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INTERNATIONAL CIVIL AVIATION ORGANIZATION

ASSEMBLY — 33RD SESSION

EXECUTIVE COMMITTEE

Agenda Item 13: Aviation security

**CONSOLIDATED STATEMENT OF CONTINUING ICAO POLICIES
RELATED TO THE SAFEGUARDING OF INTERNATIONAL CIVIL
AVIATION AGAINST ACTS OF UNLAWFUL INTERFERENCE**

SUMMARY

In this paper, the Council presents proposals for review and updating of Assembly Resolution A32-22. These proposals reflect significant developments in the field of aviation security during the last triennium and are intended to facilitate the task of the Assembly to adopt at its 33rd Session an up-to-date consolidated statement of continuing aviation security policies of the Organization, as they exist at the close of that session.

Action by the Assembly is in paragraph 4.

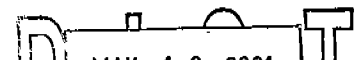
REFERENCES

Resolution A32-22
Assembly Resolutions in Force as of 2 October 1998 (Doc 9730)

1. INTRODUCTION

1.1 On 2 October 1998, the 32nd Session of the ICAO Assembly adopted unanimously Resolution A32-22 entitled "Consolidated statement of continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference." In accordance with Resolving Clause 2 of Resolution A32-22, a revised consolidated statement of the Organization's continuing aviation security policies should be adopted by this Assembly, up to date as of the end of the session. To facilitate the Assembly's task, the Council reviewed the existing consolidated statement in Resolution A32-22, Appendices A to H, to determine whether, in the light of recent developments and actions, any amendments thereto should be recommended to the Assembly.

(15 pages)



2. POSSIBLE AMENDMENTS TO THE EXISTING CONSOLIDATED STATEMENT

2.1 The Assembly, when determining whether any amendments should be made to the existing consolidated statement, may wish to take into account the following developments in the field of aviation security:

- a) the *Convention on the Marking of Plastic Explosives for the Purpose of Detection* entered into force on 21 June 1998. Article V of the Convention establishes the International Explosives Technical Commission (IETC), consisting of not less than fifteen nor more than nineteen members appointed by the Council from among persons nominated by States parties to the Convention, upon its entry into force. The Council, at the tenth meeting of its 157th Session on 21 June 1999, examined a list of experts nominated by States parties to the Convention. In accordance with the Council decision, the President of the Council appointed members to the Commission from the following States: Argentina, Austria, Canada, Czech Republic, Egypt, France, Germany, Japan, Kuwait, Mexico, Saudi Arabia, Switzerland, United Kingdom, United States and Zambia. In addition, the Council, at the fifth meeting of its 159th Session on 1 March 2000, appointed an expert nominated by India as a member of the IETC, thus bringing the Commission's membership to sixteen. The mandate of the Commission as set out in Articles VI and VII of the Convention is to evaluate technical developments relating to the manufacture, marking and detection of explosives, and, when necessary, to make recommendations to the Council for amendments to the Technical Annex to the Convention. These actions have therefore been reflected in Appendices B, D and F.
- b) Aviation security (AVSEC) and facilitation (FAL) have traditionally shared the arena of airport operations, and managers consider the requirements of both at the same time when seeking solutions to operational problems. Since the merger of the aviation security and facilitation disciplines into a single branch within the Air Transport Bureau, a deliberate effort has been made to harmonize these two aspects of civil aviation as required by Annex 17 and Annex 9. Furthermore, Resolution A32-17 "Consolidated statement of continuing ICAO policies in the air transport field" in Appendix D – Facilitation calls for both Annex 9 and Annex 17 to be compatible and complementary to each other. In order to enhance coordination between the AVSEC and FAL programmes, this initiative is reflected in Appendix D.

3. DRAFT TEXT

3.1 The elements mentioned in paragraph 2, together with amendments necessary to clarify the intent of present policies, have been reflected in the draft text which is presented in the appendix to this working paper. Statements that could be deemed to have served their purpose have also been identified.

4. ACTION BY THE ASSEMBLY

4.1 The Assembly is invited to consider the suggested amendments to Resolution A32-22 and the draft text of the updated resolution in the appendix with a view to its adoption at its 33rd Session.

