

# INTERNATIONAL TERRORISM

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HEARING  
BEFORE THE  
SUBCOMMITTEE ON FOREIGN ASSISTANCE  
OF THE  
COMMITTEE ON FOREIGN RELATIONS  
UNITED STATES SENATE  
NINETY-FIFTH CONGRESS  
FIRST SESSION  
ON  
INTERNATIONAL TERRORISM  
—  
SEPTEMBER 14, 1977



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# INTERNATIONAL TERRORISM

WEDNESDAY, SEPTEMBER 14, 1977

UNITED STATES SENATE,  
SUBCOMMITTEE ON FOREIGN ASSISTANCE  
OF THE COMMITTEE ON FOREIGN RELATIONS,  
*Washington, D.C.*

The subcommittee met at 2:06 p.m., in room 4221, Dirksen Senate Office Building, the Hon. Jacob K. Javits presiding.

Present: Senators Javits and Case.

Senator JAVITS. The subcommittee will come to order.

## OPENING STATEMENT

I am presiding this afternoon at the direction of the chairman of the subcommittee, Senator Humphrey of Minnesota, over a set of hearings which he is very deeply devoted to and which I have long sought with him on the issue of terrorism and what ought to be done about it.

I have a preliminary statement which will go into the record the essential elements of it are that moral condemnation of terrorism is not enough, that it is not being reduced in consequence, and that it is being used to justify all kinds of inequities and archaic practices, including what we just saw yesterday in the attack of the Shah of Iran's twin sister, the abduction and kidnaping of one of the leaders of Germany's industrial system, and many others.

[Senator Javits' prepared statement follows:]

## PREPARED STATEMENT OF SENATOR JACOB K. JAVITS

Continuing terrorist attacks throughout the world, two recent bombings in Washington, an as yet unresolved kidnapping in West Germany and the latent attempt on the life of Princess Ashraf of Iran demonstrate clearly the need for hearings the Foreign Assistance Subcommittee is holding today on the question of international terrorism.

Civilized people certainly can agree that the barbaric acts of terrorists, no matter what self-justification they may assert in their wanton slaughter of innocent victims, are an invitation to anarchy and a challenge to the very base upon which our civilization rests. To call terrorists "freedom fighters" or "guerillas" does not make their true nature or lend creditability to their actions or a justification for their causes. Those who attempt to justify terrorists' actions or, worse yet, assist them are equally culpable and deserving of the world's determined condemnation.

Moral condemnation, however, is not enough. Terrorism is a persistent, complex problem. In recent years the incidence of terrorist attacks has been on the rise. Modern technology provides not only new weapons for terrorists but also new targets. There is evidence that terrorist groups have started to cooperate with each other, and the list of terrorist groups, their attacks and their victims is growing. In the face of this, much has to be done. The security of international airports and diplomatic missions—frequent targets—has been much improved.

Some nations have come together in a number of anti-terrorist treaties, and governments, including our own, have created working groups to counter the danger.

However, a great deal more needs to be done. First of all, we need a clear, effective policy for dealing with the problem. In this regard, I understand the Carter Administration is in the final stages of preparing a Presidential Review Memorandum. We require a greater amount of cooperation from many of our allies. We must bring those who aid and abet terrorists to realize that their complicity will not come without cost to them. I anticipate that these hearings will assist the Congress in determining the solutions to these concerns.

This spring I engaged in an exchange of correspondence with the Department of State concerning those governments that aid and abet terrorism. The Department's response to my inquiry listed four countries that to one degree or another have engaged in such activities. They are Libya, Iraq, South Yemen and Somalia. The information that has been made available to me makes it clear that among these Libya is by far the worst offender, and yet, other than the Administration's public acknowledgement that this is the case, I have seen nothing further to indicate that any further actions have been taken or are in contemplation against such wanton transgression of the bounds of civilized conduct. Appeals to the morality of such governments are seemingly fruitless: such governments must be called to account for their actions, and it must be demonstrated to them that their irresponsible acts will come at a price demanded by an outraged world.

The question of terrorism and the complicity of the Government of Libya with terrorists is a matter that has touched me personally. In August, 1976 a member of my staff, Harold Rosenthal, was murdered by two terrorists at Yesilkoy Airport in Istanbul, Turkey. Those terrorists were members of the Popular Front for the Liberation of Palestine. They reportedly travelled to Istanbul from Libya, where they are reported to have received false passports, arms and instructions. In today's hearings I intend to pay a great deal of attention to and to question the witnesses about actions that the United States Government can take to make our outrage felt by governments which aid, abet and harbor such terrorists.

Senator JAVITS. Also I would like to introduce into the record an exchange of correspondence with the State Department in which four countries are very frankly charged with aiding and abetting terrorism—Libya, Iraq, South Yemen, and Somalia—with the clearest case being made about Libya. This has a personal connection to me because one of my aides, Hal Rosenthal, was assassinated as the victim of terrorism in the bombing in Istanbul in August 1976 and the trail seems very clearly to go back to Libya where these assassins were armed and instructed and have false passports. So I have a deep feeling when I preside over these hearings.

[The information referred to follows:]

U.S. SENATE,  
Washington, D.C., February 23, 1977.

HON. DOUGLAS HECK,  
*Coordinator for Combating Terrorism, Department of State,  
Washington, D.C.*

DEAR AMBASSADOR HECK: I intend to follow up the Senate's passage in the 94th Congress of S. Res. 524, which condemned the August 11th terrorist attack at Yesilkoy Airport, Turkey, with hearings before the Senate Foreign Relations Committee. As one who was particularly concerned with our efforts to combat terrorism and who was tragically and intimately affected by the Yesilkoy Airport attack, I have been particularly disturbed by reports of assistance rendered by the Government of Libya to facilitate that and other terrorist attacks. In addition, I am sure that you are aware of reports of assistance by the governments of Iraq, South Yemen and Somalia to terrorists. Accordingly, I would like to have from the Department of State a report, in writing, preferably unclassified, setting forth in detail the operations, assistance, and methods that Libya and any other countries have pursued in furtherance of terrorists and terrorism.

In addition, I am interested to know what new approaches, if any, the Administration intends to take to combat terrorism. I hope that any new departures that will be taken will be formulated in consultation with the Congress where I believe a most cooperative and constructive attitude will be found.

I believe that the information I am herein requesting will be most helpful in laying a constructive basis for the Senate Foreign Relations Committee hearings which I intend to request.

With best regards,  
Sincerely,

JACOB K. JAVITS.

DEPARTMENT OF STATE,  
Washington, D.C., April 27, 1977.

Hon. JACOB K. JAVITS,  
U.S. Senate.

DEAR SENATOR JAVITS: With further reference to your letter of February 23 to Ambassador Heck and to the interim reply of March 8, and consequent to Ambassador Heck's discussion with your staff, I have enclosed summary statements in response to your request for information on assistance given to terrorists by various governments in recent years. Also enclosed is a short paper on the present status of our thinking with regard to new initiatives against international terrorism which are currently under consideration by the Executive Branch.

We fully share your concern about terrorism and value your support of our efforts to cope with it. There is, unfortunately, every indication that international terrorism is on the increase and we will have to prepare ourselves to deal with further attacks on American citizens and installations abroad including those of American companies. The initiatives set forth in the enclosed paper are designed to prepare us to handle such threats more effectively in the future and hopefully to deter as many as possible. There may be other initiatives and measures that should be considered. Ambassador Heck will be pleased to meet with you or members of your staff if you wish to discuss these questions at further length.

Sincerely,

DOUGLAS J. BENNET, Jr.,  
Assistant Secretary for Congressional Relations.

Enclosures.

#### LIBYA

Although the Libyan Government claims that it is opposed to terrorists it has qualified this by saying that "freedom fighters" are not "terrorists" and have the right to carry on their struggles "by whatever means" they deem necessary.

The Libyan Government, since at least 1972, has actively assisted a number of terrorist groups and individuals. These have primarily been members of the several "rejectionist" factions of the Palestinian movement who have broken away from more moderate Palestinian leaders on the issue of the legitimacy of politically motivated violence as a means of carrying on the struggle against Israel.

It is a matter of public record that Libya has received and given refuge to international terrorists involved in a long history of terrorist acts, including:

- The perpetrators of the October 1972 massacre at the Munich Olympics;
- The hijackers of the Lufthansa aircraft in October 1972;
- The hijackers of the Japanese Air Line Boeing blown up in July 1973;
- The terrorists who attacked the TWA plane at Athens airport in August 1973;
- The terrorists who attempted to shoot down the El Al plane outside of Rome in September 1973;
- The terrorists who commandeered a train in Czechoslovakia bound for Austria in September 1973;
- The hijackers of the BOAC plane over Dubai of November 1974; and
- The kidnappers of certain OPEC oil ministers in December 1975.

#### IRAQ

The Government of Iraq is a major supporter of Rejectionist Palestinian elements which repudiate a negotiated settlement to the Arab/Israel dispute. The Rejectionist Palestinians include groups which use terrorism as a policy instrument.

Baghdad lends political and moral support to all rejectionist groups. To what degree Baghdad provides financial, military, logistical or training support is un-

clear, but it appears that a substantial degree of some such support goes to one renegade Fatah group and the Wadi Haddad wing of the Palestinian Front for the Liberation of Palestine (PFLP), both of which carry out international terrorist activities.

#### *People's Democratic Republic of Yemen (Aden)*

There is some public evidence that the People's Democratic Republic of Yemen has on occasion allowed its territory to be used as a sanctuary for terrorists. The absence of any U.S. representation in South Yemen and the general restrictions placed on the movements and contracts of foreigners there make it difficult for the United States to verify the existence and extent of PDRY support for terrorism.

In recent months there have been some tentative movements toward improvement of relations between PDRY and certain of its moderate Arab neighbors which have consistently repudiated international terrorism. We are not able to predict with any certainty, however, whether this trend will have a significant effect on PDRY's attitude toward terrorism.

#### SOMALIA AND TERRORISM

There have been two major terrorist incidents involving the Front for the Liberation of the Somali Coast (FLCS), a Somali Government-supported group, in the past two years. In March, 1975, three members of the FLCS seized the French Ambassador to Mogadiscio, and only freed him five days later in exchange for money and two FLCS members who were prisoners in France. The exchange took place in Aden at the public request of both France and Somalia.

In February, 1976, a group of FLCS commandos seized a school bus containing 31 French children in Djibouti and attempted to drive it across the border into Somalia. The bus was halted before it reached the border. French sharpshooters eventually killed six of the commandos and re-took the bus. Two of the children were killed.

There is open cooperation between the Somali Government and the FLCS, a cooperation which the Somali Government justifies on the grounds that the FLCS has been recognized by the Organization of African Unity as a legitimate liberation movement. While it is generally agreed that the FLCS is dependent on Somali Government support, there is no evidence which establishes that the two incidents described above were precipitated with the knowledge of the Somali Government.

In a December, 1976 meeting in Somalia, the Central Committee of the FLCS expelled five of its top leaders. While the FLCS leadership did not use the occasion to renounce terrorism as policy, some of the reasons cited for the expulsions were the infiltrating of armed gangs into Djibouti without consulting the FLCS policy-making body, conspiracy to assassinate other members, kidnapping, killing, robbing, and misappropriation of funds. The disciplinary action appears to be in accord with the apparent Somali Government decision to cooperate peacefully with the French in bringing about Djibouti's independence. Independence is expected in June of this year.

#### NEW INITIATIVE AGAINST TERRORISM

There are numerous ongoing efforts by the Department and other agencies to improve our counter-terrorist capabilities and activities. These include developing close bilateral and multilateral cooperation with other like minded governments, better physical security, expanded intelligence data bases and intelligence exchange practices, improved aircraft security as well as other anti-hijacking measures at home and abroad and closer bilateral and multilateral cooperation on political and legal measures for controlling, apprehending, and prosecuting those guilty of committing or abetting acts of international terrorism.

Specifically we have encouraged all of our posts to seek additional parties to the Hague, Montreal and Protection of Diplomats Conventions. Moreover, we have actively supported the FRG initiative in the UN General Assembly to draft a hostage convention and expect to take an appropriate role in the UN's consideration of that convention. Our bilateral contacts with other countries sharing an interest in combatting terrorism continually explore new avenues to address the problems of international terrorism through international law and new bilateral and multilateral initiatives in this area. We are encouraged by



what we have achieved, but the threat persists and there is much more than can and should be done.

In this connection, the question arises as to the feasibility of multilateral enforcement agreements against countries which fail to maintain minimal airport security standards or to cooperate in other efforts against terrorists. Based upon experience in the International Civil Aviation Organization regarding a previously proposed enforcement convention, we believe there would be significant resistance among member states to compulsory enforcement of such measures as the minimal security standards set forth in Annex 17 to the Convention on International Civil Aviation (the Chicago Convention). Although there has been a number of terrorist attacks and bombings at major airports in the past few years and despite U.S. support for implementation of security standards, the prospects of success for a multilateral enforcement agreement are not considered good. However, we continue unilaterally to urge other governments to adopt Annex 17 standards as we search for new ways and means to increase international support for enforcement.

Within the existing institutional framework of the Cabinet Committee to Combat Terrorism and its operating-level Working Group, this administration is energetically searching for new approaches as well as the improvement of currently employed methods and techniques to cope with international terrorism. We are presently exploring the prospects for further advance in several areas:

*Crisis management.*—We are seeking to improve the management of terrorist acts committed in the United States which have important foreign policy implications. We are considering recommendations for a new interagency effort to integrate and refine our policy options in this area and to identify realistic procedural alternatives for the management of such incidents.

*Guidelines on mass destruction terrorism.*—We believe attention should be focused on the development of a government-wide policy and an operational mechanism to deal with terrorist threats of mass destruction. There is an urgent need for establishing clear and coordinated policy and operational guidelines which identify and instruct the lead and supportive agencies whose capabilities to deal with terrorist threats of nuclear, bacteriological or chemical mass destruction are yet untested.

*Counter-terrorism technology.*—We have been examining the need for the research and development of equipment to improve our counter-terrorist capabilities. Requirements in this area have been tentatively identified by studies on mass-destruction and intermediate terrorism and in an overview of technology requirements.

*Ready reaction teams.*—Our experience with terrorist incidents abroad has revealed a need at overseas posts for the early on-scene assistance of specialists in the procedures and techniques of managing terrorist incidents such as kidnappings and hostage-barricade situations. The peculiarities of a given situation will determine whether such a team is needed, and if so, its number and composition. We have in mind an experienced crisis manager and a psychiatrist with terrorist/hostage-barricade training as being the key members. We hope to develop the Ready Reaction Team concept into an operational procedure to give immediate Washington support to overseas Missions confronted by a terrorist challenge.

## STATEMENT OF HON. CLIFFORD P. CASE, U.S. SENATOR FROM THE STATE OF NEW JERSEY

Senator CASE. Today's hearings are an outgrowth of a longtime concern many of us have felt about the problem of international terrorism. There have been a number of legislative proposals to deal with the issue and some already have been enacted.

We realize that there are no quick fixes or easy ways of dealing with the problem—partly because the problem emerges in many forms. For example, there were the press reports yesterday of an attempt in France to kill the sister of the Shah of Iran. This type of terrorist incident creates different problems than those of trying to improve airport security.

One general problem is the lack of interest or cooperation by other nations. Perhaps the most blatant example this year was the French Government's use of a legal technicality to release Abu Daoud, a confessed terrorist who is believed to have masterminded the 1972 Munich massacre. The Senate made its feelings clear in the 93 to zero passage of a resolution Senator Javits and I cosponsored criticizing the French action.

We have to look beyond these past problems and try to improve deterrent against future incidents. This hearing is part of a continuing process—a process to which I hope the administration will give high priority.

Senator JAVITS. Our first witness today is my distinguished colleague, Senator Heinz of Pennsylvania. Would you come forward, Senator, and proceed.

#### **STATEMENT OF HON. H. JOHN HEINZ III, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA**

Senator HEINZ. Senator Javits, thank you very much.

Let me express at the outset my appreciation to you, Senator Javits, and to your committee and to Senator Humphrey for having these very timely hearings. I am very privileged to be a witness this afternoon.

I have prepared testimony and it is somewhat lengthy and I don't intend to go through it all but I will go through it highlighting what I think are the most important parts.

#### **GROWTH OF INTERNATIONAL TERRORISM**

I would observe at the outset that international terrorism in our society has grown at a frightening rate. Terrorist acts have occurred with increasing frequency throughout the world, and no nation is safe from the violence and horror of the phenomenon. Terrorists strike children, travelers, and athletes. There really seems to be no pattern to their chaos, and there is certainly no justification for their disregard of laws and governments.

I don't doubt for a moment that the causes of increased terrorist activity are complex, and I don't intend to dwell on them today but we should recognize, as with any disease, there is a distinction to be made between causes and symptoms and we should be alert to which we are trying to treat. The causes are often rooted in history and politics of a region and are conditions over which we often have little control.

At the same time we must deal, however, with the short-term symptoms as well. Permanent solutions may well be a long time in coming, and in some cases may never appear. My testimony today, therefore, will necessarily focus on the symptoms, but I do so with the understanding that lasting solutions to the causes of terrorism must be among our long-term foreign policy objectives.

It is generally agreed that the three critical factors to terrorists are publicity, the modern air transportation system that provides an escape route, and the existence of secure sanctuary.

#### PUBLICITY FACTOR

Dealing with the first—publicity—poses very serious first amendment problems in this country, and we have thus far not discovered a way of stopping publicity of terrorist actions consistent with freedom of the press except to encourage media cooperation on an ad hoc basis. I would recommend that in cases of terrorist action our Government make a greater than usual effort to enlist media cooperation during the crisis to minimize or eliminate exploitation and unnecessary coverage. Any voluntary restraints, of course, need not and should not continue after the resolution of the incident.

#### MODERN AIR TRANSPORTATION SYSTEM FACTOR

The second factor—air transportation—can be combated by improved air security measures. That such measures are possible—and effective—is illustrated by our own progress in eliminating hijacking within our borders. Clearly, however, more needs to be done in improving airport security in other nations, though noticeable progress has been made. We can offer significant support in this area by providing both expert assistance and financial support within the existing foreign aid budget.

#### EXISTENCE OF SECURE SANCTUARY

The third issue—sanctuary—remains a most intractable problem. So long as terrorists have a safe place to hide—a nation that welcomes them and what they stand for—we will be unable to effectively stamp out terrorism.

This is a problem that has at least two aspects: Those nations which can be persuaded to release—or not incarcerate—terrorists crossing their borders, such as France and Yugoslavia, and those nations deliberately providing bases of operations to terrorists, such as Libya and Iraq.

Though both aspects of the problem are serious, there is some merit to the suggestion that we should seek to deal first with the most serious offenders, those whose specific policy it is to support and encourage terrorist activity by providing financial support, training, and sanctuary. In this category, the two most blatant offenders are Libya and Iraq.

#### LIBYAN AID TO TERRORISTS

In recent years Libya has been the resting and planning place for several international terrorists. This includes Illich Ramirez Sanchez—better known as “Carlos.” It includes the 1972 Libyan aid to the Black September killers of Israeli athletes. It also includes the claims from intelligence sources that Carlos was rewarded with be-

tween \$1 million and \$2 million for kidnapping the OPEC [oil-producing exporting countries] oil ministers.

#### IRAQI AID TO PALESTINIAN, OTHER TERRORISTS

The situation in Iraq is also grim. The Abu Ali Iyad training camp currently covers several miles in central Iraq. Equipped with its own arms factory, the camp is filled with Palestinians and others receiving guerrilla training from Al-Fatah defector Abu Nidal.

Iraq also now seems to be the main base for the Popular Front for the Liberation of Palestine [PFLP]. The extent of their terrorist-aiding activity remains high. The Iraqi mission to the United Nations was recently discovered purchasing and distributing 200 fully automatic machineguns. These weapons, experts state, were ideal for terrorists.

#### S. 483 APPROACH TO DEALING WITH TERRORISM

With respect to both these countries, however, our formal relations are extremely limited, and there are few substantive influences we exert on them. There are, however, some options available, the first approach exemplified in my bill, S. 483.

In developing this bill I am indebted to Senator Bentsen whose own bill, S. 206, set up a mechanism that is used in my proposal as well. Senator Bentsen's bill includes five items to be denied to countries aiding or abetting terrorism. Of the five, only Export-Import Bank credits have much meaning to those countries whose policies are most offensive. For example, Eximbank extensions of various forms of credit in fiscal 1976 totaled just more than \$7.5 million to Libya, and approximately \$3.3 million to Iraq. Fiscal 1977 figures through June 30 are \$2,717,000 for Libya and zero for Iraq. This would be the major impact of the bill, as we do not provide other forms of economic and military assistance to these countries. As a result, the bill is somewhat limited in its impact, though appropriate in its approach.

My own legislation, S. 483, adds two additional provisions to the list: most-favored-nation treatment and landing rights in the United States for foreign air carriers; and I would suggest at this time yet another: sales of U.S. manufactured aircraft.

Use of most-favored-nation [MFN] status as a policy lever has an important precedent, the Jackson-Vanik amendment to the Trade Act which denied MFN status to nonmarket economy nations that refused their citizens the right to emigrate. In view of burgeoning world trade in the past decade, sanctions that impact on trade are taking on increased importance.

The question of foreign air carrier landing rights would not have short-term impact for our relations with Libya and Iraq. We have no Bilateral Air Transport Agreement with either nation, and there are no U.S. carriers currently landing in Libya.

Denial of foreign air carrier landing rights, however, would be a useful policy tool to deal with those other countries that assist terrorists in evading capture and trial without actually providing finan-

cial support or permanent sanctuary. Incidents in recent years involving France in the Abu Daoud case I mentioned earlier and Yugoslavia come to mind. These are, by and large, nations with which we have had warm relations, and any sanctions such as these should be imposed only after the most careful consideration.

#### SALES OF AMERICAN AIRCRAFT

An additional item not presently included in S. 483 is sales of American aircraft. Although in theory one could embargo any kind of trade or any specific commodity, aircraft are particularly significant for two reasons. First, they are clearly associated with terrorism and terrorist escape. Second, they are one product which we sell extensively throughout the world and which are highly prized by foreign governments. Blocking such sales would have a minimal impact on our manufacturers—9 of the 159 planes being sold in 1976 having gone to such nations—but action like this would, I believe, be a useful lever for us, one that would have an impact and one that fits the crime.

#### U.N. ASSISTANCE RECOMMENDED

It is also clear, however, that the fight against terrorism cannot be a unilateral one. We must enlist the assistance and cooperation of other similarly plagued nations, and I would suggest one appropriate channel for that would be through the United Nations. I would suggest that we seek to mobilize that body to raise international consciousness about terrorism and to create some unified policy guidelines for all nations to follow. Specifically I would suggest several policy directions:

One: The use of the U.N. and other international organizations to improve communication links between national police and security forces to track terrorist movements.

Two: The creation of a U.N. committee on combating the causes of terrorism and, most important, identifying terrorists. I think this would help develop both approaches to deal with the political and social problems that lead to terrorism and identify and locate those who have committed acts of terrorism.

Three. Creation of a new category of international outlaw or an international most wanted list. Placing an individual in this category by the U.N. committee would require his or her prompt extradition by a U.N. member to the country where the crime was committed. A trial under appropriate national law would then follow.

Mr. Chairman, some have suggested an international court to handle this kind of trial and punishment, but at this point I believe such an approach would be too cumbersome in practice and significantly more difficult to begin than a plan which relies on existing national legal systems.

Finally, since it is axiomatic that terrorists are always viewed from different perspectives and that one nation's terrorist is another's brave freedom fighter, it is imperative that we understand clearly who we are talking about and that we make sure our total foreign policy is internally consistent in its approach to terror and terrorists.

## DEFINITION OF TERRORIST

While many groups, including some we have supported, have resorted to extralegal tactics to further their objectives, I would consider as terrorists those groups that direct their attacks at innocent civilians or third parties not directly involved in the issue, or at property belonging to such uninvolved parties. A true freedom fighter, if there is such a thing, will confine himself to attacking the government he objects to or its representatives, embodied in its military. He will not hijack planes of third countries. He will not blow up innocent people in countries far away from the conflict. He will not attack civilians living in peace under the government he objects to.

Obviously this is a line that is difficult to draw in practice, but I believe we must do so to preserve the credibility of our policy. We have to realize that if we deal with elements that seek forcible solutions through the use of terror tactics we immediately undermine the credibility of all our other actions directed toward stopping terrorism. Although it may be tempting from time to time to covertly support those groups whose objectives we sympathize with, doing so will expose inconsistencies in our policy that will make our other actions, including my recommendations today, meaningless.

## TERRORISM CANNOT BE TOLERATED

In conclusion, Mr. Chairman, our modern society is so complex and its instruments of destruction of such magnitude that we cannot tolerate terrorism in our midst. Failure to gain control over the situation will, I fear, result in a continued escalation of the level of violence and the degree of destruction of people and property, probably culminating in a nuclear crisis. That risk is totally unacceptable, and we must redirect our policy to combat terrorism, recognizing all the while that the battle will not be an easy one nor the price a low one, but it is a fight which must be carried through to a successful conclusion.

Thank you.

[Text of S. 483 follows:]

[S. 483, 95th Cong., 1st sess.]

A BILL Requiring the President to suspend economic assistance, military assistance, Government and commercial sales of arms, Export-Import Bank loans, foreign air carrier landing rights, and most favored nation treatment to any country that willfully aids or abets terrorism

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the President shall, with respect to any country which willfully aids or abets international terrorism, suspend, for such period as he deems appropriate—

- (1) economic assistance;
- (2) military assistance;
- (3) Government and commercial sales of defense articles and services;
- (4) extensions of credits and guarantees under the Foreign Military Sales Act;
- (5) loans and loan guarantees made by the Export-Import Bank;
- (6) landing rights in the United States for foreign air carriers from any such countries; and
- (7) most favored nation treatment.

(b) If the President finds that national security justifies the continuation of any category of assistance described in section (a) to any government which willfully aids or abets international terrorism, he shall report such finding to the

Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate. Assistance may be furnished to such government unless the Congress, within thirty calendar days of receiving such report, adopts a concurrent resolution stating that it does not find that the national security justifies assistance to such government.

Senator JAVITS. Thank you, Senator. I appreciate your testimony very much. I appreciate your introduction of the bill though you yourself pointed out its limitations, especially when we deal with these hardcore cases like the four countries that I described.

#### EFFECTIVE ANTI-HIJACKING TREATIES

As to effective international action, you have to have action which would be analogous to the antihijacking treaties—that is, an agreement to extradite—would you not?

Senator HEINZ. I think that is fair to say, Mr. Chairman. It seems to me that the first effective step is one we can take unilaterally, and through our example I think we can possibly create a climate where the agreement on such a treaty and its subsequent ratification would be a much higher priority item than it seems to be now with many of our good friends.

#### COUNTRIES PROTECTING TERRORISTS

Senator JAVITS. Our Government, I will say, has not hesitated to name names and this is one of the most refreshing actions that I have seen myself.

I have introduced into the record the exchange of correspondence with the State Department in which the details respecting Libya, Iraq, the People's Democratic Republic of Yemen, and Somalia are set forth.

[See p. 2.]

#### LINKAGE TO TRADE, LANDING RIGHTS

Senator JAVITS. Do you believe, therefore, that the linkage would be justified not only to aid trade and landing rights but any other activities because you never know when one of these countries is going to get in big trouble and turn to us?

Senator HEINZ. Mr. Chairman, I consider the increase in terrorist activity and its escalation a tremendous threat to stability and peace, and, as I am sure you recognize, S. 483 is premised on linkage and I do believe in linkage.

Senator JAVITS. Thank you very much.

Senator CASE.

Senator CASE. Thank you, Mr. Chairman.

I am grateful to you, Senator, for your initiative here. I think it is very much in the right direction.

#### AIDING AND ABETTING OF S. 483

Your bill proposes suspension of economic assistance, landing rights, and a number of other measures to a nation which, and I now quote, "willfully aids or abets international terrorism." Would you give me for the record a bit of the development of that term "willfully aids or abets"? For example, would it include giving sanctuary to aircraft hijackers before, say, a plane could land in a particular country?

