



INTERNATIONAL CIVIL AVIATION ORGANIZATION

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DRAFT TEXT FOR THE REPORT ON AGENDA ITEM 14

The attached material on Agenda Item 14 is submitted for consideration by the Executive Committee.

Agenda Item 14: Aviation security**14.1: Developments since the 33rd Session of the Assembly**

14.1:1 At its second and third meetings, the Executive Committee considered the subject of aviation security on the basis of a progress report by the Council on developments since the 33rd Session of the Assembly (WP/49 and Addendum No.1) and an associated information paper (WP/88); and two other Council reports: one on the threat to civil aviation posed by man-portable air defence systems, MANPADS (WP/50); and one updating the *Consolidated statement of continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference*, Resolution A33-2 (WP/48). In addition, there were 19 papers presented by States and Observers: WPs/38, 71 Revised, 94, 107 Revised, 110, 111, 141, 145, 167, 175, 181, 184, 186, 233, 234, 241, 249, 252 and 253.

14.1:2 The Council reported (WP/49 and Addendum No.1) on action taken in response to Assembly Resolution A33-1, including the outcome of the High-level, Ministerial Conference on Aviation Security, the adoption of the Plan of Action in June 2002 and its subsequent implementation. Good progress had been achieved in implementing the Plan of Action, although initial concerns over funding and delays in recruitment of Professional and General Service staff created some problems. Certain projects had been given priority in allocating funds, notably Project 3 - Universal Security Audit Programme (USAP). For this reason and because of inter-relationships that exist among projects (for example, an audit must take place before corrective action can be taken), some projects were more advanced than others. In the next triennium, ICAO's activities in the aviation security field would follow the general direction set by the Council in June 2002 when it adopted the Plan of Action. During the period 2002-2004, the Plan of Action had been funded by the Regular Programme and voluntary contributions from States through the Enhanced AVSEC Mechanism. Although the Assembly in 2001 had directed the Council to develop proposals and take appropriate decisions for a more stable funding of ICAO action in the field of aviation security (Assembly Resolution A33-1, paragraph 6), the Council had concluded that it was not feasible in the present budgetary circumstances to increase funding for aviation security-related activities in the Regular Programme for 2005 to 2007. Consequently, funding from the Regular Programme would be on a similar scale to the present triennium and these activities would continue to be heavily dependent on voluntary contributions from States. Contracting States were requested to make pledges in advance for the three years and also to make their voluntary contributions on a timely basis. A draft resolution to this effect was presented for adoption by the Assembly.

14.1:3 In WP/50, the Council reported on its work relating to the threat to civil aviation posed by man-portable air defence systems (MANPADS). In the light of the most recent incidents involving MANPADS, the Council had concluded that the existing Assembly Resolution A32-23: *MANPADS Export Control* was no longer adequate and that a more far-reaching resolution is now required. In this regard, it drew the Assembly's attention to the *Wassenaar Arrangements on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, Elements for Export Controls of MANPADS*, which detail national export controls applicable to the international transfer or retransfer of MANPADS, including complete systems, components, spare parts, models, training systems, and simulators, for any purpose, by any means, including licensed export, sale, grant, loan, lease, co-production or licensing arrangement for production, as well as relevant developments within the United Nations system. The Council also proposed a draft Assembly Resolution aimed at strengthening the aviation community's efforts to address the threat posed to civil aviation by MANPADS, other surface-to-air missiles systems, light weapons and rocket propelled grenades.

14.1:4 In WP/48, the Council presented proposals to revise Assembly Resolution A33-2: *Consolidated statement of continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference*, in the light of developments in the field of aviation security since the 33rd Session of the Assembly.

14.1:5 In WP/233, Australia reported on its continued development of stronger policies in relation to aviation security, consistent with ICAO's recommendations. These developments include new legislation, the *Aviation Transport Security Act 2004*, and the commitment of funds towards the strengthening of aviation transport security in Australia and internationally. Australia urged other States to make voluntary contributions in support of ICAO's work in this field.

14.1:6 In WP/234, Canada stressed that today civil aviation is under very serious threat as was evidenced most recently in the Russian Federation and Turkey. In this regard, support was expressed for the ICAO Aviation Security Plan of Action and it was requested that this programme be integrated into the Regular Programme Budget. Canada also called on ICAO to ensure that its Contracting States implement effectively the security measures prescribed in Annex 17, and that those measures are commensurate with the level of threat.

14.1:7 China, in WP/249, provided information on some of the effective aviation security measures taken in that State. It proposed that the establishment of a global or regional aviation security information exchange and coordination mechanism be considered under the leadership of ICAO, or via its regional offices, in order to strengthen aviation security cooperation among all ICAO Contracting States.

14.1:8 In WP/241, the Russian Federation reported on two acts of terrorism committed on 24 August 2004 on board Russian civil aircraft on domestic flights from Moscow to Volgograd and Sochi, and presented a draft Resolution which called for the continuation of global actions to ensure aviation security. The Russian Federation also presented information of a technical nature. In WP/110, information was presented on experience with the development of new explosives detection technologies. In WP/111, information was provided on the use of television equipment to monitor emergency situations on board aircraft, for consideration in the establishment of common international requirements for such airborne television monitoring systems.