APPENDIX

A33-[]: **Consolidated statement of continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference**

Whereas the 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 general security;

Whereas the threat of terrorist acts, unlawful seizure of aircraft and other acts of unlawful interference against civil aviation, including acts aimed at destruction of aircraft, have a serious adverse effect on the safety, efficiency and regularity of international civil aviation, endanger the lives of aircraft passengers and crews and undermine the confidence of the peoples of the world in the safety of international civil aviation;

Whereas it is considered desirable to consolidate Assembly resolutions on the policies related to the safeguarding of international civil aviation against acts of unlawful interference in order to facilitate their implementation and practical application by making their texts more readily available, understandable and logically organized;

New text highlighted

Whereas in Resolution ~~A31-4~~A32-22 the Assembly resolved to adopt at each session a consolidated statement of continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference; and

New text highlighted

Whereas the Assembly has reviewed proposals by the Council for the amendment of the consolidated statement of continuing ICAO policies in Resolution ~~A31-4~~A32-22, Appendices A to H inclusive, and has amended the statement to reflect the decisions taken during the ~~32nd~~33rd Session;

The Assembly:

New text highlighted

1. *Resolves* that the Appendices attached to this resolution constitute the consolidated statement of continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference, up to date as these policies exist at the close of the ~~32nd~~33rd Session of the Assembly.

2. *Resolves* to request the Council to submit at each ordinary session for review a consolidated statement of continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference; and

New text highlighted

3. *Declares* that this resolution supersedes Resolution ~~A31-4~~A32-22.

APPENDIX A

GENERAL POLICY

Whereas acts of unlawful interference against international civil aviation have become the main threat to its safe and orderly development;

Recognizing that all acts of unlawful interference against international civil aviation constitute a grave offence in violation of international law; and

Endorsing actions taken so far by the Council, in particular by adopting new preventive measures, strengthening the means available to the Organization and assuming functions related to the implementation of the *Convention on the Marking of Plastic Explosives for the Purpose of Detection*;

The Assembly:

1. *Strongly condemns* all acts of unlawful interference against civil aviation wherever and by whomsoever and for whatever reason they are perpetrated;

2. *Reaffirms* the important role of the International Civil Aviation Organization to facilitate the resolution of questions which may arise between Contracting States in relation to matters affecting the safe and orderly operation of international civil aviation throughout the world;

3. *Reaffirms* that aviation security must continue to be treated as a matter of highest priority by the International Civil Aviation Organization and its Member States;

4. *Notes* with abhorrence acts of unlawful interference aimed at the destruction in flight of civil aircraft in commercial service and the death of persons on board;

5. *Calls upon* all Contracting States to confirm their resolute support for the established policy of ICAO by applying the most effective security measures individually and in cooperation with one another, to suppress acts of unlawful interference and to punish the perpetrators of any such acts; and

6. *Directs* the Council to continue its work relating to measures for prevention of acts of unlawful interference.

APPENDIX B

INTERNATIONAL LEGAL INSTRUMENTS FOR THE SUPPRESSION OF ACTS OF UNLAWFUL INTERFERENCE WITH CIVIL AVIATION

New text highlighted

Whereas the protection of civil aviation from acts of unlawful interference has been enhanced by the *Convention on Offences and Certain Other Acts Committed on Board Aircraft* (Tokyo, 1963), by the *Convention for the Suppression of Unlawful Seizure of Aircraft* (The Hague, 1970), by the *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation* (Montreal, 1971), ~~as well as~~ by the *Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, Done at Montreal on 23 September 1971* (Montreal, 1988) ~~as well as~~ by the *Convention on the Marking of Plastic Explosives for the Purpose of Detection* (Montreal 1991) and by bilateral agreements for the suppression of such acts;

~~Whereas~~ terrorist acts aimed at the destruction of aircraft and the use of plastic explosives for such acts led to the need for ICAO to intensify, in accordance with United Nations Security Council Resolution 635 of 14 June 1989, its work on devising an international regime for the marking of plastic explosives for the purpose of detection; and

~~Whereas~~ for the purpose of preventing such acts, the International Conference on Air Law adopted on 1 March 1991 a ~~Convention of the Marking of Plastic Explosives for the~~

The Assembly:

1. *Calls upon* Contracting States which have not yet done so to become parties to the *Convention on Offences and Certain Other Acts Committed on Board Aircraft* (Tokyo, 1963), to the *Convention for the Suppression of Unlawful Seizure of Aircraft* (The Hague, 1970), to the *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation* (Montreal, 1971), and to the 1988 Supplementary Protocol to the Montreal Convention;

2. *Urges* all States to become parties as soon as possible to the *Convention on the Marking of Plastic Explosives for the Purpose of Detection* (Montreal, 1991);

