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AERIAL HIJACKING OR INTERFERENCE WITH CIVIL AIR TRAVEL

Report of the Sixth Committee

Rapporteur: Mr. Hisashi OWADA (Japan)

I. INTRODUCTION

1. By a letter dated 28 September 1970 (A/8091), Belgium, Brazil, Costa Rica, Ecuador, Indonesia, Japan, Laos, Luxembourg, Nepal, the Netherlands, Panama, Peru, the Philippines and Thailand requested the inclusion, in the agenda of the twenty-fifth session of the General Assembly, of an item entitled "Aerial hijacking or interference with civil air travel". At its 1860th plenary meeting, on 6 October 1970, the General Assembly, on the recommendation of the General Committee (A/8100/Add.1), decided to place the item on the agenda and allocated it to the Sixth Committee.
2. The Sixth Committee considered the item at its 1198th, 1219th to 1223rd, 1225th, 1226th, 1228th, 1230th and 1231st meetings, held between 13 October and 19 November. At the 1219th meeting, on 6 November, a representative of the International Civil Aviation Organization was present in the Sixth Committee.

II. PROPOSALS AND AMENDMENTS

3. At the 1219th meeting, on 6 November 1970, the representatives of the Netherlands and the Philippines introduced a draft resolution sponsored by Argentina, Belgium, Bolivia, Brazil, Canada, Colombia, Costa Rica, Denmark,

Ecuador, Finland, Indonesia, Ireland, the Ivory Coast, Japan, Laos, Luxembourg, Madagascar, Malawi, Nepal, the Netherlands, New Zealand, Nicaragua, Norway, Panama, the Philippines, Singapore, Sweden, Thailand and the United Kingdom of Great Britain and Northern Ireland (A/C.6/L.803), later joined by Australia, Cambodia, Guatemala, Iran and Lesotho. The draft resolution read as follows:

"The General Assembly,

"Recognizing that international civil aviation is a vital link in the promotion and preservation of friendly relations among States and that its safe and orderly functioning is in the interest of all peoples,

"Gravely concerned over acts of aerial hijacking or other wrongful interference with civil air travel,

"Recognizing that such acts jeopardize the lives and safety of the passengers and crew and constitute a violation of their human rights,

"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,

"Endorsing the solemn declaration of the extraordinary session of the Assembly of the International Civil Aviation Organization held at Montreal in June 1970,

"Bearing in mind resolution 2551 (XXIV) and the resolution adopted by consensus at the 1552nd meeting of the Security Council,

"1. Condemns, irrespective of the pretext or motive for which they are perpetrated, all acts of aerial hijacking or other interference with civil air travel, whether originally national or international, through the threat or use of force and all acts of violence which may be directed against passengers, crew and aircraft engaged in, and air navigation facilities and aeronautical communications used by, civil air transport;

"2. Calls upon States to take all appropriate measures to deter, prevent or suppress such acts within their jurisdiction, at every stage of the execution of those acts, and to provide for the prosecution and punishment of persons who perpetrate such acts, in a manner commensurate with the gravity of those crimes, or for the extradition of such persons for the purpose of their prosecution and punishment;

"3. Condemns in particular the exploitation of unlawful seizure of aircraft to take hostages;

"4. Condemns further the unlawful detention of passengers and crew in transit or otherwise engaged in civil air travel as another form of wrongful interference with free and uninterrupted air travel;

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"5. Urges States to the territory of which a hijacked aircraft is diverted to provide for the care and safety of its passengers and crew and to enable them to continue their journey as soon as practicable and to return the aircraft and its cargo to the persons lawfully entitled to possession;

"6. 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;

"7. Requests concerted action on the part of States, in accordance with the Charter, towards suppressing all acts which jeopardize the safe and orderly development of international civil air transport;

"8. Calls upon States to take joint and separate action in co-operation with the United Nations and the International Civil Aviation Organization to ensure that passengers, crew and aircraft engaged in civil aviation do not become subjects of international blackmail;

"9. Urges full support for the current efforts of the International Civil Aviation Organization towards the development and co-ordination, in accordance with its competence, of effective measures with respect to interference with civil air travel;

"10. Calls upon States to make every possible effort to achieve a successful result at the diplomatic conference which has been convened in The Hague in December 1970, for the purpose of the adoption of a convention on the unlawful seizure of aircraft."

