE ACCORD HAS BEEN COMMITTED AND THE CRAFT CONCERNED ARRIVES IN THE TERRITORY OF ONE OF THE PARTIES, THAT PARTY SHALL IMMEDIATELY NOTIFY THE DIPLO OR CONSULAR REPS OF THE OTHER PARTY; TAKE ALL PRACTICABLE MEASURES, IN ACCORDANCE WITH ITS LAWS, TO APPREHEND THE ALLEGED OFFENDER; INFORM THE OTHER PARTY OF HIS IDENTITY; PERMIT ITS DIPLO OR CONSULAR REPS TO INTERVIEW HIM; FACILITATE THE DEPARTURE OF THE PASSENGERS AND CREW (OTHER THAN ALLEGED OFFENDERS) TOGETHER WITH THEIR POSSESSIONS; AND RETURN THE CRAFT AND CARGO TO PERSONS LAWFULLY ENTITLED THERETO.

III. SURRENDER OF THE ALLEGED OFFENDER

(I) THE TWO DELS AGREED THAT ANY ACCORD ENTERED INTO WOULD BE READ IN CONJUNCTION WITH THE TREATY IN FORCE WITH RESPECT TO EXTRADITION BETWEEN CDA AND CUBA AND WOULD STIPULATE THAT EXTRADITION WOULD BE EFFECTED AS EXPEDITIOUSLY AS POSSIBLE.

(II) BOTH SIDES WERE ALSO IN AGREEMENT THAT SURRENDER OF AN ALLEGED OFFENDER COULD BE REFUSED IF HE IS A NATL OF THE REQUESTED STATE OR IF THE RELEVANT OFFENCE IS OF A POLITICAL CHARACTER.

(III) THE CUBAN DEL UNDERTOOK TO STUDY A CDN PROPOSAL WHICH WOULD ALLOW REFUSAL BY ONE PARTY OF A REQUEST FROM THE OTHER PARTY TO SURRENDER AN ALLEGED OFFENDER IF HE WOULD BE LIABLE TO THE DEATH.

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PAGE THREE 198 CONFD

PENALTY IN THE EVENT OF HIS CONVICTION.

IV. MILITARY CRAFT

THERE WAS NO/NO AGREEMENT AS TO WHETHER THE ACCORD WOULD APPLY TO MILITARY CRAFT. HOWEVER, IN VIEW OF THE IMPORTANCE WHICH THE CUBAN DEL ATTACHES TO THIS QUESTION, THE CDN DEL AGREED TO GIVE IT FURTHER CONSIDERATION.

V. LANGUAGES OF THE AGREEMENT

THE TWO DELS AGREED THERE WOULD BE AUTHENTIC ENGLISH, FRENCH AND SPANISH TEXTS OF THE ACCORD.

VI. PREAMBLE

BOTH DELS AGREED THAT THE PREAMBLE WOULD BE DRAFTED AT THE END OF THE NEGOTIATIONS SO THAT IT COULD BE RELATED TO THE CONTENT OF THE ACCORD.

VII. FURTHER ACTION

THE CDN DEL UNDERTOOK TO PROVIDE, AS SOON AS POSSIBLE, A REVISED DRAFT AGREEMENT TALKING INTO ACCOUNT THE RESULTS OF THE FIRST STAGE OF NEGOTIATIONS WITH A VIEW TO FACILITATING THE CONCLUSION OF A BILATERAL ACCORD AT THE FORTHCOMING NEGOTIATIONS IN OTT.

THE TWO DELS WISH TO RECORD THEIR SATISFACTION AT THE SPIRIT OF MUTUAL UNDERSTANDING AND CONCILIATION SHOWN DURING THIS FIRST STAGE OF NEGOTIATIONS AND THEIR AWARENESS THAT AN AGREEMENT ON THE SUBJ WILL CONTRIBUTE TOWARDS SECURITY OF INNATL TRANSPORT BY AIR AND SEA.

HAVAN, FEB 20, 1971 UNQUOTE

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2.RECORD HAS BEEN CLASSIFIED CONFD BY BOTH SIDES.IT WAS INITIALED
BY PA BISSONNETTE AND CAPT CARLOS CHAIN SOLER,VICE-MINISTER MFA.

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

FM MXICO 144 FEB12/71

TO OTT EXT FLO GLA ECT

INFO TT HAVAN PRMNY WSHDC DE OTT

REF OURTEL 127 FEB9

---CDA-CUBA HIJACKING AGREEMENT:CONSULTATIONS WITH MXICO

CLARK,ACCOMPANIED BY THIBAUT,CALLED ON MFA ASST UNDER-SECTY FOR
BILATERAL RELATIONS,ROSENZWEIG-DIAZ,FEB11.TALKS WERE FRANK AND
COVERED NUMBER OF INTERESTING POINTS.

2.MXICAN-CUBAN HIJACKING NEGOTIATIONS:ACCORDING TO ROSENZWEIG-DIAZ,
ORIGINAL INITIATIVE HAD BEEN TAKEN BY MXICANS.CUBANS WERE NEVER
PARTICULARLY ENTHUSIASTIC.DISCUSSIONS IN HAVAN WERE BASED ON MXICAN
DRAFT AGREEMENT;NO/NO REAL PROGRESS WAS MADE.AFTER PARTICULAR
HIJACKING INCIDENT IN LATE SPRING 1969,CUBANS GRANTED IMMED POLITICAL
ASYLUM TO HIJACKERS BEFORE MXICANS COULD EVEN PRESENT OFFICIAL
REQUEST FOR EXTRADITION.FOLLOWING THIS OBVIOUS ACT OF
WHAT AMOUNTED TO BAD FAITH,MXICO BROKE OFF NEGOTIATIONS WHICH HAVE
NOT/NOT SINCE BEEN RESUMED.

3.CDA-CUBA NEGOTIATIONS:WE INDICATED GEN SCOPE OF CDN DRAFT ACCORD
GIVEN TO CUBANS ADVISING THAT SUBSTANTIVE PROVISIONS DEALT WITH
DEFINITION OF OFFENCE,OBLIGATIONS AND STATE OF LANDING RE INFO TO
OTHER PARTY,APPREHENSION OF OFFENDER,ETC AND EXTRADITION REQUESTS
AND SURRENDER.IN REFERRING TO CUBAN LAW 1226,WE ADVISED INTERLOCUTOR
CONCERNING CUBAN INTEREST IN AGREEMENT COVERING SHIPS.HE STATED

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PAGE TWO 144 CONFD

204 THAT THIS WAS KEY QUESTION FOR CUBANS AND THAT THEY WOULD INSIST ON INCLUDING VESSELS. WE AGREED WITH HIM THAT IN VIEW OF LIKELY POSSIBILITY CDA-CUBA ACCORD WOULD BE FIRST BILATERAL HIJACKING TREATY INVOLVING CUBA, PRECEDENT VALUE MOST IMPORTANT AND SEIZURE SHIPS WAS SERIOUS PROBLEM FOR THEM. ASST UNDER-SECTY OFFERED HIS OPINION THAT SUCCESS OF OUR NEGOTIATIONS WAS DEPENDENT ON EXTENT OF DESIRE OF CUBANS TO SECURE AGREEMENT. MAJOR QUESTION THAT WOULD POSE DIFFICULTY WAS POLITICAL ASYLUM. TEXT OF ANY AGREEMENT WOULD HAVE TO STIPULATE RIGHT OF STATE OF REGISTRATION OF OPERATION TO BE PROVIDED WITH ALL RELEVANT INFO CONCERNING HIJACKING AND, IF POSSIBLE, ACCESS TO HIJACKER HIMSELF FOR INTERVIEW PURPOSES. WE INDICATED THAT THIS HAD BEEN TAKEN INTO ACCOUNT IN CDN DRAFT AND WE WERE WELL AWARE OF SIGNIFICANCE OF THIS MATTER.

4. CUBANA FLTS TO MXICOCITY: WE RAISED QUESTION OF DENUNCIATION OF MXICO-CUBA BILATERAL AIR AGREEMENT AND EXPRESSED INTEREST IN MXICAN VIEWS CONCERNING RENEGOTIATION. INFORMANT MADE IT CLEAR THAT IT WAS UP TO CUBANS TO MAKE FIRST APPROACH IF THEY WANTED NEW AGREEMENT TO REPLACE PRESENT ONE DUE TO EXPIRY JUL/AUG. IN GEN DISCUSSION, WE ATTEMPTED TO ASCERTAIN WHETHER MXICANS WOULD USE LAPSE OF CUBANA TRAFFIC RIGHTS AS BARGAINING COUNTER TO REVIVE HIJACKING TALKS. CONVERSATION SHOWED THAT THIS WAS MOST UNLIKELY AND CUBANA QUESTION WOULD BE TREATED ON ITS OWN MERITS. IN FACT, ACCORDING TO ROSENZWEIG-DIAZ, IF AIRLINE REQUESTED LICENCE TO OPERATE HAVAN

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PAGE THREE 144 CONFD

MXICOCITY SERVICE (A COMMERCIAL AGREEMENT INDEPENDENT OF GOVTAL TREATY), IT MIGHT WELL BE GRANTED, PERHAPS ON MONTH-TO-MONTH BASIS. IN OUR VIEW, IT APPEARS MXICAN GOVT ATTACHES SOME DEGREE OF IMPORTANCE TO THIS SERVICE WHICH, AT PRESENT, IS ONLY REGULAR ONE BETWEEN CUBA AND ANY WESTERN HEMISPHERE STATE.

5. IN EXPRESSING MFAS GRATITUDE FOR OUR WILLINGNESS TO EXCHANGE VIEWS ON CDA-CUBA NEGOTIATIONS, ASST UNDER-SECTY ASKED IF WE COULD PROVIDE GEN DEBRIEFING ON RETURN OF CANDEL FROM HAVAN. QUOTE EVEN IF NO/NO SUBSTANTIVE PROGRESS MADE, WE WOULD BE MOST INTERESTED IN RECEIVING YOUR COMMENTS ON TALKS UNQUOTE. WE SAID EMB WOULD BE IN TOUCH WITH HIM WHEN DATE OF RETURN OF CANDEL WAS KNOWN. IF YOU AGREE, WE WILL ARRANGE APPOINTMENT WITH MFA FOR BISSONNETTE AND/OR CLARK ON THEIR RETURN TO MXICOCITY.

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C DIAN EMBASSY



AMBASSADE DU CANADA

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RA S. Little
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Washington, March 3, 1970.

WITH THE COMPLIMENTS
OF THE CANADIAN EMBASSY

DE LA PART DE
L'AMBASSADE DU CANADA

Has come gone H. D.
S. Little
HL
yes he has seen ms

RECEIVED

MAR 10 1970

OFFICE OF THE
DEPUTY MINISTER
TRANSPORT

H. D. Burwash,
Counsellor

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CONFIDENTIAL

1746 Massachusetts Ave., N.W.,
Washington, D.C. 20036
February 27, 1970.

Dear Mr. Beggs,

As you may recall, during their meeting of January 20 the Canadian Minister of Transport, The Honourable Mr. Jamieson, and Secretary Volpe discussed the problem of aircraft hijacking and in particular the current talks between Canada and Cuba on this subject.

In view of the somewhat misleading press stories that have recently appeared, I have been asked to inform you that the position still is that we are awaiting the agreement of the Cuban Government on a specific date for the beginning of the negotiations. Though we have been informed by the Foreign Minister that Cuban officials are willing to open negotiations on the basis of a Canadian draft which they have received, it appears that the final approval for the opening of formal negotiations must come from Prime Minister Castro himself.

We understand that specific dates may soon be proposed and at that time the decision will be taken in Ottawa regarding the sending of a Canadian Delegation to Havana.

Yours sincerely,

P. M. TOWE

P. M. Towe,
Minister.

James M. Beggs, Esq.,
Under Secretary of Transportation,
800 Independence Avenue, S.W.,
Washington, D.C. 20590



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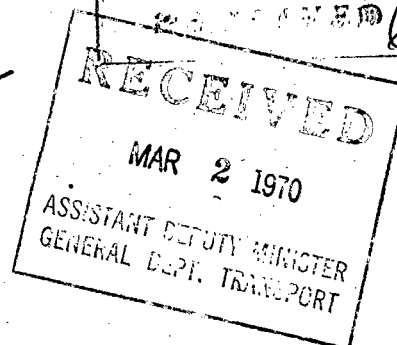
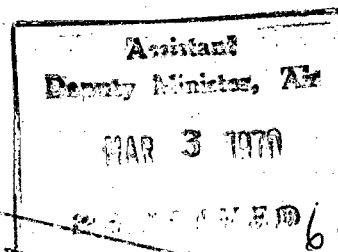
INFO PRMNY DOTOTT

BAG HAVAN DE OTT

CDA-CUBA HIJACKING NEGOTIATIONS

DOT ADVISES THAT MINISTER OF TRANSPORT UNDERTOOK DURING LAST MONTHS VISIT TO WSHDC TO KEEP SECRETARY VOLPE INFORMED ON CDA-CUBA NEGOTIATIONS.

2. GRATEFUL YOU CALL ON APPROPRIATE OFFICIALS IN DEPT OF TRANSPORTATION AND PROVIDE THEM WITH FOLLOWING INFO. DESPITE NEWSPAPER REPORTS OF LAST FEW DAYS CURRENT POSITION IS THAT WE ARE STILL AWAITING AGREEMENT OF CUBANS TO SET SPECIFIC DATE FOR NEGOTIATIONS. WHILE CUBAN FOREIGN MINISTER HAD ADVISED THAT CUBANS WILLING TO ENTER INTO NEGOTIATIONS ON BASIS OF DRAFT WE TRANSMITTED TO THEM LAST DEC, FINAL APPROVAL FOR COMMENCEMENT OF FORMAL DISCUSSIONS MUST COME FROM CASTRO HIMSELF. TO DATE THIS HAS NOT/NOT YET BEEN RECEIVED. CUBAN AMB OTT HAS INDICATED THAT SPECIFIC DATES MIGHT BE PROPOSED IN IMMEDIATE FUTURE. AT THAT TIME DECISION WILL BE TAKEN HERE ON SENDING OF CDN DEL TO HAVAN.



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

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TO HAVAN FLE201 IMMED

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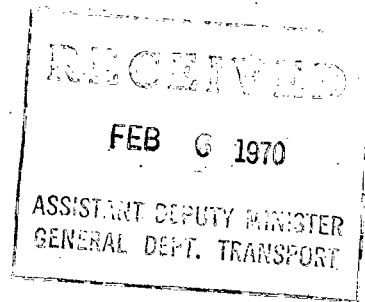
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HIJACKING NEGOTIATIONS.

WE CONSIDER IT MIGHT BE USEFUL FOR BISSONNETTE TO CALL IN CUBAN
AMB FOR OSTENSIBLE PURPOSE OF SEEKING REACTION OF CUBAN AUTHORITIES
TO OUR TEXT OF DRAFT AGREEMENT TRANSMITTED TO MFA THROUGH YOU.
WE WOULD ALSO INDICATE OUR INTEREST IN LEARNING OF PARTICULAR
PROVISIONS WHICH MAY REQUIRE SPECIAL ATTENTION AND OF POSSIBLE
COUNTER PROPOSALS. BY THIS ACTION WE WOULD HOPE AMBS REPORT TO
HAVAN OF OUR CONTINUING STRONG INTEREST IN COMMENCING NEGOTIATIONS
SOONEST WOULD PARALLEL YOUR EFFORTS(WHICH ARE APPRECIATED)
TO STIMULATE CUBANS TO SET EARLY DEFINITE DATE FOR DISCUSSIONS.
GRATEFUL YOUR VIEWS. ALSO INTERESTED TO KNOW PROPOSED DATE OF
FIDELS RETURN AND ANY OTHER INFO YOU MAY HAVE.

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ON CARDS

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DE HAVAN FEV5/70

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INFO TT/ DOTOTT(SICOTTE) JUSTICEOTT(SOROKAN)DE OTT

REF VOTRETEL FLE201 FEV4

NEGOCIATIONS SUR DETOURNEMENTS

NOUS NE VOYONS AUCUN MAL AU PROJET D'ENTREVUE BISSONNETTE-FERNANDEZ. PEUT-ETRE CE DERNIER POURRA-T-IL OBTENIR DE SON MINISTERE QUELQUES RENSEIGNEMENTS SUSCEPTIBLES DE HATER PLUS TARD LA NEGOCIATION. NOUS DOUTONS CEPENDANT QUE CELA PUISSE LA FAIRE DEMARRER PLUS VITE. LA ZAFRA SEMBLE ALLER PLUTOT MAL EN ORIENT ET PERSONNE NOSERA NOUS DIRE QUAND FIDEL EN REVIENDRA CE QU'IL NE SAIT PEUT-ETRE PAS LUI-MEME. CELA PEUT ETRE DANS DEUX AUTRES SEMAINES AUSSI BIEN QUE DEMAIN. IL Y A EN OUTRE LE FAIT QUE FIDEL EST PROBABLEMENT DHUMEUR NOIRE ET QUE SES MINISTRES SURTOUT ROA AURONT PEUR DE LE DERANGER.

2. L'ATMOSPHERE DECRITE CI-DESSUS PREVAUDRA JUSQU'A LA MI-JUILLET DATE OFFICIELLE DE LA FIN DE LA ZAFRA ET JE NE SERAIS MALHEUREUSEMENT PAS ETONNE SI LE RETARD ACTUEL ETAIT SUIVI D'AUTRES RETARDS AU FUR ET A MESURE DE LA NEGOCIATION CHAQUE POINT D'UNE CERTAINE IMPORTANCE DEVANT ETRE REFERE A UN PREMIER MINISTRE DEJA DEBORDE PAR SA TACHE AGRICOLE.

3. LE VICE-MINISTRE DES RELATIONS EXTERIEURES CHAÏN QUE J'AI VU HIER NAPU QUE ME REPETER CE QUE MAVAIT DIT ROA LA VEILLE

MAYRAND

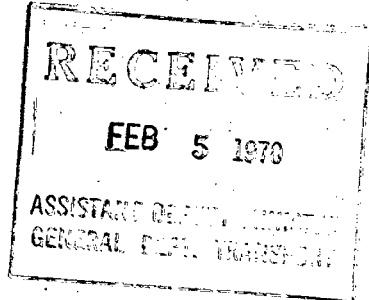


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C O N F I D E N T I E L

DE HAVAN FEB3/70

A EXTER 84 PRIORITE

INFO TT DOTOTT (SICOTTE) JUSTICEOTT (SOROKAN) DE OTT

REF NOTRETEL 78 JAN29

ACCORD SUR DETOURNEMENTS

AYANT RENCONTRE ROA A LAEROPORT AUJOURDHUI JE LUI AI DEMANDE SIL
ESPERAIT NOUS REPONDRE BIENTOT;AUSSI SI NOTRE NON-DISPOSITION A
COUVRIR LES MODES DE TRANSPORT AUTRES QUE LES AVIONS CONSTITUAIT
UNE DIFFICULTE DU COTE CUBAIN.IL MA DIT QUE VU LE TEXTE DE LA LOI
CUBAINE DU SEP16 LA LIMITATION PROJETEE AUX AVIONS NECESSITERA
PROBABLEMENT DETRE DISCUTEE MAIS QUE SON RETARD A NOUS DONNER UNE
REPOSE NETAIT DU POUR LE MOMENT QUA LABSENCE DE FIDEL EN ORIENTE
DEPUIS DEUX SEMAINES

MAYRAND



~~SECRET~~

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TO MXICO FLE189 IMMED

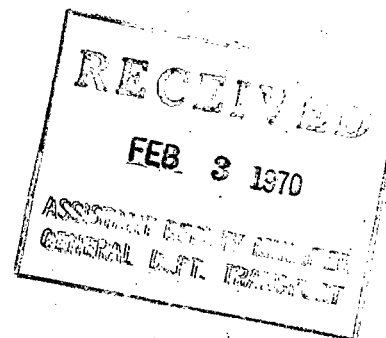
INFO HAVAN DOTOTT(SICOTTE)JUSTICEOTT(SOROKAN)

REF HAVAN TEL 78 JAN29

CDA-CUBA NEGOTIATIONS

CANCEL APPOINTMENT WITH MFA AND HOTEL RESERVATIONS.NEW TRAVEL

PLANS WILL BE MADE WHEN HAVAN CONFIRMS NEGOTIATION DATES.



~~AD-100~~

Phoned Mr. Sicotte 1700hrs.
6012

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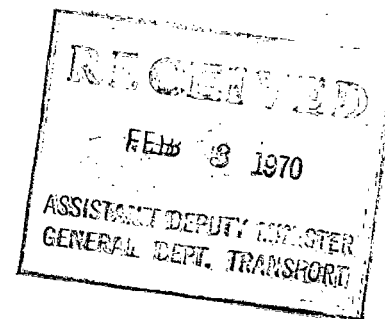
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INFO TT MXICO DOTOTT(SICOTTE) JUSTICEOTT(SOROKAN) PRIORITY DE OTT
REF YOURTEL FLE168 JAN28

CDA-CUBA HIJACKING NEGOTIATION

OJEDA OF MINISTERS OFFICE HAS CONFIRMED THAT NO/NO REPLY WILL BE
FORTHCOMING TODAY.



P.A.

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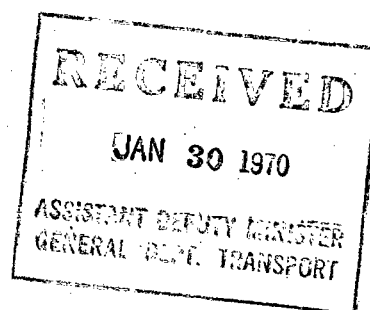
INFO DOTOTT(SICOTTE)JUSTICEOTT(SOROKAN)

REF HAVAN TEL 65 AND MXICO TEL 54 JAN26

CDA-CUBA HIJACKING NEGOTIATIONS

DEL HOLDING PRESENT TRAVEL PLANS IE LEAVE OTT FOR MXICO JAN30
AND ARRIVE HAVAN FEB2 PENDING RECEIPT OF CUBAN CONFIRMATION RE
NEGOTIATIONS. IF THIS NOT/NOT RECEIVED BY JAN29 WILL CANCEL FLT
RESERVATIONS.

2. FOR MXICO: INFORM MFA OF POSSIBILITY JAN31 APPOINTMENT MAY HAVE
TO BE CHANGED DUE TO REASONS SET OUT IN FIRST REFTTEL. ALSO NOTIFY
HOTEL CAMINO REAL THAT TWO RESERVATIONS MADE BY YOU AND THOSE FOR
SICOTTE OF DOT, SOROKAN OF JUSTICE (BOTH MADE BY CENTRAL TRAVEL
SERVICES) AND MACPHERSON (MADE BY AIRLINES) MAY LIKewise HAVE TO BE
ALTERED.



ADALG

DOT (Sirothe)

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

DE HAVAN JAN26/70

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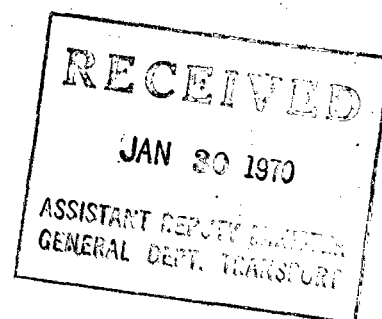
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REF VOTRETEL FLE108 JAN22

ACCORD CANADO-CUBAIN SUR DETOURNEMENTS

LE CHEF DE CABINET DE ROA A QUI J'AVAIS PARTICIPE LE CONTENU DE
VOTRETEL SOUS RUBRIQUE MA FAIT SAVOIR DE LA PART DU MINISTRE QUE
CELUI-CI BIEN QUESPERANT ME DONNER SA REPOSE OFFICIELLE AU
COURS DE CETTE SEMAINE ESTIME PRUDENT QUE NOTRE DEL NE FASSE PAS
DE PREPARATIFS FERMES POUR ARRIVER ICI FEV2. MON CONSEIL PERS SERAIT
DE NE FIXER AUCUNE DATE DE DEPART AVANT QUE LES AUTORITES CUBAINES
AIENT ACHEVE DE PRENDRE LEURS DECISIONS

MAYRAND





ACTION REQUEST - FICHE DE SERVICE

GOVERNMENT OF CANADA

GOUVERNEMENT DU CANADA

FILE NO.—DOSSIER N°

DATE

July 3, 1970

TO—À

Mr. C. J. Ryan (Special Records)

FROM—DE

Gilles Sicotte

☐PLEASE CALL
PRIÈRE D'APPELER

TEL. NO.—N° TEL.

EXTENSION—POSTE

☐WANTS TO SEE YOU
DÉSIRE VOUS VOIR

DATE

TIME—HEURE

☐WILL CALL AGAIN
DOIT RAPPELER☐ACTION
DONNER SUITE☐APPROVAL
APPROBATION☐COMMENTS
COMMENTAIRES☐DRAFT REPLY
PROJET DE RÉPONSE☐MAKE
FAIRECOPIES☐NOTE AND FILE
NOTER ET CLASSER☐NOTE & RETURN
NOTER ET RETOURNER☐NOTE & FORWARD
NOTER ET FAIRE SUIVRE

This may be useful in the event that the
proposed negotiation in Cuba takes place and
that our Department is asked to provide a
delegate, unlikely to be before next year.

CALL RECEIVED BY
MESSAGE REÇU PARTIME
HEURE

000125

Special AGK

Mr. G. Sicotte - DOT

602-10

Handwritten signature/initials

WITH THE COMPLIMENTS OF
THE UNDER-SECRETARY OF STATE

FEB 9 1970
FOR EXTERNAL AFFAIRS

MINISTER
OF EXTERNAL AFFAIRS

OTTAWA

Handwritten signature: L.S. Clark

CANADA
000127

PROJET D'ACCORD ENTRE LE GOUVERNEMENT DU
CANADA ET LE GOUVERNEMENT DE LA REPUBLIQUE
DE CUBA CONCERNANT LA CAPTURE ILLICITE D'AERONEFS

LE GOUVERNEMENT DU CANADA ET

LE GOUVERNEMENT DE LA REPUBLIQUE DE CUBA

Désirant coopérer pour leur avantage mutuel et renforcer les liens de
bonne entente et d'amitié qui existent présentement entre eux; et

Désirant assurer l'extradition réciproque des personnes qui ont commis
un acte de capture illicite d'aéronefs,

SONT CONVENUS DE CE QUI SUIT:

ARTICLE I

1. Dans le présent Accord,

a) aéronef signifie un aéronef civil,

i) immatriculé conformément aux lois de l'une ou
l'autre des parties, ou

ii) exploité au termes d'un bail ou d'un contrat
d'affrètement par une personne ou des personnes
résidant dans l'un ou l'autre Etat contractant
ou par une société établie en vertu des lois de
l'une ou l'autre des parties;

b) capture illicite signifie un acte d'intervention, de capture
ou autre acte de contrôle illicite d'un aéronef en vol par
violence ou menace de violence ou par tout autre moyen illicite
de s'assurer ce contrôle en l'enlevant au pilote commandant de
bord;

c) l'expression "personne responsable" signifie la personne ou les
personnes à bord qui sont présumées responsables d'un acte de
capture illicite d'aéronefs; et

d) extradition signifie l'extradition d'une personne par une partie
à la demande de l'autre en raison d'un délit entraînant l'extradition.

2. Le présent Accord s'applique à l'endroit des actes commis à bord d'aéronefs
et ses dispositions doivent se lire et s'interpréter en fonction de tout accord
relatif à l'extradition déjà existant ou à venir, établissant des procédures
d'extradition.

ARTICLE II

1. Lorsqu'un aéronef d'une partie atterrit dans le territoire de l'autre
après qu'un acte de capture illicite a été commis à son bord, l'Etat dans le
territoire duquel l'aéronef atterrit doit

a) notifier immédiatement le représentant diplomatique ou
consulaire de l'autre partie;

- b) prendre toutes dispositions raisonnables conformément à ses lois pour l'arrestation de la personne responsable, et
 - i) faire connaître à l'autre partie l'identité de toute personne ainsi arrêtée, ainsi que toutes les circonstances se rattachant à cette arrestation et à cette personne, et
 - ii) permettre aux représentants dûment autorisés de l'autre partie d'interroger toute personne ainsi arrêtée;
- c) prendre toutes les mesures nécessaires pour faciliter le poursuites, sans retard, du voyage des passagers, de l'équipage et de leurs possessions qui se trouvent à bord de l'aéronef; et
- d) prendre immédiatement des dispositions pour retourner l'aéronef et sa cargaison à l'exploitant.

ARTICLE III

1. Les parties s'engagent à livrer l'une à l'autre toute personne ou toutes personnes qui, étant accusée(s) d'avoir commis un acte de capture illicite d'un aéronef d'une des parties, sera (seront) trouvée(s) dans le territoire de l'autre partie et dûment mise(s) en état d'extradition conformément aux lois régissant la procédure d'extradition de la partie à qui il est demandé de le faire.
2. Une partie peut refuser de se conformer à une demande d'extradition d'une personne accusée d'avoir commis un acte de capture illicite d'aéronefs si le ministre de la Justice de cette partie ou toute autre autorité désignée par celle-ci à cette fin juge que
 - a) la demande d'extradition, bien qu'étant censée avoir trait à une capture illicite, est de fait présentée pour obtenir la mainmise sur la personne demandée afin qu'elle puisse être poursuivie ou punie pour des considérations de race, de religion, de nationalité ou pour une infraction qui revêt un caractère politique; ou que
 - b) la personne demandée, si elle était livrée, ne bénéficierait pas d'un juste procès ou serait autrement mise en danger pour des considérations de race, de religion, de nationalité ou d'opinions politiques; ou que
 - c) la personne demandée, au moment de la demande d'extradition, est passible de la peine de mort à cause de l'infraction sur laquelle la demande est fondée, tandis que le droit de l'Etat prié l'extrader ne prévoit pas la peine de mort dans un cas semblable.

ARTICLE IV

1. Le présent Accord doit être ratifié et les instruments de ratification seront échangés à . L'Accord entrera en vigueur trente jours après la date de l'échange des instruments de ratification.

-3-

2. L'une ou l'autre des Parties contractantes peut en tout temps dénoncer le présent Accord en adressant une notification à l'autre. Dans ce cas, l'Accord cessera d'être en vigueur six mois après la date de réception de la notification.

EN FOI DE QUOI les plénipotentiaires respectifs des parties ont signé le présent Accord.

FAIT en deux exemplaires à , le , mil neuf cent soixante-dix, en anglais, en français et en espagnol, les trois versions faisant également foi.

POUR LE CANADA

POUR LA REPUBLIQUE DE CUBA

DRAFT AGREEMENT BETWEEN THE GOVERNMENT
OF CANADA AND THE GOVERNMENT OF CUBA
CONCERNING UNLAWFUL SEIZURE OF AIRCRAFT

THE GOVERNMENT OF CANADA AND
THE GOVERNMENT OF CUBA

Desiring to co-operate to their mutual benefit
and to strengthen the bonds of understanding and goodwill
which now exist between them; and

Desiring to provide for the reciprocal extradition
of persons who have committed an act of unlawful seizure of
aircraft,
HAVE AGREED AS FOLLOWS:

ARTICLE I

GENERAL

1. In this Agreement
 - (a) "aircraft" means a civil aircraft
 - (i) registered under the laws of
either party, or
 - (ii) operated under lease or charter
by a person or persons resident
in or a corporation established
under the laws of either party;
 - (b) "unlawful seizure" means an act of interference,
seizure or other wrongful exercise of control of
an aircraft in flight through force or the threat
thereof or any other unlawful means of securing
such control from the pilot-in-command of the
aircraft;
 - (c) "person responsible" means the person or persons
on board an aircraft who is or are alleged to have
committed an act of unlawful seizure; and
 - (d) "surrender" means the surrender of any person for
extradition by one party at the request of the
other for an extraditable offence.

- 2 -

2. This Agreement applies in respect of acts committed on board aircraft and its provisions shall be read in conjunction with any agreement with respect to extradition, heretofore or hereafter establishing procedures for extradition between the parties as it then may apply.

ARTICLE II

OBLIGATION OF STATE OF LANDING OF UNLAWFULLY SEIZED AIRCRAFT

1. When an aircraft of one party lands in the territory of the other after an act of unlawful seizure has been committed on board such aircraft, the party in whose territory the aircraft lands shall

- (a) immediately notify the diplomatic or consular representative of the other party;
- (b) in accordance with its laws, take all reasonable means to apprehend the person responsible and shall
 - (i) inform the other party of the identity of any person so apprehended and all relevant information with respect to such apprehension and person; and
 - (ii) allow duly authorized representatives of the other party to interview the person so apprehended for the purpose of securing additional information.
- (c) take all necessary measures to facilitate the continuation of the journey, without delay, of the passengers and crew aboard the aircraft and their possessions; and

- 3 -

- (d) make immediate arrangements to have the aircraft and its cargo returned to the operator of the aircraft, with the least possible delay.

ARTICLE III

SURRENDER OF PERSONS ALLEGED TO BE RESPONSIBLE FOR UNLAWFUL SEIZURE

1. The parties undertake to deliver up to each other any person or persons, who, being accused of committing an act of unlawful seizure of an aircraft of the one party, shall be found within the territory of the other party, and duly committed for extradition in accordance with the laws of the requested party governing extradition procedure.

2. A party may refuse to comply with a requisition for the surrender of a person accused of committing an act of unlawful seizure if it is determined by such authority as it designates that

- (a) the said requisition is, in fact, made for the purpose of securing control over the person requested so that he may be prosecuted or punished on account of his race, religion, nationality or for an offence of a political character; or
- (b) the person requested might, if surrendered, not receive a fair trial, or otherwise be placed in jeopardy, on account of his race, religion, nationality or political opinions; or
- (c) at the time the said requisition is made, the person requested is liable to the death penalty for the offence on which the requisition for his surrender is based but the law of the requested party does not provide for the death penalty for the same, or substantially the same, offence.

COMING INTO FORCE, DURATION AND TERMINATION

.....

ABBREVIATED
VERSION

DRAFT AGREEMENT BETWEEN THE GOVERNMENT
OF CANADA AND THE GOVERNMENT OF CUBA
CONCERNING UNLAWFUL SEIZURE OF AIRCRAFT

THE GOVERNMENT OF CANADA AND
THE GOVERNMENT OF CUBA

Desiring to co-operate to their mutual benefit
and to strengthen the bonds of understanding and goodwill
which now exist between them; and

Desiring to provide for the reciprocal extradition
of persons who have committed an act of unlawful seizure
of aircraft,

HAVE AGREED AS FOLLOWS:

ARTICLE I

GENERAL

1. This Agreement applies in respect of acts committed
on board civil aircraft

(a) registered under the laws of either
party, or

(b) operated under lease or charter by a
person or persons resident in or a
corporation established under the laws
of either party;

and a reference in this Agreement to an aircraft of one
party means a civil aircraft so registered or operated.

2. In this Agreement unlawful seizure means an act
of interference, seizure or other wrongful exercise of
control of an aircraft in flight through force or the
threat thereof or any other unlawful means of securing
such control from the pilot-in-command of the aircraft
and a reference to a person responsible therefor means
the person or persons on board the aircraft who is or
are alleged to have committed such an act.

3. This Agreement and its provisions shall be read
in conjunction with any agreement with respect to extra-
dition, heretofore or hereafter establishing procedures
for extradition between the parties as it then may apply

- 2 -

and a reference herein to the surrender of any person means his surrender for extradition by one party at the request of the other for an extraditable offence.

ARTICLE II

OBLIGATION OF STATE OF LANDING OF
UNLAWFULLY SEIZED AIRCRAFT

1. When an aircraft of one party lands in the territory of the other after an act of unlawful seizure has been committed on board such aircraft, the party in whose territory the aircraft lands shall
 - (a) immediately notify the diplomatic or consular representative of the other party;
 - (b) in accordance with its laws, take all reasonable means to apprehend the person responsible therefor and shall
 - (i) inform the other party of the identity of any person so apprehended and all relevant information with respect to such apprehension and person; and
 - (ii) allow duly authorized representatives of the other party to interview the person so apprehended for the purpose of securing additional information.
 - (c) take all necessary measures to facilitate the continuation of the journey, without delay, of the passengers and crew aboard the aircraft and their possessions; and
 - (d) make immediate arrangements to have the aircraft and its cargo returned to the operator of the aircraft, with the least possible delay.

- 3 -

ARTICLE III

SURRENDER OF PERSONS ALLEGED TO BE RESPONSIBLE
FOR UNLAWFUL SEIZURE

1. The parties undertake to deliver up to each other any person or persons, who, being accused of committing an act of unlawful seizure of an aircraft of the one party, shall be found within the territory of the other party, and duly committed for extradition in accordance with the laws of the requested party governing extradition procedure.

2. A party may refuse to comply with a requisition for the surrender of a person accused of committing an act of unlawful seizure if it is determined by its Minister of Justice or such other authority as it designates to make the determination that

- (a) the request for surrender is, in fact, made for the purpose of securing control over the person requested so that he may be prosecuted or punished on account of his race, religion, nationality or for an offence of a political character;
or
- (b) the person requested might, if surrendered, not receive a fair trial, or otherwise be placed in jeopardy, on account of his race, religion, nationality or political opinions;
or
- (c) at the time of the request, the person requested is liable to the death penalty for the offence on which the request for his surrender is based but the law of the requested party does not provide for the death penalty in a similar case.

- 4 -

ARTICLE IV

COMING INTO FORCE, DURATION AND TERMINATION

1. This Agreement shall be ratified and the instruments of ratification shall be exchanged at Ottawa. The Agreement shall come into force thirty days after the date of the exchange of instruments of ratification.

2. Either of the Contracting Parties may terminate this Agreement at any time by giving notice to the other. In that event the Agreement shall cease to have effect six months after the receipt of the notice.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Agreement.

DONE in duplicate at Havana, this day of ,
one thousand nine hundred and seventy

FOR THE GOVERNMENT OF CANADA

.....

FOR THE GOVERNMENT OF CUBA

.....

DRAFT AGREEMENT BETWEEN THE GOVERNMENT OF
CANADA AND THE GOVERNMENT OF CUBA CONCERNING
UNLAWFUL SEIZURE OF AIRCRAFT

THE GOVERNMENT OF CANADA AND
THE GOVERNMENT OF CUBA

Desiring to co-operate to their mutual benefit and to strengthen
the bonds of understanding and goodwill which now exist between them; and

Desiring to provide for the reciprocal extradition of persons
who have committed an act of unlawful seizure of aircraft,
HAVE AGREED AS FOLLOWS:

ARTICLE I

GENERAL

1. This Agreement applies in respect of acts committed on board civil
aircraft

- (a) registered under the laws of either party, or
- (b) operated under lease or charter by a person or persons
resident in or a corporation established under the laws
of either party;

and a reference in this Agreement to an aircraft of one party means a civil
aircraft so registered or operated.

2. In this Agreement unlawful seizure means an act of interference,
seizure or other wrongful exercise of control of an aircraft in flight through
force or the threat thereof or any other unlawful means of securing such
control contrary to the will of ^{the person in command} ~~those normally in charge~~ of the aircraft and

a reference to a person responsible therefore means the person or persons on
board the aircraft who is or are alleged to be responsible for such ^{unlawful seizure} ~~an act~~.

3. This Agreement is subject to and its
provisions shall be read in conjunction with a
treaty which was concluded on the 3rd day of
October 1904, between His Majesty the King of the
United Kingdom of Great Britain and His Excellency
the President of the Republic of Cuba, for the
extradition of criminals and which establishes
procedures for extradition between the parties
hereto; and a reference in this Agreement to the
surrender of any person means his surrender for
extradition by one party at the request of the
other for an extraditable offence.

ARTICLE II

OBLIGATION OF STATE OF LANDING OF UNLAWFULLY SEIZED AIRCRAFT

1. Where an aircraft of one party lands in the territory of the other after an act of unlawful seizure has been committed, ^{the} party ^{whose} in the territory of which the aircraft lands shall immediately notify the diplomatic or consular representative of the other party.

2. The party in whose territory ^{an} the aircraft ^{which has been unlawfully seized} of the other party lands ~~after an act of unlawful seizure has been committed~~, shall, in accordance with its laws, take all reasonable means to apprehend the ^{or persons for such seizure} person responsible ~~therefor~~ and shall

(a) ^{inform} advise the other party of ^{the identity of any person apprehended} any apprehension, of the ^{together with any other} name of the person apprehended and of all relevant ^{circumstances} information with respect to such apprehension and person; and

(b) allow duly authorized representatives of the other party to interview the person ^{or persons} apprehended for the purpose of securing additional information.

3. The party in whose territory ^{unlawfully seized} an aircraft lands ~~after an act of unlawful seizure has been committed~~, shall

(a) take all necessary measures to facilitate the continuation of the journey, without delay, of the passengers and crew aboard the aircraft and their possessions; and

(b) make ~~immediate~~ arrangements to ~~return or have~~ ^{the aircraft and its cargo} returned to the operator of the aircraft, with the least possible delay, ~~the aircraft and any cargo that it may be carrying.~~

ARTICLE III

SURRENDER OF PERSONS ALLEGED TO BE RESPONSIBLE FOR UNLAWFUL SEIZURE

1. The parties undertake to deliver up to each other in accordance with this Agreement any person ^{or persons} who, being accused or convicted of unlawful seizure committed in the territory of the one party, shall be found within the territory of the other party, and duly committed for extradition in accordance with the laws of the requested State governing extradition procedure.

~~aircraft has landed, shall surrender the person alleged to be responsible for unlawful seizure, to the authorized representative of the other party for the purpose of conveying him within the jurisdiction of the requesting party in order that judicial proceedings may be taken against him.~~

2. A party may refuse to comply with a request for surrender made under this Agreement where it is determined by its Minister of Justice or such other authority as it designates to make the determination that

(a) the request for surrender, although purporting to be made in relation to unlawful seizure, is, in fact, made for the purpose of securing control over the person alleged to be responsible so that he may be prosecuted or punished on account of his race, religion, nationality or for an offence of a political character; or

(b) the person alleged to be responsible might, if surrendered, not receive a fair trial, or otherwise be placed in jeopardy, on account of his race, religion, nationality or political opinions; or

(c) at the time of the request, the person requested is liable to the death penalty for the offence ^{in respect of} ~~on~~ which the request for his surrender is based but the law of the requested party does not provide for the death penalty in a similar case.

3. ~~Neither party is obliged to surrender its own citizens to the other party.~~

4. The refusal of a party to surrender a person alleged to be responsible for unlawful seizure of an aircraft of the other party shall not limit in any way the right or duty of the party requested to surrender such person, to proceed against him in accordance with its own laws.

ARTICLE IV

COMING INTO FORCE, DURATION AND TERMINATION

1. This Agreement shall be ratified and the instruments of ratification shall be exchanged at Ottawa. The Agreement shall come into force thirty days after the date of the exchange of instruments of ratification.

ART VI
Treaty

ART. 4 (7)
Auction

ART III
Treaty

Not mention
from Canada
reimbursement
for as law
enforcement
is named.

2. Either of the Contracting Parties may terminate this Agreement at any time by giving notice to the other. In that event the Agreement shall cease to have effect six months after the receipt of the notice.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Agreement.

DONE in duplicate at Havana, this day of ,
one thousand nine hundred .

FOR THE GOVERNMENT OF CANADA

.....

FOR THE GOVERNMENT OF CUBA

.....

DRAFT AGREEMENT BETWEEN THE GOVERNMENT
OF CANADA AND THE GOVERNMENT OF CUBA
CONCERNING UNLAWFUL SEIZURE OF AIRCRAFT

THE GOVERNMENT OF CANADA AND
THE GOVERNMENT OF ^{the Republic of} CUBA

Desiring to co-operate to their mutual benefit and to strengthen the bonds of understanding and goodwill which now exist between them; and

Desiring to provide for the reciprocal extradition of persons who have committed an act of unlawful seizure of aircraft,

HAVE AGREED AS FOLLOWS:

ARTICLE I

GENERAL

1. This Agreement applies in respect of acts committed on board civil aircraft

(a) registered under the laws of either party, or

(b) operated under lease or charter by a person or persons resident in or a corporation established under the laws of either party;

and a reference in this Agreement to an aircraft of one party means a civil aircraft so registered or operated.

2. In this Agreement unlawful seizure means an act of interference, seizure or other wrongful exercise of control of an aircraft in flight through force or the threat thereof or any other unlawful

from the
means of securing such control ~~contrary to the~~
pilot-in-command
~~will of those normally in charge~~ of the aircraft
and a reference to a person responsible therefore
means the person or persons on board the aircraft
who is or are alleged to ^{have committed an act of} ~~be responsible for such~~
unlawful seizure.
~~an act.~~

3. This Agreement and its provisions shall
be read in conjunction with any agreement with
respect to extradition, heretofore or hereafter
establishing procedures for extradition between
the parties as it then may apply and a reference
in this Agreement to the surrender of any person
means his surrender for extradition by one party
at the request of the other for an ^{extraditable} offence. ~~made~~
~~extraditable by any agreement with respect to~~
~~extradition.~~

ARTICLE II

OBLIGATION OF STATE OF LANDING OF UNLAWFULLY SEIZED AIRCRAFT

1. Where an aircraft of one party lands in
the territory of the other after an act of
unlawful seizure has been committed ^{on board such aircraft}, the party
whose
in the territory of which the aircraft lands
shall immediately notify the diplomatic or
consular representative of the other party.

2. The party in whose territory ^{such} the aircraft
~~of the other party~~ lands after an act of unlaw-
ful seizure has been committed ^{thereon}, shall, in
accordance with its laws, take all reasonable
means to apprehend the person responsible
therefor and shall

party, shall be found within the territory of the
~~notification-required-by-Article-II(1),-the-party~~
other party, and duly committed for extradition in
~~in-whose-territory-the-aircraft-has-landed,-shall-~~
accordance with the laws of the requested party govern-
~~surrender-the-person-alleged-to-be-responsible-~~
ing extradition procedure.
~~for-unlawful-seizure,-to-the-authorized-represent--~~

~~ative-of-the-other-party-for-the-purpose-of~~

~~conveying-him-within-the-jurisdiction-of-the~~

~~requesting-party-in-order-that-judicial-proceed-~~

~~ings-may-be-taken-against-him.-~~

2. A party may refuse to comply with a ^{requisition} request
for surrender made under this Agreement where it
is determined by its Minister of Justice or such
other authority as it designates to make the
determination that

(a) the request for surrender, although
purporting to be made in relation to
unlawful seizure, is, in fact, made
for the purpose of securing control
over the person ^{requested} ~~alleged-to-be~~
responsible so that he may be
prosecuted or punished on account of
his race, religion, nationality or for
an offence of a political character; or

(b) the person ^{requested} ~~alleged-to-be-responsible-~~
might, if surrendered, not receive a

- 5 -

fair trial, or otherwise be placed
in jeopardy, on account of his race,
religion, nationality or political
opinions; or

(c) at the time of the request, the person
requested is liable to the death penalty
for the offence on which the request
for his surrender is based but the law
of the requested party does not provide
for the death penalty in a similar case.

3. Neither party is obliged to surrender its
own citizens to the other party.

4. The refusal of a party to surrender a
person alleged to be responsible for unlawful
seizure of an aircraft of the other party shall
not limit in any way the right or duty of the
party requested to surrender such person, to
proceed against him in accordance with its own
laws.

ARTICLE IV

COMING INTO FORCE, DURATION AND TERMINATION

1. This Agreement shall be ratified and
the instruments of ratification shall be exchanged
at Ottawa. The Agreement shall come into force

../6.

- 6 -

thirty days after the date of the exchange of
instruments of ratification.

2. Either of the Contracting Parties may
terminate this Agreement at any time by giving
notice to the other. In that event the Agreement
shall cease to have effect six months after
the receipt of the notice.

IN WITNESS WHEREOF the respective Pleni-
potentiaries have signed the present Agreement.

DONE in duplicate at (Havana) this
day of , one thousand nine
hundred seventy. *in the English, French and Spanish
languages, the three texts being equally authentic.*

FOR THE ~~GOVERNMENT~~ OF CANADA

.....

the Republic of
FOR THE ~~GOVERNMENT~~ OF CUBA

.....

PROJET D'ACCORD ENTRE LE GOUVERNEMENT DU CANADA
ET LE GOUVERNEMENT DE CUBA CONCERNANT LA (CAPTURE)
ILLICITE D'AERONEFS

LE GOUVERNEMENT DU CANADA ET

LE GOUVERNEMENT DE CUBA

Désirant coopérer pour leur avantage mutuel et renforcer les liens
de bonne entente *et (d'amitié)* qui existent présentement entre eux;
et

Désirant assurer l'extradition réciproque des personnes qui ont
commis un acte de capture illicite d'aéronefs,
SONT CONVENUS DE CE QUI SUIT:

ARTICLE 1

GENERALITES

1. Le présent Accord s'applique à l'endroit des actes commis à bord
d'aéronefs civils

- a) immatriculés conformément aux lois de l'une ou l'autre des
parties, ou
- b) exploités aux termes d'un bail ou d'un contrat d'affrètement
par une personne ou des personnes résidant dans l'un ou l'autre
Etat contractant ou par une société établie en vertu des lois
de l'une ou l'autre des parties;

et toute mention, dans le présent Accord, de l'aéronef d'une partie signifie
un aéronef civil ainsi immatriculé ou exploité.

2. Dans le présent Accord, capture illicite signifie un acte d'intervention,
de capture ou autre acte de contrôle illicite d'un aéronef en vol par violence
ou menace de violence ou par tout autre moyen ^{procédé} illicite de s'assurer ce contrôle
contre la volonté de ^{le pilote commandant de} ceux qui sont normalement en charge de l'aéronef;
l'expression "personne responsable" signifie donc la personne ou les personnes
à bord qui sont présumées responsables d'un acte de ce genre.

3. Le présent Accord et ses dispositions doivent se lire et s'interpréter
en fonction de tout accord relatif à l'extradition déjà existant ou à venir,
établissant des procédures d'extradition entre les parties, et toute mention
faite dans le présent Accord de l'extradition d'une personne signifie son
extradition par une partie à la demande de l'autre, en raison d'un délit

entraînant l'extradition aux termes de tout accord relatif à l'extradition.

ARTICLE II

OBLIGATION DE L'ETAT OU ATTERRIT UN AERONEF CAPTURE ILLICITEMENT

1. Si un aéronef d'une partie atterrit dans le territoire de l'autre après qu'un acte de capture illicite a été commis, l'Etat dans le territoire duquel l'aéronef atterrit doit avertir immédiatement le représentant diplomatique ou consulaire de l'autre partie.

2. L'Etat dans le territoire duquel l'aéronef de l'autre partie atterrit après qu'un acte de capture illicite a été commis doit prendre, conformément à ses lois, toutes dispositions raisonnables pour l'arrestation de la personne responsable, et doit

- a) faire connaître à l'autre partie toute arrestation, avec le nom de la personne arrêtée et tous détails pertinents concernant cette arrestation et cette personne; et
- b) permettre aux représentants dûment autorisés de l'autre partie (d'interroger) la personne arrêtée afin d'obtenir des renseignements supplémentaires.

3. L'Etat dans le territoire duquel un aéronef atterrit après qu'un acte de capture illicite a été commis doit

- a) prendre toutes les mesures nécessaires pour faciliter la poursuite, sans retard, du voyage des passagers, de l'équipage et de leurs possessions qui se trouvent à bord de l'aéronef; et
- b) prendre immédiatement des dispositions pour retourner ou faire retourner à l'exploitant, avec le moins de retard possible, l'aéronef et toute cargaison qui est à son bord.

ARTICLE III

(EXTRADITION) DES PERSONNES PRESUMÉES RESPONSABLES DE CAPTURE ILLICITE D'AERONEFS

I. Lorsqu'un aéronef d'une des parties a été illicitement capturé et qu'une demande officielle est présentée, au plus tard soixante jours après

réception de l'avis exigé par l'Article 11 (1), l'Etat dans le territoire duquel l'aéronef a atterri livrera la personne présumée coupable de capture illicite au représentant autorisé de l'autre partie afin que ladite personne soit transportée dans la juridiction de la partie qui a présenté la demande et que des poursuites judiciaires puissent être engagées contre cette personne.

2. Une des parties peut refuser de se conformer à une demande d'extradition présentée en vertu du présent Accord lorsque le ministre de la Justice de cette partie ou toute autre autorité désignée par celle-ci à cette fin juge que

- a) la demande d'extradition, bien qu'étant censée avoir trait à une capture illicite, est de fait présentée pour obtenir la mainmise sur la personne présumée responsable afin qu'elle puisse être poursuivie ou punie en raison de sa race, de sa religion, de sa nationalité ou pour une infraction qui revêt un caractère politique; ou que
- b) la personne présumée responsable, si elle était livrée, ne bénéficierait pas d'un juste procès ou serait autrement mise en danger en raison de sa race, de sa religion, de sa nationalité ou de ses opinions politiques; ou que
- c) la personne demandée, au moment de la demande d'extradition, est passible de la peine de mort à cause de l'infraction sur laquelle la demande est fondée, tandis que le droit de l'Etat prié de l'extrader ne prévoit pas la peine de mort dans un cas semblable.

3. Aucune des parties n'est obligée de livrer ses propres citoyens à l'autre partie.

4. Le refus d'une partie de livrer une personne présumée responsable de capture illicite d'un aéronef de l'autre partie ne limite d'aucune manière le droit ni le devoir de la partie priée d'extrader cette personne de poursuivre cette dernière conformément à ses propres lois.

ARTICLE 1V

ENTREE EN VIGUEUR, DUREE ET DENONCIATION

1. Le présent Accord doit être ratifié et les instruments de ratification seront échangés à . L'Accord entrera en vigueur trente jours après la

date de l'échange des instruments de ratification.

2. L'une ou l'autre des Parties contractantes peut en tout temps dénoncer le présent Accord en adressant une notification à l'autre.

Dans ce cas, l'Accord cessera d'être en vigueur six mois après la date de réception de la notification.

EN FOI DE QUOI les plénipotentiaires respectifs des parties ont signé le présent Accord

FAIT en deux exemplaires à La Havane, le mil neuf
cent soixante-dix

POUR LE CANADA

.....

POUR LA REPUBLIQUE DE CUBA

.....

PROJET D'ACCORD ENTRE LE GOUVERNEMENT DU CANADA
ET LE GOUVERNEMENT DE CUBA CONCERNANT LA CAPTURE
ILLICITE D'AERONEFS

LE GOUVERNEMENT DU CANADA ET
LE GOUVERNEMENT DE CUBA

Désirant coopérer pour leur avantage mutuel et renforcer les
de l'amitié
liens de bonne entente/qui existent présentement entre eux, et

Désirant assurer l'extradition réciproque des personnes qui ont
commis un acte de capture illicite d'aéronefs,
SONT CONVENUS DE CE QUI SUIT:

ARTICLE I

GÉNÉRALITÉS

1. Le présent Accord s'applique à l'endroit des actes commis à bord
d'aéronefs civils

- a) immatriculés conformément aux lois de l'une ou l'autre
des parties, ou
- b) exploités aux termes d'un bail ou d'un contrat d'affrètement
par une personne ou des personnes résidant dans l'un ou l'autre
Etat contractant ou par une société établie en vertu des lois
de l'une ou l'autre des parties;

et toute mention, dans le présent Accord, de l'aéronef d'une partie signifie
un aéronef civil ainsi immatriculé ou exploité.

2. Dans le présent Accord, capture illicite signifie un acte d'intervention,
de capture ou autre acte de contrôle illicite d'un aéronef en vol par violence
ou menace de violence ou par tout autre moyen illicite de s'assurer ce contrôle
en l'enlevant au pilote/de l'aéronef; l'expression "personne responsable" signifie
commandant de bord
donc la personne ou les personnes à bord qui sont présumées responsables d'un
acte de capture illicite.

3. Le présent Accord et ses dispositions doivent se lire (et s'interpréter)
en fonction de tout accord relatif à l'extradition déjà existant ou à venir
établissant une procédure d'extradition entre les parties, et toute mention
faite dans le présent Accord de l'extradition d'une personne signifie son
extradition par une partie à la demande de l'autre, en raison d'un délit
entraînant l'extradition.

ARTICLE IIOBLIGATION DE L'ÉTAT OU ATTERRIT
UN AERONEF CAPTURÉ ILLICITEMENT

1. ^{Lorsqu'} Si un aéronef d'une partie atterrit dans le territoire de l'autre après qu'un acte de capture illicite a été commis à son bord, l'Etat contractant dans le territoire duquel l'aéronef atterrit doit notifier immédiatement le représentant diplomatique ou consulaire de l'autre partie.
2. L'Etat contractant dans le territoire duquel l'aéronef atterrit après qu'un acte de capture illicite a été commis à son bord doit prendre, conformément à ses lois, toutes dispositions raisonnables pour l'arrestation de la personne responsable, et doit
 - a) faire connaître à l'autre partie l'identité de toute personne ainsi arrêtée, ainsi que toutes les circonstances pertinentes se rattachant à cette arrestation et à cette personne; et
 - b) permettre aux représentants dûment autorisés de l'autre partie d'interroger toute personne ainsi arrêtée.
3. L'Etat contractant dans le territoire duquel un aéronef atterrit après qu'un acte de capture illicite a été commis à bord doit
 - a) prendre toutes les mesures nécessaires pour faciliter la poursuite, sans retard, du voyage des passagers, de l'équipage et de leurs possessions qui se trouvent à bord de l'aéronef; et
 - b) prendre immédiatement des dispositions pour retourner l'aéronef et sa cargaison à l'exploitant.

ARTICLE IIIEXTRADITION DES PERSONNES PRÉSUMÉES RESPONSABLES
DE CAPTURE ILLICITE D'AÉRONEFS

1. Les parties s'engagent à livrer l'une à l'autre toute personne ou toutes personnes qui, étant accusée(s) d'avoir commis un acte de capture illicite d'un aéronef d'une des parties, sera (seront) trouvée(s) dans le territoire de l'autre partie et dûment mise(s) en état d'extradition conformément aux lois régissant la procédure d'extradition de la partie à qui il est demandé de le faire.

2. Une des parties peut refuser de se conformer à une demande d'extradition présentée en vertu du présent Accord lorsque le ministre de la Justice de cette partie, ou toute autre autorité désignée par celle-ci à cette fin, juge que

- a) la demande d'extradition, bien qu'étant censée avoir trait à une capture illicite, est de fait présentée pour obtenir la mainmise sur la personne demandée afin qu'elle puisse être poursuivie ou punie en raison de sa race, de sa religion, de sa nationalité ou pour une infraction qui revêt un caractère politique; ou que
- b) la personne demandée, si elle était livrée, ne bénéficierait par d'un juste procès ou serait autrement mise en danger en raison de sa race, de sa religion, de sa nationalité ou de ses opinions politiques; ou que
- c) la personne demandée, au moment de la demande d'extradition, est passible de la peine de mort à cause de l'infraction sur laquelle la demande est fondée, tandis que le droit de l'Etat prié de l'extrader ne prévoit pas la peine de mort dans un cas semblable.

3. Aucune des parties n'est obligée de livrer ses propres citoyens à l'autre partie.

4. Le refus d'une partie de livrer une personne présumée responsable de capture illicite d'un aéronef de l'autre partie ne limite d'aucune manière le droit ni le devoir de la partie priée d'extrader cette personne de poursuivre cette dernière conformément à ses propres lois.

ARTICLE IV

ENTREE EN VIGUEUR, DUREE ET DENONCIATION

1. Le présent Accord doit être ratifié et les instruments de ratification seront échangés à . L'Accord entrera en vigueur trente jours après la date de l'échange des instruments de ratification.

2. L'une ou l'autre des Parties contractantes peut en tout temps dénoncer le présent Accord en adressant une notification à l'autre. Dans ce cas, l'Accord cessera d'être en vigueur six mois après la date de réception de la notification.

EN FOI DE QUOI les plénopotentiaires respectifs des parties ont signé le présent Accord.

FAIT en deux exemplaires à la Havane, le mil
neuf cent soixante-dix.

POUR LE GOUVERNEMENT DU CANADA

.....

POUR LE GOUVERNEMENT DE LA
REPUBLIQUE DE CUBA

.....

Version 3
(abrégée)

PROJET D'ACCORD ENTRE LE GOUVERNEMENT
DU CANADA ET LE GOUVERNEMENT DE LA
REPUBLIQUE DE CUBA CONCERNANT LA
CAPTURE ILLICITE D'AERONEFS

Révision canadienne II

(Version abrégée)

LE GOUVERNEMENT DU CANADA ET

LE GOUVERNEMENT DE LA REPUBLIQUE DE CUBA

Désirant coopérer pour leur avantage mutuel et renforcer les liens de bonne entente/^{et d'amitié} qui existent présentement entre eux; et

Désirant assurer l'extradition réciproque des personnes qui ont commis un acte de capture illicite d'aéronefs,

SONT CONVENUS DE CE QUI SUIT:

ARTICLE I

1. Le présent Accord s'applique à l'endroit des actes commis à bord d'aéronefs civils

- a) immatriculés conformément aux lois de l'une ou l'autre des parties, ou
- b) exploités aux termes d'un bail ou d'un contrat d'affrètement par une personne ou des personnes résidant dans l'un ou l'autre Etat contractant ou par une société établie en vertu des lois de l'une ou l'autre des parties;

et toute mention, dans le présent Accord, de l'aéronef d'une partie signifie un aéronef civil ainsi immatriculé ou exploité.

2. Dans le présent Accord, capture illicite signifie un acte d'intervention, de capture ou autre acte de contrôle illicite d'un aéronef en vol par violence ou menace de violence, ou par tout autre moyen illicite de s'assurer ce contrôle en l'enlevant au ^{commandant de bord} pilote/de l'aéronef; l'expression "personne responsable" signifie donc la personne ou les personnes à bord de l'aéronef qui sont présumées responsables d'un tel acte.

3. Le présent Accord et ses dispositions doivent se lire et s'interpréter en fonction de tout accord d'extradition déjà existant ou à venir établissant des procédures d'extradition entre les parties, et toute mention faite dans le présent Accord de l'extradition d'une personne signifie son extradition par une partie à la demande de l'autre en raison d'un délit entraînant l'extradition.

ARTICLE II

1. ^{Lorsqu'} Si un aéronef d'une partie atterrit dans le territoire de l'autre après qu'un acte de capture illicite a été commis à son bord, l'Etat dans le territoire duquel l'aéronef atterrit doit
- a) notifier immédiatement le représentant diplomatique ou consulaire de l'autre partie;
 - b) conformément à ses lois, prendre toutes dispositions raisonnables pour l'arrestation de la personne responsable, et
 - (i) faire connaître à l'autre partie l'identité de toute personne ainsi arrêtée, ainsi que toutes les circonstances se rattachant à cette arrestation et à cette personne, et
 - (ii) permettre aux représentants dûment autorisés de l'autre partie d'interroger toute personne ainsi arrêtée;
 - c) prendre toutes les mesures nécessaires pour faciliter la poursuite, sans retard, du voyage des passagers, de l'équipage et de leurs possessions qui se trouvent à bord de l'aéronef; et
 - d) prendre immédiatement des dispositions pour retourner l'aéronef et sa cargaison à l'exploitant.

ARTICLE III

1. Les parties s'engagent à livrer l'une à l'autre toute personne ou toutes personnes qui, étant accusée(s) d'avoir commis un acte de capture illicite d'un aéronef d'une des parties, sera (seront) trouvée(s) dans le territoire de l'autre partie et dûment mise ^(s) en état d'extradition conformément aux lois régissant la procédure d'extradition de la partie à qui il est demandé de le faire.

2. Une partie peut refuser de se conformer à une demande d'extradition d'une personne accusée d'avoir commis un acte de capture illicite d'aéronefs si le ministre de la Justice de cette partie ou toute autre autorité désignée par celle-ci à cette fin juge que

- a) la demande d'extradition, bien qu'étant censée avoir trait à une capture illicite, est de fait présentée pour obtenir la mainmise sur la personne demandée afin qu'elle puisse être poursuivie ou punie pour des considérations de race, de religion, de nationalité ou pour une infraction qui revêt un caractère politique; ou que
- b) la personne demandée, si elle était livrée, ne bénéficierait pas d'un juste procès ou serait autrement mise en danger pour des considérations de race, de religion, de nationalité ou d'opinions politiques; ou que

- c) la personne demandée, au moment de la demande d'extradition, est passible de la peine de mort à cause de l'infraction sur laquelle la demande est fondée, tandis que le droit de l'Etat prié l'extrader ne prévoit pas la peine de mort dans un cas semblable.

ARTICLE IV

1. Le présent Accord doit être ratifié et les instruments de ratification seront échangés à . L'Accord entrera en vigueur trente jours après la date de l'échange des instruments de ratification.
2. L'une ou l'autre des Parties contractantes peut en tout temps dénoncer le présent Accord en adressant une notification à l'autre. Dans ce cas, l'Accord cessera d'être en vigueur six mois après la date de réception de la notification.

EN FOI DE QUOI les plénipotentiaires respectifs des parties ont signé le présent Accord.

FAIT en deux exemplaires à , le
mil neuf cent soixante-dix, en anglais, en français et en espagnol, les trois versions faisant également foi.

POUR LE CANADA

.....

POUR LA REPUBLIQUE DE CUBA

.....

1905.

TREATY

BETWEEN

THE UNITED KINGDOM AND CUBA

FOR THE

MUTUAL SURRENDER OF FUGITIVE
CRIMINALS.

Signed at Havana, October 3, 1904.

[*Ratifications exchanged at Havana, January 10, 1905.*]

*Presented to both Houses of Parliament by Command of His Majesty.
June 1905.*

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TREATY BETWEEN THE UNITED KINGDOM AND CUBA FOR THE MUTUAL SURRENDER OF FUGITIVE CRIMINALS.

Signed at Havana, October 3, 1904.

[Ratifications exchanged at Havana, January 10, 1905.]

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and His Excellency the President of the Republic of Cuba, having determined, by common consent, to conclude a Treaty for the extradition of criminals, have accordingly named as their Plenipotentiaries:

His Majesty the King of the United Kingdom of Great Britain and Ireland, Lionel E. G. Carden, Esq., Minister Resident of Great Britain in Cuba, and His Excellency the President of the Republic of Cuba, Carlos E. Ortiz y Coffigny, Secretary of State and Justice; who, after having exhibited to each other their respective full powers and

Su Majestad el Rey del Reino Unido de la Gran Bretaña é Irlanda y de las Posesiones Británicas de Ultramar, Emperador de la India, y Su Excelencia el Presidente de la República de Cuba, habiendo resuelto, por mútuo convenio, celebrar un Tratado para la extradición de criminales, han convenido en nombrar por sus Plenipotenciarios:

Su Majestad el Rey del Reino Unido de la Gran Bretaña é Irlanda, al Sr. Lionel E. G. Carden, Ministro Residente de la Gran Bretaña en Cuba, y Su Excelencia el Presidente de la República de Cuba, al Sr. Carlos E. Ortiz y Coffigny, Secretario de Estado y Justicia; quienes, después de haberse exhibido sus respectivos plenos poderes y

found them in good order and due form, have agreed upon the following Articles:—

encontrarlos en buena y debida forma, han convenido en los siguientes artículos:—

ARTICLE I.

The High Contracting Parties engage to deliver up to each other, under certain circumstances and conditions stated in the present Treaty, those persons who, being accused or convicted of any of the crimes or offences enumerated in Article II, committed in the territory of the one Party, shall be found within the territory of the other Party.

ARTICULO I.

Las Altas Partes Contratantes se obligan á entregarse mutuamente, en las circunstancias y con las condiciones estipuladas en el presente Tratado, las personas que, procesadas ó condenadas por alguno de los crímenes ó delitos enumerados en el artículo II y cometidos en el territorio de una de las Partes, sean encontradas en el territorio de la otra Parte.

ARTICLE II.

Extradition shall be reciprocally granted for the following crimes or offences:—

1. Murder, or attempt or conspiracy to murder.

2. Manslaughter.

3. Administering drugs or using instruments with intent to procure the miscarriage of women.

4. Rape.

5. Carnal knowledge or any attempt to have carnal knowledge of a girl under the age of puberty according to the laws of the respective countries.

6. Indecent assault.

7. Kidnapping and false imprisonment, child-stealing.

8. Abduction.

9. Bigamy.

10. Maliciously wounding or inflicting grievous bodily harm.

ARTICULO II.

La extradición se concederá recíprocamente cuando se trate de los siguientes crímenes ó delitos:—

1. Asesinato, parricidio, infanticidio; ó la tentativa de cualquiera de estos delitos.

2. Homicidio.

3. El empleo de drogas ó instrumentos con el propósito de hacer abortar á una mujer.

4. Violación.

5. Acceso carnal ó la tentativa de acceso carnal con una menor impúber según las leyes de los respectivos países.

6. Abusos deshonestos.

7. Detención ilegal y sustracción de menores.

8. Rapto.

9. Bigamia.

10. Heridas ó golpes que ocasionen graves lesiones, unas y otros dados intencionalmente.

11. Assault occasioning actual bodily harm.

12. Threats, by letter or otherwise, with intent to extort money or other things of value.

13. Perjury or subornation of perjury.

14. Arson.

15. Burglary or house-breaking, robbery with violence, larceny, or embezzlement.

16. Fraud by a bailee, banker, agent, factor, trustee, director, member, or public officer of any Company.

17. Obtaining money, valuable security, or goods by false pretences; receiving any money, valuable security, or other property, knowing the same to have been stolen or unlawfully obtained.

18. (a.) Counterfeiting or altering money or bringing into circulation counterfeited or altered money.

(b.) Knowingly making without lawful authority any instrument, tool, or engine adapted and intended for the counterfeiting of the coin of the realm.

(c.) Forgery, or uttering what is forged.

19. Crimes against bankruptcy law.

20. Any malicious act done with intent to endanger the safety of any persons travelling or being upon a railway.

21. Malicious injury to property, if such offence be indictable.

22. Piracy and other crimes or offences committed at sea against persons or things which, according to the laws of the

11. Agresión violenta contra las personas que ocasione lesión corporal.

12. Amenazas en cartas ó hechas en otra forma con el fin de obtener dinero ú otros objetos de valor.

13. Perjurio ó soborno para que se cometa perjurio.

14. Incendio.

15. Allanamiento de morada, robo, hurto ó estafa.

16. Fraude cometido por un depositario, banquero, agente, factor, administrador, director, miembro ó empleado público de alguna compañía.

17. Obtener con engaño dinero, documentos de valor ó efectos muebles; ocultación ó aprovechamiento de dinero, documentos de valor ó efectos muebles robados ú obtenidos ilegalmente sabiéndolo.

18. (a.) Falsificación ó alteración de la moneda ó poner en circulación moneda falsa ó alterada.

(b.) Fabricar á sabiendas sin autorización legal algún instrumento, utensilio ó máquina adaptada y destinada conocida-mente á la falsificación de moneda acuñada del Estado.

(c.) Falsificación ó poner en circulación lo falsificado.

19. Delitos relacionados en la ley de quiebras.

20. Cualquier acto criminal ejecutado con el propósito de poner en peligro la seguridad de alguna persona que viaje ó esté en un ferrocarril.

21. Daños intencionales causados á la propiedad, si el hecho fuere penable.

22. Piratería y otros crímenes ó delitos cometidos en el mar contra las personas ó cosas 000162 según las leyes de las -----

High Contracting Parties, are extradition offences, and are punishable by more than one year's imprisonment.

23. Dealing in slaves in such manner as to constitute a criminal offence against the laws of both States.

Extradition shall also be granted for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both Contracting Parties.

Extradition may also be granted at the discretion of the State applied to in respect of any other crime for which, according to the law of both the Contracting Parties for the time being in force, the grant can be made.

ARTICLE III.

Neither party is obliged to surrender its own subjects or citizens to the other party.

ARTICLE IV.

Extradition shall not take place if the person claimed on the part of His Majesty's Government, or of the Government of Cuba, has already been tried and discharged or punished, or is awaiting trial in the territory of the United Kingdom or in the Republic of Cuba respectively, for the crime for which his extradition is demanded.

If the person claimed on the part of His Majesty's Government, or of the Government of Cuba, should be awaiting trial

Partes Contratantes, estén sujetos á extradición y sean penables con más de un año de prisión.

23. Tráfico de esclavos en términos que constituyan delito contra las leyes de ambos Estados.

También se concederá la extradición de los cómplices de cualquiera de los expresados delitos con tal que la participación sea punible, conforme á las leyes de ambas Partes Contratantes.

Y podrá también concederse la extradición, á arbitrio del Estado á quien se pida por cualquier otro delito respecto del cual se puede conceder la extradición conforme á las leyes de ambas Partes Contratantes, vigentes en la época en que sea pedida.

ARTICULO III.

Ninguna de las Partes Contratantes queda obligada á entregar á sus propios súbditos ó ciudadanos á la otra Parte.

ARTICULO IV.

La extradición no se efectuará si la persona reclamada de parte del Gobierno de S. M., ó del de Cuba, ha sido ya juzgada y puesta en libertad, ó ha cumplido su pena, ó está pendiente de juicio, en el territorio del Reino Unido ó en el de la República de Cuba, respectivamente, por el delito, en cuya virtud se pide la extradición.

Si la persona reclamada, por parte del Gobierno de S. M., ó por el Gobierno de Cuba, estuviere pendiente de juicio, ó

or undergoing sentence for any other crime in the territory of the United Kingdom or in the Republic of Cuba respectively, his extradition shall be deferred until after he has been discharged, whether by acquittal or on expiration of sentence, or otherwise.

ARTICLE V.

Extradition shall not be granted if exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applying or applied to.

Neither shall it be granted if, according to the law of either country, the maximum punishment for the offence charged is imprisonment for less than one year.

ARTICLE VI.

A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he proves that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offence of a political character.

ARTICLE VII.

A person surrendered shall in no case be kept in prison or be brought to trial in the State to which the surrender has been made, for any other crime, or on account of any other matters, than those for which the extra-

sufriendo condena por algún otro delito, en el territorio del Reino Unido ó en el de la República de Cuba, respectivamente, su extradición se diferirá hasta que sea puesto en libertad, ya por absolución, ya por extinción de condena, ó por otra causa.

ARTICULO V.

No se concederá la extradición si, por razón del tiempo transcurrido, ha prescrito la acción judicial, ó la pena, con arreglo á las leyes del Estado, que solicite la extradición, ó las del que haya de concederla.

