

**FACILITATION (FAL) DIVISION — TWELFTH SESSION****Cairo, Egypt, 22 March to 2 April 2004****Agenda Item 2: Facilitation and security of travel documents and border control formalities**
2.5: Implementation of aviation security**UNRULY PASSENGERS**

(Presented by the International Federation of Air Line Pilots' Associations
(IFALPA))

1. INTRODUCTION

1.1 The unruly passenger continues to be a threat to aviation safety on a worldwide basis. Incidents continue to occur across the world, taking place across the entire spectrum from passenger arrival at the airport to passenger departure from the airport. The venue ranges from admittance to the terminal (in response to requests for identification and tickets to authorise admittance in airports where this is the procedure) to the irate passenger berating the airline representative at the lost/misrouted baggage desk of the airline. Incidents vary from the minor (the irate passenger) to the severely disruptive that threaten the safety of others in airport terminals, and at worst, the safety of a planeload of passengers.

1.2 This paper reviews the measures which have been developed to deal with unruly passengers and proposes a broad-based strategy, including preventive measures, and new recommended practices to address the problem.

2. We all understand that there can be frustrations inherent in air travel. However, as in any other realm of life, this does not excuse the passenger who leaves behind responsibility and personal accountability for behaviour, when he/she steps onto an airport or an aircraft.

3. The unruly (or disruptive) passenger has been an ongoing issue at ICAO, at least since 1995. The matter has been addressed a number of times by the Council, studied by the Air Navigation Commission, under discussion in the Aviation Security Panel for several years, and has been studied and addressed on an ongoing basis in the Legal Bureau.

4. Clearly, an important part of facilitation of the movement of passengers through our airports, on board the aircraft, and through destination formalities and logistics, is concern about the safety, well being, and comfort – both physical and emotional – of the passengers, as well as others who are present every day at our airports and on board our aircraft. An unruly passenger incident, particularly on board the aircraft, is at best very unsettling for all present. Minimising of unruly behaviour by pre-emptive action can preclude the development of very dangerous situations on board the aircraft. Airport and airline personnel, if prepared to spot potential problems before they happen, can often defuse escalating misunderstandings, and solve a specific situation before it fully develops.

5. One of the problems with the implementation of an effective and consistent strategy on unruly passengers is the difficulty to take legal action against those who have committed serious offences on board an aircraft. This is largely due to the problem of legal jurisdiction. Many States' legal systems do not include jurisdiction to charge a person for an offence, which has not taken place in its own territory.

This means that it is often impossible to lay charges against the offender if an offence is taking place in a State that is not the State of arrival and on an aircraft that is not registered in the State of arrival.

6. To address this issue, in 1997 ICAO established, under the responsibility of the Legal Bureau, the Secretariat Study Group on Unruly Passengers. During the next three years the Study Group developed model national legislation on offences committed on board civil aircraft by unruly passengers. The areas of lists of offences, extension of jurisdiction, and legal mechanisms are addressed in the legislation. Following Resolution A33-4 adopted by the 33rd Session, Circular 288 LE/1; **Guidance Material on the Legal Aspects of Unruly/Disruptive Passengers** was issued to Contracting States in June of 2002.

7. While the model national legislation has been implemented by a number of member States, world implementation is still quite chequered. Therefore, while the legislation will have some impact, it does not yet have the broad effect that would occur should a substantial number of States integrate it into their own national legislation, and so far we have had a mixed success.

8. Clearly, a mix of legal and preventative measures is needed. The model national legislation is directed specifically toward actions *on board* the aircraft. We would suggest a combination of efforts, with integrated measures from the realms of legal, security, and facilitation.

9. Such a strategy would include broader implementation of the model national legislation, together with development by airport, civil aviation, and law enforcement authorities of a preventive strategy to deal with unruly passengers. The success of such preventive strategy relies on three conditions:

- a) raised awareness among passengers of how the airports, airlines, and the authorities will respond to disruptive acts;
- b) the implementation of a zero-tolerance policy; and
- c) the certainty and type of consequence in response to passengers' disruptive behaviours.

10. Notification to passengers of the unacceptability and the consequences of unruly behaviour is accomplished in several member States. Large posters displayed throughout the terminal areas have been found to be effective as are the placement of notification cards in ticket jackets, and the carriage of notification cards on board the aircraft.

11. What can we do to spot a potential problem before it happens? This can be accomplished in a variety of ways. Ground and air staff can be trained in:

- a) passenger service skills to minimize stressful interactions;
- b) recognition of the signs of a passenger who is a little more likely, due to either general instability or reaction to immediate stress, to explode into unsavoury behaviour;
- c) recognition of potentially escalating situations; and
- d) crisis containment.

12. Historical occurrences of severely disruptive behaviour by inadmissible persons, deportees, and persons in custody have validated the critical importance of implementation of the appropriate measures when preparing and accomplishing their transport.

13. Knowingly departing with a potentially seriously disruptive passenger on board the aircraft, especially in today's environment, presents a risk that is in direct conflict with the safety, regularity, and efficiency of aviation. Therefore, States are reminded of the provisions of Article 8 of the Tokyo Convention¹ regarding an individual deplaned by the aircraft commander.

14. A disturbance that is a routine law enforcement problem in the terminal can (and has on a number of occasions) be a matter of potential deadly consequence in the confines of an aircraft in-flight. A broad based, multi-disciplinary approach to the problem, with parallel and *integrated* measures from the facilitation, the legal, and the security perspectives, can prevent the beginnings of an incident from developing into a life threatening on board situation. The unruly passenger is by far the most frequent threat on board aircraft – worldwide – today. As the ground is the place to stop the hijacker or the terrorist, so is it the place to stop the disruptive passenger.

15. ACTION BY THE DIVISION

15.1 The Division is invited to:

- a) recommend that Contracting States support a zero-tolerance policy regarding unruly passenger behaviour, by enactment of related legislation and by enforcement thereof, taking into account the Model National Legislation developed by ICAO; and
- b) recommend adoption of two new recommended practices, as follows:

Contracting States should take the necessary steps to increase passenger awareness of the unacceptability and consequences of unruly/disruptive behaviour in aviation facilities and on board aircraft.

Contracting States should require that training in noting, anticipating, and handling of irate or unruly passenger behaviour, recognition of potentially escalating situations, crisis containment and related issues should be provided to those ground staff at airports who are in passenger contact positions.

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¹ Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963, ICAO Doc 8364 (see excerpts in attached Appendix).

APPENDIX

EXCERPTS FROM THE CONVENTION ON OFFENCES AND CERTAIN OTHER ACTS COMMITTED ON BOARD AIRCRAFT

(Signed at Tokyo on 14 September 1963, ICAO Doc 8364)

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.*

Chapter III - Powers of the aircraft commander 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.

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

— END —

² Italics added - in excerpts.