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Agenda Item 14: Aviation security

ADDITIONAL CIVIL AVIATION SECURITY MEASURES USE OF AIR MARSHALLS IN INTERNATIONAL FLIGHTS

(Presented by the 21² member States of the Latin American Civil Aviation Commission)

SUMMARY

This working paper presents the concern of LACAC member States with respect to the inclusion of a trained and armed police agent in specific flights of airlines of our region, to, from and overflying the United States. These urgent measures, requested by the *Transportation Security Administration* (TSA/USA), leave doubts about their efficacy and efficiency, thus raising technical and legal problems related to their implementation as well as to a significant operating cost.

1. INTRODUCTION

1.1 The events of 11 September 2001 brought about deep transformations in the air transportation industry, with direct repercussions on airline profitability, in addition to the negative effects on other segments of the sector, mainly in developing countries.

1.2 The reduction of demand and the increased cost of security measures for airlines and airports have been a matter of concern to ICAO contracting States, especially to countries in the Latin American region, since their governments are not capable of contributing capital to programmes for the provision of financial aid to civil aviation activities in the region.

1.3 As a direct result of this, new standards and recommended practices (SARPs) on civil aviation security were established, as described in Amendment 10 to ICAO Annex 17 (effective on July 2002).

¹ English and Spanish versions provided by LACAC

² Argentina, Aruba, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela

1.4 The States of the region have applied these new measures and have also cooperated, to the extent possible, in the unilateral and extraterritorial actions contained in the Emergency Amendments required by the TSA. Most of these requirements involve additional costs for airlines and the respective governments.

1.5 Additional initiatives are still under study within ICAO, such as:

- MANPADS monitoring and alerting system;
- transponder systems;
- general aviation measures;
- implementation of explosive detectors;
- Airborne surveillance camera systems.

1.6 In addition to these actions, the TSA has been constantly issuing, since 2003, Emergency Amendments affecting US and foreign airlines, on both passenger and cargo flights, with immediate effectiveness, inside and out its territory, based on the context of specific threat of the United States of America.

1.7 The applicability of some of these emergency amendments, especially the use of air marshalls on international flights, has been discussed and questioned by various countries and organizations related to air transport, which consider that this measure is not only premature but also of high risk for passengers and crew members.

1.8 *The International Federation of Air Line Pilots' Associations (IFALPA) and the International Air Transport Association (IATA) were some of the various international organizations that expressed concern and displeasure on the immediate use of air marshalls onboard aircraft on international flights.*

1.9 Within the context of the problems encountered in the application of this measure, several issues, such as, need to be discussed: *training of human resources, psychological/physiological aspects and their impact, legal considerations, and repercussions on air transport demand in the region.*

2. TRAINING OF HUMAN RESOURCES

2.1 According to requirements contained in *Emergency Amendments EA 1546-10 and 11*, and the secrecy, security and reliability characteristics of the mission, air marshalls shall be police agents trained by the States to perform the specific activity on board aircraft.

2.2 To date, most LACAC States have not recruited nor trained agents in the specialization required to fulfill this mission. Therefore, it is necessary to make a careful assessment of the conditioning factors and possible results of the implementation of air marshall programmes, taking into account international experience and the discussions held on this matter.

2.3 The main factor in the implementation of the Air Marshall Programme is the responsibility inherent to the State of guaranteeing effective flight security conditions for civil aviation users, with permission to use highly-specialized, recruited and trained police officers that follow strict norms of conduct and are subject to an ongoing review of their technical and operational performance. Of course, such programme requires the development of a national human-resource training project, provided with large amounts of money.

2.4 Experience of the US government with the Air Marshall Programme has shown that, prior to the attacks on the twin towers (WTC) in 2001, the programme only had 50 federal police officers and an approximate annual cost of US\$ 4 million. The quick evolution of the Air Marshall Programme in the United States required the use of thousands of police officers and a budget of more than US\$ 500 million in 2003. The exact information is confidential (US Congress Report – November 2003).

2.5 Training of human resources for use as air marshalls requires the establishment of specific procedural and training patterns for this activity, based on scientific studies ensuring their efficacy and efficiency.

2.6 In the meantime, even if the matter is addressed in a confidential manner, existing literature does not show conclusive examples of use and success of this type of security measures in civil aviation, involving the intervention of air marshalls on board aircraft in activities of reaction, contention and control of terrorist actions by radical groups.

2.7 In fact, some examples cited in publications and by experts on this matter are more related to unruly passengers, and mainly highlight the power of dissuasion of air marshalls as the last link in the aviation security chain for passengers who do not represent a potential risk of unlawful acts.