Senator HEINZ. The legislation seeks to set a standard that is admittedly somewhat subjective. It is a decision by the President as to whether there is a willful aiding and abetting. If a country engaged in a persistent pattern of allowing within its borders the use of sanctuaries, that would clearly in my judgment be willfully aiding and abetting terrorists. I would also have no wish to define the term too narrowly. I would like the French Government to think, if this bill were enacted, that their totally unjustifiable release—at least in my judgment—of the terrorist Abu Daoud could lead to a decision by the President of the United States to impose restrictions dealing with credits or with MFN. I think, Mr. Chairman, if this legislation had been in effect, rather than thinking of their own economic interests in North Africa, or continental Africa, as I suspect the French did, they would have had to take into consideration before their release of Abu Daoud, their economic relations with their largest and most important non-common market trading partner; namely, us.

#### AUTOMATIC IMPOSITION OF SANCTIONS WITH PROVISION FOR WAIVER

Senator CASE. I can't possibly disagree with you on that. The form of your bill contemplates an automatic imposition of the sanctions and then a provision for waiver thereafter if the President thinks the national security requires it in which event he has to report to Congress about that.

Senator HEINZ. Yes, although somebody must make a judgment.

Senator CASE. Oh, yes.

Senator HEINZ. Somebody must make a judgment as to when a country willfully aids or abets international terrorism. That person is the President; he is directed to make that judgment. If he makes the judgment but then suspends it, that is also his prerogative as long as he cites the national security to do so. I anticipate that there could be some disagreement between the Congress and the President over whether or not he was aggressive enough in making the first judgment. That is something we can anticipate, and logically so because as I tried to point out in my testimony there are many instances that make it very, very difficult to decide who is the terrorist and who is the freedom fighter.

Senator CASE. You are quite right.

There is some advantage, it seems to us, as we have dealt with other legislation—I am thinking now of the legislation in regard to the patterns of violation to human rights, Senator—where we have felt it was helpful to the executive branch not to impose on it the obligation to make specific findings of this kind but rather to make that determination ourselves or to have it automatically subject to a right of waiver and that is an impossibility in matters of this kind here, too.

We have, in the foreign aid bill, language referring to aiding and abetting by granting sanctuary from persecution. Again there would be a matter of judgment, of course, as to whether that kind of action amounted in the particular case to aiding and abetting hijackers or terrorists.



## RADIO BROADCASTING

Just one further question as to the limits or extent of your concept of aiding and abetting. What about wide ranging sorts of things like radio broadcasting? Let's assume the broadcasting agency is not a private agency but in fact a branch of the government. Is that government because it is a broadcaster that encourages or condones terrorism doing it itself even though that is the only evidence that the government is engaged in that practice?

Senator HEINZ. May I ask my good friend from New Jersey whether that is a hypothetical question because I don't know of any country which is engaged in broadcasting that kind of encouragement to terrorists which is not already clearly harboring terrorists as Iraq and Libya are doing. It may be something that would arise but I honestly can't answer that hypothetical question, Senator. It is a good one.

Senator CASE. I guess I would have to say, if I were trying to answer the question that I asked, that it would depend on the circumstances of any kind that might amount to aiding and abetting. I agree it is desirable to leave the matter quite widely open to the press to make a determination.

I have no more questions, Mr. Chairman. I am very much obliged, as I know you are, to the Senator from Pennsylvania for introducing this legislation, which I think is most important.

Senator JAVITS. Thank you very much, Senator Heinz.

Senator HEINZ. Thank you, Mr. Chairman, for this opportunity.

Senator JAVITS. We have a witness who has a time problem. May I ask Mr. Karkashian who is from the State Department and Mr. Jenkins and Mr. O'Donnell if they would have any objection if we withhold their testimony to allow Professor Lillich of the University of Virginia Law School to appear? Is there any objection?

Mr. JENKINS. I have none.

Mr. O'DONNELL. No.

Senator JAVITS. The Chair hears none.

We will call Richard B. Lillich, president of the University of Virginia Law School.

Mr. Lillich, in view of your time problem, would you take 5 or 6 minutes for your statement.

#### STATEMENT OF RICHARD B. LILLICH, PROFESSOR, UNIVERSITY OF VIRGINIA LAW SCHOOL

Mr. LILLICH. I will take no more.

I should state that I am not the president. I have no desire to be president of anything, much less the University of Virginia.

Senator JAVITS. What are you?

Mr. LILLICH. A mere professor.

Senator JAVITS. They put president on the agenda. Being a professor may be more important.

Mr. LILLICH. I would like to think so.

Senator CASE. More impregnable, more permanent.

Mr. LILLICH. I do have tenure, but it does not protect one from not teaching classes, which is why I have to get back to New York where I am teaching this evening.

What I would like to do is make some prefatory remarks, then summarize the points in my testimony, and then perhaps make a few comments about institutional changes within the government for combating international terrorism.

#### INTERNATIONAL LAW INADEQUATE TO DEAL WITH TERRORISM

First the prefatory remarks, which will be very brief indeed. There is no doubt, as Brian Jenkins who will follow me and many others have said, that international law as it now stands is inadequate to cope with the terrorism situation. We need legal restraints; we need substantive law, and we need procedural law.

The difficulty, of course, is twofold. On the substantive side, as I will point out in my testimony, it is extraordinarily difficult to obtain any kind of consensus for new conventions, new treaties. On the procedural side, even assuming that one has these conventions, the problems of implementation are quite difficult indeed. The Abu Daoud case to which Senator Heinz referred is a classic example.

It seems to me that any improvement in the law at least in the foreseeable future will have relatively marginal impact on the whole problem of international terrorism. I don't wish to denigrate my profession, but it does seem to me that, while international law may have a role to play here, an important role to play, we have to keep it in perspective and remember also that legislation such as proposed by Senator Heinz will not be a cure for all our problems.

#### U.S. SUBMISSION TO U.N. OF DRAFT CONVENTION

The United States found this out, if I may now get into the summary of my testimony, when in 1972, following the Munich massacre, it attempted through the efforts of my colleague Prof. John Norton Moore, who was then serving as counselor in the Department of State, to submit to the United Nations, and indeed the United States did submit to the United Nations, a draft convention which would have in effect handled the terrorism problem almost across the board. As a matter of fact, the response to this submission was such a negative response—the draft convention was buried in a study of the underlying causes of terrorism and what have you—that it has gotten nowhere.

Therefore, the United States has taken and should take a variety of other approaches. It seems to me that we have to adopt unilateral responses such as Senator Heinz has suggested and other unilateral responses such as you referred to in your remarks.

#### STATE RESPONSIBILITY LAW

First of all, there is a body of international law called State Responsibility Law which should be invoked in situations where countries either encourage or tolerate terrorist acts or, if such acts are committed without the country's participation, fail to apprehend, punish, or ex-

tradite terrorists. The law is very clear on that and I myself have been very disappointed that until very recently the United States has not raised this problem properly in international forums.

It is refreshing to have the Department of State speak out as it did with respect to four countries this past June. In my estimation it is high time that we do so. We may not be creating any new international law, but we are certainly creating a climate of opinion by stating exactly what our position is, as Senator Heinz said. We have now stated for the record that we find this not only morally objectionable, but legally objectionable as well.

#### WOLFF AMENDMENT TO FOREIGN ASSISTANCE ACT

The second unilateral response has been the so-called Wolff amendment, which I believe Senator Case referred to in his remarks. This is the legislation that was added to the Foreign Assistance Act last year which requires the President to terminate assistance to any country which aids or abets by granting protection to any individual or group which has committed an act of international terrorism.

Now this is a somewhat limited weapon, of course. It is a weapon that the United States is adopting unilaterally, but it seems to me once again that just as by postulating State responsibility standards we create a climate of respect for international law we do so the same way here as well.

#### TITLE 24 U.S.C. SECTION 290 (G) (9)

Incidentally, I find that there is another relevant statute in addition to the Wolff amendment on the books, title 24 U.S.C. section 290 (g) (9). This was also added last year. It does not terminate assistance but requires the United States representative to the African Development Fund to vote against loans or assistance to countries violating human rights, and that includes "providing refuge to individuals committing acts of international terrorism such as the hijacking of an aircraft." Therefore, there are two precedents that were added to the statute books last year for Senator Heinz' statute.

#### S. 483 SUPPORT

Now Senator Heinz' statute, to turn to it very briefly, goes beyond the mere termination of assistance to include suspension of U.S. commercial sales of arms and the variety of other things that are ticked off in the first section of his bill. Also, unlike the Wolff amendment, it contains a concurrent resolution device which would allow Congress to override the President's findings. Thus in two important areas it goes well beyond the Wolff amendment, and I would invite your attention and your consideration to those areas.

I frankly think a lot can be said in favor of strengthening the Wolff amendment, but one can anticipate that the Department of State will oppose that effort as indeed it opposed the Wolff amendment last year. This, of course, comes as nothing new to you. It has long apposed any restrictions on executive power and discretion in this area, and indeed presumably it should.

Now having mentioned these two unilateral techniques, let me just summarize very briefly the four areas in which I think specific steps can be taken by the United States either unilaterally or in conjunction with several other States.

#### AIRPORT SECURITY

First of all, airport security. I am amazed that we have not mounted a massive international campaign to achieve minimum standards of airport security, either by the treaty route making it mandatory or by recommending standards for national adoption. I am aware of the fact that many countries say they cannot afford airport security. It seems to me that there could be some kind of international assistance of indeed unilateral assistance if need be.

Second, in addition to these standards which should be adopted with respect to the security of airport passengers, what about security standards insofar as people who are not just passengers but people who work in airports, people who visit airports to pick up or put on passengers and what have you. It seems to me that this is a major area where the United States should take the initiative. The fact that last year you, Senator Javits, sponsored Resolution 524 urging the President to undertake international negotiations to strengthen and improve airport security indicates that you are concerned with this problem, and I would hope that we would have a report from the Department of State soon that steps indeed have been taken in this area.

#### RANSOM PAYMENTS

Now the second area that I think attention should be paid to is the question of ransom payments. I understand this is undergoing re-examination by the Department of State right now, but at least at the present time the statement that is made public is that the United States does not pay ransom money. One can argue about this pro and con. If not entirely openminded, I am willing to listen to arguments on both sides here. It does seem to me, however, that there is an internal inconsistency between the Government's policy, which is that it itself will not pay ransom, and the fact that it allows U.S. corporations doing business overseas to pay ransom is concerned.

Now the policy arguments articulated behind the Federal policy is that if we pay ransom for diplomats we will just encourage further kidnaping. In any event, these payments will be used by the terrorists to finance further activities either in the country concerned or in other countries. Well, of course, both these reasons, it seems to me, apply across the board to the private sector as well as the public sector, and indeed right now the Federal policy really is exposing corporate executives to additional risks, because it is transferring this risk from the public sector to the private sector.

In my prepared statement I indicate that I do not think there are any constitutional grounds, as has been suggested, for blocking legislation in this particular area. I do have an open mind about it, but I think it is something that we ought to consider because we have, as Brian Jenkins will tell us, situations where up to \$60 million has been paid in ransom and situations where over \$14 million has been paid in

ransom for corporate executives—\$14 million for a U.S. executive and \$60 million for a foreign executive. It indicates the magnitude of the money involved and the extent of the problem.

#### DRAFT CONVENTION ON THE TAKING OF HOSTAGES

I am sure I have exceeded my 6 minutes. Let me just touch upon two other matters. First of all, the draft convention on the taking of hostages. This treaty, of course, was suggested 1 year ago in the United Nations, and the ad hoc committee that was established to draft it over the summer has just reported that it was unable to do so, to come up with a solution, and it has asked for a 2-year extension of time. I think the United States should be very concerned with and should participate actively in the drafting of this convention. It seems to me that it is something upon which international consensus can be obtained, and that the type of provisions you point out are contained in the aerial hijacking conventions should be applied here as well. Mr. Fields of the Department of State has suggested that this area is one that requires monitoring, and I certainly agree with that assessment.

#### FORCIBLE SELF-HELP AS SANCTION AGAINST TERRORISM

Finally, forcible self-help as a sanction in the terrorism context. We have not really been faced with this problem, but the Israelis were faced with it in the case of Entebbe. If one examines the debates preceding the enactment of the war powers resolution, which of course, Mr. Chairman, you are familiar with, you will find that that resolution gives little guidance as to whether the United States can utilize its military arm to rescue its nationals should they be taken hostages in a foreign country or transported to a foreign country. It certainly gives little guidance insofar as international law. I suggest a thorough examination of this particular problem be undertaken as well.

#### UNILATERAL APPROACH SUGGESTED

What I am suggesting in general is that the United States take the offensive here in the unilateral and in the small collective multinational approach, and that we abandon any attempts, as indeed I think we have, to get a massive overall convention. In short, I suggest that we in effect try to bite off little pieces of the area and digest them and establish some kind of substantive law and procedures to enforce it.

#### INSTITUTIONAL CHANGES IN U.S. APPROACH URGED

If I may have just 30 seconds more, I have been doing some consulting for the Department of State for the last year and a half, and it seems to me that a few institutional changes are in order insofar as our approach to terrorism is concerned. So, without biting the hand that has been feeding me for the last year and a half, let me suggest what I think some of these changes should be.

First of all, I think that the Director of the Terrorism Office should be a full-time director and a permanent director and a director that has had past experience in the area. I have had to deal with three

Directors in the last year and a half and, as I think Mr. Jenkins will say in his statement, there is an element, despite the caliber of the men involved, of on-the-job training.

Second, it seems to me that the staff should be greatly increased and that the director should at least have a full-time international lawyer on his staff, which he does not have at present. There is one-third of an Assistant Legal Adviser currently handling the legal problems at the Department of State. He is responsible for two other very important areas and obviously one-third of his time is not sufficient. The annual cost of this recommendation would certainly be a lot less than the overtime the police receive when there is a hostage situation that lasts beyond a day or so, or when a jet that has received a bomb threat has to dump its fuel and come back and lose time at JFK.

Then, finally, I think we need greater coordination between Washington and the U.S.-UN mission in New York. The example that I would draw upon is the current effort to draft a convention on hostages. As far as I know, there was almost no communication between responsible officials in the Department of State, at least in the Legal Adviser's Office, and officials in New York. What we need is an overall policy on this matter and on terrorism in general, and that requires us to devote more resources to this whole area within the Department of State and the Government generally.

I appreciate your indulgence.

[Professor Lillich's prepared statement follows:]

PREPARED STATEMENT OF RICHARD B. LILLICH  
LEGAL RESPONSES TO INTERNATIONAL TERRORISM

Since 1972, when the United States took the initiative and submitted a draft convention on international terrorism to the UN, this country has been active in efforts to formulate new norms and to create new procedures to combat such terrorism. Yet, as the UN Security Council debate following the Entebbe rescue operation in July 1976 revealed, there is a wide divergence in the world community over how—and, indeed, perhaps even whether—to approach the terrorism phenomenon. The recent failure of a UN ad hoc committee to agree upon a draft convention against the taking of hostages, which was to have been submitted to the Thirty-Second Session of the General Assembly later this month, again underscores the almost glacial movement being made on the international scene.

Since its international efforts have not met with wide success, the U.S. has had to consider, among other alternatives, various unilateral responses to help curb terrorist activities. One such response, recommended to the Department of State in a working paper prepared for it by the Procedural Aspects of International Law Institute and subsequently published in 26 American University Law Review 217 (1977), is the invocation of State Responsibility norms by the United States against certain foreign countries for their failure to prevent injuries caused by terrorism and for their failure to apprehend, punish or extradite terrorists. Derived from State practice, arbitral decisions and codification attempts over many years, this body of international law offers a rich vein of relevant precedent that should be worked for profit. It is encouraging to see that at long last the Department—under Senator Javits' prodding to be sure—has invoked such norms against at least four foreign countries aiding or abetting terrorists—Iraq, Libya, Somalia and Yemen. By so doing it has registered this country's strong belief that terrorist acts not only are immoral, but that they violate the traditional norms of international law as well.

A second unilateral response to international terrorism is the so-called Wolff Amendment to the Foreign Assistance Act of 1961, added in 1976, which requires the President to terminate all assistance under the act to any country which aids or abets, by granting sanctuary from prosecution to, any individual or

group which has committed an act of international terrorism . . ." This amendment, analyzed in a working paper prepared for the Department of State by the Procedural Aspects of International Law Institute which recently was published in 11 *George Washington Journal of International Law and Economics* 228 (1977), is a practical, if somewhat limited, "weapon" against terrorism, but its real significance lies in the fact that it is a norm-generating expression of shared U.S. and world community policy.

S. 483, introduced by Senator Heinz, greatly expands the coverage of the Wolff Amendments by going beyond the mere termination of assistance to include the suspension of U.S. and commercial sales of arms, Export-Import Bank loans, foreign air carrier landing rights, and most-favored-nation treatment. Unlike the Wolff Amendment, it also contains a concurrent resolution device by which Congress could override the President's finding that national security justifies the continuation of such assistance to any such State. That is a lot to be said for this strengthening of the Wolff Amendment, although it can be expected that the Department of State once again will oppose the effort.

In addition to the above, a number of other possible responses have surfaced which warrant consideration, four of which are discussed below:

#### AIRPORT SECURITY

Like the chain that is only as strong as its weakest link, international civil aviation's overall security system is only as effective as whatever security exists at the laxest airport in any foreign country. Given this acknowledged fact, it is somewhat surprising that no concerted effort has been mounted internationally to establish minimum standards of airport security, either by the treaty route or by recommended standards for national adoption. The UN has had considerable experience with both approaches—its Standard Minimum Rules for the Treatment of Prisoners being an outstanding example of the latter—and the relevance of both approaches to international terrorism's threat to international civil aviation warrants serious examination.

One particularly promising area for exploration is the feasibility of promulgating minimum standards of airport security as to passengers—e.g., baggage screening, hand luggage examination, body searches—under the international Civil Aviation Organization's convention. Annex No. 17 thereto, entitled "Security—Safeguarding International Civil Aviation Against Acts of Unlawful Interference," would be the point of departure. Such minimum standards might be made mandatory or discretionary. Since less developed states might plead financial inability to implement them, a system of tariffs or contributions to underwrite security measures should be considered. Unilateral assistance measures as well as international funding should be explored.

Another promising area for exploration is the possible establishment of security standards at airports as they relate to persons other than just passengers. The Lod (Tel Aviv), Athens, Rome and Istanbul airport massacres of recent years demonstrate the weakness of national law and the need for new international standards to cope with airport security problems, both insofar as defining offenses and prescribing punishment is concerned. That there is considerable Congressional support for U.S. initiatives here is shown by last year's Javits Resolution (S. Res. 524, 94th Cong., 2d Sess. (1976)), which urges the President, *inter alia*, to undertake international negotiations to strengthen and improve airport security.

#### RANSOM PAYMENTS BY PRIVATE PARTIES

U.S. policy guidelines for dealing with international terrorism involving U.S. citizens in foreign States include the following: "Should the matter of a monetary ransom arise, the U.S. Government would make known to the host government that, as a matter of policy, it does not pay such money. While we believe that other governments, companies, and individuals should follow suit, the U.S. Government has no legal means to restrain such parties if they choose to do otherwise."

This "no ransom" policy of the U.S., a spin-off of its "no negotiations" policy, has been criticized as too harsh and inflexible. At the very least, it is internally inconsistent, since if the policy reasons behind the U.S.'s refusal to pay ransom are valid they presumably would apply with equal validity to such payments by private parties. These policy reasons include both a realization that paying ransom in one case would lead to further kidnappings, and that in any event the

proceeds of such ransoms would be used to underwrite future activities by the terrorists concerned. Both reasons apply across-the-board. Yet U.S. multinational corporations, especially in Latin America, have paid vast sums to ransom their corporate executives. Exxon's payment of \$14.2 million in cash to a terrorist group in Argentina in 1974—supposedly the highest amount ever paid for a kidnap victim until that time—is a case in point.

Indeed, by refusing to pay ransom for government officials and simultaneously condoning such payments by private parties, the United States actually may be increasing the exposure of corporate executives to kidnappings, shifting the risk, so to speak, from the public to the private sector. The plea that the U.S. has "no legal means" to prevent private payments contains echoes of Pontius Pilate's lament: surely, if the United States believes its "no-ransom" policy valid across-the-board, the U.S. should not wash its hands of the matter, but rather seek the enactment of presumably constitutional enabling legislation allowing it to adopt such a policy by executive order. On the other hand, upon examination it may appear that a more flexible policy is desirable on the part of the United States itself. Even a preliminary conclusion at this stage is difficult to reach, but enough has been said to demonstrate that this problem area warrants extensive consideration.

#### UN DRAFT CONVENTION AGAINST THE TAKING OF HOSTAGES

As mentioned above, the United States in 1972 submitted a draft convention on international terrorism to the UN, where unfortunately it received little support and was buried for all practical purposes in a lengthy study of the underlying causes of terrorism. Despite the flurry of excitement caused by the hijacking of the OPEC oil ministers in December 1975, at which time Venezuela actually proposed a special session of the General Assembly to consider international terrorism, the prospects for a general convention do not look any brighter in 1977 than they did in 1972. For that reason, among others, the Procedural Aspects of International Law Institute, in an unpublished working paper submitted to the Department of State, has recommended that the United States concentrate its efforts for the present on drafting specialized conventions covering such topics as letter bombs, hostages and nuclear theft. See generally PAIL Institute, *Future International Efforts to Insure the Prosecution and Punishment of Acts of International Terrorism: The Use of Treaties* (December 1976).

For a while this year, this "incremental" approach appeared to be paying dividends insofar as the subject of hostages was concerned. Following a West German initiative, quietly supported by the U.S., the UN General Assembly agreed on December 15, 1976 to draft an international convention against the taking of hostages, establishing a 35-member ad hoc committee to undertake the task this year. UN Doc. A/RES/31/103, reprinted in 76 Dep't State Bull. 74-75 (1977). The committee began work this summer and was to have come up with a draft text for submission to the Thirty-Second Session of the General Assembly this month. Recently it asked for at least a year's extension of time.

The tradeoffs necessary to get agreement even to draft this convention are evidence of the difficulties the ad hoc committee faces. Libya, for instance led a drive to have the convention apply only to "innocent" hostages, which of course would have undercut the drafting effort entirely. Its proposal was dropped, the quid pro quo being the dropping by West Germany and its cosponsors of a specific provision for the prosecution or extradition of terrorists taking hostages. According to U.S. Ambassador Bennett, this trade off was not a compromise with principle:

We have no doubt that the convention will be drafted along the by now familiar lines of the Hague, Montreal, and Protection of Diplomats Conventions; namely, with the principle of *aut declare aut judicare* forming the central mechanism. Perpetrators of these acts must be denied a safe haven. They must know that wherever they are they will be subject either to prosecution or extradition.

Whether this evaluation of the hostages effort is overly-optimistic remains to be seen. In any event, as Louis G. Fields, Jr., Assistant Legal Adviser, Department of State, has observed, "[t]his effort could produce a major breakthrough in dealing with the hostage problem and must be carefully monitored." *Terrorism: Summary of Applicable United States and International Law* 12 (Feb. 18, 1977).



## FORCIBLE SELF-HELP AS A SANCTION IN THE TERRORISM CONTEXT

As the Entebbe rescue operation in July 1976 revealed, when all other sanctions against terrorists fail States with the capability to do so may resort to forcible help-help, condemned by some authorities as violative of Article 2(4) of the UN Charter and justified by other commentators under Article 51. Although this legal question was considered in some detail in the debates preceding the enactment of the War Powers Resolution, the resolution itself gives little guidance as to whether a U.S. operation to rescue its nationals taken hostages in or transported to a foreign country by terrorists is permissible under U.S., much less international, law. A thorough examination of this legal issue and the drafting of some relevant policy guidelines should be a matter of some priority.

In conclusion, with international efforts to combat terrorism proceeding at a snail's pace, the United States should once again take the initiative in this field, as it did five years ago. This time, however, the bulk of its efforts should be directed not toward the adoption of a universal convention, but toward the development of various ad hoc responses, but unilateral and multilateral. In this direction the path toward real progress lies.

Senator JAVITS. Thank you, Professor.

I am not going to ask any questions, but I am going to make a request. If your testimony does not analyze what you call the doctrine of state responsibility, could you give us a separate monograph on that subject?

Mr. LILLICH. Well, a reprint of a lengthy study was given to the committee last June. It might be a good idea to put in the record a much shorter piece dealing with the Wolff amendment, because that is relevant to some of the policy issues that are concerned with Senator Heinz' bill.

Senator JAVITS. Will you give me that?

Mr. LILLICH. Yes.

Senator JAVITS. Without objection, it will be added to your testimony.

Mr. LILLICH. Thank you, sir.

[The information referred to follows:]

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## THE 1976 TERRORISM AMENDMENT TO THE FOREIGN ASSISTANCE ACT OF 1961\*

By Richard B. Lillich\*\* and Thomas E. Carbonneau\*\*\*

## I. BACKGROUND OF THE AMENDMENT

Key to any successful attempt to combat international terrorism is the elimination of sanctuary and safe-haven for terrorists. The United States has pressed consistently for international agreements—the anti-hijacking conventions<sup>1</sup> and

\*The Procedural Aspects of International Law Institute, Inc., 1977. This article is based upon a memorandum prepared by the Institute under a contract from the Department of State to study "Sanctuary and Safe-Haven for Terrorists: The Relevancy of International Law." The views expressed herein reflect the personal opinions of the authors, however, and thus are not necessarily the views either of the Institute or the Department of State.

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<sup>1</sup>Convention on Offenses and Certain Other Acts Committed on Board Aircraft (Tokyo Convention), Sept. 14, 1963, [1969] 3 U.S.T. 2941, T.I.A.S. No. 6768; Convention for the Suppression of Unlawful Seizure of Aircraft (Hague Convention), Dec. 16, 1970, art. 7, [1971] 2 U.S.T. 1641, T.I.A.S. No. 7192; and Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal Convention), Sept. 23, 1971, art. 7, [1973] 1 U.S.T. 565, T.I.A.S. No. 7570.

the Internationally Protected Persons Convention<sup>2</sup> being examples—requiring States either to prosecute or extradite international terrorists found within their borders.<sup>3</sup> Since its efforts to establish a “basic extradite-or-prosecute obligation”<sup>4</sup> have not met with general success, the U.S. has had to consider, among other alternatives, various unilateral responses to help curb terrorists activities. One obvious response, drawing upon a wealth of domestic precedents, involves the possible invocation of economic sanctions.

Since the enactment in 1962 of the Hickenlooper Amendment,<sup>5</sup> which proscribed the nationalization of U.S.-owned property without the payment of prompt, adequate, effective compensation, the U.S. has threatened recipients of economic or military aid with its termination if they engaged in various acts which conflicted with major U.S. foreign policy objectives. Subsequent threats to terminate aid generally have sought to achieve less parochial objectives. In September 1972, for instance, the Department of State held up a loan to Uganda following anti-Jewish statements by President Amin.<sup>6</sup> Shortly thereafter, President Nixon announced that, as required by statute,<sup>7</sup> he would discontinue aid to “all countries that willfully contributed to [the U.S.] narcotics problems.”<sup>8</sup> At the same time, in the aftermath of the Munich Olympics tragedy, the Senate, presaging the subject matter of this article, adopted a resolution favoring “the suspension of the United States aid to and the imposition of economic and other sanctions against any nation which provides sanctuary for terrorists who have injured or abused citizens or property of one nation in committing illegal or terrorists acts against another nation or the citizens or property thereof.”<sup>9</sup>

Four years later, following the determined efforts of Representative Wolff, Congress enacted and the President signed into law Section 620A of the Foreign Assistance Act of 1961 (hereinafter called the “terrorism amendment”), which in effect codifies the policy expressed in the 1972 Senate resolution. In its final form, Section 620A provides that:

(a) Except where the President finds national security to require otherwise, the President shall terminate all assistance under this [Act] any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism and the President may not thereafter furnish assistance to such government until the end of the one year period beginning on the date of such termination, except that if during its period of ineligibility for assistance under this section such government aids or abets, by granting sanctuary from prosecution to, any other individual or group which has committed an act of international terrorism, such government's period of ineligibility shall be extended for an additional year for each such individual or group.

