



UNITED NATIONS  
GENERAL  
ASSEMBLY



PROVISIONAL

A/SPC/32/PV.7\*  
26 October 1977

ENGLISH

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Thirty-second Session

SPECIAL POLITICAL COMMITTEE

PARTIAL PROVISIONAL VERBATIM RECORD OF THE SEVENTH MEETING

Held at Headquarters, New York,  
on Wednesday, 26 October 1977, at 3.00 p.m.

Chairman: Mr. NEUGEBAUER (German Democratic Republic)

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\*Circulated pursuant to a decision taken by the Committee at its 7th meeting.

## AGENDA ITEM 129

## SAFETY OF INTERNATIONAL CIVIL AVIATION (A/32/245, A/SPC/32/L.2)

Mr. MOITAITE (President, Council of the International Civil Aviation Organization (ICAO)): Mr. Chairman, first of all, I wish to thank you for granting me the opportunity of addressing this Committee in my capacity as President of the Council of the International Civil Aviation Organization, well known as ICAO, one of the specialized agencies of the United Nations family and an organization at present composed of 141 contracting States and encompassing, in fact, the entire international civil aviation community.

Among the basic aims and objectives of ICAO are the tasks of ensuring the safe and orderly growth of international civil aviation throughout the world and of promoting flight safety in international air navigation. The preamble to the Convention on International Civil Aviation, signed at Chicago on 7 December 1944, which is the basic constitutional instrument of ICAO, emphasizes that international civil aviation can help greatly in creating and preserving friendship and understanding among the nations and peoples of the world; yet, its abuse can become a threat to the general security.

Sessions of the ICAO Assembly, Council and Legal Committee, as well as diplomatic conferences convened under the auspices of ICAO, and several other subordinate bodies in ICAO have given great attention to the threat posed by criminal acts endangering the safe and orderly growth of international civil aviation. Several other governmental and non-governmental organizations and international bodies work in full co-ordination with ICAO in order to achieve the safety of international civil aviation.

On 15 September 1977, I addressed a plenary meeting of the twenty-second session of the ICAO Assembly, and in my introduction of the annual reports of the Council to the Assembly for the years 1974, 1975 and 1976, I stated the following:

"Unfortunately, acts of unlawful interference with international civil aviation and its facilities continue to have a serious adverse effect on the safety, regularity and efficiency of international air transport.

(Mr. Kotaite, President, Council of ICAO)

The organization continues to pay all due attention to the problems of aviation security. It is imperative that all States take measures for safeguarding international civil air transport. There is a steady increase in the number of parties to the three Conventions - Tokyo, 1963; the Hague, 1970; and Montreal, 1971. Our aim is to achieve universal acceptance of these instruments and their full application to prevent the occurrence of any acts endangering the safety of international civil aviation. The Council, its Committee on Unlawful Interference and other subordinate bodies have kept under close scrutiny annex 17 - Security - with a view to its constant updating. It is important that all States implement the provisions of this annex".

(Mr. Kotaite, President, Council of ICAO)

On 4 October 1977 the ICAO Assembly unanimously adopted resolution A22-16 on the strengthening of measures to suppress acts of unlawful interference with civil aviation. On the same day the Assembly also unanimously adopted resolution A22-17 on technical measures for safeguarding international civil air transport against acts of unlawful interference.

Five previous sessions of the Assembly - the sixteenth in September 1968, the seventeenth (extraordinary) in June 1970, the eighteenth in June-July 1971, the twentieth (extraordinary) in 1973, and the twenty-first in September-October 1974 - established ICAO policies and provided direction to the organization on its aviation security programmes. In response to those decisions of the Assembly, the Council and its subordinate bodies - in particular the Council Committee on Unlawful Interference - produced Standards, Recommended Practices, Procedures and Practical Guidelines for States and others concerned for the safeguarding of international civil aviation. The Standards and Recommended Practices are incorporated in several annexes to the Convention on International Civil Aviation; one of them - annex 17 - is fully devoted to the problems of safeguarding international civil aviation against acts of unlawful interference. Furthermore, in pursuance of a resolution of the seventeenth session (extraordinary) of the Assembly, a Manual on aviation security was prepared and is being kept up to date regularly. That Manual provides detailed procedures and guidance material to States for the implementation of their respective aviation security programmes. In addition to the technical specifications, procedures and guidance material, ICAO has sponsored a vast programme of legal work, the purpose of which is the unification of law with respect to the jurisdiction, prosecution and extradition of persons alleged to have committed an unlawful act against the safety of civil aviation.