4. At the 1223rd meeting, on 11 November, the United Republic of Tanzania introduced amendments (A/C.6/L.804) to the thirty-four-Power draft resolution (A/C.6/L.803), whereby:

(a) The words ", irrespective of the pretext or motive for which they are perpetrated," would be deleted from operative paragraph 1;

(b) The words ", without prejudice to existing instruments dealing with asylum and the status of refugees and stateless persons" would be added at the end of operative paragraph 2;

(c) Operative paragraph 8 would be deleted.

5. At the same meeting, the representative of the Netherlands, on behalf of the sponsors of the thirty-four-Power draft resolution, introduced a draft proposal (A/C.6/L.805), which read as follows:

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"That the Sixth Committee decide to include in its report on item 99 the following passage:

'It was agreed in the Committee that the adoption of the draft resolution cannot prejudice any international legal rights or duties of States with respect to asylum.'

6. At the 1225th meeting, on 13 November, the representative of Czechoslovakia introduced an amendment, proposed by Czechoslovakia and the Ukrainian Soviet Socialist Republic (A/C.6/L.807), to operative paragraph 10 of the thirty-four-Power draft resolution, whereby the word "all" would be inserted after the words "Calls upon", and the words "on a universal basis" would be inserted after the words "to achieve".

7. At the same meeting, Lebanon introduced amendments (A/C.6/L.809) to the thirty-four-Power draft resolution. The amendments proposed:

(a) To insert, in operative paragraph 2, after the word "extradition", the following phrase:

" , in accordance with the specific régime on extradition to be drawn up at the diplomatic conference in The Hague in December 1970, ";

(b) To reword operative paragraph 3 as follows:

"3. Declares that the exploitation of unlawful seizure of aircraft to take hostages is to be condemned;";

(c) To reword operative paragraph 8 as follows:

"8. Calls upon States to take joint and separate action in accordance with the Charter of the United Nations in co-operation with the United Nations Organization and the International Civil Aviation Organization in order to ensure that passengers, crew and aircraft engaged in civil aviation are not used for the extraction of advantages; "

8. At the 1226th meeting, on 13 November, the representative of the Netherlands, on behalf of the sponsors of the thirty-four-Power draft resolution, introduced a revision (A/C.6/L.803/Rev.1) of their draft resolution. That revision proposed the replacement of operative paragraph 8 by the following:

"8. Calls upon States to take joint and separate action in co-operation with the United Nations and the International Civil Aviation Organization to ensure that passengers, crew and aircraft engaged in civil aviation are not used as a means of extorting advantage of any kind; "

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It also proposed the replacement of operative paragraph 10 by the following:

"10. Calls upon States to make every possible effort to achieve a successful result at the diplomatic conference which has been convened in The Hague in December 1970 for the purpose of the adoption of a convention on the unlawful seizure of aircraft, so that an effective convention may be brought into force at an early date."

9. At the same meeting, Lebanon orally revised its amendment (A/C.6/L.809) to operative paragraph 2 of the thirty-four-Power draft resolution (A/C.6/L.803/Rev.1). That revision (A/C.6/L.809/Rev.1) proposed to insert in the paragraph after the word "extradition", the words ", without prejudice to obligations undertaken by them under the specific régimes governing extradition,".

10. At the 1228th meeting, on 17 November, Czechoslovakia and the Ukrainian Soviet Socialist Republic presented an oral revision of their amendment (A/C.6/L.807), proposing to insert, in operative paragraph 10 of the thirty-four-Power draft resolution (A/C.6/L.803/Rev.1), the words "on a universal basis after the words "an effective convention".

11. At the same meeting, Lebanon introduced an oral sub-amendment to the amendment of the United Republic of Tanzania (A/C.6/L.804) to operative paragraph 1 of the thirty-four-Power draft resolution. The sub-amendment proposed the replacement, instead of the deletion, of the words ", irrespective of the pretext or motive for which they are perpetrated," by the words ", without exception,".

12. Also at the same meeting, Lebanon presented an oral revision of its amendment, as contained in document A/C.6/L.809/Rev.1, to operative paragraph 8 of the thirty-four-Power draft resolution. That revision sought to reword the paragraph as follows:

"8. Calls upon States to take joint and separate action in accordance with the Charter of the United Nations in co-operation with the United Nations Organization and the International Civil Aviation Organization in order to ensure that passengers, crew and aircraft engaged in civil aviation are not used for extracting advantage of any kind."

13. At the 1231st meeting, on 19 November, the representative of the Netherlands, on behalf of the sponsors of the thirty-four-Power draft resolution and draft proposal, introduced a second revision of the draft resolution (A/C.6/L.803/Rev.2) and a revision of the draft proposal (A/C.6/L.805/Rev.1).