Tampoco se concederá si, con arreglo á las leyes de cada país, el máximo de la pena que corresponda al delito de que se trate es menor de un año de prisión.

ARTICULO VI.

Un criminal prófugo no será entregado si el delito, en cuya virtud se pide la extradición, es de carácter político, ó si prueba que la petición de su entrega se ha formulado, de hecho, con el fin de juzgarlo, ó castigarlo, por un delito de carácter político.

ARTICULO VII.

Una persona entregada, en ningún caso será detenida en prisión, ni será juzgada, en el Estado, á quien se concedió la extradición, por otro delito, ó en virtud de otras causas, que aquellos en cuya virtud se con-

dition shall have taken place, until he has been restored, or has had an opportunity of returning to the State by which he has been surrendered.

This stipulation does not apply to crimes committed after the extradition.

ARTICLE VIII.

The requisition for extradition shall be made through the Diplomatic Agents of the High Contracting Parties respectively.

The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

If the requisition relates to a person already convicted, it must be accompanied by a copy of the Judgment passed on the convicted person by the competent Court of the State that makes the requisition for extradition.

ARTICLE IX.

If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive.

ARTICLE X.

A criminal fugitive may be apprehended under a warrant

cedió dicha extradición, hasta que la referida persona haya sido devuelta ó haya tenido la oportunidad de regresar al Estado que la entregó.

Esta condición no comprende los delitos cometidos después de la extradición.

ARTICULO VIII.

La petición de extradición se hará por conducto de los Agentes Diplomáticos de las Altas Partes Contratantes respectivamente.

La petición de extradición de un procesado debe ir acompañada de un mandamiento ó auto de prisión expedido por la autoridad competente del Estado que pida la extradición, y de aquellas pruebas que, conforme á las leyes del lugar en que se encuentre dicho procesado, justificarían su detención, si el delito se hubiese cometido en dicho lugar.

Si la petición se refiere á persona que haya sido ya condenada, deberá ir acompañada de una copia de la sentencia dictada contra dicha persona, por el Tribunal competente del Estado que pida la extradición.

ARTICULO IX.

Si la demanda de extradición se hiciere, de conformidad con las precedentes estipulaciones, las autoridades competentes del Estado de quien se solicite procederán á la detención del fugitivo.

ARTICULO X.

Se podrá aprehender á un reo prófugo en virtud de un

issued by any competent authority in either country, on such information or complaint, and such evidence, or after such proceedings, as would, in the opinion of the authority issuing the warrant, justify the issue of a warrant if the crime had been committed or the person convicted in that part of the dominions of the two Contracting Parties in which the said authority exercises jurisdiction; provided, however, that in the United Kingdom the accused shall, in such case, be sent as speedily as possible before a Police Magistrate. In the Republic of Cuba the Government will decide by Administrative procedure on everything connected with extradition until a special procedure on the subject be established by law.

autoridad competente en uno ú otro país, fundado en los informes ó quejas, y en las pruebas ó diligencias que, en opinión de la autoridad que expida el inandamiento, justificarian este acto si el delito hubiese sido cometido, ó condenada la persona, en aquella parte de los dominios de ambas Partes Contratantes en la cual la referida autoridad competente ejerce jurisdicción; con tal, sin embargo, que en el Reino Unido el acusado sea consignado, en este caso, tan pronto como sea posible, á un Magistrado de Policía. En la República de Cuba el Gobierno decidirá administrativamente sobre todo lo concerniente á la extradición hasta que las leyes establezcan un procedimiento especial sobre la materia.

ARTICLE XI.

The extradition shall take place only if the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoner for trial, in case the crime had been committed in the territory of the same State, or if extradition is claimed in respect of an offence of which the fugitive has been already convicted, to prove that the prisoner is the person convicted, and that the crime of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the State applied to.

ARTICULO XI.

Solo tendrá lugar la extradición si, conforme á las leyes del Estado al cual se pide aquélla, se consideran suficientes las pruebas, para que el detenido hubiera sido sometido á juicio en caso de haberse perpetrado el delito en el territorio del mismo Estado, ó si la extradición ha sido pedida en virtud de un delito por el cual el fugitivo ha sido ya condenado, que el preso es la misma persona condenada por los tribunales del Estado que hace el requerimiento, y que el delito por el que fué condenado es de aquellos en punto á los cuales el Estado á quien se pidió la extradición, podía conceder esta en la época de la condenación.

In the examination which they have to make in accordance with the foregoing stipulations, the authorities of the State applied to shall admit as valid evidence the sworn depositions or the affirmations of witnesses taken in the other State, or copies thereof, and likewise the warrants and sentences issued therein, and certificates of, or judicial documents stating, the fact of a conviction, provided the same are authenticated as follows:—

1. A warrant must purport to be signed by a Judge, Magistrate, or officer of the other State.

2. Depositions or affirmations, or the copies thereof, must purport to be certified, under the hand of a Judge, Magistrate, or officer of the other State, to be the original depositions or affirmations, or to be true copies thereof, as the case may require.

3. A certificate of, or judicial document stating, the fact of a conviction must purport to be certified by a Judge, Magistrate, or officer of the other State.

4. In every case such warrant, deposition, affirmation, copy, certificate, or judicial document must be authenticated, either by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of the other State; but any other

Las autoridades del Estado al que se pida la extradición, en el examen que deben hacer conforme á las precedentes estipulaciones, admitirán como pruebas válidas las deposiciones ó declaraciones de testigos tomadas en el otro Estado bajo juramento ó bajo protesta de decir verdad, conforme lo prevenga su legislación, ó las copias de estas deposiciones ó declaraciones ó igualmente los mandamientos librados y sentencias pronunciadas en el Estado que pide la extradición, y los certificados del hecho de la condenación ó los documentos judiciales que lo comprueben, con tal que estén legalizados en la forma siguiente:—

1. Un mandamiento debe expresar que está firmado por un Juez, Magistrado ó funcionario del otro Estado.

2. Las deposiciones ó declaraciones, ó sus copias, deben expresar que están certificadas por un Juez, Magistrado ó funcionario del otro Estado, y que son las deposiciones ó declaraciones originales, ó copias exactas de las mismas, según lo exija el caso.

3. Un certificado del hecho de la condenación ó un documento judicial que lo compruebe, debe expresar que está certificado por un Juez, Magistrado ó funcionario del otro Estado.

4. En todo caso, este mandamiento, deposición, declaración, copia, certificado ó documento judicial, ha de ser legalizado, ó por el juramento de algún testigo, ó sellándose con el sello oficial del Ministro de Justicia ú otro Ministro del otro Estado; pero cualquiera otra forma de

mode of authentication for the time being permitted by the law of the country where the examination is taken may be substituted for the foregoing.

ARTICLE XIII.

If the individual claimed by one of the High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers on account of other crimes or offences committed upon their respective territories, his extradition shall be granted to the State whose demand is earliest in date.

ARTICLE XIV.

If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, or within such further time as the State applied to, or the proper Tribunal thereof, shall direct, the fugitive shall be set at liberty.

ARTICLE XV.

All articles seized which were in the possession of the person to be surrendered at the time of his apprehension shall, if the competent authority of the State applied to for the extradition has ordered the delivery of such articles, be given up when the extradition takes place; and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime.

legalización, permitida por la ley en la época y en el Estado donde se haga el examen, puede ser substituida por la precedente.

ARTICULO XIII.

Si el individuo reclamado por una de las dos Altas Partes Contratantes, en virtud del presente Tratado, lo fuere también por una ó por varias otras Potencias por razón de otros delitos cometidos en sus respectivos territorios, se concederá su extradición al Estado cuya demanda sea primera en fecha.

ARTICULO XIV.

Se pondrá en libertad al reo prófugo si no se produce prueba suficiente para la extradición, en el término de dos meses contados desde la fecha de su aprehensión, ó dentro del término que además de estos dos meses señale el Estado á quien se pide la extradición ó el Tribunal competente del mismo.

ARTICULO XV.

Todos los objetos secuestrados que, al tiempo de la aprehensión, estaban en poder del individuo á quien se ha de entregar, también serán entregados cuando la extradición tenga lugar, si la autoridad competente del Estado al que aquella se ha pedido ordena la entrega de los mencionados objetos; dicha entrega se extenderá, no solo á los objetos robados, sino á todo lo que pueda servir de prueba del delito.

ARTICLE XVI.

All expenses connected with extradition shall be borne by the demanding State.

ARTICLE XVII.

The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of His Britannic Majesty, so far as the laws in such Colonies and foreign possessions respectively will allow.

The requisition for the surrender of a fugitive criminal, who has taken refuge in any of such Colonies or foreign possessions, shall be made to the Governor or Chief authority of such Colony or possession by the chief Consular officer of the Republic of Cuba in such Colony or possession.

Such requisition may be disposed of, subject always, as nearly as may be, and so far as the law of such Colony or foreign possession will allow, to the provisions of this Treaty, by the said Governor or chief authority, who, however, shall be at liberty either to grant the surrender or to refer the matter to his Government.

His Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of Cuban criminals who may take refuge within such Colonies and foreign possessions, on the basis, so far as the law of such Colony or foreign possessions will allow, of the provisions of the present Treaty.

ARTICULO XVI.

Todos los gastos originados de la extradición serán por cuenta del Estado que la haya pedido.

ARTICULO XVII.

Las estipulaciones del presente Tratado se aplicarán a las Colonias y posesiones extranjeras de Su Majestad Británica, en cuanto lo permitan las leyes respectivas de dichas Colonias y posesiones extranjeras, vigentes en la época en que se pida la extradición.

La demanda para la entrega de un reo prófugo que se haya refugiado en alguna de estas Colonias ó posesiones, se hará al Gobernador ó principal autoridad de la Colonia ó posesión, por el principal Agente consular de la República de Cuba en la Colonia ó posesión.

La demanda puede ser resuelta, sujetándose siempre, tan exactamente como sea posible y en cuanto lo permitan las leyes de esta Colonia ó posesión extranjera, á las prevenciones de este Tratado, por el Gobernador ó autoridad principal, los cuales, sin embargo, estarán en libertad de conceder la entrega ó de someter el negocio á su Gobierno.

Su Majestad Británica, no obstante, estará en libertad para hacer arreglos especiales en las Colonias británicas y posesiones extranjeras, á efecto de entregar los reos cubanos que se refugien en esas Colonias ó posesiones, sobre la base, en cuanto lo permitan las leyes de la Colonia ó posesión extranjera, de las prevenciones del presente Tratado

Requisitions for the surrender of a fugitive criminal emanating from any Colony or foreign possession of His Britannic Majesty shall be governed by rules laid down in the preceding Articles of the present Treaty.

Las demandas para la entrega de un reo prófugo, emanadas de alguna Colonia ó posesión extranjera de Su Majestad Británica, se regirán por las reglas establecidas en los anteriores artículos del presente Tratado.

ARTICLE XVIII.

The present Treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties by a notice not exceeding one year, and not less than six months.

It shall be ratified, after receiving the approval of the Senate of the Republic of Cuba, and the ratifications shall be exchanged at Havana as soon as possible.

In witness whereof the respective Plenipotentiaries have signed the same, and affixed thereto their respective seals.

Done in duplicate at Havana the third day of October, nineteen hundred and four.

ARTICULO XVIII.

El presente Tratado comenzará á regir diez días después de su publicación, hecha conforme á las reglas prescritas por las leyes de las Altas Partes Contratantes. Una ú otra de las Altas Partes Contratantes puede ponerle término dando noticia á la otra, con una anticipación que no exceda de un año ni sea menor de seis meses.

Será ratificado, después de su aprobación por el Senado de la República de Cuba, y las ratificaciones se canjearán en la Habana, lo mas pronto posible.

En fé de lo cual, los respectivos Plenipotenciarios lo han firmado y sellado, con sus sellos oficiales.

Hecho en dos originales, en la Habana, el día tres de Octubre de mil novecientos cuatro.

(L.S.)
(L.S.)

LIONEL CARDEN.
C. E. ORTIZ.



CHAPTER 322.

An Act respecting the Extradition of Fugitive Criminals.

SHORT TITLE.

1. This Act may be cited as the *Extradition Act*. R.S., Short title.
c. 37, s. 1.

INTERPRETATION.

2. In this Act,

Definitions.

- (a) "conviction" or "convicted" does not include the case of a condemnation under foreign law by reason of contumacy; but "accused person" includes a person so condemned; "Conviction."
"Accused person."
- (b) "extradition arrangement" or "arrangement" means a treaty, convention or arrangement made by Her Majesty with a foreign state for the surrender of fugitive criminals that extends to Canada; "Extradition arrangement."
- (c) "extradition crime" may mean any crime that, if committed in Canada, or within Canadian jurisdiction, would be one of the crimes described in the First Schedule; and, in the application of this Act to the case of any extradition arrangement, "extradition crime" means any crime described in such arrangement, whether or not it is comprised in the said Schedule; "Extradition crime."
- (d) "foreign state" includes every colony, dependency and constituent part of the foreign state; and every vessel of a foreign state is deemed to be within the jurisdiction of and to be part of the state; "Foreign state."
- (e) "fugitive" or "fugitive criminal" means a person being or suspected of being in Canada, who is accused or convicted of an extradition crime committed within the jurisdiction of a foreign state; "Fugitive."
"Fugitive criminal."
- (f) "judge" includes any person authorized to act judicially in extradition matters; "Judge."
- (g) "warrant", in the case of a foreign state, includes any judicial document authorizing the arrest of a person accused or convicted of crime. R.S., c. 37, s. 2. "Warrant."

PART I.

EXTRADITION UNDER TREATY.

Application of Part.

As to exist-
ing arrange-
ments.

3. In the case of any foreign state with which there is an extradition arrangement, this Part applies during the continuance of such arrangement; but no provision of this Part that is inconsistent with any of the terms of the arrangement has effect to contravene the arrangement; and this Part shall be so read and construed as to provide for the execution of the arrangement. R.S., c. 37, s. 3.

As to limita-
tions, quali-
fications
and
exceptions
Imp. Act 33-
34 V., c. 52
and amend-
ments.

4. In the case of any foreign state with respect to which the application to the United Kingdom of the Act of the Parliament of the United Kingdom, passed in the year 1870, and intituled *An Act for amending the Law relating to the Extradition of Criminals*, and any Act or Acts amending the same, is made subject to any limitation, condition, qualification or exception, the Governor in Council shall make the application of this Part, subject to such limitation, condition, qualification or exception. R.S., c. 37, s. 4.

Orders
under
this Part
may be
revoked.

5. The Governor in Council may, at any time, revoke or alter, subject to the restrictions of this Part, any order made by him in council under this Part, and all the provisions of this Part with respect to the original order, so far as applicable, apply *mutatis mutandis* to the new order. R.S., c. 37, s. 5.

If the appli-
cation of
this Part
depends on
an order in
council.

6. This Part, so far as its application in the case of any foreign state, depends on or is affected by any order in council, made under this Part or referred to therein, shall apply, or its application shall be affected from and after the time specified in the order, or, if no time is specified, after the date of the publication of the order in the *Canada Gazette*. R.S., c. 37, s. 6.

Publication
of orders in
council
required.

7. Any order of Her Majesty in Council, referred to in this Part, and any order of the Governor in Council made under this Part, and any extradition arrangement shall be, as soon as possible, published in the *Canada Gazette* and laid before both Houses of Parliament. R.S., c. 37, s. 7.

Effect of
publication
in *Canada
Gazette*.

8. The publication in the *Canada Gazette* of an extradition arrangement or an order in council is evidence of the arrangement or order, and of the terms thereof, and

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of

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of the application of this Part, pursuant and subject thereto; and the court or judge shall take judicial notice, without proof, of such arrangement or order, and the validity of the order and the application of this Part, pursuant and subject thereto, shall not be questioned. R.S., c. 37, s. 8.

Judges and Commissioners.

9. (1) All judges of the superior courts and of the county courts of a province, and all commissioners who are, from time to time, appointed for the purpose, in a province by the Governor in Council, under the Great Seal of Canada, by virtue of this Part, are authorized to act judicially in extradition matters under this Part, within the province; and every such person has, for the purposes of this Part, all the powers and jurisdiction of any judge or magistrate of the province.

What judges may act in cases under this Part.

(2) Nothing in this section shall be construed to confer on any judge any jurisdiction in *habeas corpus* matters. R.S., c. 37, s. 9.

Extradition from Canada.

10. (1) Whenever this Part applies, a judge may issue his warrant for the apprehension of a fugitive on a foreign warrant of arrest, or an information or complaint laid before him, and on such evidence or after such proceedings as in his opinion would, subject to this Part, justify the issue of his warrant if the crime of which the fugitive is accused, or of which he is alleged to have been convicted, had been committed in Canada.

On what grounds a warrant may issue.

(2) The judge shall forthwith send a report of the fact of the issue of the warrant, together with certified copies of the evidence and foreign warrant, information or complaint, to the Minister of Justice. R.S., c. 37, s. 10.

Report to Minister of Justice.

11. A warrant issued under this Part may be executed in any part of Canada in the same manner as if it had been originally issued, or subsequently endorsed, by a justice of the peace having jurisdiction in the place where it is executed. R.S., c. 37, s. 11.

Execution of warrant.

12. Every fugitive criminal of a foreign state, to which this Part applies, is liable to be apprehended, committed and surrendered in the manner provided in this Part, whether the crime or conviction, in respect of which the surrender is sought, was committed or took place before or after the date of the arrangement, or before or after the time when this Part is made to apply to such state, and

Surrender not to depend on time when offence was committed, etc.

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whether

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whether there is or is not any criminal jurisdiction in any court of Her Majesty's dominions over the fugitive in respect of the crime. R.S., c. 37, s. 12.

Fugitive to
be brought
before
judge.

13. The fugitive shall be brought before a judge, who shall, subject to this Part, hear the case, in the same manner, as nearly as may be, as if the fugitive was brought before a justice of the peace, charged with an indictable offence committed in Canada. R.S., c. 37, s. 13.

Evidence of
charge.

14. The judge shall receive upon oath, or affirmation, if affirmation is allowed by law, the evidence of any witness tendered to show the truth of the charge or the fact of the conviction. R.S., c. 37, s. 14.

Evidence
that crime
is not an
extradition
crime.

15. The judge shall receive, in like manner, any evidence tendered to show that the crime of which the fugitive is accused or alleged to have been convicted is an offence of a political character, or is, for any other reason, not an extradition crime, or that the proceedings are being taken with a view to prosecute or punish him for an offence of a political character. R.S., c. 37, s. 15.

Depositions
taken out
of Canada.

16. Depositions or statements taken in a foreign state on oath, or on affirmation, where affirmation is allowed by the law of the state, and copies of such depositions or statements and foreign certificates of, or judicial documents stating the fact of conviction, may, if duly authenticated, be received in evidence in proceedings under this Part. R.S., c. 37, s. 16.

When to be
deemed
authen-
ticated.

17. The papers referred to in section 16 shall be deemed duly authenticated if authenticated in manner provided, for the time being, by law, or if

(a) the warrant purports to be signed by, or the certificate purports to be certified by, or the depositions or statements, or the copies thereof, purport to be certified to be the originals or true copies, by a judge, magistrate or officer of the foreign state; and

(b) the papers are authenticated by the oath or affirmation of some witness, or by being sealed with the official seal of the Minister of Justice, or some other minister of the foreign state, or of a colony, dependency or constituent part of the foreign state, of which seal the judge shall take judicial notice without proof. R.S., c. 37, s. 17.

18. (1) The judge shall issue his warrant for the committal of the fugitive to the nearest convenient prison, there to remain until surrendered to the foreign state, or discharged according to law, Evidence sufficient to justify committal.

(a) in the case of a fugitive alleged to have been convicted of an extradition crime, if such evidence is produced as would, according to the law of Canada, subject to this Part, prove that he was so convicted, and

(b) in the case of a fugitive accused of an extradition crime, if such evidence is produced as would, according to the law of Canada, subject to this Part, justify his committal for trial, if the crime had been committed in Canada.

(2) If such evidence is not produced, the judge shall order him to be discharged. Discharge. R.S., c. 37, s. 18.

19. Where the judge commits a fugitive to prison, he shall, on such committal, Judge shall give certain information to fugitives.

(a) inform him that he will not be surrendered until after the expiration of fifteen days, and that he has a right to apply for a writ of *habeas corpus*, and

(b) transmit to the Minister of Justice a certificate of the committal, with a copy of all the evidence taken before him not already so transmitted, and such report upon the case as he thinks fit. Transmit evidence to Minister of Justice. R.S., c. 37, s. 19.

20. (1) A requisition for the surrender of a fugitive criminal of a foreign state who is, or is suspected to be, in Canada, may be made to the Minister of Justice By whom requisition for surrender may be made.

(a) by any person recognized by him as a consular officer of that state resident at Ottawa, or

(b) by any minister of that state communicating with the Minister of Justice through the diplomatic representative of Her Majesty in that state.

(2) If neither of these modes is convenient, then the requisition shall be made in such other mode as is settled by arrangement. By arrangement. R.S., c. 37, s. 20.

21. No fugitive is liable to surrender under this Part if it appears Fugitive not liable to surrender.

(a) that the offence in respect of which proceedings are taken under this Act is one of a political character, or

(b) that such proceedings are being taken with a view to prosecute or punish him for an offence of a political character. R.S., c. 37, s. 21.

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Chap. 322.

Extradition

Part II

In cases specified, Minister may refuse to make order, or may cancel order already made.

22. Where the Minister of Justice at any time determines

(a) that the offence in respect of which proceedings are being taken under this Part is one of a political character,

(b) that the proceedings are, in fact, being taken with a view to try or punish the fugitive for an offence of a political character, or

(c) that the foreign state does not intend to make a requisition for surrender,

he may refuse to make an order for surrender, and may, by order under his hand and seal, cancel any order made by him, or any warrant issued by a judge under this Part, and order the fugitive to be discharged out of custody on any committal made under this Part; and the fugitive shall be discharged accordingly. R.S., c. 37, s. 22.

Delay before surrender.

23. A fugitive shall not be surrendered until after the expiration of fifteen days from the date of his committal for surrender, or, if a writ of *habeas corpus* is issued, until after the decision of the court remanding him. R.S., c. 37, s. 23.

If fugitive is an offender under Canadian law.

24. A fugitive who has been accused of an offence within Canadian jurisdiction, not being the offence for which his surrender is asked, or who is undergoing sentence under a conviction in Canada, shall not be surrendered until after he has been discharged, whether by acquittal or by expiration of his sentence, or otherwise. R.S., c. 37, s. 24.

Minister may order a surrender of fugitive to officer of a foreign state.

25. Subject to this Part, the Minister of Justice, upon the requisition of the foreign state, may, under his hand and seal, order a fugitive who has been committed for surrender to be surrendered to the person or persons who are, in his opinion, duly authorized to receive him in the name and on behalf of the foreign state, and he shall be so surrendered accordingly. R.S., c. 37, s. 25.

Powers of such officers.

26. Any person to whom an order of the Minister of Justice made under section 25 is directed may deliver, and the person thereto authorized by such order may receive, hold in custody, and convey the fugitive within the jurisdiction of the foreign state, and if he escapes out of any custody to which he is delivered, on or in pursuance of such order, he may be retaken in the same manner as any person accused or convicted of any crime against the laws of Canada may be retaken on an escape. R.S., c. 37, s. 26.

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27. Everything found in the possession of the fugitive at the time of his arrest, which may be material as evidence in making proof of the crime, may be delivered up with the fugitive on his surrender, subject to all rights of third persons with regard thereto. R.S., c. 37, s. 27.

Property found on fugitive.

28. Where a fugitive is not surrendered and conveyed out of Canada within two months after his committal for surrender, or, if a writ of *habeas corpus* is issued, within two months after the decision of the court on such writ, over and above, in either case, the time required to convey him from the prison to which he has been committed, by the readiest way out of Canada, any one or more of the judges of the superior courts of the province in which such person is confined, having power to grant a writ of *habeas corpus*, may, upon application made to him or them by or on behalf of the fugitive, and on proof, that reasonable notice of the intention to make such application, has been given to the Minister of Justice, order the fugitive to be discharged out of custody, unless sufficient cause is shown against such discharge. R.S., c. 37, s. 28.

Fugitive to be conveyed out of Canada within certain time.

29. The Forms set forth in the Second Schedule, or forms as near thereto as circumstances admit of, may be used in the matters to which such Forms refer, and, when used, shall be deemed valid. R.S., c. 37, s. 29.

Forms valid.

Extradition from a Foreign State.

30. (1) A requisition for the surrender of a fugitive criminal from Canada, who is or is suspected to be in any foreign state with which there is an extradition arrangement, may be made by the Minister of Justice

Requisition for a fugitive out of Canada, how made.

(a) to a consular officer of that state resident at Ottawa, or

(b) to the Minister of Justice, or any other minister of that state, through the diplomatic representative of Her Majesty in that state.

(2) If neither of these modes is convenient, the requisition shall be made in such other mode as is settled by arrangement. R.S., c. 37, s. 30.

By arrangement.

31. (1) Whenever, for the purposes of this Act, it becomes necessary or expedient to secure evidence by depositions taken in Canada to be used in a foreign state, any justice of the peace, or any person having authority to issue a warrant for the apprehension of persons accused of

Depositions for use in a foreign state may be taken in absence of accused.

offences and to commit such persons for trial, may take depositions in the absence of a person accused of an extradition crime in like manner as he might take the depositions if the accused person were present and charged before him with such extradition crime.

Summoning
of witnesses.

(2) Such justice of the peace or person having authority as aforesaid may, by subpoena or order, command the attendance at the time and place therein mentioned, of any person or witness for the purpose of being examined as to any extradition crime charged under this Act, and may require the production of any writings or other documents relating to the charge that are in the possession or power of such person or witness.

Enforcement
of subpoena.

(3) Upon the service upon a person or witness of a subpoena or order referred to in subsection (2), and upon payment or tender of the like conduct money as is properly payable upon attendance at the trial of an indictable offence in a superior court, the subpoena or order may be enforced in like manner as a subpoena or order issued by such superior court. R.S., c. 37, s. 31.

Conveyance
of fugitive
surrendered.

32. Any person accused or convicted of an extradition crime, who is surrendered by a foreign state, may, under the warrant for his surrender issued in such foreign state, be brought into Canada and delivered to the proper authorities, to be dealt with according to law. R.S., c. 37, s. 32.

Fugitives
surrendered
by a foreign
state not
punishable
contrary to
arrangement.

33. Where any person accused or convicted of an extradition crime is surrendered by a foreign state, in pursuance of any extradition arrangement, he is not, until after he has been restored or has had an opportunity of returning to the foreign state within the meaning of the arrangement, subject, in contravention of any of the terms of the arrangement, to a prosecution or punishment in Canada for any other offence committed prior to his surrender, for which he should not, under the arrangement, be prosecuted. R.S., c. 37, s. 33.

List of Crimes.

How list of
crimes in
Schedule
shall be
construed.

34. The list of crimes in the First Schedule shall be construed according to the law existing in Canada at the date of the alleged crime, whether by common law or by statute made before or after the passing of this Act, and as including only such crimes, of the descriptions comprised in the list as are, under that law, indictable offences. R.S., c. 37, s. 34

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Part II.

Extradition.

Chap. 322.

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PART II.

EXTRADITION IRRESPECTIVE OF TREATY.

35. (1) This Part shall not come into force, with respect to fugitive offenders from any foreign state, until it has been declared by proclamation of the Governor General to be in force and effect as regards such foreign state, from and after a day to be named in the proclamation.

This Part to come into force upon proclamation.

(2) Where by proclamation the Governor General declares this Part to be no longer in operation as regards any foreign state, the provisions thereof shall cease to have any force or effect with respect to fugitive offenders from such state from and after a day to be named in such proclamation. R.S., c. 37, s. 35.

Proclamation may be revoked.

36. This Part applies to any crime, mentioned in the Third Schedule, that is committed after the coming into force of this Part, as regards any foreign state to which this Part has by proclamation been declared to apply. R.S., c. 37, s. 36.

Application of this Part.

37. (1) Where no extradition arrangement exists between Her Majesty and a foreign state, or where an extradition arrangement, extending to Canada, exists between Her Majesty and a foreign state, but does not include the crimes mentioned in the Third Schedule, it is nevertheless lawful for the Minister of Justice to issue his warrant for the surrender to such foreign state of any fugitive offender from that foreign state charged with or convicted of any of the crimes mentioned in the Third Schedule.

Extradition where no arrangement, or where crime not included.

(2) The arrest, committal, detention, surrender and conveyance out of Canada of a fugitive offender referred to in subsection (1), is governed by the provisions of Part I, and all the provisions of the said Part apply to all steps and proceedings in relation to such arrest, committal, detention, surrender and conveyance out of Canada in the same manner and to the same extent as they would apply if the said crimes were included and specified in an extradition arrangement between Her Majesty and the foreign state, extending to Canada. R.S., c. 37, s. 37.

Procedure under Part I.

38. All expenses connected with the arrest, committal, detention, surrender and conveyance out of Canada of any fugitive offender under this Part shall be borne by the foreign state applying for the surrender of such fugitive offender. R.S., c. 37, s. 38.

As to payment of expenses.

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39.

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2 - 3 Elizabeth II

"Criminal Code"

Chapter 51 of the Statutes
of Canada 1953-54

S.751, (p.620)

Extradition Act. 751. A reference in item 24 of the First Schedule to the Extradition Act, chapter 322 of the Revised Statutes of Canada, 1952, to an offence under a Part of the Criminal Code, chapter 36 of the Revised Statutes of Canada, 1927, shall be construed as a reference to the same or the corresponding offence under this Act.

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Law of,
 Canada to
 govern as
 to crimes.

39. The list of crimes in the Third Schedule shall be construed according to the law existing in Canada at the date of the commission of the alleged crime, whether by common law or by statute, and as including only such crimes, of the description comprised in the list, as are, under that law, indictable offences. R.S., c. 37, s. 39.

When
 warrant may
 not be
 issued.

40. No warrant shall issue under this Part for the extradition of any person to any state or country in which by the law in force in such state or country such person may be tried after such extradition for any other offence than that for which he has been extradited, unless an assurance has first been given by the executive authority of the state or country that the person whose extradition has been claimed will not be tried for any other offence than that in respect of which the extradition has been claimed. R.S., c. 37, s. 40.

FIRST SCHEDULE.

List of Crimes.

1. Murder, or attempt or conspiracy to murder;
2. Manslaughter;
3. Counterfeiting or altering money, and uttering counterfeit or altered money;
4. Forgery, counterfeiting or altering, or uttering what is forged, counterfeited or altered;
5. Larceny or theft;
6. Embezzlement;
7. Obtaining money or goods, or valuable securities, by false pretenses;
8. Crimes against bankruptcy or insolvency law;
9. Fraud by a bailee, banker, agent, factor, trustee, or by a director or member or officer of any company, which fraud is made criminal by any Act for the time being in force;
10. Rape;
11. Abduction;
12. Child stealing;
13. Kidnapping;
14. False imprisonment;
15. Burglary, house-breaking or shop-breaking;
16. Arson;
17. Robbery;
- 18.

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18. Threats, by letter or otherwise, with intent to extort;

19. Perjury or subornation of perjury;

20. Piracy by municipal law or law of nations, committed on board of or against a vessel of a foreign state;

21. Criminal scuttling or destroying a vessel of a foreign state at sea, whether on the high seas or on the Great Lakes of North America, or attempting or conspiring to do so;

22. Assault on board a vessel of a foreign state at sea, whether on the high seas or on the Great Lakes of North America, with intent to destroy life or to do grievous bodily harm;

23. Revolt, or conspiracy to revolt, by two or more persons on board a vessel of a foreign state at sea, whether on the high seas or on the Great Lakes of North America, against the authority of the master;

24. Any offence under

(a) Part VI of the Criminal Code, chapter 36 of the Revised Statutes of Canada, 1927, except sections 308 to 312 inclusive, and sections 317 to 334 inclusive;

(b) Part VII of the Criminal Code, except sections 408 and 409, 416 to 418 inclusive, 429 to 444 inclusive, 486 to 503 inclusive, and section 505;

(c) Part VIII of the Criminal Code, except sections 516, 519, 524, 527, 529 and 538, and sections 542 to 545 inclusive; and

(d) Part IX of the Criminal Code;

and that are not included in any foregoing portion of this Schedule;

25. Any offence that is, in the case of the principal offender, included in any foregoing portion of this Schedule, and for which the fugitive criminal, though not the principal, is liable to be tried or punished as if he were the principal. R.S., c. 37, Sch. 1.

SECOND SCHEDULE

FORM ONE.

Form of Warrant of Apprehension.

To wit:

To all and each of the constables of

Whereas it has been shown to the undersigned, a judge under the *Extradition Act*, that _____ is accused (or convicted) of the crime of _____ within the jurisdiction of _____

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This

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This is therefore to command you, in Her Majesty's name, forthwith to apprehend the said and to bring him before me, or some other judge under the said Act, to be further dealt with according to law; for which this shall be your warrant.

Given under my hand and seal at this day of A.D.

FORM TWO.

Form of Warrant of Committal.

To wit: To one of the constables of and to the keeper of the at

Be it remembered that on this day of in the year at is brought before me a judge under the *Extradition Act*; who has been apprehended under the said Act, to be dealt with according to law; and forasmuch as I have determined that he should be surrendered in pursuance of the said Act, on the ground of his being accused (or convicted) of the crime of within the jurisdiction of

This is therefore to command you the said constable, in Her Majesty's name, forthwith to convey and deliver the said into the custody of the keeper of the at and you, the said keeper to receive the said into your custody, and him there safely to keep until he is thence delivered pursuant to the provisions of the said Act, for which this shall be your warrant.

Given under my hand and seal at this day of A.D.

FORM THREE.

Form of Order of Minister of Justice for Surrender.

To the keeper of the at and to

Whereas late of accused (or convicted) of the crime of within the jurisdiction of was delivered into the custody of you, the keeper of the

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at by warrant
dated pursuant to the *Extradition*
Act.

Now I do hereby, in pursuance of the said Act, order you
the said keeper, to deliver the said
into the custody of the said
; and I command you, the
said to receive the said into
your custody, and to convey him within the jurisdiction of
the said and there place him in
the custody of any person or persons (or of
) appointed by the said to
receive him; for which this shall be your warrant.

Given under the hand and seal of the undersigned Min-
ister of Justice of Canada, this day of

A.D.

R.S., c. 37, Sch. 2.

THIRD SCHEDULE.

1. Murder, or attempt or conspiracy to murder;
2. Manslaughter;
3. Counterfeiting or altering money and uttering
counterfeit or altered money;
4. Forgery, counterfeiting or altering, or uttering what
is forged, counterfeited or altered;
5. Larceny or theft;
6. Embezzlement;
7. Obtaining money or goods or valuable securities by
false pretenses;
8. Rape;
9. Abduction; indecent assault;
10. Child stealing;
11. Kidnapping;
12. Burglary, house breaking or shop breaking;
13. Arson;
14. Robbery;
15. Fraud committed by a bailee, banker, agent, factor,
trustee or member or public officer of any company or
municipal corporation, made criminal by any law for the
time being in force;
16. Any malicious act done with intent to endanger
persons in a railway train;

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17.

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17. Piracy by municipal law or law of nations, committed on board of or against a vessel of a foreign state;

18. Criminal scuttling or destroying a vessel of a foreign state at sea, whether on the high seas or on the Great Lakes of North America, or attempting or conspiring to do so;

19. Assault on board a vessel of a foreign state at sea, whether on the high seas or on the Great Lakes of North America, with intent to destroy life or to do grievous bodily harm;

20. Revolt, or conspiracy to revolt, by two or more persons, on board a vessel of a foreign state at sea, whether on the high seas or on the Great Lakes of North America, against the authority of the master;

21. Administering drugs or using instruments with intent to procure the miscarriage of a woman;

22. Any offence that is, in the case of the principal offender, included in any foregoing portion of this Schedule, and for which the fugitive criminal, though not the principal, is liable to be tried or punished as if he were the principal. R.S., c. 37, Sch. 3.

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R.S., 1952.

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CHAPITRE 322.

Loi concernant l'extradition des criminels fugitifs.

TITRE ABRÉGÉ.

1. La présente loi peut être citée sous le titre: *Loi sur l'extradition.* S.R., c. 37, art. 1. Titre abrégé.

INTERPRÉTATION.

2. Dans la présente loi, l'expression
- a) "déclaration de culpabilité" ou "convaincu" ne comprend pas les cas de condamnation par contumace en vertu d'une loi étrangère; mais le terme "prévenu" comprend un individu ainsi condamné; Définitions.
"Déclaration de culpabilité."
"Convaincu."
"Prévenu."
- b) "convention d'extradition" ou "convention" signifie un traité, une convention ou un arrangement fait ou conclu par Sa Majesté avec un Etat étranger pour l'extradition des criminels fugitifs, qui s'applique au Canada; "Convention d'extradition."
- c) "crime entraînant l'extradition" peut signifier tout crime qui, s'il était commis au Canada, ou dans la juridiction du Canada, serait l'un des crimes énumérés à la première annexe; et dans l'application de la présente loi à l'égard de toute convention d'extradition, un crime entraînant l'extradition signifie tout crime décrit dans cette convention, qu'il soit compris dans ladite annexe ou non; "Crime entraînant l'extradition."
- d) "Etat étranger" comprend toute colonie, dépendance et partie constituante de l'Etat étranger; et tout navire d'un Etat étranger est censé être dans la juridiction de cet Etat et en former partie; "Etat étranger."
- e) "fugitif" ou "criminel fugitif" signifie un individu qui se trouve ou est soupçonné de se trouver au Canada, et qui est accusé ou convaincu d'un crime entraînant l'extradition commis dans la juridiction d'un Etat étranger; "Fugitif."
"Criminel fugitif."
- f) "juge" comprend toute personne autorisée à agir judiciairement dans les matières d'extradition; "Juge."
- g) "mandat", dans le cas d'un Etat étranger, comprend tout document judiciaire qui autorise l'arrestation d'une personne prévenue ou convaincue de crime. S.R., c. 37, art. 2. "Mandat."

PARTIE I.

EXTRADITION EN VERTU D'UN TRAITÉ.

Application.

Quant aux conventions existantes.

3. Dans le cas de tout Etat étranger avec lequel il existe une convention d'extradition, la présente Partie s'applique durant l'existence de cette convention; mais nulle disposition de la présente Partie incompatible avec quelque une des conditions de la convention n'a d'effet à l'encontre de la convention; et la présente Partie doit se lire et s'interpréter de façon à faciliter l'exécution de la convention. S.R., c. 37, art. 3.

Limitations, restrictions et exceptions, loi impériale 33-34 V., c. 52 et modifications.

4. Dans le cas de tout Etat étranger au sujet duquel l'application au Royaume-Uni de la loi du Parlement du Royaume-Uni adoptée en l'année 1870, et intitulée *An Act for amending the Law relating to the Extradition of Criminals*, et de toutes loi ou lois la modifiant, est soumise à quelque prescription, condition, restriction ou exception, le gouverneur en conseil doit subordonner l'application de la présente Partie à cette prescription, condition, restriction ou exception. S.R., c. 37, art. 4.

Les arrêtés en vertu de la présente Partie peuvent être révoqués.

5. Le gouverneur en conseil peut, en tout temps, révoquer ou modifier, sauf les restrictions de la présente Partie, tout arrêté qu'il a rendu en vertu de la présente Partie, et toutes les dispositions de la présente Partie applicables à l'arrêté primitif, autant que faire se peut, s'appliquent, *mutatis mutandis*, au nouvel arrêté. S.R., c. 37, art. 5.

Si l'application de la présente Partie dépend d'un arrêté en conseil.

6. La présente Partie, en tant que son application à un pays étranger dépend d'un arrêté en conseil rendu sous le régime de la présente Partie ou y mentionné, ou est atteinte par un tel arrêté, s'applique ou son application est atteinte à compter de l'époque spécifiée dans l'arrêté, ou, s'il n'y est pas spécifié d'époque, à compter de la date de la publication de l'arrêté dans la *Gazette du Canada*. S.R., c. 37, art. 6.

Publication des arrêtés en conseil.

7. Tout arrêté de Sa Majesté en conseil mentionné dans la présente Partie et tout arrêté du gouverneur en conseil rendu sous le régime de la présente Partie, ainsi que toute convention d'extradition doivent, le plus tôt possible, être publiés dans la *Gazette du Canada* et être déposés devant les deux Chambres du Parlement. S.R., c. 37, art. 7.

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8. La publication, dans la *Gazette du Canada*, d'une convention d'extradition, ou d'un arrêté en conseil, fait foi de cette convention ou de cet arrêté et de leur contenu, ainsi que de l'application de la présente Partie, en conformité et sous réserve de cet arrêté; et la cour ou le juge prend judiciairement connaissance de cette convention ou de cet arrêté, sans exiger la preuve de leur authenticité; et ni la validité de l'arrêté ni l'application de la présente Partie en conformité et sous réserve dudit arrêté ne peuvent être contestés. S.R., c. 37, art. 8.

Effet de la publication dans la *Gazette du Canada*.

Juges et commissaires.

9. (1) Tous les juges des cours supérieures et des cours de comtés d'une province, et tous les commissaires qui sont de temps à autre nommés à cette fin dans une province par le gouverneur en conseil sous le grand sceau du Canada, en vertu de la présente Partie, sont autorisés à agir judiciairement dans les affaires d'extradition, sous l'autorité de la présente Partie, dans la province; et chacune de ces personnes est revêtue, pour les fins de la présente Partie, de tous les pouvoirs et de la juridiction d'un juge ou magistrat de la province.

Quels juges peuvent agir judiciairement en vertu de la présente Partie.

(2) Rien dans le présent article ne peut s'interpréter de façon à conférer à un juge juridiction dans les affaires d'*habeas corpus*. S.R., c. 37, art. 9.

Extradition du Canada.

10. (1) Lorsque la présente Partie s'applique, un juge peut lancer son mandat pour l'arrestation d'un fugitif sur un mandat d'arrestation étranger, ou sur une dénonciation ou plainte portée devant lui, et moyennant la preuve ou après les procédures qui, à son avis, sous réserve de la présente Partie, justifieraient l'émission de son mandat si le crime dont le fugitif est accusé, ou dont on allègue qu'il a été convaincu, avait été commis en Canada.

Pour quels motifs un mandat peut être décerné.

(2) Le juge transmet aussitôt au ministre de la Justice un rapport du fait qu'il a lancé son mandat, avec copies certifiées des témoignages et du mandat étranger, ou de la dénonciation ou plainte. S.R., c. 37, art. 10.

Rapport au ministre de la Justice.

11. Un mandat lancé en vertu de la présente Partie peut être exécuté en tout endroit du Canada, de la même manière que s'il avait été originairement lancé, ou subséquemment visé, par un juge de paix ayant juridiction dans le lieu où s'exécute ce mandat. S.R., c. 37; art. 11.

Exécution du mandat.

La remise
ne dépend
pas du
temps où
le crime a
été commis,
etc.

12. Tout criminel fugitif d'un Etat étranger, au sujet duquel Etat s'applique la présente Partie, est passible d'être arrêté, incarcéré et livré de la manière prescrite par la présente Partie, soit que le crime ou la déclaration de culpabilité qui a motivé la demande d'extradition ait été commis ou ait eu lieu avant ou après la date de la convention, ou avant ou après l'époque de l'application de la présente Partie à cet Etat étranger, et soit qu'il y ait ou qu'il n'y ait pas, dans quelque une des cours des dominions de Sa Majesté, de juridiction criminelle sur le fugitif à l'égard de son crime. S.R., c. 37, art. 12.

Le fugitif
est amené
devant un
juge.

13. Le fugitif doit être amené devant un juge, qui, sous réserve de la présente Partie, entend la cause, de la même manière, autant que possible, que si le fugitif était traduit devant un juge de paix sous accusation d'un acte criminel commis au Canada. S.R., c. 37, art. 13.

Preuve de
l'accusation.

14. Le juge reçoit sous serment ou affirmation, si l'affirmation est permise par la loi, le témoignage de tout témoin offert pour prouver la vérité de l'accusation ou le fait de la déclaration de culpabilité. S.R., c. 37, art. 14.

Preuve que
le crime
n'entraîne
pas l'ex-
tradition.

15. Le juge reçoit, de la même manière, tout témoignage offert pour prouver que le crime dont le fugitif est accusé, ou dont on allègue qu'il a été convaincu, est une infraction d'une nature politique, ou n'est pas, pour quelque autre motif, un crime entraînant l'extradition, ou que les procédures sont exercées dans le but de le poursuivre ou de le punir pour une infraction d'une nature politique. S.R., c. 37, art. 15.

Dépositions
prises à
l'étranger.

16. Les dépositions ou déclarations reçues dans un Etat étranger, sous serment ou sous affirmation, si l'affirmation est permise par la loi de cet Etat, et les copies de ces dépositions ou déclarations, et les certificats ou les pièces judiciaires étrangers établissant le fait d'une déclaration de culpabilité, peuvent, s'ils sont régulièrement légalisés, être reçus en preuve dans toutes procédures en vertu de la présente Partie. S.R., c. 37, art. 16.

Comment
elles sont
légalisées.

17. Les pièces mentionnées à l'article 16 sont réputées dûment légalisées, si elles le sont de la manière prescrite par la loi alors en vigueur ou,

- a) si le mandat est donné comme ayant été signé ou le certificat comme ayant été attesté, ou les dépositions ou déclarations, ou leurs copies, comme ayant été certifiées originales ou conformes, par un juge, un magistrat ou un fonctionnaire de l'Etat étranger; et

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b)

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- b) si les documents sont attestés sous le serment ou l'affirmation d'un témoin, ou sous le sceau officiel du ministre de la Justice ou de quelque autre ministre de cet Etat étranger, ou d'une colonie, dépendance ou partie constituante de cet Etat, duquel sceau le juge prend connaissance judiciaire sans plus amples preuves. S.R., c. 37, art. 17.

18. (1) Le juge doit lancer son mandat pour faire incarcérer le fugitif dans la prison convenable la plus rapprochée, afin qu'il y soit détenu jusqu'à ce qu'il ait été livré à l'Etat étranger ou élargi conformément à la loi, Quelle preuve suffit pour justifier l'incarcération.

- a) dans le cas d'un fugitif que l'on prétend avoir été convaincu d'un crime entraînant l'extradition, lorsqu'il est produit une preuve qui, d'après la loi du Canada, sous réserve de la présente Partie, établirait qu'il a été convaincu de ce crime; et

- b) dans le cas d'un fugitif accusé d'un crime entraînant l'extradition, lorsqu'il est produit une preuve qui, d'après la loi du Canada, sauf les dispositions de la présente Partie, justifierait son incarcération préventive, si le crime avait été commis au Canada.

(2) Lorsque cette preuve n'est pas produite, le juge ordonne qu'il soit élargi. S.R., c. 37, art. 18. Libération.

19. Si le juge fait incarcérer un fugitif, il doit, lors de cette incarcération, Le juge doit donner certains renseignements au fugitif.

- a) l'informer qu'il ne sera pas extradé avant l'expiration de quinze jours, et qu'il a le droit de demander un bref d'*habeas corpus*, et

- b) transmettre au ministre de la Justice un certificat de cette incarcération, avec copie de la preuve reçue par lui et non déjà ainsi transmise, et le rapport qu'il juge convenable sur l'affaire. S.R., c. 37, art. 19. Et transmettre la preuve au ministre de la Justice.

20. (1) Une demande d'extradition d'un criminel fugitif d'un Etat étranger qui est au Canada, ou est soupçonné d'y être, peut être faite au ministre de la Justice Par qui peut être faite la demande d'extradition.

- a) par toute personne que ce dernier reconnaît comme agent consulaire de cet Etat en résidence à Ottawa; ou

- b) par tout ministre de cet Etat communiquant avec le ministre de la Justice par l'intermédiaire des représentants diplomatiques de Sa Majesté dans cet Etat.

(2) Si ni l'un ni l'autre de ces moyens ne peut être facilement adopté, alors la demande est faite par tout autre moyen dont il peut être convenu par arrangement. S.R., c. 37, art. 20. Par arrangement.

Quand le
fugitif ne
peut être
extradé.

21. Nul fugitif ne peut être extradé en vertu de la présente Partie, s'il apparaît

- a) que le crime au sujet duquel des procédures sont exercées, en vertu de la présente Partie, présente un caractère politique, ou
- b) que ces procédures sont exercées en vue de le mettre en jugement ou de le punir pour une infraction qui revêt un caractère politique. S.R., c. 37, art. 21.

Dans les
cas spécifiés,
le ministre
peut refuser
de rendre ou
révoquer
un ordre
déjà
rendu.

22. Si le ministre de la Justice décide, en tout temps,

- a) que l'infraction au sujet de laquelle les procédures sont exercées en vertu de la présente Partie est de nature politique,
- b) que les procédures sont en réalité exercées en vue de poursuivre ou de punir le fugitif pour une infraction d'une nature politique, ou
- c) que l'Etat étranger n'a pas l'intention de faire une demande d'extradition,

il peut refuser de donner l'ordre de livrer le fugitif, et il peut, par un ordre sous ses seing et sceau, révoquer tout ordre donné par lui, ou tout mandat lancé par un juge en vertu de la présente Partie, et ordonner que le fugitif soit relâché et libéré de tout mandat d'incarcération lancé en vertu de la présente Partie; et le fugitif est élargi en conséquence. S.R., c. 37, art. 22.

Délai avant
l'extradi-
tion.

23. Un fugitif ne peut être livré avant l'expiration de quinze jours à compter de la date de son incarcération pour extradition, ni, s'il est décerné un bref d'*habeas corpus*, avant la décision de la cour qui l'a renvoyé en prison. S.R., c. 37, art. 23.

Si le fugitif
est accusé
de contra-
vention à
la loi
canadienne.

24. Un fugitif qui a été accusé, dans la juridiction du Canada, d'une infraction autre que celle pour laquelle son extradition est demandée, ou qui subit une peine encourue à la suite d'une déclaration de culpabilité au Canada, ne peut être livré qu'après avoir été libéré, soit par son acquittement, soit par l'expiration de sa peine, soit autrement. S.R., c. 37, art. 24.

Le ministre
peut
ordonner la
remise du
fugitif à
l'officier
d'un Etat
étranger.

25. Sous réserve de la présente Partie, le ministre de la Justice, sur la demande d'un Etat étranger, peut ordonner, sous ses seing et sceau, qu'un fugitif qui a été incarcéré pour être extradé soit livré à la personne ou aux personnes qui, à son avis, sont dûment autorisées à le recevoir au nom et de la part de l'Etat étranger, et il est livré en conséquence. S.R., c. 37, art. 25.

26. Toute personne, à qui un ordre du ministre de la Justice, rendu en vertu de l'article 25, est adressé, peut livrer, et la personne y autorisée par cet ordre peut recevoir, détenir et amener le fugitif dans la juridiction de l'Etat étranger; et s'il s'évade de la garde de celui à qui il a été livré sur cet ordre, ou en conformité de cet ordre, il peut être repris de la même manière que toute personne accusée ou convaincue de crime contre les lois du Canada peut être reprise après évasion. S.R., c. 37, art. 26.

Pouvoir de
cet officier.

27. Tout objet trouvé en la possession du fugitif lors de son arrestation, et qui peut servir de preuve essentielle du crime dont il est accusé, peut être livré en même temps que le fugitif lors de son extradition, sans préjudice aux droits des tiers à cet égard. S.R., c. 37, art. 27.

Biens
trouvés
sur la
personne
du fugitif.

28. Si un fugitif n'est pas livré et emmené hors du Canada dans le délai de deux mois à compter de son incarcération pour extradition, ou, s'il a été décerné un bref d'*habeas corpus*, dans les deux mois après la décision de la cour sur ce bref, en sus et au delà, dans l'un ou dans l'autre cas, du temps nécessaire pour le conduire de la prison dans laquelle il a été incarcéré, par la route la plus courte, en dehors du Canada, l'un ou plusieurs des juges des cours supérieures de la province dans laquelle cet individu est emprisonné, autorisés à décerner un bref d'*habeas corpus*, peuvent, sur demande à lui ou à eux faite par le fugitif ou en son nom, et sur preuve qu'avis raisonnable de l'intention de faire cette demande a été donné au ministre de la Justice, ordonner que le fugitif soit élargi, à moins qu'un motif suffisant ne soit présenté pour empêcher cet élargissement. S.R., c. 37, art. 28.

Le fugitif
doit être
emmené hors
du Canada
dans un
certain
délai.

29. Les formules contenues dans la deuxième annexe, ou des formules qui s'en rapprochent autant que les circonstances le permettent, peuvent être employées dans les matières auxquelles elles ont rapport, et, lorsque employées, elles sont réputées valides. S.R., c. 37, art. 29.

Formules
valides.

Extradition d'un Etat étranger.

30. (1) Une demande d'extradition d'un criminel en fuite du Canada, qui est, ou est soupçonné d'être, dans un Etat étranger avec lequel il existe une convention d'extradition, peut être faite par le ministre de la Justice

a) à un agent consulaire de cet Etat en résidence à Ottawa, ou

b) au ministre de la Justice ou autre ministre de cet Etat par l'intermédiaire du représentant diplomatique de Sa Majesté dans cet Etat.

Demande
d'extradition
d'un réfugié
du Canada;
mode
d'obtention.

Par arrangement.

(2) Si ni l'un ni l'autre de ces moyens ne peut être facilement adopté, la demande est faite par tout autre moyen dont il peut être convenu par arrangement. S.R., c. 37, art. 30.

Les dépositions destinées à servir dans un Etat étranger peuvent être prises en l'absence du prévenu.

31. (1) Chaque fois que, pour les objets de la présente loi, il devient nécessaire ou à propos d'obtenir des preuves au moyen de dépositions prises au Canada pour servir dans un Etat étranger, tout juge de paix, ou quiconque est autorisé à lancer un mandat pour l'arrestation de prévenus accusés d'infractions et à envoyer ces prévenus en prison, peut prendre des dépositions en l'absence d'un prévenu accusé d'un crime entraînant l'extradition, de la même manière qu'il pourrait prendre les dépositions si le prévenu était présent et accusé devant lui d'un pareil crime.

Assignation de témoins.

(2) Ce juge de paix ou quiconque est autorisé comme il est dit ci-dessus peut, par voie d'assignation ou d'ordonnance, enjoindre à toute personne ou à tout témoin de se présenter au jour, à l'heure et au lieu y mentionnés, pour être interrogé relativement à tout crime entraînant l'extradition, qui fait l'objet d'une accusation sous le régime de la présente loi, et peut exiger la production de tous écrits ou autres pièces se rapportant à l'accusation qui se trouvent en la possession ou à la disposition de cette personne ou de ce témoin.

Exécution de l'assignation.

(3) Sur signification à une personne ou à un témoin d'une assignation ou d'une ordonnance que mentionne le paragraphe (2), et sur paiement ou offre des frais de route comme lorsqu'il s'agit d'un procès pour acte criminel devant une cour supérieure, l'assignation ou l'ordonnance peut être mise à exécution de la même manière qu'une assignation ou une ordonnance émanée de cette cour supérieure. S.R., c. 37, art. 31.

Transport du fugitif livré.

32. Tout individu accusé ou convaincu d'un crime entraînant l'extradition et qui est livré par un Etat étranger, peut, en vertu du mandat d'extradition émis dans cet Etat étranger, être ramené au Canada et livré aux autorités compétentes pour être jugé suivant la loi. S.R., c. 37, art. 32.

Les fugitifs livrés par un Etat étranger ne sont pas punissables au mépris de la convention conclue.

33. Un individu accusé ou convaincu d'un crime entraînant l'extradition, qui est livré par un Etat étranger en vertu de quelque convention d'extradition, n'est pas, jusqu'à ce qu'il soit retourné ou ait eu l'occasion de retourner dans l'Etat étranger conformément à la convention, exposé, en contravention à quelque une des con-

ditions de la convention, à une poursuite ou punition au Canada pour une infraction commise avant son extradition, et au sujet de laquelle il ne pourrait, en vertu de la convention, être poursuivi. S.R., c. 37, art. 33.

Liste des crimes.

34. La liste des crimes énumérés dans la première annexe doit s'interpréter conformément aux lois existantes au Canada à la date du crime imputé, soit d'après la *common law*, soit d'après une loi du Parlement édictée avant ou après l'adoption de la présente loi, et comme n'embrassant que les crimes, de la nature de ceux que comprend la liste, qui, en vertu de ces lois, sont des actes criminels. S.R., c. 37, art. 34.

Comment doit s'interpréter la liste des crimes de l'annexe.

PARTIE II.

EXTRADITION SANS TRAITÉ.

35. (1) La présente Partie ne peut entrer en vigueur, à l'égard des criminels fugitifs de tout Etat étranger, que lorsqu'elle aura été déclarée, par proclamation du gouverneur général, avoir force et effet à l'égard de cet Etat étranger, à dater d'un jour désigné dans la proclamation.

La présente Partie entre en vigueur par proclamation.

(2) Si, par proclamation, le gouverneur général déclare que la présente Partie n'est plus en vigueur quant à un Etat étranger, ses dispositions cessent d'avoir force et effet, à l'égard des criminels fugitifs de cet Etat, à compter du jour désigné dans cette proclamation. S.R., c. 37, art. 35.

La proclamation peut être révoquée.

36. La présente Partie s'applique à tout crime mentionné dans la troisième annexe et commis après l'entrée en vigueur de la présente Partie, à l'égard de tout Etat étranger auquel la présente Partie a été par proclamation déclarée s'appliquer. S.R., c. 37, art. 36.

Application de la présente Partie.

37. (1) Lorsqu'il n'existe pas de convention d'extradition entre Sa Majesté et un Etat étranger, ou lorsqu'une convention, s'étendant au Canada, existe entre Sa Majesté et un Etat étranger, mais ne comprend pas les crimes mentionnés dans la troisième annexe, le ministre de la Justice peut quand même légalement lancer son mandat afin de livrer à cet Etat étranger tout criminel fugitif de cet Etat étranger, accusé ou convaincu de quelque'un des crimes mentionnés dans la troisième annexe.

Extradition quand il n'y a pas de convention ou quand le crime n'y est pas compris.

(2) L'arrestation, l'incarcération, la détention, la remise et le transport hors du Canada d'un criminel fugitif visé par le paragraphe (1) sont régis par les dispositions de

Procédure selon la Partie I.

la Partie I, et toutes les dispositions de ladite Partie s'appliquent à toutes les mesures et procédures au sujet de ces arrestation, incarcération, détention, remise et transport hors du Canada, de la même manière et au même degré qu'elles s'appliqueraient si lesdits crimes étaient compris et spécifiés dans une convention d'extradition entre Sa Majesté et l'Etat étranger, s'étendant au Canada. S.R., c. 37, art. 37.

Paiement
des
dépenses.

38. Toutes les dépenses se rattachant à l'arrestation, à l'incarcération, à la détention, à la remise et au transport hors du Canada de tout criminel fugitif, en vertu de la présente Partie, sont supportées par l'Etat étranger qui demande l'extradition de ce criminel fugitif. S.R., c. 37, art. 38.

La loi du
Canada
régit quant
aux crimes.

39. La liste des crimes énumérés dans la troisième annexe doit s'interpréter conformément aux lois existantes au Canada à la date de l'accomplissement du crime imputé, soit d'après la *common law*, soit d'après une loi du Parlement, et comme n'embrassant que les crimes, de la nature de ceux que comprend la liste, qui, en vertu de ces lois, sont des actes criminels. S.R., c. 37, art. 39.

Quand le
mandat
ne peut pas
être émis.

40. Nul mandat ne doit être émis sous l'autorité de la présente Partie en vue de la remise d'une personne à un Etat ou pays dans lequel, par la loi en vigueur dans cet Etat ou dans ce pays, cette personne peut être jugée, après cette extradition, pour quelque autre crime que celui pour lequel elle a été extradée, à moins que l'autorité exécutive de cet Etat ou de ce pays n'ait préalablement donné l'assurance que le fugitif dont l'extradition a été réclamée ne sera pas jugé pour une autre infraction que celle au sujet de laquelle l'extradition a été demandée. S.R., c. 37, art. 40.

PREMIÈRE ANNEXE.

Liste des crimes.

1. Meurtre, ou tentative ou complot de meurtre;
2. Homicide involontaire (*manslaughter*);
3. Contrefaçon ou altération de monnaie, et mise en circulation de monnaie contrefaite ou altérée;
4. Faux, contrefaçon ou altération, ou mise en circulation de ce qui est falsifié, contrefait ou altéré;
5. Larcin ou vol;
6. Détournement;
7. Obtention d'argent, de valeurs ou de marchandises sous de faux prétextes;

8. Crimes contre la loi sur la faillite ou l'insolvabilité;
9. Fraude commise par un dépositaire, banquier, agent, facteur, fiduciaire, ou par un administrateur, membre ou fonctionnaire d'une compagnie, laquelle fraude est déclarée criminelle par quelque loi alors en vigueur;
10. Viol;
11. Enlèvement (*abduction*);
12. Vol d'enfant;
13. Enlèvement (*kidnapping*);
14. Emprisonnement illégal;
15. Effraction nocturne ou diurne dans une maison d'habitation ou dans un magasin ou une boutique;
16. Incendie;
17. Vol qualifié;
18. Menaces par lettres ou autrement avec intention d'extorsion;
19. Parjure ou subornation de témoins;
20. Piraterie suivant la loi nationale ou le droit des gens, commise à bord d'un navire ou contre un navire d'un Etat étranger;
21. Sabordage ou destruction criminelle, ou tentative ou complot de sabordage ou de destruction criminelle, d'un navire d'un Etat étranger, en mer, soit en haute mer, soit sur les Grands lacs de l'Amérique du Nord;
22. Voies de fait à bord d'un navire d'un Etat étranger, en mer, soit en haute mer, soit sur les Grands lacs de l'Amérique du Nord, avec intention de tuer ou d'infliger des blessures corporelles graves;
23. Révolte ou complot de révolte par deux personnes ou plus à bord d'un navire d'un Etat étranger, en mer, soit en haute mer, soit sur les Grands lacs de l'Amérique du Nord, contre l'autorité du capitaine;
24. Toute infraction contre
 - a) la Partie VI du *Code criminel*, chapitre 36 des Statuts révisés du Canada, 1927, sauf les articles 308 à 312 inclusivement, et les articles 317 à 334 inclusivement;
 - b) la Partie VII du *Code criminel*, sauf les articles 408 et 409, 416 à 418 inclusivement, 429 à 444 inclusivement, 486 à 503 inclusivement, et l'article 505;
 - c) la Partie VIII du *Code criminel*, sauf les articles 516, 519, 524, 527, 529 et 538, et les articles 542 à 545 inclusivement; et
 - d) la Partie IX du *Code criminel*;non comprise dans une partie précédente de la présente annexe.

See
2-3-54 II
1953-54 ch 51
S.751 (p.620)

25. Toute infraction qui, dans le cas du principal délinquant, est comprise dans une partie précédente quelconque de la présente annexe, et pour laquelle le criminel fugitif, bien qu'il ne soit pas le principal délinquant, est susceptible d'être poursuivi ou puni, comme s'il était le principal délinquant. S.R., c. 37, première annexe.

DEUXIÈME ANNEXE.

FORMULE UN.

Formule du mandat d'arrestation.

_____;
Savoir:

A tout et chaque constable de _____ :

Attendu qu'il a été démontré au soussigné, juge en vertu de la *Loi sur l'extradition*, que
ci-devant de _____ est accusé (*ou convaincu*) du
crime de _____ dans la juridiction de _____

A ces causes, les présentes vous enjoignent, au nom de Sa Majesté, d'arrêter immédiatement ledit
et de l'amener devant moi, ou devant quelque autre juge en vertu de ladite loi, pour qu'il soit ultérieurement traité selon la loi; et, pour ce, les présentes constituent votre mandat.

Donné sous mes seing et sceau à _____ ce
jour d _____ en l'année _____

FORMULE DEUX.

Formule du mandat d'incarcération.

_____;
Savoir:

A _____, l'un des constable de _____,
et au gardien de _____ à _____ :

Rappelez-vous que ce _____ jour d _____ en
l'année _____ à _____

a été amené devant moi _____,
juge en vertu de la *Loi sur l'extradition*,
qui a été arrêté sous l'autorité de ladite loi, pour être traité selon la loi; et attendu que j'ai décidé qu'il serait livré conformément à ladite loi, parce qu'il a été accusé (*ou convaincu*) du crime de _____ dans la juridiction de _____

A ces causes, les présentes vous enjoignent, à vous, ledit constable, au nom de Sa Majesté, de conduire immédiatement et livrer ledit _____ à la

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Ann.

Extradition.

Chap. 322.

13

garde du gardien de à et à
vous, ledit gardien, de recevoir ledit
sous votre garde, et de l'y détenir en sûreté jusqu'à ce qu'il
en soit élargi suivant les dispositions de ladite loi; et, pour
ce, les présentes constituent votre mandat.

Donné sous mes seing et sceau à ce
jour d en l'année .

FORMULE TROIS.

*Formule de l'ordre du ministre de la Justice pour
l'extradition.*

Au gardien de à
et à :

Attendu que , ci-devant de
accusé (ou convaincu) du crime de dans la
juridiction de a été livré à votre garde
en votre qualité de gardien de
à par mandat daté du
conformément à la *Loi sur l'extradition*.

Maintenant, je vous ordonne par les présentes, con-
formément à ladite loi, à vous, ledit gardien, de livrer
ledit à la garde dudit ;
et je vous enjoins, à vous, ledit de
recevoir ledit sous votre garde, et de le
conduire dans la juridiction dudit et là
de le confier à la garde de la personne ou des personnes
(ou de) chargées par ledit
de le recevoir; et, pour ce, les présentes
constituent votre mandat.

Donné sous les seing et sceau du soussigné, ministre de
la Justice du Canada, ce jour de
en l'année .

S.R., c. 37, deuxième annexe.

TROISIÈME ANNEXE.

1. Meurtre, ou tentative ou complot de meurtre;
2. Homicide involontaire (*manslaughter*);
3. Contrefaçon ou altération de monnaie, et mise en
circulation de monnaie contrefaite ou altérée;
4. Faux, contrefaçon ou altération, ou mise en circu-
lation de ce qui est falsifié, contrefait ou altéré;
5. Larcin ou vol;
6. Détournement;

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S.R., 1952.

7. Obtention d'argent, de valeurs ou de marchandises sous de faux prétextes;

8. Viol;

9. Enlèvement (*abduction*); attentat à la pudeur;

10. Vol d'enfant;

11. Enlèvement (*kidnapping*);

12. Effraction nocturne ou diurne dans une maison d'habitation ou dans un magasin ou une boutique;

13. Incendie;

14. Vol qualifié;

15. Fraude commise par un dépositaire, banquier, agent, facteur, fiduciaire, ou par un membre ou fonctionnaire public d'une compagnie ou d'une corporation municipale, laquelle fraude est déclarée criminelle par quelque loi alors en vigueur;

16. Tout acte malicieux commis avec intention de mettre en danger les personnes dans un train de chemin de fer;

17. Piraterie suivant la loi nationale ou le droit des gens, commise à bord d'un navire ou contre un navire d'un Etat étranger;

18. Sabordage ou destruction criminelle, ou tentative ou complot de sabordage ou de destruction criminelle, d'un navire d'un Etat étranger, en mer, soit en haute mer, soit sur les Grands lacs de l'Amérique du Nord;

19. Voies de fait à bord d'un navire d'un Etat étranger, en mer, soit en haute mer, soit sur les Grands lacs de l'Amérique du Nord, avec intention de tuer ou d'infliger des blessures corporelles graves;

20. Révolte ou complot de révolte par deux personnes ou plus à bord d'un navire d'un Etat étranger, en mer, soit en haute mer, soit sur les Grands lacs de l'Amérique du Nord, contre l'autorité du capitaine;

21. Administration de drogues ou application d'instruments dans l'intention de procurer l'avortement d'une femme;

22. Tout crime qui, dans le cas du principal délinquant, est compris dans quelque partie précédente de la présente annexe, et pour lequel le criminel fugitif, bien qu'il ne soit pas le principal délinquant, est passible d'être poursuivi ou puni comme s'il était le principal délinquant. S.R., c. 37, troisième annexe.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
IMPRIMEUR DE LA REINE ET CONTRÔLEUR DE LA PAPETERIE
OTTAWA, 1952

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Doc 8849-C/990



**ACTION BY THE COUNCIL
AND OTHER DECISIONS TAKEN
AND WORK DONE BY ICAO
ON THE SUBJECT OF
UNLAWFUL INTERFERENCE
WITH INTERNATIONAL CIVIL AVIATION
AND ITS FACILITIES**

December 1969

INTERNATIONAL CIVIL AVIATION ORGANIZATION

ORGANISATION DE L'AVIATION
CIVILE INTERNATIONALEORGANIZACIÓN DE AVIACIÓN
CIVIL INTERNACIONAL

INTERNATIONAL CIVIL AVIATION ORGANIZATION

(CS)

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:

LE 4/26 - 70/6

16 January 1970

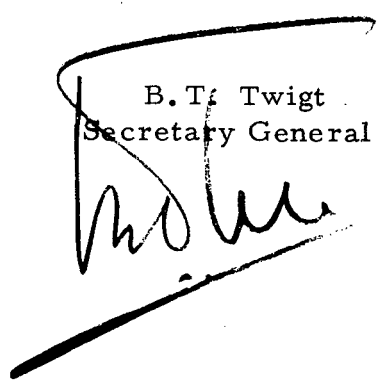
Subject: Unlawful Interference with International
Civil Aviation and its FacilitiesAction Required: Consideration of the measures
adopted by the Council on 11 December 1969

Sir,

I have the honour to inform you that on 11 December 1969, at the Sixteenth Meeting of its Sixty-Eighth Session, the Council adopted certain measures which might assist Contracting States in taking appropriate steps to prevent the occurrence of acts of unlawful interference with international civil aviation and its facilities, and decided to communicate the said measures to Contracting States for their consideration.

In this connection, the Council approved the issue, for distribution to States, of Doc 8849-C/990, "Action by the Council and Other Decisions Taken and Work Done by ICAO on the Subject of Unlawful Interference with International Civil Aviation and its Facilities", a copy of which is enclosed. Part IV of the document contains the measures referred to above.

Accept, Sir, the assurances of my highest consideration.



B.T. Twigt
Secretary General

Enclosure: Doc 8849-C/990

Doc 8849-C/990



**ACTION BY THE COUNCIL
AND OTHER DECISIONS TAKEN
AND WORK DONE BY ICAO
ON THE SUBJECT OF
UNLAWFUL INTERFERENCE
WITH INTERNATIONAL CIVIL AVIATION
AND ITS FACILITIES**

December 1969

INTERNATIONAL CIVIL AVIATION ORGANIZATION

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(iii)

Doc 8849-C/990

ACTION BY THE COUNCIL AND OTHER DECISIONS TAKEN AND WORK
DONE BY ICAO ON THE SUBJECT OF UNLAWFUL INTERFERENCE
WITH INTERNATIONAL CIVIL AVIATION AND ITS FACILITIES

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PREFACE

PART III - This document contains the action by the Council; as well
as enumerates other decisions taken and work done by ICAO on the subject
of unlawful interference with international civil aviation and its facilities.
11 December 1969 5

PART V - It also reproduces, as an Appendix, the text of the United
Nations General Assembly Resolution adopted on 12 December 1969 on
certain measures to be taken by States to safeguard against acts of unlawful
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Note: The action and decisions reported are as taken
up to the end of December 1969.

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PART I

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RESOLUTION ON UNLAWFUL SEIZURE OF AIRCRAFT ADOPTED BY
THE ICAO ASSEMBLY AT ITS SIXTEENTH SESSION
(BUENOS AIRES, 3 - 26 SEPTEMBER 1968)
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Note: This Resolution was transmitted to Contracting States by
State Letter LE 3/17 LE 3/12 - 65/182 of 31 October 1968,
recalling to States the provisions of Article 11 of the
Tokyo Convention on Offences and Certain Other Acts
Committed on Board Aircraft.

- 1 -

BEST COPY AVAILABLE

PART I

RESOLUTION ON UNLAWFUL SEIZURE OF AIRCRAFT ADOPTED BY
THE ICAO ASSEMBLY AT ITS SIXTEENTH SESSION
(BUENOS AIRES, 3 - 26 SEPTEMBER 1968)

A16-37: Unlawful Seizure of Civil Aircraft

WHEREAS unlawful seizure of civil aircraft has a serious
adverse effect on the safety, efficiency and
regularity of air navigation;

THE ASSEMBLY
TAKING PARTICULAR ACCOUNT of the provisions of
Article 44 (h) of the Convention on International Civil
Aviation, NOTING that Article 11 of the Tokyo Convention on
Offences and Certain Other Acts Committed on Board
Aircraft provides certain remedies for the situation
envisaged;
to prevent acts of unlawful seizure of aircraft and,
where appropriate, to co-operate with any State
BEING OF THE OPINION, however, that this Article
does not provide a complete remedy,

- (1) URGES all States to become parties as soon as possible to the Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft;

Note: This Resolution was transmitted to Contracting States by
State Letter LE 4/25.1 - 68/221 of 20 December 1968.

- (2) INVITES States, even before ratification of, or adherence to, the Tokyo Convention, to give effect to the principles of Article 11 of that Convention; and
- (3) REQUESTS the Council, at the earliest possible date, to institute a study of other measures to cope with the problem of unlawful seizure.

Note: This Resolution was transmitted to Contracting States by
State Letter LE 3/17 LE 3/12 - 68/182 of 31 October 1968,
recalling to States the provisions of Article 11 of the
Tokyo Convention on Offences and Certain Other Acts
Committed on Board Aircraft.

PART II

RESOLUTION ON UNLAWFUL SEIZURE OF AIRCRAFT
ADOPTED BY THE COUNCIL ON 16 DECEMBER 1968
ADOPTED BY THE COUNCIL ON 10 APRIL 1969

THE COUNCIL,

NOTING WITH CONCERN the serious threat to safety in air navigation from the increasing number of acts of forcible and unlawful seizure of aircraft, and
GRAVELY CONCERNED that acts which unlawfully interfere with international civil aviation jeopardize the safety thereof and 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;

TAKING PARTICULAR ACCOUNT of the provisions of Article 44 (h) of the Convention on International Civil Aviation,

CONSIDERING that the threat thus posed to international civil aviation requires urgent and continuing attention by the Organization

and the full cooperation of all Contracting States under the Convention on International Civil Aviation in order to assure the continued safety of international civil aviation;
URGES Contracting States to take all possible measures to prevent acts of unlawful seizure of aircraft and, where appropriate, to co-operate with any State whose aircraft has been the subject of such a seizure.