3. *Invites* States not yet parties to the 1991 *Convention on the Marking of Plastic Explosives for the Purpose of Detection* to give effect, even before ratification, acceptance, approval or accession, to the principles of that instrument and calls upon States which manufacture plastic explosives to implement the marking of such explosives as soon as possible;

4. *Directs* the Secretary General to continue to remind States of the importance of becoming parties to the Tokyo, the Hague and Montreal Conventions, to the 1988 Supplementary Protocol to the Montreal Convention and the *Convention on the Marking of Plastic Explosives for the Purpose of Detection* and to provide assistance requested by States encountering any difficulties in becoming parties to these instruments;

5. *Condemns* any failure by a Contracting State to fulfil its obligations to return without delay an aircraft which is being illegally detained or to extradite or submit to competent authorities without delay the case of any person accused of an act of unlawful interference with civil aviation;

6. *Calls upon* Contracting States to intensify their efforts to suppress acts of unlawful seizure of aircraft or other unlawful acts against the security of civil aviation by concluding appropriate agreements for the suppression of such acts which would provide for extradition or submission of the case to competent authorities for the purpose of prosecution of those who commit them; and

7. *Calls upon* Contracting States to continue to assist in the investigation of such acts and in the apprehension and prosecution of those responsible.

APPENDIX C**ACTION BY STATES****a) *Enactment of national legislation and bilateral agreements***

Whereas deterrence of acts of unlawful interference with civil aviation can be greatly facilitated through the enactment by Contracting States of national criminal laws providing severe penalties for such acts;

The Assembly:

1. *Calls upon* Contracting States to give special attention to the adoption of adequate measures against persons committing acts of unlawful seizure of aircraft or other acts of unlawful interference against civil aviation, and in particular to include in their legislation rules for the severe punishment of such persons; and

2. *Calls upon* Contracting States to take adequate measures relating to the extradition or prosecution of persons committing acts of unlawful seizure of aircraft or other acts of unlawful interference against civil aviation by adopting appropriate provisions in law or treaty for that purpose or by strengthening existing arrangements for the extradition of persons making criminal attacks on international civil aviation.

b) *Information to be submitted to the Council****The Assembly:***

1. *Reminds* States parties of their obligations under Article 11 of The Hague Convention and Article 13 of the Montreal Convention, following occurrences of unlawful interference, to forward all relevant information required by those Articles to the Council; and

2. *Directs* the Secretary General, within a reasonable time from the date of a specific occurrence of unlawful interference, to ask that States parties concerned forward to the Council in accordance with their national law all relevant information required by those Articles concerning such occurrence, including particularly information relating to extradition or other legal proceedings.

APPENDIX D

TECHNICAL SECURITY MEASURES

Whereas the safety of the peoples of the world who benefit from international civil aviation requires continued vigilance and development and implementation of positive safeguarding action by the Organization and its Contracting States;

Whereas a clear need exists for the strengthening of security to be applied to all phases and processes associated with the international carriage of persons, their cabin and checked baggage, cargo, mail, courier and express parcels;

Whereas the responsibility for ensuring that security measures are applied by government agencies, airport authorities and aircraft operators rests with the Contracting States;

Whereas the safety of persons and property at airports serving international civil aviation requires continued vigilance, development and implementation of positive safeguarding actions by the International Civil Aviation Organization and all States to prevent and suppress unlawful acts of violence at such airports; and

Whereas the implementation of the security measures advocated by ICAO is an effective means of preventing acts of unlawful interference with civil aviation;

The Assembly:

New text highlighted

1. *Urges* the Council to continue to attach high priority to the adoption of effective measures for the prevention of acts of unlawful interference commensurate with the current threat to the security of international civil aviation and to keep up to date the provisions of Annex 17 to the Chicago Convention to this end;

~~2. Urges the Council to study, as a high priority, issues relating to the security control of transit passengers and the detection of explosive devices;~~

New text highlighted

~~23. Requests the Council to appoint the International Explosives Technical Commission (IETC) to complete, in addition to the International Explosives Technical Commission (IETC) mandate as prescribed by the *Convention on the Marking of Plastic Explosives for the Purpose of Detection*, as a matter of high priority, studies into methods of detecting explosives or explosive materials, especially into the marking of those explosives of concern, other than plastic explosives, whose detection would be aided by the use of marking agents, with a view to the evolution, if needed, of an appropriate comprehensive legal regime;~~