14.1:9 ACI, in WP/167, supported the action taken by ICAO to improve aviation security following the events of 11 September 2001, demonstrating ICAO's ability to act decisively and swiftly in a crisis situation. As to funding, ACI emphasized that since terrorism targets States, not civil aviation, States should fund all countermeasures against terrorism and implement such measures as elements of national defence, in close consultation with the industry. ACI also stressed the need for implementation of globally harmonized ICAO Standards, as opposed to piecemeal unilateral efforts by States.

14.1:10 In WP/252, ACAC States outlined the concept of international civil aviation security procedures according to the tenets and principles of international legitimacy. They called on ICAO to incorporate the concept of facilitation into security in conformity with the provisions of Annex 17 and Annex 9. They also referred to ethnic and religious profiling at airports during departure and arrival process as a violation of the principles of international law.

14.1:11 In WP/145, ECAC States described progress regarding Air Traffic Management (ATM) security-related activities based on the strategic security initiatives previously presented by ICAO, in particular the European Regional Renegade Information Dissemination System (ERRIDS) programme developed in collaboration with NATO. They defined issues concerning unlawful interference, alert classification, intercept procedures, communication failure, communication watch and training, for review by ICAO.

14.1:12 In WP/71 Revised, IATA outlined the airline industry's view on critical next steps in three main areas of aviation security: responsibility for and funding of aviation security; handling of unruly/disruptive passengers; and restrictions on the illicit sale and movement of MANPADS. IATA welcomed initiatives taken by ICAO, in particular since the events of 11 September 2001, including amendments to Annex 17. It stressed that while ICAO had been active in each of the three areas of aviation security and substantial progress has been made, it was time to consolidate that progress and look forward to the "next steps" to be taken in each of these three areas. IATA also reiterated ACI's concerns about States' implementation of ICAO Standards.

14.1:13 In WP/141, the International Transport Workers' Federation (ITF) noted that human resources constitute an essential component in the delivery of secure and safe air transportation. It expressed the view that governments and industry need to move to an integrated view of the relationship between technological solutions to security challenges and the staffing context in which such technologies are applied. This amounted to an extension of the human factors models, which have proved valuable in the accident-prevention field, into the domain of security improvement and risk management. ITF proposed a new approach aimed at enhancing security delivery through the systematic application of all resources including the commitment and skills of the personnel that work in the industry, including certification of the aviation security personnel.

14.1:14 LACAC States, in WP/181, outlined their position with regard to the implementation of Standards and Recommended Practices (SARPs) contained in Annex 17, and the need for a balance between the cost of implementation and the level of threat to security of civil aviation of the States of their region and of other Contracting States.

14.1:15 In WP/186, LACAC States expressed some concerns on proposals under study for inclusion in Amendment 11 to Annex 17, particularly in view of the high cost of security measures and the different levels of threat perceived by States. These proposals related to MANPADS, to In-flight Security Personnel (IFSP), and to a security plan for general aviation aircraft. They called for the economic and financial characteristics of their region and the level of threat perceived in LACAC States to be taken into account when finalizing Amendment 11 to Annex 17. They also expressed concerns about expanding the scope of application of Annex 17 to domestic flights.

14.1:16 In WP/184, LACAC States also expressed their concern regarding urgent measures requested by the Transportation Security Administration (TSA) to have trained and armed police agents on specific flights, flying to and from, as well as overflying the United States. They questioned the efficacy and efficiency of such measures and drew attention to technical and legal problems related to their implementation, as well as the associated costs.

14.1:17 The World Trade Organization (WTO), in WP/107 Revised, stressed that there is a need for greater emphasis on integrating security and facilitation for travellers across, between and beyond national borders and that facilitation should therefore be integral to both design and the operation of security devices and procedures. In this regard, WTO reported on a recently launched strategy, S.A.F.E. - Security and Facilitation Enhancement, four key components of which were establishing benchmarks; building capacity; assessing performance and identifying remedial projects; and building confidence.

14.1:18 In an information paper (WP/88), the Council made available a study on legal measures to cover the new and emerging threats to civil aviation, prepared by the Secretariat under the Aviation Security Plan of Action, Project 12: Legal. The paper analysed the coverage of new and emerging threats in existing aviation security conventions, and identified gaps and inadequacies in these conventions. It also explored the issue of indemnification and exemption relating to certain parties in the event of unlawful interference with international civil aviation, and made preliminary recommendations on how to deal, from a legal point of view, with new and emerging threats to civil aviation.

14.1:19 In an information paper (WP/175), India described steps taken to strengthen aviation security at its airports following the unlawful seizure of an aircraft from Kathmandu Airport in 1999, the events of 11 September 2001 in the United States and the facility attack at Sri Lanka airport in 2001. India restated its full commitment to the implementation of the Standards and Recommended Practices contained in Annex 17 in order to prevent acts of terrorism against civil aviation.

14.1:20 In an information paper (WP/38), Nepal reported on the status of aviation security and measures taken to re-strengthen its security system. It suggested that aviation security could best be strengthened through cooperation at the national, regional and global level.

14.1:21 In an information paper (WP/253), L'Union Economique et Monétaire Ouest Africaine (UEMOA) provided an overview of four projects regarding economic regulations, status of civil aviation administrations, safety and security, which are part of the Air Transport Common Programme, adopted on 27 June 2002.

14.1:22 In an information paper (WP/94), the European Commission provided an overview of legislation and legislative developments that have taken place in the European Community in the field of civil aviation security. This legislation lays down mandatory general legislative requirements and standards for aviation security to be applied at Community airports, based on the rules developed by ECAC in its Doc. 30. Security measures adopted include the screening of all departing hold baggage and the screening of all staff working at Community airports.