(1) Declares that acts of unlawful interference with international civil aviation are not to be tolerated;

(2) Urges all Contracting States to take all appropriate measures to prevent the occurrence of any acts of unlawful interference so as to assure continued safety in international civil aviation;
Note: This Resolution was transmitted to Contracting States by State Letter LE 4/25.1 - 68/221 of 20 December 1968.

(3) Decides to give immediate and continuing attention to future acts of unlawful interference with international civil aviation by:

- i) inviting all Contracting States directly concerned to furnish it with a report on all non-political aspects of cases of unlawful interference;
- ii) developing preventive measures and procedures to safeguard international civil aviation against such acts; and
- iii) assisting, at the request of a Contracting State, the national authorities of that State in the adoption of such measures and procedures;

- PART III
- (4) Establishes, in accordance with Article 52 of the Convention, a Committee of eleven members chosen from among the Members of the Council, to implement Clause (3) above under the terms of reference appearing in the Appendix to the present Resolution, and which will report to Council;
- (5) Decides that the Committee shall deal only with the aeronautical aspects of cases of unlawful interference and shall refrain from considering any case which may involve the Committee in matters of a political nature or of controversy between two or more States;
- (6) Decides that, for the purposes of the present Resolution, the expression "unlawful interference" means (1) unlawful seizure of aircraft and (2) sabotage or armed attack directed against aircraft used in international air transport or ground facilities used by international air transport;
- (7) Decides to review annually the question of whether the Committee should be continued and the composition of its membership;
- (8) Requests the Secretary General to invite all Contracting States to give their immediate and full co-operation to achieve the objectives of this Resolution and their suggestions for any other measures which they consider should be taken to prevent unlawful interference with international civil aviation.

APPENDIX

Terms of Reference and Working Procedures of the Committee

1. The Committee shall deal only with the problems of (1) unlawful seizure of aircraft and (2) sabotage or armed attack directed against aircraft used in international air transport or ground facilities used by international air transport.
2. Whenever the Committee becomes aware of any incident of the type mentioned in paragraph 1 above, it shall evaluate the incident on the basis of the information available to determine whether it should, through the Secretary General, remind States directly concerned of the invitation of the Council to furnish reports on the aeronautical aspects of the incident.

3. Upon receipt of the reports mentioned in the preceding paragraph, the Committee will analyse them and present a statement of its findings to the Council, together with any recommendations for specific preventive measures or procedures it considers appropriate for approval by Council.
4. In carrying out its work, the Committee may invite advice and recommendations from States and, through States, from airlines, airport authorities and others, as well as from international organizations, which may be useful in developing measures and procedures to prevent the acts of unlawful interference enumerated in paragraph 1 above.
5. From time to time and as may be necessary, the Committee shall submit to Council for its approval measures and procedures which the Committee finds to be useful for adoption by States, airlines, airport authorities or international organizations to prevent the acts of unlawful interference enumerated in paragraph 1 above.
6. Whenever, in the course of its consideration of a particular incident, the Committee considers that an offer by ICAO to the States involved of the services of the Organization in the capacity of "good offices" would be beneficial, the Committee should bring this matter to Council for decision as to whether such an offer should be extended.
7. The Rules of Procedure for Standing Committees of the Council shall apply to the Committee, except that its decisions shall be by a majority of its members.

Note: (i) The Committee of eleven members established under resolving clause (4) of the Resolution was constituted on 13 May 1969.

(ii) The text of the Resolution was transmitted to Contracting States by State Letter LE 4/26 - 69/128 of 24 April 1969, which, in particular, called States' attention to clauses (2), (3) (i), (6) and (8) of the Resolution.

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PART IV

MEASURES ADOPTED BY THE COUNCIL ON 11 DECEMBER 1969

At the Sixteenth Meeting of its Sixty-Eighth Session, the Council adopted the measures indicated below and decided to communicate them to Contracting States for their consideration.

Section A lists measures for general prevention, Section B for specific prevention on the ground (subsection (i)) and in flight (subsection (ii)) and in Section C are listed certain measures and procedures which might prove useful in preserving the safety of flight, or which would alleviate the consequences of an unlawful seizure, once the aircraft came under the control and direction of the person so seizing the aircraft.

A. General prevention

(a) To enact domestic legislation as soon as possible making the act of unlawful seizure of an aircraft an offence which may carry severe penalties.

(b) To ensure, as far as practicable, the prosecution and punishment of persons committing acts of unlawful seizure of aircraft.

(c) To encourage the giving of wide publicity to either the thwarted attempt or punishment meted out to the person concerned, and similar publicity in regard to the fact that effective methods have been introduced for detecting the person intending to commit an act of unlawful seizure of aircraft, but without describing such measures.

(d) To seek the co-operation of news media in according the minimum of publicity to successful incidents of unlawful seizure of aircraft.

(e) Display of posters at airports publicizing the penalties for such acts.

between those two points.

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PART IV

B. Specific prevention

MEASURES ADOPTED BY THE COUNCIL ON 11 DECEMBER 1969

(i) On the ground

It is recognized that the following measures will need to be introduced and strictly enforced or implemented only in those areas which are

particularly susceptible to incidents of unlawful interference with international civil aviation and its facilities.

(a) Strict prohibition of the carriage of arms or explosives by passengers in the cabin of an aircraft.

(b) The selective screening or search of passengers and their hand-baggage at or near the gate position prior to embarkation to detect the presence of firearms or other articles capable of being used as weapons.

Note: In regard to (b) above, the latest system developed for detecting hidden weapons carried on the person or in the hand-baggage of a passenger, without resorting to physical search, holds much promise towards meeting some of the difficulties that might be encountered in implementing the suggested measure. This system consists of a magnetometer device used, at or near the gate position at an airport, in conjunction with the knowledge of the behavioural characteristics of persons who in the past have committed acts of unlawful seizure of aircraft. This system, however, has so far been tested only in one State and only recently has been introduced as a normal procedure in conjunction with the service operated by one airline in that State. Its application to other countries, therefore, will require examination of many factors, and the system itself might have to be modified and adjusted to suit the prevailing conditions in different States.

(c) Surveillance of the embarkation area between the gate position and the boarding steps in order to ensure that no weapon is handed over to a passenger somewhere between those two points.

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- (d) Strict airport security precautions - including provision of security fences, armed guards, etc. - to prevent access by unauthorized persons to aircraft or airport facilities or the "movement area" of the airport.
- (e) Special precautions to be taken by the crew before the commencement of flight in order to discover any stowaway or suspicious object.

- (f) Selective screening or search of accompanied or unaccompanied baggage.
- (ii) In flight

It is recognized that the introduction of the measures enumerated below should take into account the economic factors involved, their wider usefulness with the advent of the jumbo-jets, etc.

- (a) The cockpit should be separated from the passengers' cabin by a bullet-proof transparent door, or a door with a transparent porthole, which can be locked from inside the cockpit.

- (b) Equipping the cockpit with closed-circuit TV so that the operating crew may at all times be aware of what was taking place in the passengers' cabin, the baggage compartment, etc.

C. Other measures

- (a) In certain areas where the risk of unlawful seizure of aircraft is great, charts and other information about possible diversionary destinations should be kept in aircraft operating in those areas.

- (ii) In extreme circumstances, similar to (a) above, consideration might also have to be given to reserves of fuel to be carried by aircraft.

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(c) Guidance should be provided to crew members on how to handle incidents of unlawful seizure of aircraft, and to maintain order on the aircraft concerned.

(d) Special instructions should be issued to air traffic control services particularly in areas where there is significant risk of incidents of unlawful seizure of aircraft on the treatment to be accorded to an unlawfully seized aircraft in the interest of its own safety and that of other air traffic.

(e) In such areas where communication difficulties between the person unlawfully seizing an aircraft and members of the crew were likely to be experienced, language cards in two or more languages should be kept on board the aircraft.

(f) The identification of an unlawfully seized aircraft should be immediately transmitted to the air traffic control services by a device which should not arouse the suspicion of the person so seizing the aircraft (e.g. the "Transponder").

Additional Council Decision

The Council, as a measure designed to alleviate the consequences of an unlawful seizure of aircraft, also decided to remind Contracting States of Resolution A16-37 in which the Assembly had urged them to "become parties as soon as possible to the Tokyo Convention" and invited them, even before ratifying or adhering to that Convention, to "give effect to the principles of Article 11" of the said Convention, namely:

(i) by taking "all appropriate measures to restore control of the aircraft to its lawful commander, or to preserve his control of the aircraft"; and

(ii) by permitting "its passengers and crew to continue their journey as soon as practicable," and returning "the aircraft and its cargo to the persons lawfully entitled to possession".

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PART V

APPENDIX WORK OF THE LEGAL COMMITTEE AND ITS SUBCOMMITTEE ON UNLAWFUL SEIZURE OF AIRCRAFT

The Council, in taking action requested by the Assembly in Resolution A16-37 (see Part I), referred the problem of unlawful seizure of aircraft to the Legal Committee.

The Chairman of the Legal Committee established a Subcommittee of the Legal Committee which considered the question of unlawful seizure of aircraft in two sessions - from 10 to 21 February 1969 and from 23 September to 3 October 1969. The Subcommittee prepared a draft convention. The said draft Convention, together with comments from States and interested international organizations, will be considered at the Seventeenth Session of the Legal Committee which is to meet in Montreal from 9 February to 10 March 1970. It is expected that the Legal Committee will be able to adopt, at the forthcoming session, a revised draft Convention on unlawful seizure of aircraft for subsequent consideration by a diplomatic conference to be convened by ICAO later in 1970.

Note: Full documentation in respect of the work of the Subcommittee of the Legal Committee on the subject of unlawful seizure of aircraft is to be found in Doc 8838-LC/157 which was despatched to States in November 1969.

1. Calls upon States to take such appropriate measures to ensure that they respect the freedom of air travel;

2. Urges full support for the efforts of the International Civil Aviation Organization directed towards the speedy preparation and implementation of a convention providing for appropriate measures, *inter alia*, with respect to making the unlawful seizure of civil aircraft a punishable offence and to the prosecution of persons who commit that offence;

3. Invites States to ratify or accede to the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed in Tokyo on 14 September 1963, in conformity with the Convention.

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APPENDIX

Resolution adopted at the 1831st Plenary Meeting of the
General Assembly of the United Nations on 12 December 1969

Forcible diversion of civil aircraft in flight

The General Assembly,

Deeply concerned over acts of unlawful interference with international civil aviation,

Considering it necessary to recommend effective measures against hijacking in all its forms, or any other unlawful seizure or exercise of control of aircraft,

Mindful that such acts may endanger the life and health of passengers and crew in disregard of commonly accepted humanitarian considerations,

Aware that international civil aviation can only function properly in conditions guaranteeing the safety of its operations and the due exercise of the freedom of air travel,

1. Calls upon States to take every appropriate measure to ensure that their respective national legislations provide an adequate framework for effective legal measures against all kinds of acts of unlawful interference with, seizure of, or other wrongful exercise of control by force or threat thereof over, civil aircraft in flight;

2. Urges States in particular to ensure that persons on board who perpetrate such acts are prosecuted;

3. Urges full support for the efforts of the International Civil Aviation Organization directed towards the speedy preparation and implementation of a convention providing for appropriate measures, inter alia, with respect to making the unlawful seizure of civil aircraft a punishable offence and to the prosecution of persons who commit that offence;

4. Invites States to ratify or accede to the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed in Tokyo on 14 September 1963, in conformity with the Convention.

- END -

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Doc 8849 - C/990



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**MESURES
ADOPTÉES PAR LE CONSEIL
ET AUTRES DISPOSITIONS
PRISES PAR L'OACI
AU SUJET DE L'INTERVENTION ILLICITE
DANS L'AVIATION CIVILE INTERNATIONALE
ET SES INSTALLATIONS ET SERVICES**

Décembre 1969

ORGANISATION DE L'AVIATION CIVILE INTERNATIONALE

000215

TEL.: 866-2551

CABLES: ICAO MONTREAL

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

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

LE 4/26 - 70/6

le 16 janvier 1970

Objet: Intervention illicite dans l'aviation
civile internationale et ses installations et services

Suite à donner: Considération des mesures
adoptées par le Conseil le 11 décembre 1969

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Monsieur,

J'ai l'honneur de vous informer que le 11 décembre 1969, lors de la seizième séance de sa soixante-huitième session, le Conseil a adopté certaines mesures qui pourraient aider les Etats contractants à prendre les dispositions nécessaires pour prévenir les actes d'intervention illicite dans l'aviation civile internationale et ses installations et services et a décidé de communiquer lesdites mesures aux Etats contractants pour considération.

A ce propos, le Conseil a approuvé la publication, pour diffusion aux Etats, du Document 8849-C/990 intitulé "Mesures adoptées par le Conseil et autres dispositions prises par l'OACI au sujet de l'intervention illicite dans l'aviation civile internationale et ses installations et services", dont vous ... trouverez un exemplaire sous ce pli. La 4ème Partie du document contient les mesures précitées.

Veuillez agréer, Monsieur, l'assurance de ma haute considération.

B. T. Twigt
Secrétaire général

Pièce jointe: Doc 8849-C/990

(iii)

Doc 8849-C/990

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MESURES ADOPTEES PAR LE CONSEIL ET AUTRES DISPOSITIONS
PRISES PAR L'OACI AU SUJET DE L'INTERVENTION ILLICITE DANS
L'AVIATION CIVILE INTERNATIONALE ET SES INSTALLATIONS
ET SERVICES

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1ère PARTIE - Résolution A16-37 de l'Assemblée 1

2ème PARTIE - Résolution adoptée par le Conseil le
16 décembre 1969 AVANT-PROPOS 3

3ème PARTIE Le présent document présente les mesures adoptées par
le Conseil et rend compte des autres dispositions prises par l'OACI au sujet
de l'intervention illicite dans l'aviation civile internationale et ses installa-
tions et services. - Mesures adoptées par le Conseil le
11 décembre 1969. 9
On trouvera aussi, en Appendice, le texte de la résolution

de l'Assemblée générale des Nations Unies du 12 décembre 1969 relative à
5ème PARTIE - Travaux du Comité juridique et de son sous-
certaines mesures que les Etats devraient prendre pour prévenir toutes les
formes d'intervention illicite, de prise de possession d'un aéronef civil en
vol ou d'exercice d'un contrôle par la force ou la menace de la force sur un
tel aéronef.

APPENDICE - Résolution adoptée par l'Assemblée générale
des Nations Unies le 12 décembre 1969 15

Note: Les mesures et dispositions dont il est rendu compte sont
celles qui ont été prises jusqu'à la fin de décembre 1969.

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1ère PARTIE

RESOLUTION SUR LA CAPTURE ILICITE D'AERONEFS CIVILS
ADOPTÉE PAR L'ASSEMBLEE DE L'OACI LORS DE SA SEIZIEME SESSION
(BUENOS TABLE DES MATIERES E 1968)

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A16-37: <u>Capture illicite d'aéronefs civils</u>	
<u>L'ASSEMBLEE,</u>	
1ère PARTIE - Résolution A16-37 de l'Assemblée	1
<u>CONSIDERANT</u> que la capture illicite d'aéronefs civils compromet la sécurité, l'efficacité et la régularité de la	
2ème PARTIE - Résolution adoptée par le Conseil le 16 décembre 1968.	3
<u>NOTANT</u> que l'Article 11 de la Convention de Tokyo relative aux infractions et à certains autres actes survenant à bord des aéronefs prévoit certaines mesures en vue de remédier à la situation envisagée;	
3ème PARTIE - Résolution adoptée par le Conseil le 10 avril 1969	5
<u>ETANT D'AVIS</u> , toutefois, que cet article ne résout pas complètement la question;	
4ème PARTIE - Mesures adoptées par le Conseil le 11 décembre 1969.	9
1) PRIE INSTAMMENT tous les Etats de devenir parties le plus tôt possible à la Convention de Tokyo relative aux infractions et à certains autres actes survenant à bord des aéronefs;	
5ème PARTIE - Travaux du Comité juridique et de son sous- comité chargé d'étudier la question de la capture illicite d'aéronefs	13
2) INVITE les Etats, avant même qu'ils aient ratifié la Convention de Tokyo ou y aient adhéré, à prendre les mesures nécessaires pour assurer le respect de l'Article 11 de la dite Convention;	
APPENDICE - Résolution adoptée par l'Assemblée générale des Nations Unies le 12 décembre 1969	15
3) DEMANDE au Conseil d'entreprendre, à la date la plus rapprochée possible, l'étude d'autres mesures destinées à traiter du problème de la capture illicite d'aéronefs.	

Note: Le texte de cette résolution a été adressé aux Etats contractants
par la lettre LE 3/17 LE 3/12 - 68/182 du 31 octobre 1968, qui
leur rappelait les dispositions de l'Article 11 de la Convention
de Tokyo relative aux infractions et à certains autres actes
survenant à bord des aéronefs.

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1ère PARTIE

2ème PARTIE

RESOLUTION SUR LA CAPTURE ILLICITE D'AERONEFS CIVILS
ADOPTÉE PAR L'ASSEMBLEE DE L'OACI LORS DE SA SEIZIEME SESSION
(BUENOS AIRES, 3 - 26 SEPTEMBRE 1968)
ADOPTÉE PAR LE CONSEIL LE 16 DECEMBRE 1968

A16-37: Capture illicite d'aéronefs civils

L'ASSEMBLEE,

CONSIDERANT que la capture illicite d'aéronefs civils compromet la sécurité, l'efficacité et la régularité de la navigation aérienne;

NOTANT que l'Article 11 de la Convention de Tokyo relative aux infractions et à certains autres actes survenant à bord des aéronefs prévoit certaines mesures en vue de remédier à la situation envisagée;

ETANT D'AVIS, toutefois, que cet article ne résout pas complètement la question;

1) PRIE INSTAMMENT tous les Etats de devenir parties le plus tôt possible à la Convention de Tokyo relative aux infractions et à certains autres actes survenant à bord des aéronefs;

Note: Le texte de cette résolution a été adressé aux Etats contractants par la lettre LE 4/25.1 - 68/221 du 20 décembre 1968.

2) INVITE les Etats, avant même qu'ils aient ratifié la Convention de Tokyo ou y aient adhéré, à mettre en oeuvre les principes de l'Article 11 de ladite Convention;

3) DEMANDE au Conseil d'entreprendre, à la date la plus rapprochée possible, l'étude d'autres mesures destinées à traiter du problème de la capture illicite d'aéronefs.

Note: Le texte de cette résolution a été adressé aux Etats contractants par la lettre LE 3/17 LE 3/12 - 68/182 du 31 octobre 1968, qui leur rappelait les dispositions de l'Article 11 de la Convention de Tokyo relative aux infractions et à certains autres actes survenant à bord des aéronefs.

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3ème PARTIE

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2ème PARTIE

RESOLUTION SUR L'INTERVENTION ILLICITE DANS L'AVIATION
CIVILE INTERNATIONALE ET SES INSTALLATIONS ET SERVICES
RESOLUTION SUR LA CAPTURE ILLICITE D'AERONEFS
ADOPTÉE PAR LE CONSEIL LE 16 DECEMBRE 1968

LE CONSEIL,

LE CONSEIL,
GRAVEMENT PREOCCUPE du fait que des actes qui constituent des
interventions illicites dans l'aviation civile internationale compromettent
NOTANT avec inquiétude que le nombre croissant
d'actes de capture illicite d'aéronefs par violence
est une menace grave pour la sécurité de la
navigation aérienne;

CONSIDERANT que la menace qui pèse ainsi sur l'aviation civile interna-
tionale exige l'attention urgente et suivie de l'Organisation et l'entière
coopération de tous les Etats contractants en vertu de la Convention rela-
tive à l'Aviation civile internationale afin d'assurer le maintien de la
sécurité de l'aviation civile internationale;

- PRIE INSTAMMENT les Etats contractants de
prendre toutes les mesures possibles afin
de prévenir les actes de capture illicite
d'aéronefs et, lorsque cela est approprié,
de coopérer avec tout Etat dont un aéronef
a été l'objet d'une telle capture.
- 1) Déclare que les actes d'intervention illicite dans l'aviation civile inter-
nationale ne doivent pas être tolérés;
 - 2) Prie instamment tous les Etats contractants de prendre toutes les
mesures appropriées pour empêcher que ne se produisent des actes
d'intervention illicite de façon à assurer le maintien de la sécurité
dans l'aviation civile internationale;
 - 3) Décide d'accorder une attention immédiate et suivie aux futurs actes
d'intervention illicite dans l'aviation civile internationale:
- Note: Le texte de cette résolution a été adressé aux Etats
contractants par la lettre LE 4/25.1 - 68/221 du
20 décembre 1968.
- i) en invitant tous les Etats contractants directement concernés à lui
présenter un rapport sur tous les aspects non politiques des cas
d'intervention illicite;
 - ii) en mettant au point des mesures et des procédures préventives
destinées à protéger l'aviation civile internationale contre de tels
actes; et
 - iii) en assistant, à la demande d'un Etat contractant, les autorités
nationales de cet Etat pour l'adoption de telles mesures et procé-
dures;

3ème PARTIE

RESOLUTION SUR L'INTERVENTION ILLICITE DANS L'AVIATION
CIVILE INTERNATIONALE ET SES INSTALLATIONS ET SERVICES

ADOPTÉE PAR LE CONSEIL LE 10 AVRIL 1969

LE CONSEIL,

GRAVEMENT PREOCCUPE du fait que des actes qui constituent des interventions illicites dans l'aviation civile internationale compromettent la sécurité de celle-ci, gênent sérieusement l'exploitation des services aériens internationaux et minent la confiance des peuples du monde dans la sécurité de l'aviation civile internationale;

CONSIDERANT que la menace qui pèse ainsi sur l'aviation civile internationale exige l'attention urgente et suivie de l'Organisation et l'entière coopération de tous les Etats contractants en vertu de la Convention relative à l'Aviation civile internationale afin d'assurer le maintien de la sécurité de l'aviation civile internationale;

1) Déclare que les actes d'intervention illicite dans l'aviation civile internationale ne doivent pas être tolérés;

2) Prié instamment tous les Etats contractants de prendre toutes les mesures appropriées pour empêcher que ne se produisent des actes d'intervention illicite de façon à assurer le maintien de la sécurité dans l'aviation civile internationale;

3) Décide d'accorder une attention immédiate et suivie aux futurs actes d'intervention illicite dans l'aviation civile internationale:

i) en invitant tous les Etats contractants directement concernés à lui présenter un rapport sur tous les aspects non politiques des cas d'intervention illicite;

ii) en mettant au point des mesures et des procédures préventives destinées à protéger l'aviation civile internationale contre de tels actes; et

iii) en assistant, à la demande d'un Etat contractant, les autorités nationales de cet Etat pour l'adoption de telles mesures et procédures;

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- 4) Institue, conformément à l'Article 52 de la Convention, un Comité de onze membres choisis parmi les Membres du Conseil, pour mettre en oeuvre la clause 3 ci-dessus aux termes du mandat indiqué à l'Appendice de la présente Résolution, et qui fera rapport au Conseil.
- 5) Décide que le Comité traitera uniquement des aspects aéronautiques des cas d'intervention illicite et s'abstiendra d'examiner tout cas qui puisse impliquer le Comité dans des questions de nature politique ou des controverses entre deux ou plusieurs Etats;
- 6) Décide qu'àux fins de la présente Résolution, l'expression "intervention illicite" signifie (1) la capture illicite d'aéronefs et (2) les actes de sabotage ou d'attaque armée dirigés contre des aéronefs utilisés dans le transport aérien international ou des installations et services au sol utilisés par le transport aérien international;
- 7) Décide de revoir annuellement la question du maintien en activité et de la composition du Comité;
- 8) Demande au Secrétaire général d'inviter tous les Etats contractants à coopérer immédiatement et entièrement en vue d'atteindre les objectifs de cette résolution et à faire des suggestions sur toutes autres mesures qu'il conviendrait, à leur sens, de prendre pour prévenir toute intervention illicite dans l'aviation civile internationale;

APPENDICE

Mandat et procédure du Comité

1. Le Comité traitera uniquement des problèmes 1) de la capture illicite d'aéronefs et 2) des actes de sabotage ou d'attaque armée dirigés contre des aéronefs utilisés dans le transport aérien international ou des installations et services au sol utilisés par le transport aérien international.
2. Chaque fois que le Comité aura connaissance d'un incident du type mentionné au paragraphe 1, il procédera à une évaluation de l'incident d'après les renseignements dont il dispose afin de déterminer s'il devrait, par l'intermédiaire du Secrétaire général, rappeler aux Etats directement concernés l'invitation du Conseil de présenter des rapports sur les aspects aéronautiques de l'incident.

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3. Lorsque le Comité aura reçu les rapports mentionnés au paragraphe précédent, il les analysera et présentera un exposé de ses conclusions au Conseil accompagné de toutes recommandations relatives à des mesures ou procédures préventives spécifiques qu'il jugerait appropriées pour approbation par le Conseil.
4. Dans l'accomplissement de ses travaux, le Comité peut solliciter des Etats et, par l'intermédiaire des Etats, des compagnies aériennes, des administrations d'aéroport et d'autres, ainsi que des organisations internationales, des avis et des recommandations qui peuvent être utiles dans l'élaboration de mesures et de procédures destinées à prévenir les actes d'intervention illicite énumérés au paragraphe 1.
5. De temps à autre et selon les nécessités, le Comité soumettra à l'approbation du Conseil des mesures et procédures que le Comité estime utile que les Etats, les compagnies aériennes, les administrations d'aéroport ou les organisations internationales adoptent pour prévenir les actes d'intervention illicite énumérés au paragraphe 1.
6. Chaque fois qu'au cours de l'examen d'un incident particulier le Comité estime qu'une offre de l'OACI aux Etats en cause de mettre les services de l'Organisation sous la forme de "bons offices" serait bénéfique, il devrait présenter la question au Conseil pour que celui-ci décide si une telle offre devrait être faite.
7. Le Règlement Intérieur des Comités permanents du Conseil s'appliquera au Comité, sauf que ses décisions seront prises à la majorité de ses membres.

Note: 1) Le comité de onze membres institué en application du paragraphe 4 du dispositif de la résolution a été constitué le 13 mai 1969.

2) Le texte de la résolution a été adressé aux Etats contractants par la lettre LE 4/26 - 69/128 du 24 avril 1969 qui, en particulier, appelait l'attention des Etats sur les paragraphes 2, 3 (i), 6 et 8 de la résolution.

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4ème PARTIE

MESURES ADOPTÉES PAR LE CONSEIL LE 11 DECEMBRE 1969

d) Prendre des mesures de sécurité strictes aux aéroports - y compris la mise en place de clôtures de sécurité, la présence de gardes armés, etc., afin d'empêcher les personnes non autorisées d'avoir accès à l'aéroport ou aux installations et Lors de la 16ème séance de sa soixante-huitième session, le Conseil a adopté les mesures ci-dessous et a décidé de les communiquer aux Etats contractants pour considération.

- La section A énumère des mesures de prévention générale, la section B des mesures de prévention particulière au sol (paragraphe 1) et en vol (paragraphe 2) et la section C contient une liste de certaines mesures et procédures qui pourraient aider à préserver la sécurité en vol, ou qui pourraient atténuer les conséquences d'un acte de capture illicite, une fois l'aéronef sous le contrôle et la direction de l'auteur de l'acte de capture illicite.

A. Prévention générale

a) Promulguer dès que possible une législation nationale disposant qu'un acte de capture illicite d'aéronef est une infraction qui peut entraîner de lourdes peines.

b) Assurer, dans la mesure du possible, la poursuite et le châtiment des auteurs d'actes de capture illicite d'aéronefs.

c) Encourager les médias d'information à donner une large publicité aux tentatives déjouées ou aux sanctions prises contre les coupables ainsi qu'au fait que des méthodes efficaces ont été introduites pour déceler l'auteur en puissance d'un acte de capture illicite d'aéronef, mais sans décrire ces méthodes.

d) Chercher à obtenir la coopération des médias d'information afin qu'ils ne donnent qu'un minimum de publicité aux incidents de capture illicite d'aéronefs qui aboutissent à une réussite.

e) Afficher aux aéroports des avis qui fassent connaître les sanctions dont sont passibles les auteurs d'acte de capture illicite d'aéronefs.

a) ci-dessus, on pourrait également tenir compte des réserves de carburant que les aéronefs doivent emporter à bord.

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4ème PARTIE

B. Prévention particulière

1) Au sol

On reconnaît que les mesures ci-après ne devront être mises en vigueur et strictement appliquées que dans les régions où des incidents d'intervention illicite dans l'aviation civile internationale et ses installations et services risquent plus particulièrement de se produire.

- a) Interdire strictement aux passagers de transporter en cabine des armes ou des explosifs.
- b) Appliquer un système sélectif de filtrage ou de fouille des passagers et de leurs bagages à main, aux portes d'embarquement ou près de celles-ci, pour déceler la présence d'armes à feu ou d'autres objets susceptibles de servir d'armes.

Note: En ce qui concerne l'alinéa b ci-dessus, le dernier système mis au point pour déceler des armes dissimulées sur la personne ou dans les bagages à main d'un passager, sans fouiller ce dernier, promet de résoudre certains des problèmes que pourrait poser la mise en application des mesures suggérées. Ce système consiste à utiliser, parallèlement à la connaissance des caractéristiques de comportement des personnes qui ont commis des actes de capture illicite d'aéronefs par le passé, un dispositif à magnétomètre à la porte d'embarquement ou près de celle-ci. Toutefois, le système n'a encore été expérimenté que dans un Etat et ce n'est que récemment qu'il a été inclus dans les méthodes normales d'exploitation d'une compagnie aérienne de cet Etat. Son application dans d'autres pays demandera donc l'étude de nombreux facteurs et le système lui-même devra peut-être être modifié et adapté selon les conditions particulières aux différents Etats.

- c) Surveiller l'aire d'embarquement entre la porte utilisée par les passagers au départ et la passerelle d'embarquement afin de s'assurer qu'aucune arme n'est remise à un passager entre ces deux points.

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d) Prendre des mesures de sécurité strictes aux aéroports - y compris la mise en place de clôtures de sécurité, le déploiement de gardes armés, etc., afin d'empêcher les personnes non autorisées d'avoir accès à l'aéronef ou aux installations et services d'aéroport ou encore à l'aire de mouvement de l'aéroport.

e) Faire vérifier soigneusement par l'équipage, avant le vol, qu'il n'y a pas de passagers clandestins ou d'objets suspects à bord.

f) Filtrer ou fouiller le bagage, accompagné ou non, par un système sélectif.

2) En vol

Il est reconnu qu'il conviendrait de mettre en vigueur les mesures énumérées ci-dessous en tenant compte des facteurs économiques qui entrent en jeu, de leur plus grande utilité lors de la mise en service d'avions à réaction géants, etc.

a) Le poste de pilotage devrait être séparé de la cabine des passagers par une porte en matière transparente à l'épreuve des balles ou par une porte dotée d'un hublot transparent, qui pourrait se verrouiller de l'intérieur du poste de pilotage.

b) Installer dans le poste de pilotage une télévision en circuit fermé pour permettre à l'équipage de conduite de savoir à tout moment ce qui se passe dans la cabine des passagers, dans la soute à bagages, etc.

C. Autres mesures

a) Les aéronefs exploités dans certaines régions où les risques de capture illicite sont élevés devraient être munis de cartes et d'autres éléments d'information sur les destinations vers lesquelles ils pourraient être déroutés.

b) Dans des cas extrêmes, semblables à ceux dont il est question en a) ci-dessus, on pourrait également tenir compte des réserves de carburant que les aéronefs doivent emporter à bord.

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c) Il conviendrait de donner des instructions aux équipages sur la façon d'agir en cas d'intervention illicite et de maintenir l'ordre à bord.

d) Il conviendrait de donner aux services de contrôle de la circulation aérienne, en particulier dans les régions où le risque d'incidents de capture illicite d'aéronefs est élevé, des instructions spéciales sur les dispositions à prendre à l'égard d'un aéronef capturé illicitement, afin de protéger cet aéronef et les autres aéronefs en vol.

e) Dans les régions où des difficultés de communications pourraient se présenter entre l'auteur d'un acte de capture illicite et les membres de l'équipage, il conviendrait de munir les aéronefs de jeux de fiches portant des inscriptions en deux ou plusieurs langues.

f) L'identification d'un aéronef capturé illicitement devrait être immédiatement communiquée aux services de contrôle de la circulation aérienne au moyen d'un dispositif qui n'éveillerait pas de soupçons chez l'auteur de l'acte de capture illicite (le "transpondeur", par exemple).

Décision additionnelle du Conseil

En tant que mesure destinée à atténuer les conséquences d'un acte de capture illicite, le Conseil a aussi décidé de rappeler aux Etats contractants la résolution A16-37, par laquelle l'Assemblée priait instamment ces derniers "de devenir parties le plus tôt possible à la Convention de Tokyo" et les invitait à mettre en oeuvre, avant même d'avoir ratifié ladite convention ou d'y avoir adhéré, les principes de l'Article 11 de cette convention:

1) en prenant "toutes mesures appropriées pour restituer ou conserver le contrôle de l'aéronef au commandant légitime"; et

2) en permettant "aux passagers et à l'équipage de poursuivre leur voyage aussitôt que possible" et en restituant "l'aéronef et sa cargaison à ceux qui ont le droit de les détenir".

ANNEXE
5ème PARTIE

TRAVAUX DU COMITE JURIDIQUE ET DE SON SOUS-COMITE CHARGE
D'ETUDIER LA QUESTION DE LA CAPTURE ILLicITE D'AERONEFS

En prenant les mesures qui lui avaient été demandées par l'Assemblée dans la résolution A16-37 (voir la 1ère Partie), le Conseil a renvoyé le problème de la capture illicite d'aéronefs au Comité juridique.

Le président du Comité juridique a institué un sous-comité du Comité juridique qui a étudié la question de la capture illicite d'aéronefs au cours de deux sessions, du 10 au 21 février 1969 et du 23 septembre au 3 octobre 1969. Le sous-comité a préparé un projet de convention.

Ledit projet de convention ainsi que les observations des Etats et des organisations internationales intéressées seront examinés lors de la dix-septième session du Comité juridique, qui doit avoir lieu à Montréal du 9 février au 10 mars 1970. Il est prévu que le Comité juridique sera en mesure d'adopter, lors de cette session, un projet révisé de convention sur la capture illicite d'aéronefs qui sera examiné ultérieurement par une conférence diplomatique que l'OACI convoquera dans le courant de la même année.

Note: On trouvera une documentation complète sur les travaux accomplis par le sous-comité du Comité juridique au sujet de la capture illicite d'aéronefs dans le document 8838-LC/157, qui a été diffusé aux Etats en novembre 1969.

3. Demande instamment que l'Organisation de l'Aviation Civile internationale vienne à préparer et à mettre promptement en circulation une convention relative aux infractions appropriées, en vue notamment de la punition de la prise de possession d'un aéronef civil au départ pour ou à l'atterrissage, de la capture ou de la destruction de tels aéronefs, et de la punition des personnes qui commettent ce délit;

4. Invite les Etats à ratifier la Convention relative aux infractions et à certaines autres actes survenant à bord des aéronefs, adoptée à Tokyo le 14 septembre 1963, et à la mettre en œuvre, conformément à la Convention.

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APPENDICE

Résolution adoptée à la 1831^{ème} séance plénière de
l'Assemblée générale des Nations Unies, le 12 décembre 1969

Détournement par la force d'aéronefs civils en vol

L'Assemblée générale,

Profondément préoccupée par les actes d'intervention illégale dans
les opérations de l'aviation civile internationale,

Considérant qu'il est nécessaire de recommander des mesures efficaces
contre le détournement d'aéronefs sous toutes ses formes ou tout autre acte
illégal de prise de possession d'un aéronef ou d'exercice d'un contrôle sur
un aéronef,

Consciente que de tels actes mettent en danger la vie et la santé
des passagers et des équipages, au mépris des considérations humanitaires
couramment acceptées,

Sachant que l'aviation civile internationale ne peut fonctionner de
façon satisfaisante que dans des conditions garantissant la sécurité de
ses opérations et l'exercice légitime de la liberté des voyages aériens,

1. Fait appel aux Etats pour qu'ils prennent toutes mesures appro-
priées afin d'assurer que leurs législations nationales respectives offrent
un cadre approprié pour l'adoption de mesures légales efficaces contre
toutes les formes d'intervention illégale, de prise de possession d'un
aéronef civil en vol ou d'exercice d'un contrôle par la force ou la menace
de la force sur un tel aéronef;

2. Demande instamment aux Etats, en particulier, de veiller à ce
que les personnes qui perpètrent de tels actes à bord d'un tel aéronef
soient poursuivies;

3. Demande instamment que soient pleinement appuyés les efforts de
l'Organisation de l'Aviation civile internationale visant à préparer et à
mettre promptement en application une convention prévoyant des mesures
appropriées, en vue notamment de faire de la prise de possession illégale
d'un aéronef civil un délit punissable et de poursuivre les personnes qui
commettent ce délit;

4. Invite les Etats à ratifier la Convention relative aux infrac-
tions et à certains autres actes survenant à bord des aéronefs, signée à
Tokyo le 14 septembre 1963, ou à y adhérer, conformément à ladite convention.

000229

Doc 8849 - C/990



**MEDIDAS
ADOPTADAS POR EL CONSEJO
Y OTRAS DISPOSICIONES
TOMADAS POR LA OACI
SOBRE LA CUESTIÓN DE INTERFERENCIA ILÍCITA
CON LA AVIACIÓN CIVIL INTERNACIONAL
Y SUS INSTALACIONES Y SERVICIOS**

Diciembre de 1969

ORGANIZACIÓN DE AVIACIÓN CIVIL INTERNACIONAL

Doc 8849-C/990

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MEDIDAS ADOPTADAS POR EL CONSEJO Y OTRAS
DISPOSICIONES TOMADAS POR LA OACI SOBRE LA CUESTION
DE INTERFERENCIA ILICITA CON LA AVIACION CIVIL
INTERNACIONAL Y SUS INSTALACIONES Y SERVICIOS

Página:

PARTE I - Resolución A16-37 de la Asamblea 1

PREFACIO

PARTE II - Resolución adoptada por el Consejo el
En este documento figuran las medidas adoptadas por el
Consejo y otras disposiciones tomadas por la OACI sobre la cuestión de inter-
ferencia ilícita con la aviación civil internacional y sus instalaciones y ser-
vicios.
10 de abril de 1969 5

Además, en un Apéndice se reproduce el texto de la reso-
PARTE IV - Medidas adoptadas por el Consejo el
lución adoptada por la Asamblea General de las Naciones Unidas el 12 de 9
diciembre de 1969 sobre ciertas medidas a ser tomadas por los Estados para
prevenir actos de interferencia ilícita, apoderamiento, u otro ejercicio ilícito
del control de aeronaves civiles en vuelo, mediante la fuerza o la intimidación.
sobre secuestro de aeronaves. 13

APENDICE - Resolución adoptada por la Asamblea General de
Nota: Las medidas y decisiones enumeradas son las tomadas hasta
las Naciones Unidas el 12 de diciembre de 1969. 15
fines de diciembre de 1969.

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PARTE I

RESOLUCION SOBRE EL APODERAMIENTO ILICITO DE AERONAVES
ADOPTADA POR LA ASAMBLEA DE LA OACI
EN SU XVI PERIODO DE SESIONES
(BUENOS AIRES, 3 - 26 DE SEPTIEMBRE DE 1968)

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PARTE I - CONSIDERANDO que el apoderamiento ilícito de aeronaves civiles tiene un serio efecto adverso respecto a la seguridad, eficiencia y regularidad en la navegación aérea;	1
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PARTE III - TOMANDO NOTA de que el Artículo 11 del Convenio de Tokio sobre las infracciones y actos cometidos a bordo de las aeronaves provee algunas soluciones a la situación en cuestión;	5
PARTE IV - Medidas adoptadas por el Consejo el 11 de diciembre de 1969, de opinión que este artículo no ofrece una solución completa;	9
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3) SOLICITA al Consejo que, en la fecha más próxima posible, emprenda un estudio sobre otras medidas para hacer frente al problema del apoderamiento ilícito de aeronaves.	

Nota: Esta resolución fue transmitida a los Estados Contratantes mediante la comunicación LE 3/17 LE 3/12 - 68/182 del 31 de octubre de 1968, recordándose a los Estados las disposiciones del Artículo 11 del Convenio de Tokio sobre las infracciones y ciertos otros actos cometidos a bordo de las aeronaves.

PARTE I

RESOLUCION SOBRE EL APODERAMIENTO ILICITO DE AERONAVES
ADOPTADA POR LA ASAMBLEA DE LA OACI EN SU XVI PERIODO DE SESIONES
(BUENOS AIRES, 3 - 26 DE SEPTIEMBRE DE 1968)
EL CONSEJO,

A16-37: Apoderamiento ilícito de aeronaves civiles ve amenaza que supone
para la navegación aérea el número cada vez mayor de
CONSIDERANDO que el apoderamiento ilícito de aeronaves
aeronaves civiles tiene un serio efecto adverso respecto
a la seguridad, eficiencia y regularidad en la
TENIENDO en cuenta la navegación aérea, ESPECIALMENTE lo dispuesto
en el Artículo 44, inciso h), del Convenio de Aviación
LA ASAMBLEA: nacional,

INSTA a TOMANDO NOTA de que el Artículo 11 del
Convenio de Tokio sobre las infracciones y
de ciertos otros actos cometidos a bordo de las
y, aeronaves provee algunas soluciones a la
situación en cuestión; y, a las aeronaves haya sido
objeto de dicho apoderamiento.

SIENDO, sin embargo, de opinión que este
artículo no ofrece una solución completa;

Nota: Esta resolución INSTA a todos los Estados a ser partes, tan pronto
mediante la como sea posible, del Convenio de Tokio sobre las
20 de diciembre infracciones y ciertos otros actos cometidos a
bordo de las aeronaves;

- 2) INVITA a los Estados a que, aún antes de la
ratificación o adhesión del Convenio de Tokio,
pongan en práctica los principios del Artículo 11
de este Convenio; y
- 3) SOLICITA al Consejo que, en la fecha más próxima
posible, emprenda un estudio sobre otras medidas
para hacer frente al problema del apoderamiento
ilícito de aeronaves.

Nota: Esta resolución fue transmitida a los Estados Contratantes
mediante la comunicación LE 3/17 LE 3/12 - 68/182 del
31 de octubre de 1968, recordándose a los Estados las
disposiciones del Artículo 11 del Convenio de Tokio sobre
las infracciones y ciertos otros actos cometidos a bordo
de las aeronaves.

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PARTE II

PARTE III

RESOLUCION SOBRE EL APODERAMIENTO ILICITO DE AERONAVES
RESOL ADOPTADA POR EL CONSEJO EL 16 DE DICIEMBRE DE 1968 EN
CIVIL INTERNACIONAL Y SUS INSTALACIONES Y SERVICIOS
ADOPTADA POR EL CONSEJO EL 10 DE ABRIL DE 1969
EL CONSEJO,

EL CONSEJO,

OBSERVANDO con inquietud la grave amenaza que supone
para la navegación aérea el número cada vez mayor de
actos de apoderamiento ilícito y por la fuerza de las
aeronaves

que constituyen
una amenaza en la aviación civil internacional comprometen su
seguridad, afectan gravemente la explotación de los servicios aéreos
internacionales, menoscaban la confianza de los países del mundo en la
seguridad de la aviación civil internacional,

TENIENDO EN CUENTA ESPECIALMENTE lo dispuesto
en el Artículo 44, inciso h), del Convenio de Aviación
Civil Internacional,

CONSIDERANDO que la amenaza así planteada a la aviación civil interna-
cional requiere la adopción urgente y decidida de medidas y la
plena cooperación de todos los Estados Contratantes, en virtud del Con-
venio de Aviación Civil Internacional, a fin de mantener la seguridad de
la aviación civil y si se considera apropiado, a que colaboren
con todo Estado una de cuyas aeronaves haya sido
objeto de dicho apoderamiento.

1) Declara que los actos de interferencia ilícita en la aviación civil inter-
nacional no deben ser tolerados

2) Insta a todos los Estados Contratantes a que adopten todas las medidas
Nota: Esta resolución fue transmitida a los Estados Contratantes
mediante la comunicación LE 4/25.1 - 68/221 del
20 de diciembre de 1968.

3) Decide prestar inmediata y constante atención a los futuros actos de
interferencia ilícita en la aviación civil internacional;

i) invitando a todos los Estados Contratantes directamente involu-
crados a que le proporcionen un informe sobre todos los aspectos
de política de tales de interferencia ilícita;

ii) preparando medidas y procediendo los preventivos encaminados a
proteger la aviación civil internacional contra tales actos; y

iii) asistiendo, a pedido de un Estado Contratante, a las autoridades
nacionales de ese Estado en la adopción de tales medidas y proce-
dimientos;

- 4) Establece, de conformidad con el Artículo 52 del Convenio, un Comité de once miembros escogidos de entre los miembros del Consejo, para poner en aplicación la cláusula 3 anterior de acuerdo con las atribuciones que aparecen en el Apéndice a la presente Resolución, y que presentará sus informes al Consejo;
- 5) Decide que el Comité se ocupará solamente de los aspectos aeronáuticos de los casos de interferencia ilícita y se abstendrá de considerar todo caso que pueda envolver al Comité en cuestiones de naturaleza política o de controversia entre dos o más Estados;
- 6) Decide que para los fines de la presente Resolución la expresión "interferencia ilícita" significa 1) el apoderamiento ilícito de aeronaves y 2) el sabotaje o ataque armado dirigidos contra aeronaves utilizadas en transporte aéreo internacional o instalaciones terrestres utilizadas por el transporte aéreo internacional;
- 7) Decide volver a examinar anualmente la cuestión de determinar si debe o no continuar el Comité, así como su composición;
- 8) Solicita del Secretario General que invite a todos los Estados Contratantes a prestar su inmediata y plena cooperación en el logro de los objetivos de esta Resolución y sus sugerencias sobre cualesquiera otras medidas que estimen que debieran tomarse para prevenir la interferencia ilícita en la aviación civil internacional.

APENDICE

3) Decide prestar inmediata y constante atención a los futuros actos de interferencia y atribuciones y forma de trabajo del Comité

1. El Comité se ocupará únicamente de los problemas 1) de apoderamiento ilícito de aeronaves y 2) de sabotaje o ataque armado, dirigidos contra aeronaves utilizadas en el transporte aéreo internacional o instalaciones terrestres utilizadas por el transporte aéreo internacional.
2. Cada vez que el Comité tenga conocimiento de cualquier incidente del tipo mencionado en el párrafo 1, hará una evaluación del mismo a base de la información disponible para determinar si debe, a través del Secretario General, recordar a los Estados directamente involucrados la invitación del Consejo de que proporcionen informes de los aspectos aeronáuticos del incidente.

3. Al recibir los informes mencionados en el párrafo anterior, el Comité los analizará y presentará al Consejo una relación de sus conclusiones, junto con cualesquiera recomendaciones sobre las medidas o procedimientos preventivos específicos que considere apropiados para aprobación por el Consejo.
4. En el desempeño de su cometido, el Comité podrá solicitar de los Estados y, a través de ellos, de líneas aéreas, autoridades aeroportuarias y otros, como así también de las organizaciones internacionales, asesoramiento y recomendaciones que pudieran ser útiles en la formulación de medidas y procedimientos para prevenir los actos de interferencia ilícita enumerados en el párrafo 1.
5. En su oportunidad y según sea necesario, el Comité someterá a la aprobación del Consejo las medidas y procedimientos que el Comité estime que sería útil que adoptasen los Estados, líneas aéreas, autoridades aeroportuarias u organizaciones internacionales para prevenir los actos de interferencia ilícita enumerados en el párrafo 1.
6. Cada vez que, durante la consideración de un determinado incidente, el Comité estime que sería beneficioso que la OACI ofreciese a los Estados involucrados los servicios de la Organización en calidad de "buenos oficios", debiera presentar la cuestión al Consejo para que éste decida acerca de si debe o no hacerse tal oferta.
7. El Reglamento Interno de los Comités Permanentes del Consejo se aplicará al Comité, con la excepción de que sus decisiones se tomarán por la mayoría de votos de sus miembros.

- Nota:
- i) El Comité de once miembros establecido en virtud de la cláusula resolutive 4) de la Resolución se constituyó el 13 de mayo de 1969.
 - ii) El texto de la Resolución fue transmitido a los Estados Contratantes mediante la comunicación LE 4/26 - 69/128 del 24 de abril de 1969, la cual llamaba especialmente la atención de los Estados sobre las cláusulas 2, 3 i), 6 y 8 de la Resolución.

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d) Adoptar rigurosas medidas de seguridad en el aeropuerto -

PARTE IV

MEDIDAS ADOPTADAS POR EL CONSEJO EL 11 DE DICIEMBRE DE 1969

aeropuerto.

En la 16a sesión de su LXVIII período de sesiones, el Consejo adoptó las medidas que se indican a continuación y decidió comunicárlas a los Estados Contratantes para su consideración.

En la Sección A se enumeran ciertas medidas preventivas generales; en la Sección B las medidas preventivas específicas en tierra (apartado i)) y en vuelo (apartado ii)) y en la Sección C ciertas medidas y procedimientos que podrían resultar útiles para preservar la seguridad del vuelo, o para atenuar las consecuencias de un apoderamiento ilícito, una vez que la aeronave hubiera quedado bajo el control y el mando del secuestrador.

A. Medidas preventivas generales

- a) Promulgar leyes nacionales, tan pronto como sea posible, por las que todo acto de apoderamiento ilícito de una aeronave se califique como infracción que puede acarrear penas graves.
- b) Asegurar, en lo posible, el enjuiciamiento y castigo de los autores de actos de apoderamiento ilícito de aeronaves.
- c) Fomentar una amplia publicidad de los intentos frustrados o de la pena impuesta a los culpables y una publicidad similar del hecho de que se han adoptado métodos eficaces para descubrir a las personas que intentan cometer actos de apoderamiento ilícito, pero sin describir dichos métodos.

d) Recabar la colaboración de los medios de información para que den la publicidad mínima a los actos consumados de apoderamiento ilícito de aeronaves.

e) Colocar carteles en los aeropuertos para dar publicidad a las sanciones aplicables a estos actos.

En circunstancias extremas, similares a las citadas en a) más arriba, también podría considerarse la reserva de combustible que debiera llevar la aeronave.

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B. Medidas preventivas específicas

i) En tierra

Se reconoce que será necesario promulgar y asegurar el cumplimiento estricto de las medidas siguientes solamente en las áreas en que sea especialmente probable que se produzcan incidentes de interferencia ilícita con la aviación civil internacional y sus instalaciones y servicios.

- a) Prohibir terminantemente a los pasajeros que lleven consigo armas o explosivos en la cabina de una aeronave.
- b) Inspección y registro selectivo de los pasajeros y de sus equipajes de mano en las puertas de acceso al campo o cerca de ellas, antes de su embarque, para descubrir la presencia de armas de fuego o de otros artículos susceptibles de ser utilizados como armas.

Nota: Con respecto al inciso b) anterior, el último sistema creado para detectar las armas ocultas que pueda llevar un pasajero consigo o en el equipaje de mano, sin recurrir al registro físico de su persona, parece muy prometedor.

Dicho sistema consiste en un dispositivo magnetométrico, ubicado en las puertas de acceso al campo o cerca de las mismas y utilizado en combinación con el conocimiento de las características de comportamiento de las personas que en el pasado han cometido actos de apoderamiento ilícito de aeronaves. Este sistema, sin embargo, hasta el momento se ha ensayado solamente en un Estado, y ha sido implantado recientemente como procedimiento habitual por parte de una empresa de transporte aéreo de aquel Estado. Por ello, su aplicación en otros países exigirá el examen de numerosos factores, siendo posible que el sistema mismo deba modificarse y adaptarse para que se ajuste a las condiciones existentes en los distintos Estados.

- c) Vigilar la zona de embarque entre las puertas de salida de pasajeros y la escalera de subida a bordo a fin de asegurarse de que no se entrega ningún arma a un pasajero mientras se dirige hacia el avión.

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d) Adoptar rigurosas medidas de seguridad en el aeropuerto, - incluso la colocación de vallas de seguridad, guardias armados, etc., - para impedir el acceso de personas no autorizadas a la aeronave, a las instalaciones o al "área de movimiento" del aeropuerto.

e) Adopción de precauciones por parte de la tripulación antes de emprender el vuelo a fin de descubrir cualquier polizón u objeto sospechoso.

f) Inspección o registro selectivo del equipaje, tanto del acompañado como del no acompañado.

ii) En vuelo

Se reconoce que en la implantación de las medidas enumeradas a continuación debieran tenerse en cuenta los factores económicos correspondientes, su mayor utilidad ante el advenimiento de los nuevos aviones de gran capacidad, etc.

a) El puesto de pilotaje debiera estar separado de la cabina de pasajeros mediante una puerta de material transparente y a prueba de balas, o una puerta con un ojo de buey de material transparente, que pueda cerrarse desde el puesto de pilotaje.

b) Equipar el puesto de pilotaje con un circuito cerrado de televisión para que la tripulación de vuelo pueda estar constantemente al tanto de lo que sucede en la cabina de pasajeros, el compartimiento de equipajes, etc.

C. Otras medidas

a) En ciertas zonas donde es grande el riesgo de apoderamientos ilícitos, las aeronaves que entran en sus confines debieran llevar a bordo cartas e información adicional sobre los sitios a los que cabe la posibilidad de que sean desviadas.

b) En circunstancias extremas, similares a las citadas en a) más arriba, también podría considerarse la reserva de combustible que debiera llevar la aeronave.

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- c) Debiera orientarse a los miembros de la tripulación sobre la manera de actuar en los casos de apoderamiento ilícito de aeronaves y de mantener el orden en las aeronaves secuestradas.
- d) Especialmente en las áreas en que exista considerable peligro de que se produzcan incidentes de apoderamiento ilícito de aeronaves, debiera instruirse a los servicios de control de tránsito aéreo sobre el modo de proceder con una aeronave secuestrada, para proteger su propia seguridad y la de otras aeronaves en vuelo.
- e) En aquellas zonas en que es posible que se experimenten problemas de comunicación entre el secuestrador y los tripulantes, debieran tenerse a bordo de las aeronaves tarjetas con textos en dos o más idiomas.
- f) Debiera transmitirse de inmediato a los servicios de control del tránsito aéreo la identificación de toda aeronave secuestrada, mediante un dispositivo que no despierte las sospechas del secuestrador (por ejemplo, un "transpondedor").

Decisión adicional del Consejo

Como medida destinada a atenuar las consecuencias del apoderamiento ilícito de una aeronave, el Consejo también decidió recordar a los Estados Contratantes la existencia de la Resolución A16-37, mediante la cual la Asamblea les había instado "a ser partes, tan pronto como sea posible, del Convenio de Tokio", y les había invitado, aun antes de ratificar dicho Convenio o de manifestar su adhesión, a que "pongan en práctica los principios del Artículo 11" del Convenio mencionado, o sea:

- i) tomando "todas las medidas apropiadas a fin de que el legítimo comandante de la aeronave recobre o mantenga su control"; y
- ii) permitiendo "que sus pasajeros y tripulantes continúen su viaje lo antes posible" y devolviendo "la aeronave y su carga a sus legítimos poseedores".

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APENDICE

PARTE V

TAREAS DEL COMITE JURIDICO Y DE SU SUBCOMITE Resolución SOBRE SECUESTRO DE AERONAVES de la Asamblea General de las Naciones Unidas, el 12 de diciembre de 1968

En virtud de las medidas solicitadas por la Asamblea en la Resolución A16-37 (véase Parte I), el Consejo dio traslado del problema del apoderamiento ilícito de aeronaves al Comité Jurídico.

El Presidente del Comité Jurídico creó un Subcomité del Comité Jurídico, que procedió a examinar el problema del secuestro de aeronaves en dos períodos de sesiones que se extendieron del 10 al 21 de febrero de 1969 y del 23 de septiembre al 3 de octubre de 1969. El Subcomité preparó otro proyecto de convenio.

Teniendo presente que tales actos pueden poner en peligro la vida y la salud de los pasajeros, dicho proyecto de convenio, junto con los comentarios de los Estados y de los organismos internacionales interesados, será considerado durante el XVII período de sesiones del Comité Jurídico, que se celebrará en Montreal del 9 de febrero al 10 de marzo de 1970. Se espera que en dicho período de sesiones el Comité Jurídico llegue a adoptar un proyecto de Convenio revisado sobre el apoderamiento ilícito de aeronaves, el cual será luego examinado por una conferencia diplomática a ser convocada por la OACI para una fecha posterior en 1970.

2. Nota: En el Doc. 8838-LC/157, enviado a los Estados en noviembre de 1969, aparece toda la documentación referente a las tareas del Subcomité del Comité Jurídico sobre secuestro de aeronaves.

3. Insta a apoyar una resolución de la Asamblea General de las Naciones Unidas sobre la Aviación Civil Internacional para acelerar la preparación y adopción de un convenio en que se declare, entre otras cosas, que el apoderamiento de una aeronave civil constituye un delito punible y se disponga el enjuiciamiento de las personas que cometan ese delito;

4. Invita a los Estados a que ratifiquen el Convenio firmado en Tokio el 16 de noviembre de 1963, sobre las infracciones y ciertos otros actos cometados a bordo de las aeronaves o se adhieran a él, en conformidad con el artículo 1.

- FIN -

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APENDICE

Resolución adoptada en la 1831ª Sesión Plenaria de la
Asamblea General de las Naciones Unidas, el 12 de diciembre de 1969

Desviación por la fuerza de aeronaves civiles en vuelo

La Asamblea General,

Profundamente preocupada por los actos de injerencia ilícita en la
aviación civil internacional,

Considerando necesario recomendar que se adopten medidas eficaces
contra toda forma de desviación a mano armada de aviones o contra cualquier
otra forma de apresamiento o control ilícitos de aviones,

Teniendo presente que tales actos pueden poner en peligro la vida y
la salud de los pasajeros y tripulantes, con menosprecio de las considera-
ciones humanitarias comúnmente aceptadas,

Consciente de que la aviación civil internacional sólo puede desen-
volverse debidamente en condiciones que garanticen la seguridad de sus
operaciones y el debido ejercicio de la libertad de los viajes aéreos,

1. Pide a los Estados que tomen todas las disposiciones apropiadas
para asegurar que en sus respectivas legislaciones nacionales se establezca
una estructura adecuada para adoptar medidas jurídicas eficaces contra toda
clase de actos ilícitos de injerencia, apresamiento u otro ejercicio perju-
dicial de control por la fuerza o de amenaza de tales actos respecto de
aviones en vuelo;

2. Insta a los Estados a asegurar en particular el enjuiciamiento
de las personas que hallándose a bordo cometan tales actos;

3. Insta a apoyar sin reservas los esfuerzos de la Organización de
Aviación Civil Internacional para acelerar la preparación y aplicación de
un convenio en que se declare, entre otras cosas, que el apresamiento de
una aeronave civil constituye un delito punible y se disponga el enjuicia-
miento de las personas que cometan ese delito;

4. Invita a los Estados a que ratifiquen el Convenio firmado en
Tokio el 14 de septiembre de 1963, sobre las infracciones y ciertos otros
actos cometidos a bordo de las aeronaves o se adhieran a él, en conformidad
con el mismo.

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**CONVENTION
ON OFFENCES AND CERTAIN OTHER ACTS
COMMITTED ON BOARD AIRCRAFT**

Signed at Tokyo on 14 September 1963

**CONVENTION
RELATIVE AUX INFRACTIONS ET À CERTAINS
AUTRES ACTES SURVENANT À BORD
DES AÉRONEFS**

Signée à Tokyo le 14 septembre 1963

**CONVENIO
SOBRE LAS INFRACCIONES Y CIERTOS OTROS ACTOS
COMETIDOS A BORDO DE LAS AERONAVES**

Firmado en Tokio el 14 de septiembre de 1963



1963

INTERNATIONAL CIVIL AVIATION ORGANIZATION
ORGANISATION DE L'AVIATION CIVILE INTERNATIONALE
ORGANIZACIÓN DE AVIACIÓN CIVIL INTERNACIONAL



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18 December 1969

LIST OF STATES WHICH HAVE SIGNED AND RATIFIED THE CONVENTION
ON OFFENCES AND CERTAIN OTHER ACTS COMMITTED
ON BOARD AIRCRAFT, DONE AT TOKYO ON 14 SEPTEMBER 1963

Entry into force: 4 December 1969, in accordance with Article 21, paragraph 1.

<u>States</u>	<u>Date of Signature</u>	<u>Date of Deposit of Instruments of Ratification</u>	<u>Date of Entry into Force</u>
Barbados	25 June 1969		
Belgium	20 December 1968		
Brazil	28 February 1969		
Canada	4 November 1964	7 November 1969	5 February 1970
China, Rep. of	14 September 1963	28 February 1966	4 December 1969
Colombia	8 November 1968		
Congo (Brazzaville)	14 September 1963		
Denmark	21 November 1966	17 January 1967	4 December 1969
Ecuador	8 July 1969	3 December 1969	3 March 1970
Finland	24 October 1969		
France	11 July 1969		
Germany, Fed. Rep. of	14 September 1963	16 December 1969	16 March 1970
Greece	21 October 1969		
Guatemala	14 September 1963		
Holy See	14 September 1963		
Indonesia	14 September 1963		
Ireland	20 October 1964		
Israel	1 November 1968	19 September 1969	18 December 1969
Italy	14 September 1963	18 October 1968	4 December 1969
Japan	14 September 1963		
Korea, Rep. of	8 December 1965		
Liberia	14 September 1963		
Malagasy Republic	2 December 1969	2 December 1969	2 March 1970
Mexico	24 December 1968	18 March 1969	4 December 1969
Netherlands, Kingdom of the	9 June 1967	14 November 1969(1)	12 February 1970
Niger	14 April 1969	27 June 1969	4 December 1969
Nigeria	29 June 1965		
Norway	19 April 1966	17 January 1967	4 December 1969
Pakistan	6 August 1965		
Panama	14 September 1963		
Philippines	14 September 1963	26 November 1965	4 December 1969
Portugal	11 March 1964	25 November 1964	4 December 1969
Saudi Arabia	6 April 1967	21 November 1969	19 February 1970
Senegal	20 February 1964		
Spain	27 July 1964	1 October 1969	30 December 1969
Sweden	14 September 1963	17 January 1967	4 December 1969
Switzerland	31 October 1969		
United Kingdom of Great Britain and Northern Ireland	14 September 1963	29 November 1968(2)	4 December 1969
United States of America	14 September 1963	5 September 1969	4 December 1969
Upper Volta	14 September 1963	6 June 1969	4 December 1969
Venezuela	13 March 1964		
Yugoslavia	14 September 1963		

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- (1) Declaration: "... the Convention, with respect to the Kingdom of the Netherlands, shall not enter into force for Surinam and/or the Netherlands Antilles until the ninetieth day after the date on which the Government of the Kingdom of the Netherlands will have notified the International Civil Aviation Organization that in Surinam and/or in the Netherlands Antilles the necessary steps for giving effect to the provisions of the above-mentioned Convention have been taken."
- (2) Declaration: "... the provisions of the Convention shall not apply in regard to Southern Rhodesia unless and until the Government of the United Kingdom inform the International Civil Aviation Organization that they are in a position to ensure that the obligations imposed by the Convention in respect of that territory can be fully implemented."

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CONVENTION

ON OFFENCES AND CERTAIN OTHER ACTS COMMITTED ON BOARD AIRCRAFT

THE STATES Parties to this Convention
HAVE AGREED as follows:

Chapter I—Scope of the Convention

Article 1

1. This Convention shall apply in respect of:

- a) offences against penal law;
- b) acts which, whether or not they are offences, may or do jeopardize the safety of the aircraft or of persons or property therein or which jeopardize good order and discipline on board.

2. Except as provided in Chapter III, this Convention shall apply in respect of offences committed or acts done by a person on board any aircraft registered in a Contracting State, while that aircraft is in flight or on the surface of the high seas or of any other area outside the territory of any State.

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

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

Article 2

Without prejudice to the provisions of Article 4 and except when the safety of the aircraft or of persons or property on board so requires, no provision of this Convention shall be interpreted as authorizing or requiring any action

CONVENTION

RELATIVE AUX INFRAC- TIONS ET A CERTAINS AUTRES ACTES SUR- VENANT A BORD DES AERONEFS

LES ETATS Parties à la présente Convention
SONT CONVENUS des dispositions
suivantes:

Titre 1^{er}—Champ d'application de la Convention

Article 1^{er}

1. La présente Convention s'applique:

- a) aux infractions aux lois pénales;
- b) aux actes qui, constituant ou non des infractions, peuvent compromettre ou compromettent la sécurité de l'aéronef ou de personnes ou de biens à bord, ou compromettent le bon ordre et la discipline à bord.

2. Sous réserve des dispositions du Titre III, la présente Convention s'applique aux infractions commises ou actes accomplis par une personne à bord d'un aéronef immatriculé dans un Etat contractant pendant que cet aéronef se trouve, soit en vol, soit à la surface de la haute mer ou d'une région ne faisant partie du territoire d'aucun Etat.

3. Aux fins de la présente Convention, un aéronef est considéré comme en vol depuis le moment où la force motrice est employée pour décoller jusqu'au moment où l'atterrissage a pris fin.

4. La présente Convention ne s'applique pas aux aéronefs utilisés à des fins militaires, de douane ou de police.

Article 2

Sans préjudice des dispositions de l'Article 4 et sous réserve des exigences de la sécurité de l'aéronef et des personnes ou des biens à bord, aucune disposition de la présente Convention ne peut être interprétée comme autorisant ou

CONVENIO

SOBRE LAS INFRAC- CIONES Y CIERTOS OTROS ACTOS COMETI- DOS A BORDO DE LAS AERONAVES

LOS ESTADOS Partes en el presente Convenio
HAN ACORDADO lo siguiente:

Capítulo I—Campo de aplicación del Convenio

Artículo 1

1. El presente Convenio se aplicará a:

- a) las infracciones a las leyes penales;
- b) los actos que, sean o no infracciones, puedan poner o pongan en peligro la seguridad de la aeronave o de las personas o bienes en la misma, o que pongan en peligro el buen orden y la disciplina a bordo.

2. A reserva de lo dispuesto en el Capítulo III, este Convenio se aplicará a las infracciones cometidas y a los actos ejecutados por una persona a bordo de cualquier aeronave matriculada en un Estado Contratante mientras se halle en vuelo, en la superficie de alta mar o en la de cualquier otra zona situada fuera del territorio de un Estado.

3. A los fines del presente Convenio, se considera que una aeronave se encuentra en vuelo desde que se aplica la fuerza motriz para despegar hasta que termina el recorrido de aterrizaje.

4. El presente Convenio no se aplicará a las aeronaves utilizadas en servicios militares, de aduanas y de policía.

Artículo 2

Sin perjuicio de las disposiciones del Artículo 4 y salvo que lo requiera la seguridad de la aeronave y de las personas o bienes a bordo, ninguna disposición de este Convenio se interpretará en el sentido de que autoriza o exige

in respect of offences against penal laws of a political nature or those based on racial or religious discrimination.

prescrivant l'application de quelque mesure que ce soit dans le cas d'infractions à des lois pénales de caractère politique ou fondées sur la discrimination raciale ou religieuse.

medida alguna en caso de infracciones a las leyes penales de carácter político o basadas en discriminación racial o religiosa.

Chapter II—Jurisdiction

Titre II—Compétence

Capítulo II— Jurisdicción

Article 3

1. The State of registration of the aircraft is competent to exercise jurisdiction over offences and acts committed on board.

2. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction as the State of registration over offences committed on board aircraft registered in such State.

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

Article 3

1. L'Etat d'immatriculation de l'aéronef est compétent pour connaître des infractions commises et actes accomplis à bord.

2. Tout Etat contractant prend les mesures nécessaires pour établir sa compétence, en sa qualité d'Etat d'immatriculation, aux fins de connaître des infractions commises à bord des aéronefs inscrits sur son registre d'immatriculation.

3. La présente Convention n'écartera aucune compétence pénale exercée conformément aux lois nationales.

Artículo 3

1. El Estado de matrícula de la aeronave será competente para conocer de las infracciones y actos cometidos a bordo.

2. Cada Estado Contratante deberá tomar las medidas necesarias a fin de establecer su jurisdicción como Estado de matrícula sobre las infracciones cometidas a bordo de las aeronaves matriculadas en tal Estado.

3. El presente Convenio no excluye ninguna jurisdicción penal ejercida de acuerdo con las leyes nacionales.

Article 4

A Contracting State which is not the State of registration may not interfere with an aircraft in flight in order to exercise its criminal jurisdiction over an offence committed on board except in the following cases:

- a) the offence has effect on the territory of such State;
- b) the offence has been committed by or against a national or permanent resident of such State;
- c) the offence is against the security of such State;
- d) the offence consists of a breach of any rules or regulations relating to the flight or manoeuvre of aircraft in force in such State;
- e) the exercise of jurisdiction is necessary to ensure the observance of any obligation of such State under a multilateral international agreement.

Article 4

Un Etat contractant qui n'est pas l'Etat d'immatriculation ne peut gêner l'exploitation d'un aéronef en vol en vue d'exercer sa compétence pénale à l'égard d'une infraction commise à bord que dans les cas suivants:

- a) cette infraction a produit effet sur le territoire dudit Etat;
- b) cette infraction a été commise par ou contre un ressortissant dudit Etat ou une personne y ayant sa résidence permanente;
- c) cette infraction compromet la sécurité dudit Etat;
- d) cette infraction constitue une violation des règles ou règlements relatifs au vol ou à la manoeuvre des aéronefs en vigueur dans ledit Etat;
- e) l'exercice de cette compétence est nécessaire pour assurer le respect d'une obligation qui incombe audit Etat en vertu d'un accord international multilatéral.

Artículo 4

El Estado Contrante que no sea el de matrícula no podrá perturbar el vuelo de una aeronave a fin de ejercer su jurisdicción penal sobre una infracción cometida a bordo más que en los casos siguientes:

- a) la infracción produce efectos en el territorio de tal Estado;
- b) la infracción ha sido cometida por o contra un nacional de tal Estado o una persona que tenga su residencia permanente en el mismo;
- c) la infracción afecta a la seguridad de tal Estado;
- d) la infracción constituye una violación de los reglamentos sobre vuelo o maniobra de las aeronaves, vigentes en tal Estado;
- e) cuando sea necesario ejercer la jurisdicción para cumplir las obligaciones de tal Estado de conformidad con un acuerdo internacional multilateral.

Chapter III—Powers of the aircraft commander

Titre III—Pouvoirs du commandant d'aéronef

Capítulo III—Facultades del comandante de la aeronave

Article 5

1. The provisions of this Chapter shall not apply to offences and acts committed or about to be committed by a

Article 5

1. Les dispositions du présent Titre ne s'appliquent aux infractions et aux actes commises ou accomplis, ou sur le

Artículo 5

1. Las disposiciones de este Capítulo no se aplicarán a las infracciones ni a los actos cometidos o a punto de cometerse

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person on board an aircraft in flight in the airspace of the State of registration or over the high seas or any other area outside the territory of any State unless the last point of take-off or the next point of intended landing is situated in a State other than that of registration, or the aircraft subsequently flies in the airspace of a State other than that of registration with such person still on board.

2. Notwithstanding the provisions of Article 1, paragraph 3, an aircraft shall for the purposes of this Chapter, be considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced landing, the provisions of this Chapter shall continue to apply with respect to offences and acts committed on board until competent authorities of a State take over the responsibility for the aircraft and for the persons and property on board.

Article 6

1. The aircraft commander may, when he has reasonable grounds to believe that a person has committed, or is about to commit, on board the aircraft, an offence or act contemplated in Article 1, paragraph 1, impose upon such person reasonable measures including restraint which are necessary:

- a) to protect the safety of the aircraft, or of persons or property therein; or
- b) to maintain good order and discipline on board; or
- c) to enable him to deliver such person to competent authorities or to disembark him in accordance with the provisions of this Chapter.

2. The aircraft commander may require or authorize the assistance of other crew members and may request or authorize, but not require, the assistance of passengers to restrain any person whom he is entitled to restrain. Any crew member or passenger may also take reasonable preventive measures without such authorization when he has reasonable grounds to believe that such action is immediately necessary to pro-

point de l'être, par une personne à bord d'un aéronef en vol, soit dans l'espace aérien de l'Etat d'immatriculation, soit au-dessus de la haute mer ou d'une région ne faisant partie du territoire d'aucun Etat, que si le dernier point de décollage ou le prochain point d'atterrissage prévu est situé sur le territoire d'un Etat autre que celui d'immatriculation, ou si l'aéronef vole ultérieurement dans l'espace aérien d'un Etat autre que l'Etat d'immatriculation, ladite personne étant encore à bord.

2. Aux fins du présent Titre, et nonobstant les dispositions de l'Article 1^{er}, paragraphe 3, un aéronef est considéré comme en vol depuis le moment où, l'embarquement étant terminé, toutes ses portes extérieures ont été fermées jusqu'au moment où l'une de ces portes est ouverte en vue du débarquement. En cas d'atterrissage forcé, les dispositions du présent Titre continuent de s'appliquer à l'égard des infractions et des actes survenus à bord jusqu'à ce que l'autorité compétente d'un Etat prenne en charge l'aéronef ainsi que les personnes et biens à bord.

Article 6

1. Lorsque le commandant d'aéronef est fondé à croire qu'une personne a commis ou accompli ou est sur le point de commettre ou d'accomplir à bord une infraction ou un acte, visés à l'Article 1^{er}, paragraphe 1, il peut prendre, à l'égard de cette personne, les mesures raisonnables, y compris les mesures de contrainte, qui sont nécessaires:

- a) pour garantir la sécurité de l'aéronef ou de personnes ou de biens à bord;
- b) pour maintenir le bon ordre et la discipline à bord;
- c) pour lui permettre de remettre ladite personne aux autorités compétentes ou de la débarquer conformément aux dispositions du présent Titre.