(b) If the President finds that national security justifies a continuation of assistance to any government described in subsection (a) of this section, he shall report such finding to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate.<sup>10</sup>

While the terrorism amendment bears a superficial resemblance to the Hickenlooper Amendment, it differs from Hickenlooper in two important respects. In the first place, it is not designed to protect only parochial U.S. interests. Rather it is intended to combat, in the words of Mr. Wolff, “a threat . . . to the entire fabric of international harmony.”<sup>11</sup> Secondly, the terrorism amendment does not seek to elevate a predominantly U.S. view to a supposedly international norm in the way that the Hickenlooper Amendment attempted to do. Indeed, in marked contrast

<sup>2</sup> G.A. Res. 3166, 28 U.N. GAOR Supp. 30, at 146, U.N. Doc A/9030 (1973), reprinted in 68 AM. J. INT'L L. 383 (1974). See Wood, *The Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents*, 23 INT'L & COMP. L.Q. 791 (1974); and Note, *Convention on the Prevention and Punishment of Crimes Against Diplomatic Agents and Other Internationally Protected Persons: An Analysis*, 14 VA. J. INT'L L. 703 (1974).

<sup>3</sup> Customary international law, at least until recently, probably did not require the prosecution or extradition of such terrorists. See Lillich & Paxman, *State Responsibility for Injuries to Aliens Occasioned by Terrorist Activities*, 26 AM. U.L. REV. 000 (1977).

<sup>4</sup> 67 DEP'T STATE BULL. 444 (1972).

<sup>5</sup> 22 U.S.C. § 2370(e) (1) (1970), as amended, 22 U.S.C. § 2370(e) (1) (Supp. V. 1975).

<sup>6</sup> Washington Post, Sept. 15, 1972, at 16, col. 1.

<sup>7</sup> 22 U.S.C. § 2291(a) (Supp. V. 1975).

<sup>8</sup> Washington Post, Sept. 19, 1972, at 1, col. 1.

<sup>9</sup> S. Con. Res. 100, 92d Cong., 2d Sess., 118 CONG. REC. 32651 (1972).

<sup>10</sup> 22 U.S.C.A. § 2371(a) (b) (Dec. 1976, Part 1).

<sup>11</sup> *Hearings on H.R. 11963 Before the House Comm. on International Relations*, 94th Cong., 1st & 2d Sess. 685 (1976) [hereinafter cited as *Hearings*].

to its predecessor, it is an expression of what is, presumably, a truly global outrage at the threat of terrorism.<sup>12</sup>

The latter point requires some expansion if the terrorism amendment is to be understood properly. One of the main arguments against the Hickenlooper Amendment was the fact that it had little practical effect on the problem it purported to address.<sup>13</sup> Critics pointed out that States which nationalized U.S. property without proper compensation were likely either not to be receiving U.S. aid or, alternatively, to be receiving too little aid to dissuade them from nationalizing. It is somewhat ironic, at first sight, that many of the critics who made this argument against the Hickenlooper Amendment now support a unilateral approach to terrorism which is subject to similar criticism. Indeed, the practical ineffectiveness argument probably is stronger in the case of the terrorism amendment, since in all likelihood States harboring terrorists are less likely to be recipients of U.S. aid than States nationalizing U.S. property. How then, it may be asked, can critics of Hickenlooper support the terrorism amendment?

The answer lies in the difference in the fundamental purposes of the two amendments. Hickenlooper, being patently parochial legislation, of necessity had to stand or fall on its practical effectiveness.<sup>14</sup> Certainly it never was claimed that its presence on the statute books was a way of winning friends for the United States in the international community, or of underpinning or fostering an international consensus on the problem to which it was directed. A *contrario sensu*, the immediate practical effectiveness of the terrorism amendment is of only relatively minor concern. What was emphasized in the debates by Mr. Wolff was its potential value as an unequivocal statement by the United States of its intention to stand firmly behind, and even actively to advance, the emerging international law norm condemning terrorism:

Perhaps this [amendment] is nothing more than going on record; unfortunately, however, in no piece of legislation that we have had has the United States really gone on record as being opposed to terrorism. It would be one more method, one additional area of voicing our opposition to international anarchy taking place. The fact that you say that it might not stop it, well, without this we have not been able to stop it either.

We should try to do something. We have tried to put amendments before the UN to no avail and it would seem that we are in effect saying that we throw up our hands and we can't do anything against terrorism.<sup>15</sup>

This quotation clearly reveals that a major, and perhaps the major, impact of the terrorism amendment will be its firm underscoring of the U.S.'s commitment to the anti-terrorism cause. While of course the fact that its practical effect upon other States will be small is to be regretted, the legislation remains a valuable expression of an emerging international law norm.

## II. LEGISLATIVE HISTORY OF THE AMENDMENT

In December 1975, Mr. Wolff, who the preceding month had contended that "the U.N. has proven itself to be incapable of dealing with the problem of international terrorism in a meaningful way,"<sup>16</sup> offered a draft amendment to the International Security Assistance and Arms Export Act of 1976.<sup>17</sup> In brief, the

<sup>12</sup> The UN, for instance, has condemned international terrorism. See G.A. Res. 3034, 27 U.N. GAOR Supp. 30, at 119, U.N. Doc. A/8730 (1972).

<sup>13</sup> R. Lillich, *The Protection of Foreign Investment* 140-45 (1965).

<sup>14</sup> It fell. See Lillich, *Requiem for Hickenlooper*, 69 AM. J. INT'L. L. 97 (1975).

<sup>15</sup> *Hearings*, *supra* note 11, at 687.

<sup>16</sup> 121 Cong. Rec. H11295 (daily ed. Nov. 17, 1975).

<sup>17</sup> The text of the draft amendment reads as follows:

Sec. 020A. Prohibition Against Furnishing Assistance to Countries Which Grant Sanctuary to International Terrorists.—(a) Except under extraordinary circumstances, the President shall terminate all assistance under this Act to any government which grants sanctuary from prosecution to any individual or group that has committed an act of international terrorism and may not thereafter furnish assistance to such government until the end of the one year period beginning on the date of such termination, except that if during its period of ineligibility for assistance such country grants sanctuary from prosecution to any other individual or group that has committed an act of international terrorism, such country's period of ineligibility shall be extended for an additional year for each such individual or group.

(b) If the President determines that extraordinary circumstances exist which justify a continuation of assistance to any government described in subsection (a), he shall report such extraordinary circumstances to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate. Assistance may not be furnished to such government if the Congress, within 30 calendar days of receiving such report, adopts a concurrent resolution stating in effect that it does not find that extraordinary circumstances exist which justify assistance to such government. *Hearings*, *supra* note 11, at 684-85.

amendment contained two provisions: the first providing that the President should terminate all assistance under the act for a one year period to any country granting sanctuary to international terrorists;<sup>18</sup> and the second permitting the President to continue such assistance if he found that "extraordinary circumstances" existed.<sup>19</sup> A concurrent resolution device,<sup>20</sup> by which Congress could overrule this finding without the President's signature, greatly limited his discretion in this regard. The draft amendment differed from the enacted version of the terrorism amendment in two important respects: (1) it lacked the legal phrase "aids and abets,"<sup>21</sup> but (2) it contained the all-important concurrent resolution device.

Senator Stone introduced a similar draft amendment in the Senate.<sup>22</sup> This version provided that the President should terminate all assistance under the act for a one year period to any country aiding or abetting international terrorists except where he found national security to require otherwise. Presidential discretion again was limited by a concurrent resolution device. In addition to substituting a "national security" for an "extraordinary circumstances" exception,<sup>23</sup> the Senate draft amendment introduced, upon the insistence of Senator Javits,<sup>24</sup> the "aids and abets" concept. The importance of this latter variation is twofold. First, by drawing upon the language of the criminal law it underscored the criminal nature of the conduct of States which assist international terrorists. However strong the political overtones may be in a particular terrorist situation—whether from the standpoint of the terrorists' own motivations or from the standpoint of the State in some way involved with them—Senator Javits believed that such overtones should not "decriminalize" the conduct of States assisting terrorists.<sup>25</sup> Secondly, by cutting off aid not just when States grant sanctuary from prosecution to international terrorists, but when they aid or abet such terrorists, the Senate draft amendment considerably widened the

<sup>18</sup> A chain of states might run afoul of this proscription in a given case if, after being granted sanctuary in State A, an international terrorist later moved freely to and in States B and C. For a discussion of analogous situations involving active or passive actions giving rise to responsibility on the part of a chain of States, see Lillich & Paxman, note 3 *supra*.

<sup>19</sup> See text at and accompanying note 23 *infra*.

<sup>20</sup> For a definition of the term concurrent resolution device, see 1 CCH Cong. Index (Senate, 94th Cong. 1975-76), at 4 (1976).

<sup>21</sup> The Senate later added the phrase. See text at and accompanying notes 24, 25 & 26 *infra*.

<sup>22</sup> The text of the draft amendment reads as follows:

Sec. 620A. Prohibition Against Furnishing Assistance to Countries Which Aid or Abet International Terrorists.—

(a) Except where the President finds national security to require otherwise the President shall terminate all assistance under this Act to any Government which aids or abets any individual or group that has committed an act of international terrorism, and may not thereafter furnish assistance to such government until the end of the one year period beginning on the date of such termination, except that if during its period of ineligibility for assistance such country aids or abets any other individual or group that has committed an act of international terrorism such country's period of ineligibility shall be extended for an additional year for each such individual or group.

(b) If the President finds the above circumstances exist which justify a continuation of assistance to any government described in subsection (a), he shall report such circumstances to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate. Assistance may not be furnished to such government if the Congress, within 30 calendar days of receiving such report, adopts a concurrent resolution stating in effect that it does not find that the above circumstances exist which justify assistance to such government. 122 Cong. Rec. S1751 (daily ed. Feb. 17, 1976).

<sup>23</sup> The use of the phrase "extraordinary circumstances" in the original House draft was not without precedent. It had been used previously in a 1974 Human Rights Amendment to the Foreign Assistance Act (see 22 U.S.C. §2304[a] [Supp. V. 1975]). The substitution of the phrase "national security" for the phrase "extraordinary circumstances" constitutes an unfortunate change. The use of the latter phrase is more accurate in the terrorism context since, for example, it accounts for the hostage situation, while the former phrase does not unless it is given an exceedingly, if not excessively, broad construction. The substitution of the phrase probably was motivated by the fact that the provisions in 22 U.S.C. §2370 (1970) concerning the termination of aid included exceptions which were worded in terms of national security: *e.g.*, "[p]rovided, that the President does not find such action contrary to the national security."

<sup>24</sup> "[T]he phrase 'aids or abets' is a phrase of the well-established criminal law, has been construed very often, and therefore is not an uncertain phrase to be construed in the first instance for this particular amendment. . . ." 122 Cong. Rec. S1753 (daily ed. Feb. 17, 1976).

<sup>25</sup> It should be noted that, while the phrase "aids or abets" represents a well-defined legal concept in U.S. domestic law, its status in international law is less clear. There is some precedent, however, as to what the phrase might mean in the context of state responsibility for injuries to aliens. See Lillich & Paxman, note 3 *supra*.

scope of the proscription, a result clearly intended by Senator Javits if not appreciated by other Congressmen.<sup>26</sup>

As revised by a conference committee, the terrorism amendment basically followed the Senate model. Indeed the Conference Report states that the committee "adopted the Senate version with an amendment to include the House provision by requiring termination of assistance to any country which aids or abets by granting sanctuary from prosecution to any individual or group that has committed an act of international terrorism."<sup>27</sup> The italicized portion of the above quotation, however, is undercut considerably by what followed. While the revised amendment did contain "aid and abet" terminology, this language was linked solely to the granting of sanctuary.<sup>28</sup> Thus in effect the narrow proscription of the original House version prevailed.<sup>29</sup>

On May 7, 1976, President Ford vetoed the International Security Assistance and Arms Export Control Act of 1976, which contained the above terrorism amendment. The President's opposition centered upon several provisions which he deemed violative of the constitutional separation of powers.<sup>30</sup> Although the terrorism amendment was not mentioned specifically, it, like the provisions the President did single out, contained the concurrent resolution device. For example, in his veto message the President cited the human rights provision, a provision parallel to the terrorism amendment.<sup>31</sup> He characterized it as an "unwise restriction seriously inhibiting [his] ability to implement a coherent and consistent foreign policy."<sup>32</sup> He considered such provisions to be "awkward and ineffective device[s]" which were, in effect, "simple legalistic tests" which ignored complex policy considerations.<sup>33</sup>

Prior to the President's veto, Executive Branch opposition to further limitations on the President's discretion in the foreign policymaking area already had become apparent. This opposition, however, reflected the confusion mentioned earlier concerning the dual purposes of the legislation: on the one hand, it purported to be a practical "weapon" against terrorism, and, on the other hand, its real value, arguably, came from its being a norm-generating expression of shared U.S. and international community policy. The Department of State, in its evaluation of the terrorism amendment, principally criticized the first purpose and generally discounted the importance of the second. In a series of five "talking points," it argued that:

[1] Denying or terminating a development and security assistance under the FAA will not necessarily deter a country from granting sanctuary to terrorists.

[2] There may be cases where transfer to a safe haven in another country is arranged for terrorists in order to avert the slaughter of hostages. This amendment would jeopardize this humane alternative.

[3] This amendment could jeopardize our efforts to achieve a peaceful solution in the Middle East and unfairly punish nations that are not in a position to control the activities of terrorists who use their territory as a sanctuary.

[4] There is no universally-accepted definition of "international terrorism." The term has been used with widely differing intents and meanings—usually with a political objective in mind. Thus one can imagine situations wherein the amendment, if adopted, could adversely affect a country that has been victimized by terrorist operations.

[5] The problem of terrorism is addressed effectively and comprehensively in a multilateral context. Unilateral threats of aid terminations could slow acceptance of cooperative efforts such as the anti-hijacking conventions.<sup>34</sup>

<sup>26</sup> "Aid or abet," to a criminal, whether he is a local criminal or an international criminal is a very well-known term. It requires some intent, it requires some concealment or coverup. In other words, it does not matter whether they give him up or not. That is only a question of whether they are aiding or abetting him after the commission of his crime. The crime is what is the essential point." 122 Cong. Rec. §1755 (daily ed. Feb. 17, 1976). Compare with text at and accompanying notes 24 & 25 *supra*.

<sup>27</sup> H.R. Rep. No. 1013, 94th Cong., 2d Sess. 69-70 (1976) (emphasis added).

<sup>28</sup> The revised amendment required the President to terminate aid to any State "which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism. . . ." *Id.* at 80 (emphasis added).

<sup>29</sup> Compare with text at and accompanying note 26 *supra*.

<sup>30</sup> Press Release from the Office of the White House Press Secretary, May 7, 1976, at 1.

<sup>31</sup> *Id.* at 3.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> See U.S. Dep't of State, Termination of Assistance to Countries Giving Sanctuary to International Terrorists, 1976 (unpublished).

In Congress, opponents of the terrorism amendment stressed three major points. First, they emphasized the fact that States which had granted sanctuary to terrorists in the past did not receive U.S. aid and thus were immune from the amendment's thrust.<sup>35</sup> Secondly, they asserted that the amendment placed undue emphasis upon a single factor in complex State-to-State relations.<sup>36</sup> Finally, they pointed out that the lack of any definition of "international terrorism" created potential problems.<sup>37</sup> All three arguments, of course, are found in the Department of State's five "talking points." They ultimately failed to prevail in Congress, which reenacted the terrorism amendment, minus the concurrent resolution device, that now graces the statute books as Section 620A of the Foreign Assistance Act of 1961.<sup>38</sup>

### III. AN ASSESSMENT OF THE OPPOSITION TO THE AMENDMENT

The three arguments mentioned in the final paragraph of the preceding section bear closer examination than they were given either by the Department of State or by Congress. The first one simply reflects the confusion mentioned twice above the dual purposes of the terrorism amendment, a point that need not be repeated again in detail. Suffice it to say that the amendment may have long-range value even if its immediate effectiveness proves to be zero.

In response to the second argument, it might be asked which is the more important factor in determining U.S. foreign policy: a consideration of complex State-to-State relations in a given case or a firm general stand behind the emerging international law norm condemning international terrorism. Presidential flexibility in the conduct of foreign relations is an important consideration, admittedly, and of course it is not necessarily incompatible with a firm stand against international terrorism. Such flexibility, though, should not extend to the point where the President engages in a consistent pattern of trading concessions to criminals either for short-run objectives (e.g., freeing of hostages) or long-run advantages (e.g., the maintenance of "friendly relations" with an oil-exporting State). The problem of terrorism is too important for it to be treated as just another factor in the diplomatic decision-making process. Surely the time has come to reconsider the unofficial U.S. position of what might be called "negotiable disapproval" vis-a-vis terrorists. The terrorism amendment reflects Congress' desire for such reconsideration, while at the same time acknowledging the realities of international life by providing a "national security" exception for use in the hard case.

The third objection raised against the amendment, both by the Department of State and by various members of Congress, concerns the amendment's failure to define the operative term "international terrorism." Curiously, this objection, voiced chiefly by Senator Abourezk, embraced two diametrically opposite points of view. One was that the concept of terrorism is too vague to constitute a standard for judging certain behavior as criminal; the other was that, on the contrary, the amendment is drawn with overly-great precision, so that it very skillfully exempts Israeli military operations from its ambit.<sup>39</sup>

Regarding the first point, Mr. Wolff acknowledged that there is no widely accepted international definition of terrorism. I would suggest, however, that the language contained in . . . the U.S. draft of the United Nations on the "Convention for the Prevention or Punishment of Certain Acts of International Terrorism" provides a basis for further consideration.

This act, of course, would have to meet the other tests, but in the end. I fear that the definitions of international terrorism are similar to Supreme Court Justice Potter Stewart's comment on obscenity when he said "I know it when I see it."<sup>40</sup>

It may be that, as unsatisfactory as this solution to the problem appears at first blush, it would create less difficulty than might be imagined in determining whether or not a given incident constitutes terrorism. Critics of the amendment are correct, to be sure, when they assert that criminal statutes should not be

<sup>35</sup> *Hearings, supra* note 11, at 686.

<sup>36</sup> *Id.* at 687.

<sup>37</sup> 122 Cong. Rec. S1754 (daily ed. Feb. 17, 1976).

<sup>38</sup> See text at note 10 *supra*.

<sup>39</sup> 122 Cong. Rec. S1754-55 (daily ed. Feb. 17, 1976).

<sup>40</sup> *Hearings, supra* note 11, at 685. Cf. Baxter, *A Skeptical Look at the Concept of Terrorism*, 7 U. Akron L. Rev. 380 (1974).

overly vague as to the type of activity that is being proscribed.<sup>41</sup> Yet can one say that the words "international terrorism" are not, in and of themselves, just as clear as any purported definition or restatement of them would be? Such was the belief of the U.S. delegation to the UN in 1972 when it submitted its draft Convention for the Prevention or Punishment of Certain Acts of International Terrorism,<sup>42</sup> which focused on operative acts and purposely left the term undefined. Criticism of this approach has not been lacking, both within and without the UN, but it should be noted that the critics themselves have not met with conspicuous success in their own attempts to frame a fixed definition for so fluid an offense.<sup>43</sup>

The second point emphasizes the fact that military operations, which can be viewed as State terrorism, do not fall within the amendment. This exclusion has the effect, critics of the amendment have argued, of giving covert approval to such events as Israeli Air Force raids on villages and refugee camps in southern Lebanon. In Senator Abourezk's view, for instance, the amendment is not aimed at all varieties of international terrorism, but only at one limited type of such terrorism, a type which would cover many acts committed by Palestinian freedom fighters driven to desperation by a generation of mistreatment at Israeli (and also U.S.) hands.<sup>44</sup>

This last argument comes as a reprise to persons who have watched the UN vacillate on the terrorism issue since 1972. One should attack the causes, and not simply the manifestations, of terrorism, the argument at the UN has run. It reflects the fallacious viewpoint that, if one piece of remedial legislation does not accomplish everything to be desired, then it should not be enacted, even if it admittedly might solve part of the problem.

No one disputes that State terrorism is a serious problem and that it certainly deserves more adequate scrutiny and condemnation than it has received to date. The fact is, though, that there already exists a large body of conventional international law regulating State terrorism in the armed conflict context.<sup>45</sup> Additionally, there already exists a substantial and developing body of customary international law governing the responsibility of States for terrorist activities which they either initially sponsor or subsequently assist in accessory-after-the-fact fashion.<sup>46</sup> Moreover, another provision in the Foreign Assistance Act of 1961, as amended, requires the termination of U.S. aid to States which utilize terror against their own citizens,<sup>47</sup> the same sanction device found in the terrorism amendment.<sup>48</sup> Finally, there is no dispute that the underlying causes of terrorism should be studied and then eliminated. The recognition of this fact, however, does not mean that one should stand idly by while terrorist outrages continue. No one

<sup>41</sup> 122 Cong. Rec. S1754 (daily ed. Feb. 17, 1976).

<sup>42</sup> U.N. Doc. A/C. 6/L. 850 (1972), reprinted in 11 Int'l Legal Materials 1382 (1972).

<sup>43</sup> Leaving the term undefined in the amendment allows the U.S. to take into account, in the words of Senator Stone, "the evolving and emerging pattern of criminal activities" that may be characterized as "international terrorism." 122 Cong. Rec. S1754 (daily ed. Feb. 17, 1976).

<sup>44</sup> *Id.* at S1755:

If you were sincere in wanting to stop terrorism [...] you would put a stop to Israel's dropping bombs in southern Lebanon on the civilian populations and, especially, with American cluster bombs and with American airplanes and American financing. That is the way to stop terrorism, to do it everywhere and not just in one part of the world.

It would seem to me this is a very, very cynical amendment, one designed to continue the terrorism [in the Middle East] and not to put a stop to it for a fact.

<sup>45</sup> See Convention with Respect to the Law and Customs of War on Land, July 29, 1890, 32 Stat. 1803 (1902), T.S. No. 403; Convention Respecting the Laws and Customs of War on Land, Oct. 18, 1907, 36 Stat. 2277 (1909), T.S. No. 539; Geneva Convention Relative to the Treatment of Prisoners of War, Aug. 12, 1949 [1955] 3 U.S.T. 3316 T.I.A.S. No. 3364; and Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949 [1955] 3 U.S.T. 3516, T.I.A.S. No. 3365. For a discussion of the evolution of international law norms regarding terrorism, see Paust, *A Survey of Possible Legal Responses to International Terrorism: Prevention, Punishment, and Cooperative Action*, 5 Ga. J. Int'l & Comp. L. 431 (1975).

<sup>46</sup> See Lillich & Paxman, note 3 *supra*.

<sup>47</sup> 22 U.S.C. § 2304(a) (Supp. V, 1975).

<sup>48</sup> *Hearings, supra* note 11, at 636 (Mr. Wolff):

A further point I would like to make is that this amendment can be considered a corollary to the human rights amendment approved by this committee last year. My amendment is directed toward terrorism created by individuals or groups.

Last year's amendment was directed toward terror by states. Thus, with the inclusion of my amendment, we will have an even-handed approach to the problem of terrorism and avoid an accusation that we are concentrating on but one form, an accusation that has hindered past U.S. attempts to curb terrorism.

today would contend seriously that the U.S. should limit itself to studying the causes and alleviating the impact of racism, all the time foregoing the opportunity to pass laws against racial discrimination. The same reasoning applies in the terrorism field.

One additional response should be made at this point about the Department of State's fifth talking point.<sup>40</sup> It is true that multilateral, as opposed to unilateral, action against terrorism is the preferable course of action. If the Department is correct in its assertion that the terrorism amendment "could slow acceptance of cooperative efforts such as the anti-hijacking conventions," then the amendment would indeed lose much of its *raison d'être* as an effort at promoting international law. As a matter of fact, however, the Department's fear in this regard is largely groundless, for the lamentable reason that the anti-hijacking conventions mentioned are not achieving universal adherence, States harboring hijackers naturally having little motivation to ratify them. Moreover, those conventions cover only one facet of terrorist activities. As for multilateral action against terrorism in general, there is little possibility of any effective action being taken in the foreseeable future.<sup>40</sup> In any event, the problem of terrorism is too urgent for the U.S. simply to sit and wait for international agreement to materialize.

#### IV. THE EFFECTIVENESS OF THE AMENDMENT

Having analyzed the arguments advanced against the substance of the terrorism amendment and found them wanting, one still is left with the problem of whether the particular version of the amendment enacted is the preferable one. In this regard, a strong case can be made for the House draft amendment originally presented by Mr. Wolff, as opposed to the legislation which finally became law. The major difference between the two bills, it will be recalled, was the presence in the former, and the absence in the latter, of the concurrent resolution device.

This difference has an important bearing on the effectiveness of the legislation, although not in the way that normally is supposed. Lawyers especially find it virtually impossible to resist engaging in what often become artificial and theoretical debates about Executive and Legislative Branch prerogatives in the foreign policy area. On the part of the Executive Branch, there is a "knee jerk" unwillingness to accept any limitation on the President's foreign policymaking powers. The implication is not just that the President is in a better position to formulate U.S. policy in regard to matters such as international terrorism, but actually that he is in the only effective position to do so. In evaluating the terrorism amendment, the Executive Branch apparently was prepared to accept only legislation which left the President's discretion relatively unfettered.

As fascinating as such debates are from an academic standpoint, they nonetheless seem to miss the real issue at stake, which is just how firm and unequivocal a statement the U.S. is willing to make to the world community on the subject of international terrorism. The congressional debates, significantly, yield little evidence that great practical differences would ensue depending upon whether the President or Congress had the ultimate power to decide on cut-offs of U.S. aid under the amendment. The important point, though, is not that Congress would make better, or even different, substantive decisions in this area than the President. It is that if Congress were to have been given the ultimate decision-making power, then that bestowal of power would have been perceived by other countries, rightly or wrongly, as reflecting an especially forthright stand against terrorism.

The theory behind this last point is that any issue that is lifted out of the workings of day-to-day professional diplomacy and placed in the hands of the public at large (through the medium of the Congress) is one about which the public is particularly concerned. In one sense, it is true that the step might be viewed as being a regressive one, tying the President's hands in his direction of

<sup>40</sup> See text at note 34 *supra*.

<sup>50</sup> The UN General Assembly recently established a 35-member committee to draft an international convention prohibiting the taking of hostages. N.Y. Times, Dec. 16, 1976, at 3, col. 3. The committee is to begin work in August 1977 and complete a draft text in time for submission to the next session of the General Assembly in September. *Id.*, Dec. 10, 1976 § A, at 12, col. 1. What kind of convention will emerge from the committee and what its reception will be in the General Assembly are matters of speculation. Even if the effort is unexpectedly successful, however, the convention will proscribe only the taking of hostages and not terrorist acts in general.



U.S. foreign policy. In another and more vital sense, though, it would be a progressive step in that U.S. concern over terrorism would be viewed as being a widespread public concern, rather than merely another of many factors in the diplomatic decision-making process; the international norm-generating capacity of the amendment thereby would have become all the greater. The strength of the original House draft amendment thus lay not in its reliance on the wisdom of Congress rather than that of the President *per se*, but rather in the forcefulness of its condemnation of international terrorism.

Nevertheless, despite the dropping of the concurrent resolution device, Mr. Wolff and the supporters of the original House amendment have achieved a meaningful compromise. At the worst, their efforts to combat and condemn international terrorism will prove futile, serving only as a vent for congressional frustrations. At best, the amendment will deter some States from granting sanctuary and also will contribute, incrementally, to the continuing development of an international law form condemning terrorism. "Perhaps this is nothing more than going on record," Mr. Wolff realistically acknowledged, in remarks already quoted above, adding pointedly:

[U]nfortunately, however, in no piece of legislation that we have had has the United States really gone on record as being opposed to terrorism. It would be one more method, one additional area of voicing our opposition to international anarchy taking place. The fact that you say that it might not stop it, well, without this we have not been able to stop it either.<sup>61</sup>

It is difficult to differ with this sober assessment of the 1976 terrorism amendment.

Senator JAVITS. Senator Case.

Senator CASE. No. In the interest of everyone involved this afternoon, I will not ask any questions.

I do appreciate your statement, Mr. Lillich. You have presented a kind, moderate, thoughtful statement, and I know it will be helpful.