14.1:23 The Committee noted with satisfaction the Council's report on the developments in the field of aviation security since the 33rd Session of the Assembly and expressed its strong support for ICAO's work. The Committee reviewed the draft resolution on financial contributions to the Aviation Security Plan of Action and it was agreed that, given the high priority accorded to aviation security in the work programme of the Organization, the Aviation Security Plan of Action should progressively be integrated into the Regular Programme Budget, as soon as possible. As this programme is currently very dependent on voluntary contributions from States, the Committee called on Contracting States to provide their contributions in advance in order to ensure the continued implementation of this programme.

14.1:24 Regarding MANPADS, the Committee expressed its unanimous support for the draft resolution presented by the Council in WP/50. It made amendments to the text in order to reflect the need for cooperation at the international level and to acknowledge cost aspects of countermeasures. Recognising the seriousness of the threat posed by MANPADS, consideration was also given to establishing a mechanism to monitor implementation of this resolution. In view of the involvement of other UN bodies, it was decided that it was not appropriate to include this idea in the resolution itself, and that it would be for the Council to determine how the implementation of the resolution should be monitored.

14.1:25 In order to further strengthen and clarify security provisions contained in Annex 17, the Committee stressed that Amendment 11, presently being developed by the Aviation Security Panel, should be expedited without further delay, taking into account the concerns expressed by some States. With reference to In-flight Security Personnel (IFSP), it was agreed that this security measure should only be considered as an option to meet a specific threat situation. In order to ensure a global harmonized approach, ICAO should continue with development of guidance material training for IFSP. In this context, the Committee emphasized the importance of certification of all categories of aviation security personnel, particularly instructors, managers and IFSP.

14.1:26 Regarding other technical issues such as research and development in explosives detection, the use of television equipment to monitor emergency situations on board aircraft, and issues relating to Air Traffic Management (ATM), the Committee supported a suggestion that these issues be referred to the Aviation Security Panel and the Air Navigation Commission for further consideration.

14.1:27 The Committee condemned the terrorist acts by suicide bombers committed in the Russian Federation and expressed its deepest sympathy to the Russian Federation. A resolution was developed accordingly.

14.1:28 In conclusion, the Committee called for global and regional cooperation and exchange of aviation security information in order to combat the threat posed to civil aviation.

14.1:29 Following consideration of the subsequent agenda item on the Universal Security Audit Programme, the Committee returned to consider the draft *Consolidated statement of continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference* (WP/48). Some States sought the alignment of Appendix A, Clause 7 with text in the resolution on financial contributions to the Aviation Security Plan of Action concerning incorporation of the funding requirements within the Regular Programme. However, it was felt that in the present resolution the focus should only be on urging States to make voluntary contributions and it was therefore proposed to maintain the text of Clause 7 unchanged.

14.1:30 Completing its work on this agenda item, the Committee agreed to submit for adoption by the Plenary, Resolutions 14/1, 14/2, 14/3 and 14/4 including its Appendices A through H.

Resolution 14/1

Financial contributions to the Aviation Security Plan of Action

Whereas the development of international civil aviation can greatly help to create and preserve friendship and understanding among the nations and peoples of the world, yet its abuse can become a threat to general security;

Whereas the threat of terrorist acts, unlawful seizure of aircraft and other acts of unlawful interference against civil aviation, including acts aimed at destruction of aircraft, as well as acts aimed at using the aircraft as a weapon of destruction, have a serious adverse effect on the safety, efficiency and regularity of international civil aviation, endanger the lives of persons on board and on the ground and undermine the confidence of the peoples of the world in the safety of international civil aviation;

Recalling its Resolutions A33-1 and A33-2;

Endorsing the Aviation Security Plan of Action adopted by the Council to urgently address the new and emerging threats to civil aviation, in particular the establishment of an ICAO Universal Security Audit Programme relating to, *inter alia*, airport security arrangements and civil aviation security programmes, the review of the adequacy of the existing aviation security conventions and the review of the ICAO aviation security programme, including a review of Annex 17 and other related Annexes to the Convention;

Convinced that aviation security continues to remain a critical and priority programme of ICAO and of the need to establish and implement work programmes in the next triennium to address the issues identified under Assembly Resolutions A33-1 and A33-2; and

Noting that much of the funding required to implement the work programme relating to aviation security could not be included within the Regular Programme Budget for the 2005-2007 due to budgetary and financial constraints;

The Assembly:

1. *Expresses* its appreciation to the relevant Contracting States for the voluntary contributions in the form of human and financial resources expected to reach at least U.S. \$ 12 million by the end of 2004 for the implementation of the Aviation Security Plan of Action during the 2002-2004 triennium;

2. *Endorses* the indicative funding requirements from extrabudgetary resources for the implementation of the Aviation Security Plan of Action totaling U.S. \$ 20 million for the financial years 2005, 2006 and 2007;

3. *Urges* all Contracting States to provide voluntary contributions to the Enhanced AVSEC Mechanism to finance the implementation of the Aviation Security Plan of Action, the suggested contributions to be based upon the scales of assessments approved by the Assembly for the Regular Programme Budget for 2005, 2006 and 2007;

4. *Urges* all Contracting States to make pledges of voluntary contributions in advance and make contributions early in the financial year so as to ensure the proper planning and implementation of the Aviation Security Plan of Action; and

5. *Urges* the Council to ensure the long term sustainability of the Aviation Security Plan of Action by progressively, and as soon as possible, incorporating the funding requirements within the Regular Programme Budget, and accordingly *requests* the Secretary General to make specific proposals in this regard, taking into consideration the priority accorded to aviation security, when preparing the draft Programme Budget for 2008-2010.