2. Le commandant d'aéronef peut requérir ou autoriser l'assistance des autres membres de l'équipage et, sans pouvoir l'exiger, demander ou autoriser celle des passagers en vue d'appliquer les mesures de contrainte qu'il est en droit de prendre. Tout membre d'équipage ou tout passager peut également prendre, sans cette autorisation, toutes mesures préventives raisonnables, s'il est fondé à croire qu'elles s'imposent

por una persona a bordo de una aeronave en vuelo en el espacio aéreo del Estado de matrícula o sobre la alta mar u otra zona situada fuera del territorio de un Estado, a no ser que el último punto de despegue o el próximo punto de aterrizaje previsto se hallen en un Estado distinto del de matrícula o si la aeronave vuela posteriormente en el espacio aéreo de un Estado distinto del de matrícula, con dicha persona a bordo.

2. No obstante lo previsto en el Artículo 1, párrafo 3, se considerará, a los fines del presente Capítulo, que una aeronave se encuentra en vuelo desde el momento en que se cierran todas las puertas externas después del embarque y el momento en que se abra cualquiera de dichas puertas para el desembarque. En caso de aterrizaje forzoso, las disposiciones de este Capítulo continuarán aplicándose a las infracciones y actos cometidos a bordo hasta que las autoridades competentes de un Estado se hagan cargo de la aeronave y de las personas y bienes en la misma.

Artículo 6

1. Cuando el comandante de la aeronave tenga razones fundadas para creer que una persona ha cometido, o está a punto de cometer, a bordo una infracción o un acto previstos en el Artículo 1, párrafo 1, podrá imponer a tal persona las medidas razonables, incluso coercitivas, que sean necesarias:

- a) para proteger la seguridad de la aeronave y de las personas y bienes en la misma;
- b) para mantener el buen orden y la disciplina a bordo;
- c) para permitirle entregar tal persona a las autoridades competentes o desembarcarla de acuerdo con las disposiciones de este Capítulo.

2. El comandante de la aeronave puede exigir o autorizar la ayuda de los demás miembros de la tripulación y solicitar o autorizar, pero no exigir, la ayuda de los pasajeros, con el fin de tomar medidas coercitivas contra cualquier persona sobre la que tenga tal derecho. Cualquier miembro de la tripulación o pasajero podrá tomar igualmente medidas preventivas razonables sin tal autorización, cuando tenga razones

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protect the safety of the aircraft, or of persons or property therein.

Article 7

1. Measures of restraint imposed upon a person in accordance with Article 6 shall not be continued beyond any point at which the aircraft lands unless:

- a) such point is in the territory of a non-Contracting State and its authorities refuse to permit disembarkation of that person or those measures have been imposed in accordance with Article 6, paragraph 1 c) in order to enable his delivery to competent authorities;
- b) the aircraft makes a forced landing and the aircraft commander is unable to deliver that person to competent authorities; or
- c) that person agrees to onward carriage under restraint.

2. The aircraft commander shall as soon as practicable, and if possible before landing in the territory of a State with a person on board who has been placed under restraint in accordance with the provisions of Article 6, notify the authorities of such State of the fact that a person on board is under restraint and of the reasons for such restraint.

Article 8

1. The aircraft commander may, in so far as it is necessary for the purpose of subparagraph a) or b) of paragraph 1 of Article 6, disembark in the territory of any State in which the aircraft lands any person who he has reasonable grounds to believe has committed, or is about to commit, on board the aircraft an act contemplated in Article 1, paragraph 1 b).

2. The aircraft commander shall report to the authorities of the State in which he disembarks any person pursuant to this Article, the fact of, and the reasons for, such disembarkation.

immédiatement pour garantir la sécurité de l'aéronef ou de personnes ou de biens à bord.

Article 7

1. Les mesures de contrainte prises à l'égard d'une personne conformément aux dispositions de l'Article 6 cesseront d'être appliquées au-delà de tout point d'atterrissage à moins que:

- a) ce point ne soit situé sur le territoire d'un Etat non contractant et que les autorités de cet Etat ne refusent d'y permettre le débarquement de la personne intéressée ou que des mesures de contrainte n'aient été imposées à celle-ci conformément aux dispositions de l'Article 6, paragraphe 1, c), pour permettre sa remise aux autorités compétentes;
- b) l'aéronef ne fasse un atterrissage forcé et que le commandant d'aéronef ne soit pas en mesure de remettre la personne intéressée aux autorités compétentes;
- c) la personne intéressée n'accepte de continuer à être transportée au-delà de ce point en restant soumise aux mesures de contrainte.

2. Le commandant d'aéronef doit, dans les moindres délais et, si possible, avant d'atterrir sur le territoire d'un Etat avec à son bord une personne soumise à une mesure de contrainte prise conformément aux dispositions de l'Article 6, informer les autorités dudit Etat de la présence à bord d'une personne soumise à une mesure de contrainte et des raisons de cette mesure.

Article 8

1. Lorsque le commandant d'aéronef est fondé à croire qu'une personne a accompli ou est sur le point d'accomplir à bord un acte visé à l'Article 1er, paragraphe 1, b), il peut débarquer cette personne sur le territoire de tout Etat où atterrit l'aéronef pour autant que cette mesure, soit nécessaire aux fins visées à l'Article 6, paragraphe 1, a) ou b).

2. Le commandant d'aéronef informe les autorités de l'Etat sur le territoire duquel il débarque une personne, conformément aux dispositions du présent article, de ce débarquement et des raisons qui l'ont motivé.

fundadas para creer que tales medidas son urgentes a fin de proteger la seguridad de la aeronave, de las personas y de los bienes en la misma.

Artículo 7

1. Las medidas coercitivas impuestas a una persona conforme a lo previsto en el Artículo 6 no continuarán aplicándose más allá de cualquier punto de aterrizaje, a menos que:

- a) dicho punto se halle en el territorio de un Estado no Contratante y sus autoridades no permitan desembarcar a tal persona, o las medidas coercitivas se han impuesto de acuerdo con lo dispuesto en el Artículo 6, párrafo 1 c) para permitir su entrega a las autoridades competentes; o
- b) la aeronave haga un aterrizaje forzoso y el comandante de la aeronave no pueda entregar la persona a las autoridades competentes; o
- c) dicha persona acepte continuar el transporte sometida a las medidas coercitivas.

2. Tan pronto como sea factible y, si es posible, antes de aterrizar en el Estado con una persona a bordo, sometida a las medidas coercitivas de acuerdo con el Artículo 6, el comandante de la aeronave notificará a las autoridades de tal Estado el hecho de que una persona se encuentra a bordo sometida a dichas medidas coercitivas y las razones de haberlas adoptado.

Artículo 8

1. El comandante de la aeronave podrá, siempre que sea necesario a los fines previstos en el Artículo 6, párrafo 1 a) o b), desembarcar en el territorio de cualquier Estado en el que aterrice la aeronave a cualquier persona sobre la que tenga razones fundadas para creer que ha cometido, o está a punto de cometer, a bordo de la aeronave, un acto previsto en el Artículo 1, párrafo 1 b).

2. El comandante de la aeronave comunicará a las autoridades del Estado donde desembarque a una persona, de acuerdo con lo previsto en el presente Artículo, el hecho de haber efectuado tal desembarque y las razones de ello.

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Article 9

1. The aircraft commander may deliver to the competent authorities of any Contracting State in the territory of which the aircraft lands any person who he has reasonable grounds to believe has committed on board the aircraft an act which, in his opinion, is a serious offence according to the penal law of the State of registration of the aircraft.

2. The aircraft commander shall as soon as practicable and if possible before landing in the territory of a Contracting State with a person on board whom the aircraft commander intends to deliver in accordance with the preceding paragraph, notify the authorities of such State of his intention to deliver such person and the reasons therefor.

3. The aircraft commander shall furnish the authorities to whom any suspected offender is delivered in accordance with the provisions of this Article with evidence and information which, under the law of the State of registration of the aircraft, are lawfully in his possession.

Article 10

For actions taken in accordance with this Convention, neither the aircraft commander, any other member of the crew, any passenger, the owner or operator of the aircraft, nor the person on whose behalf the flight was performed shall be held responsible in any proceeding on account of the treatment undergone by the person against whom the actions were taken.

Chapter IV—Unlawful Seizure of Aircraft

Article 11

1. When a person on board has unlawfully committed by force or threat thereof an act of interference, seizure, or other wrongful exercise of control of an aircraft in flight or when such an act is about to be committed, Contracting States shall take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve his control of the aircraft.

Article 9

1. Lorsque le commandant d'aéronef est fondé à croire qu'une personne a accompli à bord de l'aéronef un acte qui, selon lui, constitue une infraction grave, conformément aux lois pénales de l'Etat d'immatriculation de l'aéronef, il peut remettre ladite personne aux autorités compétentes de tout Etat contractant sur le territoire duquel atterrit l'aéronef.

2. Le commandant d'aéronef doit, dans les moindres délais et si possible avant d'atterrir sur le territoire d'un Etat contractant avec à bord une personne qu'il a l'intention de remettre conformément aux dispositions du paragraphe précédent, faire connaître cette intention aux autorités de cet Etat ainsi que les raisons qui la motivent.

3. Le commandant d'aéronef communique aux autorités auxquelles il remet l'auteur présumé de l'infraction, conformément aux dispositions du présent article, les éléments de preuve et d'information qui, conformément à la loi de l'Etat d'immatriculation de l'aéronef, sont légitimement en sa possession.

Article 10

Lorsque l'application des mesures prévues par la présente Convention est conforme à celle-ci, ni le commandant d'aéronef, ni un autre membre de l'équipage, ni un passager, ni le propriétaire, ni l'exploitant de l'aéronef, ni la personne pour le compte de laquelle le vol a été effectué, ne peuvent être déclarés responsables dans une procédure engagée en raison d'un préjudice subi par la personne qui a fait l'objet de ces mesures.

Titre IV—Capture illicite d'aéronefs

Article 11

1. Lorsque, illicitement, et par violence ou menace de violence, une personne à bord a gêné l'exploitation d'un aéronef en vol, s'en est emparé ou en a exercé le contrôle, ou lorsqu'elle est sur le point d'accomplir un tel acte, les Etats contractants prennent toutes mesures appropriées pour restituer ou conserver le contrôle de l'aéronef au commandant légitime.

Artículo 9

1. El comandante de la aeronave podrá entregar a las autoridades competentes de cualquier Estado Contratante en cuyo territorio aterrice la aeronave a cualquier persona, si tiene razones fundadas para creer que dicha persona ha cometido a bordo de la aeronave un acto que, en su opinión, constituye una infracción grave de acuerdo con las leyes penales del Estado de matrícula de la aeronave.

2. El comandante de la aeronave, tan pronto como sea factible, y, si es posible, antes de aterrizar en el territorio de un Estado Contratante con una persona a bordo a la que se proponga entregar de conformidad con el párrafo anterior, notificará a las autoridades de dicho Estado su intención de entregar dicha persona y los motivos que tenga para ello.

3. El comandante de la aeronave suministrará a las autoridades a las que entregue cualquier presunto delincuente de conformidad con lo previsto en el presente Artículo, las pruebas e informes que, de acuerdo con las leyes del Estado de matrícula de la aeronave, se encuentren en su posesión legítima.

Artículo 10

Por las medidas tomadas con sujeción a lo dispuesto en este Convenio, el comandante de la aeronave, los demás miembros de la tripulación, los pasajeros, el propietario, el operador de la aeronave y la persona en cuyo nombre se realice el vuelo no serán responsables en procedimiento alguno por razón de cualquier trato sufrido por la persona objeto de dichas medidas.

Capítulo IV—Apoderamiento ilícito de una aeronave

Artículo 11

1. Cuando una persona a bordo, mediante violencia o intimidación, cometa cualquier acto ilícito de apoderamiento, interferencia, o ejercicio del control de una aeronave en vuelo, o sea inminente la realización de tales actos, los Estados Contratantes tomarán todas las medidas apropiadas a fin de que el legítimo comandante de la aeronave recobre o mantenga su control.

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

Chapter V—Powers and Duties of States

Article 12

Any Contracting State shall allow the commander of an aircraft registered in another Contracting State to disembark any person pursuant to Article 8, paragraph 1.

Article 13

1. Any Contracting State shall take delivery of any person whom the aircraft commander delivers pursuant to Article 9, paragraph 1.

2. Upon being satisfied that the circumstances so warrant, any Contracting State shall take custody or other measures to ensure the presence of any person suspected of an act contemplated in Article 11, paragraph 1 and of any person of whom it has taken delivery. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is reasonably necessary to enable any criminal or extradition proceedings to be instituted.

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

4. Any Contracting State, to which a person is delivered pursuant to Article 9, paragraph 1, or in whose territory an aircraft lands following the commission of an act contemplated in Article 11, paragraph 1, shall immediately make a preliminary enquiry into the facts.

5. When a State, pursuant to this Article, has taken a person into custody, it shall immediately notify the State of registration of the aircraft and

2. Dans les cas visés au paragraphe précédent, tout Etat contractant où atterrit l'aéronef permet aux passagers et à l'équipage de poursuivre leur voyage aussitôt que possible. Il restitue l'aéronef et sa cargaison à ceux qui ont le droit de les détenir.

Titre V—Pouvoirs et obligations des Etats

Article 12

Tout Etat contractant doit permettre au commandant d'un aéronef immatriculé dans un autre Etat contractant de débarquer toute personne conformément aux dispositions de l'Article 8, paragraphe 1.

Article 13

1. Tout Etat contractant est tenu de recevoir une personne que le commandant d'aéronef lui remet conformément aux dispositions de l'Article 9, paragraphe 1.

2. S'il estime que les circonstances le justifient, tout Etat contractant assure la détention ou prend toutes autres mesures en vue d'assurer la présence de toute personne auteur présumé d'un acte visé à l'Article 11, paragraphe 1, ainsi que de toute personne qui lui a été remise. Cette détention et ces mesures doivent être conformes à la législation dudit Etat; elles ne peuvent être maintenues que pendant le délai nécessaire à l'engagement de poursuites pénales ou d'une procédure d'extradition.

3. Toute personne détenue en application du paragraphe précédent, peut communiquer immédiatement avec le plus proche représentant qualifié de l'Etat dont elle a la nationalité; toutes facilités lui sont accordées à cette fin.

4. Tout Etat contractant auquel une personne est remise conformément aux dispositions de l'Article 9, paragraphe 1, ou sur le territoire duquel un aéronef atterrit après qu'un acte visé à l'Article 11, paragraphe 1, a été accompli, procède immédiatement à une enquête préliminaire en vue d'établir les faits.

5. Lorsqu'un Etat a mis une personne en détention conformément aux dispositions du présent article, il avise immédiatement de cette détention, ainsi

2. En los casos previstos en el párrafo anterior, el Estado Contratante en que aterrice la aeronave permitirá que sus pasajeros y tripulantes continúen su viaje lo antes posible y devolverá la aeronave y su carga a sus legítimos poseedores.

Capítulo V—Facultades y obligaciones de los Estados

Artículo 12

Todo Estado Contratante permitirá al comandante de una aeronave matriculada en otro Estado Contratante que desembarque a cualquier persona conforme a lo dispuesto en el Artículo 8, párrafo 1.

Artículo 13

1. Todo Estado Contratante aceptará la entrega de cualquier persona que el comandante de la aeronave le entregue en virtud del Artículo 9, párrafo 1.

2. Si un Estado Contratante considera que las circunstancias lo justifican, procederá a la detención o tomará otras medidas para asegurar la presencia de cualquier persona que se presume que ha cometido uno de los actos a que se refiere el Artículo 11, párrafo 1, así como de cualquier otra persona que le haya sido entregada. La detención y demás medidas se llevarán a cabo de acuerdo con las leyes de tal Estado, y se mantendrán solamente por el período que sea razonablemente necesario a fin de permitir la iniciación de un procedimiento penal o de extradición.

3. La persona detenida de acuerdo con el párrafo anterior tendrá toda clase de facilidades para comunicarse inmediatamente con el representante correspondiente del Estado de su nacionalidad que se encuentre más próximo.

4. El Estado Contratante al que sea entregada una persona en virtud del Artículo 9, párrafo 1, o en cuyo territorio aterrice una aeronave después de haberse cometido alguno de los actos previstos en el Artículo 11, párrafo 1, procederá inmediatamente a una investigación preliminar sobre los hechos.

5. Cuando un Estado, en virtud de este Artículo, detenga a una persona, notificará inmediatamente al Estado de matrícula de la aeronave y al Estado

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the State of nationality of the detained person and, if it considers it advisable, any other interested State of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 4 of this Article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

Article 14

1. When any person has been disembarked in accordance with Article 8, paragraph 1, or delivered in accordance with Article 9, paragraph 1, or has disembarked after committing an act contemplated in Article 11, paragraph 1, and when such person cannot or does not desire to continue his journey and the State of landing refuses to admit him, that State may, if the person in question is not a national or permanent resident of that State, return him to the territory of the State of which he is a national or permanent resident or to the territory of the State in which he began his journey by air.

2. Neither disembarkation, nor delivery, nor the taking of custody or other measures contemplated in Article 13, paragraph 2, nor return of the person concerned, shall be considered as admission to the territory of the Contracting State concerned for the purpose of its law relating to entry or admission of persons and nothing in this Convention shall affect the law of a Contracting State relating to the expulsion of persons from its territory.

Article 15

1. Without prejudice to Article 14, any person who has been disembarked in accordance with Article 8, paragraph 1, or delivered in accordance with Article 9, paragraph 1, or has disembarked after committing an act contemplated in Article 11, paragraph 1, and who desires to continue his journey shall be at liberty as soon as practicable to proceed to any destination of his choice unless his presence is required by the law of the State of landing for the purpose of extradition or criminal proceedings.

que des circonstances qui la justifient, l'Etat d'immatriculation de l'aéronef, l'Etat dont la personne détenue a la nationalité et, s'il le juge opportun, tous autres Etats intéressés. L'Etat qui procède à l'enquête préliminaire visée au présent article, paragraphe 4, en communique promptement les conclusions auxdits Etats et leur indique s'il entend exercer sa compétence.

Article 14

1. Si une personne qui a été débarquée conformément aux dispositions de l'Article 8, paragraphe 1, ou qui a été remise conformément aux dispositions de l'Article 9, paragraphe 1, ou qui a débarqué après avoir accompli un acte visé à l'Article 11, paragraphe 1, ne peut ou ne veut pas poursuivre son voyage, l'Etat d'atterrissage, s'il refuse d'admettre cette personne et que celle-ci n'ait pas la nationalité dudit Etat ou n'y ait pas établi sa résidence permanente, peut la refouler vers l'Etat dont elle a la nationalité ou dans lequel elle a établi sa résidence permanente, ou vers l'Etat sur le territoire duquel elle a commencé son voyage aérien.

2. Ni le débarquement, ni la remise, ni la détention, ni d'autres mesures, visées à l'Article 13, paragraphe 2, ni le renvoi de la personne intéressée ne sont considérés comme valant entrée sur le territoire d'un Etat contractant, au regard des lois de cet Etat relatives à l'entrée ou à l'admission des personnes. Les dispositions de la présente Convention ne peuvent affecter les lois des Etats contractants relatives au refoulement des personnes.

Article 15

1. Sous réserve des dispositions de l'article précédent, toute personne qui a été débarquée conformément aux dispositions de l'Article 8, paragraphe 1, ou qui a été remise conformément aux dispositions de l'Article 9, paragraphe 1, ou qui a débarqué après avoir accompli un acte visé à l'Article 11, paragraphe 1, et qui désire poursuivre son voyage peut le faire aussitôt que possible vers la destination de son choix, à moins que sa présence ne soit requise selon la loi de l'Etat d'atterrissage, aux fins de poursuites pénales et d'extradition.

del que sea nacional el detenido y, si lo considera conveniente, a todos los demás Estados interesados tal detención y las circunstancias que la justifican. El Estado que proceda a la investigación preliminar prevista en el párrafo 4 del presente Artículo, comunicará sin dilación sus resultados a los Estados antes mencionados e indicará si se propone proceder contra dicha persona.

Artículo 14

1. Cuando una persona, desembarcada de conformidad con el Artículo 8, párrafo 1, entregada de acuerdo con el Artículo 9, párrafo 1, o desembarcada después de haber cometido alguno de los actos previstos en el Artículo 11, párrafo 1, no pueda o no desee proseguir el viaje, el Estado de aterrizaje, si refusa admitirla y se trata de una persona que no sea nacional del mismo ni tenga en él su residencia permanente, podrá enviarla al territorio del Estado del que sea nacional o residente permanente o al del Estado donde inició su viaje aéreo.

2. El desembarque, la entrega, la detención o la adopción de las medidas aludidas en el Artículo 13, párrafo 2, o el envío de la persona conforme al párrafo anterior del presente Artículo no se considerarán como admisión en el territorio del Estado Contratante interesado a los efectos de sus leyes relativas a la entrada o admisión de personas y ninguna disposición del presente Convenio afectará a las leyes de un Estado Contratante, que regulen la expulsión de personas de su territorio.

Artículo 15

1. A reserva de lo previsto en el Artículo precedente, cualquier persona desembarcada de conformidad con el Artículo 8, párrafo 1, entregada de acuerdo con el Artículo 9, párrafo 1, o desembarcada después de haber cometido alguno de los actos previstos en el Artículo 11, párrafo 1, que desee continuar su viaje, podrá hacerlo tan pronto como sea posible hacia el punto de destino que elija, salvo que su presencia sea necesaria de acuerdo con las leyes del Estado de aterrizaje para la instrucción de un procedimiento penal o de extradición.

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2. Without prejudice to its law as to entry and admission to, and extradition and expulsion from its territory, a Contracting State in whose territory a person has been disembarked in accordance with Article 8, paragraph 1, or delivered in accordance with Article 9, paragraph 1 or has disembarked and is suspected of having committed an act contemplated in Article 11, paragraph 1, shall accord to such person treatment which is no less favourable for his protection and security than that accorded to nationals of such Contracting State in like circumstances.

Chapter VI—Other Provisions

Article 16

1. Offences committed on aircraft registered in a Contracting State shall be treated, for the purpose of extradition, as if they had been committed not only in the place in which they have occurred but also in the territory of the State of registration of the aircraft.

2. Without prejudice to the provisions of the preceding paragraph, nothing in this Convention shall be deemed to create an obligation to grant extradition.

Article 17

In taking any measures for investigation or arrest or otherwise exercising jurisdiction in connection with any offence committed on board an aircraft the Contracting States shall pay due regard to the safety and other interests of air navigation and shall so act as to avoid unnecessary delay of the aircraft, passengers, crew or cargo.

Article 18

If Contracting States establish joint air transport operating organizations or international operating agencies, which operate aircraft not registered in any one State those States shall, according to the circumstances of the case, designate the State among them which, for the purposes of this Convention, shall be considered as the State of registration and shall give notice thereof to the International Civil Aviation Organization which shall communi-

2. Sous réserve de ses lois relatives à l'entrée et à l'admission, à l'extradition et au refoulement des personnes, tout Etat contractant dans le territoire duquel une personne a été débarquée conformément aux dispositions de l'Article 8, paragraphe 1, ou remise conformément aux dispositions de l'Article 9, paragraphe 1, ou qui a débarqué et à laquelle est imputé un acte visé à l'Article 11, paragraphe 1, accorde à cette personne un traitement qui, en ce qui concerne sa protection et sa sécurité, n'est pas moins favorable que celui qu'il accorde à ses nationaux dans des cas analogues.

Titre VI—Autres dispositions

Article 16

1. Les infractions commises à bord d'aéronefs immatriculés dans un Etat contractant sont considérées, aux fins d'extradition, comme ayant été commises tant au lieu de leur perpétration que sur le territoire de l'Etat d'immatriculation de l'aéronef.

2. Compte tenu des dispositions du paragraphe précédent, aucune disposition de la présente Convention ne doit être interprétée comme créant une obligation d'accorder l'extradition.

Article 17

En prenant des mesures d'enquête ou d'arrestation ou en exerçant de toute autre manière leur compétence à l'égard d'une infraction commise à bord d'un aéronef, les Etats contractants doivent dûment tenir compte de la sécurité et des autres intérêts de la navigation aérienne et doivent agir de manière à éviter de retarder sans nécessité l'aéronef, les passagers, les membres de l'équipage ou les marchandises.

Article 18

Si des Etats contractants constituent pour le transport aérien, des organisations d'exploitation en commun ou des organismes internationaux d'exploitation et si les aéronefs utilisés ne sont pas immatriculés dans un Etat déterminé, ces Etats désigneront, suivant des modalités appropriées, celui d'entre eux qui sera considéré, aux fins de la présente Convention, comme Etat d'immatriculation. Ils aviseront de cette désignation l'Organisation de l'Aviation

2. Sin perjuicio de lo dispuesto en sus leyes sobre entrada, admisión, expulsión y extradición, el Estado Contratante en cuyo territorio sea desembarcada una persona, de acuerdo con lo dispuesto en el Artículo 8, párrafo 1, o entregada de conformidad con el Artículo 9, párrafo 1, o desembarque una persona a la que se impute alguno de los actos previstos en el Artículo 11, párrafo 1, le concederá en orden a su protección y seguridad un trato no menos favorable que el dispensado a sus nacionales en las mismas circunstancias.

Capítulo VI—Otras disposiciones

Artículo 16

1. Las infracciones cometidas a bordo de aeronaves matriculadas en un Estado Contratante serán consideradas, a los fines de extradición, como si se hubiesen cometido, no sólo en el lugar en el que hayan ocurrido, sino también en el territorio del Estado de matrícula de la aeronave.

2. A reserva de lo dispuesto en el párrafo anterior, ninguna disposición de este Convenio se interpretará en el sentido de crear una obligación de conceder la extradición.

Artículo 17

Al llevar a cabo cualquier medida de investigación o arresto o al ejercer de cualquier otro modo jurisdicción en materia de infracciones cometidas a bordo de una aeronave, los Estados Contratantes deberán tener muy en cuenta la seguridad y demás intereses de la navegación aérea, evitando el retardar innecesariamente a la aeronave, los pasajeros, los miembros de la tripulación o la carga.

Artículo 18

Si varios Estados Contratantes constituyen organizaciones de explotación en común u organismos internacionales de explotación, que utilicen aeronaves no matriculadas en un Estado determinado, designarán, según las modalidades del caso, cuál de ellos se considerará como Estado de matrícula a los fines del presente Convenio y lo comunicarán a la Organización de Aviación Civil Internacional que lo notificará a todos los Estados Partes en el presente Convenio.

cate the notice to all States Parties to this Convention.

Chapter VII—Final Clauses

Article 19

Until the date on which this Convention comes into force in accordance with the provisions of Article 21, it shall remain open for signature on behalf of any State which at that date is a Member of the United Nations or of any of the Specialized Agencies.

Article 20

1. This Convention shall be subject to ratification by the signatory States in accordance with their constitutional procedures.

2. The instruments of ratification shall be deposited with the International Civil Aviation Organization.

Article 21

1. As soon as twelve of the signatory States have deposited their instruments of ratification of this Convention, it shall come into force between them on the ninetieth day after the date of the deposit of the twelfth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.

2. As soon as this Convention comes into force, it shall be registered with the Secretary-General of the United Nations by the International Civil Aviation Organization.

Article 22

1. This Convention shall, after it has come into force, be open for accession by any State Member of the United Nations or of any of the Specialized Agencies.

2. The accession of a State shall be effected by the deposit of an instrument of accession with the International Civil Aviation Organization and shall take effect on the ninetieth day after the date of such deposit.

civile internationale qui en informera tous les Etats parties à la présente Convention.

Titre VII—Dispositions protocolaires

Article 19

La présente convention, jusqu'à la date de son entrée en vigueur dans les conditions prévues à l'Article 21, est ouverte à la signature de tout Etat qui, à cette date, sera membre de l'Organisation des Nations Unies ou d'une institution spécialisée.

Article 20

1. La présente convention est soumise à la ratification des Etats signataires conformément à leurs dispositions constitutionnelles.

2. Les instruments de ratification seront déposés auprès de l'Organisation de l'Aviation civile internationale.

Article 21

1. Lorsque la présente convention aura réuni les ratifications de douze Etats signataires, elle entrera en vigueur entre ces Etats le quatre-vingt-dixième jour après le dépôt du douzième instrument de ratification. A l'égard de chaque Etat qui la ratifiera par la suite, elle entrera en vigueur le quatre-vingt-dixième jour après le dépôt de son instrument de ratification.

2. Dès son entrée en vigueur, la présente Convention sera enregistrée auprès du Secrétaire général de l'Organisation des Nations Unies par l'Organisation de l'Aviation civile internationale.

Article 22

1. La présente Convention sera ouverte, après son entrée en vigueur, à l'adhésion de tout Etat membre de l'Organisation des Nations Unies ou d'une institution spécialisée.

2. L'adhésion sera effectuée par le dépôt d'un instrument d'adhésion auprès de l'Organisation de l'Aviation civile internationale et prendra effet le quatre-vingt-dixième jour qui suivra la date de ce dépôt.

Capítulo VII—Disposiciones Finales

Artículo 19

Hasta la fecha en que el presente Convenio entre en vigor de acuerdo con lo previsto en el Artículo 21, quedará abierto a la firma de cualquier Estado que, en dicha fecha, sea miembro de la Organización de las Naciones Unidas o de cualquiera de los organismos especializados.

Artículo 20

1. El presente Convenio se someterá a la ratificación de los Estados signatarios de conformidad con sus procedimientos constitucionales.

2. Los instrumentos de ratificación serán depositados en la Organización de Aviación Civil Internacional.

Artículo 21

1. Tan pronto como doce Estados signatarios hayan depositado sus instrumentos de ratificación del presente Convenio, éste entrará en vigor entre ellos el nonagésimo día, a contar del depósito del duodécimo instrumento de ratificación. Para cada uno de los Estados que ratifique después de esa fecha, entrará en vigor el nonagésimo día a partir de la fecha de depósito de su instrumento de ratificación.

2. Tan pronto como entre en vigor el presente Convenio, será registrado ante el Secretario General de las Naciones Unidas por la Organización de Aviación Civil Internacional.

Artículo 22

1. Después de su entrada en vigor, el presente Convenio quedará abierto a la adhesión de cualquier Estado miembro de la Organización de las Naciones Unidas o de cualquiera de los organismos especializados.

2. La adhesión de un Estado se efectuará mediante el depósito del correspondiente instrumento de adhesión ante la Organización de Aviación Civil Internacional, el cual tendrá efecto el nonagésimo día a contar de la fecha de depósito.

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Article 23

1. Any Contracting State may denounce this Convention by notification addressed to the International Civil Aviation Organization.
2. Denunciation shall take effect six months after the date of receipt by the International Civil Aviation Organization of the notification of denunciation.

Article 24

1. Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other Contracting States shall not be bound by the preceding paragraph with respect to any Contracting State having made such a reservation.

3. Any Contracting State having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the International Civil Aviation Organization.

Article 25

Except as provided in Article 24 no reservation may be made to this Convention.

Article 26

The International Civil Aviation Organization shall give notice to all States Members of the United Nations or of any of the Specialized Agencies:

- a) of any signature of this Convention and the date thereof;

Article 23

1. Tout Etat contractant peut dénoncer la présente Convention par une notification faite à l'Organisation de l'Aviation civile internationale.
2. La dénonciation prendra effet six mois après la date de réception de la notification par l'Organisation de l'Aviation civile internationale.

Article 24

1. Tout différend entre des Etats contractants concernant l'interprétation ou l'application de la présente Convention qui ne peut pas être réglé par voie de négociation est soumis à l'arbitrage, à la demande de l'un d'entre eux. Si, dans les six mois qui suivent la date de la demande d'arbitrage, les Parties ne parviennent pas à se mettre d'accord sur l'organisation de l'arbitrage, l'une quelconque d'entre elles peut soumettre le différend à la Cour internationale de Justice, en déposant une requête conformément au Statut de la Cour.

2. Chaque Etat pourra, au moment où il signera ou ratifiera la présente Convention ou y adhèrera, déclarer qu'il ne se considère pas lié par les dispositions du paragraphe précédent. Les autres Etats contractants ne seront pas liés par lesdites dispositions envers tout Etat contractant qui aura formulé une telle réserve.

3. Tout Etat contractant qui aura formulé une réserve conformément aux dispositions du paragraphe précédent pourra à tout moment lever cette réserve par une notification adressée à l'Organisation de l'Aviation civile internationale.

Article 25

Sauf dans le cas prévu à l'Article 24, il ne sera admis aucune réserve à la présente Convention.

Article 26

L'Organisation de l'Aviation civile internationale notifiera à tous les Etats membres de l'Organisation des Nations Unies ou d'une institution spécialisée:

- a) toute signature de la présente Convention et la date de cette signature;

Artículo 23

1. Los Estados Contratantes podrán denunciar este Convenio notificándolo a la Organización de Aviación Civil Internacional.
2. La denuncia surtirá efecto seis meses después de la fecha en que la Organización de Aviación Civil Internacional reciba la notificación de dicha denuncia.

Artículo 24

1. Las controversias que surjan entre dos o más Estados Contratantes con respecto a la interpretación o aplicación de este Convenio, que no puedan solucionarse mediante negociaciones, se someterán a arbitraje, a petición de uno de ellos. Si en el plazo de seis meses contados a partir de la fecha de presentación de la solicitud de arbitraje las partes no consiguen ponerse de acuerdo sobre la forma del mismo, cualquiera de las partes podrá someter la controversia a la Corte Internacional de Justicia, mediante una solicitud presentada de conformidad con el Estatuto de la Corte.

2. Todo Estado, en el momento de la firma o ratificación de este Convenio o de su adhesión al mismo, podrá declarar que no se considera obligado por el párrafo anterior. Los demás Estados Contratantes no estarán obligados por el párrafo anterior ante ningún Estado que haya formulado dicha reserva.

3. Todo Estado Contratante que haya formulado la reserva prevista en el párrafo anterior podrá retirarla en cualquier momento notificándolo a la Organización de Aviación Civil Internacional.

Artículo 25

Con excepción de lo dispuesto en el Artículo 24, el presente Convenio no podrá ser objeto de reservas.

Artículo 26

La Organización de Aviación Civil Internacional notificará a todos los Estados miembros de la Organización de las Naciones Unidas o de cualquiera de los organismos especializados:

- a) toda firma del presente Convenio y la fecha de la misma;

- b) of the deposit of any instrument of ratification or accession and the date thereof;
- c) of the date on which this Convention comes into force in accordance with Article 21, paragraph 1;
- d) of the receipt of any notification of denunciation and the date thereof; and
- e) of the receipt of any declaration or notification made under Article 24 and the date thereof.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Convention.

DONE at Tokyo on the fourteenth day of September One Thousand Nine Hundred and Sixty-three in three authentic texts drawn up in the English, French and Spanish languages.

This Convention shall be deposited with the International Civil Aviation Organization with which, in accordance with Article 19, it shall remain open for signature and the said Organization shall send certified copies thereof to all States Members of the United Nations or of any Specialized Agency.

- b) le dépôt de tout instrument de ratification ou d'adhésion et la date de ce dépôt;
- c) la date à laquelle la présente Convention entre en vigueur conformément aux dispositions du paragraphe 1^{er} de l'Article 21;
- d) la réception de toute notification de dénonciation et la date de réception; et
- e) la réception de toute déclaration ou notification faite en vertu de l'Article 24 et la date de réception.

EN FOI DE QUOI les Plénipotentiaires soussignés, dûment autorisés, ont signé la présente Convention.

FAIT à Tokyo le quatorzième jour du mois de septembre de l'an mil neuf cent soixante-trois, en trois textes authentiques rédigés dans les langues française, anglaise et espagnole.

La présente Convention sera déposée auprès de l'Organisation de l'Aviation civile internationale où, conformément aux dispositions de l'Article 19, elle restera ouverte à la signature et cette Organisation transmettra des copies certifiées conformes de la présente Convention à tous les Etats membres de l'Organisation des Nations Unies ou d'une institution spécialisée.

- b) el depósito de todo instrumento de ratificación o adhesión y la fecha en que se hizo;
- c) la fecha en que el presente Convenio entre en vigor de acuerdo con el primer párrafo del Artículo 21;
- d) toda notificación de denuncia y la fecha de su recepción; y
- e) toda declaración o notificación formulada en virtud del Artículo 24 y la fecha de su recepción.

EN TESTIMONIO DE LO CUAL, los plenipotenciarios que suscriben, debidamente autorizados, firman el presente Convenio.

HECHO en Tokio el día catorce de septiembre de mil novecientos sesenta y tres, en tres textos auténticos, redactados en los idiomas español, francés e inglés.

El presente Convenio será depositado en la Organización de Aviación Civil Internacional, donde quedará abierto a la firma, de conformidad con el Artículo 19, y dicha Organización transmitirá copias legalizadas del mismo a todos los Estados miembros de la Organización de las Naciones Unidas o de cualquiera de los organismos especializados.

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CONGO (BRAZZAVILLE)

F. OLLASSA

FEDERAL REPUBLIC OF GERMANY

Herbert Thumann

Klaus Göttinger

GUATEMALA

44 ~~Quaresima~~ 11:11

HOLY SEE

Luemasa Okamoto

INDONESIA

7 Riemboorn

ITALY

A. Ambrosini

Salvatore Cacopardo

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Shimo Saito

LIBERIA

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EXTRACT FROM CATALOGUE ICAO SALABLE PUBLICATIONS

- Final Act of the International Conference on Air Law held under the auspices of the International Civil Aviation Organization at Tokyo in August-September 1963.
(Doc 8365). Trilingual. 20 pp. 8" x 10-1/2" U.S. \$0.50
- Protocol to amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air Signed at Warsaw on 12 October 1929.
Signed at the Hague on 28 September 1955.
(Doc 7632). Trilingual. 18 pp. 10" x 14" U.S. \$0.25
- Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier.
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- Convention, complémentaire à la Convention de Varsovie, pour l'unification de certaines règles relatives au transport aérien international effectué par une personne autre que le transporteur contractuel.
Signée à Guadalajara le 18 septembre 1961.
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EXTRACTO DEL CATÁLOGO DE LA OACI (Publicaciones en venta)

- Acta final de la Conferencia Internacional de Derecho Aéreo celebrada bajo los auspicios de la Organización de Aviación Civil Internacional en Tokio en agosto-septiembre de 1963.
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Firmado en Guadalajara el 18 de septiembre de 1961.
(Doc 8181). Trilingue. 6 págs. 20 x 26 cm 0,25

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Doc 7300/4

**CONVENTION
ON INTERNATIONAL CIVIL AVIATION**

**CONVENTION
RELATIVE À L'AVIATION CIVILE
INTERNATIONALE**

**CONVENIO
SOBRE AVIACIÓN CIVIL INTERNACIONAL**

This document supersedes Doc 7300/3.

Le présent document annule et remplace le Document 7300/3.

Este documento remplaza al Doc 7300/3.



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**INTERNATIONAL CIVIL AVIATION ORGANIZATION
ORGANISATION DE L'AVIATION CIVILE INTERNATIONALE
ORGANIZACIÓN DE AVIACIÓN CIVIL INTERNACIONAL**

CHICAGO
CONVENTION

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FOREWORD

AVANT-PROPOS

PREÁMBULO

Doc 7300/4

1. This document contains, except for the six Articles mentioned in paragraph 2(a) and (b) below, at pages 1 to 38.

1. Le présent document comporte, à l'exception des six articles mentionnés au paragraphe 2, alinéas a) et b), ci-dessous,

1. Este documento contiene, excepto por lo que se refiere a los seis Artículos mencionados en el párrafo 2, a) y b),

— the text of the Convention on International Civil Aviation in the English language, as signed at Chicago on 7 December 1944, and

— le texte de la Convention relative à l'aviation civile internationale en l'anglais, telle qu'elle a été signée à Chicago le 7 décembre 1944,

— el texto del Convenio sobre la Aviación Civil Internacional en el idioma inglés, firmado en Chicago el 7 de diciembre de 1944,

— the text of the said Convention in the French and Spanish languages annexed to the Protocol on the Authentic Trilingual Text of the Convention on International Civil Aviation (Chicago, 1944) which was signed at Buenos Aires on 24 September 1968 and which came into force, at the date of the States which had signed it without reservation of acceptance, on 24 October 1968 (the Protocol being hereinafter referred to as the "Buenos Aires Protocol").

— le texte de ladite Convention en français et en espagnol annexé au Protocole sur le Texte Trilingue Authentique de la Convention relative à l'aviation civile internationale (Chicago, 1944), Protocole qui a été signé le 24 septembre 1968 à Buenos Aires, et qui est entré en vigueur, le 24 octobre 1968, à l'égard des États qui ont signé sans réserve d'acceptation (le Protocole est appelé ci-après le "Protocole de Buenos Aires").

— el texto de dicho Convenio en los idiomas español y francés anexados al Protocolo sobre el Texto Trilingüe Auténtico del Convenio sobre Aviación Civil Internacional (Chicago, 1944) que fue firmado en Buenos Aires el 24 de septiembre de 1968 y entró en vigor, entre los Estados que lo firmaron sin reserva de aceptación, el 24 de octubre de 1968 (este Protocolo será mencionado en adelante como el "Protocolo de Buenos Aires").

In addition, this document contains, at pages 39 to 42, the text of the aforementioned Buenos Aires Protocol.

En outre, le présent document contient le texte du Protocole de Buenos Aires précité, pages 39 à 42.

Además, este documento contiene, en las páginas 39 a 42 el texto del Protocolo de Buenos Aires a que se hace referencia anteriormente.

Note. — Under Article I of the Buenos Aires Protocol the text of the Convention in the French and Spanish languages annexed to the text of the Convention in the English language, constitutes the text equally authentic in the three languages as specifically referred to in the last paragraph of the Convention.

Note. — En vertu de l'article I^{er} du Protocole de Buenos Aires, le texte en français et en espagnol annexé au texte en anglais de la Convention, constitue également, dans les trois langues, tel que prévu expressément au dernier paragraphe de la Convention.

Nota. — En virtud del Artículo I del Protocolo de Buenos Aires, el texto del Convenio en los idiomas español y francés anexado al texto en el idioma inglés de la Convención, constituye, en los tres idiomas, tal como se prevé expresamente en el párrafo final del Convenio.

This document supersedes Doc 7300/3.
Le présent document annule et remplace le Document 7300/3.
Este documento reemplaza al Doc 7300/3.

2. In the body of the Convention, the texts of the Convention in French, English and Spanish, as approved by the Assembly, are incorporated as amendments to the Convention which was signed at this date, 1 April 1969, and by the Assembly of the Articles specified in paragraph 2(a) and (b) below:

2. Les textes anglais, français et espagnol précisés de la Convention, tels qu'ils ont été approuvés par l'Assemblée, sont incorporés, en tant qu'amendements, à la Convention et qui sont en vigueur à ce jour, 1^{er} avril 1969, à l'égard des Articles spécifiés ci-dessous :

2. En los textos mencionados del Convenio en español, francés e inglés, tal como se prevén en este documento, se han incluido todas las enmiendas a la Convención que están en vigor en la fecha, 1^o de abril de 1969, y que se refieren a los Artículos mencionados en los párrafos a) y b) siguientes :

(a) Articles 45, 46(a), 49(c), 50(a) and 61 of the Convention were partly amended by the Assembly, at its Eighth and Thirteenth Sessions and the wording of the amended parts of these Articles is of equal authenticity in English, French and Spanish. In this document, the English text of these Articles is, the text as so amended, and the French and Spanish texts of these Articles are the texts thereof as annexed to the Buenos Aires Protocol but after including therein the amendments in question.

(a) Les Articles 45, 46 a), 49 c) et 61 de la Convention ont été partiellement amendés par l'Assemblée, lors de ses huitième et treizième sessions, le texte des parties amendées de ces articles faisant également foi en français, anglais et espagnol. Dans le présent document, le texte anglais desdits articles est le texte anglais desdits articles amendés par l'Assemblée, et les textes français et espagnol sont des textes annexés au Protocole de Buenos Aires, y compris toutefois les amendements en question. On voudra

(a) Los Artículos 45, 46 a), 49 c) y 61 del Convenio fueron parcialmente modificados por la Asamblea en sus VIII y XIII períodos de sesiones y la redacción de las partes modificadas de dichos Artículos es de igual autenticidad en español, francés e inglés. En este documento, el texto inglés de estos Artículos es el texto inglés de estos Artículos así modificados, y los textos español y francés de estos Artículos son los textos de dicho Convenio de Chicago tal como se anexa al Protocolo de Buenos Aires pero después de incluir en ellos las enmiendas en cuestión. Se llama la atención a las notas de pie de página de dichos Artículos.

FOURTH EDITION — QUATRIÈME ÉDITION — CUARTA EDICIÓN

INTERNATIONAL CIVIL AVIATION ORGANIZATION
ORGANISATION DE L'AVIATION CIVILE INTERNATIONALE
ORGANIZACIÓN DE AVIACIÓN CIVIL INTERNACIONAL

FOREWORD

1. This document contains, except for the six Articles mentioned in paragraph 2(a) and (b) below, at pages 1 to 38:

— the text of the Convention on International Civil Aviation in the English language, as signed at Chicago on 7 December 1944, and

— the text of the said Convention in the French and Spanish languages annexed to the Protocol on the Authentic Trilingual Text of the Convention on International Civil Aviation (Chicago, 1944) which was signed at Buenos Aires on 24 September 1968 and which came into force, as among the States which had signed it without reservation as to acceptance, on 24 October 1968 (the Protocol being hereinafter referred to as the "Buenos Aires Protocol").

In addition, this document contains, at pages 39 to 42, the text of the above-mentioned Buenos Aires Protocol.

Note. — Under Article I of the Buenos Aires Protocol the text of the Convention in the French and Spanish languages annexed to the Protocol, together with the text of the Convention in the English language, constitutes the text equally authentic in the three languages as specifically referred to in the last paragraph of the Convention.

2. In the body of the above-mentioned texts of the Convention, in English, French and Spanish, as presented in this document, are incorporated all the amendments made to the Convention which are in force at this date, 1 April 1969, namely in respect of the Articles specified in (a) and (b) below:

(a) Articles 45, 48(a), 49(e), 50(a) and 61 of the Convention were partly amended by the Assembly at its Eighth and Thirteenth Sessions and the wording of the amended parts of these Articles is of equal authenticity in English, French and Spanish. In this document, the English text of these Articles is the text signed at Chicago as so amended; and the French and Spanish texts of these Articles are the texts thereof as annexed to the Buenos Aires Protocol but after including therein the amendments in question. Attention is invited to the footnotes to these Articles.

AVANT-PROPOS

1. Le présent document comporte, à l'exception des six articles mentionnés au paragraphe 2, alinéas a) et b), ci-dessous, pages 1 à 38:

— le texte de la Convention relative à l'Aviation civile internationale en langue anglaise, signée le 7 décembre 1944, à Chicago; et

— le texte de ladite Convention en langues française et espagnole annexé au Protocole concernant le texte authentique trilingue de la Convention relative à l'Aviation civile internationale (Chicago, 1944), Protocole qui a été signé le 24 septembre 1968, à Buenos Aires, et qui est entré en vigueur, le 24 octobre 1968, à l'égard des États qui l'ont signé sans réserve d'acceptation (le Protocole est appelé ci-après le "Protocole de Buenos Aires").

En outre, le présent document contient le texte du Protocole de Buenos Aires précité, pages 39 à 42.

Note. — En vertu de l'article I^{er} du Protocole de Buenos Aires, le texte en langues française et espagnole de la Convention annexé au Protocole constitue, conjointement avec le texte en langue anglaise de la Convention, le texte faisant également foi dans les trois langues, tel que prévu expressément au dernier paragraphe de la Convention.

2. Les textes anglais, français et espagnol précités de la Convention, tels qu'ils figurent dans le présent document, comportent tous les amendements qui ont été apportés à la Convention et qui sont en vigueur à ce jour, le 1^{er} avril 1969, à l'égard des articles visés en a) et b) ci-dessous:

a) Les articles 45, 48 a), 49 e), 50 a) et 61 de la Convention ont été partiellement amendés par l'Assemblée lors de ses huitième et treizième sessions, le texte des passages amendés de ces articles faisant également foi en français, anglais et espagnol. Dans le présent document, le texte anglais desdits articles est le texte signé à Chicago et ainsi amendé; leurs textes français et espagnol sont des textes annexés au Protocole de Buenos Aires, y compris toutefois les amendements en question. On voudra bien se reporter aux notes de bas de page relatives à ces articles.

PREÁMBULO

1. Este documento contiene, excepto por lo que se refiere a los seis Artículos mencionados en el párrafo 2 a) y b) siguiente, en las páginas 1 a 38:

— el texto del Convenio sobre Aviación Civil Internacional en el idioma inglés, firmado en Chicago el 7 de diciembre de 1944, y

— el texto de dicho Convenio en los idiomas español y francés anexados al Protocolo sobre el texto auténtico trilingüe del Convenio sobre Aviación Civil Internacional (Chicago, 1944) que fue firmado en Buenos Aires el 24 de septiembre de 1968 y entró en vigor, entre los Estados que lo firmaron sin reserva de aceptación, el 24 de octubre de 1968 (este Protocolo será mencionado en adelante como el "Protocolo de Buenos Aires").

Además, este documento contiene, en las páginas 39 a 42 el texto del Protocolo de Buenos Aires a que se hace referencia anteriormente.

Nota. — En virtud del Artículo I del Protocolo de Buenos Aires, el texto del Convenio en los idiomas español y francés adjunto al Protocolo constituye, con el texto en el idioma inglés del Convenio, el texto igualmente auténtico en tres idiomas, tal como se prevé expresamente en el párrafo final del Convenio.

2. En los textos mencionados del Convenio en español, francés e inglés, tal como se presentan en este documento, se han incluido todas las enmiendas hechas al Convenio que están en vigor en esta fecha, 1^o de abril de 1969, y que se refieren a los Artículos mencionados en los párrafos a) y b) siguientes:

a) Los Artículos 45, 48 a), 49 e), 50 a) y 61 del Convenio fueron parcialmente modificados por la Asamblea en sus VIII y XIII períodos de sesiones y la redacción de las partes modificadas de dichos Artículos es de igual autenticidad en español, francés e inglés. En este documento, el texto inglés de estos Artículos es el texto firmado en Chicago y así modificado; y los textos español y francés de estos Artículos son los textos de dicho Convenio de Chicago tal como se anexa al Protocolo de Buenos Aires pero después de incluir en el mismo las enmiendas en cuestión. Se llama la atención a las notas de pie de página sobre dichos Artículos.

(b) Article 93 *bis* was adopted by the Assembly at its First Session in English, French and Spanish, each text being of equal authenticity. The Article is incorporated in this document.

3. The Assembly, at its Fourteenth Session, adopted another amendment to Article 48(a) of the Convention but that amendment is not incorporated in the text of Article 48(a) presented in this document because the amendment has not yet entered into force.

4. Following the signature of the Buenos Aires Protocol, the Assembly, at its Sixteenth Session, adopted Resolution A16-16 with a view to bringing into use as soon as possible the text of the Convention in the French and Spanish languages annexed to that Protocol. That Resolution reads as follows:

RESOLUTION A16-16

French and Spanish Texts of the Convention

WHEREAS Resolution A3-2 invited the Council to take action with a view to providing the Organization with texts in French and Spanish of the Convention on International Civil Aviation, such texts to be used only for internal purposes of the Organization;

WHEREAS the Council, pursuant to that Resolution, and for the said purposes, adopted the French and Spanish texts of the Convention which are found in Doc 7300/3;

WHEREAS the International Conference on the Authentic Trilingual Text of the Convention on International Civil Aviation (Chicago, 1944) adopted, on 20 September 1968, at Buenos Aires, and opened for signature, on 24 September 1968, a Protocol (hereinafter referred to as the "Buenos Aires Protocol") to which is annexed a text of the said Convention in the French and Spanish languages; and

WHEREAS it is desirable that the text of the Convention in the French and Spanish languages attached to the Buenos Aires Protocol come into use as soon as possible;

THE ASSEMBLY:

(1) URGES all Contracting States to accept the Buenos Aires Protocol as soon as possible;

(2) RESOLVES that the text of the Convention in the French and Spanish languages attached to the Buenos Aires Protocol be used henceforth by the Organization;

(3) RECOMMENDS to Contracting States that, for reference purposes in their relations with the Organization or with other Contracting States, they use, in their communications in the French or Spanish language, only the text of the Convention in those languages which is attached to the Buenos Aires Protocol; and

(4) RESCINDS Resolution A3-2.

(b) Lors de sa première session, l'Assemblée a adopté l'article 93 *bis* en anglais, français et espagnol, chaque texte faisant également foi. Ledit article est incorporé au présent document.

3. Lors de sa quatorzième session, l'Assemblée a adopté un autre amendement à l'article 48 a) de la Convention; toutefois, cet amendement n'est pas incorporé au texte de l'article 48 a), qui figure dans le présent document, du fait qu'il n'est pas encore entré en vigueur.

4. Après la signature du Protocole de Buenos Aires, l'Assemblée, seizième session, a adopté une résolution (Résolution A16-16) visant à ce que le texte de la Convention dans les langues française et espagnole joint audit Protocole entre en usage le plus tôt possible. Cette résolution est ainsi libellée:

RÉSOLUTION A16-16

Textes français et espagnol de la Convention

L'ASSEMBLÉE,

CONSIDÉRANT que la Résolution A3-2 invitait le Conseil à prendre des dispositions en vue de pourvoir l'Organisation de textes français et espagnol de la Convention relative à l'Aviation civile internationale, ces textes ne devant être utilisés que pour les besoins intérieurs de l'Organisation;

CONSIDÉRANT que le Conseil a adopté, par suite de cette résolution et en vue desdits besoins, les textes français et espagnol qui figurent dans le Document 7300/3;

CONSIDÉRANT que la Conférence internationale sur le texte authentique trilingue de la Convention relative à l'Aviation civile internationale (Chicago, 1944) a adopté, le 20 septembre 1968, à Buenos Aires et a ouvert à la signature le 24 septembre 1968 un Protocole (appelé ci-après "Protocole de Buenos Aires") auquel est annexé un texte de ladite Convention dans les langues française et espagnole;

CONSIDÉRANT qu'il est souhaitable que le texte de la Convention dans les langues française et espagnole joint au Protocole de Buenos Aires entre en usage le plus tôt possible;

1) PRIE INSTAMMENT tous les États contractants d'accepter le Protocole de Buenos Aires dès que possible;

2) DÉCIDE que le texte de la Convention dans les langues française et espagnole joint au Protocole de Buenos Aires sera utilisé dorénavant par l'Organisation;

3) RECOMMANDE aux États contractants de n'utiliser dans leurs communications en langue française ou espagnole, aux fins de référence dans leurs relations avec l'Organisation ou avec d'autres États contractants, que le texte de la Convention dans ces langues joint au Protocole de Buenos Aires;

4) ABROGE la Résolution A3-2.

* b) El Artículo 93 *bis* fue adoptado por la Asamblea en su Primer período de sesiones en español, francés e inglés, siendo cada texto de igual autenticidad. Tal Artículo aparece incorporado en el presente documento.

3. La Asamblea, en su XIV período de sesiones, adoptó otra enmienda al Artículo 48 a) del Convenio, pero dicha enmienda no ha sido incluida en el texto del Artículo 48 a) que aparece en este documento, debido a que la misma no ha entrado aún en vigor.

4. Después de firmarse el Protocolo de Buenos Aires, la Asamblea, en su XVI período de sesiones, adoptó la Resolución A16-16 a fin de que se utilice lo antes posible el texto del Convenio en los idiomas español y francés adjunto a dicho Protocolo. La Resolución dice lo siguiente:

RESOLUCIÓN A16-16

Textos en español y en francés del Convenio

CONSIDERANDO que la Resolución A3-2 invitaba al Consejo a tomar medidas a fin de facilitar a la Organización los textos en español y en francés del Convenio de Aviación Civil Internacional, debiendo utilizarse los mismos únicamente para fines internos de la Organización;

CONSIDERANDO que el Consejo, en cumplimiento de dicha Resolución, y para dichos fines, adoptó los textos en español y en francés del Convenio que aparecen en el Doc 7300/3;

CONSIDERANDO que la Conferencia Internacional sobre el texto trilingüe auténtico del Convenio de Aviación Civil Internacional (Chicago, 1944) adoptó, el 20 de septiembre de 1968, en Buenos Aires, y declaró abierto a la firma, el 24 de septiembre de 1968, un Protocolo (que en adelante se denominará "Protocolo de Buenos Aires"), al que se adjunta un texto de dicho Convenio en los idiomas español y francés; y

CONSIDERANDO que es de desear que los textos en los idiomas español y francés del Convenio adjuntos al Protocolo de Buenos Aires sean utilizados lo antes posible;

LA ASAMBLEA:

1) INSTA a todos los Estados Contratantes a que acepten el Protocolo de Buenos Aires lo antes posible;

2) RESUELVE que el texto del Convenio en los idiomas español y francés, adjunto al Protocolo de Buenos Aires, sea utilizado en adelante por la Organización;

3) RECOMIENDA a los Estados Contratantes que, a los fines de referencia en sus relaciones con la Organización o con otros Estados Contratantes, utilicen únicamente, en sus comunicaciones en los idiomas español o francés, el texto del Convenio en dichos idiomas que se adjunta al Protocolo de Buenos Aires; y

4) RESCINDE la Resolución A3-2.

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CONVENTION¹

ON INTERNATIONAL CIVIL AVIATION

Signed at Chicago,
on 7 December 1944

PREAMBLE

WHEREAS the future development of international civil aviation can greatly help to create and preserve friendship and understanding among the nations and peoples of the world, yet its abuse can become a threat to the general security; and

WHEREAS it is desirable to avoid friction and to promote that cooperation between nations and peoples upon which the peace of the world depends;

THEREFORE, the undersigned governments having agreed on certain principles and arrangements in order that international civil aviation may be developed in a safe and orderly manner and that international air transport services may be established on the basis of equality of opportunity and operated soundly and economically;

Have accordingly concluded this Convention to that end.

¹ Came into force on 4 April 1947, the thirtieth day after deposit with the Government of the United States of America of the twenty-sixth instrument of ratification thereof or notification of adherence thereto, in accordance with Article 91(b).

CONVENTION¹

RELATIVE À L'AVIATION CIVILE INTERNATIONALE

Signée à Chicago,
le 7 décembre 1944

PRÉAMBULE

CONSIDÉRANT que le développement futur de l'aviation civile internationale peut grandement aider à créer et à préserver entre les nations et les peuples du monde l'amitié et la compréhension, alors que tout abus qui en serait fait peut devenir une menace pour la sécurité générale,

CONSIDÉRANT qu'il est désirable d'éviter toute mésentente entre les nations et les peuples et de promouvoir entre eux la coopération dont dépend la paix du monde,

EN CONSÉQUENCE, les Gouvernements soussignés étant convenus de certains principes et arrangements, afin que l'aviation civile internationale puisse se développer d'une manière sûre et ordonnée et que les services internationaux de transport aérien puissent être établis sur la base de l'égalité des chances et exploités d'une manière saine et économique,

Ont conclu la présente Convention à ces fins.

¹ Entrée en vigueur le 4 avril 1947, trentième jour après le dépôt auprès du Gouvernement des États-Unis d'Amérique du vingt-sixième instrument de ratification ou de la notification d'adhésion, conformément à l'article 91 b).

CONVENIO¹

SOBRE AVIACIÓN CIVIL INTERNACIONAL

Firmado en Chicago,
el 7 de diciembre de 1944

PREÁMBULO

CONSIDERANDO: Que el desarrollo futuro de la aviación civil internacional puede contribuir poderosamente a crear y a preservar la amistad y el entendimiento entre las naciones y los pueblos del mundo, mientras que el abuso de la misma puede llegar a constituir una amenaza a la seguridad general;

CONSIDERANDO: Que es deseable evitar toda disensión entre las naciones y los pueblos y promover entre ellos la cooperación de que depende la paz del mundo;

POR CONSIGUIENTE, los Gobiernos que suscriben, habiendo convenido en ciertos principios y arreglos, a fin de que la aviación civil internacional pueda desarrollarse de manera segura y ordenada y de que los servicios internacionales de transporte aéreo puedan establecerse sobre una base de igualdad de oportunidades y realizarse de modo sano y económico;

Han concluido a estos fines el presente Convenio.

¹ Entró en vigor el 4 de abril de 1947, el trigésimo día después del depósito del vigésimosexto instrumento de ratificación o notificación de adhesión al Gobierno de los Estados Unidos de América de acuerdo con el Artículo 91 b).

PART I AIR NAVIGATION

CHAPTER I GENERAL PRINCIPLES AND APPLICATION OF THE CONVENTION

Article 1

Sovereignty

The contracting States recognize that every State has complete and exclusive sovereignty over the airspace above its territory.

Article 2

Territory

For the purposes of this Convention the territory of a State shall be deemed to be the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or mandate of such State.

Article 3

Civil and state aircraft

(a) This Convention shall be applicable only to civil aircraft, and shall not be applicable to state aircraft.

(b) Aircraft used in military, customs and police services shall be deemed to be state aircraft.

(c) No state aircraft of a contracting State shall fly over the territory of another State or land thereon without authorization by special agreement or otherwise, and in accordance with the terms thereof.

(d) The contracting States undertake, when issuing regulations for their state aircraft, that they will have due regard for the safety of navigation of civil aircraft.

Article 4

Misuse of civil aviation

Each contracting State agrees not to use civil aviation for any purpose inconsistent with the aims of this Convention.

CHAPTER II FLIGHT OVER TERRITORY OF CONTRACTING STATES

Article 5

Right of non-scheduled flight

Each contracting State agrees that all aircraft of the other contracting States,

PREMIÈRE PARTIE NAVIGATION AÉRIENNE

CHAPITRE I PRINCIPES GÉNÉRAUX ET APPLICATION DE LA CONVENTION

Article premier

Souveraineté

Les États contractants reconnaissent que chaque État a la souveraineté complète et exclusive sur l'espace aérien au-dessus de son territoire.

Article 2

Territoire

Aux fins de la présente Convention, il faut entendre par territoire d'un État les régions terrestres et les eaux territoriales y adjacentes qui se trouvent sous la souveraineté, la suzeraineté, la protection ou le mandat dudit État.

Article 3

Aéronefs civils et aéronefs d'État

a) La présente Convention s'applique uniquement aux aéronefs civils et ne s'applique pas aux aéronefs d'État.

b) Les aéronefs utilisés dans des services militaires, de douane ou de police sont considérés comme aéronefs d'État.

c) Aucun aéronef d'État d'un État contractant ne peut survoler le territoire d'un autre État ou y atterrir, sauf autorisation donnée par voie d'accord spécial ou de toute autre manière et conformément aux conditions de cette autorisation.

d) Les États contractants s'engagent à tenir dûment compte de la sécurité de la navigation des aéronefs civils lorsqu'ils établissent des règlements pour leurs aéronefs d'État.

Article 4

Usage indu de l'Aviation civile

Chaque État contractant convient de ne pas employer l'aviation civile à des fins incompatibles avec les buts de la présente Convention.

CHAPITRE II

VOL AU-DESSUS DU TERRITOIRE DES ÉTATS CONTRACTANTS

Article 5

Droits des aéronefs n'assurant pas de service régulier

Chaque État contractant convient que tous les aéronefs des autres États con-

PRIMERA PARTE NAVEGACIÓN AÉREA

CAPÍTULO I PRINCIPIOS GENERALES Y APLICACIÓN DEL CONVENIO

Artículo 1

Soberanía

Los Estados contratantes reconocen que todo Estado tiene soberanía plena y exclusiva en el espacio aéreo situado sobre su territorio.

Artículo 2

Territorio

A los fines del presente Convenio se consideran como territorio de un Estado las áreas terrestres y las aguas territoriales adyacentes a ellas que se encuentren bajo la soberanía, dominio, protección o mandato de dicho Estado.

Artículo 3

Aeronaves civiles y de Estado

a) El presente Convenio se aplica solamente a las aeronaves civiles y no a las aeronaves de Estado.

b) Se consideran aeronaves de Estado las utilizadas en servicios militares, de aduanas o de policía.

c) Ninguna aeronave de Estado de un Estado contratante podrá volar sobre el territorio de otro Estado o aterrizar en el mismo sin haber obtenido autorización para ello, por acuerdo especial o de otro modo, y de conformidad con las condiciones de la autorización.

d) Los Estados contratantes se comprometen a tener debidamente en cuenta la seguridad de la navegación de las aeronaves civiles, cuando establezcan reglamentos aplicables a sus aeronaves de Estado.

Artículo 4

Uso indebido de la aviación civil

Cada Estado contratante conviene en no emplear la aviación civil para propósitos incompatibles con los fines del presente Convenio.

CAPÍTULO II

VUELO SOBRE TERRITORIO DE ESTADOS CONTRATANTES

Artículo 5

Derecho de vuelo en servicios no regulares

Cada Estado contratante conviene en que todas las aeronaves de los demás

being aircraft not engaged in scheduled international air services shall have the right, subject to the observance of the terms of this Convention, to make flights into or in transit non-stop across its territory and to make stops for non-traffic purposes without the necessity of obtaining prior permission, and subject to the right of the State flown over to require landing. Each contracting State nevertheless reserves the right, for reasons of safety of flight, to require aircraft desiring to proceed over regions which are inaccessible or without adequate air navigation facilities to follow prescribed routes, or to obtain special permission for such flights.

Such aircraft, if engaged in the carriage of passengers, cargo, or mail for remuneration or hire on other than scheduled international air services, shall also, subject to the provisions of Article 7, have the privilege of taking on or discharging passengers, cargo, or mail, subject to the right of any State where such embarkation or discharge takes place to impose such regulations, conditions or limitations as it may consider desirable.

Article 6

Scheduled air services

No scheduled international air service may be operated over or into the territory of a contracting State, except with the special permission or other authorization of that State, and in accordance with the terms of such permission or authorization.

Article 7

Cabotage

Each contracting State shall have the right to refuse permission to the aircraft of other contracting States to take on in its territory passengers, mail and cargo carried for remuneration or hire and destined for another point within its territory. Each contracting State undertakes not to enter into any arrangements which specifically grant any such privilege on an exclusive basis to any other State or an airline of any other State, and not to obtain any such exclusive privilege from any other State.

tractants qui n'assurent pas de services aériens internationaux réguliers ont le droit, à condition que soient respectés les termes de la présente Convention, de pénétrer sur son territoire, de le traverser en transit sans escale et d'y faire des escales non commerciales sans avoir à obtenir une autorisation préalable, sous réserve du droit pour l'État survolé d'exiger l'atterrissage. Néanmoins, pour des raisons de sécurité de vol, chaque État contractant se réserve le droit d'exiger que les aéronefs qui désirent survoler des régions inaccessibles ou dépourvues d'installations et services de navigation aérienne adéquats suivent les itinéraires prescrits ou obtiennent une autorisation spéciale.

Si lesdits aéronefs assurent le transport de passagers, de marchandises ou de courrier contre rémunération ou en vertu d'un contrat de location en dehors des services aériens internationaux réguliers, ils auront aussi le privilège, sous réserve des dispositions de l'article 7, d'embarquer ou de débarquer des passagers, des marchandises ou du courrier, sous réserve du droit pour l'État où a lieu l'embarquement ou le débarquement d'imposer telles réglementations, conditions ou restrictions qu'il pourra juger souhaitables.

Article 6

Services aériens réguliers

Aucun service aérien international régulier ne peut être exploité au-dessus ou à l'intérieur du territoire d'un État contractant, sauf permission spéciale ou toute autre autorisation dudit État et conformément aux conditions de cette permission ou autorisation.

Article 7

Cabotage

Chaque État contractant a le droit de refuser aux aéronefs d'autres États contractants la permission d'embarquer sur son territoire des passagers, du courrier ou des marchandises pour les transporter, contre rémunération ou en vertu d'un contrat de location, à destination d'un autre point de son territoire. Chaque État contractant s'engage à ne conclure aucun arrangement qui accorde expressément un tel privilège, à titre exclusif, à un autre État ou à une entreprise de transport aérien d'un autre État, et à ne pas se faire octroyer un tel privilège exclusif par un autre État.

Estados contratantes que no se utilicen en servicios internacionales regulares tendrán derecho, de acuerdo con lo estipulado en el presente Convenio, a penetrar sobre su territorio o sobrevolarlo sin escalas, y a hacer escalas en él con fines no comerciales, sin necesidad de obtener permiso previo, y a reserva del derecho del Estado sobrevolado de exigir aterrizaje. Sin embargo, cada Estado contratante se reserva, por razones de seguridad de vuelo, el derecho de exigir que las aeronaves que deseen volar sobre regiones inaccesibles o que no cuenten con instalaciones y servicios adecuados para la navegación aérea, sigan las rutas prescritas u obtengan permisos especiales para tales vuelos.

Si dichas aeronaves se utilizan en servicios distintos de los aéreos internacionales regulares, en el transporte de pasajeros, correo o carga por remuneración o alquiler, tendrán también el privilegio, con sujeción a las disposiciones del Artículo 7, de embarcar o desembarcar pasajeros, carga o correo, sin perjuicio del derecho del Estado donde tenga lugar el embarque o desembarque a imponer las reglamentaciones, condiciones o restricciones que considere convenientes.

Artículo 6

Servicios aéreos regulares

Ningún servicio aéreo internacional regular podrá explotarse en el territorio o sobre el territorio de un Estado contratante, excepto con el permiso especial u otra autorización de dicho Estado y de conformidad con las condiciones de dicho permiso o autorización.

Artículo 7

Cabotaje

Cada Estado contratante tiene derecho a negar a las aeronaves de los demás Estados contratantes el permiso de embarcar en su territorio pasajeros, correo o carga para transportarlos, mediante remuneración o alquiler, con destino a otro punto situado en su territorio. Cada Estado contratante se compromete a no celebrar acuerdos que específicamente concedan tal privilegio a base de exclusividad a cualquier otro Estado o línea aérea de cualquier otro Estado, y a no obtener tal privilegio exclusivo de otro Estado.

Article 8

Pilotless aircraft

No aircraft capable of being flown without a pilot shall be flown without a pilot over the territory of a contracting State without special authorization by that State and in accordance with the terms of such authorization. Each contracting State undertakes to insure that the flight of such aircraft without a pilot in regions open to civil aircraft shall be so controlled as to obviate danger to civil aircraft.

Article 9

Prohibited areas

(a) Each contracting State may, for reasons of military necessity or public safety, restrict or prohibit uniformly the aircraft of other States from flying over certain areas of its territory, provided that no distinction in this respect is made between the aircraft of the State whose territory is involved, engaged in international scheduled airline services, and the aircraft of the other contracting States likewise engaged. Such prohibited areas shall be of reasonable extent and location so as not to interfere unnecessarily with air navigation. Descriptions of such prohibited areas in the territory of a contracting State, as well as any subsequent alterations therein, shall be communicated as soon as possible to the other contracting States and to the International Civil Aviation Organization.

(b) Each contracting State reserves also the right, in exceptional circumstances or during a period of emergency, or in the interest of public safety, and with immediate effect, temporarily to restrict or prohibit flying over the whole or any part of its territory, on condition that such restriction or prohibition shall be applicable without distinction of nationality to aircraft of all other States.

(c) Each contracting State, under such regulations as it may prescribe, may require any aircraft entering the areas contemplated in subparagraphs (a) or (b) above to effect a landing as soon as practicable thereafter at some designated airport within its territory.

Article 8

Aéronefs sans pilote

Aucun aéronef pouvant voler sans pilote ne peut survoler sans pilote le territoire d'un État contractant, sauf autorisation spéciale dudit État et conformément aux conditions de celle-ci. Chaque État contractant s'engage à faire en sorte que le vol d'un tel aéronef sans pilote dans des régions ouvertes aux aéronefs civils soit soumis à un contrôle qui permette d'éviter tout danger pour les aéronefs civils.

Article 9

Zones interdites

a) Chaque État contractant peut, pour des raisons de nécessité militaire ou de sécurité publique, restreindre ou interdire uniformément le vol au-dessus de certaines zones de son territoire par les aéronefs d'autres États, pourvu qu'il ne soit fait aucune distinction à cet égard entre les aéronefs dudit État qui assurent des services aériens internationaux réguliers et les aéronefs des autres États contractants qui assurent des services similaires. Ces zones interdites doivent avoir une étendue et un emplacement raisonnables afin de ne pas gêner sans nécessité la navigation aérienne. La définition desdites zones interdites sur le territoire d'un État contractant et toute modification ultérieure seront communiquées dès que possible aux autres États contractants et à l'Organisation de l'Aviation civile internationale.

b) Chaque État contractant se réserve également le droit, dans des circonstances exceptionnelles, en période de crise ou dans l'intérêt de la sécurité publique, de restreindre ou d'interdire temporairement et avec effet immédiat les vols au-dessus de tout ou partie de son territoire, à condition que cette restriction ou interdiction s'applique, sans distinction de nationalité, aux aéronefs de tous les autres États.

c) Chaque État contractant peut, selon des règlements qu'il a la faculté d'édicter, exiger que tout aéronef qui pénètre dans les zones visées aux alinéas a) et b) ci-dessus, atterrisse dès que possible sur un aéroport désigné à l'intérieur de son territoire.

Artículo 8

Aeronaves sin piloto

Ninguna aeronave capaz de volar sin piloto volará sin él sobre el territorio de un Estado contratante, a menos que se cuente con autorización especial de tal Estado y de conformidad con los términos de dicha autorización. Cada Estado contratante se compromete a asegurar que los vuelos de tales aeronaves sin piloto en las regiones abiertas a la navegación de las aeronaves civiles sean controlados de forma que se evite todo peligro a las aeronaves civiles.