Senator JAVITS. Our next witness on the part of the administration is John E. Karkashian, Acting Director, Office for Combating Terrorism, Department of State.

[Mr. Karkashian's biography follows:]

#### BIOGRAPHY OF JOHN E. KARKASHIAN

After serving in the Army overseas during W.W. II as a parachute infantryman, Mr. Karkashian attended the University of Southern California. There he earned a bachelor's degree with honors in Foreign Service, followed by a Master's degree in 1952. Mr. Karkashian began his career with the Department of State in Washington before entering the Foreign Service in 1956. He has had a series of overseas assignments including, Costa Rica, Panama, Chile, and Ecuador. Returning to Washington in 1971, Mr. Karkashian has served in the Bureau of Inter-American Affairs as an Office Director and attended the Department's Senior Seminar in 1976. Currently, Mr. Karkashian is the Acting Director of the State Department's Office to Combat Terrorism and chairs the Working Group of the Cabinet Committee to Combat Terrorism.

#### STATEMENT OF JOHN E. KARKASHIAN, ACTING DIRECTOR, OFFICE FOR COMBATING TERRORISM, DEPARTMENT OF STATE

Mr. KARKASHIAN. Mr. Chairman, I appreciate the opportunity to appear before this committee today to discuss the problem of international terrorism and our efforts to protect our citizens at home and abroad and the citizens of other countries in the United States from this threat. I am accompanied today by Dr. Steve R. Pieczenik who is a Deputy Assistant Secretary of State for Management and by

<sup>61</sup> See text at note 15 *supra*.

Mr. Louis G. Fields, Jr., the Assistant Legal Adviser for Special Functional Problems in the Department of State.

I should point out that in addition to my Department of State responsibilities, I am also the Chairman of the Inter-Agency Working Group for Combating Terrorism. That body is responsible for developing and coordinating effective working relationships between the Federal agencies which have operational responsibilities for dealing with terrorist incidents.

#### OFFICE FOR COMBATING TERRORISM

My Office in the Department of State is responsible for developing and refining the policy and operational guidelines for dealing with terrorist threats to American citizens and interests abroad. In operational terms, this means that my Office provides the leadership and the core personnel for the crisis management task forces which are organized whenever an international terrorist incident involving the United States takes place. Whenever necessary, we immediately mobilize the regional and functional specialists available to us in the Department and in other Federal agencies and carry on our task force activities on a 24-hour basis until the incident is either resolved or under control.

Our objective is to protect American citizens and interests by preventing or controlling terrorist attacks. Our methods include intelligence on terrorist movements and plans, physical security measures for our people and installations, effective crisis management procedures during an incident, and cooperation with other governments, including the apprehension and prosecution of those who carry out terrorist acts.

#### FACTORS CONTRIBUTING TO TERRORISM

Terrorism is neither a new nor an easily defined phenomenon, but modern society is particularly vulnerable to such violent acts due to several factors, including: the political fragmentation which is taking place around the world; disaffected national groups who have grievances against the established order; modern weapons which enhance the striking power of the few; commercial aircraft which not only provide readymade hostages but also the place to confine them and the means to transport them and their captors anywhere in the world; additionally, there are states which finance, arm, and train terrorists and also give them sanctuary; and finally, there is worldwide media coverage which attends every major terrorist incident thus satisfying a principal terrorist objective, world attention for their cause.

#### DEFINITION OF TERRORISM

Terrorism has been defined in various ways, and yet there is no universally accepted definition. One man's terrorist is often described as another's freedom fighter. It is precisely for that reason that we have been frustrated in various efforts to achieve comprehensive multilateral agreement on effective international proscription of terrorist acts and appropriate sanctions. And yet we know the degree of fear and human tragedy that is caused by terrorist attacks, kidnappings, and

the indiscriminate murder of innocent victims, whose only fault was to have been in the wrong place at the wrong time.

Despite the definitional problem, the consequences of terrorism are clearly incompatible with a humane world order. Such acts, whatever their motivation, are criminal and intolerable. Thus, it is the firm policy of the United States to take all lawful measures to prevent acts of terrorism and to bring to justice those who commit them.

#### TERRORISM STATISTICS

Terrorism today clearly transcends national boundaries and is a matter of international concern. What then are the dimensions of the problem? Between January 1968 and December 1976 there were approximately 1,150 separate international terrorist incidents. While the progression has not been even, the overall trend in the annual totals of these incidents is increasing. Nineteen hundred and seventy-six saw a record of 239 separate incidents.

#### DEALING WITH THE TERRORIST THREAT

I referred earlier to various means which are being used in our efforts to deal with the terrorist threat. I would like to expand on those comments. We have greatly improved on the physical security measures now available against terrorist attacks both at home and abroad. For example, civil aviation security in the United States has been strengthened to the point that there has been only one successful hijacking of a regularly scheduled commercial flight in the United States in the past 5 years. Unfortunately, the situation is not that favorable elsewhere in the world. The downward trend in worldwide hijackings which was experienced in 1976 has already been reversed in 1977.

We have also greatly improved our ability to safeguard our Foreign Service personnel and our diplomatic and consular installations overseas. I would like to express on behalf of all Foreign Service personnel and their families our sincere appreciation to the Congress for the funds appropriated in recent years to make those safeguards possible.

We are vitally interested in the safety and welfare of all American citizens abroad—tourists, businessmen, students, and resident Americans. In recent years, American businessmen working abroad have increasingly become targets of terrorist attacks. To counteract that threat, we have developed a close working relationship with the Department of Commerce and with other Federal agencies to counsel and provide information to businessmen and corporate interests which will assist them to protect themselves against terrorist attacks. This is done both here in the United States and through our Embassies and consulates abroad.

Since the nature of the threat transcends national boundaries, it must be dealt with on the international as well as the national level. In the field of antihijacking, the United States played a major role in negotiating three conventions on the hijacking and sabotage of commercial aircraft—the 1963 Tokyo Convention, the 1970 Hague Convention and the 1971 Montreal Convention. These agreements, now ratified or adhered to by more than 70 countries, play an important

role in our efforts to deter aircraft sabotage and hijackings by providing for the apprehension, prosecution or extradition of those who commit such crimes.

The United States was also instrumental in having the International Civil Aviation Organization (ICAO) adopt technical security standards for use by its 140-member countries in preventing aviation crimes. We support and seek adoption by ICAO of even stronger security standards and recommended practices. Also, we will continue bilateral programs to provide technical assistance to, and to exchange information with, foreign nations to improve security at foreign airports having a direct impact on the safety of U.S. citizens abroad.

#### OBSTACLES TO EXPANDING MULTILATERAL COOPERATION AGAINST TERRORISM

Unfortunately, there are some basic obstacles to our efforts to expand other areas of multilateral cooperation against terrorism. Too many governments are predisposed to accept the arguments advanced by terrorist groups that the weak and the oppressed have no effective alternative to using terrorist methods as a means of seeking justice or of publicizing and advancing their cause.

Other more developed countries are sometimes inhibited by political or economic considerations from taking actions which might offend governments which support or condone specific terrorist organizations. Some governments appear to be fearful that the apprehension or prosecution of terrorists will provoke new terrorist incidents in order to obtain the release of jailed comrades.

Because of differing attitudes on the nature of terrorism, a U.S. proposal for a convention to prevent the export of terrorism from one country to another was not even considered by the 1972 UN General Assembly. However, a narrower Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, was approved at the 1973 General Assembly Session and has since been implemented by the United States and by some other governments.

At present, the United States is actively supporting a West German initiative in the UN to draft a convention against the taking of hostages. We had hoped that this initiative would be considered in the forthcoming UN General Assembly. However, the 35-member drafting committee has been unable to reach agreement and will ask for a renewal of its mandate from the General Assembly.

#### REGIONAL EFFORTS TO DEAL WITH TERRORISM THREAT

There have been two regional efforts to deal with the threat of terrorism. In February 1971, the Organization of American States (OAS) adopted a convention to prevent and punish acts of terrorism against persons entitled to special protection under international law; that is, diplomats and international civil servants. We ratified this convention in October 1976. The OAS Convention preceded the UN initiative on Internationally Protected Persons and contains similar provisions.

In November 1976, the Council of Europe adopted a Convention on the Suppression of Terrorism. This convention is a positive effort to deal comprehensively with terrorism under international law. It has been signed by every member of the Council of Europe, save Ireland and Malta, and is now in the ratification process. The convention addresses a broad spectrum of terrorist acts, including such offenses as the use of letter bombs, automatic weapons, and the taking of hostages. The convention seeks to depoliticize such designated acts of terrorism and will facilitate extradition of terrorists within the European community. It can serve as an important precedent for similar regional agreements in other parts of the world.

#### MULTILATERAL EFFORTS

Further on the multilateral level, the American Society of International Law (ASIL) is completing a study for the Department of State on the application of international and domestic law to the terrorist phenomenon. The study indicates that most countries have done little to enact legislation dealing specifically with acts of terrorism. Some countries which have assumed international obligations have not, as yet, undertaken to implement those obligations by enacting domestic legislation. In this regard, I would like to call attention to the fact that while the United States ratified the Montreal Convention in 1972, we have not yet implemented the convention by enacting enabling legislation. We sincerely hope that such legislation will be approved by the Congress at the earliest opportunity.

Other initiatives which the ASIL study suggests are needed if we are to develop the legal bases for circumscribing terrorist activity including conventions to deal with terrorism affecting airports, ocean vessels and offshore structures.

#### BILATERAL EFFORTS TO PREVENT, CONTROL INTERNATIONAL TERRORIST ACTIVITIES

In addition to regional and international efforts, we have undertaken to develop effective bilateral relationships with other governments to improve our respective efforts to prevent and control international terrorist activities. These include the review of respective crisis management techniques and the sharing of practical "lessons-learned" from past terrorist incidents, the exchange of research data, improved channels of communication and closer cooperation on legal measures for controlling, apprehending, and prosecuting those who commit acts of international terrorism.

#### STATE SUPPORT FOR TERRORISTS

State support for terrorists spans a wide spectrum of activities and is subject to change with the passage of time. It ranges from governments which ignore the presence within their territory of known terrorists, to governments which actively finance, arm, train, and give sanctuary to terrorist organizations.

As the subcommittee is aware, there are provisions of the Foreign Assistance Act and the Arms Export Control Act which prohibit or

limit economic and security assistance to countries which grant sanctuary to terrorists. However, those countries which are most active in this regard are not generally recipients of such assistance. Thus, we need to review our overall relations with such countries to determine what effective actions can be taken to reduce the safe havens now available to terrorists.

#### ECONOMIC, COMMERCIAL SANCTIONS AGAINST SUPPORT GOVERNMENTS

In addition to diplomatic suasion, there are a variety of economic and commercial measures which conceivably could be taken against governments which support terrorist groups. However, the latter represent imperfect instruments at best which may not produce the desired results and, in fact, could provoke undesired consequences. The application of economic or commercial sanctions, for example, could prove counterproductive in economic terms and might increase rather than diminish the threat of terrorist incidents directed against American citizens.

Whatever course of action we choose, it should be carefully tailored to the circumstances and designed to achieve specific objectives. Moreover, our efforts are more likely to succeed if done without fanfare. Finally, such measures cannot be considered in a vacuum; they must conform to the totality and the overall priorities of our foreign policy objectives in a given country or geographic area of the world. These caveats necessarily require a degree of patience and restraint which is frustrating but necessary if we are to maximize the chances of achieving our purpose.

#### RECENT TRENDS IN INTERNATIONAL TERRORIST INCIDENTS

Let me give a brief assessment of some recent trends in international terrorist incidents. The past year and a half have seen:

A higher number of incidents worldwide than for any previous corresponding period.

A reversal of the downward trend in the hijacking of foreign commercial aircraft outside the United States.

A decline in the more complicated and risky hostage/barricade type of operation and a marked increase in simpler but more lethal attacks such as bombings, assassinations, and armed assaults.

A decline in the proportion of international terrorist incidents directed against U.S. citizens or interests from one-third to one-fourth of the total incidents.

However, there has been a shift from targeting U.S. Government officials and facilities abroad to American businessmen and corporate facilities or to the foreign managers of these facilities.

International terrorist activity and governments which support it are in constant flux. Thus, any predictions about the future dimension or nature of the threat are speculative at best. It seems quite likely, however, that the problem will be with us for some years to come.

So far, we have been fortunate in the United States for having experienced few major international terrorist incidents within our own borders. The targeting of American citizens for terrorist attack has occurred largely in other countries. That situation, however, could change.

## TERRORISM INCOMPATIBLE WITH U.S. HUMAN WORTH CONCEPT

Terrorism is incompatible with our conception of human worth. Thus, regardless of the motivations which terrorists may advance to justify their actions, we cannot accept or condone the taking of lives or the threat to do so in the name of some political or other cause. Such actions are criminal and represent the ultimate violation of human rights. Therefore, the U.S. Government is totally opposed to all forms of terrorism, regardless of the source or purpose, and we will take all appropriate measures to deal with this threat.

Thank you.

Senator JAVITS. Thank you very much, Mr. Karkashian. We appreciate that.

## FILLING OF ACTING DIRECTOR POSITION

I notice you are Acting Director. Could you give us the basis for that. Why isn't the position of Coordinator filled?

Mr. KARKASHIAN. That determination, Senator, is currently in the process of being completed.

Senator JAVITS. You know of no reason other than just the executive consideration.

Mr. KARKASHIAN. No, sir, I do not.

## PRESIDENTIAL REVIEW MEMORANDUM ON TERRORISM NO. 30

Senator JAVITS. Now we also are very interested to get a copy of a memorandum which was supposed to have been finished in August; to wit, Presidential Review Memorandum on Terrorism No. 30, signed June 2. Is this ready, and if so, where is it and why haven't we gotten it?

Mr. KARKASHIAN. The review memorandum that you refer to, Senator, is currently in progress under NSC—National Security Council—direction. It is being finalized as I understood it in a conversation I had with the NSC staff this morning, and I would guess that it would be in final form sometime in the very near future, but I can't predict exactly what that date might be.

Senator JAVITS. Would you convey to the Secretary of State the request of the subcommittee that is joined in by Senator Case that we have that memorandum just the minute it is completed and that we expect it to be completed promptly in view of the fact that it is overdue now.

Is that agreeable with you, Senator Case?

Senator CASE. I think that is an excellent idea. I have some suggestions with respect to the memorandum which I will give you in just a moment.

Mr. KARKASHIAN. Yes, sir, I would be most happy to do so.  
[The information referred to follows:]

## PRESIDENTIAL REVIEW MEMORANDUM ON TERRORISM

[Supplied by Department of State]

In reply to the request of Senators Javits and Case that the Foreign Assistance Subcommittee be provided copies of the Presidential Review Memorandum

(PRM) on Terrorism and the NSC decision memorandum in response to it, the NSC has taken the position that PRMs and resulting decision memoranda (including all collateral material) are internal Executive Branch documents and should not be circulated outside the Executive Branch. Instead, the NSC directed the Department of State to make appropriate arrangements to brief the Subcommittee on the subject. This was accomplished by Ambassador Heyward Isham, Director of the Office for Combatting Terrorism, on October 31, 1977.

Senator JAVITS. Now we would also like to have either classified or unclassified, as the case may be, a report on acts of international terrorism in the United States, including the shootings at the diplomatic residences of Soviet diplomats; the murder of the former Chilean Defense and Foreign Minister Orlando Letelier; two bombings we just read about in Washington; and the hijacking of the TWA airline by Croatian terrorists. We would like to know where prosecution stands, and we would like as much of that to be unclassified as possible because I think we have to show other nations that we expect them to perform as we are performing.

Mr. KARKASHIAN. Yes, sir, I will be happy to undertake that.

Senator JAVITS. Coordinate that for us with the necessary Government departments.

Mr. KARKASHIAN. Yes, sir.

Senator JAVITS. Thank you very much.

[The information referred to follows:]

#### REPORT ON ACTS OF INTERNATIONAL TERRORISM IN U.S.

[Supplied by Department of State]

The request from Senator Javits to the State Department witness for a report on acts of international terrorism in the United States and the status of prosecutions has been referred to the Department of Justice, which is now completing this report and will be replying in the very near future.

#### INTERNATIONAL TERRORIST INCIDENTS AGAINST U.S. CITIZENS OR PROPERTY

Senator JAVITS. The other question that I would like to ask you is this. Our staff has prepared a chart which I like very much which I would like to submit to you to confirm for accuracy and if you find it accurate it will be included in the record. That chart shows international terrorist incidents directed against U.S. citizens or property from 1968 to 1976, inclusive, to number 1,152 and it comprises kidnapping, barricade and hostage, bombing, assault, hijacking, assassination, incendiary action, arson, et cetera, and other types making a total of 1,152.

Have you had an opportunity to examine that chart?

Mr. KARKASHIAN. I believe I have seen the report from which this is taken, sir.

Senator JAVITS. I don't want to require any off-the-top-of-your-head answer. Would you rather take it away and see if you consider it accurate?

Mr. KARKASHIAN. Yes, sir, if that is satisfactory to you.

Senator JAVITS. Do that and let us know and then it will be included in the record with such comment as you may desire to make.

[The information referred to follows:]



## INTERNATIONAL TERRORIST INCIDENTS DIRECTED AGAINST U.S. CITIZENS OR PROPERTY

[Supplied by Department of State]

The table referred to is entitled "International Terrorist Incidents Directed Against U.S. Citizens or Property" and is taken from the CIA publication "International Terrorism in 1976" [attached] RP 77-10034U, July 1977. The statistics are only approximate, and we suggest that, in addition to the footnotes at the bottom of the table, reference be made to the following caveats noted earlier in the publication:

"The statistics presented here and in the charts and tables that follow exclude terrorist attacks on U.S. and allied personal and installations in Indochina. They also exclude most of the mutual assassination efforts and cross-border operations associated with the Arab-Israeli conflict. (The only exceptions in this regard are incidents that either victimized noncombatant nationals or states located outside the principal arena of conflict or were of such a nature that they became the subject of widespread international concern and controversy.) On the other hand, related but separately targeted actions undertaken by a single terrorist group were counted as individual incidents, even when they were staged on the same day and in close proximity to one another. Similarly, terrorist operations that aborted during execution (as opposed to those that were abandoned or countered during the planning or staging phases) were also counted. Obviously, the employment of other selection criteria could yield far different results. Hence it must be emphasized that this data should be viewed as proximate."

The statistics also do not count numerous bomb threats against official and business installations which turned out to be hoaxes, nor threats against businesses which have chosen not to report them to authorities.



## International Terrorism in 1976

RP 77-10034U  
July 1977

### Foreword

Politically motivated terrorism is a particularly complex and controversial phenomenon. Hence, it must be emphasized at the outset that the approach adopted and the judgments advanced in this brief monograph are those of the author and do not represent a CIA position.

The present paper draws upon and updates an earlier and more comprehensive study by the same analyst, *International and Transnational Terrorism: Diagnosis and Prognosis* (PR 76 10030, April 1976). Unlike the latter work, however, it makes no definitional distinction between terrorist acts that were carried out under governmental direction and those that were not.

Comments or questions concerning this paper will be welcomed. They should be addressed to the Assistant for Public Affairs to the Director, Central Intelligence Agency, Washington, D.C. 20505, code 143, extension 7676.

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## International Terrorism in 1976

*Central Intelligence Agency  
Directorate of Intelligence*

*July 1977*

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### Introduction

The objectives of this summary overview of international terrorism during the past year are threefold.<sup>1</sup> The first is to set the scope and nature of this activity into historical perspective. The second is to draw attention to those trends and developments which would seem to be of particular import with respect to both the likely future dimensions of the problem and its impact on US interests. The third is to apply these judgments and observations to a brief assessment of what may lie ahead during the remainder of 1977.

The last-mentioned goal can, of course, be met in only very general terms. Political violence is a phenomenon that rarely lends itself to firm and detailed prediction. Nonetheless, the problem of international terrorism not only will be with us for years to come, but is likely to evolve in ways that could pose a more serious threat to US interests than in the recent past. And it is also clear that for a host of reasons—countervailing interests and values among them—the development of more effective national and international countermeasures will remain an exceptionally demanding task.

With two exceptions, the charts and tables that accompany this analytical survey juxtapose terrorist statistics for 1976 against those compiled for a number of earlier years. In general, this technique serves the objective of historical perspective quite well. It must be emphasized at the outset, however, that these figures—and the inferences that can be drawn from them—should be viewed with caution. The criteria employed for selecting and classifying the incidents that have been included in these tallies

<sup>1</sup>For the purposes of this discussion, international terrorism is defined as the threat or use of violence for political purposes when (1) such action is intended to influence the attitude and behavior of a target group wider than its immediate victims, and (2) its ramifications transcend national boundaries (as the result, for example, of the nationality or foreign ties of its perpetrators, its locale, the identity of its institutional or human victims, its declared objectives, or the mechanics of its resolution).

are unavoidably arbitrary. Then, too, the number of incidents under review is so small that unintended omissions (of which there are undoubtedly many) or erroneous classification of borderline events could have a statistically significant impact. Finally, there is no way of telling how much of the sharp rise in recorded terrorist incidents over the past decade reflects a real increase in such activity and how much is attributable to more comprehensive and systematic reporting.

#### General Observations

Regarding international terrorism, 1976 was a year in which:

- More incidents were recorded than ever before.
- The hijacking of commercial aircraft (which had been becoming increasingly rare) experienced a modest revival.
- Risky and demanding kidnaping and barricade-and-hostage operations declined, while the safest and simplest types of terrorist action (bombing, assassination, armed assault, and incendiary attack) registered sharp increases.
- The overall proportion of international terrorist incidents that were directed against US citizens or property dropped to a record low (25.5 percent); but in both relative and absolute terms, the burden born by US commercial facilities and their employees abroad increased markedly over 1975.
- Cuban exile formations emerged among the most active and most disruptive terrorist groups on the international stage.
- Latin American terrorist activity was extended to European soil.
- The majority of the terrorist operations mounted by Palestinian groups were, for the first time since 1971, directed against Arab targets.
- Renewed efforts to develop more effective international countermeasures against terrorist activity were launched in the Council of Europe and the United Nations General Assembly.

Last year was also notable for two things that did not happen. Despite threats that such action would be forthcoming, members of the Japanese Red Army mounted no new operations. And with very few exceptions, there was no noticeable increase in the sophistication of terrorist tactics, targeting, or weaponry.

In the latter regard, however, it must be added that the potential threat posed by terrorist acquisition of sophisticated man-portable weaponry was brought home on at least two occasions. The first was the attempt, apparently nipped in the bud, of a Popular Front for the Liberation of Palestine (PFLP) team to shoot down an El Al aircraft with "heat seeking" missiles in late January. (The incident has been widely reported in the press, but so far the Israelis have issued no official statement with respect to its location or the origin of the missiles.) The second was the theft of 15 high-explosive light antitank weapons (LAWs) from a US army maneuver area in southern Germany later in the year.

Since the January missile operation was thwarted in time to escape classification as a full-fledged terrorist incident, it is not reflected in the statistics presented at the end of this paper. Nonetheless, because of the nationally mixed character of the PFLP terrorist team and of the support this group reportedly received from sympathetic states, this aborted attack draws attention to the first two of the several specific problem areas that are treated briefly below.

### *Transnational Cooperation*

The El Al missile affair, the Entebbe hijacking, and the sporadic efforts of European-based representatives of Latin America's Revolutionary Coordinating Junta (JCR) to publicize the goals and activities of their transnational organization all document the trend toward greater cooperation among terrorists of different nationalities that has been observable for several years.<sup>2</sup> Indeed, it seems likely that a number of factors, including the limited human resources now at the disposal of some active terrorist groups in Europe and the increasing difficulties that have been encountered by a number of Latin American formations, made such cooperation appear increasingly advantageous as the year progressed. The initiation of more

<sup>2</sup>The JCR is composed of Argentina's Revolutionary People's Army (ERP), Bolivia's National Liberation Army (ELN), Chile's Movement of the Revolutionary Left (MIR), Paraguay's National Liberation Front (FREPALINA), and the remnants of Uruguay's National Liberation Movement (MLN/Tupamaros). Established in 1974 to facilitate joint planning, funding, coordination, and support, the organization has so far been dependent on the ERP for most of its financial and material resources.

vigorous local countermeasures may also account in part for the spillover of Latin American terrorist activity into Western Europe.<sup>3</sup>

#### *Government Support to Terrorists*

As in 1975, direct governmental support of terrorist groups was most evident and most extensive with respect to small Palestinian splinter formations associated with the rejectionist wing of the fedayeen movement. Libya remained at the forefront of such activity, but as perhaps most dramatically demonstrated by the Entebbe affair, a number of other African and Middle Eastern countries were involved as well. In fact, dissatisfaction with the consequences of Syrian intervention in the Lebanese crisis brought Iraq into somewhat greater prominence on the terrorist scene than in the past as the principal patron of the Black June Movement—a small Palestinian group that is believed to have been responsible for at least nine attacks on Syrian or Jordanian targets during the last three months of 1976.

In general, such governmental support as was rendered to terrorist groups in the Western Hemisphere was relatively discreet. Nonetheless, it would appear that despite Castro's recent espousal of a Soviet-endorsed *via pacifica* strategy in Latin America, Cuba continued to maintain contact with a number of terrorism-prone revolutionary groups in that area.

#### **The Vulnerability of the Overseas Installations and Employees of US Firms**

In 1975, two out of every five terrorist incidents that were directed against US citizens or facilities abroad victimized US firms or their employees. In 1976, this ratio was three out of five. The increase was partly due to the operation of such local factors as the re-emergence of Mexico's 23rd of September Communist League as an active terrorist group. But because of the tighter security measures that have been introduced at US military and diplomatic installations, the continuing lure of potentially lucrative ransom or extortion payments, and the symbolic value of US firms (e.g., as "capitalistic foreign exploiters" of the local working class), there is a real danger that terrorist attacks on the US business community abroad will become even more frequent in the future.

Two developments during 1976 bear special note. First, the defensive measures taken by US firms contributed to a shift in terrorist tactics. Thus,

<sup>3</sup> A group calling itself the Che Guevara Internationalist Brigade claimed credit for assassinating the Bolivian ambassador to France in May, the bombing of the Argentine embassy in Rome in July, and three more bombings in Rome in September (the US Information Service and Brazilian Airlines offices and the Chilean embassy to the Vatican).

the number of assassinations and armed assaults have increased, while kidnappings have declined. And as American executives have gradually been withdrawn, their foreign-born replacements have been victimized in increasing numbers.

The second development stems from a single event: the assassination by local terrorists of the three Rockwell International executives in Tehran on 28 August 1976. The number of victims was small. But the terrorists were eminently successful in drawing attention to the inviting target posed by the burgeoning community of American civilian advisers and technicians. Indeed, despite the fact that so far there have been no further attacks on non-official Americans in Iran, the waves that the August incident created within US business and governmental circles have yet to subside.

### **Cuban Exiles, Croatian Extremists, and the Jewish Defense League**

An upsurge in international terrorist attacks mounted by groups that are either based in the US or that have strong organizational links to certain segments of the US population caused considerable difficulty and embarrassment for the US government during 1976. The furor caused by the hijacking of a TWA passenger plane to Paris by Croatian extremists in September—the most spectacular of the eight terrorist incidents attributed to Yugoslav expatriates last year—provides a case in point.<sup>4</sup> For their part, militants believed to be associated with the Jewish Defense League staged at least seven attacks against Soviet, East European, Arab, and UN-connected targets in the US. (They also struck at Pan American Airlines property on two occasions: the first time to discourage that company from serving as cargo agent for Aeroflot, the second to protest its regularly scheduled flights to Syria and Iraq.)