Resolution 14/2

Threat to civil aviation posed by man-portable air defence systems (MANPADS)

Expressing its deep concern regarding the global threat posed to civil aviation by terrorist acts, in particular the threat posed by man-portable air defence systems (MANPADS), other surface-to-air missiles systems, light weapons and rocket propelled grenades;

Recalling its Resolution A33-1: *Declaration on misuse of civil aircraft as weapons of destruction and other terrorist acts involving civil aviation*, which directs the Council and the Secretary General to act urgently to address the new and emerging threats to civil aviation;

Recalling United Nations General Assembly resolutions 58/241 *on the illicit trade in small arms and light weapons in all its aspects* and 58/54 *on transparency in armaments*;

~~*Welcoming*~~ *Noting* the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, Elements for Export Controls of MANPADS and the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and other Related Material;

Welcoming the ongoing efforts of other international and regional organizations aimed at developing a more comprehensive and coherent response to the threat to civil aviation posed by MANPADS;

Recognizing that the specific threat posed by MANPADS requires a comprehensive approach and responsible policies on the part of States; and

Considering that its Resolution A32-23: *MANPADS Export Control* is no longer adequate and that a more far-reaching resolution is now required;

The Assembly:

1. *Urges* all Contracting States to take the necessary measures to exercise strict and effective controls on the import, export, transfer or retransfer, as well as storage of MANPADS;

2. *Calls upon* all Contracting States to cooperate at the international, regional and subregional levels with a view to enhancing and coordinating international efforts aimed at implementing countermeasures effective carefully chosen countermeasures with regard to their effectiveness and cost, and combatting the threat posed by MANPADS;

3. *Calls upon* all Contracting States to take the necessary measures to ensure the destruction of non-authorized MANPADS in their territory, as soon as possible;

4. *Urges* all Contracting States to actively participate in the development of an international instrument for the purpose of identifying and tracing illicit small arms and light weapons as referred to in the United Nations General Assembly resolution 58/241 *on the illicit trade in small arms and light weapons in all its aspects*;

5. *Urges* all Contracting States to apply the principles defined in the *Elements for Export Controls of MANPADS* of the *Wassenaar Arrangement*, if they have not yet participated in the Arrangement; and

6. *Declares* that this resolution supersedes Resolution A32-23: *MANPADS Export Control*.

Resolution 14/3

Acts of terrorism and destruction of Russian civil aircraft resulting in the deaths of 90 people - passengers and crew members

Whereas the terrorist acts committed on 24 August 2004 on board Russian aircraft on scheduled passenger flights represent, in principle, a new form of terrorism which uses suicide bombers who carry explosive devices on their bodies on board aircraft;

Given the need for unification of international efforts to combat the threat which uses suicide bombers to carry out terrorist acts, both on aircraft and in other public areas;

Aware of all the difficulties in detecting explosive devices on the human body;

Convinced of the need to adopt adequate measures to counter such acts of terrorism, which would demonstrate the resolve of all States to prosecute the organizers and perpetrators of such acts; and

Recalling its Resolutions A22-5, A27-9, A33-1 and A33-2;

The Assembly:

1. *Condemns* the terrorist acts on board Russian passenger aircraft that took many human lives;

2. *Extends* its deepest sympathy and condolences to the families of those who perished as a result of these acts of terrorism;

3. *Urges* Contracting States to ~~prosecute the organizers, perpetrators and accomplices of terrorist acts who may hide in their territories, and to cooperate in preventing and stopping acts of international terrorism in accordance with international law~~ cooperate to bring to justice the perpetrators, organizers and sponsors of these attacks and their accomplices; and

4. ~~*Calls upon* the world aviation community to give increased attention to the study and introduction of such procedures and methods for detecting explosive devices, which will allow their detection in areas inaccessible to modern screening methods, and in particular, on the human body~~ *Requests* the Council and the Secretary General to study the ways and means to reinforce the prevention of terrorist attacks by means of explosives, in particular by enhancing the international cooperation in the detection of explosives.

Resolution 14/4

Consolidated statement of continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference

Whereas it is considered desirable to consolidate Assembly resolutions on the policies related to the safeguarding of international civil aviation against acts of unlawful interference in order to facilitate their implementation and practical application by making their texts more readily available, understandable and logically organized;

Whereas in Resolution A33-2 the Assembly resolved to adopt at each session a consolidated statement of continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference; and

Whereas the Assembly has reviewed proposals by the Council for the amendment of the consolidated statement of continuing ICAO policies in Resolution A33-2, Appendices A to H inclusive, and has amended the statement to reflect the decisions taken during the 35th Session;

The Assembly:

1. *Resolves* that the Appendices attached to this resolution constitute the consolidated statement of continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference, up to date as these policies exist at the close of the 35th Session of the Assembly.

2. *Resolves* to request the Council to submit at each ordinary session for review a consolidated statement of continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference; and

3. *Declares* that this resolution supersedes Resolution A33-2.