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14. The revised draft resolution (A/C.6/L.803/Rev.2) would:

(a) Replace the words "irrespective of the pretext or motive for which they are perpetrated" appearing in operative paragraph 1 by the words "without exception whatsoever";

(b) Reword operative paragraph 2 to read as follows:

"2. Calls upon States to take all appropriate measures to deter, prevent or suppress such acts within their jurisdiction, at every stage of the execution of those acts, and to provide for the prosecution and punishment of persons who perpetrate such acts, in a manner commensurate with the gravity of those crimes, or, without prejudice to the rights and obligations of States under existing international instruments relating to the matter, for the extradition of such persons for the purpose of their prosecution and punishment;"

(c) Reword operative paragraph 3 to read as follows:

"3. Declares that the exploitation of unlawful seizure of aircraft to take hostages is to be condemned;"

(d) Reword operative paragraph 4 to read as follows:

"4. Declares further that the unlawful detention of passengers and crew in transit or otherwise engaged in civil air travel is to be condemned as another form of wrongful interference with free and uninterrupted air travel;"

(e) Insert, in operative paragraph 8, after the words "separate action" the words ", in accordance with the Charter of the United Nations,".

15. The revised draft proposal (A/C.6/L.805/Rev.1) read as follows:

"That the Sixth Committee decide to include in its report on item 99 the following passage:

'It was agreed in the Committee that the adoption of the draft resolution cannot prejudice any international legal rights or duties of States under instruments relating to the status of refugees and stateless persons.'

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III. VOTING

16. At its 1231st meeting, on 19 November 1970, the Sixth Committee proceeded to the vote. The representative of Lebanon withdrew his amendments (A/C.6/L.809/Rev.1), as orally revised at the 1226th and 1228th meetings and his oral sub-amendment, submitted at the 1228th meeting, to the amendment of the United Republic of Tanzania (see paragraphs 7, 9, 11 and 12 above). The representatives of Czechoslovakia and the Ukrainian Soviet Socialist Republic withdrew their amendment (A/C.6/L.807), as orally revised at the 1228th meeting (see paragraphs 6 and 10 above). The representative of the United Republic of Tanzania announced that he would not press to a vote his amendments (A/C.6/L.804) (see paragraph 4 above). The Committee agreed to a suggestion made by the Chairman that the thirty-four-Power draft resolution (A/C.6/L.803/Rev.2) and draft proposal (A/C.6/L.805/Rev.1) should be voted on jointly.

17. The vote was taken by roll-call at the request of the representative of Algeria:

(a) Paragraph 8 of the draft resolution (A/C.6/L.803/Rev.2), on which a separate vote had been requested by the representative of the Sudan, was adopted by 86 votes to 1, with 22 abstentions. The voting was as follows:

In favour: Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Canada, Central African Republic, Chad, China, Colombia, Congo (Democratic Republic of), Costa Rica, Cyprus, Czechoslovakia, Dahomey, Denmark, Ecuador, El Salvador, Ethiopia, Finland, France, Gabon, Ghana, Greece, Guatemala, Guyana, Haiti, Hungary, Indonesia, Iran, Ireland, Israel, Italy, Ivory Coast, Japan, Kenya, Laos, Lebanon, Lesotho, Liberia, Luxembourg, Madagascar, Malawi, Malaysia, Mexico, Mongolia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Pakistan, Panama, Paraguay, People's Republic of the Congo, Peru, Philippines, Poland, Portugal, Romania, Rwanda, Sierra Leone, Singapore, South Africa, Spain, Sweden, Thailand, Togo, Trinidad and Tobago, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Yugoslavia, Zambia.

Against: Sudan.

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Abstaining: Afghanistan, Algeria, Ceylon, Chile, Cuba, Guinea, Iceland, India, Iraq, Jordan, Kuwait, Libya, Mali, Morocco, Saudi Arabia, Somalia, Southern Yemen, Syria, Tunisia, Uganda, United Arab Republic, Yemen.