Cuban exile groups operating under the aegis of a new alliance called the Coordination of United Revolutionary Organizations were particularly active during the second half of the year. They were responsible for no less than 17 acts of international terrorism (at least three of which took place in the US). Statistically, this matches the record compiled by the various Palestinian terrorist groups during the same period. But largely because the Cuban exile operations included the October bombing of a Cubana Airlines passenger aircraft, their consequences were far more bloody. Moreover, the latter incident prompted Fidel Castro to renounce the 1973 US-Cuban

<sup>4</sup> Since its perpetrators faced almost certain capture, the TWA hijacking also illustrates the overriding importance that terrorists often attach to gaining publicity for their cause.



memorandum of understanding concerning hijackers of aircraft and vessels—an action which took effect on 15 April 1977 upon expiration of the required six-month grace period.<sup>5</sup>

#### Efforts to Develop New and More Effective Countermeasures

Together with the Carlos-led raid on the OPEC ministerial meeting in Vienna in December 1975, the Entebbe hijacking played a key role in inspiring both the European Convention on the Suppression of Terrorism that was adopted by the Council of Europe on 10 November 1976<sup>6</sup> and the proposal for an international convention against the taking of hostages that West Germany had placed before the UN General Assembly some six weeks earlier. But despite the attention that these initiatives have received, it remains to be seen whether either of them will result in a significantly more effective international regime for controlling terrorism.

The European convention purports to make extradition or prosecution mandatory for individuals responsible for a wide variety of terrorist acts. But at least as far as extradition is concerned, the room allowed for discretionary exceptions makes the treaty little more than a declaration of good intent. Moreover, some Council members have made it clear from the outset that they view the convention with considerable reserve.

On 9 December the Legal Committee of the UN General Assembly passed a resolution directing a 35-member ad hoc committee to draft a convention against the taking of hostages along lines proposed by West Germany. The echoes of the old controversy over *justifiable* versus *illegal* political violence that emerged during the debates that preceded the voting suggest that this will be no easy task. The Germans have sought to minimize the grounds for conflict by scrupulously avoiding any mention of the word terrorism in the draft text that they have prepared for the committee's consideration. Even so, it is not certain that the group will have an agreed draft in hand by the time the next General Assembly session opens in September 1977.

<sup>5</sup> Seventy-three people were killed when the Cubana plane went down. Most of the victims were Cubans, but 11 were Guyanese. Because of this, and because Prime Minister Forbes Burnham publicly accused the US of complicity, the incident also precipitated a period of increased tensions in US-Guyanese relations.

<sup>6</sup> Passed unanimously by the 19-member Council the convention was opened for signature on 27 January 1977. Two member states, Malta and Ireland, have so far refused to sign it. In any event, the convention will not come into force until at least three Council members have ratified it. Thereafter, it will be binding on only those countries and such others as may subsequently complete the ratification process. It is not open to accession by nations that are not members of the Council of Europe.

## The Implications for 1977

It is evident from casting last year's experience with international terrorism into historical perspective that while a few broad trends can be identified, these have been accompanied and conditioned by relatively wide fluctuations in the nature and intensity of the violence involved. Similarly, the roster of groups engaged in international terrorist activity has been in constant flux.<sup>7</sup>

These oscillations in the pattern and level of terrorist activity—which are attributable to the operation of a multitude of factors—render specific predictions about the future dimensions of this threat, even over the short term, hazardous at best. Nonetheless, it is clear that the problem will persist. And while it is not possible to forecast the precise level and composition of international terrorist activity in 1977, the foregoing analysis does provide a rough guide as to its likely general contours.

First as suggested in earlier discussion, the *carryover* of the trends and problem areas that were associated with the problem of international terrorism last year will probably be extensive. Specifically:

- It seems likely that terrorist attacks on the overseas facilities and employees of US corporations and their foreign subsidiaries will continue to pose a particularly troublesome problem.
- Continuation of vigorous antiterrorist campaigns in Argentina and other Latin American countries may well result in a further "export" of Latin American terrorism to Europe.
- The development and implementation of more effective international countermeasures will continue to be impeded by differing moral perspectives, a broad resistance to any such infringement of sovereignty as would be implied in an inflexible curtailment of the right to grant political asylum, and a natural reluctance on the part of many states to commit themselves to any course of action that

<sup>7</sup> Instability and a distinct ephemeral quality have been characteristic of most of the 140-odd organizations that have been linked to international terrorist incidents over the past ten years. Indeed, some of these groups never existed at all, having been conjured up as fictional entities in order to shield the true identity of the perpetrators of particularly shocking or politically sensitive acts. A far larger number have either succumbed to local counterterrorist campaigns or fragmented under the impact of personal rivalries or growing disagreements over goals and tactics. The net growth in the number of active international terrorist formations has, in fact, been as much attributable to the splintering of old groups as to the emergence of entirely new ones.

might invite retribution—either by terrorist groups or by states sympathetic to the terrorists' cause.<sup>8</sup>

- Despite the sobering impact of the Entebbe affair, there would seem to be a good chance that the incidence of hijackings will match or exceed the level recorded in 1976.<sup>9</sup>
- Governmental assistance to—and cooperation among—terrorist groups will continue to enhance the capabilities of such ultra-militant organizations as the PFLP.

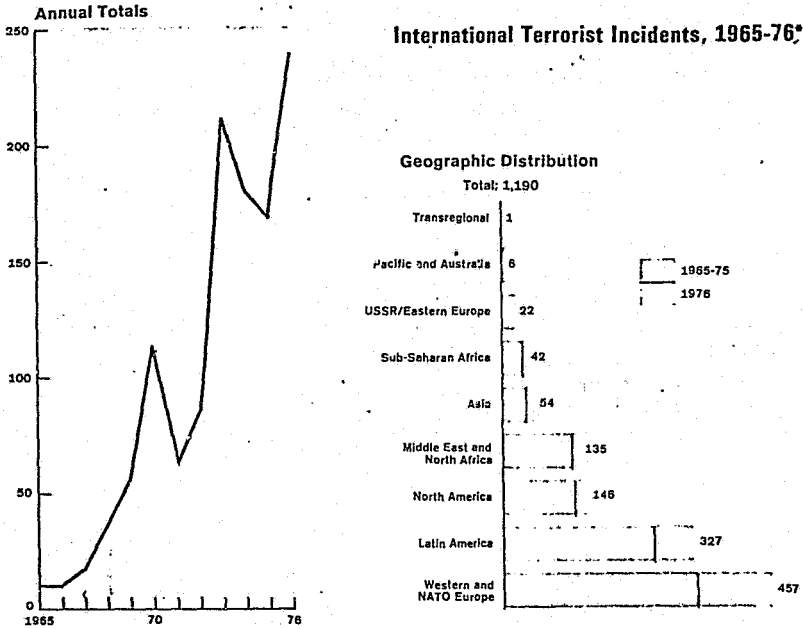
At the same time, however, 1977 is likely to be characterized by some discontinuities and new developments as well. The odds are, for example, that Cuban exile activity will taper off somewhat.<sup>10</sup> On the other hand, regional conflicts outside the Middle-East or contentious issues of many sorts could spawn new campaigns of international terrorism.

<sup>8</sup> Ironically, the obvious discomfiture displayed by both Paris and Bonn in their handling of the highly publicized Abu Daud affair served to document the persistence and force of these inhibiting factors just days before the new European Convention on the Suppression of Terrorism was opened for signature.

<sup>9</sup> In this regard, it should be noted that PFLP leader George Habbash told a correspondent from West Germany's *Der Stern* magazine in early February 1977 that while his organization planned no such action, he personally expected other embittered Palestinian formations to launch a new wave of hijackings.

<sup>10</sup> The record suggests that no group can long sustain a high intensity campaign of terror without running up against some very serious practical problems in terms of (1) depletion of resources, (2) factional divisions, (3) erosion of international sympathy or support, or (4) more vigorous countermeasures (at least at the national level). In short, while the internal dynamics of a campaign of terrorist violence tend to create pressures for escalation, the process would appear to be to some degree self-limiting.

Figure 1



\*The statistics presented here and in the charts and tables that follow exclude terrorist attacks on US and allied personnel and installations in Indochina. They also exclude most of the mutual assassination efforts and cross-border operations associated with the Arab-Israeli conflict. (The only exceptions in this regard are incidents that either victimized noncombatant nationals of state located outside the principal arena of conflict or were of such a nature that they became the subject of widespread international concern and controversy.) On the

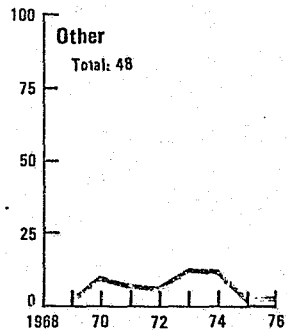
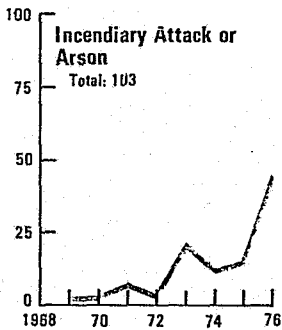
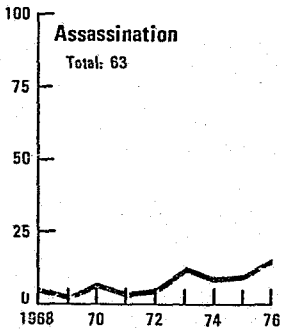
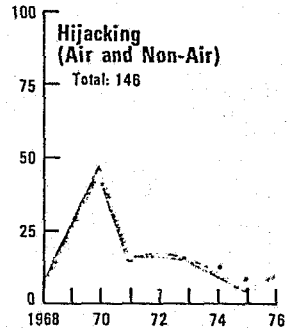
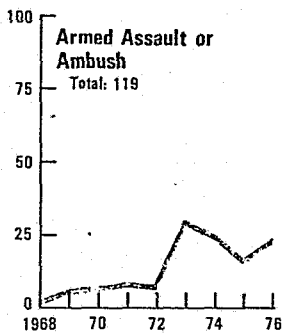
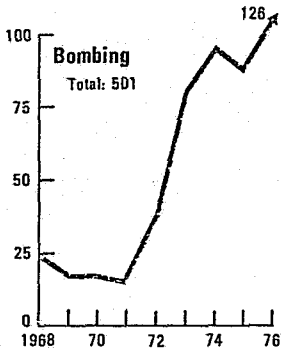
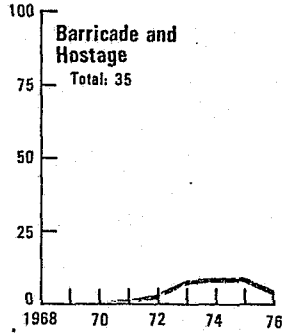
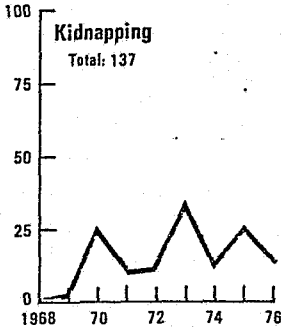
other hand, related but separately targeted actions undertaken by a single terrorist group were counted as individual incidents, even when they were staged on the same day and in close proximity to one another. Similarly, terrorist operations that aborted during execution (as opposed to those that were abandoned or countered during the planning or staging phases) were also counted. Obviously, the employment of other selection criteria could yield far different results. Hence it must be emphasized that this data should be viewed as proximate.

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Figure 2

# International Terrorist Incidents by Category, 1968-76

Total: 1,152

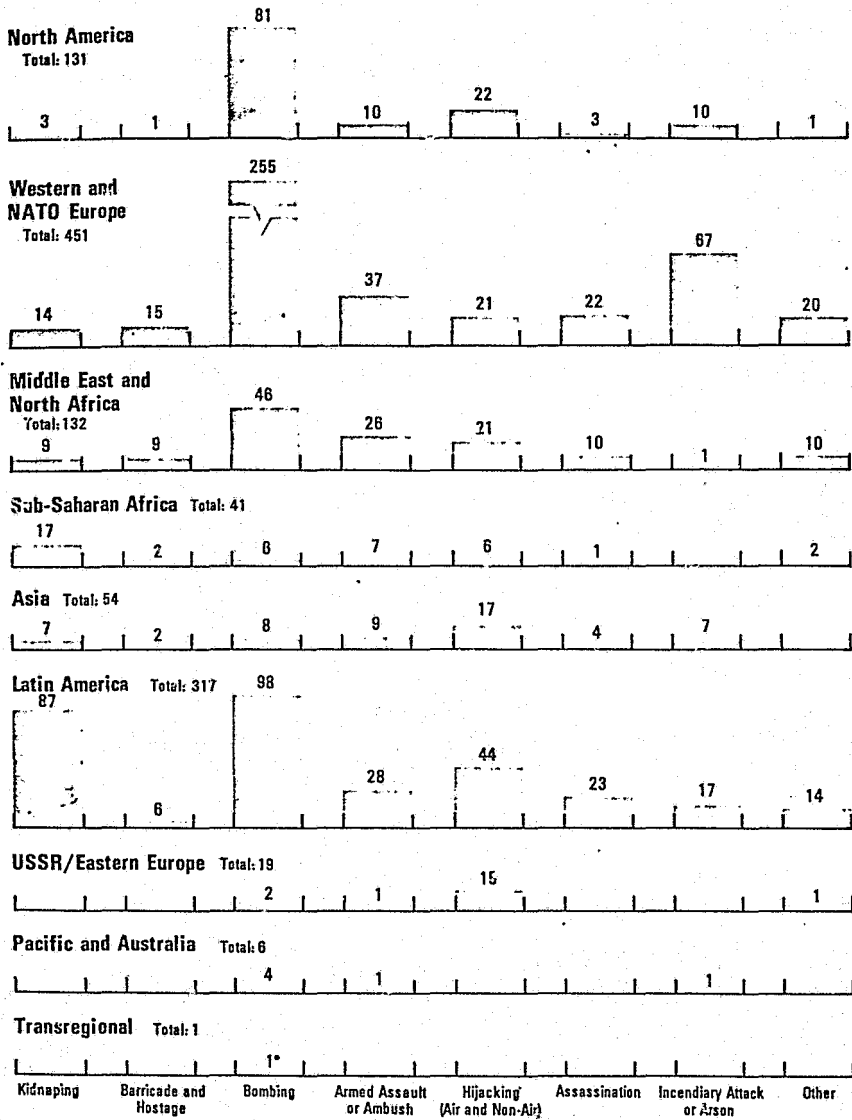


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\*Includes 2 non-air hijackings.

Figure 3

# Geographic Distribution of International Terrorist Incidents by Category, 1968-76



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\*Mass letter bomb mailing.

INTERNATIONAL TERRORIST INCIDENTS DIRECTED  
AGAINST US CITIZENS OR PROPERTY<sup>1</sup>

	KIDNAP	B & H	BOMB	ASS'LT	HIJACK <sup>2</sup>	ASSASS	INCEND	OTHER	TOTAL
1968-1976									
Total incidents	137	35	501	119	146	63	103	48	1,152
US citizens or property victimized	64	5	166	40	30	22	45	19	391
1968									
Total incidents	1	0	24	2	6	4	0	0	37
US citizens or property victimized	1	0	1	0	0	3	0	0	5
1969									
Total incidents	3	0	17	5	25	2	2	1	55
US citizens or property victimized	2	0	9	1	1	1	1	1	16
1970									
Total incidents	26	1	17	6	47	6	2	9	114
US citizens or property victimized	15	0	12	4	16	3	1	5	56
1971									
Total incidents	10	1	15	8	14	3	6	6	63
US citizens or property victimized	4	0	12	4	7	0	5	6	38
1972									
Total incidents	11	3	38	6	16	4	3	5	86
US citizens or property victimized	1	0	18	2	3	0	1	1	26
1973									
Total incidents	34	8	81	29	15	12	20	12	211
US citizens or property victimized	18	2	34	14	0	3	12	2	85
1974									
Total incidents	12	9	95	24	9	8	11	11	179
US citizens or property victimized	5	1	32	6	2	2	7	2	57
1975									
Total incidents	26	9	88	15	5	9	15	1	168
US citizens or property victimized	13	1	18	6	0	3	6	0	47
1976									
Total incidents	14	4	126	24	9	15	44	3	239
US citizens or property victimized	5	1	30	3	1	7	12	2	61

1. For the most part, incidents in which American citizens or property were victimized by chance have been excluded from these statistics. Examples from 1976 include the 27 June hijacking of an Air France plane (the Entebbe affair), the 11 August assault on El Al passengers at the Istanbul airport, and the 21 September bombing of the former Chilean ambassador to the United States' personal auto.

2. Excludes numerous non-terrorist skyjackings, many of which victimized US aircraft.

**BREAKDOWN OF INTERNATIONAL TERRORIST ATTACKS ON US CITIZENS  
OR PROPERTY IN 1976, BY CATEGORY OF TARGET**

TARGET	NUMBER OF INCIDENTS
US officials (civilian or military) or their property	7
US installations or property	15
US businessmen	3
US business facilities or commercial aircraft	21
Foreign employees of US firms	12
US private citizens	3
Total	61

**INTERNATIONAL TERRORIST INCIDENTS ATTRIBUTED  
TO CUBAN EXILE GROUPS**

	KIDNAP	B & H	BOMB	ASS'LT	HIJACK	ASSASS	INCEND	OTHER	TOTAL
1968-1975	0	0	34	4	0	1	0	0	39
1976 <sup>1</sup>	0	0	12	3	0	1	0	1	17

1. All but two of these incidents were staged during the second half of the year. The statistics presented exclude a few cloudy cases, e.g., the Letelier affair in September, in which Cuban exile complicity is strongly suspected.



**FEDAYEEN OR FEDAYEEN-RELATED INTERNATIONAL TERRORIST  
INCIDENTS, BY CATEGORY**

	KIDNAP	B & H	BOMB	ASS'LT	HJACK	ASSASS	INCEND	OTHER	TOTAL
<b>1968-1975</b>									
Total incidents	123	31	375	95	137	48	59	45	913
Fedayeen or Fedayeen-related	8	18	48	35	19	13	3	15	159
<b>1976</b>									
Total incidents	14	4	126	24	9	15	44	3	239
Fedayeen or Fedayeen-related	0	3	3	4	2	1	4	0	17

**FEDAYEEN OR FEDAYEEN-RELATED INTERNATIONAL TERRORIST  
INCIDENTS, BY YEAR**

	1968	1969	1970	1971	1972	1973	1974	1975	1976	TOTAL
Total incidents	37	55	114	63	86	211	179	168	239	1,152
Fedayeen or Fedayeen-related	3	10	21	10	19	46	33	17	17	176

**TARGETS OF FEDAYEEN OR FEDAYEEN-RELATED INTERNATIONAL TERRORIST  
INCIDENTS IN 1976, BY NATIONALITY**

ARAB: 12                      ISRAELI: 2                      US: 1                      OTHER: 2

Senator JAVITS. Now there are two questions raised also by our staff which I think are well worthy of your consideration. If you can answer them now, that would be helpful. If not, please think it through and check with the Department and give us your answer.

TRAVEL ADVISORIES DEALING WITH INADEQUATE INTERNATIONAL SECURITY

One is, why shouldn't we circulate or otherwise bring to the attention of travelers the situation in other airports having inadequate security? I am myself a traveler, a great deal mostly on official business for the Senate Foreign Relations Committee, and I have noticed myself that the degree of security precautions are very spotty indeed, and in one or two cases I have seen none, notwithstanding that that is almost inconceivable in an international airport under modern conditions. So what would you think of that, or do you want to think that through and give us your advice?

Mr. KARKASHIAN. I think the proposal has great merit. I am not sure how it would be implemented but I will look into it.

Senator JAVITS. Would you then work with our staff toward that end?

Mr. KARKASHIAN. Certainly.

Senator CASE. May I point out that that might be implemented by restrictions on landing in this country of planes coming from foreign countries and airports which are not subject to adequate security.

Senator JAVITS. Exactly.

Senator CASE. It seems to me that is something that is entirely within our control.

Mr. KARKASHIAN. That is an area that is beyond my competence. There is a representative here—Richard Lally, of the FAA [Federal Aviation Administration] who might want to address that question.

Senator CASE. The foreign relations and foreign policy connotation.

Mr. KARKASHIAN. Certainly.

Senator CASE. Anything you can say usefully about it.

Mr. KARKASHIAN. Certainly. I would add, as you know, Senator, we do issue travel advisories with respect to natural disasters around the world and so it is not unreasonable to consider travel advisories in this regard.

Senator JAVITS. I think it would be very helpful also if you will collaborate with our staff to the extent of your authority.

Mr. KARKASHIAN. Yes, sir.

Senator CASE. I would like to emphasize my agreement with your suggestion here in the hope that you will really prod the Department to get at this advisory recommendation business and appraisal of security at various airports in the world.

Mr. KARKASHIAN. I assure you we will look into it very closely.

ICAO AIRPORT INSPECTION SERVICE FOR SECURITY PURPOSES

Senator JAVITS. Would you also seek the views of the Department and transmit them to us, and they will be included in the record as to whether and how we can go about requiring the International Civil Aviation Organization to have an inspection service at airports for

security purposes which could then be the basis for authoritative international information as to where our people are running risks if they embark on aircraft at international airports in other countries.

Mr. KARKASHIAN. I will be happy to look into that as well, sir.  
[The information referred to follows:]

#### ICAO AIRPORT INSPECTION SERVICE FOR SECURITY PURPOSES

[Supplied by Department of State]

We intend to press the International Civil Aviation Organization (ICAO) to take a much more vigorous role with respect to the safety of international civil aviation. We are now proposing a number of measures upgrading standards for airport security. These are described in the answer to question No. 8 from Senator Case regarding actions we are taking in ICAO. In addition, we will evaluate other initiatives which we might take in ICAO. However, the suggestion that ICAO create an airport inspection service would pose considerable problems. Under the provisions of the Chicago Convention, ICAO has no inspection rights in Member States and sovereign States would have to request assistance in inspection of their airports for security purposes.

#### TRAVEL ADVISORIES DEALING WITH INADEQUATE INTERNATIONAL AIRPORT SECURITY

[Supplied by Department of State]

Along with our recent initiatives in the International Civil Aviation Organization (ICAO) on worldwide airport security, which are described in the answer to question from Senator Case, we are evaluating what additional unilateral steps this Government might take, including your suggestion for a system to warn Americans travelling abroad of airports where security falls significantly short of U.S. standards.

The U.S. Federal Aviation Administration (FAA) does make observations regarding foreign airports in connection with its security inspections of U.S. air carriers abroad and foreign air carriers landing in the United States, although the FAA does not have the capability of fully evaluating all foreign airports. An important consideration in connection with the issuance of advisory lists would be whether or not they would aid and abet hijackers and other perpetrators of crimes against civil aviation.

Senator JAVITS. We will transmit any questions that we have of the FAA to them in writing and their replies will be made a part of the record.

[Additional questions and answers follow:]

#### FAA RESPONSE TO COMMITTEE QUESTIONS

*Question 1.* What are the results of the visit by the International Air Transport Association (IATA) team to Athens Airport last year?

Answer. The IATA team visit to Athens Airport was conducted at the request of the Greek authorities. Surveys such as this are an "industry-wide" service, performed in agreement between IATA and the country requesting the service. Since the results of the surveys are considered "proprietary," the findings are made available by IATA only to appropriate authorities of the country involved.

We do understand, however, that a number of recommendations were made by IATA and accepted by Greek authorities. In fact, an FAA inspector, who visited Athens in April 1977, reported that Greek authorities had instituted several additional security measures since the IATA survey was conducted and were considering others. While it is our opinion that the security posture of the airport has improved, we cannot state that it is totally adequate.

*Question 2.* Is anything specifically being done to improve security at Athens and Rome Airports? Are the measures adequate?

Answer. While there has been substantial progress throughout the world toward increased protection of civil aviation from criminal acts, the U.S. continues its efforts to seek implementation by all nations of even more effective civil aviation security programs. To assist foreign governments, the U.S. has

provided and will continue to provide FAA teams to visit and advise interested countries on ways of improving their airport security. In addition, the FAA provides training through its Aviation Security Course, taught at Oklahoma City, to interested foreign nationals. In some instances, the Law Enforcement Assistance Administration has provided funding for the costs of instructing foreign nationals.

With regard to Rome and Athens Airports, the following actions have been taken:

1. At the request of the Italian government, an FAA technical assistance team conducted an airport security survey at Rome Airport in March 1974. A report containing recommendations to improve security measures was prepared and given to the Italian authorities. Additionally, training for airport and airline personnel was conducted. We have offered through the State Department to send a similar technical assistance team to Athens to exchange information and technical expertise on matters of civil aviation security but the offer has not been accepted.

2. Italian aviation and law enforcement officials have visited the U.S. and were provided in-depth briefings by FAA security specialists covering techniques of passenger screening and aircraft and airport security. Greek officials have not visited the U.S. to receive such briefings. Audiovisual aviation security training aids have been provided both the Italians and the Greeks.

3. Air carrier security officials from Italian and Greek National Airlines attended FAA's foreign air carrier security meeting in February 1977 at which air carrier security matters were discussed and security presentations were made. The Rome Airport Director was a primary speaker at the meeting and visited FAA for additional discussions.

4. FAA inspectors make periodic inspections of U.S. air carrier operations at Rome and Athens. The most recent inspections were made in April 1977. These inspections have included security discussions with local airport and both foreign and U.S. airline authorities.

5. Invitations have been extended to Italian and Greek authorities to send security representatives to the FAA Aviation Security Course. The offers have not been accepted.

6. Although Greek and Italian governments conduct passenger screening operations at their airports, Trans World Airlines has, on its own initiative, established and implemented a supplemental screening system for its passengers boarding at Athens.

Over the past several years, we have observed that security authorities at Rome and Athens have taken several steps to improve the airport and airline security at their respective airports. The procedures they have incorporated in their programs, and the equipment they have available, are generally quite adequate. Unfortunately, FAA observations have revealed that application of these procedures is frequently lax and inconsistent. We believe that additional training and guidance would be helpful. More importantly, however, it is our view that, to achieve an adequate level of security, the Rome and Athens authorities must demonstrate strong leadership to assure the programs are carried out at all times in an effective manner.

*Question 3.* There are reports that the FAA intends to reduce security requirements at airports by removing armed guards at checkpoints. Are these reports accurate? If so, to what extent will security requirements be reduced?

*Answer.* Currently, Part 107 of the Federal Aviation Regulations, dealing with airport security, requires the presence of at least one law enforcement officer (not merely an armed guard) at each passenger checkpoint. In a Notice of Proposed Rule Making issued on June 10 (Notice 77-8), we proposed to revise Part 107 to substitute for this requirement a provision requiring law enforcement officers at the airport in the number and in a manner adequate to support each passenger screening point.

The proposed amendment would mean that a law enforcement officer would not necessarily be required to remain at each screening point. Rather, the officer could be stationed, or placed on patrol, in the manner most apt to assure an effective level of security. Our experience over the last several years has demonstrated that security requirements and procedures should be tailored to the unique needs of each airport. No two airports are identical, and a procedure that is highly suitable at one may be quite counter-productive at another.

The proposed change would provide flexibility and allow for the design of an airport security program that achieves optimum effectiveness at a particular

airport and, at the same time, the most efficient use of resources. In some instances, this may result in law enforcement officers no longer remaining at a fixed station at each checkpoint. If effective security can be achieved more efficiently, the officer may be assigned to patrol other sensitive areas of an airport terminal, but must remain ready to respond promptly to the screening point should any need arise.

It is important to note that, if the amendment to Part 107 is adopted, an airport operator would have to submit his proposed method of deploying law enforcement officers to the FAA for approval. Approval would only be granted if we were satisfied that an adequate level of security would be provided by the proposal. Our proposed amendment will not reduce security requirements but rather will provide the means for achieving the most effective security in the most efficient manner.

Senator JAVITS. Senator Case.

Senator CASE. Thank you, Mr. Chairman.

I strongly support Senator Javits and, as I said, I support your suggestion in regard to information by our Government as to conditions around the world. I think it is a most important thing, and it would be very effective indeed. I cannot imagine anybody in my family being allowed to get on a plane at an airport which the State Department said was lax in security, and so it should be it seems to me.

I hope that this PRM is a little bit more than just generalities. I urge you to recommend that it not be delivered until—I don't mean to delay it, but it just not be set aside because that is not going to advance things at all. It has to be quite specific, and specificity is a difficult matter. That is what we are trying to get at, difficult answers to difficult problems. In that connection I hope the administration will set deadlines after it gets its PRM for recommendations from the various agencies on specific proposals for followup measures. A number of agencies are involved, and you are in the best spot to coordinate.

Mr. KARKASHIAN. Yes. [See p. 55.]