APPENDIX A

General policy

Whereas the development of international civil aviation can greatly help to create and preserve friendship and understanding among the nations and peoples of the world, yet its abuse can become a threat to general security;

Whereas acts of unlawful interference against civil aviation have become the main threat to its safe and orderly development;

Whereas the threat of terrorist acts posed by man-portable air defence systems (MANPADS) and other surface-to-air missiles systems, light weapons and rocket propelled grenades, unlawful seizure of aircraft, facility attacks and other acts of unlawful interference against civil aviation, including acts aimed at destruction of aircraft, as well as acts aimed at using the aircraft as a weapon of destruction, have a serious adverse effect on the safety, efficiency and regularity of international civil aviation, endanger the lives of persons on board and on the ground and undermine the confidence of the peoples of the world in the safety of international civil aviation;

Whereas all acts of unlawful interference against international civil aviation constitute a grave offence in violation of international law;

Recalling Assembly Resolution A33-1, which directed the Council to convene an international high-level, ministerial conference on aviation security with the objectives of preventing, combatting and eradicating acts of terrorism involving civil aviation; of strengthening ICAO's role in the adoption of SARPs in the field of security and audit of their implementation; and of ensuring the necessary financial means;

Considering the recommendation of the High-level, Ministerial Conference on Aviation Security held in February 2002, to adopt an ICAO Aviation Security Plan of Action which includes, *inter alia*, the identification, analysis and development of an effective global response to new and emerging threats; integration of measures to be taken in specific fields, including airports, aircraft, and air traffic control systems; and a follow-up programme to assist with the rectification of identified deficiencies; and

Endorsing actions taken so far by the Council, in particular the adoption of the ICAO Aviation Security Plan of Action in June 2002, as well as the new preventive measures, strengthening the means available to the Organization and assuming functions related to the implementation of the *Convention on the Marking of Plastic Explosives for the Purpose of Detection*;

The Assembly:

1. *Strongly condemns* all acts of unlawful interference against civil aviation wherever and by whomsoever and for whatever reason they are perpetrated;

2. *Reaffirms* the important role of the International Civil Aviation Organization to facilitate the resolution of questions which may arise between Contracting States in relation to matters affecting the safe and orderly operation of international civil aviation throughout the world;

3. *Reaffirms* that aviation security must continue to be treated as a matter of highest priority by the International Civil Aviation Organization and its Member States;
4. *Notes* with abhorrence acts of unlawful interference aimed at the destruction in flight of civil aircraft in commercial service including any misuse of civil aircraft as a weapon of destruction and the death of persons on board and on the ground;
5. *Calls upon* all Contracting States to confirm their resolute support for the established policy of ICAO by applying the most effective security measures individually and in cooperation with one another, to suppress acts of unlawful interference and to punish the perpetrators of any such acts;
6. *Directs* the Council to continue its work relating to measures for prevention of acts of unlawful interference, in particular the implementation of the ICAO Aviation Security Plan of Action; and
7. *Urges* all Contracting States to contribute to the ICAO Aviation Security Plan of Action, since its implementation is largely dependent on voluntary contributions.

APPENDIX B

International legal instruments, national legislation and bilateral agreements for the suppression of acts of unlawful interference with civil aviation

a) International legal instruments

Whereas the protection of civil aviation from acts of unlawful interference has been enhanced by the *Convention on Offences and Certain Other Acts Committed on Board Aircraft* (Tokyo, 1963), by the *Convention for the Suppression of Unlawful Seizure of Aircraft* (The Hague, 1970), by the *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation* (Montreal, 1971), by the *Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation*, (Montreal, 1988) as well as by the *Convention on the Marking of Plastic Explosives for the Purpose of Detection* (Montreal, 1991) and by bilateral agreements for the suppression of such acts;

The Assembly:

1. *Urges* Contracting States which have not yet done so to become parties to the *Convention on Offences and Certain Other Acts Committed on Board Aircraft* (Tokyo, 1963), to the *Convention for the Suppression of Unlawful Seizure of Aircraft* (The Hague, 1970), to the *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation* (Montreal, 1971) and the 1988 Supplementary Protocol to the Montreal Convention, and to the *Convention on the Marking of Plastic Explosives for the Purpose of Detection* (Montreal, 1991);
2. *Calls upon* States not yet parties to the *Convention on the Marking of Plastic Explosives for the Purpose of Detection* to give effect, even before ratification, acceptance, approval or accession, to the

principles of that instrument and calls upon States which manufacture plastic explosives to implement the marking of such explosives as soon as possible; and

3. *Directs* the Secretary General to continue to remind States of the importance of becoming parties to the Tokyo, The Hague and Montreal Conventions, to the 1988 Supplementary Protocol to the Montreal Convention and the *Convention on the Marking of Plastic Explosives for the Purpose of Detection* and to provide assistance requested by States encountering any difficulties in becoming parties to these instruments.

b) Enactment of national legislation and bilateral agreements

Whereas deterrence of acts of unlawful interference with civil aviation can be greatly facilitated through the enactment by Contracting States of national criminal laws providing severe penalties for such acts;

The Assembly:

1. *Calls upon* Contracting States to give special attention to the adoption of adequate measures against persons committing acts of unlawful seizure of aircraft or other acts of unlawful interference against civil aviation, and in particular to include in their legislation rules for the severe punishment of such persons; and

2. *Calls upon* Contracting States to take adequate measures relating to the extradition or prosecution of persons committing acts of unlawful seizure of aircraft or other acts of unlawful interference against civil aviation by adopting appropriate provisions in law or treaty for that purpose or by strengthening existing arrangements and by concluding appropriate agreements for the suppression of such acts which would provide for the extradition of persons committing criminal attacks on international civil aviation.

