



LC/33
Flimsy No. 9
1/5/08

LEGAL COMMITTEE – 33RD SESSION

(Montréal, 21 April – 2 May 2008)

COMMENTS

(Presented by Norway)

Norway recognizes the need for a convention on compensation for damage to third parties resulting from acts of unlawful interference involving aircraft.

Norway has not reached final conclusions as regards the details of the Draft Convention. Although Norway's position is an open and flexible one, it supports the fundamental principle of the Draft Convention that a relatively clear cut risk management or risk distribution system is the most appropriate solution to the threats of terrorism.

However, Norway wishes to emphasize that it is important that appropriate mechanisms are introduced to ensure that the final convention functions as intended, especially to ensure that a level playing field is provided for the operators in all the potential States Parties. A level playing field can only be achieved if all operators are given strong incentives to pay the contributions to the Supplementary Compensation Mechanism ("SCM") they are legally obliged to and that the States Parties have sufficient incentives to provide the information necessary for control purposes.

The Draft Convention clearly requires the States Parties to contribute to this end through their internal legislation. Furthermore, the Draft Regulations for the SCM (*cf.* LC/33-WP/3-8) contains provisions on denial of compensation if these State responsibilities are not complied with. Due to both legal-technical and efficiency reasons, Norway would suggest that these State incentives should be reflected in the final provisions of the Convention itself. Similarly, Norway would suggest that the operators themselves could be given similar incentives through explicit provisions, preferably in the Convention itself.

Norway considers these questions to be policy questions that need to be addressed at the forthcoming Diplomatic Conference.

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