



## INTERNATIONAL CONFERENCE ON AIR LAW

(Montréal, 20 April to 2 May 2009)

### COMPENSATION FOR DAMAGE CAUSED BY AIRCRAFT TO THIRD PARTIES ARISING FROM ACTS OF UNLAWFUL INTERFERENCE WITH AIRCRAFT OPERATIONS OR FROM GENERAL RISKS

#### CLOSING REMARKS OF THE AIR CRASH VICTIMS FAMILIES GROUP

(Presented by the Air Crash Victims Families Group)

Madame President, Honourable Delegates, Ladies and Gentlemen .

1. My name is Guillaume Denoix de Saint Marc, President of the French Association for the Victims of Terrorism. I lost my father Jean-Henry Denoix de Saint Marc who was one of the 170 passengers and crew of Union des Transports Aériens (UTA) Flight 772 that was terminated on 19, 1989 by the explosion of an on board bomb – just barely ten months after a similar attack was perpetrated against Pan American Airlines Flight 103 off shore of Lockerbie, Scotland on December 21, 1988. Almost 300 passengers, crew and persons on the ground perished in both catastrophic tragedies.

2. I am probably the only person in this your august assembly chamber joining you here who can rightly claim to be a victim of the aftermath of an act of terrorism and who has actual first hand personal experience of having participated in the successful negotiations to repair the damages caused by an aviation related cataclysmic tragedy – all issues that, our task at ICAO has so much concerned us with for the last eight years.

3. Today, I represent here also the Air Crash Victims Families Group (ACVFG). You know well the Group's chairman and spokesman Hans Ephraïmson-Abt. For health reasons he is not able to attend this Diplomatic Conference himself. He sends his greetings, his good wishes and his regrets not to be able with you today.

4. ACVFG is an international, self financed umbrella organization of associations worldwide, of bereaved family, victims who lost loved ones, as well as survivors of air transportation related tragedies. For the last 26 years we have participated as advisor and observer at meetings and in workgroups at ICAO leading among others to the 1999 Montreal Convention for the twenty first century. We attend as invited observer in the process of the 1952 Rome Convention. Modernization All of our members serve "pro bono".

5. The Victims families having participated with commitment to the cause, with patience and humility, would like to thank all of you for the dedication to the common efforts in trying to modernize the 1952 Rome Convention.

6. Over the last years you have repeatedly assured us that our presence and participation in this endeavour – most particularly our interventions were a call to your conscience. Yet, looking back over our common travails we seems to have also been your “Cassandra” whose advice, then and now has rather been ignored.

7. The interests of the victims are constantly on your lips in deliberating the modernization of those Conventions. Yet, we ask ourselves how many of our colleagues in the back of the room have rather acted in their self interest – and seem to have well succeeded.

8. After a long and difficult Odyssey – stretching over eight year – we have almost reached the end of our common assignment. .

9. We are disappointed with the text of the two Conventions before us, today. They seem to take rather many steps back compared to the advances achieved unanimously in the 1999 Montreal Convention – which we were tasked and we had hoped to extend now to this Convention.

10. In their present language both Conventions could not be ratified by the most important States since those countries’ laws already provide for all of their citizens specific rights and benefits that those Conventions do not any more. In good conscience the elected representatives in our respective countries could not and would never give their Advice and Consent to the Conventions, now before us.

11. Sadly enough, we are faced – again with the failures of Rome I and Rome II. This is regrettable – and should not be.

12. **IT IS NOT TOO LATE**

13. Let us use the remaining hours of our Conference to negotiate and agree to the changes in the Conventions that are necessary to make it acceptable to ALL parties concerned.

14. In the alternative let us pass a continuing resolution – suspending our deliberations to give us a specifically stated period of time to correct what has to be changed to turn defeat into a success, or

15. To add to the Resolution No. 2 the task to discuss and prepare an additional supplemental Protocol that could address all of the issues that already now make it difficult or impossible for States to ratify – or that may surface in the implemental discussions.

16. We first met ten years ago after having put a new life into the seventy year old Warsaw System in the form of the 1999 Montreal Convention to last us for the twenty first century.

We should not abandon the opportunity to make a conscientious last ditch effort to repeat the Warsaw – Montreal success by a common initiative to extend that feat into an extension in to a new Rome Convention – we all can live together for the rest of our century.

In the name of all the worldwide victims of terrorist acts or of accidents whether air or otherwise related we thank you, Madame President, Honoured Delegates, Ladies and Gentlemen for your devotion, your interest and we hope your continued support.

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## APPENDIX

### RESOLUTION

*CONSIDERING* that a Convention whose deliberations extend over ten years is a *WORK IN PROGRESS*;

*TAKING INTO ACCOUNT* the worldwide changes in the development of civil air transportation worldwide since 2004;

*ACKNOWLEDGING* that Terrorism is not any more the only possible source of air crashes with cataclysmic damages;

*REALIZING* the upheavals in worldwide finances and commerce; and

*BEING AWARE* of the financial crisis in the insurance industry – without which international aviation cannot exist;

*IT IS NOW RESOLVED*:

#### FIRST PROPOSAL

1. The International Conference on Air Law convening presently in Montréal, Canada, from 20 April to 2 May 2009 will adjourn its proceedings.
2. The Conference on Air Law has appointed a “Convention Reconciliation Work Group” (CRWG).
3. The CRWG shall revisit the two Draft Conventions with the task to bring them to present day standards and future requirements.
4. Special attention should be given to:
  - 4.1 Air Crash Victims legitimate needs and timely repair of their provable damages.
  - 4.2 Air Transportation Carriers financial health, safety and security
  - 4.3 The insurers ability to honour their underwriting when called upon and to encourage their policy holders to maintain safe, secure and accident free operations.
5. The CRWG shall report to the ICAO Council as well as to the International Conference on Air Law of 2009 - within twelve months or its appointment but not later than .....
6. At which time the “International Conference on Air Law” shall resume and complete its task.

**ALTERNATE PROPOSAL**

1. Change item 5 of Resolution 2 to read:

- (5) To work on such other matters that may be required with a goal to ensure worldwide ratifiability of the two Conventions, as well as their implementation. including an Additional Protocol – if needed.

— END —