Artículo 9

Zonas prohibidas

a) Cada Estado contratante puede, por razones de necesidad militar o de seguridad pública, restringir o prohibir uniformemente los vuelos de las aeronaves de otros Estados sobre ciertas zonas de su territorio, siempre que no se establezcan distinciones a este respecto entre las aeronaves del Estado de cuyo territorio se trate, que se empleen en servicios aéreos internacionales regulares, y las aeronaves de los otros Estados contratantes que se empleen en servicios similares. Dichas zonas prohibidas deberán ser de extensión y situación razonables, a fin de no estorbar innecesariamente a la navegación aérea. La descripción de tales zonas prohibidas situadas en el territorio de un Estado contratante y todas las modificaciones ulteriores deberán comunicarse lo antes posible a los demás Estados contratantes y a la Organización de Aviación Civil Internacional.

b) Cada Estado contratante se reserva igualmente el derecho, en circunstancias excepcionales, durante un periodo de emergencia o en interés de la seguridad pública, a restringir o prohibir temporalmente y con efecto inmediato los vuelos sobre todo su territorio o parte del mismo, a condición de que esta restricción o prohibición se aplique, sin distinción de nacionalidad, a las aeronaves de todos los demás Estados.

c) Cada Estado contratante puede exigir, de acuerdo con las reglamentaciones que establezca, que toda aeronave que penetre en las zonas indicadas en los párrafos a) y b) anteriores, aterrice tan pronto como le sea posible en un aeropuerto designado dentro de su territorio.

Article 10
Landing at customs airport

Except in a case where, under the terms of this Convention or a special authorization, aircraft are permitted to cross the territory of a contracting State without landing, every aircraft which enters the territory of a contracting State shall, if the regulations of that State so require, land at an airport designated by that State for the purpose of customs and other examination. On departure from the territory of a contracting State, such aircraft shall depart from a similarly designated customs airport. Particulars of all designated customs airports shall be published by the State and transmitted to the International Civil Aviation Organization established under Part II of this Convention for communication to all other contracting States.

Article 11
Applicability of air regulations

Subject to the provisions of this Convention, the laws and regulations of a contracting State relating to the admission to or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft while within its territory, shall be applied to the aircraft of all contracting States without distinction as to nationality, and shall be complied with by such aircraft upon entering or departing from or while within the territory of that State.

Article 12
Rules of the air

Each contracting State undertakes to adopt measures to insure that every aircraft flying over or maneuvering within its territory and that every aircraft carrying its nationality mark, wherever such aircraft may be, shall comply with the rules and regulations relating to the flight and maneuver of aircraft there in force. Each contracting State undertakes to keep its own regulations in these respects uniform, to the greatest possible extent, with those established from time to time under this Convention. Over the high seas, the rules in force shall be those established under this Convention. Each contracting State undertakes to insure the prosecution

Article 10
Atterrissage sur un aéroport douanier

Sauf dans le cas où, aux termes de la présente Convention ou d'une autorisation spéciale, il est permis à des aéronefs de traverser le territoire d'un État contractant sans y atterrir, tout aéronef qui pénètre sur le territoire d'un État contractant doit, si les règlements dudit État l'exigent, atterrir sur un aéroport désigné par cet État aux fins d'inspections douanières et autres. En quittant le territoire d'un État contractant, ledit aéronef doit partir d'un aéroport douanier désigné aux mêmes fins. Les caractéristiques de tous les aéroports douaniers désignés doivent être publiées par l'État et transmises à l'Organisation de l'Aviation civile internationale, instituée en vertu de la deuxième partie de la présente Convention, pour communication à tous les autres États contractants.

Article 11
Application des règlements de l'air

Sous réserve des dispositions de la présente Convention, les lois et règlements d'un État contractant relatifs à l'entrée et à la sortie de son territoire des aéronefs employés à la navigation aérienne internationale, ou relatifs à l'exploitation et à la navigation desdits aéronefs à l'intérieur de son territoire, s'appliquent, sans distinction de nationalité, aux aéronefs de tous les États contractants et lesdits aéronefs doivent s'y conformer à l'entrée, à la sortie et à l'intérieur du territoire de cet État.

Article 12
Règles de l'air

Chaque État contractant s'engage à adopter des mesures afin d'assurer que tout aéronef survolant son territoire ou y manœuvrant, ainsi que tout aéronef portant la marque de sa nationalité, en quelque lieu qu'il se trouve, se conforment aux règles et règlements en vigueur en ce lieu pour le vol et la manœuvre des aéronefs. Chaque État contractant s'engage à maintenir ses règlements dans ce domaine conformes, dans toute la mesure du possible, à ceux qui pourraient être établis en vertu de la présente Convention. Au-dessus de la haute mer, les règles en vigueur sont les règles établies en vertu de la présente Convention. Chaque État contractant s'en-

Artículo 10
Aterrizaje en aeropuertos aduaneros

Excepto en el caso en que, de acuerdo con lo dispuesto en el presente Convenio o en una autorización especial, se permita a las aeronaves cruzar el territorio de un Estado contratante sin aterrizar, toda aeronave que penetre en el territorio de un Estado contratante deberá, si los reglamentos de tal Estado así lo requieren, aterrizar en un aeropuerto designado por tal Estado para fines de inspección de aduanas y otras formalidades. Al salir del territorio de un Estado contratante, tales aeronaves deberán partir de un aeropuerto aduanero designado de igual manera. Las características de todos los aeropuertos aduaneros deberán ser publicadas por el Estado y transmitidas a la Organización de Aviación Civil Internacional, creada en virtud de lo dispuesto en la Segunda Parte del presente Convenio, a fin de que sean comunicadas a todos los demás Estados contratantes.

Artículo 11
Aplicación de las reglamentaciones aéreas

A reserva de lo dispuesto en el presente Convenio, las leyes y reglamentos de un Estado contratante relativos a la entrada y salida de su territorio de las aeronaves empleadas en la navegación aérea internacional o a la operación y navegación de dichas aeronaves, mientras se encuentren en su territorio, se aplicarán sin distinción de nacionalidad a las aeronaves de todos los Estados contratantes y dichas aeronaves deberán cumplir tales leyes y reglamentos a la entrada, a la salida y mientras se encuentren dentro del territorio de ese Estado.

Artículo 12
Reglas del aire

Cada Estado contratante se compromete a adoptar medidas que aseguren que todas las aeronaves que vuelen sobre su territorio o maniobren en él, así como todas las aeronaves que lleven la marca de su nacionalidad, dondequiera que se encuentren, observen las reglas y reglamentos en vigor relativos a los vuelos y maniobras de las aeronaves en tal lugar. Cada Estado contratante se compromete a mantener sus propios reglamentos sobre este particular conformes en todo lo posible, con los que oportunamente se establezcan en aplicación del presente Convenio. Sobre alta mar, las reglas en vigor serán las que se establezcan de

of all persons violating the regulations applicable.

Article 13

Entry and clearance regulations

The laws and regulations of a contracting State as to the admission to or departure from its territory of passengers, crew or cargo of aircraft, such as regulations relating to entry, clearance, immigration, passports, customs, and quarantine shall be complied with by or on behalf of such passengers, crew or cargo upon entrance into or departure from, or while within the territory of that State.

Article 14

Prevention of spread of disease

Each contracting State agrees to take effective measures to prevent the spread by means of air navigation of cholera, typhus (epidemic), smallpox, yellow fever, plague, and such other communicable diseases as the contracting States shall from time to time decide to designate, and to that end contracting States will keep in close consultation with the agencies concerned with international regulations relating to sanitary measures applicable to aircraft. Such consultation shall be without prejudice to the application of any existing international convention on this subject to which the contracting States may be parties.

Article 15

Airport and similar charges

Every airport in a contracting State which is open to public use by its national aircraft shall likewise, subject to the provisions of Article 68, be open under uniform conditions to the aircraft of all the other contracting States. The like uniform conditions shall apply to the use, by aircraft of every contracting State, of all air navigation facilities, including radio and meteorological services, which may be provided for public use for the safety and expedition of air navigation.

gage à poursuivre toute personne contrevenant aux règlements applicables.

Article 13

Règlements d'entrée et de congé

Les lois et règlements d'un État contractant concernant l'entrée ou la sortie de son territoire des passagers, équipages ou marchandises des aéronefs, tels que les règlements relatifs à l'entrée, au congé, à l'immigration, aux passeports, à la douane et à la santé, doivent être observés à l'entrée, à la sortie ou à l'intérieur du territoire de cet État, par lesdits passagers ou équipages, ou en leur nom, et pour les marchandises.

Article 14

Prévention de la propagation des maladies

Chaque État contractant convient de prendre des mesures efficaces pour prévenir la propagation, par la navigation aérienne, du choléra, du typhus (épidémique), de la variole, de la fièvre jaune, de la peste, ainsi que de toute autre maladie contagieuse que les États contractants décident de désigner le cas échéant et, à cette fin, les États contractants se tiendront en étroite consultation avec les institutions chargées des règlements internationaux relatifs aux mesures sanitaires applicables aux aéronefs. Une telle consultation ne préjuge en rien l'application de toute convention internationale existant en la matière et à laquelle les États contractants seraient parties.

Article 15

Redevances d'aéroport et droits similaires

Tout aéroport situé dans un État contractant et ouvert aux aéronefs de cet État aux fins d'usage public est aussi, sous réserve des dispositions de l'article 68, ouvert dans des conditions uniformes aux aéronefs de tous les autres États contractants. De même, des conditions uniformes s'appliquent à l'utilisation, par les aéronefs de chaque État contractant, de toutes installations et tous services de navigation aérienne, y compris les services radio-électriques et météorologiques, mis en place aux fins d'usage public pour la sécurité et la rapidité de la navigation aérienne.

acuerdo con el presente Convenio. Cada Estado contratante se compromete a asegurar que se procederá contra todas las personas que infrinjan los reglamentos aplicables.

Artículo 13

Disposiciones sobre entrada y despacho

Las leyes y reglamentos de un Estado contratante relativos a la admisión o salida de su territorio de pasajeros, tripulación o carga transportados por aeronaves, tales como los relativos a entrada, despacho, inmigración, pasaportes, aduanas y sanidad serán cumplidos por o por cuenta de dichos pasajeros, tripulaciones y carga, ya sea a la entrada, a la salida o mientras se encuentren dentro del territorio de ese Estado.

Artículo 14

Prevención contra la propagación de enfermedades

Cada Estado contratante conviene en tomar medidas efectivas para impedir la propagación por medio de la navegación aérea, del cólera, tífus (epidémico), viruela, fiebre amarilla, peste y cualesquiera otras enfermedades contagiosas que los Estados contratantes decidan designar oportunamente. A este fin, los Estados contratantes mantendrán estrecha consulta con los organismos encargados de los reglamentos internacionales relativos a las medidas sanitarias aplicables a las aeronaves. Tales consultas se harán sin perjuicio de la aplicación de cualquier convenio internacional existente sobre la materia en el que sean partes los Estados contratantes.

Artículo 15

Derechos aeroportuarios y otros similares

Todo aeropuerto de un Estado contratante que esté abierto a sus aeronaves nacionales para fines de uso público estará igualmente abierto, en condiciones uniformes y a reserva de lo previsto en el Artículo 68, a las aeronaves de todos los demás Estados contratantes. Tales condiciones uniformes se aplicarán por lo que respecta al uso, por parte de las aeronaves de cada uno de los Estados contratantes, de todas las instalaciones y servicios para la navegación aérea, incluso los servicios de radio y de meteorología, que se provean para uso público para la seguridad y rapidez de la navegación aérea.

Any charges that may be imposed or permitted to be imposed by a contracting State for the use of such airports and air navigation facilities by the aircraft of any other contracting State shall not be higher,

(a) As to aircraft not engaged in scheduled international air services, than those that would be paid by its national aircraft of the same class engaged in similar operations, and

(b) As to aircraft engaged in scheduled international air services, than those that would be paid by its national aircraft engaged in similar international air services.

All such charges shall be published and communicated to the International Civil Aviation Organization: provided that, upon representation by an interested contracting State, the charges imposed for the use of airports and other facilities shall be subject to review by the Council, which shall report and make recommendations thereon for the consideration of the State or States concerned. No fees, dues or other charges shall be imposed by any contracting State in respect solely of the right of transit over or entry into or exit from its territory of any aircraft of a contracting State or persons or property thereon.

Article 16

Search of aircraft

The appropriate authorities of each of the contracting States shall have the right, without unreasonable delay, to search aircraft of the other contracting States on landing or departure, and to inspect the certificates and other documents prescribed by this Convention.

CHAPTER III

NATIONALITY OF AIRCRAFT

Article 17

Nationality of aircraft

Aircraft have the nationality of the State in which they are registered.

Les redevances qu'un État contractant peut imposer ou permettre d'imposer pour l'utilisation desdits aéroports et installations et services de navigation aérienne par les aéronefs de tout autre État contractant ne doivent pas:

a) pour les aéronefs qui n'assurent pas de services aériens internationaux réguliers, être supérieures aux redevances qui seraient payées par ses aéronefs nationaux de même classe assurant des services similaires;

b) pour les aéronefs qui assurent des services aériens internationaux réguliers, être supérieures aux redevances qui seraient payées par ses aéronefs nationaux assurant des services internationaux similaires.

Toutes ces redevances sont publiées et communiquées à l'Organisation de l'Aviation civile internationale, étant entendu que, sur représentation d'un État contractant intéressé, les redevances imposées pour l'utilisation des aéroports et autres installations et services sont soumises à l'examen du Conseil, qui fait rapport et formule des recommandations à ce sujet à l'attention de l'État ou des États intéressés. Aucun État contractant ne doit imposer de droits, taxes ou autres redevances uniquement pour le droit de transit, d'entrée ou de sortie de son territoire de tout aéronef d'un État contractant, ou de personnes ou biens se trouvant à bord.

Article 16

Visite des aéronefs

Les autorités compétentes de chacun des États contractants ont le droit de visiter, à l'atterrissage et au départ, sans causer de retard déraisonnable, les aéronefs des autres États contractants et d'examiner les certificats et autres documents prescrits par la présente Convention.

CHAPITRE III

NATIONALITÉ DES AÉRONEFS

Article 17

Nationalité des aéronefs

Les aéronefs ont la nationalité de l'État dans lequel ils sont immatriculés.

Los derechos que un Estado contratante imponga o permita que se impongan por el uso de tales aeropuertos e instalaciones y servicios para la navegación aérea por las aeronaves de cualquier otro Estado contratante, no deberán ser más elevados:

a) Respecto a las aeronaves que no se empleen en servicios aéreos internacionales regulares, que los derechos que pagarían sus aeronaves nacionales de la misma clase dedicadas a servicios similares;

b) Respecto a las aeronaves que se empleen en servicios aéreos internacionales regulares, que los derechos que pagarían sus aeronaves nacionales dedicadas a servicios aéreos internacionales similares.

Todos estos derechos serán publicados y comunicados a la Organización de Aviación Civil Internacional, entendiéndose que, si un Estado contratante interesado hace una reclamación, los derechos impuestos por el uso de aeropuertos y otras instalaciones y servicios serán objeto de examen por el Consejo, que hará un informe y formulará recomendaciones al respecto para consideración del Estado o Estados interesados. Ningún Estado contratante impondrá derechos, impuestos u otros gravámenes por el mero derecho de tránsito, entrada o salida de su territorio de cualquier aeronave de un Estado contratante o de las personas o bienes que se encuentren a bordo.

Artículo 16

Inspección de aeronaves

Las autoridades competentes de cada uno de los Estados contratantes tendrán derecho a inspeccionar sin causar demoras innecesarias, las aeronaves de los demás Estados contratantes, a la llegada o a la salida, y a examinar los certificados y otros documentos prescritos por el presente Convenio.

CAPÍTULO III

NACIONALIDAD DE LAS AERONAVES

Artículo 17

Nacionalidad de las aeronaves

Las aeronaves tienen la nacionalidad del Estado en el que estén matriculadas.

Article 18

Dual registration

An aircraft cannot be validly registered in more than one State, but its registration may be changed from one State to another.

Article 18

Double immatriculation

Un aéronef ne peut être valablement immatriculé dans plus d'un État, mais son immatriculation peut être transférée d'un État à un autre.

Artículo 18

Matriculación doble

Ninguna aeronave puede estar válidamente matriculada en más de un Estado, pero su matrícula podrá cambiarse de un Estado a otro.

Article 19

National laws governing registration

The registration or transfer of registration of aircraft in any contracting State shall be made in accordance with its laws and regulations.

Article 19

Lois nationales régissant l'immatriculation

L'immatriculation ou le transfert d'immatriculation d'aéronefs dans un État contractant s'effectue conformément à ses lois et règlements.

Artículo 19

Leyes nacionales sobre matriculación

La matriculación o transferencia de matrícula de aeronaves en un Estado contratante se efectuará de acuerdo con sus leyes y reglamentos.

Article 20

Display of marks

Every aircraft engaged in international air navigation shall bear its appropriate nationality and registration marks.

Article 20

Port des marques

Tout aéronef employé à la navigation aérienne internationale porte les marques de nationalité et d'immatriculation qui lui sont propres.

Artículo 20

Ostentación de las marcas

Toda aeronave empleada en la navegación aérea internacional deberá llevar las correspondientes marcas de nacionalidad y matrícula.

Article 21

Report of registrations

Each contracting State undertakes to supply to any other contracting State or to the International Civil Aviation Organization, on demand, information concerning the registration and ownership of any particular aircraft registered in that State. In addition, each contracting State shall furnish reports to the International Civil Aviation Organization under such regulations as the latter may prescribe, giving such pertinent data as can be made available concerning the ownership and control of aircraft registered in that State and habitually engaged in international air navigation. The data thus obtained by the International Civil Aviation Organization shall be made available by its request to the other contracting States.

Article 21

Rapports d'immatriculation

Chaque État contractant s'engage à fournir, sur demande, à tout autre État contractant ou à l'Organisation de l'Aviation civile internationale, des renseignements sur l'immatriculation et la propriété de tout aéronef immatriculé dans ledit État. De plus, chaque État contractant fournit à l'Organisation de l'Aviation civile internationale, selon les règlements que cette dernière peut édicter, des rapports donnant les renseignements pertinents qui peuvent être rendus disponibles sur la propriété et le contrôle des aéronefs immatriculés dans cet État et habituellement employés à la navigation aérienne internationale. Sur demande, l'Organisation de l'Aviation civile internationale met les renseignements ainsi obtenus à la disposition des autres États contractants.

Artículo 21

Informes sobre matrículas

Cada Estado contratante se compromete a suministrar, a petición de cualquier otro Estado contratante o de la Organización de Aviación Civil Internacional, información relativa a la matrícula y propiedad de cualquier aeronave matriculada en dicho Estado. Además, todo Estado contratante proporcionará a la Organización de Aviación Civil Internacional, de acuerdo con las disposiciones que ésta dicte, informes con los datos pertinentes que puedan facilitarse sobre la propiedad y control de las aeronaves matriculadas en el Estado que se empleen habitualmente en la navegación aérea internacional. Previa solicitud, la Organización de Aviación Civil Internacional pondrá los datos así obtenidos a disposición de los demás Estados contratantes.

CHAPTER IV

MESURES TO FACILITATE AIR NAVIGATION

Article 22

Facilitation of formalities

Each contracting State agrees to adopt all practicable measures, through the issuance of special regulations or otherwise, to facilitate and expedite navigation by aircraft between the territories of contracting States, and to prevent unnecessary delays to aircraft, crews, passengers and

CHAPITRE IV

MESURES DESTINÉES À FACILITER LA NAVIGATION AÉRIENNE

Article 22

Simplification des formalités

Chaque État contractant convient d'adopter, par la promulgation de règlements spéciaux ou de toute autre manière, toutes mesures en son pouvoir pour faciliter et accélérer la navigation par aéronef entre les territoires des États contractants et éviter de retarder sans nécessité les

CAPÍTULO IV

MEDIDAS PARA FACILITAR LA NAVEGACIÓN AÉREA

Artículo 22

Simplificación de formalidades

Cada Estado contratante conviene en adoptar, mediante la promulgación de reglamentos especiales o de otro modo, todas las medidas posibles para facilitar y acelerar la navegación de las aeronaves entre los territorios de los Estados contratantes y para evitar todo retardo in-

cargo, especially in the administration of the laws relating to immigration, quarantine, customs and clearance.

Article 23

Customs and immigration procedures

Each contracting State undertakes, so far as it may find practicable, to establish customs and immigration procedures affecting international air navigation in accordance with the practices which may be established or recommended from time to time, pursuant to this Convention. Nothing in this Convention shall be construed as preventing the establishment of customs-free airports.

Article 24

Customs duty

(a) Aircraft on a flight to, from, or across the territory of another contracting State shall be admitted temporarily free of duty, subject to the customs regulations of the State. Fuel, lubricating oils, spare parts, regular equipment and aircraft stores on board an aircraft of a contracting State, on arrival in the territory of another contracting State and retained on board on leaving the territory of that State shall be exempt from customs duty, inspection fees or similar national or local duties and charges. This exemption shall not apply to any quantities or articles unloaded, except in accordance with the customs regulations of the State, which may require that they shall be kept under customs supervision.

(b) Spare parts and equipment imported into the territory of a contracting State for incorporation in or use on an aircraft of another contracting State engaged in international air navigation shall be admitted free of customs duty, subject to compliance with the regulations of the State concerned, which may provide that the articles shall be kept under customs supervision and control.

Article 25

Aircraft in distress

Each contracting State undertakes to provide such measures of assistance to

aéronefs, équipages, passagers et cargaisons, particulièrement dans l'application des lois relatives à l'immigration, à la santé, à la douane et au congé.

Article 23

Formalités de douane et d'immigration

Chaque État contractant s'engage, dans la mesure où il le juge réalisable, à établir des règlements de douane et d'immigration intéressant la navigation aérienne internationale, conformément aux pratiques qui pourraient être établies ou recommandées en vertu de la présente Convention. Aucune disposition de la présente Convention ne doit être interprétée comme empêchant la création d'aéroports francs.

Article 24

Droits de douane

a) Au cours d'un vol à destination ou en provenance du territoire d'un autre État contractant ou transitant par ce territoire, tout aéronef est temporairement admis en franchise de droits, sous réserve des règlements douaniers de cet État. Le carburant, les huiles lubrifiantes, les pièces de rechange, l'équipement habituel et les provisions de bord se trouvant dans un aéronef d'un État contractant à son arrivée sur le territoire d'un autre État contractant et s'y trouvant encore lors de son départ de ce territoire, sont exempts des droits de douane, frais de visite ou autres droits et redevances similaires imposés par l'État ou les autorités locales. Cette exemption ne s'applique pas aux quantités ou aux objets déchargés, à moins que ne l'admettent les règlements douaniers de l'État, qui peuvent exiger que ces quantités ou objets soient placés sous la surveillance de la douane.

b) Les pièces de rechange et le matériel importés dans le territoire d'un État contractant pour être installés ou utilisés sur un aéronef d'un autre État contractant employé à la navigation aérienne internationale sont admis en franchise de droits de douane, sous réserve de l'observation des règlements de l'État intéressé, qui peuvent disposer que ces objets sont placés sous la surveillance et le contrôle de la douane.

Article 25

Aéronefs en détresse

Chaque État contractant s'engage à prendre les mesures qu'il jugera réalisables

necesario a las aeronaves, tripulaciones, pasajeros y carga, especialmente en la aplicación de las leyes sobre inmigración, sanidad, aduana y despacho.

Artículo 23

Formalidades de aduana y de inmigración

Cada Estado contratante se compromete, en la medida en que lo juzgue factible, a establecer disposiciones de aduana y de inmigración relativas a la navegación aérea internacional, de acuerdo con los métodos que puedan establecerse o recomendarse oportunamente en aplicación del presente Convenio. Ninguna disposición del presente Convenio se interpretará en el sentido de que impide el establecimiento de aeropuertos francos.

Artículo 24

Derechos de aduana

a) Las aeronaves en vuelo hacia, desde o a través del territorio de otro Estado contratante, serán admitidas temporalmente libres de derechos, con sujeción a las reglamentaciones de aduana de tal Estado. El combustible, aceites lubricantes, piezas de repuesto, equipo corriente y provisiones de a bordo que se lleven en una aeronave de un Estado contratante cuando llegue al territorio de otro Estado contratante y que se encuentren aún a bordo cuando ésta salga de dicho Estado, estarán exentos de derechos de aduana, derechos de inspección u otros derechos o impuestos similares, ya sean nacionales o locales. Esta exención no se aplicará a las cantidades u objetos descargados, salvo disposición en contrario de conformidad con las reglamentaciones de aduana del Estado, que pueden exigir que dichas cantidades u objetos queden bajo vigilancia aduanera.

b) Las piezas de repuesto y el equipo que se importen al territorio de un Estado contratante para su instalación o uso en una aeronave de otro Estado contratante empleada en la navegación aérea internacional, serán admitidos libres de derechos de aduana, con sujeción al cumplimiento de las reglamentaciones del Estado interesado, que pueden establecer que dichos efectos queden bajo vigilancia y control aduaneros.

Artículo 25

Aeronaves en peligro

Cada Estado contratante se compromete a proporcionar los medios de asistencia

aircraft in distress in its territory as it may find practicable, and to permit, subject to control by its own authorities, the owners of the aircraft or authorities of the State in which the aircraft is registered to provide such measures of assistance as may be necessitated by the circumstances. Each contracting State, when undertaking search for missing aircraft, will collaborate in coordinated measures which may be recommended from time to time pursuant to this Convention.

Article 26

Investigation of accidents

In the event of an accident to an aircraft of a contracting State occurring in the territory of another contracting State, and involving death or serious injury, or indicating serious technical defect in the aircraft or air navigation facilities, the State in which the accident occurs will institute an inquiry into the circumstances of the accident, in accordance, so far as its laws permit, with the procedure which may be recommended by the International Civil Aviation Organization. The State in which the aircraft is registered shall be given the opportunity to appoint observers to be present at the inquiry and the State holding the inquiry shall communicate the report and findings in the matter to that State.

Article 27

Exemption from seizure on patent claims

(a) While engaged in international air navigation, any authorized entry of aircraft of a contracting State into the territory of another contracting State or authorized transit across the territory of such State with or without landings shall not entail any seizure or detention of the aircraft or any claim against the owner or operator thereof or any other interference therewith by or on behalf of such State or any person therein, on the ground that the construction, mechanism, parts, accessories or operation of the aircraft is an infringement of any patent, design, or model duly granted or registered in the State whose territory is entered by the aircraft, it being agreed that no deposit of security in connection with the foregoing exemption from seizure or detention of the aircraft shall in any case be required in the State entered by such aircraft.

afin de porter assistance aux aéronefs en détresse sur son territoire et, sous réserve du contrôle par ses propres autorités, à permettre aux propriétaires de l'aéronef ou aux autorités de l'État dans lequel l'aéronef est immatriculé de prendre les mesures d'assistance nécessitées par les circonstances. Chaque État contractant entreprenant la recherche d'aéronefs disparus collaborera aux mesures coordonnées qui pourraient être recommandées en vertu de la présente Convention.

Article 26

Enquête sur les accidents

En cas d'accident survenu à un aéronef d'un État contractant sur le territoire d'un autre État contractant et ayant entraîné mort ou lésion grave ou révélé de graves déficiences techniques de l'aéronef ou des installations et services de navigation aérienne, l'État dans lequel l'accident s'est produit ouvrira une enquête sur les circonstances de l'accident, en se conformant, dans la mesure où ses lois le permettent, à la procédure qui pourra être recommandée par l'Organisation de l'Aviation civile internationale. Il est donné à l'État dans lequel l'aéronef est immatriculé la possibilité de nommer des observateurs pour assister à l'enquête et l'État procédant à l'enquête lui communique le rapport et les constatations en la matière.

Article 27

Exemption de saisie en cas de contestation sur les brevets d'invention

a) Lorsqu'un aéronef d'un État contractant est employé à la navigation aérienne internationale, l'entrée autorisée sur le territoire d'un autre État contractant ou le transit autorisé à travers le territoire dudit État, avec ou sans atterrissage, ne donne lieu ni à saisie ou rétention de l'aéronef, ni à réclamation à l'encontre de son propriétaire ou exploitant, ni à toute autre intervention de la part ou au nom de cet État ou de toute personne qui s'y trouve, du fait que la construction, le mécanisme, les pièces, les accessoires ou l'exploitation de l'aéronef porteraient atteinte aux droits afférents à tout brevet, dessin ou modèle dûment délivré ou déposé dans l'État sur le territoire duquel a pénétré l'aéronef, étant convenu que, dans cet État, il n'est exigé en aucun cas un dépôt de garantie en raison de l'exemption de saisie ou de rétention de l'aéronef visée ci-dessus.

que considere factibles a las aeronaves en peligro en su territorio y a permitir, con sujeción al control de sus propias autoridades, que los propietarios de las aeronaves o las autoridades del Estado en que estén matriculadas proporcionen los medios de asistencia que las circunstancias exijan. Cada Estado contratante, al emprender la búsqueda de aeronaves perdidas, colaborará en las medidas coordinadas que oportunamente puedan recomendarse en aplicación del presente Convenio.

Article 26

Investigación de accidentes

En el caso de que una aeronave de un Estado contratante sufra en el territorio de otro Estado contratante un accidente que ocasione muerte o lesión grave, o que indique graves defectos técnicos en la aeronave o en las instalaciones y servicios para la navegación aérea, el Estado en donde ocurra el accidente abrirá una encuesta sobre las circunstancias del mismo, ajustándose, en la medida que lo permitan sus leyes, a los procedimientos que pueda recomendar la Organización de Aviación Civil Internacional. Se permitirá al Estado donde esté matriculada la aeronave que designe observadores para estar presentes en la encuesta y el Estado que la realice comunicará al otro Estado el informe y las conclusiones al respecto.

Article 27

Exención de embargo por reclamaciones sobre patentes

a) Mientras una aeronave de un Estado contratante esté empleada en la navegación aérea internacional, la entrada autorizada en el territorio de otro Estado contratante o el tránsito autorizado a través de dicho territorio, con o sin aterrizaje, no darán lugar a embargo o detención de la aeronave ni a reclamación alguna contra su propietario u operador ni a ingerencia alguna por parte o en nombre de este Estado o de cualquier persona que en él se halle, basándose en que la construcción, el mecanismo, las piezas, los accesorios o la operación de la aeronave infringen los derechos de alguna patente, diseño o modelo debidamente concedidos o registrados en el Estado en cuyo territorio haya penetrado la aeronave, entendiéndose que en dicho Estado no se exigirá en ningún caso un depósito de garantía por la exención anteriormente mencionada de embargo o detención de la aeronave.

(b) The provisions of paragraph (a) of this Article shall also be applicable to the storage of spare parts and spare equipment for the aircraft and the right to use and install the same in the repair of an aircraft of a contracting State in the territory of any other contracting State, provided that any patented part or equipment so stored shall not be sold or distributed internally in or exported commercially from the contracting State entered by the aircraft.

(c) The benefits of this Article shall apply only to such States, parties to this Convention, as either (1) are parties to the International Convention for the Protection of Industrial Property and to any amendments thereof; or (2) have enacted patent laws which recognize and give adequate protection to inventions made by the nationals of the other States parties to this Convention.

Article 28

Air navigation facilities and standard systems

Each contracting State undertakes, so far as it may find practicable, to:

(a) Provide, in its territory, airports, radio services, meteorological services and other air navigation facilities to facilitate international air navigation, in accordance with the standards and practices recommended or established from time to time, pursuant to this Convention;

(b) Adopt and put into operation the appropriate standard systems of communications procedure, codes, markings, signals, lighting and other operational practices and rules which may be recommended or established from time to time, pursuant to this Convention;

(c) Collaborate in international measures to secure the publication of aeronautical maps and charts in accordance with standards which may be recommended or established from time to time, pursuant to this Convention.

b) Les dispositions du paragraphe a) du présent article s'appliquent aussi à l'entreposage des pièces et du matériel de rechange pour les aéronefs, ainsi qu'au droit d'utiliser et de monter ces pièces et matériel lors de la réparation d'un aéronef d'un État contractant sur le territoire d'un autre État contractant, aucune pièce ni aucun matériel breveté ainsi entreposé ne pouvant être vendu ou cédé à l'intérieur de l'État contractant sur le territoire duquel a pénétré l'aéronef, ou exporté de cet État à des fins commerciales.

c) Seuls bénéficient des dispositions du présent article les États parties à la présente Convention 1) qui sont également parties à la Convention internationale sur la protection de la propriété industrielle et à tous amendements à ladite Convention ou 2) qui ont promulgué, sur les brevets, des lois reconnaissant et protégeant d'une manière adéquate les inventions des ressortissants des autres États parties à la présente Convention.

Article 28

Installations et services de navigation aérienne et systèmes normalisés

Chaque État contractant s'engage, dans la mesure où il le juge réalisable:

(a) à fournir, sur son territoire, des aéroports, des services radioélectriques et météorologiques et d'autres installations et services de navigation aérienne afin de faciliter la navigation aérienne internationale, conformément aux normes et pratiques qui pourraient être recommandées ou établies en vertu de la présente Convention.

b) à adopter et mettre en œuvre les systèmes normalisés appropriés relatifs aux procédures de communications, aux codes, au balisage, à la signalisation, aux feux et aux autres pratiques et règles d'exploitation qui pourraient être recommandés ou établis en vertu de la présente Convention.

c) à collaborer aux mesures internationales destinées à assurer la publication de cartes et plans aéronautiques, conformément aux normes qui pourraient être recommandées ou établies en vertu de la présente Convention.

b) Las disposiciones del párrafo a) del presente artículo se aplicarán también al almacenamiento de piezas y equipo de repuesto para aeronaves, así como al derecho de usarlos e instalarlos en la reparación de una aeronave de un Estado contratante en el territorio de cualquier otro Estado contratante, siempre que las piezas o el equipo patentados, así almacenados, no se vendan ni distribuyan internamente ni se exporten con fines comerciales desde el Estado contratante en el que haya penetrado la aeronave.

c) Los beneficios de este artículo se aplicarán sólo a los Estados, partes en el presente Convenio, que 1) sean partes en la Convención Internacional para la Protección de la Propiedad Industrial y sus enmiendas, o 2) hayan promulgado leyes sobre patentes que reconozcan y protejan debidamente las invenciones de los nacionales de los demás Estados que sean partes en el presente Convenio.

Artículo 28

Instalaciones y servicios y sistemas normalizados para la navegación aérea

Cada Estado contratante se compromete, en la medida en que lo juzgue factible a:

(a) Proveer en su territorio aeropuertos, servicios de radio, servicios meteorológicos y otras instalaciones y servicios para la navegación aérea a fin de facilitar la navegación aérea internacional, de acuerdo con las normas y métodos recomendados o establecidos oportunamente, en aplicación del presente Convenio.

b) Adoptar y aplicar los sistemas normalizados apropiados sobre procedimientos de comunicaciones, códigos, balizamiento, señales, iluminación y demás métodos y reglas de operación que se recomienden o establezcan oportunamente en aplicación del presente Convenio.

c) Colaborar en las medidas internacionales tomadas para asegurar la publicación de mapas y cartas aéronáuticas, de conformidad con las normas que se recomienden o establezcan oportunamente, en aplicación del presente Convenio.

CHAPTER V

CONDITIONS TO BE FULFILLED WITH RESPECT TO AIRCRAFT

Article 29

Documents carried in aircraft

Every aircraft of a contracting State, engaged in international navigation, shall carry the following documents in conformity with the conditions prescribed in this Convention:

- (a) Its certificate of registration;
- (b) Its certificate of airworthiness;
- (c) The appropriate licenses for each member of the crew;
- (d) Its journey log book;
- (e) If it is equipped with radio apparatus, the aircraft radio station license;
- (f) If it carries passengers, a list of their names and places of embarkation and destination;
- (g) If it carries cargo, a manifest and detailed declarations of the cargo.

Article 30

Aircraft radio equipment

(a) Aircraft of each contracting State may, in or over the territory of other contracting States, carry radio transmitting apparatus only if a license to install and operate such apparatus has been issued by the appropriate authorities of the State in which the aircraft is registered. The use of radio transmitting apparatus in the territory of the contracting State whose territory is flown over shall be in accordance with the regulations prescribed by that State.

(b) Radio transmitting apparatus may be used only by members of the flight crew who are provided with a special license for the purpose, issued by the appropriate authorities of the State in which the aircraft is registered.

Article 31

Certificates of airworthiness

Every aircraft engaged in international navigation shall be provided with a certificate of airworthiness issued or rendered valid by the State in which it is registered.

CHAPITRE V

CONDITIONS À REMPLIR EN CE QUI CONCERNE LES AÉRONEFS

Article 29

Documents de bord des aéronefs

Tout aéronef d'un État contractant employé à la navigation internationale doit, conformément aux conditions prescrites par la présente Convention, avoir à bord les documents suivants:

- a) son certificat d'immatriculation;
- b) son certificat de navigabilité;
- c) les licences appropriées pour chaque membre de l'équipage;
- d) son carnet de route;
- e) s'il est muni d'appareils radio-électriques, la licence de la station radio de l'aéronef;
- f) s'il transporte des passagers, la liste de leurs noms et lieux d'embarquement et de destination;
- g) s'il transporte du fret, un manifeste et des déclarations détaillées de ce fret.

Article 30

Équipement radio des aéronefs

(a) Les aéronefs de chaque État contractant ne peuvent, lorsqu'ils se trouvent à l'intérieur ou au-dessus du territoire d'autres États contractants, avoir à bord des appareils émetteurs que si les autorités compétentes de l'État dans lequel l'aéronef est immatriculé ont délivré une licence d'installation et d'utilisation de ces appareils. Les appareils émetteurs sont utilisés à l'intérieur du territoire de l'État contractant survolé conformément aux règlements édictés par cet État.

(b) Les appareils émetteurs ne peuvent être utilisés que par les membres de l'équipage navigant munis à cet effet d'une licence spéciale, délivrée par les autorités compétentes de l'État dans lequel l'aéronef est immatriculé.

Article 31

Certificats de navigabilité

Tout aéronef employé à la navigation internationale doit être muni d'un certificat de navigabilité délivré ou validé par l'État dans lequel il est immatriculé.

CAPÍTULO V

CONDICIONES QUE DEBEN CUMPLIRSE CON RESPECTO A LAS AERONAVES

Artículo 29

Documentos que deben llevar las aeronaves

Toda aeronave de un Estado contratante que se emplee en la navegación internacional llevará los siguientes documentos, de conformidad con las condiciones prescritas en el presente Convenio:

- a) Certificado de matrícula;
- b) Certificado de aeronavegabilidad;
- c) Las licencias apropiadas para cada miembro de la tripulación;
- d) Diario de a bordo;
- e) Si está provista de aparatos de radio, la licencia de la estación de radio de la aeronave;
- f) Si lleva pasajeros, una lista de sus nombres y lugares de embarco y destino;
- g) Si transporta carga, un manifiesto y declaraciones detalladas de la carga.

Artículo 30

Equipo de radio de las aeronaves

(a) Las aeronaves de cada Estado contratante, cuando se encuentren en o sobre el territorio de otros Estados contratantes, solamente pueden llevar a bordo radiotransmisores si las autoridades competentes del Estado en el que esté matriculada la aeronave han expedido una licencia para instalar y utilizar dichos aparatos. El uso de radiotransmisores en el territorio del Estado contratante sobre el que vuele la aeronave se efectuará de acuerdo con los reglamentos prescritos por dicho Estado.

(b) Sólo pueden usar los radiotransmisores los miembros de la tripulación de vuelo provistos de una licencia especial expedida al efecto por las autoridades competentes del Estado en el que esté matriculada la aeronave.

Artículo 31

Certificados de aeronavegabilidad

Toda aeronave que se emplee en la navegación internacional estará provista de un certificado de aeronavegabilidad expedido o convalidado por el Estado en el que esté matriculada.

Article 32

Licenses of personnel

(a) The pilot of every aircraft and the other members of the operating crew of every aircraft engaged in international navigation shall be provided with certificates of competency and licenses issued or rendered valid by the State in which the aircraft is registered.

(b) Each contracting State reserves the right to refuse to recognize, for the purpose of flight above its own territory, certificates of competency and licenses granted to any of its nationals by another contracting State.

Article 33

Recognition of certificates and licenses

Certificates of airworthiness and certificates of competency and licenses issued or rendered valid by the contracting State in which the aircraft is registered, shall be recognized as valid by the other contracting States, provided that the requirements under which such certificates or licenses were issued or rendered valid are equal to or above the minimum standards which may be established from time to time pursuant to this Convention.

Article 34

Journey log books

There shall be maintained in respect of every aircraft engaged in international navigation a journey log book in which shall be entered particulars of the aircraft, its crew and of each journey, in such form as may be prescribed from time to time pursuant to this Convention.

Article 35

Cargo restrictions

(a) No munitions of war or implements of war may be carried in or above the territory of a State in aircraft engaged in international navigation, except by permission of such State. Each State shall determine by regulations what constitutes munitions of war or implements of war for the purposes of this Article, giving due consideration, for the purposes of uniformity, to such recommendations as the International Civil Aviation Organization may from time to time make.

Article 32

Licences du personnel

a) Le pilote de tout aéronef et les autres membres de l'équipage de conduite de tout aéronef employé à la navigation internationale doivent être munis de brevets d'aptitude et de licences délivrés ou validés par l'État dans lequel l'aéronef est immatriculé.

b) Chaque État contractant se réserve le droit de ne pas reconnaître, pour le survol de son propre territoire, les brevets d'aptitude et les licences accordés à l'un de ses ressortissants par un autre État contractant.

Article 33

Reconnaissance des certificats et licences

Les certificats de navigabilité, ainsi que les brevets d'aptitude et les licences délivrés ou validés par l'État contractant dans lequel l'aéronef est immatriculé, seront reconnus valables par les autres États contractants si les conditions qui ont régi la délivrance ou la validation de ces certificats, brevets ou licences sont équivalentes ou supérieures aux normes minimales qui pourraient être établies conformément à la présente Convention.

Article 34

Carnets de route

Pour chaque aéronef employé à la navigation internationale, il est tenu un carnet de route sur lequel sont portés les renseignements relatifs à l'aéronef, à l'équipage et à chaque voyage, sous la forme qui pourrait être prescrite en vertu de la présente Convention.

Article 35

Restrictions relatives à la cargaison

a) Les munitions de guerre et le matériel de guerre ne peuvent être transportés à l'intérieur ou au-dessus du territoire d'un État à bord d'aéronefs employés à la navigation internationale, sauf permission dudit État. Chaque État détermine par voie de règlement ce qu'il faut entendre par munitions de guerre ou matériel de guerre aux fins du présent article, en tenant dûment compte, dans un souci d'uniformité, des recommandations que l'Organisation de l'Aviation civile internationale pourrait formuler le cas échéant.

Artículo 32

Licencias del personal

a) El piloto y los demás miembros de la tripulación operativa de toda aeronave que se emplee en la navegación internacional estarán provistos de certificados de aptitud y de licencias expedidos o convalidados por el Estado en el que la aeronave esté matriculada.

b) Cada Estado contratante se reserva el derecho de no reconocer, por lo que respecta a los vuelos sobre su propio territorio, los certificados de aptitud y licencias otorgados a cualquiera de sus súbditos por otro Estado contratante.

Artículo 33

Reconocimiento de certificados y licencias

Los certificados de aeronavegabilidad, los certificados de aptitud y las licencias expedidos o convalidados por el Estado contratante en el que esté matriculada la aeronave, se reconocerán como válidos por los demás Estados contratantes, siempre que los requisitos de acuerdo con los cuales se hayan expedido o convalidado dichos certificados o licencias sean iguales o superiores a las normas mínimas que oportunamente se establezcan en aplicación del presente Convenio.

Artículo 34

Diario de a bordo

Por cada aeronave que se emplee en la navegación internacional se llevará un diario de a bordo, en el que se asentarán los datos relativos a la aeronave, a su tripulación y a cada viaje en la forma que oportunamente se prescriba en aplicación del presente Convenio.

Artículo 35

Restricciones sobre la carga

a) Las aeronaves que se empleen en la navegación internacional no podrán transportar municiones de guerra o material de guerra en o sobre el territorio de un Estado, excepto con el consentimiento de tal Estado. Cada Estado determinará, mediante reglamentaciones, lo que constituye municiones de guerra o material de guerra a los fines del presente artículo, teniendo debidamente en cuenta, a los efectos de uniformidad, las recomendaciones que la Organización de Aviación Civil Internacional haga oportunamente.

(b) Each contracting State reserves the right, for reasons of public order and safety, to regulate or prohibit the carriage in or above its territory of articles other than those enumerated in paragraph (a): provided that no distinction is made in this respect between its national aircraft engaged in international navigation and the aircraft of the other States so engaged; and provided further that no restriction shall be imposed which may interfere with the carriage and use on aircraft of apparatus necessary for the operation or navigation of the aircraft or the safety of the personnel or passengers.

Article 36

Photographic apparatus

Each contracting State may prohibit or regulate the use of photographic apparatus in aircraft over its territory.

CHAPTER VI

INTERNATIONAL STANDARDS AND RECOMMENDED PRACTICES

Article 37

Adoption of international standards and procedures

Each contracting State undertakes to collaborate in securing the highest practicable degree of uniformity in regulations, standards, procedures, and organization in relation to aircraft, personnel, airways and auxiliary services in all matters in which such uniformity will facilitate and improve air navigation.

To this end the International Civil Aviation Organization shall adopt and amend from time to time, as may be necessary, international standards and recommended practices and procedures dealing with:

- (a) Communications systems and air navigation aids, including ground marking;
- (b) Characteristics of airports and landing areas;
- (c) Rules of the air and air traffic control practices;

b) Chaque État contractant se réserve le droit, pour des raisons d'ordre public et de sécurité, de réglementer ou d'interdire le transport, à l'intérieur ou au-dessus de son territoire, d'articles autres que ceux qui sont mentionnés au paragraphe a), à condition qu'il ne soit fait aucune distinction à cet égard entre ses aéronefs nationaux employés à la navigation internationales et les aéronefs des autres États employés aux mêmes fins, et à condition aussi qu'il ne soit imposé aucune restriction pouvant gêner le transport et l'usage, à bord des aéronefs, des appareils nécessaires à l'exploitation ou à la navigation desdits aéronefs, ou à la sécurité du personnel ou des passagers.

Article 36

Appareils photographiques

Tout État contractant peut interdire ou réglementer l'usage d'appareils photographiques à bord des aéronefs survolant son territoire.

CHAPITRE VI

NORMES ET PRATIQUES RECOMMANDÉES INTERNATIONALES

Article 37

Adoption de normes et procédures internationales

Chaque État contractant s'engage à prêter son concours pour atteindre le plus haut degré réalisable d'uniformité dans les règlements, les normes, les procédures et l'organisation relatifs aux aéronefs, au personnel, aux voies aériennes et aux services auxiliaires, dans toutes les matières pour lesquelles une telle uniformité facilite et améliore la navigation aérienne.

À cette fin, l'Organisation de l'Aviation civile internationale adopte et amende, selon les nécessités, les normes, pratiques recommandées et procédures internationales traitant des sujets suivants:

- a) systèmes de communications et aides à la navigation aérienne, y compris le balisage au sol;
- b) caractéristiques des aéroports et des aires d'atterrissage;
- c) règles de l'air et pratiques de contrôle de la circulation aérienne;

b) Cada Estado contratante se reserva el derecho, por razones de orden público y de seguridad, de reglamentar o prohibir el transporte en o sobre su territorio de otros artículos que no sean los especificados en el párrafo a), siempre que no haga ninguna distinción a este respecto entre sus aeronaves nacionales que se empleen en la navegación internacional y las aeronaves de otros Estados que se empleen para los mismos fines y siempre que, además, no imponga restricción alguna que pueda obstaculizar el transporte y uso en las aeronaves de los aparatos necesarios para la operación, o navegación de éstas o para la seguridad del personal o de los pasajeros.

Artículo 36

Aparatos fotográficos

Cada Estado contratante puede prohibir o reglamentar el uso de aparatos fotográficos en las aeronaves que vuelen sobre su territorio.

CAPÍTULO VI

NORMAS Y MÉTODOS RECOMENDADOS INTERNACIONALES

Artículo 37

Adopción de normas y procedimientos internacionales

Cada Estado contratante se compromete a colaborar, a fin de lograr el más alto grado de uniformidad posible en las reglamentaciones, normas, procedimientos y organización relativos a las aeronaves, personal, aerovías y servicios auxiliares, en todas las cuestiones en que tal uniformidad facilite y mejore la navegación aérea.

A este fin, la Organización de Aviación Civil Internacional adoptará y enmendará, en su oportunidad, según sea necesario, las normas, métodos recomendados y procedimientos internacionales que traten de:

- a) Sistemas de comunicaciones y ayudas para la navegación aérea, incluida la señalización terrestre;
- b) Características de los aeropuertos y áreas de aterrizaje;
- c) Reglas del aire y métodos de control del tránsito aéreo;

(d) Licensing of operating and mechanical personnel;

(e) Airworthiness of aircraft;

(f) Registration and identification of aircraft;

(g) Collection and exchange of meteorological information;

(h) Log books;

(i) Aeronautical maps and charts;

(j) Customs and immigration procedures;

(k) Aircraft in distress and investigation of accidents;

d) licences et brevets du personnel technique d'exploitation et d'entretien;

e) navigabilité des aéronefs;

f) immatriculation et identification des aéronefs;

g) collecte et échange de renseignements météorologiques;

h) livres de bord;

i) cartes et plans aéronautiques;

j) formalités de douane et d'immigration;

k) aéronefs en détresse et enquêtes sur les accidents;

d) Otorgamiento de licencias del personal operativo y mecánico;

e) Aeronavegabilidad de las aeronaves;

f) Matrícula e identificación de las aeronaves;

g) Compilación e intercambio de información meteorológica;

h) Diarios de a bordo;

i) Mapas y cartas aeronáuticos;

j) Formalidades de aduana e inmigración;

k) Aeronaves en peligro e investigación de accidentes;

and such other matters concerned with the safety, regularity, and efficiency of air navigation as may from time to time appear appropriate.

et, lorsqu'il paraît approprié de le faire, de tout autre sujet intéressant la sécurité, la régularité et l'efficacité de la navigation aérienne.

y de otras cuestiones relacionadas con la seguridad, regularidad y eficiencia de la navegación aérea que en su oportunidad puedan considerarse apropiadas.

Article 38

Departures from international standards and procedures

Any State which finds it impracticable to comply in all respects with any such international standard or procedure, or to bring its own regulations or practices into full accord with any international standard or procedure after amendment of the latter, or which deems it necessary to adopt regulations or practices differing in any particular respect from those established by an international standard, shall give immediate notification to the International Civil Aviation Organization of the differences between its own practice and that established by the international standard. In the case of amendments to international standards, any State which does not make the appropriate amendments to its own regulations or practices shall give notice to the Council within sixty days of the adoption of the amendment to the international standard, or indicate the action which it proposes to take. In any such case, the Council shall make immediate notification to all other states of the difference which exists between one or more features of an international standard and the corresponding national practice of that State.

Article 39

Endorsement of certificates and licenses

(a) Any aircraft or part thereof with respect to which there exists an international standard of airworthiness or performance, and which failed in any

Article 38

Dérogation aux normes et aux procédures internationales

Tout État qui estime ne pouvoir se conformer en tous points à l'une quelconque de ces normes ou procédures internationales, ou mettre ses propres règlements ou pratiques en complet accord avec une norme ou procédure internationale amendée, ou qui juge nécessaire d'adopter des règles ou des pratiques différant sur un point quelconque de celles qui sont établies par une norme internationale, notifie immédiatement à l'Organisation de l'Aviation civile internationale les différences entre ses propres pratiques et celles qui sont établies par la norme internationale. Dans le cas d'amendements à des normes internationales, tout État qui n'apporte pas à ses propres règlements ou pratiques les amendements appropriés en avise le Conseil dans les soixante jours à compter de l'adoption de l'amendement à la norme internationale ou indique les mesures qu'il se propose de prendre. En pareil cas, le Conseil notifie immédiatement à tous les autres États la différence existant entre un ou plusieurs points de la norme internationale et la pratique nationale correspondante de l'État en question.

Article 39

Annotation des certificats et licences

a) Tout aéronef ou élément d'aéronef au sujet duquel il existe une norme internationale de navigabilité ou de performance et qui n'a pas satisfait sur un point

Artículo 38

Desviaciones respecto de las normas y procedimientos internacionales

Cualquier Estado que considere impracticable cumplir, en todos sus aspectos, con cualesquiera de tales normas o procedimientos internacionales, o concordar totalmente sus reglamentaciones o métodos con alguna norma o procedimiento internacionales, después de enmendados éstos últimos, o que considere necesario adoptar reglamentaciones o métodos que difieran en cualquier aspecto particular de lo establecido por una norma internacional, notificará inmediatamente a la Organización de Aviación Civil Internacional las diferencias entre sus propios métodos y lo establecido por la norma internacional. En el caso de enmiendas a las normas internacionales, todo Estado que no haga las enmiendas adecuadas en sus reglamentaciones o métodos lo comunicará al Consejo dentro de sesenta días a partir de la adopción de la enmienda a la norma internacional o indicará las medidas que se proponga adoptar. En tales casos, el Consejo notificará inmediatamente a todos los demás Estados las diferencias que existan entre uno o varios puntos de una norma internacional y el método nacional correspondiente del Estado en cuestión.

Artículo 39

Anotaciones en los certificados y licencias

a) Toda aeronave o pieza de ésta, respecto a la cual exista una norma internacional de aeronavegabilidad o de comportamiento de vuelo y que deje de

respect to satisfy that standard at the time of its certification, shall have endorsed on or attached to its airworthiness certificate a complete enumeration of the details in respect of which it so failed.

(b) Any person holding a license who does not satisfy in full the conditions laid down in the international standard relating to the class of license or certificate which he holds shall have endorsed on or attached to his license a complete enumeration of the particulars in which he does not satisfy such conditions.

Article 40

Validity of endorsed certificates and licenses

No aircraft or personnel having certificates or licenses so endorsed shall participate in international navigation, except with the permission of the State or States whose territory is entered. The registration or use of any such aircraft, or of any certificated aircraft part, in any State other than that in which it was originally certificated shall be at the discretion of the State into which the aircraft or part is imported.

Article 41

Recognition of existing standards of airworthiness

The provisions of this Chapter shall not apply to aircraft and aircraft equipment of types of which the prototype is submitted to the appropriate national authorities for certification prior to a date three years after the date of adoption of an international standard of airworthiness for such equipment.

Article 42

Recognition of existing standards of competency of personnel

The provisions of this Chapter shall not apply to personnel whose licenses are originally issued prior to a date one year after initial adoption of an international standard of qualification for such personnel; but they shall in any case apply to all personnel whose licenses remain valid five years after the date of adoption of such standard.

quelconque à cette norme lors de l'établissement de son certificat de navigabilité, doit avoir sous forme d'annotation sur son certificat de navigabilité, ou en annexe à celui-ci, l'énumération complète des détails sur lesquels l'aéronef ou l'élément d'aéronef s'écarterait de cette norme.

b) Tout titulaire d'une licence qui ne satisfait pas entièrement aux conditions imposées par la norme internationale relative à la classe de la licence ou du brevet qu'il détient doit avoir sous forme d'annotation sur sa licence, ou en annexe à celle-ci, l'énumération complète des points sur lesquels il ne satisfait pas auxdites conditions.

Article 40

Validité des certificats et des licences annotés

Aucun aéronef ou membre du personnel dont le certificat ou la licence a été ainsi annoté ne peut participer à la navigation internationale si ce n'est avec la permission de l'État ou des États sur le territoire desquels il pénètre. L'immatriculation ou l'emploi d'un tel aéronef ou d'un élément certifié d'aéronef dans un État autre que celui où il a été certifié à l'origine, est laissé à la discrétion de l'État dans lequel cet aéronef ou élément est importé.

Article 41

Reconnaissance des normes de navigabilité existantes

Les dispositions du présent chapitre ne s'appliquent ni aux aéronefs ni au matériel d'aéronefs des types dont le prototype a été soumis aux autorités nationales compétentes pour homologation avant l'expiration des trois années qui suivent la date d'adoption d'une norme internationale de navigabilité pour ce matériel.

Article 42

Reconnaissance des normes existantes de compétence du personnel

Les dispositions du présent chapitre ne s'appliquent pas au personnel dont les licences ont été délivrées à l'origine avant l'expiration de l'année qui suit la date de l'adoption initiale d'une norme internationale d'aptitude pour ce personnel; mais elles s'appliquent dans tous les cas à tout le personnel dont les licences demeurent valides cinq ans après la date d'adoption de cette norme.

satisfer en algún aspecto dicha norma en el momento de su certificación, debe llevar anotada en el certificado de aeronavegabilidad, o agregada a éste, una enumeración completa de los detalles respecto a los cuales deje de satisfacer dicha norma.

b) Todo titular de una licencia que no reúna por completo las condiciones prescritas por la norma internacional relativa a la clase de licencia o certificado que posea, debe llevar anotada en su licencia o agregada a ésta una enumeración completa de los aspectos en que deje de cumplir con dichas condiciones.

Artículo 40

Validez de los certificados y licencias con anotaciones

Ninguna aeronave ni personal cuyos certificados o licencias estén así anotados podrán participar en la navegación internacional, sin permiso del Estado o Estados en cuyo territorio entren. La matriculación o empleo de tales aeronaves, o de cualquier pieza certificada de aeronave, en un Estado que no sea aquél en el que se certificaron originariamente, quedará a discreción del Estado en el que se importen las aeronaves o la pieza.

Artículo 41

Reconocimiento de las normas de aeronavegabilidad existentes

Las disposiciones del presente Capítulo no se aplicarán a las aeronaves ni al equipo de aeronaves de los tipos cuyo prototipo se someta a las autoridades nacionales competentes para su certificación antes de expirar los tres años siguientes a la fecha de adopción de una norma internacional de aeronavegabilidad para tal equipo.

Artículo 42

Reconocimiento de las normas existentes sobre competencia del personal

Las disposiciones del presente Capítulo no se aplicarán al personal cuyas licencias se expidan originariamente antes de cumplirse un año a partir de la fecha de adopción inicial de una norma internacional de calificación de tal personal; pero, en cualquier caso, se aplicarán a todo el personal cuyas licencias sigan siendo válidas cinco años después de la fecha de adopción de dicha norma.

PART II
THE INTERNATIONAL
CIVIL AVIATION
ORGANIZATION

CHAPTER VII
THE ORGANIZATION

Article 43

Name and composition

An organization to be named the International Civil Aviation Organization is formed by the Convention. It is made up of an Assembly, a Council, and such other bodies as may be necessary.

Article 44

Objectives

The aims and objectives of the Organization are to develop the principles and techniques of international air navigation and to foster the planning and development of international air transport so as to:

(a) Insure the safe and orderly growth of international civil aviation throughout the world;

(b) Encourage the arts of aircraft design and operation for peaceful purposes;

(c) Encourage the development of airways, airports, and air navigation facilities for international civil aviation;

(d) Meet the needs of the peoples of the world for safe, regular, efficient and economical air transport;

(e) Prevent economic waste caused by unreasonable competition;

(f) Insure that the rights of contracting States are fully respected and that every contracting State has a fair opportunity to operate international airlines;

(g) Avoid discrimination between contracting States;

(h) Promote safety of flight in international air navigation;

(i) Promote generally the development of all aspects of international civil aeronautics.

DEUXIÈME PARTIE
L'ORGANISATION DE
L'AVIATION CIVILE
INTERNATIONALE

CHAPITRE VII
L'ORGANISATION

Article 43

Nom et composition

Il est institué par la présente Convention une organisation qui portera le nom d'Organisation de l'Aviation civile internationale. Elle se compose d'une Assemblée, d'un Conseil et de tous autres organes qui pourraient être nécessaires.

Article 44

Objectifs

L'Organisation a pour buts et objectifs d'élaborer les principes et les techniques de la navigation aérienne internationale et de promouvoir la planification et le développement du transport aérien international de manière à:

a) assurer le développement ordonné et sûr de l'aviation civile internationale dans le monde entier;

b) encourager les techniques de conception et d'exploitation des aéronefs à des fins pacifiques;

c) encourager le développement des voies aériennes, des aéroports et des installations et services de navigation aérienne pour l'aviation civile internationale;

d) répondre aux besoins des peuples du monde en matière de transport aérien sûr, régulier, efficace et économique;

e) prévenir le gaspillage économique résultant d'une concurrence déraisonnable;

f) assurer le respect intégral des droits des États contractants et une possibilité équitable pour chaque État contractant d'exploiter des entreprises de transport aérien international;

g) éviter la discrimination entre États contractants;

h) promouvoir la sécurité de vol dans la navigation aérienne internationale;

i) promouvoir, en général, le développement de l'aéronautique civile internationale sous tous ses aspects.

SEGUNDA PARTE
LA ORGANIZACIÓN
DE AVIACIÓN CIVIL
INTERNACIONAL

CAPÍTULO VII
LA ORGANIZACIÓN

Artículo 43

Nombre y composición

Por el presente Convenio se crea un organismo que se denominará Organización de Aviación Civil Internacional. Se compone de una Asamblea, un Consejo y demás órganos que se estimen necesarios.

Artículo 44

Objetivos

Los fines y objetivos de la Organización son desarrollar los principios y técnicas de la navegación aérea internacional y fomentar la organización y el desenvolvimiento del transporte aéreo internacional, para:

a) Lograr el desarrollo seguro y ordenado de la aviación civil internacional en todo el mundo;

b) Fomentar las técnicas de diseño y manejo de aeronaves para fines pacíficos;

c) Estimular el desarrollo de aerovías, aeropuertos e instalaciones y servicios de navegación aérea para la aviación civil internacional;

d) Satisfacer las necesidades de los pueblos del mundo respecto al un transporte aéreo seguro, regular, eficaz y económico;

e) evitar el despilfarro económico producido por una competencia excesiva;

f) Asegurar que se respeten plenamente los derechos de los Estados contratantes y que cada Estado contratante tenga oportunidad equitativa de explotar empresas de transporte aéreo internacional;

g) Evitar discriminación entre Estados contratantes;

h) Promover la seguridad de vuelo en la navegación aérea internacional;

i) Promover, en general, el desarrollo de la aeronáutica civil internacional en todos sus aspectos.

Article 45*

Permanent seat

The permanent seat of the Organization shall be at such place as shall be determined at the final meeting of the Interim Assembly of the Provisional International Civil Aviation Organization set up by the Interim Agreement on International Civil Aviation signed at Chicago on December 7, 1944. The seat may be temporarily transferred elsewhere by decision of the Council, and otherwise than temporarily by decision of the Assembly, such decision to be taken by the number of votes specified by the Assembly. The number of votes so specified will not be less than three-fifths of the total number of contracting States.

Article 46

First meeting of Assembly

The first meeting of the Assembly shall be summoned by the Interim Council of the above-mentioned Provisional Organization as soon as the Convention has come into force, to meet at a time and place to be decided by the Interim Council.

Article 47

Legal capacity

The Organization shall enjoy in the territory of each contracting State such legal capacity as may be necessary for the performance of its functions. Full juridical personality shall be granted wherever compatible with the constitution and laws of the State concerned.

* This is the text of the Article as amended by the Eighth Session of the Assembly on 14 June 1954; it entered into force on 16 May 1958. Under Article 94(a) of the Convention, the amended text is in force in respect of those States which have ratified the amendment. In respect of the States which have not ratified the amendment, the original text is still in force and, therefore, that text is reproduced below :

"The permanent seat of the Organization shall be at such place as shall be determined at the final meeting of the Interim Assembly of the Provisional International Civil Aviation Organization set up by the Interim Agreement on International Civil Aviation signed at Chicago on December 7, 1944. The seat may be temporarily transferred elsewhere by decision of the Council."

Article 45*

Siège permanent

L'Organisation aura son siège permanent au lieu que fixera, au cours de sa dernière session, l'Assemblée intérimaire de l'Organisation provisoire de l'Aviation civile internationale, établie par l'Accord intérimaire sur l'aviation civile internationale signé à Chicago le 7 décembre 1944. Ce siège pourra être transféré provisoirement en tout autre lieu par décision du Conseil, et autrement que de façon provisoire par décision de l'Assemblée, cette décision devant recueillir le nombre des suffrages fixé par l'Assemblée. Le nombre des suffrages ainsi fixé ne sera pas inférieur aux trois cinquièmes du nombre total des États contractants.

Article 46

Première session de l'Assemblée

La première session de l'Assemblée sera convoquée par le Conseil intérimaire de l'Organisation provisoire précitée dès l'entrée en vigueur de la présente Convention et se tiendra à la date et au lieu que fixera le Conseil intérimaire.

Article 47

Capacité juridique

Sur le territoire de chaque État contractant, l'Organisation jouit de la capacité juridique nécessaire à l'exercice de ses fonctions. La pleine personnalité juridique lui est accordée partout où elle est compatible avec la constitution et les lois de l'État intéressé.

* Ce texte est celui de l'article modifié lors de la huitième session de l'Assemblée, le 14 juin 1954; il est entré en vigueur le 16 mai 1958. Conformément à l'article 94 a) de la Convention, le texte ainsi modifié est entré en vigueur à l'égard des États qui ont ratifié l'amendement. À l'égard des États qui n'ont pas ratifié l'amendement, le texte original reste en vigueur et ce texte est en conséquence reproduit ci-après :

"L'Organisation aura son siège permanent au lieu que fixera, au cours de sa dernière session, l'Assemblée intérimaire de l'Organisation provisoire de l'Aviation civile internationale, établie par l'Accord intérimaire sur l'aviation civile internationale signé à Chicago le 7 décembre 1944. Ce siège pourra être transféré provisoirement en tout autre lieu par décision du Conseil."

Artículo 45*

Sede permanente

La Organización tendrá su sede permanente en el lugar que determine en su reunión final la Asamblea Interina de la Organización Provisional de Aviación Civil Internacional, creada por el Convenio Provisional de Aviación Civil Internacional, firmado en Chicago el 7 de diciembre de 1944. La sede podrá trasladarse temporalmente a otro lugar por decisión del Consejo, y no siendo con carácter provisional por decisión de la Asamblea. Para tomar tal decisión será necesario el número de votos que determine la Asamblea. El número de votos así determinado no podrá ser inferior a las tres quintas partes del total de los Estados contratantes.

Artículo 46

Primera reunión de la Asamblea

La primera reunión de la Asamblea será convocada por el Consejo Interino de la Organización Provisional precitada, tan pronto como entre en vigor el presente Convenio, para celebrarse en la fecha y lugar que designe el Consejo Interino.

Artículo 47

Capacidad jurídica

La Organización gozará en el territorio de todo Estado contratante de la capacidad jurídica necesaria para el ejercicio de sus funciones. Se le concederá plena personalidad jurídica en cualquier lugar en que ello sea compatible con la constitución y las leyes del Estado de que se trate.

* Este es el texto del artículo modificado en el VIII período de sesiones de la Asamblea, el 14 de junio de 1954; entró en vigor el 16 de mayo de 1958. De acuerdo con el Artículo 94 a) del Convenio, el texto modificado está en vigor por lo que se refiere a los Estados que hayan ratificado la enmienda. Por lo que se refiere a los Estados que no la hayan ratificado, continúa en vigor el texto original y, por consiguiente, éste se reproduce a continuación :

"La Organización tendrá su sede permanente en el lugar que determine en su reunión final la Asamblea Interina de la Organización Provisional de Aviación Civil Internacional, creada por el Convenio Provisional de Aviación Civil Internacional, firmado en Chicago el 7 de diciembre de 1944. La sede podrá trasladarse temporalmente a otro lugar por decisión del Consejo."

CHAPTER VIII

THE ASSEMBLY

Article 48

Meetings of Assembly and voting

(a) The Assembly shall meet not less than once in three years and shall be convened by the Council at a suitable time and place. Extraordinary meetings of the Assembly may be held at any time upon the call of the Council or at the request of any ten contracting States addressed to the Secretary General.*

(b) All contracting States shall have an equal right to be represented at the meetings of the Assembly and each contracting State shall be entitled to one vote. Delegates representing contracting States may be assisted by technical advisers who may participate in the meetings but shall have no vote.

(c) A majority of the contracting States is required to constitute a quorum for the meetings of the Assembly. Unless otherwise provided in this Convention, decisions of the Assembly shall be taken by a majority of the votes cast.

Article 49

Powers and duties of Assembly

The powers and duties of the Assembly shall be to:

(a) Elect at each meeting its President and other officers;

(b) Elect the contracting States to be represented on the Council, in accordance with the provisions of Chapter IX;

* This is the text of the Article as amended by the Eighth Session of the Assembly on 14 June 1954; it entered into force on 12 December 1956. Under Article 94(a) of the Convention, the amended text is in force in respect of those States which have ratified the amendment. In respect of the States which have not ratified the amendment, the original text is still in force and, therefore, that text is reproduced below:

"(a) The Assembly shall meet annually and shall be convened by the Council at a suitable time and place. Extraordinary meetings of the Assembly may be held at any time upon the call of the Council or at the request of any ten contracting States addressed to the Secretary General."

CHAPITRE VIII

L'ASSEMBLÉE

Article 48

Sessions de l'Assemblée et vote

a) L'Assemblée se réunit au moins une fois tous les trois ans et est convoquée par le Conseil en temps et lieu utiles. Elle peut tenir des sessions extraordinaires à tout moment sur convocation du Conseil ou sur requête adressée au Secrétaire général par dix États contractants.*

b) Tous les États contractants ont un droit égal d'être représentés aux sessions de l'Assemblée et chaque État contractant a droit à une voix. Les délégués représentant les États contractants peuvent être assistés de conseillers techniques, qui peuvent participer aux séances mais n'ont pas droit de vote.

c) La majorité des États contractants est requise pour constituer le quorum lors des réunions de l'Assemblée. Sauf dispositions contraires de la présente Convention, les décisions de l'Assemblée sont prises à la majorité des votes émis.

Article 49

Pouvoirs et obligations de l'Assemblée

Les pouvoirs et obligations de l'Assemblée sont les suivants:

a) élit à chaque session son Président et les autres membres du bureau;

b) élit les États contractants qui seront représentés au Conseil, conformément aux dispositions du Chapitre IX;

* Ce texte est celui de l'article modifié lors de la huitième session de l'Assemblée, le 14 juin 1954; il est entré en vigueur le 12 décembre 1956. Conformément à l'article 94 a) de la Convention, le texte ainsi modifié est entré en vigueur à l'égard des États qui ont ratifié l'amendement. À l'égard des États qui n'ont pas ratifié l'amendement, le texte original reste en vigueur et ce texte est en conséquence reproduit ci-après:

"a) L'Assemblée se réunit chaque année et est convoquée par le Conseil en temps et lieu utiles. Elle peut tenir des sessions extraordinaires à tout moment sur convocation du Conseil ou sur requête adressée au Secrétaire général par dix États contractants."

CAPÍTULO VIII

LA ASAMBLEA

Artículo 48

Reuniones de la Asamblea y votaciones

a) La Asamblea se reunirá por lo menos una vez cada tres años y será convocada por el Consejo en la fecha y lugar apropiados. La Asamblea podrá celebrar reuniones extraordinarias en todo momento por convocatoria del Consejo o a petición de diez Estados contratantes dirigida al Secretario general.*

b) Todos los Estados contratantes tendrán igual derecho a estar representados en las reuniones de la Asamblea y cada Estado contratante tendrá derecho a un voto. Los delegados que representen a los Estados contratantes podrán ser asistidos por asesores técnicos, quienes podrán participar en las reuniones, pero sin derecho a voto.

c) En las reuniones de la Asamblea, será necesaria la mayoría de los Estados contratantes para constituir quórum. Salvo disposición en contrario del presente Convenio, las decisiones de la Asamblea se tomarán por mayoría de votos emitidos.

Artículo 49

Facultades y deberes de la Asamblea

Serán facultades y deberes de la Asamblea:

a) Elegir en cada reunión a su Presidente y otros dignatarios;

b) Elegir los Estados contratantes que estarán representados en el Consejo, de acuerdo con las disposiciones del Capítulo IX;

* Este es el texto del artículo modificado en el VIII período de sesiones de la Asamblea, el 14 de junio de 1954; entró en vigor el 12 de diciembre de 1956. De acuerdo con el Artículo 94 a) del Convenio, el texto modificado está en vigor por lo que se refiere a los Estados que hayan ratificado la enmienda. Por lo que se refiere a los Estados que no la hayan ratificado, continúa en vigor el texto original y, por consiguiente, éste se reproduce a continuación:

"a) La Asamblea se reunirá anualmente y será convocada por el Consejo en la fecha y lugar apropiados. La Asamblea podrá celebrar reuniones extraordinarias en todo momento por convocatoria del Consejo o a petición de diez Estados contratantes dirigida al Secretario general."

(c) Examine and take appropriate action on the reports of the Council and decide on any matter referred to it by the Council;

(d) Determine its own rules of procedure and establish such subsidiary commissions as it may consider to be necessary or desirable;

(e) Vote annual budgets and determine the financial arrangements of the Organization, in accordance with the provisions of Chapter XII;*

(f) Review expenditures and approve the accounts of the Organization;

(g) Refer, at its discretion, to the Council, to subsidiary commissions, or to any other body any matter within its sphere of action;

(h) Delegate to the Council the powers and authority necessary or desirable for the discharge of the duties of the Organization and revoke or modify the delegations of authority at any time;

(i) Carry out the appropriate provisions of Chapter XIII;

(j) Consider proposals for the modification or amendment of the provisions of this Convention and, if it approves of the proposals, recommend them to the contracting States in accordance with the provisions of Chapter XXI;

(k) Deal with any matter within the sphere of action of the Organization not specifically assigned to the Council.

c) examiner les rapports du Conseil, leur donner la suite qui convient et statuer sur toute question dont elle est saisie par le Conseil;

d) établir son propre règlement intérieur et instituer les commissions subsidiaires qu'elle pourra juger nécessaires ou souhaitables;

e) voter des budgets annuels et déterminer le régime financier de l'Organisation, conformément aux dispositions du Chapitre XII;*

f) examiner les dépenses et approuver les comptes de l'Organisation;

g) renvoyer, à sa discrétion, au Conseil, aux commissions subsidiaires ou à tout autre organe, toute question de sa compétence.

h) déléguer au Conseil les pouvoirs et l'autorité nécessaires ou souhaitables pour l'exercice des fonctions de l'Organisation et révoquer ou modifier à tout moment ces délégations de pouvoirs;

i) donner effet aux dispositions appropriées du Chapitre XIII;

j) examiner les propositions tendant à modifier ou à amender les dispositions de la présente Convention et, si elle les approuve, les recommander aux États contractants conformément aux dispositions du Chapitre XXI;

k) traiter de toute question relevant de la compétence de l'Organisation et dont le Conseil n'est pas expressément chargé.

c) Examinar los informes del Consejo y actuar según convenga y decidir en cualquier asunto que éste someta a su consideración;

d) Establecer su propio reglamento interno y crear las comisiones auxiliares que juzgue necesario y conveniente;

e) Aprobar presupuestos anuales y determinar el régimen financiero de la Organización de acuerdo con lo dispuesto en el Capítulo XII;*

f) Examinar los gastos y aprobar las cuentas de la Organización;

g) A su discreción referir al Consejo, a las comisiones auxiliares o a cualquier otro órgano toda cuestión que esté dentro de su esfera de acción;

h) Delegar en el Consejo las facultades y autoridad necesarias o convenientes para el desempeño de las funciones de la Organización y revocar o modificar en cualquier momento tal delegación de autoridad;

i) Llevar a efecto las disposiciones apropiadas del Capítulo XIII;

j) Considerar las propuestas de modificación o enmienda de las disposiciones del presente Convenio y, si las aprueba, recomendarlas a los Estados contratantes de acuerdo con las disposiciones del Capítulo XXI;

k) Entender en toda cuestión que esté dentro de la esfera de acción de la Organización, no asignada expresamente al Consejo.