#### REVIEW OF RELATIONS WITH COUNTRIES NOT AID RECIPIENTS

Senator CASE. Is there a review contemplated of the kind that you mentioned in your statement, concerning our overall relations with countries that grant sanctuary to terrorists and don't get foreign aid so that we can find ways of reducing safe havens that are now available to terrorists there? You can answer that later for the record if you want. If no review is contemplated, I cannot urge too strongly that it be made as you suggest. If it is being made, can you give us some idea as to when it will be completed?

Mr. KARKASHIAN. Well, I can assure you at this time, Senator, that that review is in progress and does relate to several countries. I cannot tell you at this moment when the review would be complete but it is a matter of constant review. It is something that we genuinely agonize over.

Senator CASE. I want to let you know Case is behind Karkashian in this and that makes you have the strength of 10 men.

Mr. KARKASHIAN. Yes, sir, thank you.

#### SPARE PARTS CUTOFF

Senator CASE. One thing that has occurred to us and to my staff is the suggestion of cutting off spare parts to countries. That is just one of many, many possibilities.

## SPREAD OF SOVIET WEAPONS INTO TERRORIST HANDS

The thing that bothers us very much is the matter of the Soviet Union portraying itself as a responsible nation state and yet scattering weapons all around the world which fall into the hands of terrorists. Have we made representations on specific instances of this to the Soviet Union in clear terms?

Mr. KARKASHIAN. Well, the Soviet Union has made a number of very public statements concerning its own opposition to—

Senator CASE. Oh, yes, I know that, but I am asking you the question. When Soviet weapons turn up all over the Middle East in terrorist hands and other places, too, are we rather specifically calling this to their attention?

Mr. KARKASHIAN. I would have to take that question, Senator. I am not that knowledgeable about our direct relations with the Soviet Union on this particular subject.

Senator CASE. I do think we ought to very definitely.  
[The information referred to follows:]

## TERRORIST ACQUISITION, USE OF SOPHISTICATED SOVIET WEAPONRY

[Supplied by Department of State]

In past years the USG has on occasion raised with the Soviet Government instances in which certain types of Soviet weapons found their way to the hands of organizations engaging in terrorist acts and capable of using the weapons against innocent civilians. We will continue to emphasize our concern to all arms-producing nations about possible terrorist acquisition and use of sophisticated weaponry.

## DIPLOMATIC EFFORTS TOWARD COUNTRIES NOT SUPPORTING ANTITERRORIST U.N. ACTIONS

Senator JAVITS. Also, Mr. Karkashian, could you consult with the Department about the extent to which we are prepared to launch a diplomatic effort in those developing countries which do not support these antiterrorist actions in the United Nations. They justify opposing our initiatives there on the ground that they had to liberate themselves by force from colonialist suppression. It seems to me that that hardly justifies the inhumanity which is perpetrated by terrorists. So we need an answer from the Department as to what it considers to be the right thing there.

Mr. KARKASHIAN. Certainly.

[The information referred to follows:]

## DIPLOMATIC EFFORTS IN DEVELOPING COUNTRIES NOT SUPPORTING ANTI-TERRORIST ACTIONS IN U.N.

[Supplied by Department of State]

The U.N. General Assembly unanimously approved an Anti-Hijacking Resolution on November 3 calling on all nations to unite to end the threat of air hijackings. The United States played a leading role in pushing for this recent U.N. action. We believe the Resolution represents a useful step forward. It clearly expressed the condemnation of such acts of terrorism by all the nations of the world and focuses attention on the need to secure universal adherence to and enforcement of the existing international conventions on the hijackings and sabotage of commercial aircraft. The Resolution calls on the International Civil

Aviation Organization (ICAO) to undertake practical efforts to upgrade airport security measures.

During the past year, attention in the United Nations with respect to the terrorism issue has also been focused on an initiative taken by the Government of the Federal Republic of Germany to draft an International Convention Against the Taking of Hostages. This initiative was launched at the 31st General Assembly in 1976. The United States Government strongly supported this initiative and consulted regularly with the Government of the Federal Republic of Germany on diplomatic preparations. The latter government engaged in extensive diplomatic efforts with countries from all regions, including developing countries, preparatory to the discussion which took place at the last General Assembly session. Where appropriate, the United States Government made supporting diplomatic approaches. Also at the 31st General Assembly, United States representatives consulted widely with representatives of developing countries with a view to securing their support for the hostages initiatives.

The outcome of the Assembly's debate was to establish an Ad Hoc Committee on the Drafting of an International Convention Against the Taking of Hostages. This Committee met in August but, unfortunately, was not able to report significant progress. At this meeting United States representatives again consulted extensively with representatives of developing countries represented on the Committee with a view to achieving a successful outcome to the Ad Hoc Committee's session. Our representatives have sought to persuade other governments to concentrate on the hostage issue and to leave aside other questions for discussion in other forums. Unfortunately, in spite of our efforts, progress has been impeded because of the introduction of issues which, in our view, are extraneous to the central problem.

It is the intention of the United States Government to continue to pursue all appropriate diplomatic efforts with other countries, including the developing countries, in the interest of securing eventual agreement on an effective Convention Against the Taking of Hostages and in building a climate of support for possible further anti-terrorism initiatives in the future.

[The information referred to follows:]

#### GUERRILLA TRAINING CAMPS IN THE SOVIET UNION

[Supplied by Department of State]

There are guerilla training camps in the Soviet Union where personnel of so-called "national liberation movements" are given military training. However, we are not aware of any evidence that military or weapons training is given at Patrice Lumumba University, which is located in the city of Moscow and attended by non-communist as well as communist students.

Senator JAVRS. Also I notice in our staff analysis we point out that there are various guerrilla training institutes like the Patrice Lumumba Training Institute, and again Senator Case's point about that is very strong. Patrice Lamumba University is in Moscow and reportedly Carlos was trained there. Now what kind of two-faced business is this? The Soviet Union as you say is making these rhetorical protestations and yet that is where Carlos was trained. I hope very much that you will get us an answer from the Department so we can deal in a rather precise way to this question.

Mr. KARKASHIAN. Yes, sir.

Senator CASE. Just one point here, too. I would be most grateful for your comment on this and any development later you may want to put in the record on further reflection. What about this report in the paper the other day about \$1,000 a month pensions being paid by Libya to three of these Palestinian terrorists who are now living in Lebanon?

Mr. KARKASHIAN. Yes, we saw that report and we are looking into that. I am not able at this time to confirm that information.

Senator CASE. I would be most grateful if when that inquiry has been completed—and I hope it will be fairly soon—we get a report which we can make public, too.

Mr. KARKASHIAN. We will specifically look into that. [See question 5 at end of hearing for response.]

Senator JAVITS. In checking that table we gave you which we won't put in the record until you have checked it, it is based, as I understand it, on a study which you know about. Would you also check the assertion of our staff that there are an estimated 180 groups around the world which claim responsibility for acts of terrorism and 33 of the 180 are Palestinian.

[The information referred to follows:]

#### GROUPS CLAIMING RESPONSIBILITY FOR ACTS OF TERRORISM

[Supplied by State Department]

We understand that the subcommittee staff referenced a commercial publication, which did not identify its source, in arriving at the figure of 180 terrorist groups worldwide. It has been our experience that such tallies must be viewed with caution due to the possible inclusion of names fabricated by groups seeking to divert suspicion away from the identity of the real perpetrators, or by factions of the same group. Also, the same group may use several names during an incident. In the CIA publication, "International and Transnational Terrorism: Diagnosis and Prognosis" PR 76 10030, April 1976, [copy in committee files] a figure of 140 groups is used but this number is also subject to the same difficulties. We suggest referring to the fold-out chart which accompanies that publication for a selective listing of particularly active or notorious groups. A copy is being made available to the Subcommittee.

For the same reasons, the figure of 33 Palestinian terrorist groups cited by the subcommittee staff is probably inflated. Furthermore, a number of those Palestinian organizations which engaged in international terrorism in the late 1960's and early 1970's no longer conduct such operations. Some distinction should be made between those groups currently engaging in attacks and those which have ceased to exist or which no longer carry out international terrorist attacks.

The record indicates that the PFLP (Popular Front for the Liberation of Palestine) continues to engage in international terrorist operations. The Black September Organization, which was responsible for a number of attacks in the early 1970's, has not surfaced since 1973. Similarly, the Communist Action Organization has not engaged in attacks since 1975. Individuals claiming membership in Fatah, the PFLP-General Command, and Salqa claimed responsibility for terrorist attacks against third country nationals in the early 1970's, but those groups now confine their operations to cross-border attacks against Israel. The PDFLP (Popular Democratic Front for the Liberation of Palestine) directs its attacks against internal Israeli targets only, while Black June directs its attacks solely against Syrian and Jordanian targets. The Front for the Liberation of Palestine, recently formed by a dissident faction of the PFLP-General Command, has yet to engage in terrorist operations. No attacks were ever recorded by the Popular Revolutionary Front for the Liberation of Palestine, which is believed dormant.

Senator JAVITS. Thank you very much. We deeply appreciate your statement.

Mr. KARKASHIAN. Thank you, Mr. Chairman.

Senator JAVITS. Our next witness is Mr. Brian Jenkins of the Rand Corp.

Mr. Jenkins, your whole statement will be included in the record and if you would then proceed to give us the essence of it.

[Mr. Jenkins' biography follows:]



## BIOGRAPHY OF BRIAN M. JENKINS

Brian Jenkins is the Associate Head of the Social Science Department and the director of research on guerrilla warfare and international terrorism. This research encompasses a number of projects dealing with various aspects of modern political violence including the problems of dealing with hostage situations, the experiences of those held hostage, the exploitation by political extremists or criminals of a modern industrialized society's inherent vulnerabilities, and the security of nuclear facilities. Mr. Jenkins is also a consultant to the Office of the Assistant to the Secretary of Defense for Atomic Energy and to the Nuclear Regulatory Commission.

Mr. Jenkins possesses a unique background as an artist, a soldier, and an historian. He began his career as a painter studying at the Chicago Art Institute and Academy of Arts. He received a B.A. in fine arts from the University of California, Los Angeles, in 1962 at the age of 19. Later, he studied at the University of Guanajuato in Mexico and returned to U.C.L.A. for an M.A. in history. A Fulbright Scholarship enabled Mr. Jenkins to attend the University of San Carlos in Guatemala where he studied in the Faculty of Humanities. He remained in Guatemala a second year on a fellowship from the Organization of American States. While in Guatemala, he began research on a history of political conspiracies.

Commissioned in the Army Reserves upon graduation from U.L.C.A., Lieutenant Jenkins went on active duty as a paratrooper shortly after his return from Guatemala. He volunteered for the Green Berets in early 1966 and served with the Seventh Special Forces Group in the Dominican Republic. In late 1966, he went to the Defense Language Institute, Monterey, to learn Vietnamese, then was assigned to the Fifth Special Forces Group in Vietnam. Captain Jenkins won two Bronze Stars and a Vietnamese Cross of Gallantry.

Mr. Jenkins returned to UCLA in 1968 to work on a Ph.D. in history, specializing in the study of conspiracy and revolution. He became a Rand consultant that year. He went back to Vietnam in 1968 as a civilian member of the Long Range Planning Task Group in Saigon, staying in Southeast Asia until mid-1969 and returning later that year and again in 1971. He was the first person in Vietnam to receive the Department of the Army's highest award for Outstanding Civilian Service, awarded for his service on the Planning Group.

In 1972, Mr. Jenkins became an employee at Rand, and in 1976 became the Associate Department Head. His reports and articles have been published in numerous publications, including the Encyclopedia Britannica, Newsweek, the Washington Post, the New York Times, among others. He is the author of *International Terrorism: A New Mode of Conflict*, 1975.

**STATEMENT OF BRIAN M. JENKINS, SOCIAL SCIENCE DEPARTMENT,  
RAND CORP.**

Mr. JENKINS. I thank the members of the subcommittee for inviting me to testify. As you mentioned earlier, Senator Javits, the U.S. policy and the apparatus for combatting terrorism have just undergone a thorough review in PRM-30. I have not seen the results of this review and my comments, therefore, reflect the present situation which PRM-30 may change.

I do not believe that the Government is adequately prepared at present to deal with major international incidents in which Americans are directly and imminently in peril, or major domestic incidents that might have international consequences. The handling of the most serious incidents that have occurred thus far—for example, the Khar-toum incident in 1973 or the hijacking of a TWA airliner by Croatian extremists in 1976—revealed serious deficiencies in the area of coordination and response.

The hearing thus far this afternoon has concentrated on various international steps that we might take in combatting terrorism. My remarks will focus on those steps that we might take to improve our own Government's capacity for responding completely to events of terrorism that may occur.

#### FOREIGN TERRORISTS EFFECT ON U.S.

Foreign terrorists generally have not operated in the United States. Americans abroad have often been targets of terrorist attack, but the kidnaping or assassination of a diplomat or businessman somewhere in the world, although shocking and tragic, does not directly touch the American public. Many officials in the Government who are faced with other pressing international problems regard terrorism as only a nuisance.

In a single incident, however, terrorism may suddenly become an issue of seeming national importance. We saw this happen in the Munich incident and the recent Schleyer kidnaping in West Germany, the South Moluccan hostage incidents in the Netherlands, and the OPEC incident in Austria. Such episodes command the attention of the highest level of Government. At stake are lives as well as the image of Government competence. The risk of a tragic outcome is great. But between spectacular episodes, the problem of terrorism remains a remote and minor issue.

The fact that terrorism receives only spasmodic attention has hampered attempts aimed at more formally organizing efforts to combat it. There is no single department, agency or office in the Government charged with overall responsibility for combating terrorism that also has the authority and means for doing so.

#### CABINET COMMITTEE TO COMBAT TERRORISM

The Working Group of the Cabinet Committee to Combat Terrorism provides a useful vehicle for exchanging information and coordinating efforts within the Government. However, neither the Working Group nor its chairman in the Department of State exercises any authority over its members.

#### OFFICE FOR COMBATING TERRORISM

The focal point in the U.S. Government for dealing with international terrorism is the Office for Combating Terrorism, in the Department of State. The Director of this Office chairs the Working Group. Since the Office was created 5 years ago, the post has been held by five people. While the individuals were dedicated and capable, they were given no formal authority and lacked sufficient rank to impose their will on officials in other departments. They were compelled to learn about this complicated subject on the job, and they seldom remained long enough to apply the expertise they gained. The Director's position has been vacant since June of this year, a fact some see as further evidence that terrorism is a low-order issue.

## AUTHORITY FOR DEALING WITH SERIOUS INCIDENTS

A clear line of authority for dealing with serious incidents must be identified in advance. We cannot allow a serious incident to be handled by whoever happens to pick up the telephone in the White House. The responsible official may vary according to the specific circumstances of the case, perhaps someone in the Department of Justice for domestic incidents and someone in the Department of State for incidents abroad. Whoever is responsible should have sufficient rank and authority to transcend bureaucratic boundaries in dealing with an actual situation.

In addition to the Working Group, we should consider the creation of a small but permanent group that could monitor the terrorist threat, direct and coordinate all government efforts at combating terrorism, and prepare for the identifiable types of contingencies. Mr. Karkashian's office is the embryo of such an entity but it needs to be augmented and expanded. It might be placed in the Executive Office of the President and could report to the chairman of the interagency group. In an actual crisis, this group would act as a "battle staff" for the individual who had responsibility for dealing with the episode.

The creation of an operational mechanism such as I have described would not solve the problem of terrorism, but it would enable the government to respond more effectively to those incidents that may occur.

## INTELLIGENCE ON TERRORISM

Another area that merits further examination is intelligence on terrorism—specifically, the effect of various statutes and directives limiting the collection and dissemination of such intelligence. Intelligence officials complain that the restrictions in the new laws and directives governing the collection and dissemination of intelligence are a serious hindrance. For example, although Executive Order 11905 on foreign intelligence activities makes exceptions to some restrictions on intelligence gathering in cases of persons believed to be engaging in international terrorist activities, the term terrorism is not defined. Nor is it clear what degree of foreign influence or participation is necessary before U.S. citizens may be considered engaged in international terrorism as opposed to purely domestic political violence. It is extremely difficult to demonstrate the probable cause necessary for the legal use of certain intelligence gathering techniques. Further problems arise from the limitations on dissemination imposed by the Privacy Act. Finally, members of the intelligence community complain that higher officials tend to interpret the new guidelines too conservatively, perhaps an understandable reaction to relations of past abuses.

On the other hand, it can be argued that the chances of successfully penetrating a terrorist group or the prospects for apprehension before they can strike are so meager that the costs and risks of the effort, including the possible invasion of privacy of domestic groups, are not warranted. I do not know enough about the pertinent law or intelligence-gathering techniques to judge these arguments, but it is clear that this issue is one which the Congress might usefully review.

Finally, it is necessary to explore alternative strategies and innovative approaches. We also need to eliminate our preparedness and capabilities for dealing with more serious terrorist threats or incidents that have not occurred yet but are well within the realm of plausibility.

#### EXPRESSIONS OF OUTRAGE

Finally, I would not underestimate the value of expressions of outrage at the deliberate disregard the terrorists show for the lives of innocent bystanders. The desire to understand the conditions that may lead to terrorism, to be objective about the causes that terrorists profess, and to be dispassionate in our reporting of such acts should not erode the position that terrorism itself represents a fundamental crime violation of human rights, unmitigated by any circumstances, a form of savagry that cannot be tolerated in civilized society. I don't think terrorists are necessarily going to be dissuaded by such pronouncements but it is good for us to keep basic principles right-side up for the intended audience of their actions.

#### COMBATING TERRORISM

Terrorism probably cannot be eliminated in the way certain epidemic diseases have been eliminated—a medical analogy that is often used when speaking of combating terrorism. New crimes—for example, seizing hostages—may be defined in the Criminal Code; controls on the sale or possession of explosives or certain types of weapons can be tightened; and tougher penalties can be prescribed. But basically, the problem of terrorism probably cannot be solved by legislation. Nevertheless, Congress can, through hearings such as these, encourage and facilitate the development of government capabilities to combat terrorism. Facilitating intelligence-gathering, filling the bureaucratic vacuum that currently exists in this area in government, exploring alternative strategies for combating terrorism, and encouraging preparations for dealing with more serious acts of terrorism are a few of the steps that might be considered.

[Mr. Jenkins' prepared statement follows:]

#### PREPARED STATEMENT OF BRIAN M. JENKINS

I thank the members of this subcommittee for inviting me to testify. I have been asked specifically to comment upon the U.S. government's policy toward terrorism.

I would like to preface my comments by emphasizing that although the research carried out by The Rand Corporation in this area has been funded by various agencies of the Federal Government, the views expressed here are entirely my own and are not necessarily shared by Rand or any of its research sponsors.

Also, I do not perceive of myself as an adversary of the U.S. government or of any of the responsible officials with whom I have come in contact in carrying out this research. The term "terrorism" encompasses many different groups and tactics; each raises distinct problems and there are honest differences of opinion on how best to deal with them.

And finally, U.S. policy and the apparatus for combating terrorism have just undergone a thorough review ordered by the President in a Presidential Review Memorandum (PRM-30). Although I have had the opportunity to offer a few suggestions in the review process, I have not seen the results of the review. Therefore, I am unable to comment upon PRM-30. My comments reflect the present situation which PRM-30 may change.

Let me begin by briefly summarizing U.S. efforts to combat terrorism. The U.S. government has focused its efforts on intelligence and improved physical security measures, particularly at airports and embassies—the most common targets of terrorist attacks—to provide possible warning and better protection.

The government also has placed a great deal of emphasis on international conventions to combat terrorism, particularly in the area of antihijacking measures and the protection of diplomats. By enlisting support for these conventions, the United States hopes to build an international consensus on the definition of terrorism and the prosecution and appropriate punishment of terrorists. The government also has, on occasion, exerted low-level pressure on specific governments to apprehend, extradite, prosecute, or punish terrorists, not to the point, however, of interfering with other foreign policy objectives deemed more important.

With regard to hostage situations, the U.S. government publicly maintains a policy that it will not yield to demands made by terrorists or negotiate for the release of hostages. It urges other governments, private corporations, and individuals to follow this policy as well, although in hostage incidents abroad it holds the host government responsible for providing protection to foreign nationals within its territory, including securing their safe release from captors.

The U.S. government has also funded research aimed at increasing understanding of the terrorist threat and formulating measures to combat it.

These efforts have paid off in some areas. Security at U.S. posts abroad has been increased, and since the abduction and murder of Ambassador Francis Meloy and Economic Counselor Robert Waring in June 1976, no American official overseas has been kidnapped. On the other hand, more executives of American corporations overseas are being abducted. Increasing security at airports and the increased reluctance of nations to grant asylum to hijackers has reduced the number of hijackings although after reaching a low point in 1975, hijacking by political extremists again rose in 1976 and 1977. Almost all of these incidents took place abroad.

Several important issues merit further examination including that of intelligence on terrorism—specifically, the effect of various statutes and directives limiting the collection and dissemination of such intelligence. Intelligence officials complain that the restrictions in the new laws and directives governing the collection and dissemination of intelligence are a serious hindrance. For example, although Executive Order 11905 on foreign intelligence activities makes exceptions to some restrictions on intelligence gathering, in cases of persons believed to be engaging in international terrorist activities, the term terrorism is not defined. Nor is it clear what degree of foreign influence or participation is necessary before U.S. citizens may be considered engaged in international terrorism as opposed to purely domestic political violence. Also, it is extremely difficult to demonstrate the probable cause necessary for the legal use of certain intelligence-gathering techniques. Further problems arise from the limitations on dissemination imposed by the Privacy Act and the concern that foreign exchanges of intelligence may be compromised as a result of action taken under the Freedom of Information Act. Finally, members of the intelligence community complain that higher officials tend to interpret the new laws and directives too conservatively. This conservatism is perhaps an understandable reaction to revelations of past abuses.

On the other hand, it can be argued that the chances of successfully penetrating a terrorist group or the prospects for apprehension before they can strike are so meager that the costs and risks of the effort, including the possible invasion of privacy of domestic groups, are not warranted. I do not know enough about the pertinent law or of the intelligence-gathering techniques to judge these arguments, but it is clear that this issue is one which the Congress might usefully review.

The United States has had mixed success in the domain of international law. Most nations have been willing to cooperate against hijacking and sabotage of airliners. Not surprisingly, the world's diplomats have agreed on the need to protect diplomats. On the other hand, a broader U.S.-proposed convention against terrorism was rejected by the United Nations in 1972, and the recent West German convention outlawing the taking of hostages appears unlikely to win universal support.

The use of international law as the primary weapon in combating terrorism has definite limitations. Terrorism is often defined not by law but by political point of view. Many foreign lawyers disagree with the American use of law to

achieve political changes in the international community. The desire to combat terrorism seldom overrides the pursuit of other national interests. This is just as true of the United States as it is of other nations. The most that can be obtained is limited cooperation among a few like-minded governments, and then only in certain circumstances.

More attention might be paid to bilateral and regional agreements for cooperation in specified areas. The agreement between the United States and Cuba on airline hijacking, the various arrangements between the United Kingdom and the Republic of Ireland to deal with IRA terrorists, and the recent convention against terrorism agreed to by the Council of Europe provide appropriate models.

The U.S. government's policy with regard to payment of ransom, yielding to other demands, or entering into any sort of negotiations with terrorists holding hostages has been debated within the government, but the issue can be discussed only in the broadest terms at a public hearing. These are decisions that must be made when human lives are at stake. I see no value in openly discussing how or on what assumptions they can be made. I think that detailed discussions of the policy should be conducted in executive session or at least informally and off the record.

I want to call your attention, however, to one persistent area of confusion. The policy toward hostage situations is distinct from the broader issue of U.S. policy toward terrorism as a whole. The two are related, of course, but a tough general policy toward international terrorism is not inconsistent with flexibility in dealing with individual hostage incidents. The objectives are quite different. The first deals with terrorism as a mode of political expression. The second is concerned with the narrower problem of coping with particular incidents in which innocent lives may be at stake.

Terrorism is generally not regarded as an issue of major importance within the U.S. government. The amount of terrorist violence in the world compared to the world volume of violence is trivial. Fewer lives are lost in terrorist incidents than are murdered every year in the United States; the losses from shoplifting exceed the total amount of property damage caused by terrorists. Nor is terrorism a major political issue in this country. The United States has not suffered the kind of terrorism that has recently erupted in West Germany or Italy. Foreign terrorists, with a few exceptions, generally have not operated in the United States. American government officials and executives of American firms abroad have often been targets of terrorist attack, but the kidnapping or assassination of a diplomat or businessman in South America or North Africa, although shocking and tragic, does not directly touch the American public. Many officials in the government who are faced with other pressing international problems—relations with the Soviet Union, the situation in the Middle East, nuclear proliferation—regard terrorism as only a nuisance, although occasionally a noisy one, as when Puerto Rican separatists force the evacuation of office buildings in New York or Cuban extremists set off bombs in Washington.

In a single incident, however, terrorism may suddenly become an issue of seeming national importance. We saw this happen in the Munich incident, the Lorenz kidnapping, the seizure of the West German embassy in Stockholm, the recent Schleier kidnapping in West Germany, the South Moluccan hostage incidents in The Netherlands, and the OPEC incident in Austria. Such episodes command the attention of the highest level of government. Political leaders may see their political survival or at least their political stature determined by decisions they are compelled to make on very short notice. There is little time to sound out the views of others, little time to build a consensus within the government or among the public. How the decisions will be perceived cannot be predicted. The risk of a tragic outcome is great, as is the danger of overreaction.

Characteristically, every serious incident is followed by denunciations, debate, and verbal retributions which usually wane rapidly. Between spectacular episodes, the problem of terrorism reverts to a remote and minor issue. It seems to be an unfortunate rule of thumb that at least one, or perhaps several tragedies must occur before a government will take serious steps to effectively deal with the problem.

The fact that terrorism receives only spasmodic attention has hampered attempts aimed at more formally organizing efforts to combat it. There is no single department, agency, or office in the government charged with overall responsibility for combating terrorism that also has the authority and means for doing so. At the same time, everybody seems to share some part of the responsibility:

the FBI for domestic incidents (although it cannot merely assume jurisdiction in all local cases); the Department of State and possibly the Department of Defense for incidents abroad, except for airline hijackings which are in the exclusive jurisdiction of the Federal Aviation Administration; the FBI, the Energy Research and Development Administration, and possibly the Nuclear Regulatory Commission for threats to nuclear facilities or threats involving nuclear material; the Secret Service and Executive Protective Service for protecting U.S. officials and foreign dignitaries; and so on. A problem that cuts across so many bureaucratic jurisdictions makes governmental coordination difficult.

The Cabinet Committee to Combat Terrorism, created shortly after the Munich incident in 1972, has met only once. The Working Group of the Cabinet Committee provides a useful vehicle for exchanging information and coordinating efforts within the government. However, neither the Working Group nor its chairman in the Department of State exercises any authority over its members. Individual satrapies are jealously guarded.

The focal point in the U.S. government for dealing with international terrorism is the Office for Combating Terrorism, in the Department of State. The director of this office, previously the Special Assistant to the Secretary of State for Combating Terrorism, chairs the Working Group. Since the office was created 5 years ago, the post has been held by three ambassadors and one senior Foreign Service othersofficer. While the individuals were dedicated and capable, they were given no formal authority and lacked sufficient rank to impose their will on officials in other departments. They were compelled to learn about this complicated subject on the job, and they seldom remained long enough to apply the expertise they gained. As long as the Office for Combating Terrorism is perceived in government as a parking lot for supernumerary ambassadors, its holders cannot persuade others in government that the problem of terrorism is to be taken seriously. The director's position has been vacant since June of this year, a fact that some see as further evidence that terrorism is a low-order issue.

The director theoretically has a small staff, two or three assistants, and a couple of secretaries to assist him. This is simply not enough to do the job, and here again the turnover of personnel allows little institutional memory. Since June, the assistant's position also has been vacant.