New text highlighted

34. *Urges* all States on an individual basis and in cooperation with other States to take all possible measures for the suppression of acts of violence at airports serving international civil aviation including such preventive measures as are, in particular, those required or recommended under in Annex 17 to the *Convention on International Civil Aviation*;

45. *Calls upon* Contracting States to intensify their efforts for the implementation of existing Standards, Recommended Practices, and Procedures relating to aviation security, to monitor such implementation, and to take all necessary steps to prevent acts of unlawful interference against international civil aviation;

56. *Further calls* on Contracting States, while respecting their sovereignty, to substantially enhance cooperation and coordination between them in order to improve such implementation;

~~7. Invites Contracting States to exchange, as they consider appropriate, information through ICAO, or directly where desirable, related to increasing physical security controls in the plans and designs of existing and new airports, the design of aircraft to make the placement of explosives more difficult and research and development on weapons and explosive detection, as well as to undertake joint efforts in the development and refinement of promising concepts in detection of weapons and explosives;~~

~~8. Urges member States to expedite research and development on detection of explosives, security equipment and to continue to encourage research and development into improved and economic means of detecting all the marking agents specified in the *Convention on the Marking of Plastic Explosives for the Purpose of Detection*; and to continue to exchange such information;~~

~~69. Requests the Council to ensure, with respect to the technical aspects of aviation security, that:~~

~~a) the subject of aviation security continues to be given adequate attention; with priority commensurate with the current threat to the security of international civil aviation, particularly by keeping up to date and developing, as necessary, appropriate Standards, Recommended Practices, Procedures and guidance material;~~

New text highlighted

a) the provisions of Annex 17 and Annex 9 – *Facilitation* are compatible with and complementary to each other provided the effectiveness of security measures is not compromised;

b) when considered necessary, the agenda of ICAO meetings include items dealing with aviation security which are relevant to the subject of such meetings;

c) regional aviation security seminars are convened by ICAO after consultation with or at the request of States concerned;

New text highlighted

d) the ICAO Training Programme for Aviation Security comprising Standardized Aviation Security Training Packages (ASTPs) for use by States continues to be developed; and

New text highlighted

e) ICAO assumes the coordination role, in collaboration with aviation security Mechanism donor States, of the regional/subregional aviation security training facilities centres (ASTCs) to ensure training standards are maintained and sound levels of cooperation are achieved.

~~10. Urges Contracting States to ensure that facilities are made available at their airports for the inspection/screening of passengers and their cabin and checked baggage on international air transport services;~~

~~711. Urges Contracting States which have not already done so to implement the Standards, Recommended Practices and Procedures on aviation security measures, and to give appropriate attention to the guidance material contained in the ICAO Security Manual; and~~

~~812. Directs the Secretary General to continue to update and amend at appropriate intervals the Security Manual designed to assist Contracting States in implementing the specifications and procedures related to civil aviation security.~~

APPENDIX E

ACTION OF STATES WITH RESPECT TO UNLAWFUL SEIZURE OF AIRCRAFT IN PROGRESS

Whereas acts of unlawful seizure continue seriously to compromise the safety, regularity and efficiency of international civil aviation;

Whereas the Council has adopted Standards and Recommended Practices on aviation security in accordance with ICAO policy;

Whereas the safety of flights of aircraft subjected to an act of unlawful seizure may be further jeopardized by the denial of navigational aids and air traffic services, the blocking of runways and taxiways and the closure of airports; and

Whereas the safety of passengers and crew of an aircraft subjected to an act of unlawful seizure may also be further jeopardized if the aircraft is permitted to take off while still under seizure;

The Assembly:

1. *Recalls* in this regard the relevant provisions of the Chicago, Tokyo and The Hague Conventions;

2. *Recommends* that States take into account the above considerations in the development of their policies and contingency plans for dealing with acts of unlawful seizure;

3. *Urges each* Contracting States to provide, ~~as it may find practicable, such measures of~~ assistance to an aircraft subjected to an act of unlawful seizure, including the provision of navigational aids, air traffic services and permission to land; ~~as may be necessitated by the circumstances;~~

4. *Urges each* Contracting States to ~~take measures, as it may find practicable, to~~ ensure that an aircraft subjected to an act of unlawful seizure which has landed in its territory is detained on the ground unless its departure is necessitated by the overriding duty to protect human life; and

5. *Recognizes* the importance of consultations, ~~wherever practicable,~~ between the State where an aircraft subjected to an act of unlawful seizure has landed and the State of the operator of that aircraft as well as notification by the State where the aircraft has landed to the States of assumed or stated destination.