* This is the text of the Article as amended by the Eighth Session of the Assembly on 14 June 1954; it entered into force on 12 December 1956. Under Article 94(a) of the Convention, the amended text is in force in respect of those States which have ratified the amendment. In respect of the States which have not ratified the amendment, the original text is still in force and, therefore, that text is reproduced below :

"(e) Vote an annual budget and determine the financial arrangements of the Organization, in accordance with the provisions of Chapter XII;"

* Ce texte est celui de l'article modifié lors de la huitième session de l'Assemblée, le 14 juin 1954; il est entré en vigueur le 12 décembre 1956. Conformément à l'article 94 a) de la Convention, le texte ainsi modifié est entré en vigueur à l'égard des États qui ont ratifié l'amendement. À l'égard des États qui n'ont pas ratifié l'amendement, le texte original reste en vigueur et ce texte est en conséquence reproduit ci-après :

"(e) voter un budget annuel et déterminer le régime financier de l'Organisation, conformément aux dispositions du Chapitre XII;"

* Este es el texto del artículo modificado en el VIII período de sesiones de la Asamblea, el 14 de junio de 1954; entró en vigor el 12 de diciembre de 1956. De acuerdo con el Artículo 94 a) del Convenio el texto modificado está en vigor por lo que se refiere a los Estados que hayan ratificado la enmienda. Por lo que se refiere a los Estados que no la hayan ratificado, continúa en vigor el texto original y, por consiguiente, éste se reproduce a continuación :

"(e) Aprobar un presupuesto anual y determinar el régimen financiero de la Organización de acuerdo con lo dispuesto en el Capítulo XII;"

CHAPTER IX

THE COUNCIL

Article 50

Composition and election of Council

(a) The Council shall be a permanent body responsible to the Assembly. It shall be composed of twenty-seven contracting States elected by the Assembly. An election shall be held at the first meeting of the Assembly and thereafter every three years, and the members of the Council so elected shall hold office until the next following election.*

(b) In electing the members of the Council, the Assembly shall give adequate representation to (1) the States of chief importance in air transport; (2) the States not otherwise included which make the largest contribution to the provision of facilities for international civil air navigation; and (3) the States not otherwise included whose designation will insure that all the major geographic areas of the world are represented on the Council. Any vacancy on the Council shall be filled by the Assembly as soon as possible; any contracting State so elected to the Council shall hold office for the unexpired portion of its predecessor's term of office.

(c) No representative of a contracting State on the Council shall be actively associated with the operation of an international air service or financially interested in such a service.

Article 51

President of Council

The Council shall elect its President for a term of three years. He may be reelected. He shall have no vote. The Council shall

CHAPITRE IX

LE CONSEIL

Article 50

Composition et élection du Conseil

a) Le Conseil est un organe permanent responsable devant l'Assemblée. Il se compose de vingt-sept États contractants élus par l'Assemblée. Il est procédé à une élection lors de la première session de l'Assemblée et ensuite tous les trois ans; les membres du Conseil ainsi élus restent en fonction jusqu'à l'élection suivante.*

b) En élisant les membres du Conseil, l'Assemblée donne une représentation adéquate: 1) aux États d'importance majeure dans le transport aérien; 2) aux États, non inclus à un autre titre, qui contribuent le plus à fournir des installations et services pour la navigation aérienne civile internationale; 3) aux États, non inclus à un autre titre, dont la désignation assure la représentation au Conseil de toutes les grandes régions géographiques du monde. L'Assemblée pourvoit aussitôt que possible à toute vacance au Conseil; tout État contractant ainsi élu au Conseil reste en fonction jusqu'à l'expiration du mandat de son prédécesseur.

c) Aucun représentant d'un État contractant au Conseil ne peut être activement associé à l'exploitation d'un service aérien international ou avoir des intérêts financiers dans un tel service.

Article 51

Président du Conseil

Le Conseil élit son Président pour une période de trois ans. Celui-ci est rééligible. Il n'a pas droit de vote. Le Conseil élit

* This is the text of the Article as amended by the Thirteenth (Extraordinary) Session of the Assembly on 19 June 1961; it entered into force on 17 July 1962. Under Article 94(a) of the Convention, the amended text is in force in respect of those States which have ratified the amendment. In respect of the States which have not ratified the amendment, the original text is still in force and, therefore, that text is reproduced below:

"(a) The Council shall be a permanent body responsible to the Assembly. It shall be composed of twenty-one contracting States elected by the Assembly. An election shall be held at the first meeting of the Assembly and thereafter every three years, and the members of the Council so elected shall hold office until the next following election."

* Ce texte est celui de l'article modifié lors de la treizième session (extraordinaire) de l'Assemblée, le 19 juin 1961; il est entré en vigueur le 17 juillet 1962. Conformément à l'article 94 a) de la Convention, le texte ainsi modifié est entré en vigueur à l'égard des États qui ont ratifié l'amendement. À l'égard des États qui n'ont pas ratifié l'amendement, le texte original reste en vigueur et ce texte est en conséquence reproduit ci-après:

"(a) Le Conseil est un organe permanent responsable devant l'Assemblée. Il se compose de vingt et un États contractants élus par l'Assemblée. Il est procédé à une élection lors de la première session de l'Assemblée et ensuite tous les trois ans; les membres du Conseil ainsi élus restent en fonction jusqu'à l'élection suivante."

CAPÍTULO IX

EL CONSEJO

Artículo 50

Composición y elección del Consejo

a) El Consejo será un órgano permanente, responsable ante la Asamblea. Se compondrá de veintisiete Estados contratantes, elegidos por la Asamblea. Se efectuará una elección en la primera reunión de la Asamblea y, después, cada tres años. Los miembros del Consejo así elegidos permanecerán en funciones hasta la elección siguiente.*

b) Al elegir los miembros del Consejo, la Asamblea dará representación adecuada: 1) a los Estados de mayor importancia en el transporte aéreo; 2) a los Estados, no incluidos de otra manera, que contribuyan en mayor medida al suministro de instalaciones y servicios para la navegación aérea civil internacional; y 3) a los Estados, no incluidos de otra manera, cuya designación asegure la representación en el Consejo de todas las principales regiones geográficas del mundo. Toda vacante en el Consejo será cubierta por la Asamblea lo antes posible; el Estado contratante así elegido para el Consejo permanecerá en funciones hasta la expiración del mandato de su predecesor.

c) Ningún representante de un Estado contratante en el Consejo podrá estar activamente vinculado con la explotación de un servicio aéreo internacional, o estar financieramente interesado en tal servicio.

Artículo 51

Presidente del Consejo

El Consejo elegirá su Presidente por un periodo de tres años. Puede ser reelegido. No tendrá derecho a voto.

* Este es el texto del artículo modificado en el XIII período de sesiones (extraordinario) de la Asamblea, el 19 de junio de 1961; entró en vigor el 17 de julio de 1962. En virtud del Artículo 94 a) del Convenio, el texto modificado está en vigor entre los Estados que hayan ratificado la enmienda. Por lo que se refiere a los Estados que no hayan ratificado la enmienda, el texto original está todavía en vigor y, por consiguiente, se reproduce a continuación:

"(a) El Consejo será un órgano permanente, responsable ante la Asamblea. Se compondrá de veintidós Estados contratantes, elegidos por la Asamblea. Se efectuará una elección en la primera reunión de la Asamblea y, después, cada tres años. Los miembros del Consejo así elegidos permanecerán en funciones hasta la elección siguiente."

elect from among its members one or more Vice Presidents who shall retain their right to vote when serving as acting President. The President need not be selected from among the representatives of the members of the Council but, if a representative is elected, his seat shall be deemed vacant and it shall be filled by the State which he represented. The duties of the President shall be to:

(a) Convene meetings of the Council, the Air Transport Committee, and the Air Navigation Commission;

(b) Serve as representative of the Council; and

(c) Carry out on behalf of the Council the functions which the Council assigns to him.

Article 52

Voting in Council

Decisions by the Council shall require approval by a majority of its members. The Council may delegate authority with respect to any particular matter to a committee of its members. Decisions of any committee of the Council may be appealed to the Council by any interested contracting State.

Article 53

Participation without a vote

Any contracting State may participate, without a vote, in the consideration by the Council and by its committees and commissions of any question which especially affects its interests. No member of the Council shall vote in the consideration by the Council of a dispute to which it is a party.

Article 54

Mandatory functions of Council

The Council shall:

(a) Submit annual reports to the Assembly;

(b) Carry out the directions of the Assembly and discharge the duties and obligations which are laid on it by this Convention;

(c) Determine its organization and rules of procedure;

(d) Appoint and define the duties of an Air Transport Committee, which shall be chosen from among the representatives of the members of the Council, and which shall be responsible to it;

parmi ses membres un ou plusieurs Vice-Présidents, qui conservent leur droit de vote lorsqu'ils remplissent les fonctions de Président. Le Président n'est pas nécessairement choisi parmi les représentants des membres du Conseil mais, si un représentant est élu, son siège est réputé vacant et l'État qu'il représentait pourvoit à la vacance. Les fonctions du Président sont les suivantes:

a) convoquer le Conseil, le Comité du Transport aérien et la Commission de Navigation aérienne;

b) agir comme représentant du Conseil;

c) exercer au nom du Conseil les fonctions que celui-ci lui assigne.

Article 52

Vote au Conseil

Les décisions du Conseil sont prises à la majorité de ses membres. Le Conseil peut déléguer ses pouvoirs, pour tout sujet déterminé, à un comité composé de membres du Conseil. Les décisions de tout comité du Conseil peuvent être portées en appel devant le Conseil par tout État contractant intéressé.

Article 53

Participation sans droit de vote

Tout État contractant peut participer, sans droit de vote, à l'examen par le Conseil ainsi que par ses comités et commissions de toute question qui touche particulièrement ses intérêts. Aucun membre du Conseil ne peut voter lors de l'examen par le Conseil d'un différend auquel il est partie.

Article 54

Fonctions obligatoires du Conseil

Le Conseil doit:

a) soumettre des rapports annuels à l'Assemblée;

b) exécuter les instructions de l'Assemblée et s'acquitter des fonctions et obligations que lui assigne la présente Convention;

c) arrêter son organisation et son règlement intérieur;

d) nommer un Comité du Transport aérien dont les membres sont choisis parmi les représentants des membres du Conseil et qui est responsable devant celui-ci et définir les fonctions de ce Comité;

El Consejo elegirá entre sus miembros uno a más vicepresidentes, quienes conservarán su derecho a voto cuando actúen como Presidente. No se requiere que el Presidente sea elegido entre los representantes de los miembros del Consejo pero si se elige a un representante su puesto se considerará vacante y será cubierto por el Estado que representaba. Las funciones del Presidente serán:

a) Convocar las reuniones del Consejo, del Comité de Transporté Aéreo y de la Comisión de Aeronavegación;

b) Actuar como representante del Consejo; y

c) Desempeñar en nombre del Consejo las funciones que éste le asigne.

Artículo 52

Votaciones en el Consejo

Las decisiones del Consejo deberán ser aprobadas por mayoría de sus miembros. El Consejo podrá delegar su autoridad, respecto a determinada cuestión, en un comité elegido entre sus miembros. Todo Estado contratante interesado podrá apelar ante el Consejo de las decisiones tomadas por cualquiera de los comités del Consejo.

Artículo 53

Participación sin derecho a voto

Todo Estado contratante puede participar, sin derecho a voto, en la consideración por el Consejo y por sus comités y comisiones de toda cuestión que afecte especialmente a sus intereses. Ningún miembro del Consejo podrá votar en la consideración por el Consejo de una controversia en la que aquél sea parte.

Artículo 54

Funciones obligatorias del Consejo

El Consejo debe:

a) Someter informes anuales a la Asamblea;

b) Ejecutar las instrucciones de la Asamblea y cumplir con los deberes y obligaciones que le asigna el presente Convenio;

c) Determinar su organización y reglamento interno;

d) Nombrar y definir las funciones de un Comité de Transporte Aéreo, que será elegido entre los representantes de los miembros del Consejo y ante el cual será responsable el Comité;

(e) Establish an Air Navigation Commission, in accordance with the provisions of Chapter X;

(f) Administer the finances of the Organization in accordance with the provisions of Chapters XII and XV;

(g) Determine the emoluments of the President of the Council;

(h) Appoint a chief executive officer who shall be called the Secretary General, and make provision for the appointment of such other personnel as may be necessary, in accordance with the provisions of Chapter XI;

(i) Request, collect, examine and publish information relating to the advancement of air navigation and the operation of international air services, including information about the costs of operation and particulars of subsidies paid to airlines from public funds;

(j) Report to contracting States any infraction of this Convention, as well as any failure to carry out recommendations or determinations of the Council;

(k) Report to the Assembly any infraction of this Convention where a contracting State has failed to take appropriate action within a reasonable time after notice of the infraction;

(l) Adopt, in accordance with the provisions of Chapter VI of this Convention, international standards and recommended practices; for convenience, designate them as Annexes to this Convention; and notify all contracting States of the action taken;

(m) Consider recommendations of the Air Navigation Commission for amendment of the Annexes and take action in accordance with the provisions of Chapter XX;

(n) Consider any matter relating to the Convention which any contracting State refers to it.

Article 55

Permissive functions of Council

The Council may:

(a) Where appropriate and as experience may show to be desirable, create subordinate air transport commissions on a regional or other basis and define

(e) instituer une Commission de Navigation aérienne, conformément aux dispositions du Chapitre X;

(f) gérer les finances de l'Organisation conformément aux dispositions des Chapitres XII et XV;

(g) fixer les émoluments du Président du Conseil;

(h) nommer un agent exécutif principal, qui porte le titre de Secrétaire général, et prendre des dispositions pour la nomination de tout autre personnel nécessaire, conformément aux dispositions du Chapitre XI;

(i) demander, réunir, examiner et publier des renseignements relatifs au progrès de la navigation aérienne et à l'exploitation des services aériens internationaux, y compris des renseignements sur les coûts d'exploitation et sur le détail des subventions versées aux entreprises de transport aérien et provenant de fonds publics;

(j) signaler aux États contractants toute infraction à la présente Convention, ainsi que tout cas de non-application de recommandations ou décisions du Conseil;

(k) rendre compte à l'Assemblée de toute infraction à la présente Convention, lorsqu'un État contractant n'a pas pris les mesures appropriées dans un délai raisonnable après notification de l'infraction;

(l) adopter, conformément aux dispositions du Chapitre VI de la présente Convention, des normes et des pratiques recommandées internationales; pour des raisons de commodité, les désigner comme Annexes à la présente Convention et notifier à tous les États contractants les dispositions prises;

(m) examiner les recommandations de la Commission de Navigation aérienne tendant à amender les Annexes et prendre toutes mesures utiles conformément aux dispositions du Chapitre XX;

(n) examiner toute question relative à la Convention dont il est saisi par un État contractant.

Article 55

Fonctions facultatives du Conseil

Le Conseil peut:

(a) s'il y a lieu et lorsque cela se révèle souhaitable à l'expérience, créer, sur une base régionale ou autre, des commissions de transport aérien subordonnées et dé-

(e) Establecer una Comisión de Aeronavegación, de acuerdo con las disposiciones del Capítulo X;

(f) Administrar los fondos de la Organización, de acuerdo con las disposiciones de los Capítulos XII y XV;

(g) Fijar los emolumentos del Presidente del Consejo;

(h) Nombrar un funcionario ejecutivo principal, que se denominará Secretario General, y adoptar medidas para el nombramiento del personal necesario, de acuerdo con las disposiciones del Capítulo XI;

(i) Solicitar, compilar, examinar y publicar información relativa al progreso de la navegación aérea y a la operación de los servicios aéreos internacionales, incluyendo información sobre los costos de explotación y datos sobre subvenciones pagadas por el erario público a las líneas aéreas;

(j) Comunicar a los Estados contratantes toda infracción del presente Convenio, así como toda inobservancia de las recomendaciones o decisiones del Consejo;

(k) Comunicar a la Asamblea toda infracción del presente Convenio, cuando un Estado contratante no haya tomado las medidas pertinentes en un lapso razonable, después de notificada la infracción;

(l) Adoptar, normas y métodos recomendados internacionales, de acuerdo con las disposiciones del Capítulo VI del presente Convenio, designándolos, por razones de conveniencia, como Anexos al presente Convenio, y notificar a todos los Estados contratantes las medidas adoptadas;

(m) Considerar las recomendaciones de la Comisión de Aeronavegación para enmendar los Anexos y tomar medidas de acuerdo con las disposiciones del Capítulo XX;

(n) Examinar todo asunto relativo al Convenio que le someta a su consideración un Estado contratante.

Artículo 55

Funciones facultativas del Consejo

El Consejo puede:

(a) Cuando sea conveniente y lo aconseje la experiencia, crear comisiones subordinadas de transporte aéreo sobre base regional o de otro modo y designar

groups of states or airlines with or through which it may deal to facilitate the carrying out of the aims of this Convention;

(b) Delegate to the Air Navigation Commission duties additional to those set forth in the Convention and revoke or modify such delegations of authority at any time;

(c) Conduct research into all aspects of air transport and air navigation which are of international importance, communicate the results of its research to the contracting States, and facilitate the exchange of information between contracting States on air transport and air navigation matters;

(d) Study any matters affecting the organization and operation of international air transport, including the international ownership and operation of international air services on trunk routes, and submit to the Assembly plans in relation thereto;

(e) Investigate, at the request of any contracting State, any situation which may appear to present avoidable obstacles to the development of international air navigation; and, after such investigation, issue such reports as may appear to it desirable.

CHAPTER X

THE AIR NAVIGATION COMMISSION

Article 56

Nomination and appointment of Commission

The Air Navigation Commission shall be composed of twelve members appointed by the Council from among persons nominated by contracting States. These persons shall have suitable qualifications and experience in the science and practice of aeronautics. The Council shall request all contracting States to submit nominations. The President of the Air Navigation Commission shall be appointed by the Council.

finir des groupes d'États ou d'entreprises de transport aérien avec lesquels ou par l'intermédiaire desquels il pourra s'employer à faciliter la réalisation des fins de la présente Convention;

b) déléguer des fonctions à la Commission de Navigation aérienne en sus de celles que prévoit la Convention et révoquer ou modifier à tout moment ces délégations de pouvoirs;

c) mener des recherches sur tous les aspects du transport aérien et de la navigation aérienne qui sont d'importance internationale, communiquer les résultats de ses recherches aux États contractants et faciliter l'échange, entre États contractants, de renseignements sur des questions de transport aérien et de navigation aérienne;

d) étudier toutes questions touchant l'organisation et l'exploitation du transport aérien international, y compris la propriété et l'exploitation internationales de services aériens internationaux sur les routes principales, et soumettre à l'Assemblée des propositions s'y rapportant.

e) enquêter, à la demande d'un État contractant, sur toute situation qui paraîtrait comporter, pour le développement de la navigation aérienne internationale, des obstacles qui peuvent être évités et, après enquête, publier les rapports qui lui semblent indiqués.

CHAPITRE X

LA COMMISSION DE NAVIGATION AÉRIENNE

Article 56

Nomination de la Commission

La Commission de Navigation aérienne se compose de douze membres nommés par le Conseil parmi des personnes proposées par des États contractants. Ces personnes doivent posséder les titres et qualités, ainsi que l'expérience voulus en matière de science et de pratique de l'aéronautique. Le Conseil invite tous les États contractants à soumettre des candidatures. Le Président de la Commission de Navigation aérienne est nommé par le Conseil.

grupos de Estados o líneas aéreas con los cuales, o por su conducto, pueda tratar para facilitar la realización de los fines del presente Convenio;

b) Delegar en la Comisión de Aeronavegación otras funciones, además de las previstas en el presente Convenio, y revocar o modificar en cualquier momento tal delegación;

c) Realizar investigaciones en todos los aspectos del transporte aéreo y de la navegación aérea que sean de importancia internacional, comunicar los resultados de sus investigaciones a los Estados contratantes y facilitar entre éstos el intercambio de información sobre asuntos de transporte aéreo y navegación aérea;

d) Estudiar todos los asuntos relacionados con la organización y explotación del transporte aéreo internacional, incluso la propiedad y explotación internacionales de servicios aéreos internacionales en las rutas troncales, y presentar a la Asamblea proyectos sobre tales cuestiones;

e) Investigar, a petición de cualquier Estado contratante, toda situación que pueda presentar obstáculos evitables al desarrollo de la navegación aérea internacional y, después de tal investigación, emitir los informes que considere convenientes.

CAPÍTULO X

LA COMISIÓN DE AERONAVEGACIÓN

Artículo 56

Nombramiento de la Comisión

La Comisión de Aeronavegación se compondrá de doce miembros, nombrados por el Consejo entre las personas propuestas por los Estados contratantes. Dichas personas deberán poseer las calificaciones y experiencia apropiadas en la ciencia y práctica aeronáuticas. El Consejo invitará a todos los Estados contratantes a que presenten candidaturas. El Presidente de la Comisión de Aeronavegación será nombrado por el Consejo.

Article 57

Duties of Commission

The Air Navigation Commission shall:

(a) Consider, and recommend to the Council for adoption, modifications of the Annexes to this Convention;

(b) Establish technical subcommissions on which any contracting State may be represented, if it so desires;

(c) Advise the Council concerning the collection and communication to the contracting States of all information which it considers necessary and useful for the advancement of air navigation.

Article 57

Fonctions de la Commission

La Commission de Navigation aérienne doit:

a) examiner et recommander au Conseil, pour adoption, des modifications aux Annexes à la présente Convention;

b) instituer des sous-commissions techniques, auxquelles tout État contractant peut être représenté, s'il le désire;

c) donner des avis au Conseil sur la collecte et la communication aux États contractants de tous les renseignements qu'elle juge nécessaires et utiles au progrès de la navigation aérienne.

Artículo 57

Obligaciones de la Comisión

La Comisión de Aeronavegación debe:

a) Considerar y recomendar al Consejo, a efectos de adopción, modificaciones a los Anexos del presente Convenio;

b) Establecer subcomisiones técnicas en las que podrá estar representado todo Estado contratante, si así lo desea;

c) Asesorar al Consejo sobre la compilación y comunicación a los Estados contratantes de toda información que considere necesaria y útil para el progreso de la navegación aérea.

CHAPTER XI

PERSONNEL

Article 58

Appointment of personnel

Subject to any rules laid down by the Assembly and to the provisions of this Convention, the Council shall determine the method of appointment and of termination of appointment, the training, and the salaries, allowances, and conditions of service of the Secretary General and other personnel of the Organization, and may employ or make use of the services of nationals of any contracting State.

Article 59

International character of personnel

The President of the Council, the Secretary General, and other personnel shall not seek or receive instructions in regard to the discharge of their responsibilities from any authority external to the Organization. Each contracting State undertakes fully to respect the international character of the responsibilities of the personnel and not to seek to influence any of its nationals in the discharge of their responsibilities.

Article 60

Immunities and privileges of personnel

Each contracting State undertakes, so far as possible under its constitutional procedure, to accord to the President of the Council, the Secretary General, and the other personnel of the Organization,

CHAPITRE XI

PERSONNEL

Article 58

Nomination du personnel

Sous réserve des règles établies par l'Assemblée et des dispositions de la présente Convention, le Conseil détermine le mode de nomination et de cessation d'emploi, la formation et les traitements, indemnités et conditions de service du Secrétaire général et des autres membres du personnel de l'Organisation et peut employer des ressortissants de tout État contractant ou utiliser leurs services.

Article 59

Caractère international du personnel

Le Président du Conseil, le Secrétaire général et les autres membres du personnel ne doivent ni solliciter ni accepter d'instructions, dans l'exécution de leur tâche, d'aucune autorité extérieure à l'Organisation. Chaque État contractant s'engage à respecter pleinement le caractère international des fonctions du personnel et à ne chercher à influencer aucun de ses ressortissants dans l'exécution de sa tâche.

Article 60

Immunités et privilèges du personnel

Chaque État contractant s'engage, dans la mesure où son régime constitutionnel le permet, à accorder au Président du Conseil, au Secrétaire général et aux autres membres du personnel de l'Organisation

CAPÍTULO XI

PERSONAL

Artículo 58

Nombramiento del personal

Con sujeción a los reglamentos establecidos por la Asamblea y a las disposiciones del presente Convenio, el Consejo determinará el método de nombramiento y cese en el servicio, la formación profesional, los sueldos, bonificaciones y condiciones de empleo del Secretario General y demás personal de la Organización, pudiendo emplear o utilizar los servicios de súbditos de cualquier Estado contratante.

Artículo 59

Carácter internacional del personal

En el desempeño de sus funciones, el Presidente del Consejo, el Secretario General y demás personal no deberán solicitar ni recibir instrucciones de ninguna autoridad externa a la Organización. Cada Estado contratante se compromete plenamente a respetar el carácter internacional de las funciones del personal y a no tratar de ejercer influencia sobre sus súbditos en el desempeño de sus funciones.

Artículo 60

Inmunidades y privilegios del personal

Cada Estado contratante se compromete, en la medida que lo permita su sistema constitucional, a conceder al Presidente del Consejo, al Secretario General y demás personal de la Organización

the immunities and privileges which are accorded to corresponding personnel of other public international organizations. If a general international agreement on the immunities and privileges of international civil servants is arrived at, the immunities and privileges accorded to the President, the Secretary General, and the other personnel of the Organization shall be the immunities and privileges accorded under that general international agreement.

CHAPTER XII

FINANCE

Article 61*

Budget and apportionment of expenses

The Council shall submit to the Assembly annual budgets, annual statements of accounts and estimates of all receipts and expenditures. The Assembly shall vote the budgets with whatever modification it sees fit to prescribe, and, with the exception of assessments under Chapter XV to States consenting thereto, shall apportion the expenses of the Organization among the contracting States on the basis which it shall from time to time determine.

Article 62

Suspension of voting power

The Assembly may suspend the voting power in the Assembly and in the Council of any contracting State that fails to discharge within a reasonable period its financial obligations to the Organization.

* This is the text of the Article as amended by the Eighth Session of the Assembly on 14 June 1954; it entered into force on 12 December 1956. Under Article 94(a) of the Convention, the amended text is in force in respect of those States which have ratified the amendment. In respect of the States which have not ratified the amendment, the original text is still in force and, therefore, that text is reproduced below :

"The Council shall submit to the Assembly an annual budget, annual statements of accounts and estimates of all receipts and expenditures. The Assembly shall vote the budget with whatever modification it sees fit to prescribe, and, with the exception of assessments under Chapter XV to States consenting thereto, shall apportion the expenses of the Organization among the contracting States on the basis which it shall from time to time determine."

les immunités et privilèges accordés au personnel correspondant d'autres organisations internationales publiques. Si un accord international général sur les immunités et privilèges des fonctionnaires internationaux intervient, les immunités et privilèges accordés au Président du Conseil, au Secrétaire général et aux autres membres du personnel de l'Organisation seront les immunités et privilèges accordés aux termes de cet accord international général.

CHAPITRE XII

FINANCES

Article 61*

Budget et répartition des dépenses

Le Conseil soumet à l'Assemblée des budgets annuels, ainsi que des états de comptes et des prévisions de recettes et de dépenses annuelles. L'Assemblée vote les budgets en y apportant les modifications qu'elle juge à propos et, exception faite des contributions fixées en vertu du Chapitre XV à l'égard des États qui y consentent, répartit les dépenses de l'Organisation entre les États contractants sur la base qu'elle détermine en tant que de besoin.

Article 62

Suspension du droit de vote

L'Assemblée peut suspendre le droit de vote à l'Assemblée et au Conseil de tout État contractant qui ne s'acquitte pas, dans un délai raisonnable, de ses obligations financières envers l'Organisation.

* Ce texte est celui de l'article modifié lors de la huitième session de l'Assemblée, le 14 juin 1954; il est entré en vigueur le 12 décembre 1956. Conformément à l'article 94 a) de la Convention, le texte ainsi modifié est entré en vigueur à l'égard des États qui ont ratifié l'amendement. À l'égard des États qui n'ont pas ratifié l'amendement, le texte original reste en vigueur et ce texte est en conséquence reproduit ci-après :

"Le Conseil soumet à l'Assemblée un budget annuel, des états de comptes annuels et des prévisions annuelles de toutes recettes et dépenses. L'Assemblée vote le budget en y apportant les modifications qu'elle juge à propos et, exception faite des contributions fixées en vertu du Chapitre XV à l'égard des États qui y consentent, répartit les dépenses de l'Organisation entre les États contractants sur la base qu'elle détermine en tant que de besoin."

ción las inmunidades y privilegios que se concedan al personal correspondiente de otros organismos internacionales públicos. Si se llegase a un acuerdo internacional general sobre las inmunidades y privilegios de los funcionarios civiles internacionales, las inmunidades y privilegios concedidos al Presidente, al Secretario General y demás personal de la Organización, serán los otorgados de conformidad con dicho acuerdo internacional general.

CAPITULO XII

FINANZAS

Artículo 61*

Presupuesto y distribución de gastos

El Consejo someterá a la Asamblea presupuestos, estados de cuentas y cálculos de todos los ingresos y egresos por períodos anuales. La Asamblea aprobará los presupuestos con las modificaciones que considere conveniente introducir y, a excepción del prorrateo de contribuciones que se haga de acuerdo con el Capítulo XV entre los Estados que consientan en ello, distribuirá los gastos de la Organización entre los Estados contratantes en la forma que oportunamente determine.

Artículo 62

Suspensión del derecho de voto

La Asamblea puede suspender el derecho de voto en la Asamblea y en el Consejo a todo Estado contratante que, en un período razonable, no cumpla sus obligaciones financieras para con la Organización.

* Este es el texto del artículo modificado en el VIII período de sesiones de la Asamblea, el 14 de junio de 1954; entró en vigor el 12 diciembre de 1956. De acuerdo con el Artículo 94 a) del Convenio, el texto modificado está en vigor por lo que se refiere a los Estados que hayan ratificado la enmienda. Por lo que se refiere a los Estados que no la hayan ratificado, continúa en vigor el texto original y, por consiguiente, éste se reproduce a continuación :

"El Consejo someterá a la Asamblea un presupuesto anual, estados de cuentas y cálculos anuales de todos los ingresos y egresos. La Asamblea votará el presupuesto con las modificaciones que considere conveniente introducir y, a excepción del prorrateo de contribuciones que se haga de acuerdo con el Capítulo XV entre los Estados que consientan en ello, distribuirá los gastos de la Organización entre los Estados contratantes en la forma que oportunamente determine."

Article 63

Expenses of delegations and other representatives

Each contracting State shall bear the expenses of its own delegation to the Assembly and the remuneration, travel, and other expenses of any person whom it appoints to serve on the Council, and of its nominees or representatives on any subsidiary committees or commissions of the Organization.

Article 63

Dépenses des délégations et des autres représentants

Chaque État contractant prend à sa charge les dépenses de sa propre délégation à l'Assemblée ainsi que la rémunération, les frais de déplacement et autres dépenses de toute personne qu'il nomme pour siéger au Conseil, et des personnes qu'il propose comme membres ou désigne comme représentants dans tous comités ou commissions subsidiaires de l'Organisation.

Artículo 63

Gastos de las delegaciones y otros representantes

Cada Estado contratante sufragará los gastos de su propia delegación en la Asamblea y la remuneración, gastos de viaje y otros de toda persona que nombre para actuar en el Consejo, así como de las que representen o actúen por designación de tal Estado en cualquier comité o comisión subsidiaria de la Organización.

CHAPTER XIII

OTHER INTERNATIONAL ARRANGEMENTS

Article 64

Security arrangements

The Organization may, with respect to air matters within its competence directly affecting world security, by vote of the Assembly enter into appropriate arrangements with any general organization set up by the nations of the world to preserve peace.

Article 65

Arrangements with other international bodies

The Council, on behalf of the Organization, may enter into agreements with other international bodies for the maintenance of common services and for common arrangements concerning personnel and, with the approval of the Assembly, may enter into such other arrangements as may facilitate the work of the Organization.

Article 66

Functions relating to other agreements

(a) The Organization shall also carry out the functions placed upon it by the International Air Services Transit Agreement and by the International Air Transport Agreement drawn up at Chicago on December 7, 1944, in accordance with the terms and conditions therein set forth.

(b) Members of the Assembly and the Council who have not accepted the International Air Services Transit Agreement of the International Air Transport Agreement drawn up at Chicago on December 7, 1944 shall not have the right to vote on any questions referred to the Assembly or Council under the provisions of the relevant Agreement.

CHAPITRE XIII

AUTRES ARRANGEMENTS INTERNATIONAUX

Article 64

Arrangements en matière de sécurité

Pour les questions aériennes de sa compétence qui concernent directement la sécurité mondiale, l'Organisation peut, par un vote de l'Assemblée, conclure des arrangements appropriés avec toute organisation générale établie par les nations du monde pour préserver la paix.

Article 65

Arrangements avec d'autres organismes internationaux

Le Conseil peut, au nom de l'Organisation, conclure avec d'autres organismes internationaux des accords en vue d'entretenir des services communs et d'établir des arrangements communs au sujet du personnel et peut, avec l'approbation de l'Assemblée, conclure tous autres arrangements de nature à faciliter le travail de l'Organisation.

Article 66

Fonctions relatives à d'autres accords

a) L'Organisation exerce également les fonctions que lui confèrent l'Accord relatif au Transit des Services aériens internationaux et l'Accord relatif au Transport aérien international, établis à Chicago le 7 décembre 1944, conformément aux dispositions desdits accords.

b) Les membres de l'Assemblée et du Conseil qui n'ont pas accepté l'Accord relatif au Transit des Services aériens internationaux ou l'Accord relatif au Transport aérien international établis à Chicago le 7 décembre 1944, n'ont pas droit de vote sur les questions soumises à l'Assemblée ou au Conseil en vertu des dispositions de l'Accord en cause.

CAPÍTULO XIII

OTROS ARREGLOS INTERNACIONALES

Artículo 64

Arreglos sobre seguridad

La Organización puede, por voto de la Asamblea, en lo que respecta a cuestiones aéreas de su competencia que afecten directamente a la seguridad mundial, concluir arreglos apropiados con toda organización general que establezcan las naciones del mundo para preservar la paz.

Artículo 65

Arreglos con otros organismos internacionales

El Consejo, en nombre de la Organización, podrá concluir acuerdos con otros organismos internacionales para el mantenimiento de servicios comunes y para arreglos comunes concernientes al personal y, con la aprobación de la Asamblea, podrá participar en todos aquellos arreglos susceptibles de facilitar la labor de la Organización.

Artículo 66

Funciones relativas a otros acuerdos

a) La Organización, asimismo, desempeñará las funciones asignadas por el Acuerdo de Tránsito de los Servicios Aéreos Internacionales y por el Acuerdo de Transporte Aéreo Internacional, redactados en Chicago el 7 de diciembre de 1944, según los términos y condiciones establecidos en ellos.

b) Los miembros de la Asamblea y del Consejo, que no hayan aceptado el Acuerdo de Tránsito de los Servicios Aéreos Internacionales o el Acuerdo de Transporte Aéreo Internacional, redactados en Chicago el 7 de diciembre de 1944, no tendrán derecho a votar sobre ninguna cuestión referida a la Asamblea o al Consejo de conformidad con las disposiciones del Acuerdo de que se trate.

PART III

INTERNATIONAL AIR TRANSPORT

CHAPTER XIV

INFORMATION AND REPORTS

Article 67

File reports with Council

Each contracting State undertakes that its international airlines shall, in accordance with requirements laid down by the Council, file with the Council traffic reports, cost statistics and financial statements showing among other things all receipts and the sources thereof.

CHAPTER XV

AIRPORTS AND OTHER AIR NAVIGATION FACILITIES

Article 68

Designation of routes and airports

Each contracting State may, subject to the provisions of this Convention, designate the route to be followed within its territory by any international air service and the airports which any such service may use.

Article 69

Improvement of air navigation facilities

If the Council is of the opinion that the airports or other air navigation facilities, including radio and meteorological services, of a contracting State are not reasonably adequate for the safe, regular, efficient, and economical operation of international air services, present or contemplated, the Council shall consult with the State directly concerned, and other States affected, with a view to finding means by which the situation may be remedied, and may make recommendations for that purpose. No contracting State shall be guilty of an infraction of this Convention if it fails to carry out these recommendations.

TROISIÈME PARTIE

TRANSPORT AÉRIEN INTERNATIONAL

CHAPITRE XIV

RENSEIGNEMENTS ET RAPPORTS

Article 67

Communication de rapports au Conseil

Chaque État contractant s'engage à ce que ses entreprises de transport aérien international communiquent au Conseil, conformément aux règles établies par celui-ci, des rapports sur leur trafic, des statistiques sur leur prix de revient et des états financiers indiquant, notamment, le montant et la source de tous leurs revenus.

CHAPITRE XV

AÉROPORTS ET AUTRES INSTALLATIONS ET SERVICES DE NAVIGATION AÉRIENNE

Article 68

Désignation des itinéraires et des aéroports

Chaque État contractant peut, sous réserve des dispositions de la présente Convention, désigner l'itinéraire que doit suivre tout service aérien international à l'intérieur de son territoire, ainsi que les aéroports que ce service peut utiliser.

Article 69

Amélioration des installations et services de navigation aérienne

Si le Conseil estime que les aéroports ou autres installations et services de navigation aérienne d'un État contractant, y compris ses services radioélectriques et météorologiques, ne suffisent pas à assurer l'exploitation sûre, régulière, efficace et économique des services aériens internationaux existants ou projetés, il consulte l'État directement en cause et les autres États intéressés afin de trouver le moyen de remédier à la situation et il peut formuler des recommandations à cet effet. Aucun État contractant n'est coupable d'infraction à la présente Convention s'il omet de donner suite à ces recommandations.

TERCERA PARTE

TRANSPORTE AÉREO INTERNACIONAL

CAPÍTULO XIV

DATOS E INFORMES

Artículo 67

Transmisión de informes al Consejo

Cada Estado contratante se compromete a que sus líneas aéreas internacionales comuniquen al Consejo, según las prescripciones establecidas por el mismo, informes sobre tráfico, estadísticas de costos y estados financieros que muestren, entre otras cosas, todos los ingresos y las fuentes de su procedencia.

CAPÍTULO XV

AEROPUERTOS Y OTRAS INSTALACIONES Y SERVICIOS PARA LA NAVEGACIÓN AÉREA

Artículo 68

Designación de rutas y aeropuertos

Cada Estado contratante puede, con sujeción a las disposiciones del presente Convenio, designar la ruta que deberá seguir en su territorio cualquier servicio aéreo internacional así como los aeropuertos que podrá utilizar.

Artículo 69

Mejora de las instalaciones y servicios para la navegación aérea

Si el Consejo estima que los aeropuertos u otras instalaciones y servicios para la navegación aérea de un Estado contratante, incluso los servicios de radio y meteorológicos, no son razonablemente adecuados para el funcionamiento seguro, regular, eficaz y económico de los servicios aéreos internacionales, existentes o en proyecto, el Consejo consultará con el Estado en cuestión y con otros Estados afectados, con miras a encontrar los medios por los cuales la situación pueda remediarse y podrá hacer recomendaciones a tal efecto. Ningún Estado contratante será culpable de infracción del presente Convenio si no pone en práctica tales recomendaciones.

Article 70

Financing of air navigation facilities

A contracting State, in the circumstances arising under the provisions of Article 69, may conclude an arrangement with the Council for giving effect to such recommendations. The State may elect to bear all of the costs involved in any such arrangement. If the State does not so elect, the Council may agree, at the request of the State, to provide for all or a portion of the costs.

Article 70

Financement des installations et services de navigation aérienne

Un État contractant peut, dans les circonstances envisagées à l'article 69, conclure un arrangement avec le Conseil afin de donner effet à de telles recommandations. L'État peut choisir de prendre à sa charge tous les frais résultant dudit arrangement; dans le cas contraire, le Conseil peut accepter, à la demande de l'État, de pourvoir à la totalité ou à une partie des frais.

Artículo 70

Financiación de las instalaciones y servicios para la navegación aérea

Un Estado contratante, en las circunstancias resultantes de las disposiciones del Artículo 69, puede concluir un arreglo con el Consejo para dar efecto a tales recomendaciones. El Estado podrá optar por hacerse cargo de todos los gastos que implique tal arreglo; en caso contrario el Consejo puede convenir, a petición del Estado, en sufragar la totalidad o parte de los gastos.

Article 71

Provision and maintenance of facilities by Council

If a contracting State so requests, the Council may agree to provide, man, maintain, and administer any or all of the airports and other air navigation facilities including radio and meteorological services, required in its territory for the safe, regular, efficient and economical operation of the international air services of the other contracting States, and may specify just and reasonable charges for the use of the facilities provided.

Article 71

Fourniture et entretien d'installations et services par le Conseil

Si un État contractant le demande, le Conseil peut accepter de fournir, pourvoir en personnel, entretenir et administrer en totalité ou en partie les aéroports et autres installations et services de navigation aérienne, y compris les services radio-électriques et météorologiques requis sur le territoire dudit État pour l'exploitation sûre, régulière, efficace et économique des services aériens internationaux des autres États contractants et peut fixer des redevances justes et raisonnables pour l'utilisation des installations et services fournis.

Artículo 71

Provisión y mantenimiento de instalaciones y servicios por el Consejo

Si un Estado contratante así lo solicita, el Consejo puede convenir en proveer, dotar de personal, mantener y administrar en su totalidad o en parte los aeropuertos y otras instalaciones y servicios para la navegación aérea, incluso los servicios de radio y meteorológicos requeridos en su territorio para el funcionamiento seguro, regular, eficaz y económico de los servicios aéreos internacionales de los demás Estados contratantes y podrá fijar derechos justos y razonables por el uso de las instalaciones y servicios proporcionados.

Article 72

Acquisition or use of land

Where land is needed for facilities financed in whole or in part by the Council at the request of a contracting State, that State shall either provide the land itself, retaining title if it wishes, or facilitate the use of the land by the Council on just and reasonable terms and in accordance with the laws of the State concerned.

Article 72

Acquisition ou utilisation de terrain

Lorsqu'un terrain est nécessaire pour des installations et services financés en totalité ou en partie par le Conseil à la demande d'un État contractant, cet État doit, soit fournir lui-même ce terrain, dont il conservera la propriété s'il le désire, soit en faciliter l'utilisation par le Conseil à des conditions justes et raisonnables et conformément à ses lois.

Artículo 72

Adquisición o uso de terrenos

Quando se necesiten terrenos para instalaciones y servicios financiados en su totalidad o en parte por el Consejo a petición de un Estado contratante, tal Estado deberá proveerlos, conservando su título si lo desea, o bien facilitar al Consejo su uso en condiciones justas y razonables y de acuerdo con las leyes de dicho Estado.

Article 73

Expenditure and assessment of funds

Within the limit of the funds which may be made available to it by the Assembly under Chapter XII, the Council may make current expenditures for the purposes of this Chapter from the general funds of the Organization. The Council shall assess the capital funds required for the purposes of this Chapter in previously agreed proportions over a reasonable period of time to the contracting States consenting

Article 73

Dépenses et répartition des fonds

Dans la limite des fonds qui peuvent être mis à sa disposition par l'Assemblée en vertu du Chapitre XII, le Conseil peut pourvoir aux dépenses courantes aux fins du présent chapitre en prélevant sur les fonds généraux de l'Organisation. Le Conseil fixe les contributions au capital requis aux fins du présent chapitre, selon des proportions préalablement convenues pour une période de temps raisonnable, entre

Artículo 73

Gastos y prorrateo de fondos

El Consejo, dentro del límite de los fondos que ponga a su disposición la Asamblea de acuerdo con el Capítulo XII, puede efectuar los gastos ordinarios para los fines del presente Capítulo, con los fondos generales de la Organización. A los fines del presente Capítulo, el Consejo fijará, en la proporción previamente acordada y por un plazo razonable, las aportaciones al capital necesario entre los

thereto whose airlines use the facilities. The Council may also assess to States that consent any working funds that are required.

Article 74

Technical assistance and utilization of revenues

When the Council, at the request of a contracting State, advances funds or provides airports or other facilities in whole or in part, the arrangement may provide, with the consent of that State, for technical assistance in the supervision and operation of the airports and other facilities, and for the payment, from the revenues derived from the operation of the airports and other facilities, of the operating expenses of the airports and the other facilities, and of interest and amortization charges.

Article 75

Taking over of facilities from Council

A contracting State may at any time discharge any obligation into which it has entered under Article 70, and take over airports and other facilities which the Council has provided in its territory pursuant to the provisions of Articles 71 and 72, by paying to the Council an amount which in the opinion of the Council is reasonable in the circumstances. If the State considers that the amount fixed by the Council is unreasonable it may appeal to the Assembly against the decision of the Council and the Assembly may confirm or amend the decision of the Council.

Article 76

Return of funds

Funds obtained by the Council through reimbursement under Article 75 and from receipts of interest and amortization payments under Article 74 shall, in the case of advances originally financed by States under Article 73, be returned to the States which were originally assessed in the proportion of their assessments, as determined by the Council.

les États contractants qui y consentent et dont les entreprises de transport aérien utilisent les installations et services en cause. Le Conseil peut également fixer les contributions des États qui y consentent à tous fonds de roulement nécessaires.

Article 74

Assistance technique et utilisation des revenus

Lorsque le Conseil, à la demande d'un État contractant, avance des fonds ou fournit des aéroports ou d'autres installations et services en totalité ou en partie, l'arrangement peut prévoir, avec le consentement de cet État, une assistance technique dans la direction et l'exploitation des aéroports et autres installations et services, ainsi que le paiement, par prélèvement sur les revenus d'exploitation de ces aéroports et autres installations et services, des frais d'exploitation desdits aéroports et autres installations et services et des charges d'intérêt et d'amortissement.

Article 75

Reprise des installations et services fournis par le Conseil

Un État contractant peut à tout moment se dégager de toute obligation contractée par lui en vertu de l'article 70 et prendre en charge les aéroports et autres installations et services établis par le Conseil sur son territoire en vertu des dispositions des articles 71 et 72, en versant au Conseil une somme qui, de l'avis du Conseil, est raisonnable en l'occurrence. Si l'État estime que la somme fixée par le Conseil n'est pas raisonnable, il peut appeler de la décision du Conseil à l'Assemblée et l'Assemblée peut confirmer ou modifier la décision du Conseil.

Article 76

Restitution de fonds

Les fonds réunis par le Conseil par voie de remboursement effectué en vertu de l'article 75 et provenant de paiements d'intérêt et d'amortissement en vertu de l'article 74 sont, dans le cas des avances financées à l'origine par des États en vertu de l'article 73, restitués aux États pour lesquels des contributions ont été fixées à l'origine, proportionnellement à leurs contributions, selon la décision du Conseil.

Estados contratantes que consienta en ello y cuyas líneas aéreas utilicen las instalaciones y servicios. El Consejo puede también prorratear, entre los Estados que lo consientan, cualquier capital circulante requerido.

Artículo 74

Ayuda técnica y destino de los ingresos

Quando, a petición de un Estado contratante, el Consejo adelanta fondos, o proporcione aeropuertos u otras instalaciones y servicios en su totalidad o en parte, el acuerdo puede prever, si tal Estado consiente en ello, asistencia técnica en la supervisión y funcionamiento de tales aeropuertos y otras instalaciones y servicios y el pago, por medio de los ingresos derivados de la explotación de los aeropuertos y de las instalaciones y servicios, de los gastos de funcionamiento de dichos aeropuertos e instalaciones y servicios, así como de los intereses y de la amortización.

Artículo 75

Adquisición de las instalaciones y servicios suministrados por el Consejo

Un Estado contratante puede en cualquier momento liberarse de toda obligación contraída en virtud del Artículo 70 y hacerse cargo de los aeropuertos y otras instalaciones y servicios provistos por el Consejo en su territorio según las disposiciones de los Artículos 71 y 72, mediante pago al Consejo de una suma que, en opinión de éste, sea razonable en tales circunstancias. Si el Estado considera que la suma fijada por el Consejo es irrazonable, puede apelar de la decisión del Consejo ante la Asamblea, la que podrá confirmar o enmendar tal decisión.

Artículo 76

Restitución de fondos

Los fondos obtenidos por el Consejo, por reembolsos en virtud del Artículo 75 y por ingresos de intereses y amortizaciones según el Artículo 74 serán, en el caso de adelantos financiados originariamente por los Estados de acuerdo con el Artículo 73, restituidos a los Estados entre los cuales se prorratearon originariamente en proporción a sus contribuciones, según lo determinado por el Consejo.

CHAPTER XVI

JOINT OPERATING ORGANIZATIONS AND POOLED SERVICES

Article 77

Joint operating organizations permitted

Nothing in this Convention shall prevent two or more contracting States from constituting joint air transport operating organizations or international operating agencies and from pooling their air services on any routes or in any regions, but such organizations or agencies and such pooled services shall be subject to all the provisions of this Convention, including those relating to the registration of agreements with the Council. The Council shall determine in what manner the provisions of this Convention relating to nationality of aircraft shall apply to aircraft operated by international operating agencies.

Article 78

Function of Council

The Council may suggest to contracting States concerned that they form joint organizations to operate air services on any routes or in any regions.

Article 79

Participation in operating organizations

A State may participate in joint operating organizations or in pooling arrangements, either through its government or through an airline company or companies designated by its government. The companies may, at the sole discretion of the State concerned, be state-owned or partly state-owned or privately owned.

CHAPITRE XVI

ORGANISATIONS D'EXPLOITATION EN COMMUN ET SERVICES EN POOL

Article 77

Organisations d'exploitation en commun autorisées

Aucune disposition de la présente Convention n'empêche deux ou plusieurs États contractants de constituer, pour les transports aériens, des organisations d'exploitation en commun ou des organismes internationaux d'exploitation, ni de mettre en pool leurs services aériens sur toute route ou dans toute région. Toutefois, ces organisations ou organismes et ces services en pool sont soumis à toutes les dispositions de la présente Convention, y compris celles qui ont trait à l'enregistrement des accords au Conseil. Le Conseil détermine les modalités d'application des dispositions de la présente Convention concernant la nationalité des aéronefs aux aéronefs exploités par des organismes internationaux d'exploitation.

Article 78

Rôle du Conseil

Le Conseil peut suggérer aux États contractants intéressés de former des organisations conjointes pour exploiter des services aériens sur toute route ou dans toute région.

Article 79

Participation aux organisations d'exploitation

Un État peut participer à des organisations d'exploitation en commun ou à des arrangements de pool par l'intermédiaire soit de son gouvernement, soit d'une ou de plusieurs compagnies de transport aérien désignées par son gouvernement. Ces compagnies peuvent, à la discrétion exclusive de l'État intéressé, être propriété d'État, en tout ou partie, ou propriété privée.

CAPÍTULO XVI

ORGANIZACIONES DE EXPLOTACIÓN CONJUNTA Y SERVICIOS MANCOMUNADOS

Artículo 77

Organizaciones de explotación conjunta autorizadas

Ninguna disposición del presente Convenio impide que dos o más Estados contratantes constituyan organizaciones de explotación conjunta del transporte aéreo ni organismos internacionales de explotación, ni que mancomunen sus servicios aéreos en cualquier ruta o región, pero tales organizaciones u organismos y tales servicios mancomunados estarán sujetos a todas las disposiciones del presente Convenio, incluso las relativas al registro de acuerdos en el Consejo. Éste determinará la forma en que las disposiciones del presente Convenio sobre nacionalidad de aeronaves se aplicarán a las utilizadas por organismos internacionales de explotación.

Artículo 78

Función del Consejo

El Consejo podrá sugerir a los Estados contratantes interesados la formación de organizaciones conjuntas para efectuar servicios aéreos en cualesquiera rutas o regiones.

Artículo 79

Participación en organizaciones de explotación

Un Estado podrá participar en organizaciones de explotación conjunta o en arreglos de mancomún por conducto de su gobierno o de una o varias compañías de transporte aéreo designadas por éste. Las compañías, a discreción exclusiva del Estado interesado, podrán ser estatales, parcialmente estatales o de propiedad privada.

PART IV

FINAL PROVISIONS

CHAPTER XVII

OTHER AERONAUTICAL AGREEMENTS AND ARRANGEMENTS

Article 80

Paris and Habana Conventions

Each contracting State undertakes, immediately upon the coming into force of this Convention, to give notice of denunciation of the Convention relating to the Regulation of Aerial Navigation signed at Paris on October 13, 1919 or the Convention on Commercial Aviation signed at Habana on February 20, 1928, if it is a party to either. As between contracting States, this Convention supersedes the Conventions of Paris and Habana previously referred to.

Article 81

Registration of existing agreements

All aeronautical agreements which are in existence on the coming into force of this Convention, and which are between a contracting State and any other State or between an airline of a contracting State and any other State or the airline of any other State, shall be forthwith registered with the Council.

Article 82

Abrogation of inconsistent arrangements

The contracting States accept this Convention as abrogating all obligations and understandings between them which are inconsistent with its terms, and undertake not to enter into any such obligations and understandings. A contracting State which, before becoming a member of the Organization has undertaken any obligations toward a non-contracting State or a national of a contracting State or of a non-contracting State inconsistent with the terms of this Convention, shall take immediate steps to procure its release from the obligations. If an airline of any contracting State has entered into any such inconsistent obligations, the State of which it is a national shall use its best efforts to secure their termination forth-

QUATRIÈME PARTIE

DISPOSITIONS FINALES

CHAPITRE XVII

AUTRES ACCORDS ET ARRANGEMENTS AÉRONAUTIQUES

Article 80

Conventions de Paris et de La Havane

Chaque État contractant s'engage à dénoncer, dès l'entrée en vigueur de la présente Convention, la Convention portant réglementation de la navigation aérienne, signée à Paris le 13 octobre 1919, ou la Convention relative à l'aviation commerciale, signée à La Havane le 20 février 1928, s'il est partie à l'une ou l'autre de ces Conventions. Entre États contractants, la présente Convention remplace les Conventions de Paris et de La Havane ci-dessus mentionnées.

Article 81

Enregistrement des accords existants

Tous les accords aéronautiques existant au moment de l'entrée en vigueur de la présente Convention entre un État contractant et tout autre État, ou entre une entreprise de transport aérien d'un État contractant et tout autre État ou une entreprise de transport aérien de tout autre État, doivent être enregistrés immédiatement au Conseil.

Article 82

Abrogation d'arrangements incompatibles

Les États contractants reconnaissent que la présente Convention abroge toutes les obligations et ententes entre eux qui sont incompatibles avec ses dispositions et s'engagent à ne pas contracter de telles obligations ni conclure de telles ententes. Un État contractant qui, avant de devenir membre de l'Organisation, a contracté envers un État non contractant ou un ressortissant d'un État contractant ou d'un État non contractant des obligations incompatibles avec les dispositions de la présente Convention, doit prendre sans délai des mesures pour se libérer desdites obligations. Si une entreprise de transport aérien d'un État contractant a assumé de telles obligations incompatibles, l'État dont elle a la nationalité s'emploiera de son

CUARTA PARTE

DISPOSICIONES FINALES

CAPÍTULO XVII

OTROS ACUERDOS Y ARREGLOS AERONÁUTICOS

Artículo 80

Convenciones de París y de La Habana

Cada Estado contratante se compromete, tan pronto como entre en vigor el presente Convenio, a notificar la denuncia de la Convención sobre la Reglamentación de la Navegación Aérea, suscrita en París el 13 de octubre de 1919, o de la Convención sobre Aviación Comercial, suscrita en La Habana el 20 de febrero de 1928, si es parte de una u otra. El presente Convenio reemplaza, entre los Estados contratantes, las Convenciones de París y de La Habana anteriormente mencionadas.

Artículo 81

Registro de acuerdos existentes

Todos los acuerdos aeronáuticos que existan al entrar en vigor el presente Convenio, entre un Estado contratante y cualquier otro Estado o entre una línea aérea de un Estado contratante y cualquier otro Estado o línea aérea de otro Estado, se registrarán inmediatamente en el Consejo.

Artículo 82

Abrogación de arreglos incompatibles

Los Estados contratantes acuerdan que el presente Convenio abroga todas las obligaciones y entendimientos mutuos que sean incompatibles con sus disposiciones y se comprometen a no contraer tales obligaciones o entendimientos. Un Estado contratante que antes de ser miembro de la Organización haya contraído con un Estado no contratante o un súbdito de un Estado contratante o no, obligaciones incompatibles con las disposiciones del presente Convenio, tomará medidas inmediatas para liberarse de dichas obligaciones. Si un línea aérea de un Estado contratante ha contraído tales obligaciones incompatibles, el Estado del cual sea nacional hará cuanto pueda para conseguir su rescisión inmediata y, en

with and shall in any event cause them to be terminated as soon as such action can lawfully be taken after the coming into force of this Convention.

Article 83

Registration of new arrangements

Subject to the provisions of the preceding Article, any contracting State may make arrangements not inconsistent with the provisions of this Convention. Any such arrangement shall be forthwith registered with the Council, which shall make it public as soon as possible.

CHAPTER XVIII

DISPUTES AND DEFAULT

Article 84

Settlement of disputes

If any disagreement between two or more contracting States relating to the interpretation or application of this Convention and its Annexes cannot be settled by negotiation, it shall, on the application of any State concerned in the disagreement, be decided by the Council. No member of the Council shall vote in the consideration by the Council of any dispute to which it is a party. Any contracting State may, subject to Article 85, appeal from the decision of the Council to an *ad hoc* arbitral tribunal agreed upon with the other parties to the dispute or to the Permanent Court of International Justice. Any such appeal shall be notified to the Council within sixty days of receipt of notification of the decision of the Council.

Article 85

Arbitration procedure

If any contracting State party to a dispute in which the decision of the Council is under appeal has not accepted the Statute of the Permanent Court of International Justice and the contracting States parties to the dispute cannot agree on the choice of the arbitral tribunal, each of the contracting States parties to the dispute shall name a single arbitrator who shall name an umpire. If either contracting State party to the dispute fails to name an arbitrator within a period of three months from the date of the appeal, an arbitrator

mieux pour qu'il soit mis fin immédiatement à ces obligations et en tout cas fera en sorte qu'il y soit mis fin aussitôt que cela sera juridiquement possible après l'entrée en vigueur de la présente Convention.

Article 83

Enregistrement des nouveaux arrangements

Sous réserve des dispositions de l'article précédent, tout État contractant peut conclure des arrangements qui ne soient pas incompatibles avec les dispositions de la présente Convention. Tout arrangement de cette nature doit être enregistré immédiatement au Conseil, qui le rend public aussitôt que possible.

CHAPITRE XVIII

DIFFÉRENDS ET MANQUEMENTS

Article 84

Règlement des différends

Si un désaccord entre deux ou plusieurs États contractants à propos de l'interprétation ou de l'application de la présente Convention et de ses Annexes ne peut être réglé par voie de négociation, le Conseil statue à la requête de tout État impliqué dans ce désaccord. Aucun membre du Conseil ne peut voter lors de l'examen par le Conseil d'un différend auquel il est partie. Tout État contractant peut, sous réserve de l'article 85, appeler de la décision du Conseil à un tribunal d'arbitrage *ad hoc* établi en accord avec les autres parties au différend ou à la Cour permanente de Justice internationale. Un tel appel doit être notifié au Conseil dans les soixante jours à compter de la réception de la notification de la décision du Conseil.

Article 85

Procédure d'arbitrage

Si un État contractant, partie à un différend dans lequel la décision du Conseil est en instance d'appel, n'a pas accepté le Statut de la Cour permanente de Justice internationale et si les États contractants parties à ce différend ne peuvent se mettre d'accord sur le choix du tribunal d'arbitrage, chacun des États contractants parties au différend désigne un arbitre et ces arbitres désignent un surarbitre. Si l'un des États contractants parties au différend n'a pas désigné d'arbitre dans les trois mois à compter de la date de l'appel, un

todo caso, hará que se rescindan tan pronto como sea legalmente posible después de la entrada en vigor del presente Convenio.

Artículo 83

Registro de nuevos arreglos

Con sujeción a lo dispuesto en el artículo precedente, todo Estado contratante puede concertar arreglos que no sean incompatibles con las disposiciones del presente Convenio. Todo arreglo de esta naturaleza se registrará inmediatamente en el Consejo, el cual lo hará público a la mayor brevedad posible.

CAPÍTULO XVIII

CONTROVERSIAS E INCUMPLIMIENTO

Artículo 84

Solución de controversias

Si surge un desacuerdo entre dos o más Estados contratantes sobre la interpretación o la aplicación del presente Convenio y de sus Anexos que no pueda ser solucionado mediante negociaciones, será decidido por el Consejo, a petición de cualquier Estado interesado en el desacuerdo. Ningún miembro del Consejo votará cuando éste trate de una controversia en la que dicho miembro sea parte. Todo Estado contratante podrá, con sujeción al Artículo 85, apelar de la decisión del Consejo ante un tribunal de arbitraje *ad hoc* aceptado por las otras partes en la controversia, o ante la Corte Permanente Internacional de Justicia. Tal apelación se notificará al Consejo dentro de los sesenta días de recibida la notificación de la decisión del Consejo.

Artículo 85

Procedimiento de arbitraje

Si un Estado contratante, parte en una controversia en que se ha apelado de la decisión del Consejo, no ha aceptado el Estatuto de la Corte Permanente Internacional de Justicia y si los Estados contratantes partes en la controversia no pueden concordar en la elección del tribunal de arbitraje, cada uno de los Estados contratantes partes en la controversia designará un árbitro y éstos nombrarán un tercero. Si cualquier Estado contratante parte en la controversia no nombra un árbitro dentro de

shall be named on behalf of that State by the President of the Council from a list of qualified and available persons maintained by the Council. If, within thirty days, the arbitrators cannot agree on an umpire, the President of the Council shall designate an umpire from the list previously referred to. The arbitrators and the umpire shall then jointly constitute an arbitral tribunal. Any arbitral tribunal established under this or the preceding Article shall settle its own procedure and give its decisions by majority vote, provided that the Council may determine procedural questions in the event of any delay which in the opinion of the Council is excessive.

Article 86

Appeals

Unless the Council decides otherwise any decision by the Council on whether an international airline is operating in conformity with the provisions of this Convention shall remain in effect unless reversed on appeal. On any other matter, decisions of the Council shall, if appealed from, be suspended until the appeal is decided. The decisions of the Permanent Court of International Justice and of an arbitral tribunal shall be final and binding.

Article 87

Penalty for non-conformity of airline

Each contracting State undertakes not to allow the operation of an airline of a contracting State through the airspace above its territory if the Council has decided that the airline concerned is not conforming to a final decision rendered in accordance with the previous Article.

Article 88

Penalty for non-conformity by State

The Assembly shall suspend the voting power in the Assembly and in the Council of any contracting State that is found in default under the provisions of this Chapter.

arbitre sera choisi au nom de cet État par le Président du Conseil sur une liste de personnes qualifiées et disponibles tenue par le Conseil. Si, dans les trente jours, les arbitres ne peuvent se mettre d'accord sur un surarbitre, le Président du Conseil désigne un surarbitre choisi sur la liste susmentionnée. Les arbitres et le surarbitre se constituent alors en tribunal d'arbitrage. Tout tribunal d'arbitrage établi en vertu du présent article ou de l'article précédent détermine ses règles de procédure et rend ses décisions à la majorité des voix, étant entendu que le Conseil peut décider des questions de procédure dans le cas d'un retard qu'il estimerait excessif.

Article 86

Appels

À moins que le Conseil n'en décide autrement, toute décision du Conseil sur la question de savoir si l'exploitation d'une entreprise de transport aérien international est conforme aux dispositions de la présente Convention conserve son effet, tant qu'elle n'a pas été infirmée en appel. Sur toute autre question, les décisions du Conseil sont suspendues en cas d'appel, jusqu'à ce qu'il soit statué sur l'appel. Les décisions de la Cour permanente de Justice internationale et celles d'un tribunal d'arbitrage sont définitives et obligatoires.

Article 87

Sanctions à l'encontre d'une entreprise de transport aérien qui ne se conforme pas aux dispositions prévues

Chaque État contractant s'engage à ne pas permettre, dans l'espace aérien au-dessus de son territoire, l'exploitation d'une entreprise de transport aérien d'un État contractant, si le Conseil a décidé que cette entreprise ne se conforme pas à une décision définitive rendue conformément aux dispositions de l'article précédent.

Article 88

Sanctions à l'encontre d'un État qui ne se conforme pas aux dispositions prévues

L'Assemblée suspend le droit de vote à l'Assemblée et au Conseil de tout État contractant trouvé en infraction au regard des dispositions du présent chapitre.

tres meses desde la fecha de apelación, el Presidente del Consejo designará por tal Estado un árbitro, de una lista de personas calificadas y disponibles que lleve el Consejo. Si dentro de treinta días los árbitros no pueden convenir en el tercero, el Presidente del Consejo lo designará de la lista antedicha. Los árbitros y el tercero se constituirán entonces en tribunal de arbitraje. Todo tribunal de arbitraje establecido según el presente artículo o el anterior adoptará su propio procedimiento y pronunciará sus decisiones por mayoría de votos, entendiéndose que el Consejo podrá decidir cuestiones de procedimiento en caso de dilaciones que, en su opinión fuesen excesivas.

Artículo 86

Apelaciones

Salvo que el Consejo decida otra cosa, toda decisión de éste sobre si una línea aérea internacional funciona de acuerdo con las disposiciones del presente Convenio continuará en vigor a menos que sea revocada en apelación. Sobre toda otra cuestión, las decisiones del Consejo, si se apelan, se suspenderán hasta que se falle la apelación. Las decisiones de la Corte Permanente Internacional de Justicia o de un tribunal de arbitraje serán firmes y obligatorias.

Artículo 87

Sanciones en caso de incumplimiento por las líneas aéreas

Todo Estado contratante se compromete a no permitir los vuelos de una línea aérea de un Estado contratante en el espacio aéreo situado sobre su territorio si el Consejo ha decidido que la línea aérea en cuestión no cumple con una decisión firme pronunciada según el artículo precedente.

Artículo 88

Sanciones a los Estados en caso de incumplimiento

La Asamblea suspenderá el derecho de voto en la Asamblea y en el Consejo a todo Estado contratante que se encuentre en falta con respecto a las disposiciones del presente Capítulo.

CHAPTER XIX

WAR

Article 89

War and emergency conditions

In case of war, the provisions of this Convention shall not affect the freedom of action of any of the contracting States affected, whether as belligerents or as neutrals. The same principle shall apply in the case of any contracting State which declares a state of national emergency and notifies the fact to the Council.

CHAPTER XX

ANNEXES

Article 90

Adoption and amendment of Annexes

(a) The adoption by the Council of the Annexes described in Article 54, subparagraph (1), shall require the vote of two-thirds of the Council at a meeting called for that purpose and shall then be submitted by the Council to each contracting State. Any such Annex or any amendment of an Annex shall become effective within three months after its submission to the contracting States or at the end of such longer period of time as the Council may prescribe, unless in the meantime a majority of the contracting States register their disapproval with the Council.

(b) The Council shall immediately notify all contracting States of the coming into force of any Annex or amendment thereto.

CHAPTER XXI

RATIFICATIONS, ADHERENCES, AMENDMENTS, AND DENUNCIATIONS

Article 91

Ratification of Convention

(a) This Convention shall be subject to ratification by the signatory States. The instruments of ratification shall be deposited in the archives of the Government of the United States of America, which shall give notice of the date of the deposit to each of the signatory and adhering States.

(b) As soon as this Convention has been ratified or adhered to by twenty-six States it shall come into force between them on

CHAPITRE XIX

GUERRE

Article 89

Guerre et état de crise

En cas de guerre, les dispositions de la présente Convention ne portent atteinte à la liberté d'action d'aucun des États contractants concernés, qu'ils soient belligérants ou neutres. Le même principe s'applique dans le cas de tout État contractant qui proclame l'état de crise nationale et notifie ce fait au Conseil.

CHAPITRE XX

ANNEXES

Article 90

Adoption et amendement des Annexes

a) L'adoption par le Conseil des Annexes visées à l'alinéa 1) de l'article 54 requiert les voix des deux tiers du Conseil lors d'une réunion convoquée à cette fin et lesdites Annexes sont ensuite soumises par le Conseil à chaque État contractant. Toute Annexe ou tout amendement à une Annexe prend effet dans les trois mois qui suivent sa communication aux États contractants ou à la fin d'une période plus longue fixée par le Conseil, à moins qu'entre temps la majorité des États contractants n'ait fait connaître sa désapprobation au Conseil.

b) Le Conseil notifie immédiatement à tous les États contractants l'entrée en vigueur de toute Annexe ou de tout amendement à une Annexe.

CHAPITRE XXI

RATIFICATIONS, ADHÉSIONS, AMENDEMENTS ET DÉNONCIATIONS

Article 91

Ratification de la Convention

a) La présente Convention est soumise à la ratification des États signataires. Les instruments de ratification sont déposés dans les archives du Gouvernement des États-Unis d'Amérique, qui notifie la date du dépôt à chacun des États signataires et adhérents.

b) Dès que la présente Convention aura réuni les ratifications ou adhésions de vingt-six États, elle entrera en vigueur

CAPÍTULO XIX

GUERRA

Artículo 89

Estado de guerra y situaciones de emergencia

En caso de guerra, las disposiciones del presente Convenio no afectarán la libertad de acción de los Estados contratantes afectados, ya sean beligerantes o neutrales. El mismo principio se aplicará cuando un Estado contratante declare estado de emergencia nacional y lo comunique al Consejo.

CAPÍTULO XX

ANEXOS

Artículo 90

Adopción y enmienda de los anexos

a) La adopción por el Consejo de los anexos previstos en el párrafo 1) del Artículo 54, requerirá el voto de dos tercios del Consejo en sesión convocada a ese fin; luego serán sometidos por el Consejo a cada Estado contratante. Todo anexo o enmienda a uno de ellos, surtirá efecto a los tres meses de ser transmitido a los Estados contratantes o a la expiración de un período mayor que prescriba el Consejo, a menos que en el interin la mayoría de los Estados contratantes registren en el Consejo su desaprobación.

b) El Consejo notificará inmediatamente a todos los Estados contratantes la entrada en vigor de todo anexo o enmienda a éste.

CAPÍTULO XXI

RATIFICACIONES, ADHESIONES, ENMIENDAS Y DENUNCIAS

Artículo 91

Ratificación del Convenio

a) El presente Convenio deberá ser ratificado por los Estados signatarios. Los instrumentos de ratificación se depositarán en los archivos del Gobierno de los Estados Unidos de América, el cual notificará la fecha de depósito a cada uno de los Estados signatarios y adherentes.

b) Tan pronto como veintiséis Estados hayan ratificado o se hayan adherido al presente Convenio, éste entrará en vigor

the thirtieth day after deposit of the twenty-sixth instrument. It shall come into force for each State ratifying thereafter on the thirtieth day after the deposit of its instrument of ratification.

(c) It shall be the duty of the Government of the United States of America to notify the government of each of the signatory and adhering States of the date on which this Convention comes into force.

Article 92

Adherence to Convention

(a) This Convention shall be open for adherence by members of the United Nations and States associated with them, and States which remained neutral during the present world conflict.

(b) Adherence shall be effected by a notification addressed to the Government of the United States of America and shall take effect as from the thirtieth day from the receipt of the notification by the Government of the United States of America, which shall notify all the contracting States.

Article 93

Admission of other States

States other than those provided for in Articles 91 and 92 (a) may, subject to approval by any general international organization set up by the nations of the world to preserve peace, be admitted to participation in this Convention by means of a four-fifths vote of the Assembly and on such conditions as the Assembly may prescribe: provided that in each case the assent of any State invaded or attacked during the present war by the State seeking admission shall be necessary.

Article 93 bis*

(a) Notwithstanding the provisions of Articles 91, 92 and 93 above:

(1) A State whose government the General Assembly of the United Nations has recommended be debarred from membership in international agencies established by or brought into relation-

entre ces États le trentième jour après le dépôt du vingt-sixième instrument. Elle entrera en vigueur, à l'égard de chaque État qui la ratifiera par la suite, le trentième jour après le dépôt de son instrument de ratification.

(c) Il incombe au Gouvernement des États-Unis d'Amérique de notifier au Gouvernement de chacun des États signataires et adhérents la date d'entrée en vigueur de la présente Convention.

Article 92

Adhésion à la Convention

(a) La présente Convention est ouverte à l'adhésion des États membres des Nations Unies, des États associés à ceux-ci et des États demeurés neutres pendant le présent conflit mondial.

(b) L'adhésion s'effectue par une notification adressée au Gouvernement des États-Unis d'Amérique et prend effet le trentième jour qui suit la réception de la notification par le Gouvernement des États-Unis d'Amérique, lequel en avise tous les États contractants.