The first such convention was adopted as early as 1963 at Tokyo. It is a convention on offences and certain other acts committed on board aircraft. That Convention - to which 88 States are parties at present - relates to offences committed or acts done by a person on board any aircraft registered in a contracting State while that aircraft is in flight. The Diplomatic Conference in Tokyo in 1963 embodied in the Tokyo Convention a

(Mr. Kotaite, President, Council of ICAO)

far-sighted provision in article 11 which refers specifically to the case of unlawful seizure of aircraft.

In response to a resolution of the sixteenth session of the Assembly in September 1968, the Legal Committee of ICAO prepared with maximum dispatch a draft convention for the suppression of unlawful seizure of aircraft. That Convention was signed at The Hague on 16 December 1970 and at present there are 79 contracting States parties thereto. The Convention defines the act of unlawful seizure of aircraft, and the contracting States have undertaken to make such offence punishable by severe penalties. The Convention contains detailed provisions on the establishment of jurisdiction by States over the offence, on the taking of the offender into custody and on the prosecution or extradition of the offender.

One year later, in September 1971, another conference convened under the auspices of ICAO adopted at Montreal a Convention for the suppression of unlawful acts against the safety of civil aviation. At present 75 States have become parties to the Montreal Convention. That convention defines a wide spectrum of unlawful acts against the safety of civil aviation and the contracting States have undertaken to make those offences punishable by severe penalties. The convention contains detailed provisions on jurisdiction, custody, prosecution and extradition of the alleged offender similar to those of The Hague Convention of 1970.

It will be recalled that the General Assembly of the United Nations in its resolution 2551 (XXIV) urged full support for the efforts of ICAO 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; that resolution also invited States to ratify or accede to the Convention on offences and certain other acts committed on board aircraft, signed at Tokyo in September 1963.

Furthermore, in resolution 2645 (XXV) the General Assembly of the United Nations urged full support for the current efforts of ICAO towards the development and co-ordination of effective measures in respect of unlawful

(Mr. Kotaite, President, Council of ICAO)

interference with civil air travel and called upon States to make every possible effort to achieve a successful result at the Diplomatic Conference at The Hague in 1970 for the purpose of the adoption of a convention on the unlawful seizure of aircraft. Thus, the United Nations General Assembly in the past gave full endorsement and support to the efforts of ICAO in dealing with this very serious problem. The work of ICAO has always been in harmony with the general policies adopted by the General Assembly of the United Nations and the Security Council - see, for example, Security Council resolution 286 (1970), adopted on 9 September 1970, which called on States to take all possible legal steps to prevent further hijackings or any other interference with international civil air travel.

To assist in the implementation of the aviation security programmes in line with the international conventions and technical specifications, ICAO has already held two seminars in the Far East and the Pacific region and plans further aviation security seminars for several regions during the year 1978. Furthermore, a technical assistance regional project on aviation security is at present under way in the Far East and Pacific region, covering six countries. It is hoped that the United Nations Development Programme (UNDP) will make the appropriate funding arrangements to finance further regional projects to be performed by itinerant ICAO technical assistance experts in all regions of the world starting early in 1978. It is also hoped that UNDP will provide funds for fellowships for the further training of personnel of the countries concerned.

(Mr. Kotaite, President,  
Council of ICAO)

I have endeavoured to give you a brief outline of the work performed so far in the framework of ICAO with the full co-operation of the 141 member States of our organization. I wish to assure you that ICAO continues to be fully committed to the safeguarding of international civil aviation against acts of unlawful interference. This is evidenced by resolutions A22-16 and A22-17 which were unanimously adopted on 4 October this year during the twenty-second session of the ICAO Assembly. These resolutions call upon ICAO Contracting States which have not yet done so to become parties to the Hague Convention of 1970 and the Montreal Convention of 1971, which I referred to earlier, and emphasize the need for severe punishment of persons committing such unlawful acts and the adoption of adequate measures relating to the extradition or prosecution of such persons. The continuing ICAO policy with respect to technical measures for safeguarding international civil aviation against acts of unlawful interference was restated in resolution A22-17 which urges Contracting States to implement as soon as possible the previous resolutions of the Assembly and the standards, recommended practices and procedures on aviation security measures, and to give appropriate attention to the guidance material contained in the ICAO manual on aviation security.

It is the firm conviction of the International Civil Aviation Organization that universal acceptance of the Tokyo, Hague and Montreal Conventions and implementation of the technical specifications and guidance material developed by ICAO will go a long way towards eliminating the threat to civil aviation posed by acts of unlawful interference.