APPENDIX C

Implementation of technical security measures

Whereas protection of civil aviation against acts of unlawful interference requires continued vigilance and development and implementation of positive safeguarding action by the Organization and its Contracting States;

Whereas a clear need exists for the strengthening of security to be applied to all phases and processes associated with the carriage of persons, their cabin and checked baggage, cargo, mail, courier and express parcels;

Whereas the responsibility for ensuring that security measures are applied by government agencies, airport authorities and aircraft operators rests with the Contracting States;

Whereas the implementation of the security measures advocated by ICAO is an effective means of preventing acts of unlawful interference with civil aviation; and

Whereas countermeasures for protection of civil aviation can only be effective through employment of highly-trained security personnel, in addition to background checks, certification and quality control;

The Assembly:

1. *Urges* the Council to continue to attach the highest priority to the adoption of effective measures for the prevention of acts of unlawful interference commensurate with the current threat to the security of international civil aviation and to keep up to date the provisions of Annex 17 to the Chicago Convention ;
2. *Requests* the Council to complete, in addition to the International Explosives Technical Commission (IETC) mandate as prescribed by the *Convention on the Marking of Plastic Explosives for the Purpose of Detection*, studies into methods of detecting explosives or explosive materials, especially into the marking of those explosives of concern, other than plastic explosives, with a view to the evolution, if needed, of an appropriate comprehensive legal regime;
3. *Urges* all States on an individual basis and in cooperation with other States to take all possible measures for the suppression of acts of violence at airports serving international civil aviation, in particular, those required or recommended in Annex 17 to the Convention on International Civil Aviation;
4. *Urges* Contracting States to intensify their efforts for the implementation of existing Standards and Recommended Practices (SARPs), and Procedures relating to aviation security, to monitor such implementation, to take all necessary steps to prevent acts of unlawful interference against international civil aviation and to give appropriate attention to the guidance material contained in the ICAO Security Manual and available on the ICAO secured website;
5. *Calls upon* Contracting States, while respecting their sovereignty, to substantially enhance cooperation and coordination between them in order to improve such implementation;
6. *Requests* the Council to ensure, with respect to the technical aspects of aviation security, that:
 - a) the provisions of Annex 17 and Annex 9 — *Facilitation* are compatible with and complementary to each other provided the effectiveness of security measures is not compromised;
 - b) when considered necessary, the agenda of ICAO meetings include items dealing with aviation security which are relevant to the subject of such meetings;
 - c) regional aviation security seminars are convened by ICAO after consultation with or at the request of States concerned;
 - d) the ICAO Training Programme for Aviation Security comprising Aviation Security Training Packages (ASTPs) for use by States continues to be developed; and
 - e) ICAO assumes the coordination role, in collaboration with Aviation Security Mechanism donor States, of the aviation security training centres (ASTCs) to ensure training standards are maintained and sound levels of cooperation are achieved; and

7. *Directs* the Secretary General to continue to update and amend at appropriate intervals the Security Manual and develop new guidance material designed to assist Contracting States in implementing the specifications and procedures related to civil aviation security.

APPENDIX D

Action of States concerned with an act of unlawful interference

a) Acts of unlawful interference

Whereas acts of unlawful interference continue seriously to compromise the safety, regularity and efficiency of international civil aviation;

Whereas the safety of flights of aircraft subjected to an act of unlawful seizure may be further jeopardized by the denial of navigational aids and air traffic services, the blocking of runways and taxiways and the closure of airports; and

Whereas the safety of passengers and crew of an aircraft subjected to an act of unlawful seizure may also be further jeopardized if the aircraft is permitted to take off while still under seizure;

The Assembly:

1. *Notes with concern* the large number of acts of unlawful interference, in particular the facility attacks inside the terminal buildings targeting passengers and public before the security screening points;

2. *Recalls* in this regard the relevant provisions of the Chicago, Tokyo, The Hague Conventions, and the 1988 Supplementary Protocol to the Montreal Convention;

3. *Urges* Contracting States which have not done so to become parties to the 1988 Supplementary Protocol to the Montreal Convention;

4. *Recommends* that States take into account the above considerations in the development of their policies and contingency plans for dealing with acts of unlawful interference;

5. *Urges* Contracting States to provide assistance to an aircraft subjected to an act of unlawful seizure, including the provision of navigational aids, air traffic services and permission to land;

6. *Urges* Contracting States to ensure that an aircraft subjected to an act of unlawful seizure which has landed in its territory is detained on the ground unless its departure is necessitated by the overriding duty to protect human life;

7. *Recognizes* the importance of consultations between the State where an aircraft subjected to an act of unlawful seizure has landed and the State of the operator of that aircraft as well as notification by the State where the aircraft has landed to the States of assumed or stated destination;

8. *Urges* Contracting States to cooperate for the purpose of providing a joint response in connection with an act of unlawful interference, as well as utilizing, if necessary, the experience and capabilities of the State of the operator of an aircraft, the State of manufacture and the State of registration which has been subjected to an act of unlawful interference while taking measures in their territory to free the passengers and crew members of that aircraft;

9. *Condemns* any failure by a Contracting State to fulfil its obligations to return without delay an aircraft which is being illegally detained or to extradite or submit to competent authorities without delay the case of any person accused of an act of unlawful interference with civil aviation; and

10. *Calls upon* Contracting States to continue to assist in the investigation of such acts and in the apprehension and prosecution of those responsible.

b) *Reporting on acts of unlawful interference*

The Assembly:

1. *Reminds* States parties of their obligations under Article 11 of The Hague Convention and Article 13 of the Montreal Convention, following occurrences of unlawful interference, to forward all relevant information required by those Articles to the Council; and

2. *Directs* the Secretary General, within a reasonable time from the date of a specific occurrence of unlawful interference, to ask that States parties concerned forward to the Council in accordance with their national law all relevant information required by those Articles concerning such occurrence, including particularly information relating to extradition or other legal proceedings.