Article 93

Admission d'autres États

Les États autres que ceux auxquels s'appliquent les articles 91 et 92 a) peuvent, sous réserve de l'approbation de toute organisation internationale générale créée par les nations du monde pour préserver la paix, être admis à participer à la présente Convention par un vote des quatre cinquièmes de l'Assemblée dans les conditions que l'Assemblée pourra prescrire, étant entendu que dans chaque cas l'assentiment de tout État envahi ou attaqué au cours de la présente guerre par l'État qui demande son admission sera nécessaire.

Article 93 bis*

(a) Nonobstant les dispositions des articles 91, 92 et 93 ci-dessus,

1) Tout État dont le gouvernement fait l'objet de la part de l'Assemblée générale de l'Organisation des Nations Unies d'une recommandation tendant à le priver de sa qualité de membre

entre ellos al trigésimo día después del depósito del vigesimosexto instrumento. Entrará en vigor para cada Estado que lo ratifique posteriormente, al trigésimo día después del depósito del correspondiente instrumento de ratificación.

(c) Será obligación del Gobierno de los Estados Unidos de América notificar al Gobierno de cada uno de los Estados signatarios y adherentes la fecha de entrada en vigor del presente Convenio.

Artículo 92

Adhesión al Convenio

(a) El presente Convenio quedará abierto a la adhesión de los miembros de las Naciones Unidas, de los Estados asociados a ellos y de los Estados que permanecieron neutrales durante el presente conflicto mundial.

(b) La adhesión se efectuará por notificación dirigida al Gobierno de los Estados Unidos de América y surtirá efecto al trigésimo día de la fecha de recibo de la notificación por el Gobierno de los Estados Unidos de América, el cual notificará a todos los Estados contratantes.

Artículo 93

Admisión de otros Estados

Los Estados no previstos en los Artículos 91 y 92 a), con el voto de los cuatro quintos de la Asamblea y en las condiciones que ésta fije, podrán participar en el presente Convenio, previo consentimiento del organismo internacional general que para preservar la paz establezcan las naciones del mundo; entendiéndose que en cada caso será necesario el asentimiento de todo Estado invadido o atacado durante la guerra actual por el Estado que solicite su ingreso.

Artículo 93 bis*

(a) A pesar de las disposiciones de los artículos 91, 92 y 93, que anteceden,

1) Un Estado cuyo gobierno la Asamblea General de las Naciones Unidas ha recomendado que sea excluido de los organismos internacionales, establecidos por las Naciones Unidas o

* On 27 May 1947 the Assembly decided to amend the Chicago Convention by introducing Article 93 bis. Under Article 94(a) of the Convention the amendment came into force on 20 March 1961 in respect of States which ratified it.

* Le 27 mai 1947, l'Assemblée a décidé d'amender la Convention de Chicago en ajoutant l'article 93 bis. Conformément à l'article 94 a) de la Convention, cet amendement est entré en vigueur le 20 mars 1961 à l'égard des États qui l'ont ratifié.

* El 27 de mayo de 1947, la Asamblea decidió modificar el Convenio de Chicago, incluyendo el Artículo 93 bis. De conformidad con el Artículo 94 a) del Convenio, la enmienda entró en vigor el 20 de marzo de 1961 por lo que se refiere a los Estados que la ratificaron.

ship with the United Nations shall automatically cease to be a member of the International Civil Aviation Organization;

(2) A State which has been expelled from membership in the United Nations shall automatically cease to be a member of the International Civil Aviation Organization unless the General Assembly of the United Nations attaches to its act of expulsion a recommendation to the contrary.

(b) A State which ceases to be a member of the International Civil Aviation Organization as a result of the provisions of paragraph (a) above may, after approval by the General Assembly of the United Nations, be readmitted to the International Civil Aviation Organization upon application and upon approval by a majority of the Council.

(c) Members of the Organization which are suspended from the exercise of the rights and privileges of membership in the United Nations shall, upon the request of the latter, be suspended from the rights and privileges of membership in this Organization.

Article 94

Amendment of Convention

(a) Any proposed amendment to this Convention must be approved by a two-thirds vote of the Assembly and shall then come into force in respect of States which have ratified such amendment when ratified by the number of contracting States specified by the Assembly. The number so specified shall not be less than two-thirds of the total number of contracting States.

(b) If in its opinion the amendment is of such a nature as to justify this course, the Assembly in its resolution recommending adoption may provide that any State which has not ratified within a specified period after the amendment has come into force shall thereupon cease to be a member of the Organization and a party to the Convention.

Article 95

Denunciation of Convention

(a) Any contracting State may give notice of denunciation of this Convention three years after its coming into effect by notification addressed to the Government of the United States of America,

d'institutions internationales, établies par l'Organisation des Nations Unies ou reliées à celle-ci, cesse automatiquement d'être membre de l'Organisation de l'aviation civile internationale;

2) Tout État qui est exclu de l'Organisation des Nations Unies cesse automatiquement d'être membre de l'Organisation de l'aviation civile internationale à moins que l'Assemblée générale de l'Organisation des Nations Unies joigne à son acte d'exclusion une recommandation contraire.

b) Tout État qui cesse d'être membre de l'Organisation de l'aviation civile internationale, en application des dispositions du paragraphe a) ci-dessus, peut, avec l'accord de l'Assemblée générale de l'Organisation des Nations Unies, être admis à nouveau dans l'Organisation de l'aviation civile internationale sur sa demande, et avec l'approbation du Conseil votée à la majorité.

c) Les membres de l'Organisation qui sont suspendus de l'exercice des droits et privilèges inhérents à la qualité de membre de l'Organisation des Nations Unies, sont, à la requête de cette dernière, suspendus des droits et privilèges inhérents à la qualité de membre de la présente Organisation.

Article 94

Amendement de la Convention

a) Toute proposition d'amendement à la présente Convention doit être approuvée par les deux tiers de l'Assemblée et entre alors en vigueur à l'égard des États qui ont ratifié cet amendement, après sa ratification par le nombre d'États contractants fixé par l'Assemblée. Le nombre ainsi fixé ne doit pas être inférieur aux deux tiers du nombre total des États contractants.

b) Si à son avis l'amendement est de nature à justifier cette mesure, l'Assemblée peut, dans sa résolution qui en recommande l'adoption, stipuler que tout État qui n'aura pas ratifié ledit amendement dans un délai déterminé après que cet amendement sera entré en vigueur cessera alors d'être membre de l'Organisation et partie à la Convention.

Article 95

Dénunciation de la Convention

a) Tout État contractant peut dénoncer la présente Convention trois ans après son entrée en vigueur au moyen d'une notification adressée au Gouvernement des États-Unis d'Amérique, qui en informe

vinculados con ellas, dejará automáticamente de ser miembro de la Organización de Aviación Civil Internacional;

2) Un Estado que haya sido expulsado de las Naciones Unidas dejará automáticamente de ser miembro de la Organización de Aviación Civil Internacional, a no ser que la Asamblea General de las Naciones Unidas incluya en su acta de expulsión una recomendación en sentido contrario.

b) Un Estado que deje de ser miembro de la Organización de Aviación Civil Internacional como resultado de lo dispuesto en el párrafo a) que antecede, puede, previa aprobación de la Asamblea General de las Naciones Unidas, ser readmitido en la Organización de Aviación Civil Internacional mediante solicitud y con la aprobación de la mayoría del Consejo.

c) Los miembros de la Organización que sean suspendidos en el ejercicio de sus derechos y privilegios como miembros de las Naciones Unidas, serán, si lo piden las Naciones Unidas, suspendidos en sus derechos y privilegios como miembros de esta Organización.

Artículo 94

Enmiendas del Convenio

a) Toda enmienda que se proponga al presente Convenio deberá ser aprobada por voto de dos tercios de la Asamblea y entrará en vigor con respecto a los Estados que la hayan ratificado, cuando la ratifique el número de Estados contratantes fijado por la Asamblea. Este número no será inferior a los dos tercios del total de Estados contratantes.

b) Si la Asamblea opina que la enmienda es de naturaleza tal que justifique esta medida, puede disponer, en la resolución que recomiende su adopción, que todo Estado que no la haya ratificado dentro de determinado período después de que ésta entre en vigor, cese *ipso facto* de ser miembro de la Organización y parte en el Convenio.

Artículo 95

Denuncia del Convenio

a) Todo Estado contratante puede comunicar la denuncia del presente Convenio tres años después de su entrada en vigor, por notificación dirigida al Gobierno de los Estados Unidos de América, quien

which shall at once inform each of the contracting States.

(b) Denunciation shall take effect one year from the date of the receipt of the notification and shall operate only as regards the State effecting the denunciation.

CHAPTER XXII

DEFINITIONS

Article 96

For the purpose of this Convention the expression:

(a) "Air service" means any scheduled air service performed by aircraft for the public transport of passengers, mail or cargo.

(b) "International air service" means an air service which passes through the air space over the territory of more than one State.

(c) "Airline" means any air transport enterprise offering or operating an international air service.

(d) "Stop for non-traffic purposes" means a landing for any purpose other than taking on or discharging passengers, cargo or mail.

Article 96

SIGNATURE

OF CONVENTION

IN WITNESS WHEREOF, the undersigned plenipotentiaries, having been duly authorized, sign this Convention on behalf of their respective governments on the dates appearing opposite their signatures.

DONE at Chicago the seventh day of December 1944, in the English language. A text drawn up in the English, French and Spanish languages, each of which shall be of equal authenticity, shall be open for signature at Washington, D.C. Both texts shall be deposited in the archives of the Government of the United States of America, and certified copies shall be transmitted by that Government to the governments of all the States which may sign or adhere to this Convention.

immédiatement chacun des États contractants.

b) La dénonciation prend effet un an après la date de réception de la notification et ne vaut qu'à l'égard de l'État qui a effectué la dénonciation.

CHAPITRE XXII

DÉFINITIONS

Article 96

Aux fins de la présente Convention

a) "Service aérien" signifie tout service aérien régulier assuré par aéronef pour le transport public de passagers, de courrier ou de marchandises;

b) "Service aérien international" signifie un service aérien qui traverse l'espace aérien au-dessus du territoire de deux ou plusieurs États;

c) "Entreprise de transport aérien" signifie toute entreprise de transport aérien offrant ou exploitant un service aérien international;

d) "Escale non commerciale" signifie un atterrissage ayant un but autre que l'embarquement ou le débarquement de passagers, de marchandises ou de courrier.

SIGNATURE

DE LA CONVENTION

EN FOI DE QUOI, les plenipotentiaires soussignés, dûment autorisés, signent la présente Convention au nom de leurs Gouvernements respectifs aux dates figurant en regard de leurs signatures.

FAIT à Chicago, le septième jour du mois de décembre 1944, en langue anglaise. Un texte rédigé dans les langues française, anglaise et espagnole, chacune faisant également foi, sera ouvert à la signature à Washington (D.C.). Les deux textes seront déposés aux archives du Gouvernement des États-Unis d'Amérique et des copies certifiées conformes seront transmises par ce Gouvernement aux Gouvernements de tous les États qui signeront la présente Convention ou y adhéreront.

inmediatamente lo informará a cada uno de los Estados contratantes.

b) La denuncia surtirá efecto un año después de la fecha de recibo de la notificación y sólo se aplicará al Estado que haya hecho tal denuncia.

CAPITULO XXII

DEFINICIONES

Artículo 96

A los fines del presente Convenio se entiende por:

a) "Servicio aéreo", todo servicio aéreo regular realizado por aeronaves de transporte público de pasajeros, correo o carga.

b) "Servicio aéreo internacional", el servicio aéreo que pasa por el espacio aéreo sobre el territorio de más de un Estado.

c) "Línea aérea", toda empresa de transporte aéreo que ofrezca o explote un servicio aéreo internacional.

d) "Escala para fines no comerciales", el aterrizaje para fines ajenos al embarque o desembarque de pasajeros, carga o correo.

FIRMA

DEL CONVENIO

EN FE DE LO CUAL, los plenipotenticiarios que suscriben, debidamente autorizados, firman el presente Convenio en nombre de sus Gobiernos respectivos en las fechas que aparecen frente a sus firmas.

HECHO en Chicago, el día siete de diciembre de mil novecientos cuarenta y cuatro, en el idioma inglés. Un texto redactado en los idiomas español, francés e inglés, cada uno de los cuales tendrá igual autenticidad, quedará abierto para la firma en Washington, D.C. Ambos textos serán depositados en los archivos del Gobierno de los Estados Unidos de América, el cual transmitirá copias certificadas a los Gobiernos de todos los Estados que firmen o se adhieran al presente Convenio.

PROTOCOL¹

ON THE AUTHENTIC TRILINGUAL TEXT OF THE CONVENTION ON INTERNATIONAL CIVIL AVIATION (CHICAGO, 1944)

Signed at Buenos Aires,
on 24 September 1968

THE UNDERSIGNED GOVERNMENTS

CONSIDERING that the last paragraph of the Convention on International Civil Aviation, hereinafter called "the Convention", provides that a text of the Convention, drawn up in the English, French and Spanish languages, each of which shall be of equal authenticity, shall be open for signature;

CONSIDERING that the Convention was opened for signature, at Chicago, on the seventh day of December, 1944, in a text in the English language;

CONSIDERING, accordingly, that it is appropriate to make the necessary provision for the text to exist in three languages as contemplated in the Convention;

CONSIDERING that in making such provision, it should be taken into account that there exist amendments to the Convention in the English, French and Spanish languages, and that the text of the Convention in the French and Spanish languages should not incorporate those amendments because, in accordance with Article 94(a) of the Convention, each such amendment can come into force only in respect of any State which has ratified it;

HAVE AGREED as follows:

¹ Came into force on 24 October 1968.

PROTOCOLE¹

CONCERNANT LE TEXTE AUTHENTIQUE TRILINGUE DE LA CONVENTION RELATIVE À L'AVIATION CIVILE INTERNATIONALE (CHICAGO, 1944)

Signé à Buenos Aires,
le 24 septembre 1968

LES GOUVERNEMENTS SOUSSIGNÉS

CONSIDÉRANT que le dernier paragraphe de la Convention relative à l'Aviation civile internationale, appelée ci-après "la Convention", stipule qu'un texte de la Convention, rédigé en langues française, anglaise et espagnole, chacune faisant également foi, sera ouvert à la signature;

CONSIDÉRANT que la Convention a été ouverte à la signature à Chicago, le sept décembre mil neuf cent quarante-quatre, dans un texte en langue anglaise;

CONSIDÉRANT, en conséquence, qu'il convient de prendre les dispositions nécessaires pour qu'existe le texte en trois langues tel que prévu dans la Convention;

CONSIDÉRANT qu'il devrait être tenu compte, en prenant ces dispositions, de ce que des amendements à la Convention existent en langues française, anglaise et espagnole, et de ce que le texte de la Convention en langues française et espagnole ne devrait pas comporter ces amendements, car chacun desdits amendements n'entre en vigueur, conformément aux dispositions de l'article 94 a) de la Convention, qu'à l'égard de tout État qui l'a ratifié;

SONT CONVENUS de ce qui suit:

¹ Entré en vigueur le 24 octobre 1968.

PROTOCOLO¹

RELATIVO AL TEXTO AUTÉNTICO TRILINGÜE DEL CONVENIO SOBRE AVIACIÓN CIVIL INTERNACIONAL (CHICAGO, 1944)

Firmado en Buenos Aires,
el 24 septiembre de 1968

LOS GOBIERNOS FIRMANTES

CONSIDERANDO que el párrafo final del Convenio sobre Aviación Civil Internacional, en adelante llamado "el Convenio", dispone que un texto del Convenio, redactado en los idiomas español, francés o inglés, cada uno de los cuales tendrá igual autenticidad, quedará abierto a la firma;

CONSIDERANDO que el Convenio fue abierto a la firma en Chicago el siete de diciembre de mil novecientos cuarenta y cuatro, en un texto en idioma inglés;

CONSIDERANDO que, por lo tanto, conviene adoptar las disposiciones necesarias para que exista el texto en tres idiomas, tal como se prevé en el Convenio;

CONSIDERANDO que, al adoptar tales disposiciones, se debería tener en cuenta que existen enmiendas al Convenio en los idiomas español, francés e inglés, y que el texto del Convenio en los idiomas español y francés no debería incluir dichas enmiendas, ya que, de acuerdo con el Artículo 94 a) del Convenio, cada una de tales enmiendas solamente entra en vigor para los Estados que las hayan ratificado;

HAN ACORDADO lo siguiente:

¹ Entró en vigor el 24 de octubre de 1968.

Article I¹

The text of the Convention in the French and Spanish languages annexed to this Protocol, together with the text of the Convention in the English language, constitutes the text equally authentic in the three languages as specifically referred to in the last paragraph of the Convention.

Article II

If a State party to this Protocol has ratified or in the future ratifies any amendment made to the Convention in accordance with Article 94(a) thereof, then the text of such amendment in the English, French and Spanish languages shall be deemed to refer to the text, equally authentic in the three languages, which results from this Protocol.

Article III

1) The States members of the International Civil Aviation Organization may become parties to this Protocol either by:

- (a) signature without reservation as to acceptance, or
- (b) signature with reservation as to acceptance followed by acceptance, or
- (c) acceptance.

2) This Protocol shall remain open for signature at Buenos Aires until the twenty-seventh day of September 1968 and thereafter at Washington, D.C.

3) Acceptance shall be effected by the deposit of an instrument of acceptance with the Government of the United States of America.

4) Adherence to or ratification or approval of this Protocol shall be deemed to be acceptance thereof.

Article IV

1) This Protocol shall come into force on the thirtieth day after twelve States shall, in accordance with the provisions of Article III, have signed it without reservation as to acceptance or accepted it.

¹ The text of the Convention in the French and Spanish languages mentioned in this Article will be found in the second and third columns at pages 1 to 38 of this document, subject to what is stated in paragraph 2 of the Foreword at page III.

Article I^{er}1

Le texte en langues française et espagnole de la Convention annexé au présent Protocole constitue, conjointement avec le texte en langue anglaise de la Convention, le texte faisant également foi dans les trois langues, tel que prévu expressément au dernier paragraphe de la Convention.

Article II

Lorsqu'un État partie au présent Protocole a ratifié ou ratifie ultérieurement un amendement apporté à la Convention, conformément aux dispositions de l'article 94 a) de celle-ci, le texte en langues française, anglaise et espagnole de cet amendement est réputé se référer au texte faisant également foi dans les trois langues qui résulte du présent Protocole.

Article III

1) Les États membres de l'Organisation de l'Aviation civile internationale peuvent devenir parties au présent Protocole:

- a) soit en le signant, sans réserve d'acceptation,
- b) soit en le signant, sous réserve d'acceptation, suivie d'acceptation,
- c) soit en l'acceptant.

2) Le présent Protocole restera ouvert à la signature à Buenos Aires jusqu'au 27 septembre 1968 et après cette date à Washington (D.C.).

3) L'acceptation est effectuée par le dépôt d'un instrument d'acceptation auprès du Gouvernement des États-Unis d'Amérique.

4) L'adhésion au présent Protocole, sa ratification ou son approbation est considérée comme acceptation du Protocole.

Article IV

1) Le présent Protocole entrera en vigueur le trentième jour après que douze États l'auront signé sans réserve d'acceptation ou accepté, conformément aux dispositions de l'article III.

¹ Le texte en langues française et espagnole de la Convention, visé au présent article, figure dans les deuxième et troisième colonnes du présent document, pages 1 à 38, sous réserve de ce qui est dit au paragraphe 2 de l'avant-propos, page III.

Artículo I¹

El texto en los idiomas español y francés del Convenio adjunto al presente Protocolo constituye, con el texto en el idioma inglés del Convenio, el texto igualmente auténtico en tres idiomas, tal como se prevé expresamente en el párrafo final del Convenio.

Artículo II

Si un Estado Parte en el presente Protocolo ha ratificado o en el futuro ratifica cualquier enmienda hecha al Convenio de acuerdo con el Artículo 94 a) del mismo, se considerará que el texto en los idiomas español, francés e inglés de tal enmienda se refiere al texto de igual autenticidad en los tres idiomas que resulta del presente Protocolo.

Artículo III

1) Los Estados miembros de la Organización de Aviación Civil Internacional pueden ser Partes en el presente Protocolo ya sea mediante:

- a) la firma, sin reserva de aceptación,
- b) la firma, bajo reserva de aceptación, seguida de aceptación,
- c) la aceptación.

2) El presente Protocolo quedará abierto a la firma en Buenos Aires hasta el veintisiete de septiembre de 1968 y después de esta fecha en Washington, D.C.

3) La aceptación se llevará a cabo mediante el depósito de un instrumento de aceptación ante el Gobierno de los Estados Unidos de América.

4) La adhesión al presente Protocolo o su ratificación o aprobación se considerarán como aceptación del mismo.

Artículo IV

1) El presente Protocolo entrará en vigor el trigésimo día después de que doce Estados, de acuerdo con las disposiciones del Artículo III, lo hayan firmado sin reserva de aceptación o lo hayan aceptado.

¹ Véase el texto del Convenio en los idiomas español y francés a que se hace referencia en este Artículo en las columnas segunda y tercera de las páginas 1 a 38 de este documento, según lo previsto en el párrafo 2 del Preámbulo en la página III.

2) As regards any State which shall subsequently become a party to this Protocol, in accordance with Article III, the Protocol shall come into force on the date of its signature without reservation as to acceptance or of its acceptance.

Article V

Any future adherence of a State to the Convention shall be deemed to be acceptance of this Protocol.

Article VI

As soon as this Protocol comes into force, it shall be registered with the United Nations and with the International Civil Aviation Organization by the Government of the United States of America.

Article VII

1) This Protocol shall remain in force so long as the Convention is in force.

2) This Protocol shall cease to be in force for a State only when that State ceases to be a party to the Convention.

Article VIII

The Government of the United States of America shall give notice to all States members of the International Civil Aviation Organization and to the Organization itself:

(a) of any signature of this Protocol and the date thereof, with an indication whether the signature is with or without reservation as to acceptance;

(b) of the deposit of any instrument of acceptance and the date thereof;

(c) of the date on which this Protocol comes into force in accordance with the provisions of Article IV, paragraph 1).

Article IX

This Protocol, drawn up in the English, French and Spanish languages, each text being equally authentic, shall be deposited in the archives of the Government of the United States of America, which shall transmit duly certified copies thereof to the Government of the States members of the International Civil Aviation Organization.

2) En ce qui concerne tout État qui deviendra ultérieurement partie au présent Protocole, conformément aux dispositions de l'article III, le Protocole entrera en vigueur à la date de sa signature sans réserve ou de son acceptation.

Article V

L'adhésion future d'un État à la Convention vaut acceptation du présent Protocole.

Article VI

Dès son entrée en vigueur, le présent Protocole sera enregistré par le Gouvernement des États-Unis d'Amérique auprès de l'Organisation des Nations Unies et auprès de l'Organisation de l'Aviation civile internationale.

Article VII

1) Le présent Protocole reste en vigueur aussi longtemps que la Convention est en vigueur.

2) Le présent Protocole cesse d'être en vigueur à l'égard d'un État, seulement lorsque cet État cesse d'être partie à la Convention.

Article VIII

Le Gouvernement des États-Unis d'Amérique notifie à tous les États membres de l'Organisation de l'Aviation civile internationale et à l'Organisation elle-même:

a) toute signature du présent Protocole et la date de cette signature, en indiquant si la signature a été apposée sans ou sous réserve d'acceptation;

b) le dépôt de tout instrument d'acceptation et la date de ce dépôt;

c) la date à laquelle le présent Protocole est entré en vigueur, conformément aux dispositions de son article IV, paragraphe 1.

Article IX

Le présent Protocole, rédigé dans les langues française, anglaise et espagnole, chaque texte faisant également foi, sera déposé aux archives du Gouvernement des États-Unis d'Amérique qui en transmettra des copies certifiées conformes aux Gouvernements des États membres de l'Organisation de l'Aviation civile internationale.

2) Por lo que se refiere a cualquier Estado que sea posteriormente Parte en el presente Protocolo, de acuerdo con las disposiciones del Artículo III, el Protocolo entrará en vigor en la fecha de la firma sin reserva de aceptación o de la aceptación.

Artículo V

La futura adhesión de un Estado al Convenio será considerada como aceptación del presente Protocolo.

Artículo VI

Tan pronto como el presente Protocolo entre en vigor, será registrado en las Naciones Unidas y en la Organización de Aviación Civil Internacional por el Gobierno de los Estados Unidos de América.

Artículo VII

1) El presente Protocolo permanecerá en vigor mientras lo esté el Convenio.

2) El presente Protocolo cesará de estar en vigor con respecto a un Estado solamente cuando dicho Estado cese de ser Parte en el Convenio.

Artículo VIII

El Gobierno de los Estados Unidos de América comunicará a todos los Estados miembros de la Organización de Aviación Civil Internacional y a la Organización misma:

a) Toda firma del presente Protocolo y la fecha de la misma, indicando si la firma se hace sin reserva o bajo reserva de aceptación;

b) El depósito de cualquier instrumento de aceptación y la fecha del mismo.

c) La fecha en que el presente Protocolo entre en vigor de acuerdo con el Artículo IV, párrafo 1.

Artículo IX

El presente Protocolo, redactado en los idiomas español, francés e inglés, teniendo cada texto igual autenticidad, será depositado en los archivos del Gobierno de los Estados Unidos de América, el cual transmitirá copias debidamente certificadas del mismo a los Gobiernos de los Estados miembros de la Organización de Aviación Civil Internacional.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, duly authorized, have signed this Protocol.

DONE at Buenos Aires this twenty-fourth day of September, one thousand nine hundred and sixty-eight.

EN FOI DE QUOI, les Plénipotentiaires soussignés, dûment autorisés, ont apposé leur signature au présent Protocole.

FAIT à Buenos Aires le vingt-quatre septembre mil neuf cent soixante-huit.

EN TESTIMONIO DE LO CUAL, los Plenipotenciarios abajo firmantes, debidamente autorizados, han firmado el presente Protocolo.

HECHO en Buenos Aires, el veinticuatro de septiembre de mil novecientos sesenta y ocho.

La futura adhesión de un Estado al Convenio será considerada como aceptación del presente Protocolo.

Article VII

1) El presente Protocolo permanecerá en vigor mientras no se lo rescate.

2) El presente Protocolo cesará de estar en vigor con respecto a un Estado solamente cuando dicho Estado cese de ser Parte del Convenio.

Article VIII

1) El Gobierno de los Estados Unidos de América transmitirá a todos los Estados miembros de la Organización de Aviación Civil Internacional y a la Organización de Aviación Civil Internacional sus respectivos textos en los idiomas español, francés e inglés, teniendo cada texto igual autoridad, será depositado en los archivos del Gobierno de los Estados Unidos de América, en los que se conservarán los originales de los Estados miembros de la Organización de Aviación Civil Internacional.

L'adhésion future d'un Etat à la Convention sera considérée comme acceptation du présent Protocole.

Article VII

1) Le présent Protocole restera en vigueur jusqu'à ce qu'il soit résilié.

2) Le présent Protocole cessera d'être en vigueur pour un Etat, seulement lorsque cet Etat cessera d'être Partie du présent Protocole.

Article VIII

1) Le Gouvernement des Etats-Unis transmettra à tous les Etats membres de l'Organisation de l'Aviation Civile internationale et à l'Organisation de l'Aviation Civile internationale ses propres textes dans les langues espagnole, française et anglaise, chaque texte faisant également foi, sera déposé aux archives du Gouvernement des Etats-Unis d'Amérique, dans lesquelles les originaux des Etats membres de l'Organisation de l'Aviation Civile internationale seront conservés.

Any future adherence of a State to the Convention shall be deemed to be acceptance of this Protocol.

Article VII

1) This Protocol shall remain in force until it is rescinded.

2) This Protocol shall cease to be in force for a State, only when that State ceases to be a Party to the Convention.

Article VIII

1) The Government of the United States of America shall transmit to all States members of the International Civil Aviation Organization and to the Organization of the United States of America its respective texts in the languages of Spanish, French and English, each text being equally authentic, shall be deposited in the archives of the Government of the United States of America, in which the originals of the States members of the International Civil Aviation Organization shall be preserved.

END — FIN

EXTRACT FROM THE CATALOGUE OF ICAO SALABLE PUBLICATIONS

International Air Services Transit Agreement.

Signed at Chicago, on 7 December 1944.

(Doc 7500). Trilingual. 48 pp. 15 cm × 23 cm (6" × 9").....U.S. \$1.00

International Civil Aviation Conference, Chicago 1944.

(Doc 2187). Reprint of Final Act and related documents. 76 pp.

15 cm × 23 cm (6" × 9").....U.S. \$1.75

Proceedings of the International Civil Aviation Conference, Chicago 1944.

Printed and published by the U.S. Printing Office. 1509 pp. in two

volumes, cloth-bound. 15 cm × 23 cm (6" × 9"). (English only)...U.S. \$5.00

EXTRAIT DU CATALOGUE DES PUBLICATIONS EN VENTE DE L'OACI

Accord relatif au transit des services aériens internationaux.

Dollars
É.-U.

Signé à Chicago, le 7 décembre 1944.

(Doc 7500). Trilingue, 48 pages, 15 cm × 23 cm..... 1,00

Conférence internationale de l'Aviation civile, Chicago 1944.

(Doc 2187). Acte final et appendices. 102 pages.

15 cm × 23 cm..... 1,75

Proceedings of the International Civil Aviation Conference, Chicago 1944.

Ces comptes rendus des travaux de la Conférence de Chicago

sont imprimés et publiés en anglais seulement par le U.S.

Printing Office. Deux volumes reliés. 1509 pages. 15 cm × 23 cm.... 5,00

EXTRACTO DEL CATÁLOGO DE PUBLICACIONES EN VENTA DE LA OACI

Acuerdo relativo al tránsito de los servicios aéreos internacionales.

Dólares
E. U. A.

Firmado en Chicago el 7 de diciembre de 1944.

(Doc 7500). Trilingüe. 48 págs. 15 × 23 cm..... 1,00

Conferencia de aviación civil internacional, Chicago 1944.

(Doc 2187). Nueva edición del Acta Final y documentos pertinentes.

76 págs. 15 × 23 cm 1,75

Actuaciones de la Conferencia de aviación civil internacional, Chicago 1944.

Impreso y publicado por la U.S. Printing Office. 1509 págs. en dos

volumenes, encuadernado en tela. 15 × 23 cm (Inglés solamente) 5,00

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PRICE }
PRIX } U.S. \$1.25
PRECIO }

(or equivalent in other currencies)
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(o equivalencia en otra moneda)

000310

PROYECTO DE ACUERDO ENTRE

EL GOBIERNO DEL CANADA Y EL GOBIERNO DE CUBA CON RELACION AL
APODERAMIENTO ILEGAL DE AVIONES

EL GOBIERNO DEL CANADA Y

EL GOBIERNO DE CUBA

Desempeñando cooperar para su mutuo beneficio y para estrechar
las lazos de comprensión y buena voluntad que existen entre ellos; y

Desempeñando proporcionar los medios propicios para la extradición
recíproca de personas que han cometido actos de apoderamiento
ilegal de aviones,

HAN ACORDADO LO SIGUIENTE:

ARTICULO IGENERAL

1. Este Acuerdo se aplica a los actos cometidos a bordo de
aviones civiles

(a) matriculados al amparo de las leyes de cualquiera de
las partes, o

(b) que están siendo operados bajo contrato de arrenda-
miento o fletamento por una o más personas residentes
en el país o por una corporación establecida según
las leyes de cualquiera de las partes;

y al hacer referencia en este Acuerdo a un avión de una de las partes,
(ello) significa un avión civil de tal modo inscrito u operado.

2. En este Acuerdo, apoderamiento ilegal significa un acto de
interferencia, apoderamiento o cualquier otro injusto ejercicio del
control de un avión en vuelo por medio de la violencia o de la amenaza
de violencia, o cualquier otro medio ilegal de ejercer tal control en
contra de la voluntad de aquéllos que normalmente están a cargo del
avión; y al hacer referencia a una persona responsable, ello significa

... 2.

-2-

por tanto la persona o personas a bordo del avión a quien o a quienes se atribuya ser las responsables de tal acto.

3. Este Acuerdo y lo que en el mismo se estipula se entenderá conjuntamente con cualquier otro acuerdo relativo a (la) extradición, que hubiere estado en vigor hasta ahora o que hubiere de surtir efecto en adelante, estableciendo los procedimientos para la extradición entre las partes tal como entonces pudiera aplicarse; y al hacer referencia en este Acuerdo a la entrega de cualquier persona, ello significa su entrega para la extradición por una de las partes a solicitud de la otra, a causa de un delito cometido y sujeto a extradición en virtud de cualquier acuerdo relativo a la extradición.

ARTICULO II

OBLIGACION DEL ESTADO DONDE ATERRIZAN AVIONES

DE LOS QUE SE HAN APODERADO ILEGALMENTE

1. Cuando un avión de una de las partes aterrice en el territorio de la otra después de cometido un acto de apoderamiento ilegal, la parte en cuyo territorio aterrice ^{el} avión deberá notificar inmediatamente al representante diplomático o consular de la otra parte.

2. (Aquella) parte en cuyo territorio aterrice el avión de la otra parte después de cometido un acto de apoderamiento ilegal, adoptará, según sus propias leyes, todas las medidas razonables para aprehender a la persona responsable de (ello, e

(a) informará a la otra parte (sobre) cualquier arresto, comunicándole el nombre de la persona arrestada y toda la información (pertinente) con relación a tal arresto y persona; y

(b) permitirá que los representantes debidamente autorizados de la otra parte se entrevisten con la persona arrestada con el objeto de obtener información adicional.

... 3.

-3-

3. (Aquella) parte en cuyo territorio aterrice un avión después de cometido un acto de apoderamiento ilegal,

(a) deberá tomar todas las medidas necesarias para facilitar sin demora la continuación del viaje de los pasajeros y de la tripulación a bordo del avión, así como de sus pertenencias; y

(b) deberá hacer arreglos inmediatos para (devolver o hacer) que se devuelva al piloto de la nave, con la menor demora posible, el avión y cualquier carga que el mismo hubiera de estar transportando.

ARTICULO III

ENTREGA DE PERSONAS A LAS QUE SE ATRIBUYA

SER LAS RESPONSABLES DE APODERAMIENTO ILEGAL

1. Cuando un avión de una de las partes haya sido capturado ilegalmente y se haga una solicitud formal, dentro de un plazo que no exceda a los sesenta días después del recibo de la notificación requerida por el Artículo II (1), (aquella) parte en cuyo territorio haya aterrizado la nave, deberá entregar a la persona a la que se atribuye ser la responsable del apoderamiento ilegal al representante autorizado de la otra parte, con el propósito de trasladarla a la jurisdicción de la parte reclamante, a fin de que se proceda judicialmente contra ella.

2. Cualquiera de las partes puede negarse a acceder a una solicitud de entrega hecha a tenor de este Acuerdo en los casos en que su Ministro de Justicia o cualquier otra autoridad designada a ese efecto determine que

(a) la solicitud de entrega, aunque sostenga que se hace con relación al apoderamiento ilegal, es, en efecto, hecha con el propósito de obtener control sobre la

... 4.

-4-

persona a la que se atribuya ser la responsable, a fin de que sea procesada o sancionada por razón de su raza, religión, nacionalidad o por un delito de carácter político; o

(b) la persona a la que se atribuye ser la responsable, si es entregada, pudiera no ser sometida a un proceso judicial justo, o de otro modo ponerse en peligro por razón de su raza, religión, nacionalidad u opiniones políticas; o

(c) en el momento de la solicitud, la persona reclamada está sujeta a pena de muerte por el delito en el que se basa la solicitud de su entrega, si bien las leyes de la parte solicitada no establecen la pena de muerte en un caso similar.

3. Ninguna de las partes está obligada a entregar a sus propios ciudadanos a la otra parte.

4. La negativa de una de las partes a entregar a una persona a la que se atribuye ser la responsable del apoderamiento ilegal de un avión de la otra parte no limitará de ninguna manera el derecho u obligación de la parte de la cual se solicita la entrega de dicha persona para que se proceda contra ella de acuerdo con sus propias leyes.

ARTICULO IV

PUESTA EN VIGOR, DURACION Y TERMINACION

1. Este Acuerdo se ratificará y los instrumentos de ratificación se intercambiarán en Ottawa. El Acuerdo entrará en vigor a los treinta días a partir de la fecha del intercambio de los instrumentos de ratificación.

2. Cualquiera de las Partes Contratantes puede terminar este Acuerdo en cualquier momento mediante notificación a la otra parte.

. . . 5.

-5-

En ese caso, el mismo dejará de estar en vigor a partir de la fecha en que se reciba la notificación.

Y PARA CONSTANCIA, los Plenipotenenciarios respectivos firman el presente Acuerdo.

DADO por duplicado en La Habana, a los días
del mes de de mil novecientos

.....

.....

TEXT OF LAW NO. 1226

(of September 16, 1969, as published in the Official Gazette
of the Republic of Cuba, No. 7, of Sept. 19, 1969)

ON THE DIVERSION OF AIR OR SEA CRAFT

Executive Power

Council of Ministers

OSVALDO DORTICOS TORRADO, President of the Republic of Cuba.

BE IT KNOWN: That the Council of Ministers has resolved, and I sanction the following:

WHEREAS: The Government of the United States and lackey governments in Latin America, as part of the policy of blockade and aggression against Cuba, promoted and encouraged the forced diversion, seizure and carrying off of Cuban air and sea craft, extending a hero's welcome to vulgar assassins, and, at times, appropriating these stolen air and sea craft, and the Cuban people had to suffer even the loss of valuable lives.

WHEREAS: Such activities with regard to Cuban ships and aircraft and other villainous deeds and violations of international law and norms, furthered by imperialism as part of its policy against the Cuban Revolution, created a climate of illegality propitious to the proliferation of these new phenomena of violence.

WHEREAS: The Government of the United States and lackey governments in Latin America have encouraged the illegal exit from our country by every possible means, with utter disregard for the life and security of persons, and especially, through the illegally occupied territory of the U.S. Naval Base in Guatánamo, which has also contributed to the aforementioned climate of illegality.

WHEREAS: The forced diversion of air and sea craft from their regular routes and activities endangers the lives of innocent persons; affects the function of both air and maritime navigation; violates national and international law and the general provisions on migration in force in every country; and, likewise, involves the danger of the introduction of epidemics, plagues and infectious diseases that may have an adverse effect on the health of the Cuban people and on the country's natural wealth, given the untimely arrival in our country of persons aboard the said air or sea craft without meeting existing health regulations.

WHEREAS: While, in a few cases, the diversions have been carried out by persons in real danger as a result of their political activities, in other cases such actions have been carried out by common criminals, corrupt individuals, mentally unbalanced persons and socially unadapted persons anxious to change their country of residence or prompted by strictly personal motivations, which cases cannot be considered as being of a revolutionary nature.

WHEREAS: The Government of the United States and lackey governments in Latin America, through their newsagencies, have maliciously attempted to escape their responsibility in the origin and development of these actions now that the consequences of such actions affect those countries whose governments, acting in a reckless manner, encouraged such actions against Cuba.

WHEREAS: The Revolutionary Government of Cuba is not willing to respect multilateral agreements adopted by international organizations such as the OAS -

CUBAN LAW

- 3 -

Article 2.- Those responsible for the actions described in Article 1, who arrive in the national territory, may be returned to the state affected whenever they are reclaimed by such state in accordance with the provisions of this Law.

Article 3.- The provisions of the present Law will be applied solely on the basis of equality and strict reciprocity with regard to those affected states having bilateral agreements with Cuba on the application of a similar policy to cases covered by this Law.

Article 4.- In the case of its nationals, the Cuban State reserves the right to apply the corresponding legal measures.

Article 5.- Without prejudice to the provisions of this Law, the Cuban State, in exercise of its sovereignty, reserves the right to grant asylum whenever it deems it justified, to those persons who, because of political reasons, arrive in our country, having found themselves in the need of making use of this extreme recourse to escape a real danger of death or grave repression.

Article 6.- Those responsible for the actions described in Article 1 who arrive in the national territory will be placed at the disposal of immigration authorities, who will apply, as provided for in existing legislation and with the recommendations of the competent state agencies, the pertinent measures for the effective execution of the objectives of this Law.

In a case where the authorities of another state officially demand the return of those persons, the Cuban immigration authorities will determine, by means of a summary hearing, the legal basis, or lack of it, of the demand, according to the preceding precepts.

Article 7.- Without prejudice to the provisions in Article 5 and 6, those responsible for actions described in Article 1 are criminally liable for the actions they may have committed, according to the existing penal legislation.

Article 8.- All previous legislation which may conflict with the provisions of this Law - which will be in force upon its publication in the Official Gazette of the Republic - is hereby declared null and void.

THEREFORE: I order that this Law be enforced and executed in all its parts.

Palace of the Revolution, Havana, September 16, 1969.

Oswaldo Dorticós Torrado

Fidel Castro Ruz
Prime Minister

Raúl Roa García
Minister of Foreign Relations

ORGANISATION DE L'AVIATION
CIVILE INTERNATIONALEORGANIZACIÓN DE AVIACIÓN
CIVIL INTERNACIONAL

INTERNATIONAL CIVIL AVIATION ORGANIZATION

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

(CS)

WHEN REPLYING, PLEASE QUOTE:
RÉFÉRENCE À RAFFELER DANS LA RÉPONSE:
INDÍQUESE EN LA RESPUESTA ESTA REFERENCIA:S 2/11.2) - 69/280
LE 4/26)

4 December 1969

Subject: Unlawful Interference with Inter-
national Civil Aviation and its Facilities
Action Required: Reports on incidents of
unlawful seizure of aircraft

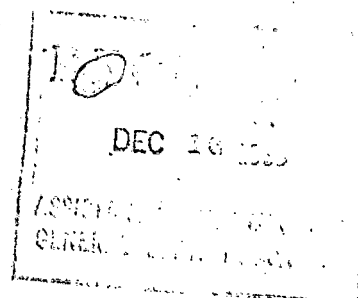
Sir,

I have the honour to refer to my letter LE 4/26 - 69/128 of 24 April 1969 with which I sent you a copy of the Resolution adopted by the Council on 10 April 1969. It will be recalled that in paragraph (3) i) of that Resolution the Council invited all Contracting States directly concerned to furnish it with a report on all non-political aspects of cases of unlawful interference.

- The Committee which has been established under paragraph (4) of the above-mentioned Resolution prepared, in connection with paragraph 2 of its Terms of Reference and Working Procedures, three lists of points which might be covered by States in preparing their reports on incidents of unlawful seizure of aircraft. List A (Attachment A hereto) would be relevant for the reports prepared by the State of registry of an unlawfully seized aircraft, List B (Attachment B hereto) for reports prepared by the State to which an unlawfully seized aircraft was diverted and List C (Attachment C hereto) for reports prepared by the State of embarkation of the person who committed or attempted the act of unlawful seizure.

Any further relevant information on the non-political aspects of incidents of unlawful seizure of aircraft would also be appreciated. Since the Committee is developing measures to discourage the occurrence of acts

*DCA will initiate
any future reports*



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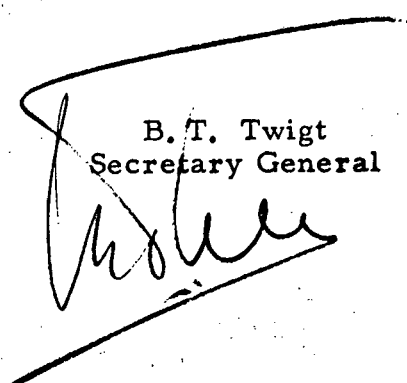
- 2 -

of unlawful interference, it would be very grateful if you could also provide information on the current and, if possible, future situation of the persons who unlawfully seized the aircraft.

The reports would concern all incidents that occurred after 10 April 1969 with the exception of those on which a detailed report has been already sent.

Accept, Sir, the assurances of my highest consideration.

B. T. Twigt
Secretary General



Enclosure:

List of points for report
(A, B and C)

ATTACHMENT A

POINTS RELATING TO REPORT

Addressed to the State of Registry of an unlawfully seized aircraft

(Note: This is issued in connexion with paragraph 2 of the Terms of Reference and Working Procedures of the ICAO Council's Committee on Unlawful Interference with International Civil Aviation.)

It would be useful if the State concerned made available information on the points mentioned below. Any further relevant information on the non-political aspects of the incident would also be appreciated.

1. GENERAL

- 1.1 Date of the unlawful seizure
- 1.2 Nationality and registration marks of the aircraft
- 1.3 Airline (or owner/operator)
- 1.4 Type of flight (scheduled, non-scheduled, general aviation and whether domestic or international)
- 1.5 Type and mark of aircraft
- 1.6 Aerodrome of departure
- 1.7 Aerodrome of intended landing
- 1.8 Aerodrome of embarkation of the person(s) who committed or attempted the act of unlawful seizure
- 1.9 Were any measures in effect at the aerodrome of embarkation of the person(s) in 1.8 to screen passengers and their hand baggage? (If so, please give details).

- 2 -

1.10 Number of persons on board

1.10.1 Passengers _____

1.10.2 Crew - Flight _____

Crew - Cabin (male _____ female _____)

1.11 Was an intermediate diversionary landing made to obtain additional fuel or for any other reasons?

1.12 If there was an intermediate diversionary landing:

1.12.1 Give numbers of any passengers or crew that disembarked at that aerodrome.

1.12.2 Supply details of any technical/operational difficulties of the type covered by Items 3.8, 3.9, 3.10, 4.1, 4.2 and 4.3.

2. DETAILS OF THE UNLAWFUL ACT

2.1 Time (GMT) and approximate position when the act of unlawful seizure was committed

2.2 Number of persons who committed or attempted the act of unlawful seizure

2.3 Did this person(s) enter the flight deck at any time?

2.4 Name(s) of this person(s)

2.5 Did this person(s) hold a single or return ticket(s)?

2.6 Did this person(s) hold economy or first class ticket(s)?

2.7 Where was the person(s) seated in the aircraft?

2.8 Means of coercion adopted by the said person(s)

2.9 Were any weapons actually seen by

(i) Crew?

(ii) Passengers?

2.10 Was any attempt made by the crew or passengers to resist the person(s) who committed the act or attempt of unlawful seizure? (If so, give details).

- 3 -

- 2.11 Was physical violence towards the flight crew or cabin crew or passengers involved? (If so, give details).
- 2.12 Were any shots fired or explosive devices detonated?
- 2.13 Was there any other illegal act, such as theft, carried out on board?
- 2.14 Were any demands made on the crew by the person(s) who committed the act or attempt of unlawful seizure?
- 2.15 Crew's reaction to 2.14 (Give details of any action to reason with the said person(s) etc.)

3. THE DIVERTED FLIGHT

- 3.1 Time and position of the aircraft when your air traffic services authorities became aware that it was not complying with its flight plan and had been diverted
- 3.2 Were your air traffic services able to maintain adequate separation between the diverted aircraft and other traffic?
- 3.3 Did the diversion cause disturbance to other traffic? (If so, give details).
- 3.4 Did the person(s) committing or attempting the illegal seizure interfere or attempt to interfere with the controls of the aircraft?
- 3.5 Did the person(s) prevent radio communications being established?
- 3.6 If the answer to 3.5 is "no", were any difficulties experienced from other causes in obtaining
- 3.6.1 meteorological information and air traffic services?
- 3.6.2 runway and other aerodrome information?
- 3.7 Was there any difficulty of communication (i. e. language problems or other difficulties) between the person(s) who committed the act or attempt of unlawful seizure and the crew?
- 3.8 In the opinion of the pilot-in-command, was any hazard to safety involved due to
- 3.8.1 a lack of communications?

3.8.2 a landing being effected in the prevailing meteorological conditions?

- 4 -

- 3.8.3 a lack of adequate fuel reserves, taking into account that due to operational considerations landing at an alternate aerodrome in the State to which the aircraft was diverted may have been necessary?
- 3.8.4 any operational limitations considering the type of aircraft involved and the circumstances of the landing (day/night, instrument approach, etc.) in relation to the available aerodrome and ground facilities?
- 3.8.5 any other causes? (If so, give details).
- 3.9 Was the landing effected without incident, additional to those enumerated in 3.8? (If not, supply details).
- 3.10 Did the aircraft carry sufficient and suitable equipment, including maps, charts, instrument approach charts, etc., for the diversionary route and for landing at the diversionary aerodrome or at an alternate aerodrome in the State to which the aircraft was diverted?

4. CONSEQUENCES OF THE UNLAWFUL ACTION

- 4.1 Were any injuries sustained by passengers, crew, the persons who committed (or attempted the act of unlawful seizure or persons on the ground?
- 4.2 Were any difficulties or embarrassment experienced in connexion with public health, or animal/plant quarantine regulations?
- 4.3 Was the aircraft or any aerodrome facilities damaged? (If so, give details).

5. SUBSEQUENT ACTION

- 5.1 Was the aircraft returned to the control of the captain?
- 5.2 Were there any technical/operational reasons which delayed departure of the aircraft (maintenance requirements, unavailability of parts, suitable fuel, etc.)?
- 5.3 Were all passengers and all crew members permitted to depart on the aircraft?
- 5.4 Did the persons who unlawfully seized or attempted to seize the aircraft give any reasons for their action?
- 5.5 Please provide any further details that you may consider useful, such as:
- 5.5.1 Summary of the crew's narrative account of the unlawful seizure.
- 5.5.2 Characteristics and background of the person(s) who committed the unlawful seizure, e.g. behaviour at airport if known, previous criminal or mental record.

000323

ATTACHMENT B

POINTS RELATING TO REPORT

Addressed to the State to which an aircraft TO & FROM
unlawfully seized is diverted

(Note: This is issued in connexion with
paragraph 2 of the Terms of Reference
and Working Procedures of the ICAO
Council's Committee on Unlawful Inter-
ference with International Civil Aviation.)

It would be useful if the State concerned made available information on
the points mentioned below. Any further relevant information on the non-political
aspects of the incident would also be appreciated.

The supplying of such information should not be construed as obliging
the State concerned to interrogate the crew or passengers or to delay the release
of the aircraft or the crew and passengers in the normal course.

1. GENERAL

- 1.1 Date of the unlawful seizure
- 1.2 Nationality and registration marks of the aircraft
- 1.3 Airline (or owner/operator)
- 1.4 Aerodrome of intended landing
- 1.5 Aerodrome of landing
- 1.6 Aerodrome of embarkation of the person(s) who committed or attempted the
act of unlawful seizure
- 1.7 Number of persons on board
 - 1.7.1 Passengers
 - 1.7.2 Crew - Flight
 - Crew - Cabin (male female)

- 2 -

2. DETAILS OF THE UNLAWFUL ACT

- 2.1 Number of persons who committed the act of unlawful seizure
- 2.2 Was this person(s) accompanied by any other person(s) who took no active part in the unlawful seizure?
- 2.3 Nationality(ies) of this person(s)
- 2.4 Name(s) of this person(s)
- 2.5 Age(s) of this person(s)
- 2.6 Sex of this person(s)
- 2.7 How much baggage did this person(s) have?
- 2.7.1 cabin 2.7.2 checked
- 2.8 If firearms were involved as a means of coercion, give make, type and serial number.

3. THE DIVERTED FLIGHT

- 3.1 Time and position of aircraft when your air traffic services authorities became aware that the aircraft had been illegally seized and was being diverted to an aerodrome in your territory
- 3.2 Were your air traffic services able to maintain adequate separation between the diverted aircraft and other traffic?
- 3.3 Did the diversion cause disturbance to other traffic? (If so, give details).
- 3.4 Were any difficulties experienced in:
- 3.4.1 Communicating with the aircraft?
- 3.4.2 Providing meteorological information and air traffic services to the aircraft?
- 3.4.3 Providing runway and other aerodrome information to the aircraft?

- 3 -

3.5 In your opinion, was any hazard to safety involved due to:

3.5.1 a lack of communications?

3.5.2 a landing being effected in the prevailing meteorological conditions?

3.5.3 a lack of adequate fuel reserves, taking into account that due to operational considerations landing at an alternate aerodrome in your State may have been necessary?

3.5.4 any operational limitations considering the type of aircraft involved and the circumstances of the landing (day/night, instrument approach, etc.) in relation to the available aerodrome and ground facilities?

3.5.5 any other causes? (If so, give details).

3.6 Was the landing effected without incident, additional to those enumerated in 3.5? (If not, supply details).

4. CONSEQUENCES OF THE UNLAWFUL ACTION

4.1 Were any injuries sustained by passengers, crew, the persons who committed or attempted the act of unlawful seizure or persons on the ground?

4.2 Were any difficulties or embarrassment experienced in connexion with public health, or animal/plant quarantine regulations?

4.3 Were any aerodrome facilities damaged? (If so, supply details).

5. SUBSEQUENT ACTION

5.1 Were there any technical/operational reasons which delayed departure of the aircraft (maintenance requirements, unavailability of parts, suitable fuel, etc.)

5.2 Were all passengers and all crew members permitted to depart on the aircraft?

5.3 Did the persons who unlawfully seized the aircraft give any reasons for their action?

5.4 Has he (they) revealed any information which might suggest that other unlawful seizures will take place? (If so, please supply the information he (they) has given).

5.5 Was he(they) given psychiatric, psychological or physical examinations upon apprehension?

5.6 Was he(they) under the influence of drugs or alcohol?

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ATTACHMENT C

POINTS RELATING TO REPORT

Addressed to the State of Embarkation
where other than the State of Registry

(Note: This is issued in connexion with paragraph 2 of the Terms of Reference and Working Procedures of the ICAO Council's Committee on Unlawful Interference with International Civil Aviation.)

It would be useful if the State concerned made available information on the points mentioned below. Any further relevant information on the 'non-political' aspects of the incident would also be appreciated.

1. GENERAL

- 1.1 Date of the unlawful seizure
- 1.2 Nationality and registration marks of the aircraft
- 1.3 Airline (or owner/operator)
- 1.4 Aerodrome of embarkation of the person(s) who committed or attempted the act of unlawful seizure
- 1.5 Name(s) of this person(s)
- 1.6 Were any measures in effect at the aerodrome of embarkation of the person(s) in 1.4 to screen passengers and their hand baggage? (If so, please give details).
- 1.7 Please provide any further details that you may consider useful, such as:
 - 1.7.1 Characteristics and background of the person(s) who committed the unlawful seizure, e.g. behaviour at airport if known, previous criminal or mental record

2. THE DIVERTED FLIGHT

- 2.1 Time and position of the aircraft when your air traffic services authorities became aware that it was not complying with its flight plan and had been diverted

CONFIDENTIAL
2

2.2 Were your air traffic services able to maintain adequate separation between the diverted aircraft and other traffic?

2.3 Did the diversion cause disturbance to other traffic? (If so, give details).

and Working Procedures of the ICAO
Council's Committee on Air Traffic
Services (ICATAS) and Civil Aviation

-END-

It would be useful to the Board if you could provide information on the non-availability of the aircraft mentioned below. Any further relevant information on the non-availability of the aircraft would also be provided.

GENERAL

Date of the incident, reference

Location of the aircraft, and reference number of the aircraft

Reference for any other information

Characteristics of the person(s) who committed or attempted the

act of unlawful interference

Name(s) of this person(s)

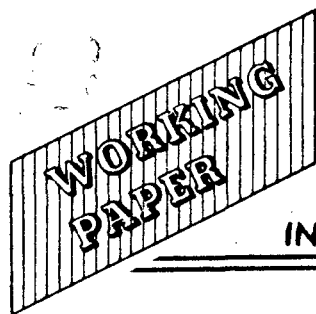
Were any measures in effect at the time of the occurrence of the person(s) who committed or attempted the act of unlawful interference? (If so, please give details).

Please provide any further details that you may consider useful, such as:

Characteristics and background of the person(s) who committed the act of unlawful interference, e.g. behaviour at airport, if known, previous criminal or unusual record

THE DIVERTED AIRCRAFT

Location and position of the aircraft when your air traffic services authorities became aware that it was not complying with its flight plan and had been diverted



INTERNATIONAL CIVIL AVIATION ORGANIZATION

AT-WP/990
8/1/69

66TH SESSION OF THE COUNCIL

AIR TRANSPORT COMMITTEE

Subject No. 15: Subjects Relating to Air Transport

Subject No. 16: Legal Work of the Organization

Subject No. 16.3: International Air Law Conventions

ASPECTS OF RESOLUTION A16-37 FALLING WITHIN THE FIELD OF INTEREST OF THE AIR TRANSPORT COMMITTEE

(Presented by the Director, Air Transport Bureau)

General

1. The Council, during the Sixth Meeting of its 65th Session held on 9 December 1968, discussed various proposals for action on Assembly Resolution A16-37 and decided inter alia, to refer aspects of that Resolution falling within the Air Transport Committee's field of interest to the Committee for early consideration and report thereon. Resolution A16-37 has been reproduced in C-WP/4885 and, as pointed out in that paper, the expression "unlawful seizure" was no doubt used in the Assembly Resolution simply for convenience, that is, in the interest of brevity; a typical act under that Resolution would be where a passenger produced a firearm on an aircraft in flight and threatened the pilot with violence if he did not divert the aircraft from its scheduled course or place of landing. This paper therefore deals only with this type of act, which is commonly described as "hijacking".

Economic Aspects

2. Although there are obvious economic losses suffered whenever an aircraft is "hijacked", e.g. losses to passengers, shippers and consignees as well as to the aircraft operator, these losses are impossible to measure accurately and vary from case to case. The Organization has concluded in the past, e.g. that it is not feasible to make an objective quantitative assessment of economic loss when a given Air Navigation Service is lacking or of economic benefit when a Service is provided (cf. e.g. C-WP/4933); and the same conclusion would appear to be valid as regards an attempt to measure economic losses when an aircraft is hijacked.

Security Aspects

3. The question has been raised as to what could possibly be done prior to the boarding of an aircraft in order to detect a person carrying a firearm and to single out a potential hijacker. A number of airlines and government administration have been seeking some kind of electronic device that will catch the hijacker at the gate by detecting hidden weapons. So far, not one has come up with an instrument cheap enough and discriminating enough to be practical.

(3 pages)
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4. It must be borne in mind in this connection that a person boarding an aircraft with the intent of unlawfully hijacking it during a flight is not necessarily the carrier of a firearm; toy pistols are known to have accomplished the same purpose. It can be taken for granted that crew members would take no chances if, in spite of electronic screening, a hijacker pretended during flight to be in possession of a loaded pistol; in all likelihood this would be put down to an error or oversight on the part of the electronic device and the pilot would obey the hijacker's commands. There are also problems of search rights and passenger convenience (see paras. 6 - 8 below) that complicate any attempt to spot potential hijackers in advance.

5. Notwithstanding the comments in the last two paragraphs, some airlines and government administrations are believed to have initiated certain steps, individually and collectively, in an effort to curb hijacking of their aircraft. However, details are lacking as to the precise nature of these measures and, in any event, publication of them would only serve to notify the potential hijacker and thus nullify what some consider to be the substantial progress being made.

Facilitation Aspects

6. Even if satisfactory electronic devices were available, their general use would be highly debatable since (i) serious delays in the processing of out-bound passengers could be expected, e.g. in "single file" exits through all gate positions where these devices were operated and (ii) in any event not all potential hijackers carry firearms as mentioned above.

7. The delays and inconvenience would be considerably greater and far more serious if any search of departing passengers and their hand baggage was conducted. One need only think of the large traffic volumes, particularly at peak traffic hours, presently going through a large number of international airports in all parts of the world and of the forthcoming introduction of high capacity jet aircraft with up to 490 passengers on board to appreciate the reaction of the travelling public to such measures.

8. It will be recalled in this connection that the 7th Session of the FAL Division and the 16th Session of the Assembly were both gravely concerned with the FAL implications of rapidly increasing traffic volumes at international airports, especially in view of the impending operation of high capacity jets and, later, supersonic aircraft, and adopted pertinent recommendations and resolutions (cf. e.g. pages 2.3-12 to 2.3-14 and 2.6-3 to 2.6-4 of Doc 8750; and Resolutions A16-27 and 28)*. They were all aimed at reducing ground delays and eliminating congestion at airport terminal buildings.

* One FAL technique, i.e. "Pre-Clearance" (cf. 6.18 of Annex 9), wherever it is employed, serves to discourage hijacking. However, it is unlikely that this technique will ever receive universal applicability in international air transport and, in any event, it would not be pertinent in the case of aircraft being hijacked when flying in domestic operations.

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Conclusion

9. The most sensible way to curb hijackers is the root cause of the problem. For example, United States has recently proposed to Cuba that the refugee air lift, which has been operating by mutual agreement from Cuba to the United States for 3 years, be made two-way. This might enable Cubans who wish to return home to do so without resorting to stealing an airliner. Certain governments are also reported to have proposed mutual extradition treaties to discourage hijackers, who would face stiff penalties upon their return.

10. However, the provision of traffic rights in international civil aviation is a matter of bilateral negotiation between States and the legal matter of extradition is normally handled in the same way. Therefore, in the opinion of the Secretariat, there is little the Air Transport Committee is in a position to offer in the way of any multilateral solution to the problem.

- END -



SUBCOMMITTEE ON UNLAWFUL SEIZURE OF AIRCRAFT

(Montreal, 23 September - 3 October 1969)

REPORT

Meetings

1. The Subcommittee met in its second session from 23 September to 3 October 1969 under the Chairmanship of Mr. G. Guillaume (France).

1.1 The Subcommittee was composed as follows:

ARGENTINA	Dr. J. Damianovich Oliveira Mr. E.M. Villarreal
CANADA	Mr. R.H. Evans Mr. L.S. Clark Mr. P. Sorokan
COLOMBIA	Dr. D. Pardo Tovar
DENMARK	Mr. E. Alsøe
FRANCE	Mr. G. Guillaume Mr. N. Museux
INDIA	Mr. B.S. Gidwani
ISRAEL	Mr. M. Peled Mr. E.A. Zussman (Ben-Yakir)
JAPAN	Mr. N. Nakano
TUNISIA	Mr. A. El Hicheri
UNITED KINGDOM	Miss G.M.E. White
UNITED STATES OF AMERICA	Mr. K.E. Malmberg Mr. R. Littell Mr. J.T. Stewart Mr. J. Huisentrui

Not represented at this session were: Algeria, Nigeria and Switzerland.

1.2 The following attended as Observers:

IATA	Mrs. H. Larose Aubry
IFALPA	Captain Grady Stone Captain A.D. Mills Mr. J. Newton

ICAO REPORT

Documentation

2. A list of the documents available at the second session of the Subcommittee appears in Annex A hereto.

Comments of States and International Organizations

3. The Report of the first session of the Subcommittee had been sent to States and international organizations with a request for their comments. The comments received were carefully examined by the Subcommittee at its second session.

Main topics considered

4. The main topics considered at the second session and the conclusions reached on each of them are indicated below.

Objective

5. In its Report of the first session, the Subcommittee had stated that the basic objective of its study of the problem of unlawful seizure of aircraft should be "to deter persons from committing acts of unlawful seizure of aircraft and, more specifically, to ensure, as far as practicable, the prosecution and punishment of these persons". It had also stated that in its opinion the most efficient way of attaining the objective in question would be through an international agreement. After review of the comments received and discussions at the second session in the Subcommittee these conclusions were reaffirmed. (1)

Form of the International Agreement

6. In order to deal with the problem posed by unlawful seizure of aircraft, the Subcommittee considered that the proposed international agreement should be one to which States could become parties independently of the Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo, 1963). At the same time, the provisions of the agreement relating to matters also dealt with in the Tokyo Convention should be so formulated as to avoid posing any problems to States which would wish to become parties to both these international instruments. The agreement prepared by the Subcommittee is distinct from the Tokyo Convention. This form, however, does not exclude the possibility that this agreement could eventually be adopted in the form of a Protocol to the Tokyo Convention if the Legal Committee deems it desirable, in view of the number of parties to that Convention at the time the Committee met. Such Protocol should, however, be capable of ratification independently of the Tokyo Convention.

Preamble

7. The Subcommittee considered it desirable that the Draft Convention should have a preamble setting forth the objectives of the Convention and the manner of achieving them.

(1) The expression "unlawful seizure of aircraft" is used only for convenience; the ingredients of the act are more fully described in paragraph 10 of this Report.

Scope of Convention

8. The Subcommittee considers that the proposed Convention should apply to all civil aircraft. It did not attempt to formulate a new definition of civil aircraft and decided to retain the text appearing in Article 1, paragraph 4, of the Tokyo Convention.

9. There was a discussion whether, in regard to the provisions of the proposed Convention, the flight concerned must necessarily be international or whether it could be a flight of an aircraft which had neither taken off nor landed outside the territory of the State of registration. The majority of the Subcommittee considered that in view of the absence of an international link the Convention should not apply in the latter case, irrespective of whether the flight included flight over a foreign territory. On the other hand, some members of the Subcommittee were of the opinion that acts of unlawful seizure committed on board such aircraft should not necessarily be excluded from the scope of the Convention. It is implied from the solution adopted by the majority that the extradition of any person who, in such a case, has committed an act of unlawful seizure and has fled to the territory of any other State, will be governed by general rules and not by the Convention. Furthermore, the commander of an aircraft performing such a flight and flying over a foreign territory could not, during such overflight, avail himself of the provisions of Article 9 of the Draft Convention, but could possibly avail himself of the provisions of Article 11 of the Tokyo Convention.

Definition

10. It was agreed that the elements of the definition of unlawful seizure should be:

- (a) the act was unlawful;
- (b) there was force or threat of force;
- (c) the act was committed on board the aircraft;
- (d) the act took place "in flight";
- (e) the act consists in seizing the aircraft or exercising control of it in any other manner.

10.1 The element (a) above requires no comment.

10.2 In regard to force, mentioned in (b) above, the question was discussed whether, in addition to physical force, the use of some other manner of intimidation or coercion should also be provided for. It was decided that the real problem was the case where the act directly threatened the safety of flight of an aircraft.

In this regard, the Subcommittee noted that the English word "force" had been rendered in Article 11 of the Tokyo Convention by the French word "violence" and the Spanish word "violencia" which seemed to have a more general application than the expression used in English. Some members of the Subcommittee considered that it would be preferable to limit the scope of the new Convention to the case of force which was purely physical, while others would prefer that other forms of force also be covered. However, most of the members of the Subcommittee had no absolute preference and it was agreed that the question should be left for decision by the Legal Committee. Pending this decision, the wording of the Tokyo Convention has been retained.

10.3 As specified in item (c) above, the Subcommittee considered that only offences committed on board an aircraft should be punishable under the Draft Convention, it being left to national laws to deal with acts of unlawful seizure of aircraft not committed on board.

10.4 Moreover, the aircraft should, as is said in item (d), be in flight. The Subcommittee considered whether the definition in Article 5, paragraph 2, of the Tokyo Convention would be more appropriate than that in Article 1, paragraph 3, but came to the conclusion that it was not, in view of the decision reflected in paragraph 10.3 above. In order to define "flight", the Subcommittee retained the terms of Article 1, paragraph 3, of the Tokyo Convention. However, it was emphasized that even in the case where the offender had used force or threat of force both before and after take-off of the aircraft and, as a result, subsequently secured control of it, the offence committed would remain punishable under the Draft Convention.

10.5 At its previous session, the Subcommittee had considered that it should be an offence only when the intention of the author was to change the itinerary of the aircraft. Although some members of the Subcommittee maintained the view that it was necessary to retain the element of intention, the Subcommittee has eliminated this condition taking into account the comments received. In fact, it considered that any violence, no matter what the aim thereof, which took place on board an aircraft in order to secure control of the aircraft, constituted a danger to the safety of air navigation and should consequently be punishable.

10.6 Accordingly, the Subcommittee re-examined the list of acts which constitute the offence. Thus, as indicated in (e) above, the fact of unlawfully seizing the aircraft or exercising control of it by any means whatsoever will constitute an offence. On the other hand, the Subcommittee did not believe that it should retain the cases of mere interference with the operation of the aircraft, since such acts might be of trivial nature, very different from the sort of case with which the Subcommittee was concerned.

Attempt and complicity

11. It was agreed that attempts should also be punishable. In case of accomplices it was agreed that the Convention should apply only to those accomplices who were on board the aircraft in flight, and that punishment of acts of complicity not committed on board an aircraft should be left to national laws.

Punishment

12. Each State on becoming a party to the proposed agreement would undertake to make the act of unlawful seizure punishable in a manner commensurate with its gravity. The question was discussed as to whether the Convention should specify the kind of punishment, for example, deprivation of liberty. It was considered that the national legislatures would be in the best position to prescribe the penalties.

Jurisdiction

13. It would be necessary to specify in the Convention that each Contracting State must establish its jurisdiction over the offence if committed on board an aircraft registered in that State.

13.1 The Subcommittee included in the Draft Convention a provision stating that each Contracting State must establish its jurisdiction over the offence if the latter was committed on board an aircraft which lands in the territory of that State and if the alleged offender leaves the aircraft in that territory. The object of this formula was to take into account the points of view of delegations that wished to establish the jurisdiction of the State of landing as well as the points of view of delegations that desired to give jurisdiction to the State in the territory of which the alleged offender leaves the aircraft. It would ensure that the State in the best position to apprehend the alleged offender would have jurisdiction over him.

One member of the Subcommittee would have preferred that the Convention create obligations in this regard for a State only if the whole or part of the offence was committed or intended to be committed in its territory or if the alleged offender was a national or permanent resident of that State, thus leaving out only those cases where the fact that the alleged offender leaves the aircraft in a certain State constitutes the only link between the offence and that State. The Subcommittee having rejected this formula, it was suggested that the States parties to the Convention might be permitted to make alternative arrangements with respect to such cases arising under Article 4, paragraph 1 (b) of the Draft. In any case, these States would be obliged to establish their jurisdiction over an offence committed within their respective territories. In addition, they would undertake in the cases where they would not have jurisdiction to prosecute the alleged offender, to ensure his detention or presence in their territory for the time reasonably necessary to permit extradition procedures to be initiated. Some delegations reserved their position on this formula which others could have accepted, while some members were not in favour of it.

13.2 Two delegations expressed the view that these proposals would result in increasing the possibility of conflicting jurisdictions and that for the purpose of avoiding conflicts of jurisdiction it would be preferable to establish a single jurisdiction. The Subcommittee did not endorse this view.

Procedures for arrest, detention and preliminary inquiry

14. It was agreed that the provisions of paragraphs 2 to 5 of Article 13 of the Tokyo Convention should apply mutatis mutandis in relation to the unlawful seizure of aircraft.

Prosecution

15. The Subcommittee considered that the authorities of the State in the territory of which the aircraft has landed and the alleged offender has left the aircraft should, save in exceptional circumstances, either prosecute the person concerned or extradite him under the conditions prescribed by the Draft Convention. This Draft provides that in the cases where extradition was not proceeded with, the State in question must be obliged to submit the case to its competent authorities so that they might decide whether legal proceedings should be undertaken. These authorities would reach their decision in the same manner as in the case of other offences. Consequently, the authorities would be free in their decision in cases where they have such freedom of judgment, but the Subcommittee considered that they should take the decision bearing in mind, in particular, the importance attached by the agreement to the punishment of the offence of unlawful seizure of aircraft.

Extradition

16. It was unanimously agreed that the unlawful seizure of aircraft would be an extraditable offence. It was also agreed that, for this purpose, the Convention should contain a provision stating that offences committed on board would be deemed, for the purposes of extradition, as having been committed not only in the place in which they occurred, but also in the territory of the State of registration of the aircraft and of the State in which the aircraft has landed and the alleged offender has left the aircraft.

17. In addition, the Subcommittee decided that the unlawful seizure of aircraft would be deemed to be an extraditable offence in any extradition treaty entered into or which might in future be entered into between the Contracting States. Also, the Contracting States which do not subject extradition to the existence of a treaty or a condition of reciprocity will recognize the offence as an extraditable one between them. However, one delegation reserved its final position with regard to paragraphs 2 and 3 of Article 8 of the Draft Convention until the time of the Legal Committee meeting.

18. At its first session, the Subcommittee had been divided on the question whether the State in whose territory the aircraft had landed and the alleged offender had left the aircraft could or could not refuse extradition to the State of registration of the aircraft when the latter had requested it. At the present session, the Subcommittee was unanimous in thinking that the Convention should not attempt to prevent any State to refuse extradition of the person concerned in conformity with its law.

The rule of "ne bis in idem"

19. The Subcommittee examined the question whether an Article on the rule "ne bis in idem" should be included in the Draft Convention. Some delegations stated that they were against the inclusion of such a provision and emphasized that the question had already been settled by national laws and by existing bilateral or multilateral agreements on extradition. On the other hand, other delegations pointed out that the Convention created new obligations in regard to jurisdiction and extradition which, in their view, should be supplemented by the inclusion of a special clause concerning the rule "ne bis in idem". It was also suggested that there be added to the text a provision whereby "each Contracting State shall apply the maxim "ne bis in idem" in accordance with the rules of its national law and international agreements to which it is a party". The Subcommittee did not reach an agreement on this subject and the text prepared by the Subcommittee contains no provision regarding it. However, ... the Legal Committee will find in Annex B a clause "ne bis in idem" which was not studied by the Subcommittee but which might, in case of need, serve as a basis for the discussions of the Legal Committee.

Measures concerning aircraft, passengers and crew

20. Although the application of paragraph 2 of Article 11 of the Tokyo Convention may, according to some members of the Subcommittee, give rise to problems in case of some passengers, it was decided to reproduce in the Draft Convention the exact text of Article 11 of the Tokyo Convention for the reasons outlined in the second sentence of paragraph 6 above.

Provision of evidence

21. It was agreed that the Contracting States should, in accordance with their law, afford one another the greatest measure of assistance in connection with proceedings brought in respect of the offence.

Provision of information

22. It was decided that the Draft Convention should provide that, at the request of the ICAO Council, every Contracting State should furnish to that Organization as rapidly as possible various items of information in its possession as to the circumstances of the offence and certain measures taken by that State. This provision could give rise to difficulties for States parties to the Convention which are not members of ICAO. Some of this information could be communicated shortly after the incident, while other items of information would be communicated only when the legal proceedings had terminated.

Special case of registration

23. In order to cover the case of aircraft used by joint air transport operating organizations or international operating agencies and which are not registered in any one State, the Subcommittee included in the Draft Convention a special Article based on Article 18 of the Tokyo Convention.

Draft Convention

... 24. As a consequence of its deliberations, the Subcommittee prepared a Draft Convention, the text of which is found in Annex C. The alignment of the three versions should be the subject of attentive study.