Mr. PEARCE (President, International Federation of Air Line Pilots Associations): I take this opportunity to express my appreciation of your invitation to address this supreme world forum on the vitally important subject "Safety of international civil aviation".

As President of the International Federation of Air Line Pilots Associations, I represent a world-wide non-political organization, whose members come from a multitude of countries in all continents and effectively command the majority of the world's civil air transport flights.

(Mr. Pearce, President, International  
Federation of Air Line Pilots  
Associations)

However, in addition to speaking for the world's airline pilots, I believe that I also speak for the travelling and even the non-travelling public of the world, all of whom are living in increasing danger as a result of the violent and savage attacks resulting in loss of life which are being directed against the world's most vital and effective transportation medium, civil aviation.

History records the jeopardy in which communications were placed when, in the years prior to the advent of aviation, surface transportation on land and sea was imperilled by thieves, murderers and pirates. Today we have a more modern, efficient means of transport and it too is being threatened by similar lawlessness.

The recent upsurge of unlawful interference and the escalation of international extortion and brutality have forced the airline pilots of the world seriously to consider whether the peoples of all nations and their Governments need to be reminded of the inestimable value to the international community of an organized civil air transport system.

The economic worth of civil air transport to all countries of the world, and in particular to developing nations, is increasing with great rapidity and because of this importance to the world communities civil air transport has become a prime target for those who would threaten the peace and security of the world.

The international nature of the threat is obvious when it is recognized that the persons who carry out attacks on civil aviation are not of only one nationality; nor are their victims. The system which they are putting at risk does not serve only one nation or group of nations and, therefore, precautions against these offences become essential not in one State only but in all States. Thus the world is being held to ransom.

These considerations are widely and strongly supported by other organizations and by the general public in a great number of countries spread throughout every continent and it is now evident that the peoples of the world are in agreement that the fear they are being forced to endure, if they exercise their inalienable right to communicate freely with each other, has become unacceptable.



(Mr. Pearce, President, International Federation of Air Line Pilots Associations)

It surely must be acknowledged that the basic entitlement of all people, irrespective of nationality, to travel their world in safety is too precious to be endangered by so few. Our very right to communicate is being threatened, and it is because good communications are the key to global co-operation, development and peace that all peoples of the world are in need of immediate protection.

There are many and varied motivations for those who commit these crimes of violence, but it must be realized that there is a new, disturbing trend, in that the latest hijackings have been executed by persons with greater technical knowledge, who are better prepared and completely ruthless. They have taken innocent lives for no valid reason and they have succeeded from time to time in their aim of obtaining by extortion the release from custody of other convicted and dangerous criminals and/or the payment of huge sums of money as a form of ransom.

It is truly alarming to realize that each successful hijacking attempt increases the risk of further hijackings, with criminals extracted from prisons becoming available to commit further crimes and money obtained as ransom being made available to finance further programmes of intimidation. No one can reasonably deny that the threat is growing rather than diminishing and, unless it is quickly contained, there is a serious risk that these crimes will be committed in countries and against airlines that have previously enjoyed immunity.

It is inconceivable that mankind should refuse to learn from the past and recognize that now is the time when a conscious and positive decision to act must be taken. The responsibility for action, and the consequences which follow, devolve undoubtedly upon the Governments of the world, which must confront this threat without compromise.

As Mr. Kotaite has already mentioned, 14 years have passed since the international community of States first recognized the threat posed by those who commit crimes of violence against civil aviation and subsequently sought to contain that growing menace by progressively agreeing on three

(Mr. Pearce, President, International  
Federation of Air Line Pilots  
Associations)

international treaties - the Tokyo, Hague and Montreal Conventions. Those three Conventions represent valuable progress but are not completely effective in that, although national laws are binding upon all persons in that State, international laws are applicable only to those States which have willingly adopted them, except where a threat to peace or security is determined.

Notwithstanding that the United Nations and its specialized agency the International Civil Aviation Organization have made a number of efforts to encourage States in order to secure universal acceptance of these treaties, to this date only 59 per cent of United Nations Member States have ratified the Tokyo Convention on Offences and other Acts Committed on Board Aircraft; only 53 per cent of United Nations Member States have ratified the Hague Convention for the Suppression of Unlawful Seizure of Aircraft; and only 50 per cent of United Nations Member States have ratified the Montreal Convention for Suppression of Unlawful Acts against the Safety of Civil Aviation.