APPENDIX E

The ICAO Universal Security Audit Programme

Whereas the primary objective of the Organization continues to be that of ensuring the safety and security of international civil aviation worldwide;

Whereas promoting the implementation of international aviation security Standards contributes to this objective;

Whereas Article 37 of the Convention requires each Contracting State to collaborate in securing the highest practicable degree of uniformity in regulations and practices in all matters in which such uniformity will facilitate and improve air navigation;

Recalling that the 33rd Session of the Assembly directed the Council and the Secretary General to consider the establishment of an ICAO universal security oversight audit programme relating to, *inter alia*, airport security arrangements and civil aviation security programmes;

Recalling that the 33rd Session of the Assembly directed the Council to convene, at the earliest possible date, an international High-level, Ministerial Conference on Aviation Security with the objective,

inter alia, of strengthening ICAO's role in the adoption of SARPs in the field of security and the audit of their implementation;

Considering the recommendations of the High-level Ministerial Conference on Aviation Security convened in Montreal in February 2002, which called for the adoption of an ICAO Aviation Security Plan of Action which provides, *inter alia*, for the establishment of a comprehensive programme of regular, mandatory, systematic and harmonized aviation security audits to be carried out by ICAO in all Contracting States;

Considering the adoption of the ICAO Aviation Security Plan of Action by the Council of ICAO during its 166th Session;

Considering that the ICAO Universal Security Audit Programme (USAP) has been launched, with the first ICAO aviation security audit taking place in November 2002;

Recognizing that the implementation of the USAP is proving to be instrumental in the identification of aviation security concerns and in providing recommendations for their resolution;

Recognizing that the continuation of the USAP is essential to create mutual confidence in the level of aviation security between Contracting States and to ensure the adequate implementation of security-related Standards; and

Recognizing that all of the activities of the USAP are currently funded through the voluntary contributions of Contracting States;

The Assembly:

1. *Requests* the Secretary General to continue the ICAO Universal Security Audit Programme (USAP), comprising regular, mandatory, systematic and harmonized aviation security audits of all Contracting States, with such audits conducted at both national and airport levels in order to evaluate States' aviation security oversight capabilities as well as the actual security measures in place at selected key airports;

2. *Urges* all Contracting States to agree to audits to be carried out upon ICAO's initiative by signing a bilateral Memorandum of Understanding with the Organization, as approved by the Council during its 167th Session;

3. *Urges* all Contracting States to give full support to ICAO by accepting the audit missions as scheduled by the Organization, facilitating the work of the audit teams, and preparing and submitting to ICAO an appropriate corrective action plan to address deficiencies identified during the audit;

4. *Urges* all Contracting States to share, as appropriate and consistent with their sovereignty, the results of the audit carried out by ICAO and the corrective actions taken by the audited State, if requested by another State;

4-5. *Requests* the Council to ensure the long-term financial sustainability of the USAP by progressively integrating its activities as soon as possible into the Regular Programme budget; and

5-6. *Requests* the Council to report to the next ordinary session of the Assembly on the overall implementation of the USAP.

APPENDIX F

Assistance to States in the implementation of technical measures for the protection of international civil aviation

Whereas the implementation of technical measures for prevention of acts of unlawful interference with international civil aviation requires financial investment and training of personnel;

Whereas, notwithstanding assistance given, some countries, in particular developing countries, still face difficulties in fully implementing preventive measures due to insufficient financial, technical and material resources; and

Whereas aviation security is vital to all Contracting States for the proper operation of their airlines all around the world;

The Assembly:

1. *Invites* developed countries to give assistance to the countries which are not able to implement programmes of suggested technical measures for the protection of aircraft on the ground and, in particular, in the processing of passengers, their cabin and checked baggage, cargo, mail, courier and express parcels;

2. *Invites* Contracting States to bear in mind the possibility offered by the Mechanism for effective implementation of Standards and Recommended Practices (SARPs) contained in Annex 17, the United Nations Development Programme and the Technical Co-operation among Developing Countries to meet their technical assistance requirements arising from the need to protect international civil aviation;

3. *Invites* Contracting States to take advantage of short-term remedial assistance available under the AVSEC Mechanism and longer-term State assistance projects under the Technical Co-operation Programme to remedy deficiencies identified during audits;

4. *Urges* all States that have the means to do so to increase technical, financial and material assistance to countries in need of such assistance to improve aviation security through bilateral and multilateral effort, in particular, through the ICAO AVSEC Mechanism ;

5. *Urges* all Contracting States to take advantage of the availability of ICAO aviation security training centres (ASTCs) for the purpose of enhancing training standards; and

6. *Urges* the international community to consider increasing assistance to States and enhance cooperation amongst them, in order to be able to benefit from the achievement of the aims and objectives of the *Convention on the Marking of Plastic Explosives for the Purpose of Detection*, in particular through the International Explosives Technical Commission (IETC).

