



INTERNATIONAL CIVIL AVIATION ORGANIZATION

A35-WP/279

LE/24

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ASSEMBLY — 35TH SESSION

LEGAL COMMISSION

Agenda Item 37: Work Programme of the Organization in the legal field

PROPOSED AMENDMENTS TO DRAFT ASSEMBLY RESOLUTION APPENDED TO A35-WP/62

(Presented by Canada and the United Kingdom)

SUMMARY

This paper proposes amendments to the “Resolution Framed by the Legal Commission and Recommended for Adoption by the Assembly” appended to A35-WP/62.

1. This paper proposes amendments to the “Resolution Framed by the Legal Commission and Recommended for Adoption by the Assembly” appended to A35-WP/62.
2. The first proposed amendment is advanced to ensure that the increase in concentration of DMNB from 0.1% to 1.0% can be dealt with effectively while leaving the effects of future changes to the Technical Annex to be dealt with in accordance with the circumstances prevailing at the time of the change.
3. The second proposed amendment is advanced to ensure that paragraph 1 of the amended resolution will apply to State Parties that originally objected to the amendment to the Technical Annex and subsequently withdraw that objection.

APPENDIX

RESOLUTION FRAMED BY THE LEGAL COMMISSION AND RECOMMENDED FOR ADOPTION BY THE ASSEMBLY

Resolution 37/1

Application of Article IV of the *Convention* *on the Marking of Plastic Explosives for the Purpose of Detection*

Recognizing the importance of the *Convention on the Marking of Plastic Explosives for the Purpose of Detection* in the prevention of unlawful acts against civil aviation;

Conscious of the need to amend the Technical Annex to the Convention for the purpose of **increasing the required minimum concentration of the marker 2,3-Dimethyl-2,3-Dinitrobutane (DMNB) from 0.1 to 1.0 per cent by mass** ~~updating the definition and description of detection agents in order to enhance the detectability of the plastic explosives;~~

Bearing in mind the desirability of maintaining a uniform regime for the detection system of the explosives, particularly after ~~the an~~ amendment to the Technical Annex; and

Noting the recommendation of the Legal Committee as approved by the Council that Article IV of the Convention should be applied *mutatis mutandis* to the explosives which are not marked in accordance with the amended Technical Annex;

The Assembly:

Urges the ICAO Contracting States which are parties to the Convention to apply Article IV of the Convention in their mutual relations in the following manner:

~~The explosives which, at the time of manufacture, met the requirements contained in Part 2 of the Technical Annex but which no longer meet the requirements of Part 2 because of a subsequent amendment to the Technical Annex, shall be subjected to the provisions of Article IV, paragraphs (2) and (3), from the entry into force of that amendment.~~

1. Accordingly, ~~When~~ an amendment to Part 2 of the Technical Annex **increasing the minimum concentration of the marker DMNB from 0.1 to 1.0 per cent by mass** enters into force, each State Party not having expressly objected to the amendment shall take the necessary measures to ensure that:

- a) all stocks of those explosives in its territory ~~referred to in the preceding paragraph~~ that are marked with a concentration of DMNB of less than 1.0 per cent are destroyed or consumed for purposes not inconsistent with the objectives of this Convention, marked or rendered permanently ineffective within a period of three years from the entry into force of the amendment, if these explosives are not held by its authorities performing military or police functions; and
 - b) all stocks of those explosives referred to in the preceding paragraph held by its authorities performing military or police functions and that are not incorporated as an integral part of duly authorized military devices are destroyed or consumed for purposes not inconsistent with the objectives of this Convention, marked or rendered permanently ineffective within a period of fifteen years from the entry into force of the amendment.
2. The foregoing paragraph shall apply to any State Party that withdraws its objection to the amendment as from the date it expresses its consent to be bound.

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