Incidents of terrorism that occur within the United States are the responsibility of local police and the FBI. There are some jurisdictional questions, depending on the kind of incidents, but generally these have been worked out by statute or by memoranda of understanding. At the international level, a task force is assembled in the State Department to deal with incidents involving U.S. citizens abroad. This works reasonably well for most incidents, however, I do not believe that the government is adequately prepared at present to deal with major international incidents in which Americans are directly and imminently in peril, or major domestic incidents that might have international consequences. The handling of the most serious incidents that have occurred thus far—for example, the Khartoum incident in 1973 or the hijacking of a TWA airliner by Croatian extremists in 1976—revealed serious deficiencies in the area of coordination and response. An incident that crosses national borders and domestic jurisdiction would probably pose the biggest problem.

A clear line of authority for dealing with serious incidents must be identified in advance. We cannot allow a serious incident to be handled by whoever happens to pick up the telephone in the White House. The responsible official may vary according to the specific circumstances of the case, perhaps someone in the Department of Justice for domestic incidents and someone in the Department of State for incidents abroad. Whoever is responsible should have sufficient rank and authority to transcend bureaucratic boundaries in dealing with an actual situation. I feel that the official should be someone at least at the Under Secretary level in the Department of State or at the Deputy Attorney General level in the Department of Justice. They would, of course, still perform their other routine duties.

The Working Group of the Cabinet Committee to Combat Terrorism or a similar interagency group should be maintained as a forum for exchanging information and coordinating government efforts to combat terrorism. However, its chairman again should have sufficient rank and authority to induce the cooperation of all government agencies. The chairman, preferably, should be one of the individuals who would have command authority in an actual crisis. Appropriate members of the Working Group could still be assembled into a high-level task force if needed in a serious incident.

In addition to the Working Group, we should consider the creation of a small but permanent group somewhere within the executive branch that could monitor the terrorist threat, direct and coordinate all government efforts at combating terrorism, and prepare for the identifiable types of contingencies. It should include individuals with expertise in intelligence, law, human behavior, and specific geographic regions of the globe. It might be placed in the Executive Office of the President and could report to the chairman of the interagency group. This group would have to have an avenue for transcending the bureaucratic boundaries between the departments and agencies within the executive branch. In an actual crisis, this group would act as a "battle staff" for the individual who had responsibility for dealing with the episode.

The creation of an operational mechanism such as I have described would not solve the problem of terrorism, but it would enable the government to respond more effectively to those incidents that may occur. They would also insure that the President did not visibly become involved in crises that do not warrant Presidential attention.

The government's approach to policy and the measures to combat terrorism have been largely ad hoc reactions to incidents of threats. It is necessary to explore alternative strategies and innovative approaches in the areas of intelligence collection, analysis, and assembly, "relations" with some of the larger subnational groups that have used terrorist tactics, means of exerting pressure on nations that aid terrorist groups, and specific responses to various kinds of situations. We also need to examine our preparedness and capabilities for dealing with more serious terrorist threats or incidents that have not occurred yet but are well within the realm of plausibility.

Terrorism probably cannot be eliminated in the way certain epidemic diseases have been eliminated (or at least greatly reduced)—a medical analogy that is often used when speaking of combating terrorism. New crimes—for example, seizing hostages—may be defined in the U.S. Criminal Code; controls on the sale or possession of explosives or certain types of weapons can be tightened; and tougher penalties can be prescribed. But basically, the problem of terrorism probably cannot be solved by legislation. Nevertheless, Congress can, through hearings such as these, encourage and facilitate the development of government capabilities to combat terrorism. Facilitating intelligence gathering, filling the bureaucratic vacuum that currently exists in this area in government, exploring and formulating some alternative strategies for combating terrorism, and preparing for dealing with more serious acts of terrorism are a few of the steps that might be considered.

Senator JAVITS. Thank you very much.

Would you feel that it would enlighten us further as to your position if we included your piece from The Washington Post entitled "Upgrading the Fight Against Terrorism," or is that essentially your testimony?

Mr. JENKINS. I have no objection to its being included.

Senator JAVITS. Without objection, we will include that.

[The information referred to follows:]

[From the Washington Post, March 27, 1977]

#### UPGRADING THE FIGHT AGAINST TERRORISM

(By Brian M. Jenkins)

It climbs in a jagged line, tracing peaks and valleys, varying from year to year, impossible to read from month to month as if it were some kind of stock exchange of violence, but the overall trend is unmistakably upward. International terrorism is increasing.

It has increased fitfully during the last decade. It is likely to persist into the next. It may compel us to alter some of our fundamental concepts of national security.

At present we are inadequately prepared. Putting aside the short-lived verbal outbursts that follow every major terrorist incident, we have not yet made a national commitment to mobilize and organize our resources to deal effectively with terrorism.



We have not created a permanent organization charged to surmount bureaucratic boundaries and provided it with the budget, staff and necessary instruments to operate effectively.

We have not assembled the military capabilities to rescue Americans held hostage abroad, or to recover facilities that terrorists may have taken over, or carry out other foreseeable missions in this new area of conflict.

We have not brought the weight of our considerable intelligence-gathering machinery to bear on the terrorist threat.

#### A BUREAUCRATIC VACUUM

There is no single department, agency or office in the government charged with overall responsibility for combating terrorism that also has the authority and means for doing so.

What do we have? At the Cabinet level of government, we have a committee. In September, 1972, after the Munich Olympic massacre, President Nixon created the Cabinet Committee to Combat Terrorism. It was chaired by the Secretary of State and its members included the Secretaries of Defense, Transportation (which has jurisdiction over hijacked American airliners), Treasury (which has the Secret Service and the Executive Protective Service), the Attorney General, the heads of the FBI, CIA, National Security Council and U.S. Mission to the United Nations, and the President's domestic counselor (an odd inclusion except that the position at that time was held by John Ehrlichman). Since its creation, the Cabinet committee has met once.

At the same time, the President established the working group of the Cabinet committee, which now represents 26 departments, agencies and bureaus. It meets every other week. The working group is primarily a bureaucratic coordinating body, not a command organization. The State Department's Office for Combating Terrorism, which has a mandate for dealing with the problem, consists of five officials and three secretaries. This simply is not enough.

The FBI has the mission of combating domestic political violence, although it cannot merely assume jurisdiction in all local cases. At the international level, a task force is assembled in the State Department to deal with incidents involving U.S. citizens abroad. But a serious incident, one in which Americans are directly and immediately in peril, or a domestic incident with potential international consequences, may quickly become the responsibility of the White House. A complicated incident that crosses national borders and domestic jurisdictions, such as the hijacking of the TWA airliner by Croatian extremists last September, may bounce around the government like a floating crap game.

If the plane is on the ground, it is within the FBI's jurisdiction. If its doors are shut, if it has the power to take off, it is the charge of the Federal Aviation Administration. If it lands in another country, the State Department is involved, although not necessarily in charge. If it should happen to land at a U.S. military base abroad, the cast of characters becomes crowded: The government of that country has jurisdiction and the State Department will be in close touch; the FAA, however, may still dictate U.S. actions regarding the hijacked aircraft; meanwhile, the U.S. base commander has the instruments at hand for taking action, but someone must give him authority to do so.

#### A RISING TREND

Some observers have found encouragement in a seeming decline of international terrorism over the last year.

"Seen on a global scale" wrote Walter Laqueur in Harper's last November, "the downward trend is quite unmistakable." In fact, however, 1976 set a new record for the number of incidents of international terrorism, and 1976 was no less bloody than 1975. There were more bombings. Terrorist hijackings, after declining in 1975, went up again. There were more assassinations. There were fewer hostage incidents, however, which may account for the illusion of a decline.

Terrorists appear to be getting more sophisticated in their tactics, their weapons and their exploitation of the media. Some of the new weapons being developed for military arsenals, such as shoulder-fired, surface-to-air missiles, may find their way into their hands.

Terrorist groups appear to be strengthening their links with each other. One result is the emergence of multinational free-lance terrorist groups that are will-

ing to carry out attacks on behalf of causes they are sympathetic with, or to undertake specific operations or campaigns or terrorism on commission from client groups or governments. The seizure of the OPEC headquarters in Vienna is a splendid example. In December, 1975, a band of pro-Palestinian terrorists took 60 hostages, including the oil ministers of Saudi Arabia and Iran. The gang included two West German terrorists and three Palestinians and was led by Carlos, a notorious Venezuelan reportedly in the pay of Libya's Muammar Qaddafi.

Nations or groups unable or unwilling to mount a serious challenge on the battlefield may employ such groups or adopt terrorist tactics as a means of surrogate warfare against their opponents. We are entering a new domain of conflict.

#### BILLIONS FOR SECURITY

Combating terrorism poses unique problems for governments. Terrorists do not play by the rules. Terrorism is violence against the "system" waged from outside the system. The accepted rules and procedures of international diplomacy and war do not apply. Nor do terrorists operate according to the norms of regular criminals. They define success differently. They may not consider their capture to be a defeat. The Croatian hijackers successfully diverted an airliner, gained worldwide attention, had their manifesto published, surrendered and will be tried. Did they win or lose?

Other forms of conflict, at least in theory, recognize categories of civilians who are not directly engaged and are not targets in the struggle—women and children, for example. Terrorists have far fewer compunctions. They may regard any person as an enemy, and therefore a target, solely on the basis of nationality, ethnicity or religion. Or people can become targets by merely happening to be on board an airliner when it is hijacked. In terrorism, there are no innocent bystanders.

Terrorists have worldwide mobility. They may strike any target at any time, making defense extremely difficult. If airlines are protected, they may attack airports or hijack trains. If diplomats have bodyguards, they may kidnap businessmen or their children. Arab terrorists took over a schoolhouse at Maalot Israel, in 1974. In 1976, terrorists in the French colony of the Afars and Issas seized a school bus filled with 30 children to demand independence for the colony.

Thus, unlike the situation with other modes of conflict, the defense against terrorist attacks will be determined not by the size or strength of the terrorist adversaries but by the size and numbers of targets to be protected. But it is impossible to protect everything. As one Israeli official says, "It is not a question of what to protect; it is a cruel decision of what not to protect." For that is what will be attacked.

Security can become enormously costly. Multiply, for example, the cost of the luggage X-ray machine and metal detector portals at airports—plus the handlers, plus the armed guards—by the number of terminals and again by the number of airports. The entire downtown area of Belfast has been secured like a huge airport: Shoppers must pass through portals on the way in and out; their packages are examined and they may be frisked.

We have a defense budget that reflects the costs of national security in a single figure. We have not attempted in this country to determine the total national costs of security against terrorist attacks: the protection of airliners, government buildings, foreign diplomats, nuclear facilities, additional private police, the money that American corporations with investments abroad spend on security and pass on to the consumer. The figure would be substantial, easily in the hundreds of millions, possibly in the billions, and it is rising fast.

Since international terrorism is an international problem, some believe the proper answer lies in formulating international conventions skillfully framed to win widespread support and ratification. But to gain widespread approval, conventions against terrorism must be so broadly worded as to be meaningless.

At most, there will be limited cooperation between like-minded governments. Few governments are willing to take vigorous action against foreign terrorists or hold them prisoner if this will subject its own citizens to the threat of terrorists retaliation or obstruct the government's foreign policy goals. Despite being warned by U.S. and West German officials that Carlos was in Yugoslavia last September, Yugoslavia made no attempt to arrest him. And fearing that holding Abu Daoud, the mastermind of the Munich massacre, would strain its relations

with oil-producing Arab nations and its arms deal with Egypt, France released him four days after his arrest despite Israeli and West German demands for his extradition. West German officials admitted privately they were relieved that Daoud had not been handed over to them.

#### A NEW AGENCY

What can be done about it? We should start by discarding talk of "eradicating" or "curing the malady" of terrorism; the medical analogy is badly misleading. The U.S. Government can, however, improve its understanding of terrorism, attempt to contain it within tolerable limits, try to deter or prevent the more heinous terrorist actions and equip itself to respond effectively to a new range of future threats and incidents.

Much has been accomplished already. The cool handling of the recent episode in Washington, except by some of the media, shows how far we have come in learning how to defuse dangerous hostage situations.

More such incidents will occur and we may not always be so fortunate in saving every hostage's life without making serious concessions. Any terrorist incident is tragic, but we must put it into perspective. The United States, a large and powerful nation with a deep commitment to democracy, can tolerate a fairly high level of terrorist violence; we already sustain a high level of criminal violence. Currently, no terrorist group in the world pose a serious threat to the stability of the U.S. government, national security or public safety on a large scale.

We should prepare to deal with the more serious potentialities of terrorism, the kinds of things that have not happened yet but could.

We need to consider creating a government entity to deal with the more serious incidents of terrorism. Whatever form it takes, this entity should be situated high enough to override department and agency boundaries in the executive branch—possibly as a special component of the National Security Council staff. The State Department's office for combating terrorism, currently headed by Ambassador Douglas Heck, could be the embryo of such an entity, but it would have to be upgraded and augmented.

Recognizing that decisions in this area are ultimately political, but that visible intervention by the President could balloon the perceived importance of the matter and give terrorists precisely the high-level confrontation they want, it should offer the President ready but invisible access. It should have a permanent staff that includes civilian officials and members of all the services—the latter not being mere representatives. It would not supplant the working group of the Cabinet Committee to Combat Terrorism. It would, however, take over the mission of the task forces that are set up at State to deal with international terrorist incidents.

It would become operational in domestic incidents only when the requirements of the situation clearly exceeded local law-enforcement capabilities and the consequences could be national or international in scope (a threat of mass destruction, for example). Abroad, it would intervene in terrorist incidents when Americans were in peril, when military force could become necessary, when there was a clear danger to the national security (for example, the theft of a nuclear weapon), or when a foreign group operating internationally was carrying on a concerted terrorist campaign against the United States.

The staff would examine these and other contingencies that could require a national response, identify the possible means to deal with them and marshal the necessary resources. It would inventory U.S. intelligence, civilian law enforcement and military assets, identify any shortcomings, and formulate contingency plans. In an actual incident, the group would become the staff for the President or any special action group established by the President to deal with a serious terrorist threat.

#### THE MILITARY OPTION

We must not peremptorily dismiss military action as a possible option in dealing with terrorism. At any time, an incident may occur in which a band of political extremists will seize a large number of American hostages on foreign territory, negotiations have failed, the captors appear on the point of killing the hostages and the local government is unwilling or unable to protect persons within its borders.

Public pressure would not permit any political leaders to stand by while Americans are being shot. The government would either have to yield to the terrorists'

demands or risk the use of military force. At stake will be the lives of the hostages as well as the image of the U.S. government.

Right now, the option of a rescue operation with some reasonable expectation of success hardly exists. There is great danger—massacre of hostages, starting a minor war—in deploying the wrong military instruments out of desperation. The rescue of hostages is one of several foreseeable missions that might arise in this new area of conflict. Such missions, if they are ever undertaken, should not be “black bag” operations, even if they must necessarily remain covert during the execution phase. They may be considered legitimate applications of force in extreme circumstances, and an appropriate function of the legitimate armed forces of the nation.

We already possess some components for a counter-terrorist force: the Army Special Forces, Ranger battalions and airborne units, the Navy's Seals, the Fleet Marine forces, and the Air Force's Special Operations squadrons. But they could not be assembled rapidly to deal with a fast-breaking crisis. Again, the problem is the lack of an organization for bringing selected capabilities together. We are not likely ever to use such a force merely because we have it. Although a regular target of terrorism, Israel has attempted only one such rescue attempt beyond its borders.

If a foreign government did not agree at least tacitly to such a mission being carried out on its soil, it would constitute a violation of sovereignty, though not necessarily an act of war. Clearly, military force is a last resort, either abroad or at home. But in an age of terrorism, it is an unpardonable vulnerability not to have a military option at all, however reluctant we may be to use it.

#### THE NEED FOR INTELLIGENCE

Far more attention needs to be focused on intelligence activities directed against terrorist groups that could threaten the security of the United States or the safety of U.S. citizens.

Intelligence information about terrorist groups is hard to obtain. They are seldom sophisticated enough to be vulnerable to sophisticated intelligence-gathering techniques, such as electronic surveillance. We have no radar to warn us of incoming terrorists. Watching where the money goes, a common intelligence technique used in gathering information about organized crime or smuggling, does not work well in the domain of terrorism. Terrorist operations are low-budget affairs; there is no cash flow.

Knowing what is going on inside a terrorist group is mainly a matter of human intelligence work—plants and paid informants—but most terrorist groups are small and difficult to penetrate. Such efforts require years of patient work. In some cases the chances for preventive action may be so low that the costs and risks are not worth the effort; or, if we are talking about the domestic scene invasions of privacy may result.

Intelligence and local law enforcement officials complain, with some justification, that directives are often poorly written and that overcautious higher officials tend to interpret the directives too conservatively, for fear of getting into trouble. This conservatism is perhaps an understandable reaction to revelations of prior abuses and the widespread distrust of government in the post-Vietnam, post-Watergate era; but the result is an atmosphere in which it is extremely difficult to collect and maintain information about terrorist groups. The perceived conflict between civil liberties in a democratic society, on the hand, and the intelligence activities necessary for the legitimate suppression or at least containment of terrorist violence, on the other hand, is somewhat artificial.

There remain, however, some tough questions which, like it or not, we must confront in this environment of new dangers:

Federal regulations which have intended to preserve the integrity and confidentiality of information files maintained by various government agencies may in some cases also limit the sharing of intelligence data; one consequence is a wasteful duplication of effort and, more important, the possible lack of vitally important information in a crisis. Should exemptions be created?

We divide threats, and responsibilities for dealing with them, into foreign and domestic categories. But what happens if an American citizen is suspected of having joined a terrorist group abroad or of being a confederate of a foreign terrorist group in this country?

We may all agree that nuclear proliferation is a problem, especially the alarming potentiality that terrorists might acquire a nuclear capability, and that we would want our intelligence services to be able to identify in advance any potential threats of mass destruction. Many foreign students are today studying advanced nuclear physics in American universities. Some of the technical training they receive here will theoretically enable them to design nuclear bombs. Should we attempt to keep track of such graduates once they depart the country? Should universities make available to the FBI information on these students? On what grounds?

We have greater freedom of action abroad, but we have no assurance of finding out what goes on inside the heads of perhaps 50 or 60 groups around the world, some of whose members number in the hundreds, while others consist of perhaps a dozen "bombers and shooters." But the task is not impossible. We might consider a simple surveillance approach. As a guess—and it is no more than that—there are probably fewer than a thousand hard-core terrorists in groups that have operated internationally and would be of concern to the United States. We may know the names and locations of several hundred of them, and would want to watch closely a smaller number. If the movements of our prime suspects begin to intersect, we would increase the surveillance and alert potential targets in the area. In those terms, the problem at least seems more manageable.

More can also be done with the intelligence we already have, both in terms of analysis and in terms of devising better systems for its prompt assembly and dissemination. When a terrorist incident occurs, there is little time to comb through files or read several hundred pages or reports.

The greatest threat posed by terrorists now lies in the atmosphere of alarm they create, which corrodes democracy and breeds repression. There is also the danger that the United States will be made to look like a blundering giant in dealing with some future terrorist incident; if it does, the world will perceive a degradation in our ability to handle all crises. If the government appears incompetent, public alarm will increase and so will the clamor for draconian measures.

To forestall the temptation to overreact, and to preserve the image of American strength abroad, we must be able to deal effectively with terrorism. The measures described here would prepare us to do so.

#### INTELLIGENCE ON TERRORISM COORDINATOR

Senator JAVITS. The other question I would like to ask you is this. Do I understand you to say that you have given us the point on intelligence—do you think that the same coordinator who deals with this subject in the Department ought to deal with coordinating the intelligence on terrorism?

Mr. JENKINS. Yes, sir, I would think so. Certainly he should have to have the ability to formulate requests for specific intelligence information and he should be able to participate in the evaluation of that information.

He might also examine various means by which this intelligence information can be rapidly assembled in an actual crisis situation. I have mentioned some of the problems of collections but I think we might also examine some of the problems with rapid assembly of data in a terrorist-covered crisis. There is little time in some of these episodes for reading hundreds of pages of files or detailed dossiers on various groups. We must develop ways of rapidly assembling and portraying both for the groups in Washington and perhaps task forces in U.S. Embassies overseas the vital information they need to respond effectively.

Senator JAVITS. We will ask Mr. Karkashian, when you are through, to give us what his office is doing, what perhaps he thinks it might be doing.

## CAPABILITY TO HANDLE SPECIFIC INCIDENTS

The other question is this. Did I understand you to say that you would like to see a capability in that office to how to handle specific incidents of terrorism? For example, we are all acquainted with the Dutch and the problems they had with the Moluccans in that seige at the train and how that was handled. There is the question of what to do with the police, the military, et cetera, expertise in this regard has been so valuable in dealing with the domestic criminals holding hostages and domestic kidnappers.

Do you feel that we ought to not necessarily have a police department but to have a repository of expertise in the Coordinator's office?

Mr. JENKINS. Yes, I think we should. The Coordinator's office can now draw upon considerable expertise from within the various departments and offices of the Federal Government but I would see some utility in having a small permanent entity. I use the word "entity" here to avoid words that might imply the establishment of separate agencies of bureaucratic empires. A small permanent staff of perhaps 10 or 15 people composed of persons who may have some human behavioral expertise, intelligence expertise, international law expertise, expertise in specific geographic regions of the globe would be able to prepare the contingency plans and develop the strategies that simply are not developed now between crises. We have the capability that we can assemble in a crisis but what we do not have is something that looks at the problem several days after the crisis is over and that is where I see the greatest need.

Senator JAVITS. Senator Case.

Senator CASE. I have no questions. I want to express my appreciation for a very thoughtful paper and your suggestions which I certainly consider very great, and I know the executive branch can do something with them.

Senator JAVITS. Mr. Karkashian, could I ask you to comment on those two suggestions now or what would you prefer?

Mr. KARKASHIAN. I can take the question now or do it later, whichever you like, Senator.

## INTELLIGENCE, EXPERTISE CAPABILITY

Senator JAVITS. Those are the two questions. What do you do about intelligence? What do you do about expertise?

Mr. KARKASHIAN. I don't share Mr. Jenkins' views on what I gather he believes is the inadequacy of our ability to have access to intelligence. We have outstanding cooperation with the intelligence community at present, and I am certain in my own mind that there are no significant disadvantages that we suffer at present in terms of intelligence gathering or in terms of intelligence accessibility to us that would be resolved by the kinds of organizational changes which he suggests.

In terms of expertise, I am flanked here on my left by a psychiatrist and a specialist in management affairs, Dr. Pieczenik, who is an expert in this field and who has been through a number of these situations personally in terms of the crisis management aspect. On my

right is Mr. Fields who is an international law expert. We all work very, very closely together, day in and day out.

I have a permanent staff which is also expert in this field. I suppose it would be nice if there were some renowned expert on terrorism who could assume the Director's job. I don't know of such a person offhand. I would like to think that in the past year I have acquired some expertise in that area.

Senator JAVITS. Do you feel you are adequate to fill this position in both respects?

Mr. KARKASHIAN. Like any bureaucrat, sir, I would always welcome additional assistance, but I do feel that with the expertise we have at present in my Office and with the assistance of Dr. Pieczenik and Mr. Fields on the psychiatric and on the legal side we are quite capable of dealing with the problem.

Senator JAVITS. How much of a permanent staff do you have other than secretaries?

Mr. KARKASHIAN. There are six officer positions in my Office, and I would add that it is the only such staff in any Government agency.

Senator JAVITS. Do you have the whole Department to draw on?

Mr. KARKASHIAN. Yes, sir, I do. We work very closely with our physical security office, SY. We draw on them all the time. We have access to their threat analysis unit. We have access to our Bureau of Intelligence and Research. We have immediate access to every regional bureau, so that we have the full resources of their political experience and knowledge. I don't think there is any lack in that regard whatever.

Senator JAVITS. Thank you very much.

Mr. KARKASHIAN. Thank you.

#### WITNESS

Senator JAVITS. Our last witness is Mr. J. J. O'Donnell, president, Airline Pilots Association.

Mr. O'Donnell.

Senator Case. Mr. Chairman, I have another commitment now that I must keep. Before I go, I want to express my regret to you and to Mr. O'Donnell and to also state for the record how much we appreciate the work of the Airline Pilots Association and the individual pilots in this difficult problem. It has been outstanding.

Senator JAVITS. Thank you very much.

Mr. O'Donnell, we will include your whole statement in the record if you would be good enough to summarize it to the best of your ability.

#### STATEMENT OF JOHN J. O'DONNELL, PRESIDENT, AIRLINE PILOTS ASSOCIATION

Mr. O'DONNELL. All right, Mr. Chairman.

I think the history of the airline pilots involved in world terrorism and hijacking goes back many, many years as you know.

On my left, Mr. Chairman, is Capt. Tom Ashwood who is the chairman of the Flight Security Committee of the Airline Pilots Association. He is also the chairman of the Flight Security Committee of the

International Federation of Airline Pilots Association which represents 65 nations around the world, as well as their Committee on Terrorism. He is also the secretary of the Airline Pilots Association in the United States.

#### ANTIHIJACKING ACT OF 1974

As we are well aware, the first hijacking occurred back in 1936. The vogue of hijacking did not come into place until the late 1960's. For a variety of reasons such as population size, internal political turmoil, and a very high dependence on a complex aviation system, the United States became the focal point of such attacks. The attacks reached a high in 1972 when U.S. carriers suffered a staggering 59 hijackings. At that time the Congress, the administration, the industry, and the Airline Pilots Association acted and the result was the enactment of the Antihijacking Act of 1974.

As a result of that act the security of U.S. civil aviation was vastly improved with a resultant dramatic drop in successful hijacking attempts. In fact, since the enactment of that legislation there has been only one successful hijacking of a U.S. carrier. We would like to point out that that was not due to any fault in security nor a weakness of it, but was accomplished by a well-planned, sophisticated bluff by terrorists. That attack, of course, was the Croation hijacking of TWA in September 1976.

Mr. Chairman, rather than go through my statement with you—I hope you have gone through it a little bit, and I know the staff has because we have discussed it with them—I would like to briefly touch on some of the points and to get into some of the questions we would like to comment on.

#### FAA SECURITY REDUCTION REPORT

One of the major fears we have is a recent report, we don't know if it is accurate or not, that the FAA intends to start reducing the security it presently provides at the loading gates and at the security screening areas. We would hope that report is inaccurate because we feel without the presence of security the system itself is going to break down.

#### REVOLUTIONARY OR TERRORIST GROUPS

In addition to that, we are concerned about the situation in the world today in which almost every state has at least one revolutionary or terrorist group within that state. Until recently such groups tended to keep their own activities confined within their own state, but as late as 1969 and 1970 we have found a situation where the IRA [Irish Republican Army], PLO [Palestine Liberation Organization], SDS [Students for Democratic Society], and the Puerto Rican Nationalists, for example, have established a loose federation under the auspices of the World Revolutionary Movement, and it is very disturbing to us particularly when you look at the attack by the Japanese Red Army at the Lod Airport in Tel Aviv in 1972.



We think that the occurrences of the last several years reflect a much greater cooperation between these different terrorist groups, and we think that in the long run that is going to have a very serious adverse effect not only on the world as a whole but more particularly the part that we are involved in, which is commercial aviation.

The reasons that the hijackers and the terrorists pick on aviation I think was stated earlier today. Capturing an aircraft with 300 people on board, is an attention getter—the value of an aircraft today runs anywhere from \$10 million to \$45 million. I understand a 747-SP is now in the range of \$45 million and that is a very attractive target for a terrorist.

#### REEMPHASIZING TOKYO, THE HAGUE, MONTREAL CONVENTIONS

We would like also, Mr. Chairman, to touch on some of our solutions that we see being put forward such as reemphasizing the conventions that already exist—the Tokyo, the Hague, and the Montreal Conventions. In our judgment, Mr. Chairman, until such time as the rest of the countries around the world will take their heads out of the sand and recognize that it is going to require cooperation around the world—and I am speaking specifically of the Algerian situation. I know it was mentioned in the statement by the other gentleman.

Back in 1970, 1971, 1972, Algeria was the prime spot for the training of terrorists. There was a welcome haven in Algeria at that point in time. In those years we attempted to get the International Federation of Airline Pilots and others around the world to enter into a boycott of Algeria. At that time the United States had no carriers flying into Algeria.