(b) The draft resolution as a whole, and the draft proposal were adopted by 99 votes to none, with 10 abstentions (see paragraphs 19 and 20 below). The voting was as follows:

In favour: Afghanistan, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Canada, Central African Republic, Ceylon, Chad, Chile, China, Colombia, Congo (Democratic Republic of), Costa Rica, Cyprus, Czechoslovakia, Dahomey, Denmark, Ecuador, El Salvador, Ethiopia, Finland, France, Gabon, Ghana, Greece, Guatemala, Guyana, Haiti, Hungary, Iceland, India, Indonesia, Iran, Ireland, Israel, Italy, Ivory Coast, Japan, Jordan, Kenya, Kuwait, Laos, Lebanon, Lesotho, Liberia, Luxembourg, Madagascar, Malawi, Malaysia, Mexico, Mongolia, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Pakistan, Panama, Paraguay, People's Republic of the Congo, Peru, Philippines, Poland, Portugal, Romania, Rwanda, Sierra Leone, Singapore, Somalia, South Africa, Spain, Sudan, Sweden, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Yugoslavia, Zambia.

Against: None.

Abstaining: Algeria, Cuba, Guinea, Iraq, Libya, Mali, Saudi Arabia, Southern Yemen, Syria, Yemen.

18. Statements in explanation of vote were made by the representatives of Algeria, Bulgaria, France, Haiti, India, Kuwait, Lebanon, Morocco, Poland, Romania, Southern Yemen, the Sudan, Syria, Turkey, the United Arab Republic, the United States and Yemen.

IV. DECISION OF THE SIXTH COMMITTEE

19. At its 1231st meeting, on 19 November 1970, the Sixth Committee decided to include the following in the present report:

"It was agreed in the Committee that the adoption of the draft resolution cannot prejudice any international legal rights or duties of States under instruments relating to the status of refugees and stateless persons."

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V. RECOMMENDATION OF THE SIXTH COMMITTEE

20. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Aerial hijacking or interference with civil air travel

The General Assembly,

Recognizing that international civil aviation is a vital link in the promotion and preservation of friendly relations among States and that its safe and orderly functioning is in the interest of all peoples,

Gravely concerned over acts of aerial hijacking or other wrongful interference with civil air travel,

Recognizing that such acts jeopardize the lives and safety of the passengers and crew and constitute a violation of their human rights,

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,

Endorsing the solemn declaration of the extraordinary session of the Assembly of the International Civil Aviation Organization held at Montreal in June 1970,

Bearing in mind resolution 2551 (XXIV) of 12 December 1969, and resolution 286 (1970) of 9 September 1970 adopted by consensus at the 1552nd meeting of the Security Council,

1. Condemns, without exception whatsoever, all acts of aerial hijacking or other interference with civil air travel, whether originally national or international, through the threat or use of force and all acts of violence which may be directed against passengers, crew and aircraft engaged in, and air navigation facilities and aeronautical communications used by, civil air transport;

2. Calls upon States to take all appropriate measures to deter, prevent or suppress such acts within their jurisdiction, at every stage of the execution of those acts, and to provide for the prosecution and punishment of persons who perpetrate such acts, in a manner commensurate with the gravity of those crimes, or, without prejudice to the rights and obligations of States under existing international instruments relating to the matter, for the extradition of such persons for the purpose of their prosecution and punishment;

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3. Declares that the exploitation of unlawful seizure of aircraft to take hostages is to be condemned;

4. Declares further that the unlawful detention of passengers and crew in transit or otherwise engaged in civil air travel is to be condemned as another form of wrongful interference with free and uninterrupted air travel;

5. Urges States to the territory of which a hijacked aircraft is diverted to provide for the care and safety of its passengers and crew and to enable them to continue their journey as soon as practicable and to return the aircraft and its cargo to the persons lawfully entitled to possession;

6. Invites States to ratify or accede to the Convention on Offences and Certain Other Acts Committed on Board Aircraft^{1/} signed in Tokyo on 14 September 1963, in conformity with the Convention;

7. Requests concerted action on the part of States, in accordance with the Charter of the United Nations, towards suppressing all acts which jeopardize the safe and orderly development of international civil air transport;

8. Calls upon States to take joint and separate action, in accordance with the Charter, in co-operation with the United Nations and the International Civil Aviation Organization to ensure that passengers, crew and aircraft engaged in civil aviation are not used as a means of extorting advantage of any kind;

9. Urges full support for the current efforts of the International Civil Aviation Organization towards the development and co-ordination, in accordance with its competence, of effective measures with respect to interference with civil air travel;

10. Calls upon States to make every possible effort to achieve a successful result at the diplomatic conference which has been convened at The Hague in December 1970 for the purpose of the adoption of a convention on the unlawful seizure of aircraft, so that an effective convention may be brought into force at an early date.

^{1/} United Nations Juridical Yearbook 1963, p. 136.