2.8 In this sense, due to the high risk for passengers, crew members, police officers and flight security itself, the standardization of procedures for the use of air marshalls requires training with a high level of specialization, knowledge of aircraft operation and of its possible airworthiness configurations and characteristics, in addition to response training with simulators, use of special weapons and ammunition, handling and care of the injured and dead.

2.9 It is important to note that, even after specific training has been provided, use of air marshalls raises situations with unforeseen consequences, since radical groups have shown great capacity in planning and executing this type of terrorist action. After the attacks on the twin towers, it was clear that acts of unlawful interference by radical elements will be preceded by careful strategic and logistic planning, including the possibility of prior identification of air marshalls, and a coordinated action to seize their weapons and, thus, the aircraft and its passengers.

3. PSYCHOLOGICAL/PHYSIOLOGICAL ASPECTS AND THEIR IMPACT

3.1. Regarding the characteristics inherent to air marshall activities, the significant level of stress caused by long working hours is obvious, especially in long international flights, in which they have to remain in a confined environment under the effects of altitude (30,000 ft/10,000 m), in addition to the high and constant level of alert required. The interaction of these factors, associated with performance expectations in face of a possible occurrence, could generate unexpected reactions by the agents, thus compromising flight security.

3.2 Within this context, consideration should also be given to the need to permanently rotate the agents in the same flights, so as to avoid their identification by frequent flyers or by elements interested in carrying out acts of unlawful interference.

3.3. Furthermore, note should be taken of reports on recent difficulties in the implementation of the US air marshal programme, on aspects related to definition of work day, handling of stopovers, and the need for constant psychological monitoring, in addition to significant number of elements selected for service who drop out. Therefore, prior to its effective implementation, appropriate medical studies on air marshal activity are required, taking into account their exposure to a hypoxic, although pressurized, environment, in addition to flight fatigue due to vibration, continuous noise levels and permanent surveillance, sleeping pills, and elements that compromise their action capability.

3.4 Regarding the psychological impact on passengers, it is important to recall that, from the legal point of view, passengers cannot be deprived of information on air transportation services, especially with respect to the fact that they are on a flight that has been declared of risk. Information to passengers as to risk and the presence of air marshal on board could give them a sense of vulnerability and exposure, affecting them psychologically, and it could generate hysterical behaviours, with the aggravation of unexpected reactions.

3.5 As to the crew, the effects of this measure can be even more significant, increasing levels of stress due to the knowledge, *a priori*, of the possibility that an act of unlawful interference may occur, which surely compromises performance and, by extension, flight security. This environment of permanent stress may turn a normal incident into situations of risk on board aircraft.

4. **LEGAL CONSIDERATIONS AND REPERCUSSIONS ON AIR TRANSPORT DEMAND IN THE REGION**

4.1 Regarding implications on air transport demand, it is important to stress that the relationship between passenger and airline is regulated by a transportation contract, in which the State guarantees operational conditions and individual safety of each passenger, based on the legal structure of the countries of the region and the legislation on concession of air transportation public services. Thus, the passenger must be informed that the flight will be classified as of risk, so that he/she may decide whether to proceed with or cancel the aforementioned contract, i.e., to take or not the cited flight.

4.2 The presence of armed police agents, air marshalls, in Latin American countries, where the level of threat is low and the population has a distinct sensitivity towards this type of occurrence, may have an extremely harmful effect on airlines, causing a drop in demand and affecting their financial health.

4.3 It is important to stress that the cancellation of a flight entails the transfer of passengers to another flight, merely postponing the risk situation for a later occasion.

4.4 In most States, the lack of staff specifically trained in this activity will make it impossible to implement this requirement, bringing about flight cancellations and negative economic repercussions on the relations between the two countries involved. Based on the principle of reciprocity, this could generate situations of antagonism, such as protests or retaliation, due to the cancellation of other flights of the contracting State that requested the measure in question.

4.5 Within the legal aspects, there is still the possibility of a conflict of authority between the federal agent on board and the commander of the aircraft. It may be noted that, according to US experience, one of the great difficulties is the relationship between the airline and the aforementioned agents, as noted in the reports of the US programme, where arguments and lack of understanding account for 18% of total reported events (US Congress Report – November 2003).

5. ACTION BY THE ASSEMBLY

5.1 Taking into account the common characteristics of LACAC member States, the following proposals are submitted to the Assembly:

- a) The use of armed officers on board aircraft should not be an essential condition for carrying out flights of a specific risk, as a last resort to avoid acts of unlawful interference, without previously confirming the efficiency and efficacy of air marshalls;
- b) to conduct, within ICAO, specific studies on the effectivity and efficiency of using air marshalls on long-haul flights, taking into account the various specifications of the activity, including the costs involved in the training, selection and operation of programmes of this nature.
- c) to develop a mechanism to offset the costs derived from the use of air marshalls in international flights to meet specific requirements of another State.

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