Interim measures

25. It was suggested that the ICAO Council recommend to States to apply immediately at least some of the provisions of the Convention by possibly incorporating them in their national laws. This proposal did not meet with the support of the Subcommittee in view of the practical difficulties in its application.

Measure of agreement reached: Further work

26. It follows clearly from the foregoing that very substantial agreement on the Draft Convention was reached among the members of the Subcommittee.

27. Consequently, the Subcommittee considers that the question which was submitted to it for study is now ripe for consideration by the Legal Committee.

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ANNEX A

LIST OF DOCUMENTS

Restricted

Information Paper

LC/SC SA WD 18	Comments on the Report of the first session of the Subcommittee (presented by Colombia)
WD 19	Comments of Switzerland
WD 20	Comments of Mexico
WD 21	Comments of Sierra Leone
WD 22	Comments of the Central African Republic
WD 23	Comments of the Republic of South Africa
WD 24	Comments of Sweden
WD 25	Comments of Cuba
WD 26	Comments of the United Kingdom of Great Britain and Northern Ireland
WD 27	Comments of the Republic of Singapore
WD 28	Comments of the Malagasy Republic
WD 29	Comments of the United States
WD 30	Comments of the Federal Republic of Germany
WD 31	Comments of Finland
WD 32	Comments of Ireland
WD 33	Comments of Norway
WD 34	Comments of Canada
WD 35	Comments of Denmark
WD 36	Comments of Mr. B.S. Gidwani (India)
WD 37	Statement by Captain Grady B. Stone (IFALPA)
WD 38	Statement by the Canadian Delegation

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LC/SC SA - Report II
Annex B

ANNEX B

NE BIS IN IDEM

(paragraph 19 of the Report)

Each Contracting State shall refrain from undertaking proceedings against the offender if he proves that final judgment was rendered in another Contracting State and that, in case of conviction, he served his sentence, it was barred by time or he was pardoned.

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ANNEX C

DRAFT CONVENTION PREPARED BY THE SUBCOMMITTEE

THE STATES PARTIES TO THIS CONVENTION

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

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

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

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

HAVE AGREED AS FOLLOWS:

Article 1

Any person who on board an aircraft in flight:

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

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

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

ICAO DATA

Article 2

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

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

3. This Convention shall not apply where the aircraft on board which the offence was committed neither took off nor landed outside the territory of the State of registration of that aircraft.

Article 3

Each Contracting State undertakes to make the offence punishable in a manner commensurate with the gravity of such offence.

Article 4

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

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

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

Article 5

The Contracting States which establish joint air transport operating organizations or international operating agencies, which operate aircraft not registered in any one State, shall, according to the circumstances of the case, designate the State among them which, for the purposes of this Convention, shall be considered as the State of registration and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

Article 6

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

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

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

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

Article 7

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

Article 8

1. The offence shall be deemed to be an extraditable offence in any extradition treaty existing or to be concluded between Contracting States.

2. The Contracting States which do not make extradition conditional on the existence of a treaty or reciprocity shall recognize the offence as a case for extradition as between themselves.

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

- (a) of the State of registration of the aircraft;
- (b) of the State in which the aircraft lands and the alleged offender leaves the aircraft.

Article 9

1. When a person on board has unlawfully committed by force or threat thereof an act of interference, seizure, or other wrongful exercise of control of an aircraft in flight or when such an act is about to be committed, Contracting States shall take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve his control of the aircraft.

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

LC/SC SA - Report II
Ann. A C

- 16 -

Article 10

At the request of the Council of the International Civil Aviation Organization, each Contracting State shall furnish to that Organization as rapidly as practicable all relevant information in its possession relating to:

- (a) the circumstances of the offence;
- (b) the measures taken in applying Article 9 above;
- (c) measures taken in respect of the alleged offender, in particular the outcome of any extradition or other legal proceedings.

Article 11

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

- END -

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

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

Article 7

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

Article 8

1. The offence shall be deemed to be an extraditable offence in any extradition treaty existing or to be concluded between Contracting States.

2. The Contracting States which do not make extradition conditional on the existence of a treaty or reciprocity shall recognize the offence as a case for extradition as between themselves.

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

(a) of the State of registration of the aircraft;

(b) of the State in which the aircraft lands and the alleged offender leaves the aircraft.

Article 9

1. When a person on board has unlawfully committed by force or threat thereof an act of interference, seizure, or other wrongful exercise of control of an aircraft in flight or when such an act is about to be committed, Contracting States shall take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve his control of the aircraft.

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

Article 10

At the request of the Council of the International Civil Aviation Organization, each Contracting State shall furnish to that Organization as rapidly as practicable all relevant information in its possession relating to:

- (a) the circumstances of the offence;
- (b) the measures taken in applying Article 9 above;
- (c) measures taken in respect of the alleged offender, in particular the outcome of any extradition or other legal proceedings.

Article 11

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

- END -

ANNEX C

DRAFT CONVENTION PREPARED BY THE SUBCOMMITTEE

THE STATES PARTIES TO THIS CONVENTION

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

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

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

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

HAVE AGREED AS FOLLOWS:

Article 1

Any person who on board an aircraft in flight:

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

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

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

Article 2

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

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

3. This Convention shall not apply where the aircraft on board which the offence was committed neither took off nor landed outside the territory of the State of registration of that aircraft.

Article 3

Each Contracting State undertakes to make the offence punishable in a manner commensurate with the gravity of such offence.

Article 4

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

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

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

Article 5

The Contracting States which establish joint air transport operating organizations or international operating agencies; which operate aircraft not registered in any one State, shall, according to the circumstances of the case, designate the State among them which, for the purposes of this Convention, shall be considered as the State of registration and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

Article 6

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

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

Special Record

602-10

January 22, 1970.

RA
Mr. ~~Stoner~~:

André Bissonnette will head the Canadian delegation on hi-jacking to Cuba and has asked me to let you know that the P.M. has approved Gilles Sicotte as a member of this delegation.

The Canadian group will proceed to Havana via Mexico City arriving February 2nd. The meeting will commence February 3rd and our group expects to return to Ottawa February 8th.



D. A. McDougal

RECEIVED

62 1970
OFFICE OF THE
DEPUTY MINISTER
TRANSPORT

000350

FLE/ L.S. Clark/ ON

File
Diary
Div. Diary
O/USSEA
M. Bissonnette
Mr. G. Sicotte ✓
Mr. P. Sorokan

42-8-9-3-1

602-10

January 20, 1970

Dear Sir,

After preliminary discussions with the Cuban Government, the Canadian Government has decided to send a Delegation to Havana on February 2 to negotiate a bilateral aircraft hijacking agreement. This Delegation will be headed by the Assistant Under-Secretary of State for External Affairs and Legal Adviser, Mr. P.A. Bissonnette, and will include officials from our Legal Division and from the Departments of Transport and Justice. The negotiations will be based on a draft agreement which was prepared by the three Departments and transmitted to the Cuban Ministry of Foreign Affairs by our Embassy in Havana on December 3, 1969. We expect that they will take approximately one week.

I have been informed that both Air Canada and CP Air have indicated that it might be desirable to have a representative of the Canadian airline industry attached to the Canadian Delegation as an adviser. I also understand that your General Counsel, Mr. Ian MacPherson, has been in close contact with officers in the three Departments who are concerned with this question and is familiar with the draft agreement. Accordingly I believe it would be useful if you could make Mr. MacPherson available in the capacity of expert adviser. You may be interested to know that CP Air has advised the Department of Transport that they would be pleased to have him represent them as well as Air Canada for this purpose.

This Department would be prepared to provide Mr. MacPherson with a Special passport for his journey and obtain the necessary visas for Cuba and Mexico - which is a normal transit point for flights between Canada and Cuba.

I should be grateful if you would inform me of your views on this matter. If you are agreeable to the proposal, Mr. MacPherson should contact Mr. L.S. Clark of our Legal Division so that the necessary arrangements for his inclusion on the Delegation can be completed.

Yours sincerely,

M. CADINUX

Under-Secretary.

Mr. Yves Pratte,
Chairman of the Board and
Chief Executive Officer,
Air Canada,
Place Ville Marie,
Montreal 113, Quebec.

File

Ottawa, 26 janvier 1970

Cher M. Lette

Après les entretiens préliminaires qu'il a eus avec le Gouvernement cubain, le Gouvernement canadien a décidé d'envoyer une délégation à la Havane le 2 février en vue de négocier avec les autorités cubaines au accord bilatéral relatif au détournement d'avions. Cette délégation sera dirigée par le Sous-secrétaire d'Etat adjoint aux Affaires extérieures et conseiller juridique, M. P. A. Bissonnette, et comptera des fonctionnaires de notre Direction des affaires juridiques ainsi que des ministères des Transports et de la Justice. Les négociations porteront sur un projet d'accord qui a été préparé par les trois ministères mentionnés ci-dessus et qui a été transmis au ministère cubain des Affaires étrangères par notre ambassade à la Havane le 3 décembre 1969. Nous pensons que les négociations dureront environ une semaine.

La société Air Canada et la société CP Air ont signalé, me dit-on, qu'il serait souhaitable d'attacher à la délégation canadienne en qualité de conseiller un représentant des compagnies aériennes du Canada. Je crois comprendre aussi que votre conseiller juridique, M. Ian MacPherson, s'est tenu en contact étroit avec les fonctionnaires des trois ministères qui s'occupent de la question, et qu'il connaît bien le projet d'accord. Je crois que M. MacPherson serait très utile en qualité de conseiller de la délégation si vous pouviez le libérer pour les négociations. Vous apprendrez sans doute avec intérêt que la société CP Air a fait voir au ministère des Transports qu'elle serait heureuse d'avoir M. MacPherson pour la représenter ainsi qu'Air Canada.

Notre Ministère serait prêt à fournir un passeport spécial à M. MacPherson pour ce voyage et à lui obtenir les visas nécessaires pour Cuba et le Mexique, qui est le point normal de transit pour les vols entre le Canada et Cuba.

Je vous serais reconnaissant de bien vouloir me faire connaître votre point de vue à ce sujet. Si la proposition vous agréée, il faudrait que M. MacPherson se mette en contact avec M. L.S. Clark, de notre Direction des affaires juridiques afin qu'on puisse mettre au point les dispositions requises pour qu'il fasse partie de la délégation.

Bien cordialement,

M. CADIEUX

M. Cadieux

M. Yves Pratte,
Président du Conseil d'administration
et Directeur général,
Air Canada,
Place Ville Marie
Montréal 113, Québec.

MESSAGE

7648 002-10

FM/DE	EXTEROTT	DATE	FILE/DOSSIER	SECURITY SECURITE
		JAN 21	42-8-9-3-1	CONFIDENTIAL
TO/A	HAVANA	NO		PRECEDENCE
		FLE-108		IMMEDIATE
INFO	MEXICO, WSHDC, PERMISNY			

REF YOURTEL 46 JAN20.

SUB/SUJ CDA-CUBA HIJACKING AGREEMENT.

IN ADDITION TO BISSONNETTE AND CLARK OF EXTERNAL, SOROKAN OF JUSTICE (AND ASSISTANT DEP MIN GILLES SICOTTE POSSIBLY MACPHERSON) DEL WILL INCLUDE/ ~~GENERAL~~ FROM DOT. ~~WILL ADVISE NAME~~ ~~WILL CONFIRMED~~. WE WOULD ALSO HOPE AMB WOULD BE AVAILABLE TO ASSIST DEL IF OTHER DUTIES PERMIT.

2. ESSENTIAL WE RECEIVE CONFIRMATION CUBANS PREPARED TO BEGIN NEGOTIATIONS FEB2 OR PRESENT TRAVEL PLANS (AND DISCUSSIONS IN MEXICO CITY) WILL HAVE TO BE CHANGED. SHOULD THIS DATE NOT BE CONVENIENT FOR CUBANS ADVISE SOONEST THEIR ALTERNATIVE PROPOSAL. ALSO CONFIRM MFA AGREEMENT TO POINT SET OUT OURTEL FLE-86 JAN16.

RECEIVED
JAN 26 1970
ASSISTANT DE MINISTRE
GENERAL DEPT. TRANSPORT

ENTERED
ON CARDS

DISTRIBUTION NO STD. M.BISSONNETTE, GLA, SOROKAN(JUSTICE), SICOTTE(DOT)
LOCAL/LOCALE

ORIGINATOR/REDACTEUR	DIVISION	TELEPHONE	APPROVED/AUTORISE
SIG..... L.S. Clark/oh	FLE- LEGAL DIV.	2-7738	P.A. BISSONNETTE
			SIG..... P.A. Bissonnette

ACTION COPY

FLE

C.C. ✓ Bissonnette / Sorokan
with detail one in the
to Bissonnette has signed

~~ADME~~
CONFIDENTIAL

DE HAVAN JAN20/70

A EXTER 46 IMMED

REF VOTRETEL FLE86 JAN19

ACCORD CANADO-CUBAIN SUR DETOURNEMENTS

JE CHERCHE DEPUIS UNE SEMAINE A OBTENIR CONFIRMATION OFFICIELLE DE
ROA QUI PASSE LE PLUS CLAIR DE SON TEMPS DANS LA CANNE A SUCRE SANS
AVOIR APPAREMMENT RECU LE FEU VERT DE FIDEL. COMME JE CROIS CONNAITRE
CE DERNIER LE RETARD NE METONNE AUCUNEMENT TANDIS QUE JE SERAIS BIEN
ETONNE SI LA NEGOCIATION ENVISAGEE MARCHAIT SELON LE PLAN EXPEDITIF
QUE VOUS AVEZ CONCU.

2. ENTRETEMPS ME CONFIRMER DURGENCE QUE LA DEL CDN SELON VOTRETEL
SOUS RUBRIQUE NE COMPRENDRAIT QUE TROIS MEMBRES FERMES (BISSENNETTE
CLARK ET SOROKAN) PLUS EVENTUELLEMENT MACPHERSON ALORS QUE VOTRETEL
FLE30 JAN8 PREVOYAIT QUATRE MEMBRES (BISSENNETTE OU BEESLEY TROIS
FONCTIONNAIRES DE JUSTICE TRANSPORT ET AFFAIRES EXTERIEURES) PLUS
EVENTUELLEMENT UN MEMBRE DE NOTRE AMBASSADE. MON INCERTITUDE RESULTE
DE L'AMBIGUITE DU MOT CIT INCLUE FINCIT APRES LA MENTION DE BISSENNETTE
COMME CHEF DE NOTRE DEL. L'INCLUSION EST-ELLE DE CARACTERE
EXCLUSIF?

MAYRAND

ENTERED
ON CARD

2/21/11

~~ADMG~~
~~ADMA~~
~~DC A~~
~~CAO~~
EXTERNAL AFFAIRS



AFFAIRES EXTERIEURES

602-10

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

SECURITY RESTRICTED
Sécurité

FROM
De The Canadian Embassy,
HAVANA, Cuba

DATE April 9, 1970

REFERENCE
Référence Your letter ECT 100 of February 16, 1970
(n) and your tel. ECT-255 of Feb 16/70

NUMBER
Numéro 231

SUBJECT
Sujet Rome Convention

TO: ECT
FROM: ACRL
J-10
APR 23 1970
ATTN: Miss Slezak

FILE	DOSSIER
OTTAWA 42-8-10-5	
MISSION	

ENCLOSURES
Annexes

1

DISTRIBUTION

cc. - with enclosure
ITPC (Aggie)
ATC
DOT (Suzette)
FLÉ
GLA
+ file
AS

Attached is an office translation of a memorandum sent by the Cuban Foreign Ministry in response to questions raised by us as suggested in your letter under reference. We have approached the MFA once again with respect to damages caused by foreign aircraft in Cuba and will forward this information when received.

W. M. T. W. W. W.
The Embassy.

RECEIVED
A.T.A.
MAY 21 1970

RECEIVED
MAY 25 1970
SYSTEMS SECURITY CENTER
GENERAL DEPT. OF DEFENSE

ENTERED
ON CARDS

(OFFICE TRANSLATION)

Republic of Cuba

MINISTRY OF EXTERNAL RELATIONS

3549

M E M O R A N D U M

It is informed to the (Honourable) Canadian Embassy, in answer to its Aide Memoire, that years ago Cubana de Aviación signed an insurance policy with the International Insurance Enterprise of Cuba (ESICUBA) which is re-insured in London, and which duly covers the requisites of part III of the Rome Convention relative to Damages Caused on the Surface by Foreign Aircraft.

Havana, March 26, 1970



ACTION REQUEST FICHE DE SERVICE

602-10

TO — À

Mr M.M. Fleming

DATE

Jan. 16/70.

LOCATION — ENDROIT

Air Services, Rm. 2107 - No. 3
Bldg.

FROM — DE

Gilles Sicotte, ADMG.

- | | |
|---|--|
| <input type="checkbox"/> ACTION
DONNER SUITE | <input type="checkbox"/> P. A. ON FILE
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| <input type="checkbox"/> DRAFT REPLY
PROJET DE RÉPONSE | <input type="checkbox"/> SIGNATURE |
| <input type="checkbox"/> MAKE
FAIRE.....COPIES | <input type="checkbox"/> TRANSLATION
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NOTER ET CLASSER | <input type="checkbox"/> YOUR REQUEST
À VOTRE DEMANDE |
| <input type="checkbox"/> NOTE & RETURN/OR FORWARD
NOTER ET RETOURNER/OU FAIRE SUIVRE | <input type="checkbox"/> |

WE SPOKE.

RECEIVED IN CAR

JAN 16 1970

000358

3. This Agreement is subject to and its provisions shall be read in conjunction with a treaty which was concluded on the 3rd day of October 1904, between His Majesty the King of the United Kingdom of Great Britain and His Excellency the President of the Republic of Cuba, for the extradition of criminals and which establishes procedures for extradition between the parties hereto; and a reference in this Agreement to the surrender of any person means his surrender for extradition by one party at the request of the other for an extraditable offence.

602-10

DRAFT AGREEMENT BETWEEN THE GOVERNMENT OF
CANADA AND THE GOVERNMENT OF CUBA CONCERNING
UNLAWFUL SEIZURE OF AIRCRAFT

THE GOVERNMENT OF CANADA AND
THE GOVERNMENT OF CUBA

Desiring to co-operate to their mutual benefit and to strengthen
the bonds of understanding and goodwill which now exist between them; and

Desiring to provide for the reciprocal extradition of persons
who have committed an act of unlawful seizure of aircraft,
HAVE AGREED AS FOLLOWS:

ARTICLE I

GENERAL

1. This Agreement applies in respect of acts committed on board civil
aircraft

(a) registered under the laws of either party, or

(b) operated under lease or charter by a person or persons
resident in or a corporation established under the laws
of either party;

and a reference in this Agreement to an aircraft of one party means a civil
aircraft so registered or operated.

2. In this Agreement unlawful seizure means an act of interference,
seizure or other wrongful exercise of control of an aircraft in flight through
force or the threat thereof or any other unlawful means of securing such
control contrary to the will of ^{the person in command} ~~those normally in charge~~ of the aircraft and

a reference to a person responsible therefore means the person or persons on
board the aircraft who is or are alleged to be responsible for such ^{unlawful seizure} ~~an act~~

3. ~~This Agreement and its provisions shall be read in conjunction with
any agreement with respect to extradition, heretofore or hereafter establishing
procedures for extradition between the parties as it then may apply and a
reference in this Agreement to the surrender of any person means his surrender
for extradition by one party at the request of the other for an offence made
extraditable by any agreement with respect to extradition.~~

1. The parties undertake to deliver up to each other in accordance with this Agreement any person or persons who, being accused or convicted of unlawful seizure committed in the territory of the one party, shall be found within the territory of the other party, and duly committed for extradition in accordance with the laws of the requested State governing extradition procedure.

ARTICLE II

OBLIGATION OF STATE OF LANDING OF UNLAWFULLY SEIZED AIRCRAFT

1. Where an aircraft of one party lands in the territory of the other after an act of unlawful seizure has been committed, ^{the party} ~~the party~~ ^{where} ~~in the territory of which~~ the aircraft lands shall immediately notify the diplomatic or consular representative of the other party.

2. The party in whose territory ^{an} ~~the~~ aircraft ^{which has been unlawfully seized} ~~of the other party~~ lands ~~after an act of unlawful seizure has been committed~~, shall, in accordance with its laws, take all reasonable means to apprehend the ^{or persons} ~~person~~ responsible ^{for such seizure} ~~thereof~~ and shall

(a) ^{inform} ~~advise~~ the other party of ^{the identity of any person apprehended} ~~any apprehension~~, of the ^{together with any other} ~~name of the person apprehended and of all~~ relevant ^{circumstances} information with respect to such apprehension and person; and

(b) allow duly authorized representatives of the other party to interview the person ^{or persons} ~~apprehended~~ for the purpose of securing additional information.

3. The party in whose territory ^{unlawfully seized} ~~an aircraft lands after an act of~~ ~~unlawful seizure has been committed~~, shall

(a) take all necessary measures to facilitate the continuation of the journey, without delay, of the passengers and crew aboard the aircraft and their possessions; and

(b) make ~~immediate~~ arrangements to ~~return or have~~ ^{the aircraft and its cargo} returned to the operator of the aircraft, with the least possible delay, ~~the aircraft and any cargo that it may be carrying.~~

ARTICLE III

SURRENDER OF PERSONS ALLEGED TO BE RESPONSIBLE FOR UNLAWFUL SEIZURE

1. ~~When an aircraft of one party has been unlawfully seized and a formal request is made, not later than sixty days after receipt of the notification required by Article II(1), the party in whose territory the~~

~~aircraft has landed, shall surrender the person alleged to be responsible for unlawful seizure, to the authorized representative of the other party for the purpose of conveying him within the jurisdiction of the requesting party in order that judicial proceedings may be taken against him.~~

2. A party may refuse to comply with a request for surrender made under this Agreement where it is determined by its Minister of Justice or such other authority as it designates to make the determination that

(a) the request for surrender, although purporting to be made in relation to unlawful seizure, is, in fact, made for the purpose of securing control over the person alleged to be responsible so that he may be prosecuted or punished on account of his race, religion, nationality or for an offence of a political character; or

(b) the person alleged to be responsible might, if surrendered, not receive a fair trial, or otherwise be placed in jeopardy, on account of his race, religion, nationality or political opinions; or

(c) at the time of the request, the person requested is liable to the death penalty for the offence ^{in respect of} ~~on~~ which the request for his surrender is based but the law of the requested party does not provide for the death penalty in a similar case.

3. ~~Neither party is obliged to surrender its own citizens to the other party.~~

4. The refusal of a party to surrender a person alleged to be responsible for unlawful seizure of an aircraft of the other party shall not limit in any way the right or duty of the party requested to surrender such person, to proceed against him in accordance with its own laws.

ARTICLE IV

COMING INTO FORCE, DURATION AND TERMINATION

1. This Agreement shall be ratified and the instruments of ratification shall be exchanged at Ottawa. The Agreement shall come into force thirty days after the date of the exchange of instruments of ratification.

2. Either of the Contracting Parties may terminate this Agreement at any time by giving notice to the other. In that event the Agreement shall cease to have effect six months after the receipt of the notice.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Agreement.

DONE in duplicate at Havana, this day of
one thousand nine hundred

FOR THE GOVERNMENT OF CANADA

.....

FOR THE GOVERNMENT OF CUBA

.....

DEPARTMENT OF TRANSPORT

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

ROUTE SLIP

BORDEREAU D'ACHEMINEMENT

TO: A:	me - Nom Mr. O. G. Stoner	Routing Symbol Symbole d'acheminement D. M.	Date <u>CONFIDENTIAL</u> January 16, 1970
RECEIVED JAN 16 1970 OFFICE OF THE DEPUTY MINISTER TRANSPORT			<input type="checkbox"/> Comment Observations
			<input type="checkbox"/> For your information Pour votre gouverne
			<input checked="" type="checkbox"/> Per our conversation Selon notre conversation
			<input type="checkbox"/> Approval Approbation
			<input type="checkbox"/> Discuss with me Discuter avec moi
			<input type="checkbox"/> Take appropriate action Prendre les mesures appropriées

REMARKS:

REMARQUES:

Herewith for your signature, if this is in order, a letter to External Affairs informing them officially that I will represent the Department in the negotiations at Havana.

I understand ^{from our conversation} you may be expecting a further word from External Affairs before despatching this.

FROM:
DE:

Gilles Sicotte

Routing Symbol
Symbole d'acheminement A.D.M.G.

GS/jv

602-10

CONFIDENTIAL

January 16, 1970.

Dear Mr. Cadieux:

Re: Canada-Cuba Agreement on Unlawful
Seizure of Aircraft

This will answer your letter of January 13 on this subject.

I note that the Secretary of State for External Affairs has authorized negotiations with the Cuban Government for a bilateral agreement and that you are making arrangements for a delegation to proceed to Havana on or about February 2. You may inform the Cuban authorities that the representative of this Department on the delegation will be Mr. Gilles Sicotte, Assistant Deputy Minister General.

Mr. Sicotte is in touch with Mr. Clark of your Legal Division in regard to his travel arrangements, as you have suggested.

Yours sincerely,

Original Signed by

O. G. STONER

O. G. Stoner.

Mr. M. Cadieux,
Under-Secretary of State for
External Affairs,
East Block,
Ottawa, Ontario.

cc. Mr. L. S. Clark, EA

602-10

ECT → DOT (Sibley)

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

FM MXICO JAN13/70

TO EXTER 24

INFO TT WSHDC DE OTT HAVAN DE WDC

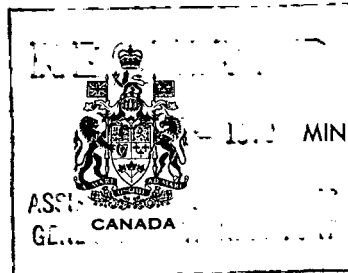
REF OURTEL 3 DEC31 HAVAN TEL 23 JAN12

CDA-CUBA AIR SERVICE AND PROPOSED HIJACKING AGREEMENT

SINCE WE HAVE IN PAST BEEN CLOSE TO MXICANS ON BOTH FOREGOING
SUBJECTS, WE SHOULD LIKE TO PASS GIST OF LATEST DEVELOPMENTS ON
TO THEM IN CONFIDENCE AT APPROPRIATE SENIOR LEVEL. GRATEFUL FOR
YOUR CONCURRENCE.

ENTERED
ON CARD

DEPARTMENT OF EXTERNAL AFFAIRS



MINISTÈRE DES AFFAIRES EXTÉRIEURES

602-10

CONFIDENTIAL

OTTAWA, January 13, 1970

DM
ADME - will you attend meeting?
I did
ss

Mr. O.G. Stoner,
Deputy Minister,
Department of Transport,
Ottawa, Ontario.

Canada-Cuba Agreement on Unlawful Seizure of Aircraft

This will refer to previous correspondence between our two Departments and recent discussions between your Assistant Deputy Minister (General), Mr. G. Sicotte, and Mr. L.S. Clark of our Legal Division on the above subject.

The Secretary of State for External Affairs has now authorized us to enter into negotiations with the Cuban Government with a view to concluding a bilateral hijacking agreement. We are now in the process of making arrangements to have these negotiations take place in Havana the week of February 2; while we are not yet in a position to say, we are hopeful that they will not take more than one week to conclude. We expect that the Assistant Under-Secretary of State for External Affairs and Legal Adviser, Mr. P.A. Bissonnette, will head the Canadian Delegation, assisted by Mr. Clark. In addition, as recommended by the Inter-Governmental Committee on Hijacking, we would be pleased to have an officer from your Department and one from the Department of Justice as members of the Delegation. Since it will be necessary to inform the Cuban authorities of the composition of our Delegation at an early date, we should be grateful if you would advise us as soon as possible of the name of the officer who will represent the Department of Transport. That officer should then contact Mr. Clark (telephone 2-7738) in order to co-ordinate travel plans so that all members of the Delegation will arrive in Havana at the same time.

A meeting of the members of the Delegation will take place on Thursday, January 15, at 3 p.m. in Mr. Bissonnette's office (East Block, Room 277). At that time the draft agreement prepared by our Legal Division and approved in principle by the Inter-Governmental Committee will be reviewed, and other matters pertaining to the negotiations will be discussed. It would be appreciated if you would ensure that the officer from your Department who will be on the Delegation is present at that meeting.

RECEIVED

OFFICE OF THE
DEPUTY MINISTER
TRANSPORT

W. Minors
for the Under-Secretary of State
for External Affairs.

FOR INFORMATION
R INFORMATION

SECURITY - SÉCURITÉ

CONFIDENTIAL

DATE

January 12

TO - À

Mr. G. Sicotte

☐ RETAIN
CONSERVER

☐ RETURN
RETOURNER

☐ FORWARD TO
FAIRE SUIVRE À

☐ DESTROY
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CLASSER

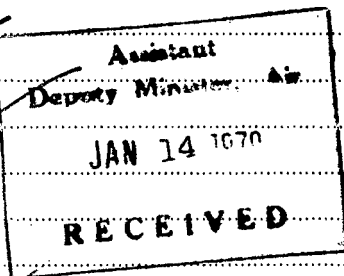
JAN 14 1970

For your information.

~~ADMG~~

~~ADMA~~

~~DOA~~
~~1000~~



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

D. HAVAN JAN12/70

A EXTER 23 PRIORITE

INFO WSHDC TT MXICO PRMNY DE OTT

REF VOTRETEL FLE30 JAN8

ACCORD CANADO-CUBAIN SUR LES DETOURNEMENTS D'AVIONS

ROA A QUI J'AVAIS ENVOYE LES RENSEIGNEMENTS DE VOTRETEL SOUS
RUBRIQUE LE VEN 9 MA RECU LE LENDEMAIN POUR ME DONNER SON
OPINION PERSONNELLE SAVOIR QUE LE GOUVT CUBAIN ACCEPTERA DE
COMMENCER LES NEGOCIATIONS AU DEBUT DE FEV ET QU'IL DESIGNERA
UNE DEL DE RANG ET DE NOMBRE EQUIVALENTS A LA NOTRE. ENCORE A
SON AVIS LE GOUVT CUBAIN ACCEPTERA D'ENTAMER LA DISCUSSION A
PARTIR DU TEXTE QUE NOUS AVONS SOUMIS LE DEC3 QUOIQU'AVEC LA
FACULTE D'INTRODUIRE ENSUITE UN CONTREPROJET.

2. ROA TOUTEFOIS ESTIME QU'IL SERAIT LOGIQUE QUE LES NEGOCIATIONS
AIENT LIEU A LA HAVAN PLUTOT QU'A OTT VU QUE C'EST NOUS QUI LES
AVONS SOLLICITEES, COMME CE FUT LE CAS AVEC LE MXIQUE. MA SUGGES-
TION QU'OTT POURRAIT OFFRIR DES AVANTAGES D'ORDRE PRATIQUE PAR-
TICULIERS VU SA PROXIMITE DU SIEGE DE LOACI NE LA AUCUNEMENT
EBRANLE. IL A FINALEMENT EMIS L'IDEE QUE NOUS POURRIONS NEGOCIER A
LA HAVAN ET SIGNER A OTT.

3. IL MA PROMIS UNE REPONSE OFFICIELLE ECRITE AU PLUS TARD
MAR(DEMAIN) APRES QU'IL AURA VU LE PRESIDENT DORTICOS

RECEIVED IN CAR

MAYRAND

JAN 22 1970

ENTERED
CARDS

2088



Mr. G. Sicotte - DOT

602-10

WITH THE COMPLIMENTS OF

THE UNDER-SECRETARY OF STATE

FOR EXTERNAL AFFAIRS

ENTERED
ON CARD

OTTAWA


L. S. CLARK

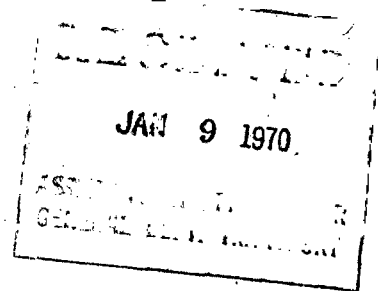
CANADA
000373

~~ADM.~~
~~ADMA~~
~~DOT~~
~~10/10/03~~

000374

CONFIDENTIAL

January 5, 1970

MEMORANDUM FOR THE MINISTERCanada-Cuba Agreement on
Unlawful Seizure of Aircraft

Because of the concern at the increasing frequency of acts of aircraft hijacking to Cuba and following representations from Air Canada, early in 1969 we informally raised with the Cuban Foreign Ministry the question of concluding a bilateral hijacking agreement. At that time the Cubans were engaged in discussions with Mexico on this subject (these are now in limbo as a result of Cuban reluctance to return the hijackers of Cuban ships to Mexico), and they indicated to us that they would be willing to begin formal negotiations with Canada towards an agreement. The Foreign Ministry officials with whom our Embassy in Havana discussed the question gave their assurance that pending such a bilateral agreement, no difficulties would be placed in the way of releasing the aircraft, passengers and crew and extraditing a non-Cuban hijacker to Canada for prosecution, in the event a Canadian registered aircraft was hijacked to Cuba.

Our Legal Division then proceeded to draw up a draft hijacking agreement and, after consultations with representatives of the Departments of Transport and Justice, an agreed version (copy attached) was forwarded to our Embassy in Havana for transmission to the Cuban Foreign Ministry. A covering Note advised that the draft was being submitted as a basis for discussion and that Cuban observations and comments would be welcome.

On December 29 our Ambassador in Havana was called in by the Foreign Minister (copy of telegram 1310 attached) and informed that Cuba was ready to begin negotiations and would like to know (a) who would head the Canadian Delegation for this purpose and (b) when Canada would wish negotiations to commence. It is evident that, in conformity with previous discussions concerning this matter, the Foreign Minister was assuming that the talks would take place in Havana. Given this and the fact that it was Canada which initially sought to open discussions on a hijacking treaty, we should be prepared to accept if the Cubans are firm in their desire to host the negotiations. Nevertheless, because of the financial and personnel implications, I am of the opinion that we should offer to hold the talks in Ottawa.

.....2

RECEIVED IN CAR

JAN 22 1970

- 2 -

In consultation with the Departments of Transport and Justice, it has been agreed that the Canadian Delegation should be headed by a senior officer of this Department and include officials familiar with this subject from each of the three Departments concerned, and possibly a representative of our Embassy in Havana. Air Canada has also proposed that their General Counsel, Mr. Ian MacPherson, be attached to the Delegation as an adviser (as was the case when he attended the Tokyo Conference on Crimes on Board Aircraft in 1963). This proposal is at present under study by the Department of Transport, which should shortly be in a position to make a recommendation. If it is decided to include Mr. MacPherson on the Canadian Delegation, we should ask for Cuban concurrence since they may then decide to appoint a representative of Cubana Airlines on their Delegation.

As you are aware, the ICAO Legal Committee is scheduled to meet in Montreal early in March to consider the draft Convention on Unlawful Seizure of Aircraft which has been prepared by a Special Subcommittee. It would be useful if agreement could be reached with Cuba on a bilateral treaty before the Legal Committee meeting - at which it is expected that Canada will play an active role - approves the draft multilateral Convention. Accordingly, and in view of the fact that the Cubans have indicated their desire to open negotiations as soon as possible, the end of January or beginning of February could be suggested as an appropriate time. With the acceptance of our draft agreement as the basis for discussions, the groundwork has already been laid and I would expect that the negotiations should take only one or two weeks.

I therefore recommend that our Ambassador in Havana be authorized to advise the Cubans (1) that Canada is prepared to enter into formal negotiations on a bilateral agreement on unlawful seizure of aircraft; (2) that the end of January or early February would be a convenient time for the negotiations to take place; (3) that Canada would be pleased to host the negotiations in Ottawa; and (4) the Canadian Delegation will be headed by the Assistant Under-Secretary of State for External Affairs and Legal Adviser, Mr. P.A. Bissonnette, or the Head of the Legal Division, Mr. J.A. Beesley, and will include three officials from the Departments of Transport, Justice and External Affairs and possibly a representative of our Embassy in Havana. Attached for your signature, if you agree, is a telegram to Havana setting out these instructions.

HB R

M.C.

MESSAGE

FM/DE	EXTER OTT	DATE	FILE/DOSSIER	SECURITY
		JAN 5	42-8-9-3-1	SECURITE
				CONFIDENTIAL
TO/A	HAVANA	NO		PRECEDENCE
		FLE-30		ROUTINE
INFO	WSHDC, MEXICO, PERMISNY			

REF OURTEL 1410 DEC31/69 AND YOURTEL 1310 DEC29/69.

SUB/SUJ CDA-CUBA HIJACKING AGREEMENT.

GRATEFUL YOU ADVISE FM THAT (1) CDA PREPARED TO ENTER INTO FORMAL NEGOTIATIONS ON BASIS OF DRAFT AGREEMENT FORWARDED TO THEM BY YOU DEC3/69; (2) END OF JAN OR, PREFERABLY, EARLY FEB WOULD BE CONVENIENT TIME; (3) CDA WOULD BE PLEASED TO HOST NEGOTIATIONS IN OTT; (4) CDN DEL WILL BE HEADED BY ASST USSEA AND LEGAL ADVISER P.A. BISSONNETTE OR HEAD OF LEGAL DIV J.A. BEESLEY, 3 OFFICERS FROM DEPTS OF JUSTICE, DOT AND EXT AFF RESPECTIVELY AND POSSIBLY REP FROM EMB.

2. PROPOSAL RE TIMING OF NEGOTIATIONS INFLUENCED BY FACT ICAO LEGAL CTTEE TO MEET IN MTL EARLY MARCH TO CONSIDER DRAFT CONVENTION ON UNLAWFUL SEIZURE OF AIRCRAFT PREPARED BY SPECIAL SUBCTTEE. IT WOULD BE USEFUL IF AGREEMENT COULD BE REACHED WITH CUBA BEFORE DRAFT MULTILATERAL TREATY APPROVED BY CTTEE.

3. FOR YOUR INFO: ALTHOUGH FOR FINANCIAL AND PERSONNEL REASONS WE ARE OFFERING TO HOST TALKS IN OTT, WE RECOGNIZE YOUR EARLIER DISCUSSIONS WITH CUBANS BASED ON LIKELIHOOD NEGOTIATIONS WOULD TAKE PLACE IN HAVANA.

...2

DISTRIBUTION NO STD. GLA - L.A.DIV. SICOTTE - DOT
LOCAL/LOCALE OUN - U.N.DIV. SOROKAN - JUSTICE

ORIGINATOR/REDACTEUR	DIVISION	TELEPHONE	APPROVED/AUTORISE
SIG..... L.S. Clark/oh	FLE - LEGAL	2-7738	SIG..... M. Sharp

-2-

ACCORDINGLY SHOULD CUBANS SPECIFICALLY INDICATE PREFERENCE FOR HAVANA WE
WOULD ACCEPT.

4. ADVISE REACTION SOONEST.

SHARP

FLÉ

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

FM HAVAN DEC29/69

TO EXTER 1310 PRIORITE

INFO WSHDC TT MXICO PRMNY DE OTT

REF VOTRE TEL L1243 DU NOV18

PROJET D'ACCORD CDA-CUBAIN SUR LES DETOURNEMENTS D'AVIO S

LE MINISTRE CUBAIN DES RELATIONS EXTERIEURES MA CONVOQUE CE
MATIN POUR MAVISER QUE LE GOUVT CUBAIN EST PRET A ENTREPRENDRE
DES DISCUSSIONS EN VUE D'UN ACCORD BILATERAL SUR LES DETOURNEMENTS.
ROA DESIRE QUE JE LUI FASSE SAVOIR OFFICIELLEMENT: (A) QUI SERA
CHARGE DES NEGOCIATIONS DU COTE CDN ET (B) QUAND NOUS DESIRONS
COMMENCER. IL NE MA PAS CACHE QUE LA DECISION CUBAINE DE NEGOCIER
LUI A ETE TRANSMISE DIRECTEMENT PAR FIDEL CASTRO ET QUE CELUI-701
SEMBLE DESIREUX D'ABOUTIR RAPIDEMENT.

2. J'ATTENDS DONC VOTRE REPONSE AUX DEUX QUESTIONS CI-DESSUS AINSI
QUE TOUTES DIRECTIVES QUE VOUS JUGEREZ UTILE DE ME DONNER A CE
STADE PRELIMINAIRE

MAYRAND

07
ADMG
ADMA - to see
DEACAR
1-CAO-02

Assistant
Deputy Minister, Air

JAN 2 1970

RECEIVED

SICOTTE (DOT)

602-10

8867

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

FM HAVAN DEC29/69

TO EXTER 1310 PRIORITE

INFO WSHDC TT MXICO PRMNY DE OTT

REF VOTRE TEL L1243 DU NOV18

PROJET DACCORD CDA-CUBAIN SUR LES DETOURNEMENTS DAVIO S

LE MINISTRE CUBAIN DES RELATIONS EXTERIEURES MA CONVOQUE CE

MATIN POUR MAVISER QUE LE GOUVT CUBAIN EST PRET A ENTREPRENDRE

DES DISCUSSIONS EN VUE DUN ACCORD BILATERAL SUR LES DETOURNEMENTS.

ROA DESIRE QUE JE LUI FASSE SAVOIR OFFICIELLEMENT:(A)QUI SERA

CHARGE DES NEGOCIATIONS DU COTE CDN ET(B)QUAND NOUS DESIRONS

COMMENCER.IL NE MA PAS CACHE QUE LA DECISION CUBAINE DE NEGOCIER

LUI A ETE TRANSMISE DIRECTEMENT PAR FIDEL CASTRO ET QUE CELUI-7CI

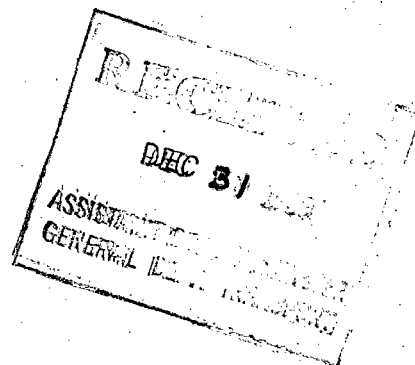
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DE TOUTES DIRECTIVES QUE VOUS JUGEREZ UTILE DE ME DONNER A CE

STADE PRELIMINAIRE

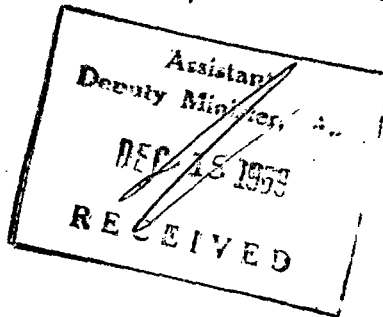
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DLO
19/12

FLE/ L.S. Clark/ oh

File
Diary
Div. Day



602-10

RESTRICTED

December 9, 1969

FLE-1339

Canadian Embassy, HAVANA, Cuba.

Under-Secretary of State for External Affairs,
OTTAWA.

Your Telegram 1258 of December 5, 1969.

Canada-Cuba Agreement on Unlawful Seizure of Aircraft.

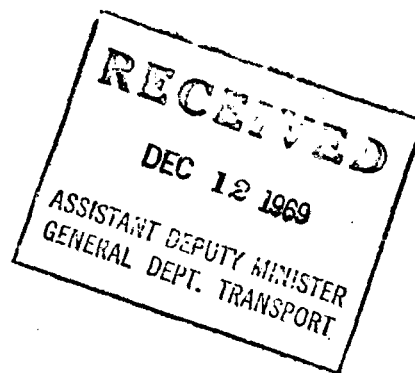
42-8-9-3-1

We should be grateful for a copy of the Spanish text as transmitted
to the Cuban Foreign Ministry.

Mr. G. Sicotte
DOT

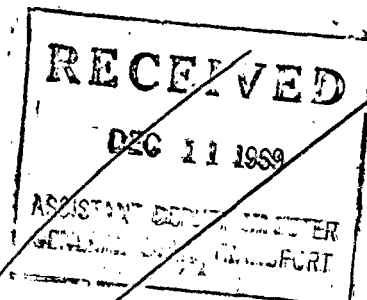
J. A. BEESLEY

Under-Secretary of State
for External Affairs.



RECEIVED IN CAR

DEC 16 1969



DEPARTMENT OF TRANSPORT
ROUTE SLIP

MINISTÈRE DES TRANSPORTS
BORDEREAU D'ACHEMINEMENT

Name - Nom <u>COPY</u>		Routing Symbol Symbole d'acheminement	Date Dec. 2/69
TO: A: Mr. L.S. Clark,			<input type="checkbox"/> Comment Observations
Legal Division			<input checked="" type="checkbox"/> For your information Pour votre gouverne
Dept. of External Affairs,			<input type="checkbox"/> Per our conversation Selon notre conversation
520 Daly Building.			<input type="checkbox"/> Approval Approbation
OTTAWA, Ontario.			<input type="checkbox"/> Discuss with me Discuter avec moi
			<input type="checkbox"/> Take appropriate action Prendre les mesures appropriées

REMARKS:

REMARQUES:

I am quite sure that you must have considered the definition of "in flight" carefully before using it here. However, Mr. Fleming (2-7091) may be interested in having your advice on this point.

FROM:
DE:

Gilles Sicotte

Routing Symbol
Symbole d'acheminement
A.D.M.G.



TO
A

MEMORANDUM

CLASSIFICATION
CONFIDENTIAL

YOUR FILE No.
Votre dossier

OUR FILE No. 602-10 (CAR)
Notre dossier 6268

DATE November 25, 1969

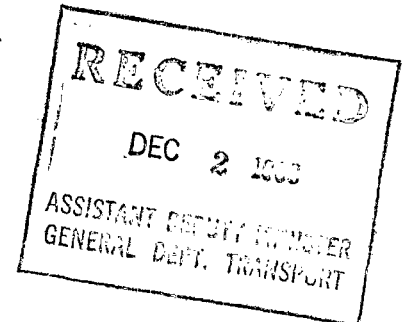
FROM
De

C.A.R.

FOLD

SUBJECT
Sujet

Draft Bilateral Agreement between Canada and Cuba -
Unlawful Seizure of Aircraft



1. I have examined the marginally-noted draft and find only one flaw therein. In the second line of paragraph 2 of Article I, the words "in flight" are used. This would, of course, limit the application of the Agreement to incidents which occurred after an aircraft "proceeded to take off under its own power".

2. While the draft as it now stands would cover most of the cases one could visualize, it would be preferable, I think, if we could arrange for inclusion of the phrase "while on board" either as a substitute for "in flight" or as an addition to "in flight". There may be legal reasons why this cannot be done but certainly it should be attempted if this omission was an oversight.

I think there are in fact. and it. off. of must have taken into them of

RECEIVED

DEC 1 1969

OFFICE OF THE
DEPUTY MINISTER
TRANSPORT

M. M. Fleming
M. M. Fleming,
Chief, Flight Standards and
Regulations Division.

MMF:MLL

*Copy to Clark (St. Glens)
Dec 2/69*

MESSAGE

FM/DE	EXTEROTT	DATE	FILE / DOSSIER	SECURITY SECURITE	
		NOV 13	42-8-9-3-1	CONFIDENTIAL	
TO/A			NO	PRECEDENCE	
			L-1243	ROUTINE	
INFO			WSHDC, MEXICO, PERMISNY		

REF YOURTEL 1177 NOV.7

SUB/SUJ PROPOSED CDA-CUBA UNLAWFUL SEIZURE OF AIRCRAFT AGREEMENT.

ENGLISH TEXT OF PROPOSED AGREEMENT GOING FORWARD BY BAG. GRATEFUL YOU ARRANGE FOR HIGH QUALITY TRANSLATION AND TRANSMIT ENGLISH AND SPANISH TEXTS TO MFA. COVERING NOTE SHOULD INDICATE TEXT BEING SUBMITTED AS BASIS FOR DISCUSSION AND CUBAN OBSERVATIONS AND SUGGESTIONS WELCOME.

2. FOR YOUR INFO: TEXT PREPARED IN LIGHT OF CDN EXTRADITION ACT AND EXISTING BILATERAL EXTRADITION TREATY. HOWEVER SHOULD DEPT OF JUSTICE'S FURTHER CONSIDERATION OF RELATIONSHIP BETWEEN DRAFT AND CURRENT EXTRADITION ARRANGEMENTS INDICATE THIS NECESSARY, WE MIGHT WISH TO INTRODUCE SLIGHT MODIFICATIONS DURING NEGOTIATION STAGE. WHEN CUBAN REACTION RECEIVED WE SHALL CONSIDER MANNER IN WHICH NEGOTIATIONS WILL BE CARRIED OUT.

CADIEUX

DISTRIBUTION
LOCAL/LOCALE

NO STD. L.A. DIV., PRESS OFFICE, DOJ, DOT, MR.MCGILL

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SIG..... L.S. Clark/oh	LEGAL	2-7738	M. CADIEUX SIG..... M. CADIEUX

000385

DRAFT AGREEMENT BETWEEN THE GOVERNMENT OF
CANADA AND THE GOVERNMENT OF CUBA CONCERNING
UNLAWFUL SEIZURE OF AIRCRAFT

THE GOVERNMENT OF CANADA AND

THE GOVERNMENT OF CUBA

Desiring to co-operate to their mutual benefit and to strengthen
the bonds of understanding and goodwill which now exist between them; and

Desiring to provide for the reciprocal extradition of persons
who have committed an act of unlawful seizure of aircraft,

HAVE AGREED AS FOLLOWS:

ARTICLE I

GENERAL

1. This Agreement applies in respect of acts committed on board civil
aircraft

- (a) registered under the laws of either party, or
- (b) operated under lease or charter by a person or persons
resident in or a corporation established under the laws
of either party;

and a reference in this Agreement to an aircraft of one party means a civil
aircraft so registered or operated.

2. In this Agreement unlawful seizure means an act of interference,
seizure or other wrongful exercise of control of an aircraft in flight through
force or the threat thereof or any other unlawful means of securing such
control contrary to the will of those normally in charge of the aircraft and
a reference to a person responsible therefore means the person or persons on
board the aircraft who is or are alleged to be responsible for such an act.

3. This Agreement and its provisions shall be read in conjunction with
any agreement with respect to extradition, heretofore or hereafter establishing
procedures for extradition between the parties as it then may apply and a
reference in this Agreement to the surrender of any person means his surrender
for extradition by one party at the request of the other for an offence made
extraditable by any agreement with respect to extradition.

ARTICLE II

OBLIGATION OF STATE OF LANDING OF UNLAWFULLY SEIZED AIRCRAFT

1. Where an aircraft of one party lands in the territory of the other after an act of unlawful seizure has been committed, the party in the territory of which the aircraft lands shall immediately notify the diplomatic or consular representative of the other party.
2. The party in whose territory the aircraft of the other party lands after an act of unlawful seizure has been committed, shall, in accordance with its laws, take all reasonable means to apprehend the person responsible therefore and shall
 - (a) advise the other party of any apprehension, of the name of the person apprehended and of all relevant information with respect to such apprehension and person; and
 - (b) allow duly authorized representatives of the other party to interview the person apprehended for the purpose of securing additional information.
3. The party in whose territory an aircraft lands after an act of unlawful seizure has been committed, shall
 - (a) take all necessary measures to facilitate the continuation of the journey, without delay, of the passengers and crew aboard the aircraft and their possessions; and
 - (b) make immediate arrangements to return or have returned to the operator of the aircraft, with the least possible delay, the aircraft and any cargo that it may be carrying.

ARTICLE III

SURRENDER OF PERSONS ALLEGED TO BE RESPONSIBLE FOR UNLAWFUL SEIZURE

1. When an aircraft of one party has been unlawfully seized and a formal request is made, not later than sixty days after receipt of the notification required by Article II(1), the party in whose territory the

aircraft has landed, shall surrender the person alleged to be responsible for unlawful seizure, to the authorized representative of the other party for the purpose of conveying him within the jurisdiction of the requesting party in order that judicial proceedings may be taken against him.

2. A party may refuse to comply with a request for surrender made under this Agreement where it is determined by its Minister of Justice or such other authority as it designates to make the determination that

- (a) the request for surrender, although purporting to be made in relation to unlawful seizure, is, in fact, made for the purpose of securing control over the person alleged to be responsible so that he may be prosecuted or punished on account of his race, religion, nationality or for an offence of a political character; or
- (b) the person alleged to be responsible might, if surrendered, not receive a fair trial, or otherwise be placed in jeopardy, on account of his race, religion, nationality or political opinions; or
- (c) at the time of the request, the person requested is liable to the death penalty for the offence on which the request for his surrender is based but the law of the requested party does not provide for the death penalty in a similar case.

3. Neither party is obliged to surrender its own citizens to the other party.

4. The refusal of a party to surrender a person alleged to be responsible for unlawful seizure of an aircraft of the other party shall not limit in any way the right or duty of the party requested to surrender such person, to proceed against him in accordance with its own laws.

ARTICLE IV

COMING INTO FORCE, DURATION AND TERMINATION

1. This Agreement shall be ratified and the instruments of ratification shall be exchanged at Ottawa. The Agreement shall come into force thirty days after the date of the exchange of instruments of ratification.

2. Either of the Contracting Parties may terminate this Agreement at any time by giving notice to the other. In that event the Agreement shall cease to have effect six months after the receipt of the notice.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Agreement.

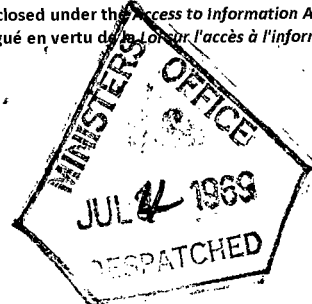
DONE in duplicate at Havana, this day of ,
one thousand nine hundred .

FOR THE GOVERNMENT OF CANADA

.....

FOR THE GOVERNMENT OF CUBA

.....



July 3, 1969

602-10

Mr. Henry S. Rosenberg, Q.C.,
119 York Street,
Toronto,
Ontario.

Dear Mr. Rosenberg:

On behalf of Mr. Jamieson
I wish to acknowledge receipt of a copy of your
letter of June 30 to the Editor of the Toronto Star
in which you indicate your concern over the lack of
action to prevent the hijacking of passenger aircraft
to Cuba.

Having carefully noted the points
raised in your letter we would hesitate to agree that
the Airline officials and travelling public are
unconcerned with this problem. Your letter is,
however, being brought to the attention of the
appropriate officials so that your comments may
receive due consideration.

The Minister very much appreciates
your interest in this matter.

Yours very truly,

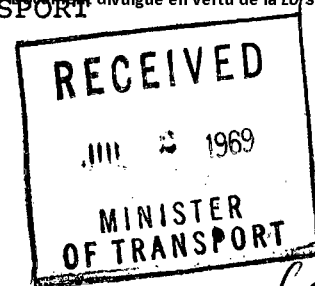
R. M. Ross,
Special Assistant.

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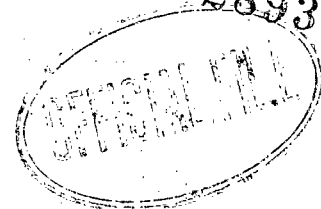
JUL 4 1969

OFFICE OF THE
DEPUTY MINISTER
TRANSPORT.

HENRY S. ROSENBERG, Q.C.
119 YORK STREET
TORONTO CANADA



June 30th , 1969

602-10
2893

The Editor
The Toronto Star,
80 King St. West
TORONTO 1.

Dear Sir:

It is time that something is done about the hijacking of planes before a serious accident causes loss of lives.

I cannot understand why everybody seems to be so unconcerned about the situation. If the organization of the pilots, or the organization of the airplane companies wanted to stop hijacking, they could do it very quickly. All they need do is to say to Cuba, "Whenever a hijacker comes to your country, you must arrest him and return him to the country he came from." If Cuba refuses to do this, then the airplane companies should refuse to fly planes into Cuba. Cuba receives no planes from the U.S. but it receives many planes from Canada, from England, from Europe and from South America. The country would be in a very bad way without them, and if the airplane companies made a concerted effort, they could force Cuba to agree to these terms.

I am not so sure that there is not legal liability on the part of an airplane company for negligence if they were sued by someone who lost time as a result of hijacking, and did not arrive where the airplane company agreed to deliver him within a certain time. The loss of time is definitely as a result of the negligence of the airplane company. One of these days there will be a lot of damage actions as a result of fatalities if something isn't done at once.

Yours sincerely,

A handwritten signature in cursive script that reads "Henry S. Rosenberg".

HSR:R

A rectangular stamp with the text "ENTERED ON CARD" and the number "000392" at the bottom.

FOR ACTION
POUR CONSIDÉRATION
IMMÉDIATE

SECURITY - SÉCURITÉ

DATE

May 27, 1969

TO - À

Mr. C. Sicotte, Dept. of Transport

☐ SIGNATURE

☐ SEE ME
ME VOIR

☐ DRAFT REPLY
PROJET DE RÉPONSE

☐ COMMENTS
COMMENTAIRES

RECEIVED

MAY 29 1969

MINISTER
DE TRANSPORT

L. S. CLARK

SIGNATURE

000393

Legal Division/L.S.Clark/oh

602-10

TENTATIVE AGENDA FOR INTER-DEPARTMENTAL MEETING
ON CANADA-CUBA AGREEMENT ON
UNLAWFUL SEIZURE OF AIRCRAFT AND RELATED MATTERS
ROOM 400, HUNTER BLDG., 2 PM., MAY 30, 1969

I - HIJACKING

- a) Report on recent correspondence with Canadian Embassy in Havana - External Affairs representatives.
 - (1) Status of Cuba-Mexico Agreement;
 - (2) Prospects for Canada-Cuba Agreement.
- b) Comments on revised draft Canada-Cuba Agreement - Department of Justice representatives;
Comments - Department of Transport representatives;
Comments - International Transport Policy Committee representatives.

II- TOKYO CONVENTION ON OFFENSES AND CERTAIN OTHER ACTS COMMITTED ON BOARD AIRCRAFT.

- a) Discussion of questions to be resolved prior to Canadian ratification - External Affairs and Department of Justice representatives.

III- Report on IATA Rome Conference - Mr. I. McPherson of Air Canada.

IV- Discussion of Canada-Cuba Agreement with Mr. McPherson.

V- Discussion of Tokyo Convention with Mr. McPherson.

Meeting held

.....

602-10
5214-76

Ottawa, May 21, 1969

Mr. G. Morisset, Chairman,
International Transport Policy Committee,
Canadian Transport Commission,
ConGill Building - 275 Slater Street,
Ottawa, Ontario

Re: Hijacking

Dear Mr. Morisset,

The General Counsel for Air Canada, Mr. Ian McPherson, called me today, on his return from Rome where he has attended an I.A.T.A. Meeting. Mr. McPherson is anxious to report to us on this meeting and to review with the officials concerned such questions as the ratification of the Tokyo Convention, as we have done in the past from time to time.

For this purpose we have set Friday, May 30 as the date for a meeting to be held in Room 400, Hunter Building. It is intended that the Government officials concerned should meet at 2 o'clock, it being understood that Mr. McPherson will join the group at 2.30.

I should be obliged if you could ask the persons usually concerned with these matters to participate in our meeting. I am sending a copy of this letter to officials concerned in Government departments, in the hope that they will attend or be represented at our meeting, for which Mr. McPherson is making a special trip from Montreal.

Yours sincerely,

Original Signed by
GILLES SICOTTE
Gilles Sicotte

cc. Assistant Counsel, C.A.R., L. S. Clark, EA, E. R. Olson & T. B. Smith
(Justice), J. O. Parry, EA

000395

GS/jv

602-10

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

Ottawa, May 12, 1969.

Mr. Ian E. McPherson,
General Counsel,
Air Canada,
Place Ville Marie,
Montreal 2, Quebec.

Dear Ian:

Re: Tokyo Convention

Mr. Stoner has passed on to me your letter of May 2 on this subject, and I note that Air Canada remains very anxious that the Convention be ratified as soon as possible.

The departments concerned are still engaged in their review of this matter, but I am hopeful that External Affairs may soon be able to recommend ratification to ministers, without waiting for any prior legislative amendments. At any rate, they are in close touch with Justice.

Your remark about the effectiveness of the recent resolution of the ICAO Council on the investigation of hijacking incidents reflects, I may say, my own feelings, and I suspect that all of us who have been working on this problem in Ottawa would be of the same mind. Given the forum involved, however, I think it is probably the best text that could have been accepted on a reasonably broad basis (as you know the overwhelming majority of the Council adopted the resolution).

I think you will be encouraged to know that External Affairs is working quite actively on their proposed arrangements with Cuba for a bilateral agreement to deal with cases of hijacking. It may be that a text, the substance of which is currently being delineated, may be ready soon for presentation by our Ambassador to the Cubans. Should you come to Ottawa sometime, I would be glad to try and line up a little meeting in which the principles incorporated in this proposed instrument could be reviewed with you.

Yours sincerely,

Original Signed by
GILLES SICOTTE

Gilles Sicotte.

2 THIS COPY FOR D.D.A.



CANADA

DEPARTMENT OF TRANSPORT
MINISTÈRE DES TRANSPORTS

PA
YOUR FILE
VOTRE RÉF:

IN REPLY QUOTE
RÉF. À RAPELER

5211-276

602-10

May 9, 1969.

MEMORANDUM TO THE DEPUTY MINISTER

Re: Tokyo Convention

You have asked for my comments on Ian McPherson's letter of May 2 on this subject.

Mr. McPherson's expression of hope "that the view of the Department of Justice will prevail" in this matter obviously refers to your indication, in the March 20 letter (bottom of page 1), that that Department had taken the view that External Affairs could ratify the Tokyo Convention now without waiting for the enactment of implementing legislation.

Since my memo of March 18, the departments concerned have continued their review of this matter. It appears now that, subject to written concurrence from Justice, External Affairs might be prepared to recommend to ministers ratification of the convention without any prior legislative amendments.

Mr. McPherson's second paragraph expresses doubt on the efficacy of the recently adopted ICAO resolution for the investigation of hijacking incidents. I think, perhaps, we all share his skepticism, but no doubt the resolution was the best that could have been obtained by consensus in the ICAO Council.

For your information I should report that External Affairs are proceeding quite actively - in consultation with us and other departments concerned - with their project for an agreement with Cuba on the unlawful seizure of aircraft. The principles to be incorporated in such bilateral instrument are under discussion and should be ready soon for presentation by our Ambassador to the Cubans. This initiative, I think, if successful, should be a very useful one insofar as Canada is concerned. I don't think, however, that we are yet in a position to give Ian McPherson any new hard information.

If you have no objection, I shall send a copy of Ian McPherson's letter to the other officials concerned in Ottawa for information.


Gilles Sicotte.

AIR CANADA

PLACE VILLE MARIE, MONTREAL 2, CANADA

IAN E. MCPHERSON
GENERAL COUNSEL
CONSEILLER JURIDIQUE GENERAL

May 2, 1969

Mr. O.G. Stoner
Deputy Minister of Transport
Hunter Building
Ottawa, Ontario

Re: Tokyo Convention

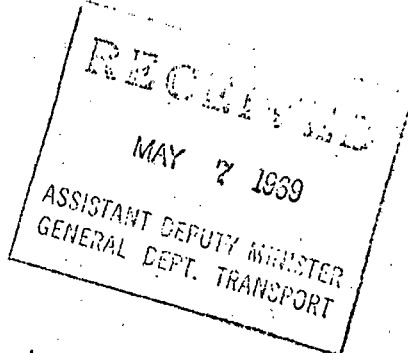
Dear Mr. Stoner:

This refers to your letter of March 20th. We, of course, are still most anxious that Canada ratify the Tokyo Convention as soon as possible and therefore hope that the view of the Department of Justice will prevail.

Incidentally, although the Resolution of the Council of ICAO dated April 14, 1969, which establishes a Committee to investigate incidents of unlawful interference with civil aviation, is a step in the right direction I fear that in view of the prohibition relating to matters of a political nature or of controversy between two or more States it may be inoperative in the majority of cases.

Yours sincerely,


Ian E. McPherson.



0711

MR Sicotte
- any comments

RECEIVED

MAY 6 1969

OFFICE OF THE
DEPUTY MINISTER
TRANSF000398

GS/jv

5214-76

602-10

May 9, 1969.

MEMORANDUM TO THE DEPUTY MINISTER

Re: Tokyo Convention

You have asked for my comments on Ian McPherson's letter of May 2 on this subject.

Mr. McPherson's expression of hope "that the view of the Department of Justice will prevail" in this matter obviously refers to your indication, in the March 20 letter (bottom of page 1), that that Department had taken the view that External Affairs could ratify the Tokyo Convention now without waiting for the enactment of implementing legislation.

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If you have no objection, I shall send a copy of Ian McPherson's letter to the other officials concerned in Ottawa for information.

Original Signed by
GILLES SICOTTE
Gilles Sicotte.

cc. C.A.R., Assistant Counsel and D.D.A.

602-10

May 8, 1969.

Attention: Mr. D.M. Miller

Dear Sir:

Re: Draft Canada-Cuba Agreement on
Unlawful Seizure of Aircraft.

Your letter of April 25th last relative to the above subject matter is acknowledged.

In connection with your request for comment it would be our view that the question of whether principles (a) and (b) should or should not be initially included in any draft submission made to the Cuban authorities would be for your decision subject of course to the principles being acceptable to the Deputy Minister of Justice.

Aside from principles (a) and (b) there are two other comments which come to mind, the first of which is related to paragraph 5, page 2 of the draft agreement which appears to require some slight clarification on the grounds that it could be argued, should a state be so inclined, that the purposes of surrender to designated officials of the state of registration is for criminal prosecution in the state where surrender has been made. Naturally you do not intend the agreement to be so interpreted but if the law of the state of surrender provided for such prosecution one could find oneself bound to prosecute in the state where surrender has been made.

The foregoing thought is somewhat confirmed in our mind by the opening words of paragraph 7 wherein we speak of trial "in the state to which surrender has been made" whereas paragraph 5 speaks of surrender to designated officials of the state of registration.

.../2

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

*dispatched
by hand to
Mr. Miller
8-5-69
(J.V.)*

- 2 -

Our second observation is related to the requirement of the state of arrival to facilitate "continuation without delay of the journey of the passengers and crew" while at the same time placing a somewhat separate obligation to return the aircraft and its cargo to the persons lawfully entitled to possession. Separation of these two requirements in the same paragraph leads to a possible interpretation that the state of arrival can be expected to provide one of its aircraft for the purposes of ensuring continuation of the journey of, say, the passengers and crew of a Vancouver-Mexico City flight while at the same time ensuring that the aircraft is returned to the owners presumably at a place suitable to those owners. This obviously is not the intention of the draft and it would therefore appear that some further clarification may be required in the interests of the Canadian carrier.

In conclusion may we state that our departmental officials will be available for further discussion at a date to be arranged by your office.

Yours truly,

Original Signed by
GILLES SICOTTE

for O.G. Stoner

MEMORANDUM

CKK/wb

CLASSIFICATION
CONFIDENTIAL



TO
A
Mr. Gilles Sicotte,
Assistant Deputy Minister, General.

YOUR FILE No.
Votre dossier 602-10 (DLC)

OUR FILE No.
Notre dossier

FROM
De D.L.C.

DATE

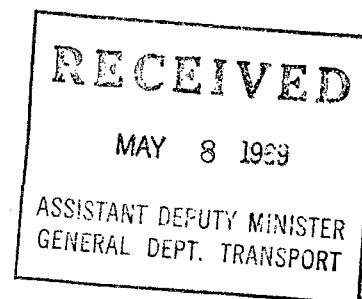
FOLD
SUBJECT
Sujet Draft Canada-Cuba Agreement on
Unlawful Seizure of Aircraft.

7th May, 1969

Attached hereto please find a draft
reply to a letter received in the Department from
the Department of External Affairs.

The letter only came to my attention
this afternoon upon my return from London and it may
be that you will wish to discuss the matter further
with me.


C.K. KENNEDY
ASSISTANT COUNSEL



THIS COPY FOR D.D.A.

602-10

CONFIDENTIAL

March 18, 1969.

MEMORANDUM TO THE DEPUTY MINISTER

Re: Hijacking
(Your Memo of March 11)

Mr. McPherson's allusions to possibilities of bilateral arrangements with Cuba on hijacking follow upon his earlier conversations with me, reported in my memo to you of February 26 (copy attached - see page 2). It appears that his reference to IATA President Hammarskjöld's suggestion of a multilateral approach to the Cubans by like-minded nations was merely an idea floated by IATA's Counsel Gazdik at Montreal in conversation with some of our officials. There is a plan afoot, however, in External Affairs to discuss with the Cubans possible bilateral arrangements, including reliance on our 1904 Extradition Treaty with Cuba. This contains provisions [especially articles I and II (paragraphs 12 and 15)] which could conceivably be invoked against the illegitimate seizure of aircraft. It is intended to ask the Cuban Government whether they recognize this, and, irrespective, under what conditions they would agree to a goodwill arrangement comparable with that with Mexico. The desirable approach is discussed in telegram Nos. 193, 1375 and 1384 (hereunder) exchanged with Havana, which indicate also that the Cubans seem favourably disposed. The procedure contemplated to implement such an arrangement involves basically agreeing on a standard form of "ready-made" diplomatic note to be delivered automatically by our Havana Embassy to the Cuban authorities immediately an incident occurs, asking for a report, requesting the preliminary detention of the hijacker pending his delivery to Canadian officials on the spot, and, above all, the return of the aircraft and passengers, without delay.

An aspect of the scheme at hand of direct interest to DOT is that of the services to be afforded to our craft and its crew: should the Cubans undertake to give the pilot in charge all the aid necessary for the landing, taking off and aircraft maintenance? The Cubans, we are given to understand, will expect financial compensation for such services and perhaps we ought to seek Air Canada's advice on the matter.

External Affairs are keeping in close consultation with us on the whole question outlined above and our Civil Aviation Branch might - I suggest - usefully consult the airline on the maintenance services problem, if you agree.

Original Signed by

GILLES SICOTTE
Gilles Sicotte

cc. Assistant Counsel & D.D.A.

000403

MESSAGE

<p>ADMA ICAQ (Copy sent to Mr. Kennedy)</p>		DATE	FILE/DOSSIER	SECURITY SECURITE
		MAR 14/69		CONF C.E.O.
FM/DE	EXTEROTT			
TO/A	HAVANA	NO	PRECEDENCE	
		L-384	ROUTINE	
INFO	MXICO, WASHINGTON			

REF YOURTEL 193 FEB 26/69. OURTEL L375 MAR 13/69.

SUB/SUJ PROPOSED CDA-CUBA HIJACKING AGREEMENT.

AIR CDA GENERAL COUNSEL CALLED ON DEPUTY MIN DOT MAR 11 TO URGE CONCLUSION OF BILATERAL ARRANGEMENTS WITH CUBAN GOVT TO COVER POSSIBLE HIJACKING OF CDN AIRCRAFT. WE MET WITH DOT OFFICIALS MAR 12 TO CONSIDER MATTER AND QUESTIONS RAISED IN YOUR REPTTEL.

2. AT MEETING IT WAS AGREED THAT FORMAL EXCHANGE OF NOTES WITH CUBAN MFA SETTING OUT PROCEDURES TO BE FOLLOWED AND OBLIGATIONS TO BE ASSUMED IN EVENT OF HIJACKING OF AIRCRAFT OF ONE STATE TO THE OTHER WOULD BE DESIRABLE. STUDY OF OUR EXTRADITION TREATY WITH CUBA (UK-CUBA, MUTUAL SURRENDER OF FUGITIVE CRIMINALS), OF 1904 INDICATES SECTIONS 12 AND 15 OF ART. II WOULD BE APPLICABLE. IT WOULD BE USEFUL TO HAVE ON RECORD MFA'S CONCURRENCE ON THIS POINT. COPIES OF TREATY GOING FORWARD BY BAG.

3. AS RESULT OF MEETING WE WOULD PROPOSE THAT EXCHANGE OF NOTES SHOULD COVER FOLLOWING: (A) PROMPT NOTIFICATION TO ONE PARTY'S EMB OF FACT THAT AIRCRAFT REGISTERED IN THAT STATE HAS BEEN UNLAWFULLY FORCED TO LAND IN TERRITORY OF OTHER PARTY; (B) OBLIGATION ON AUTHORITIES OF LANDING STATE TO TAKE IMMEDIATE STEPS TO APPREHEND ALLEGED OFFENDER; (C) FACILITATION OF PROMPT DEPARTURE OF AIRCRAFT

.....2

DISTRIBUTION NO STD. DOT (G.Sicotte), Air Transport Cttee (R.Azzie), U.N.DIV (Parry)
LOCAL/LOCALE LATIN-AMER. DIV., LEGAL ADVISER, DOT (Kennedy).

ORIGINATOR/REDACTEUR	DIVISION	TELEPHONE	APPROVED/AUTORISE
SIC: [REDACTED]	Legal Division/eh	2-7738	J.A. BEESLEY J.A. Depler

-2-

WITH CREW, PASSENGERS AND CONTENTS ON BOARD; (D) ACCESS BY OFFICIALS OF STATE OF REGISTRATION TO ACCUSED FOR PURPOSE OF INVESTIGATING CIRCUMSTANCES OF HIJACKING; (E) PROMPT CONSIDERATION BY AUTHORITIES OF LANDING STATE OF REQUEST FOR EXTRADITION OF HIJACKER TO STATE OF REGISTRATION.

4. IT IS OUR INTENTION TO CIRCULATE COPIES OF DRAFT NOTE TO DOT, AIR TRANSPORT CTTEE, AIR CDA AND CPA FOR COMMENTS. NOTE WOULD THEN BE SENT TO YOU FOR CONSIDERATION. SUBSEQUENTLY DISCUSSIONS COULD BEGIN WITH MFA WITH VIEW TO SECURING BINDING AGREEMENT. QUESTIONS OF AGREEMENT COVERING OTHER MEANS OF TRANSPORT IN ADDITION TO AIRCRAFT (MEXICO TEL 200 MAR11) AND APPLICABILITY OF AGREEMENT TO AIRCRAFT ETC REGISTERED IN THIRD STATES BUT TAKING OFF FROM TERRITORY OF ONE PARTY AND MAKING ILLEGAL LANDING IN THAT OF OTHER PARTY TO AGREEMENT (OUR REFTTEL) WILL BE CONSIDERED AT NEXT INTERDEPTL MEETING.

5. GRATEFUL FOR YOUR COMMENTS.