APPENDIX G

Action by the Council with respect to multilateral and bilateral cooperation in different regions of the world

Whereas the rights and obligations of States under the international conventions on aviation security and under the SARPs adopted by the Council on aviation security could be complemented and reinforced in bilateral cooperation between States;

Whereas the bilateral agreements on air services represent the main legal basis for international carriage of passengers, baggage, cargo and mail; and

Whereas provisions on aviation security should form an integral part of the bilateral agreements on air services;

The Assembly:

1. *Urges* all Contracting States to insert into their bilateral agreements on air services a clause on aviation security, taking into account the model clause adopted by the Council on 25 June 1986 and to take into account the model agreement adopted by the Council on 30 June 1989; and

2. *Recommends* that the Council continue to:

- a) gather the results of States' experience in cooperation to suppress acts of unlawful interference with international civil aviation;
- b) analyse the existing situation in the fight against acts of unlawful interference with international civil aviation in different regions of the world; and
- c) prepare recommendations for strengthening measures to suppress such acts of unlawful interference.

APPENDIX H

International and regional cooperation in the field of aviation security

Mindful of the need for strengthening measures to prevent all acts of unlawful interference with civil aviation; and

Recognizing that the threat posed to civil aviation requires development of an effective global response by States as well as concerned international and regional organizations;

The Assembly:

1. *Invites* the International Criminal Police Organization (ICPO/INTERPOL), the United Nations Office on Drugs and Crime (UNODC), the Universal Postal Union (UPU), the International Air Transport

Association (IATA), Airports Council International (ACI), the International Federation of Air Line Pilots' Associations (IFALPA) and the Organization for Security and Cooperation for Europe (OSCE) to continue their cooperation with ICAO, to the maximum extent possible, to safeguard international civil aviation against acts of unlawful interference;

2. *Directs* the Council to take into account the G8 Secure and Facilitated International Travel Initiative (SAFTI) and collaborate with this group and other relevant groups of States in its work relating to development of countermeasures against the threat posed by man-portable air defence systems (MANPADS) and encourage their implementation by all Contracting States; and

3. *Directs* the Council to cooperate with the United Nations Counter-Terrorism Committee (CTC), in the global effort to combat terrorism.

Agenda Item 14: Aviation security
14.2: Universal Security Audit Programme (USAP)

14.2:1 At its third meeting, the Executive Committee considered the ICAO Universal Security Audit Programme, on the basis of a report by the Council (WP/55) and an information paper (WP/94).

14.2:2 The Council reported in WP/55 on the progress made in the establishment and execution of the ICAO Universal Security Audit Programme (USAP) concerning Annex 17 – *Security to the Convention on International Civil Aviation*. Information was provided on the establishment and management of the USAP, the status of implementation of the Programme, including audits, training and certification activities, and the financial status of the Programme. Reference was also made to the analysis of audit results, which was available to States as a restricted information paper on the ICAO-NET. A draft resolution on the continuation and funding of the USAP, contained in Appendix B to WP/55, was presented for inclusion as a new Appendix in the *Consolidated statement of continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference*.

14.2:3 In WP/94, the European Commission gave an overview of legislation that has been developed to date in the European Community (EC) in the field of civil aviation security. The Commission outlined the EC programme on inspections and noted the similarities and differences with the USAP.

14.2:4 The Committee expressed its appreciation for the significant accomplishments made in the development and implementation of the USAP and congratulated the Secretariat for the quality and extent of its work with regard to the Programme.

14.2:5 It was noted that the USAP was delivering substantial benefits to States, both individually and collectively, by providing a basis for the identification and resolution of specific aviation security concerns, and by enriching the exchange of ideas and level of cooperation in the field of aviation security among States and within ICAO bodies. The importance of remaining committed to the Programme during the course of the next triennium was highlighted.

14.2:6 With respect to funding, the Committee strongly supported the idea that the activities of the USAP be integrated into the Regular Programme Budget in order to ensure the long-term sustainability and financial stability of the USAP, and emphasized that this integration should take place as soon as possible. In the meantime, it was essential that voluntary contributions continued to be made by States to support these activities.

14.2:7 Regarding the analysis of audit results, the Committee expressed its concern about the level of implementation of some of the Annex 17 Standards and noted the need for concerted efforts to be made to remedy deficiencies in a timely manner. The Committee emphasized the importance of States submitting their corrective action plans to ICAO on a timely basis, and the need for ICAO to initiate follow-up activities in order to ensure implementation of the proposed actions.

14.2:8 A number of views were expressed regarding the confidentiality of State-specific audit results. It was agreed that ICAO should continue to adhere to the principle of maintaining the strict confidentiality of all State-specific information derived from the audits, but should encourage the exchange of information between States as they see fit on a bilateral or multilateral basis in order to promote mutual confidence in the level of aviation security between States.

14.2:9 The Committee examined the draft resolution and expressed unanimous support for the continuation of the USAP. In view of the deliberations, the Committee made a number of amendments to the draft resolution, notably the addition of a new clause concerning the sharing of audit results and the corrective actions taken by the audited State. The Committee agreed to submit the revised text as a new Appendix E to the *Consolidated statement of continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference* for adoption by the Plenary (see Agenda Item 14.1 above).

— END —