New text highlighted

APPENDIX F

**ASSISTANCE TO STATES IN THE IMPLEMENTATION OF
TECHNICAL MEASURES FOR THE PROTECTION OF
INTERNATIONAL CIVIL AVIATION**

Whereas the implementation of technical measures for prevention of acts of unlawful interference with international civil aviation requires financial investment and training of personnel;

New text highlighted

Whereas, notwithstanding assistance given, some countries, in particular developing countries, still face difficulties in fully implementing preventive measures ~~including the means of detecting explosives because of~~ due to insufficient financial, technical and material resources; and

Whereas aviation security is vital to all Contracting

The Assembly:

New text highlighted

1. *Invites* developed countries to give assistance to the countries which are not able to implement programmes of suggested technical measures for the protection of aircraft on the ground and, in particular, in the processing of passengers, their cabin and checked baggage, cargo, mail, courier and express parcels;

New text highlighted

2. *Invites* Contracting States to bear in mind the possibility offered by the Mechanism for ~~financial, technical and material assistance to States with regard to aviation security~~ effective implementation of Standards and Recommended Practices (SARPs) contained in Annex 17, the United Nations Development Programme and the Technical Co-operation among Developing Countries to meet their technical assistance requirements arising from the need to protect international civil aviation;

New text highlighted

3. *Urges* all States that have the means to do so to increase technical, financial and material assistance to countries in need of such assistance to improve aviation security through bilateral and multilateral effort, in particular, through the ICAO Mechanism for ~~financial, technical and material assistance to States with regard to aviation security~~ effective implementation of Standards and Recommended Practices (SARPs) contained in Annex 17; and

New text highlighted

4. *Urges* all Contracting States to take ~~into account~~ advantage of the availability of ICAO ~~approved regional/subregional~~ aviation security training facilities centres (ASTCs) for the purpose of enhancing training standards; and

New text highlighted

5. *Urges* the international community to consider increasing ~~technical, financial and material~~ assistance to States, ~~in need of such assistance~~ and enhance cooperation amongst them, in order to be able to benefit from the achievement of the aims and objectives of the *Convention on the Marking of Plastic Explosives*, in particular through the ~~technical cooperation programmes of ICAO~~. International Explosives Technical Commission (IETC).

APPENDIX G

ACTION BY THE COUNCIL WITH RESPECT TO MULTILATERAL AND BILATERAL COOPERATION IN DIFFERENT REGIONS OF THE WORLD

Whereas the rights and obligations of States under the international conventions on aviation security and under the Standards and Recommended Practices adopted by the Council of ICAO on aviation security could be complemented and reinforced in bilateral cooperation between States;

Whereas the bilateral agreements on air services represent the main legal basis for international carriage of passengers, baggage, cargo and mail;

Whereas provisions on aviation security should form an integral part of the bilateral agreements on air services; and

Whereas Annex 17 to the *Convention of International Civil Aviation* contains a recommendation that each Contracting State should include in its bilateral agreements on air transport a clause related to aviation security;

The Assembly:

1. *Notes* with satisfaction the strong support of States for the model clause on aviation security, elaborated by the Council and attached to the Council Resolution of 25 June 1986;

2. *Notes* the wide acceptance by States of the model agreement on aviation security for bilateral or regional cooperation adopted by the Council on 30 June 1989;

3. *Urges* all Contracting States to insert into their bilateral agreements on air services a clause on aviation security, taking into account the model clause adopted by the Council on 25 June 1986;

4. *Recommends* that Contracting States take into account the model agreement adopted by the Council on 30 June 1989;

5. *Recommends* that the Council continue to:

— gather the results of States' experience in cooperation to suppress acts of

- analyse the existing situation in the fight against acts of unlawful interference with international civil aviation in different regions of the world; and
- prepare recommendations for strengthening measures to suppress such acts of unlawful interference.

APPENDIX H

COOPERATION WITH INTERNATIONAL ORGANIZATIONS IN THE FIELD OF AVIATION SECURITY

The Assembly:

1. *Invites* the International Criminal Police Organization (ICPO/INTERPOL), the Universal Postal Union (UPU), the International Air Transport Association (IATA), Airports Council International (ACI), and the International Federation of Air Line Pilots' Associations (IFALPA) to continue their cooperation with ICAO, to the maximum extent possible, to safeguard international civil aviation against acts of unlawful interference.

— END —