(Mr. Pearce, President,  
International Federation of Air  
Line Pilots Associations)

Although these three treaties, if ratified and honoured by all States, would return civil aviation to the level of freedom from crimes of violence that it enjoyed 20 years ago, in view of the pathetic ratification record, as just expressed, they have undeniably proved to be ineffective.

It is abundantly clear that urgent steps are necessary to ensure that all nations comply with international law as it relates to the denial of safety and refuge to aerial pirates and those who otherwise carry out attacks on civil aviation.

The present scale of threat is such that it transcends national boundaries and national interests, and can truly be considered as constituting a threat to international peace and security.

This General Assembly is exhorted to intensify efforts aimed at expeditiously obtaining universal ratification and implementation of the obligations contained in the Tokyo, Hague and Montreal Conventions, together with universal application of the preventative and other measures prescribed in technical annex 17 of the International Civil Aviation Organization (ICAO).

The General Assembly is further urged to declare that the prevalence of attacks on civil aviation constitutes a threat to the maintenance of international peace and security, and thereby encourage the Secretary-General immediately to exercise his powers under Article 99 of the United Nations Charter to bring this matter to the urgent attention of the Security Council.

The International Federation of Air Line Pilots Associations is committed to continuing its close co-operation with the International Civil Aviation Organization (ICAO) in all matters concerning the safety of international civil aviation and now pauses whilst the United Nations demonstrates to the peoples of the world its intention immediately to initiate a course of action aimed positively at eradicating this threat to world peace and security once and for all.

Mr. BAROCDY (Saudi Arabia): Indeed we are indebted to both Mr. Assad Kotaite and to Captain Pearce, to both of whom I listened attentively. No doubt it is high time that drastic measures were taken by the international community so as not to endanger the lives of hostages, as well as those of the pilots, who are likewise human beings just as the hostages are. We are all descendants of the hominids as homo sapiens, but we usually act idiotically whether in peace or in war, unfortunately for us. Otherwise we would not have to have a United Nations to try and straighten out the affairs of the world. We would never have wars if everything was as it should be. That is why, in the presence of these two gentlemen and in fairness to them, to whom we are indebted for jolting us into the consciousness that something should be done, I must draw their attention to the fact that I humbly request them - I have no authority to do so except humbly - to get in touch with the federations or associations or unions, by whatever name they are known. For example there are the train engineers' unions. Trains are coming into vogue. They go not only inside the States but from one State to another. At the same time there are the boats. I do not travel by boat any more; I am a subscriber to the planes because they take me around in short time. But, as you know, there are boats that could be hijacked too. It is very easy to hijack. All you have to have is a few bombs and a few conspirators. They did not take these things into account when they prodded members of this international community of the United Nations into action.

They only saw their lives as pilots endangered - and rightly so; everyone sees his own interests. What about the lives of the train engineers; the bus drivers? Not that you are remiss in explaining to us what is happening in air travel, which is coming to be the mode of travel that is most natural for long distances. We even have the Concorde now which takes us to Europe in three hours and from Europe to here. Therefore, as a humble representative of a Member of this Organization, I should like not to think exclusively of the lives of the pilots, but also of those of other human beings who may be involved in civil transportation, on land and on sea.

I am not going to tinker at this meeting with the draft resolution that many of my brothers and friends have sponsored here. It could stand a little amendment and pruning here and there. But this we will not tell these gentlemen

(Mr. Baroody, Saudi Arabia)

because we do not want to bother you. But I want to leave this idea with them, as my good friends: that they should think of the other modes of transportation.

Now that I have said this, there is something else, and everyone knows about it. I worked on the Universal Declaration of Human Rights. That is a United Nations document. It has been studied in schools; it had a great impact on the international community, and it was the basis of the two international Covenants on human rights which have now come into effect. But I do not wish to bother my listeners with the technical side. All I want to mention is what that Declaration says: "All human beings are born free and equal in dignity and rights". In another place it says: "Everyone has the right to life, liberty ...". Liberty is not important; the primary thing is "life". What is liberty without life?

Now, our German friends, in their efficient manner, immediately mobilized - and rightly so; do not think I'm saying this in a spirit of criticism. And our illustrious Secretary-General received a letter and acted promptly, and rightly so. But in this rush we may have forgotten one thing: the life of the individual, whether he be a pilot or even one of us. I presume some of us will be taken hostage one of these days; it will not be very long, because the world is in disarray. The lives of the hostages should be as sacred as the life of a United Nations representative or the life of a train engineer or anyone else.

That is why, in the presence of these honourable gentlemen, whom I support in all they said, I have this amendment to offer to the draft resolution submitted by many here. No doubt these gentlemen are more familiar with this draft resolution than I am. This is the amendment which I am making in their presence.

I want the Secretary-General to listen to me, please. He is my Secretary-General. I used to say that to U Thant and to Hammarskjold, so do not take it as an exception.

(Mr. Baroudy, Saudi Arabia)

There will be a fifth paragraph, and with your permission I will read it slowly:

"Affirms that saving the lives of innocent hostages ..."  
and I am prepared to forego the word "innocent" - every hostage, even if he is a so-called criminal, is a human being and there should be due process, but I know there are various ideas on that, so I say "innocent". Even a criminal was born an innocent baby.

"Affirms that saving the lives of innocent hostages should remain the primary concern of the international community, notwithstanding the necessary drastic measures that may have to be taken to curb the international hijacking operations of civilians."

Remember that you are pilots, but at the same time you are civilians. You are included: you too are innocent. Because there was a success in freeing the hostages, do not let what happened in Somalia become a precedent. I am addressing myself to the pilots. The German operation might have boomeranged and the other innocent pilot - like the innocent whose death we deplore and grieve over - could have been sacrificed with the other 86 hostages.

But look at the wording: I said "notwithstanding the necessary drastic measures that may have to be taken" - I did not say "that should be taken". In other words, we leave it to the pilots themselves and to the country to which the hijacked plane is taken. We leave a leeway, we leave alternatives. Not "bang, bang, bang, you surrender, or else ..." - I do not know what they did, they flashed something all of a sudden, and it could have ended in a bigger tragedy.

My dear brothers and sons - some of you are young, like sons to me - Captain Pearce and Mr. Kotaite. I think Mr. Kotaite has an Arab name, which shows that not all Arabs are for hijacking, as many here in the mass media say. We have an Arab here and we are proud of him; we are proud of Captain Pearce, too, regardless of his nationality.

I travel in comfort on your planes. We owe you a great debt, taking us from one country to another in no time, and the courtesy we find on planes is not to be met anywhere else, neither on trains nor on ships. You are unique. You are the epitome of courtesy and we do not want anybody to harm you. We do not

(Mr. Baroody, Saudi Arabia)

want you civilians - and you pilots are civilians too - always to be subject to drastic measures that may fail, and then comes the tragedy.

In the General Committee I mentioned that there were four categories of hijackers. Some are pirates, air pirates, like the former sea pirates, of not so long ago. A certain queen - we do not say who - sent them out, and knighted them for being pirates. That was 400 years ago. We Arabs had our pirates, too, so let nobody think that we are throwing mud. These are the highway robbers; high-air robbers, I call them.

The second category are the espousers of causes, regardless of whether we agree with those causes or disagree. But they still mix those causes with filthy lucre. They want a few millions on the side, while liberating certain prisoners, or whatever it is.

The third category of hijackers - and I have made a study of it not from books but from observation - are those hijackers who espouse a cause - we may agree with them or disagree with them - but they still value their lives and they give in.

But the most dangerous category is the fourth category, who have in them the seeds of martyrdom. By what happened in the last incident we may encourage many to belong to that category of hijacker, who would want to go down in history as having sacrificed their lives for a noble cause. Whether it is noble or ignoble is beside the point: they let themselves be sacrificed and they do not care. If they let themselves be sacrificed, the hostages are finished.

This is the reason why I have very carefully specified here that the lives of innocent hostages should remain the primary concern of the international community, notwithstanding the necessary drastic measures that may have to be taken. I have not ruled out drastic measures, but in the last resort it is the pilots and the other civilians who will be sacrificed. We should use our minds; we should make a fixed rule. A human relationship is not a mathematical equation of one and one makes two. We ask you, as the people who are the custodians of our air travel, to take into account this aspect of the problem and give it some thought, so that the international community can also act in accordance with the principle that everyone has the right to life, which is enunciated in the Universal Declaration of Human Rights.

(Mr. Baroody, Saudi Arabia)

Our Chairman asked if I would speak, but not here; I said no, and he was gracious enough to allow me to speak. I said, "I want to speak in the presence of those honourable people who are doing their utmost to see that we are safe, that they may hear the views of many of us that the right to life is dominant in all our lives on earth." I must thank you, Mr. Chairman, for being so flexible, and I must also thank our Secretary-General who, not for the first time, has prodded us to do something. I remember in 1971 he prodded us to do something about terrorism. And I must thank my colleagues for heeding, I hope, what I have said on this question in the presence of those honourable gentlemen. It was a pleasure and an honour for us to receive in this Committee.

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