#### SECONDARY BOYCOTTING

We tried to get the primary country, which was France, to cease flying into Algeria. The pilots of Air France agreed, but they advised us that their airline is Government-owned and would continue flying into Algeria using supervisory personnel as pilots. I think the bill is a tremendous step forward. Unless we have—and I use for lack of a better word—a secondary boycott against all nations who not only are part of the bilateral agreements with the United States but they continue to have relations with a country such as Libya or Iraq that is training terrorists, that is encouraging terrorists or that makes heroes out of terrorists. If the United States decides to cut off air service to Libya, we would also put the rest of the nations around the world who are providing air service to Libya on notice that they also must stop serving that country, and if they don't in our judgment, their bilateral agreements with the United States should be null and void. Until we have that type of pressures on those types of countries, I don't think the efforts of the Congress or the State Department or anybody else is going to be effective, Senator.

I think we would like to close with just this point, and it is a major point. I think cutting off commerce is great, cutting off military aid is great, but if we stop selling airplanes to them the French or the Russians will. France would be very delighted if they could pick up the commerce that we now have with Libya. The only alternative we have

in our judgment, because diplomacy seems to have failed, is to force those nations to cut their commerce, for example, to Libya—either that or lose their rights to land their aircraft in this country.

Senator JAVITS. That is third-party nations.

Mr. O'DONNELL. Yes, sir. We call it secondary boycotting.

Senator JAVITS. You extend that to nations aiding and abetting.

Mr. O'DONNELL. Yes, sir.

Senator JAVITS. And that is the only way you think we can get at it?

Mr. O'DONNELL. We have tried everything else.

Senator JAVITS. It is a very heavy responsibility that you have given us, to consider that question.

Mr. O'DONNELL. Terrorism is a dastardly crime, Mr. Chairman.

#### COLLECTIVE BARGAINING TECHNIQUES TO ACHIEVE NATIONAL AGREEMENTS

Senator JAVITS. May I ask you this. What about your own pilots? Of course, you could take union action with respect to where you will fly and where you won't. Now I personally do not favor that because I had the experience with the longshoremen. You may remember they every once in a while won't unload cargoes. I think that is taking the Government's prerogative into your own hands and that is another kind of anarchy. Is that the reason why you would not feel that airline pilots as such should take that kind of action?

Mr. O'DONNELL. I would like to have Captain Ashwood finish up. My analysis of that is historically we do not like to use collective bargaining techniques to achieve national agreements, we don't think that is our role. But we do have a very clear direction to the Department of Transportation, the FAA, and the Department of State that if a hijacking occurs as a result of inadequacy from the systems that we have been demanding in the past and a crew member gets killed or a passenger gets killed that we will give serious consideration to shutting down the world airline system. I state that emphatically, Mr. Chairman.

#### SECURITY OUTSIDE UNITED STATES

We have a system today of security in the United States that just 7 years ago people would not have dreamed of, and I think it is a result of the tremendous work of the FAA and the FBI and other security people and the airlines particularly. We enjoy probably the safest air transportation system in the world because of the airport security program we have. I would like Captain Ashwood to add his comments at this point, Mr. Chairman.

Mr. ASHWOOD. Thank you, Mr. Chairman.

The security around the world generally outside of the United States, with a few notable exceptions such as Israel and probably Great Britain, is very lax and in some cases is totally nonexistent as your experience has indicated. I do chair an international committee consisting of some 42 national groups of pilots throughout the world and when you get down to an individual basis it depends upon the relationships that pilot groups have with their states, their individual states and governments, and that to varying degrees can be very successful or of no consequence whatsoever.

However, we are attempting on an international basis to establish international rules based primarily upon the U.S. experience because that has been the most successful in the long term. I would venture to say, and my next meeting is scheduled in Tel Aviv next month, that we have come quite a long way. I am hopeful after that meeting many nations will have approached the measure of security we have in the United States.

#### AIRPORTS SECURITY RATING PROBLEM

I did hear some comments earlier from some of the witnesses appearing before you, Mr. Chairman, which gave me pause for some thought. I heard some discussion on the advisability of having a kind of security rating on airports throughout the world and this has been conducted within the organization, it is a very confidential document.

I would like to say that the basic problem of security is keeping it secure, and I am afraid that such a listing, such a rating system would provide a laundry list for any terrorist who wishes to attack the civil aviation system. I mean he could just pick out the one with the worst rating and go from there and that might be a consideration for this committee if they consider legislation in that regard.

Also putting aside the question of human suffering, I heard a great deal of reference to that and I am most sympathetic, but to put that aside for the moment, we are really talking about the function of governments, of international politics. We are also talking about the functioning of commercial enterprises. Right now with a handful of telephone change we are perfectly aware that I could make several calls and close down the operation, perhaps even in this building, and that is not forcing the truth. That is what we are saying now, the interruption of the normal political process by terrorism.

#### TERRORISM INCREASE SEEN

Our analysis is—and of course you have greater access to intelligence than we do, but even the little that we have, indicates that we are in for an increase in this type of thing. We are attempting to do as much as we can within our technical field as pilots internationally, and we have been greatly assisted in this regard.

I would like to mention, Mr. Chairman, with your indulgence, the tremendous assistance from the Federal Aviation Administration, at least their Security Department. We have had very close liaison with them over the past few years, and it has been a very happy partnership in that regard. They have been a successfully effective body and if we can just spread the word, if we can just spread the expertise that we have available to us in the United States to these other countries, I think that the physical security part of the problem can be solved. The political part, of course, rests with gentlemen like yourself.

[Mr. O'Donnell's prepared statement follows:]

#### PREPARED STATEMENT OF JOHN J. O'DONNELL

I am Captain John O'Donnell, President of the Air Line Pilots Association representing almost 50,000 pilots and flight attendants.

Accompanying me is Captain Tom Ashwood, Secretary of the Air Line Pilots Association and Chairman of Flight Security for both the Air Line Pilots As-

sociation (ALPA) and the International Federation of Air Line Pilots Associations (IFALPA).

We are most pleased to have this opportunity to speak with you on this grave subject and, sincerely commend this committee for taking the time to examine what we believe to be a serious threat to world aviation and possibly the security of this nation's foreign affairs.

The first hijacking on record occurred in 1936, but such attacks really only came into vogue in the late 1960's. For a variety of reasons such as population size, internal political turmoil and a very high dependence on a complex aviation system, the United States became the focal point of such attacks. The attacks reached a high in 1972 when U.S. carriers suffered a staggering 59 hijackings. The Congress, administration, industry and Air Line Pilots Association acted and the Antihijacking Act of 1974 was enacted.

As a result, the security of U.S. civil aviation was vastly improved with a resultant dramatic drop in successful hijacking attempts. In fact, since the enactment of that legislation, there has been only one successful hijacking of a U.S. carrier. We would point out that this incident was not due to any fault in security system. It has come to our attention that the Federal Aviation Administration, of course, to the Croatia hijacking of TWA in September 1976.

This lessening of attacks may lead one to believe that the problem has gone away, but reference to the recent FAA Hijacking Statistics report clearly indicates that just as many attempts are being made but are being thwarted by our security system. It has come to our attention that the Federal Aviation Administration, the regulating agency for airport security, is contemplating removing the requirement for armed guards at boarding gates and or passenger security points. We feel most strongly that this would derogate the entire existing security system, for an armed errorist would then be able to force his way through the security check without the possibility of armed intervention against him. We respectfully ask this committee not to permit this change to take place for the present security system is fragile and the deletion of this one integral piece could shatter it. There is no question that there are inadequacies in the system, but we are aware that, in a real-world practical sense, it does the job within reasonable bounds of cost and manpower. We would strongly urge, however, that the system continue to be subjected to the closest monitoring and their improvements be made as experience and new technology permits.

It is indeed pleasant to be able to make such positive statements, but now we would address ourselves to the unpleasant, ominous question of international terrorism.

There is scarcely one nation in the world that does not have at least one revolutionary/terrorist group within its state. Until recently such groups tended to keep their activities confined within and against their host state. In the past seven years, however, this relatively controllable situation has changed. Groups such as the IRA, PLO, SDS, Puerto Rican Nationalists, for example, have established a loose federation under the auspices of the World Revolutionary Organization. The WRO provides mutual assistance among its members and this effectively broadens the scope of any one national organization to the whole world. To illustrate this point, one only has to recall the PLO inspired, Japanese Red Army attack against Lod Airport, Tel Aviv in 1972.

The question may be asked, what has all this to do with commercial aviation? To take the United States, for example, we can refer to the efficacy of the security measures now in force. Our aircraft and airports are protected by security so they are less vulnerable to attack. Those aircraft, however, are obliged to fly into areas which can be classified as insecure. But then, it may be asked, what is the purpose of attacking a U.S. air carrier aircraft?

The reason is simple: it is one of the most attractive targets for terrorism for it has the following features:

- (1) It is highly identifiable with its country of registration, for example, TWA and PAN AM are considered to represent the United States of America.
- (2) The place for attack can be chosen from a wide selection of countries with an eye to the convenience of those countries in terms of the existing security arrangements, geographical proximity, political sympathy, etc.
- (3) Aircraft cost between 9 and 35 million dollars. Holding such a prize for ransom can be very effective.
- (4) Aircraft are relatively fragile and are easily destroyed with a few dollars worth of readily obtainable materials.

(5) Aircraft can carry up to 365 passengers which on any given day probably have seven or eight nationalities represented among them. They make great hostages.

(6) The aircraft, as a target, can also provide the terrorist with a means of escape to virtually any part of the world.

(7) Terrorists seek wide publicity for their cause: aircraft crashes and related events are proven headline-grabbers.

It is paradoxical that the more successful nations are in preventing hijacking, the more susceptible they are to sabotage attempts on aircraft. If terrorists cannot hijack, they will destroy.

As members of the Foreign Relations Committee, you have access to a wider range of intelligence reports than we do, but our sources, and I might add, our past experience, indicate that the world is in for an orgy of terrorism unsurpassed in recent history. Any student of international affairs can see that the primary terrorist/revolutionary groups such as the PLO have been losing ground in the past two years. If they are to prevail, they must and they will escalate their activities. The following is a statement made by Farouk Kadoumi, Chief Political Officer for the PLO, August 14, 1977.

"The PLO is opposed to Security Council Resolution 242 as it ignores the rights of the Palestinians and recognizes Israel within secure boundaries. The armed struggle must be continued. There is no escape from the creation of an independent Palestinian state on our entire land."

The bloody history of this decade gives clear indication of what the PLO considers to be "armed struggle." We mention this as an example because the PLO is a highly visible group with a well-documented history. We do not concern ourselves with the rights or wrongs of any revolutionary philosophy, but are only professionally concerned with the effects it may have on the safety of our crews and passengers.

We believe that commercial aviation, embassies, offices of multi-national corporations, shipping, pipelines and government officials are earmarked for destruction and assassination attempts in the near future. Even massive increases in security will not provide the whole solution, they will only serve as a temporary bulwark.

The obvious answer is to be found in a political solution. We recognize the almost insurmountable odds of accomplishing that goal, but we are human enough to hope and strive for it. There seems to be little choice other than to try to solve the problem through the political process, but at the same time, shore up the bulwark by providing more security in those areas known to be vulnerable. This is one area we consider to be very sensitive. The citizens of this nation are accustomed to the highest degree of personal rights and freedoms. Our society does not lend itself to the concept of turning our airports, railroad and bus stations, public buildings and so forth, into armed camps. Freedom of movement is an almost sacred American tradition which must be preserved. Therefore, any increase in overt security must be made with great care and deliberation.

By virtue of its membership and position within the International Federation of Air Line Pilots Associations, ALPA has been very successful in its endeavors in the field of flight security. Within this federation of pilots from more than sixty nations, many of them hostile to each other, the brotherhood and common cause that exists among international pilots has worked to great effect. Pilots from hostile nations sit on common committees and do so with harmony for understanding. We mention this for we feel that this approach has yet to be fully recognized or exploited in the search for world peace. We would point out that ALPA constitutes almost 50 percent of the IFALPA group and enjoys a proportionate amount of influence.

In the past we have utilized our resources in attempts to provide a meaningful international convention to counteract international terrorism and we stand ready to do so again.

The existing Hague, Montreal and Tokyo Conventions only address parts of the situation. They all fail in one major area: none of them contain any enforcement provisions within their language. That gentlemen, for all intents and purposes, renders them impotent.

We respectfully urge the members of this Subcommittee to continue to press for a new, meaningful International Convention which clearly defines a terrorist/hijacker, makes punishment swift and inevitable and provides economic, political and social sanctions against those states who fail to comply.

We would not presume to advise on matters relating to Foreign Relations, but it is evident that the problem of nations encouraging and harboring terrorists could be approached by the expedient of sanctions in foreign aid and trade by the United States. We would respectfully request that consideration of this aspect be made by this subcommittee.

The world's commercial airline system is unquestionably a vital necessity for the continuance and stability of international commerce and politics. It must be protected against its inherent vulnerability and fragility by formal recognition by the international community of its essential nature and neutrality.

We stand ready to assist in this endeavor and freely offer the considerable specialist resources at our command.

Thank you again for this opportunity to speak and we hold ourselves available to answer any questions you may have.

Senator JAVITS. Thank you very much. I am very impressed with what you say especially about the greater contact among terrorist groups which makes our work even more difficult. It does seem to be a network of terrorist groups that has lateral support and lateral communication, and I am grateful to you for highlighting that in your testimony.

We will check with the FAA as to their plans respecting any change in U.S. airport security. I must say I would be very loathe to see that and I would have to find some very good reasons.

#### TRAVEL ADVISORIES RESPECTING WEAK SECURITY AIRPORTS

The other thing I would like to ask you is would you be good enough, if it is entirely agreeable to you and to the Department, to share your views, on this matter of travel advisories respecting weak security airports because I think your observation is very accurate. These problems are solvable.

I don't want to go into detail as to what I think might be done here, it is unnecessary, but I do think that if it is agreeable to the Department it would be very helpful if your expertise were made available to them. Is that agreeable to you?

Mr. O'DONNELL. Yes, sir, Mr. Chairman. Since hijacking really got out of hand since 1969, 1970, 1971, we have been working very closely with the State Department. We have a person we contact on a daily basis to give him this information and there is a coordination between us. We have pilots return from overseas with some nightmarish circumstances beyond comprehension that we don't want to get to the press. We give this to the State Department and there has been cooperation between us.

Senator JAVITS. Thank you very much, Mr. O'Donnell.

If there are no other witnesses, the hearing is adjourned, subject to the call of the Chair.

[Whereup, at 3:47 p.m., the subcommittee adjourned subject to the call of the Chair.]

[Additional questions and answers follow:]

DEPARTMENT OF STATE,  
Washington, D.C., November 29, 1977.

HON. HUBERT H. HUMPHREY,  
Chairman, Foreign Assistance Subcommittee,  
Senate Foreign Relations Committee

DEAR MR. CHAIRMAN: Attached for the record are unclassified replies, plus one classified reply, to questions either taken by the State Department of the Office

classified reply, to questions either taken by the State Department witness, Mr. John E. Karkashian, then Acting Director of the Office for Combatting Terrorism, on the occasion of your Foreign Assistance Subcommittee hearing on terrorism or submitted to the State Department as follow-up questions. I regret the delay in replying which was due to the need for careful consideration of certain aspects of the terrorist problem which were raised by the questions.

Sincerely,

DOUGLAS J. BENNET, JR.,  
Assistant Secretary  
for Congressional Relations.

Enclosure. Questions and Answers Concerning Terrorism.

Question 1. One of the most difficult aspects to countering terrorism is how to get a "handle" on countries which aid terrorists, such as Libya and Iraq which the State Department's April 27 letter to Senator Javits, identified as two of the countries which have assisted terrorists. As your statement, on page 9 noted, these types of countries are not generally recipients of foreign assistance. You say at the bottom of the page, "We must review our overall relations with such countries to determine havens now available to terrorists."

Is such a review underway?

Answer. We continue to review, on an intensive basis, our policies toward all countries which aid and abet terrorism. Our diplomatic and economic measures are designed both to make clear the costs of supporting terrorism and to encourage trends away from such support. However, we believe it would be imprudent to describe for the public record the nature of the actions taken or which might be envisaged. Therefore, we wish to submit a further classified response to the question.

[Further response is classified and in the Committee files.]

Question 2. Is any consideration being given to cutting off shipments of spare parts?

Answer. We assume you mean, for example, the shipment of limited spare parts to Libya for C-130 aircraft they own. It has been our policy to keep Libyan inventories small. We have under continuing review the possibility of a cutoff, which would impact on the Lockheed maintenance contract.

Question 3. One problem which has been raised is the number of sophisticated weapons such as shoulder-launched anti-aircraft missiles floating around in the Middle East. A Russian-made launcher was used in an unsuccessful 1973 attempt to hit an airliner at Rome airport.

The Wall Street Journal, in a January 11 article headlined "The Terrorist: Obtaining Weapons is an Easy Task For Almost Any Group," quoted U.S. intelligence sources as saying Strellas have shown up in almost all the Arab countries and in some African countries.

Is there anything in the works to try to limit the flow or is the genie out of the bottle? Are there adequate controls on similar U.S. weapons such as the Redeyes sold to Jordan?

Answer. The U.S. has long been concerned about the spread of this type of weapons system, because of its potential for use by terrorists. We have made several attempts to reach international understandings that would limit further sales. These attempts have not been particularly successful. The SA-7 (Strella) is now in the inventories of a number of countries, including some Arab and African countries. We intend to continue to pursue multinational efforts to control the proliferation of this type of weapon.

For our part, we have restricted sales of Redeye to a very few nations and require that appropriate security be maintained to prevent unauthorized use. As more advanced systems are produced, we expect that our sales will be even more restrictive and, in the event of a sale, that adequate security measures are present as a condition of sale.

Question 4. The Commerce Department earlier this year circulated notices of trade opportunities in Iraq, such as contracts for which Iraq is seeking bids. Is this type of thing compatible with the anti-terrorism effort, especially since it concerns a country with which we have no formal diplomatic relations?

Answer. In the absence of a ban on trading with Iraq, we have no reason to withhold information from American businessmen which might enable them to do business in Iraq and thereby contribute to an improvement in our balance-of-payments situation. Anything that contributes to expanded Iraqi reliance on the West serves our longer-range interests. Stringent restrictions are of course ap-

plied to the export of military and military-related equipment, as well as to other items subject to export controls. The United States Government is trying by other means to dissuade Iraq from lending support to groups espousing international terrorism.

Question 5. A week ago, the Washington Post carried a report that three of the Palestinian terrorists who took part in the 1972 Munich massacre are now in Beirut, receiving a \$1,000 a month pension from the Libyan government. The article quoted the German court-appointed lawyer for the three men. Do you have any confirmation of the story? If not, is it plausible and do you know of other instances?

Do you know, or can you provide for the record, a list showing what has happened to the known terrorists who were given haven by one country or another and where they are now or were last reported?

Answer. We have no information to confirm the story that the Palestinian terrorists who took part in the 1972 Munich massacre are now in Beirut, receiving a \$1,000 a month pension from the Libyan government. As you are aware, they were jailed in West Germany awaiting trial when two other Palestinians hijacked a West German airliner and effected their release. All were flown to Libya, and nothing has been heard of them since. While it is entirely plausible that they continue to receive money from the Libyans, it seems less likely that they would be living in Beirut. Libya would seem a more likely place.

The present locations of terrorists who were granted safehaven by one country or another are not known. The following is a rundown of where a number of terrorists were last reported.

The two terrorists who seized a train at Merchegg, Austria, on 28 September 1973 were flown to Libya where they were released.

Five terrorists who seized the Saudi Arabian embassy in Paris on 5 September 1973 were flown to Kuwait, and reportedly departed that location in October of the same year.

Three terrorists attempted an attack on an El Al aircraft in Paris in January 1975. They then seized an aircraft and were flown to Iraq where they were given safehaven.

Two terrorists who attacked passengers at Athens airport in August 1973 were sentenced to death by a Greek court, but the Greek government later commuted the sentences to life imprisonment, then expelled them to Libya. On arrival in Libya they were allowed to go free.

Five terrorists who attacked a Pan American plane in Rome on 17 December 1973 hijacked a Lufthansa jet and flew to Kuwait. They went ultimately to Libya where they were set at liberty.

Four terrorists who occupied the Japanese embassy in Kuwait in February 1974 were granted safe conduct by the Kuwait government and flown to Aden, where they were set free.

Four terrorists who hijacked a Japanese airlines plane to Benghazi, Libya, in August 1974 were allowed to go free by the Libyans.

Two terrorists who hijacked a British Airways plane to Amsterdam in March 1974 were sentenced to prison but later released and flown to Tunis as part of an agreement reached with four other terrorists who hijacked a British Airways plane at Dubai in November 1974. All six later went to Libya where they were given their freedom.

Three members of the Japanese Red Army who seized the French Ambassador in The Hague in September 1974 were allowed to leave Holland and go to Syria.

Three terrorists who seized a Greek freighter at Karachi in February 1974 were put aboard a special flight for Cairo and Libya where they are assumed to have been freed.

Four terrorists, two Arabs and two Japanese, who attempted to destroy oil storage tanks in Singapore in January 1974 and then seized a ferry boat with hostages were granted safe passage on the demand of terrorists who seized the Japanese embassy in Kuwait. The Singapore terrorists were flown to Kuwait and then on to Aden and freedom with the terrorists who had obtained their release.

The terrorists headed by Carlos, who undertook the OPEC raid in Vienna in December 1975, were granted asylum in Libya.

Five Japanese Red Army terrorists who seized the American embassy in Kuala Lumpur in July 1976, together with five others whose release they secured from Japanese jails, were flown to Libya where they were given asylum.



The three Arab terrorists who hijacked a KLM aircraft which finally landed in Cyprus in September 1976 were allowed to leave Cyprus.

Question 6. What is the status of the investigation into the death more than a year ago—June 16, 1976, of the murder of the U.S. ambassador in Beirut, Francis Meloy and two other embassy staff members? Press reports said the PLO said three men had been apprehended and they confessed. What happened to the three accused?

Answer. The U.S. Governments' investigation into the murder of Ambassador Meloy, Mr. Waring, and their Lebanese driver, Zohair Moghrabi, is continuing. Some slight progress in the investigation has been made recently, but press reports to the contrary, the precise identity of those responsible has not been established. We will continue to use every means at our disposal to see that the guilty are identified and brought to justice.

Question 7. On page 6, you mention that some of the developed countries are sometimes inhibited by political or economic considerations from taking actions which might offend governments which support or condone specific terrorist organizations. One example which comes immediately to mind is France, especially in its release of Abu Daoud—an action which led to the Senate resolution I co-sponsored condemning the action. But do you see any ways of dealing with such countries as France? What is the current status of their cooperation in the anti-terrorist effort?

Answer. France has responded in a vigorous manner to recent international terrorist actions. A step-up in terrorist violence within France has undoubtedly further heightened concern and awareness of the problems in that country.

France has highly competent policy and security forces which play significant roles in the French counterterrorism effort. Although specific details are lacking, it is known that internationally French authorities collaborate and consult with the law enforcement agencies of other countries, through Interpol, for example. Within the narrower framework at the European Community, France also contributes to the mutual assistance which these countries render one another in the security and law enforcement fields.

A short review of developments during the past year may illustrate the current status:

After the TWA jetliner hijacked by Croatian dissidents in New York in September 1976 landed at de Gaulle airport, the French Minister of Interior ordered that the aircraft's tire be shot out and then sent a message to the skjackers offering them three choices: to be executed on the spot if they harmed the passengers or crew; to surrender to U.S. authorities; or to surrender to Yugoslav authorities. When the hijackers gave up they were promptly put aboard a French Air Force jet under guard and flown immediately to waiting federal officers in New York. President Giscard d'Estaing later issued a statement that the firm measures taken in this incident would be the model for any similar event occurring in French territory in the future.

French police arrested three Frenchmen in May 1977 and charged them with involvement in the murder of the Bolivian ambassador a year earlier, and in the shooting of a Spanish military attache in October 1975. Both attacks occurred in Paris. The current status of the arrested men is not known.

Another Fiat executive Luchino Revelli-Beaumont was released by his kidnapers in early July 1977 following the payment of an undisclosed sum of ransom. French police arrested Albert Chambon, a retired ambassador and friend of the victim who was instrumental in obtaining the latter's release. He was charged with protecting criminals by failing to tell police of his negotiations with the kidnapers. Seven persons suspected of involvement in the kidnaping were arrested in Spain and French authorities requested their extradition.

West German lawyer, Klaus Croissant, who had defended a number of German terrorists and was facing terrorist charges himself, jumped bail in July 1977 and fled to France where he requested political asylum. He remained free until 30 September when he was arrested by French police. France has now agreed to a West German request for his extradition. After fleeing to France, pro-Croissant articles appeared in the French media. These sentiments stung the Germans and were particularly galling to them after the kidnaping of industrialist Hanns Schleyer in early September. This series of circumstances prompted President Giscard d'Estaing to send a personal message of support to Schmidt, and also prompted the French President to send a former Interior Minister to discuss counter-terrorism tactics with West German officials in mid-September.

Question 8. Exactly what is being done to get the International Civil Aviation Organization (ICAO) to adopt stronger security measures, especially to deal with weak links such as airport security?

Answer. The U.N. General Assembly Anti-Hijacking Resolution unanimously approved on November 3 condemns hijacking, urges states to consider ratifying existing conventions, and requests the International Civil Aviation Organization (ICAO) to take practical measures to upgrade airport security.

To support the U.N. Resolution, Secretary of Transportation Adams addressed the November 3 special meeting in Montreal of the ICAO Council where he called upon that Organization to upgrade existing security specifications. We proposed a number of specific measures, including universal screening of all passengers and all carry-on baggage on all airline flights. We have also recommended the strengthening of law enforcement support for aviation security, including the special guarding of aircraft under threat of hijacking.

Also, the recent ICAO Assembly gave the ICAO Secretariat authority to suggest the convening of regional security seminars rather than to have to await requests from the States. We are proposing more such ICAO seminars and more technical assistance by ICAO on aviation security.

Question 9. Ambassador Heck, the former head of the anti-terrorism office, said in written replies following his May 11 appearance before the Senate Foreign Relations Committee, that bilateral channels will have to be used to bring pressure to bear on countries which fail to maintain minimal airport security standards. Why bilateral? Precisely what is being done?

Is there anything Congress can do to assist the effort?

Answer. The reason we must use bilateral channels, in addition to multilateral persuasion, to bring pressure to bear on countries which fail to maintain minimal airport security standards is that ICAO Standards are not mandatory. In accordance with the provisions of the Convention on International Civil Aviation (ICAO's charter), ICAO member countries can either adopt ICAO Standards through incorporation of these Standards in their own national laws or regulations or file a difference with ICAO.

The U.S. Federal Aviation Administration (FAA) is currently providing teams to visit and advise interested foreign countries on how to improve the security of their airports. FAA is also furnishing them, through our Embassies, with U.S. procedures for weapon detectors and x-ray inspection systems. In addition, the FAA provides training for foreign nationals through its aviation security course at Oklahoma City with some of the expenses of these trainees being funded by the Law Enforcement Assistance Administration.

At the present time we have no suggestion for U.S. legislative action.

Question 10. If economic sanctions do not succeed in eliminating "safe havens," what do you recommend?

Answer. In the aftermath of the recent Japanese and German aircraft hijackings, it appears that a combination of increasingly critical international opinion and behind-the-scenes diplomatic suasion by governments with influence on states which have in the past provided safe haven is beginning to cause many such states to refuse sanctuary or have uncomfortable second thoughts. We believe this is a trend whose momentum we and like-minded governments have helped to initiate and can reinforce in international fora, such as with the recent U.N. Anti-Hijacking Resolution, and in our regional and bilateral policies. As we said in our answer to question No. 1 from Senator Case, we must try to design a judicious admixture of actions, both to make clear the cost of supporting terrorism and to encourage movement away from such support. We believe there is no easy formula and that we must be both tenacious and alert to all possibilities in this regard.

Question 11. There are indications that Nuclear Terrorism is a growing possibility. What can be done to help prevent it?

Answer. In the absence of any hard evidence to the contrary, we are not certain that we agree with the contention that nuclear terrorism is a growing possibility. We do recognize that there has been much conjecture on this matter in recent years. Regardless, however whether one agrees or disagrees with this contention, the potential consequences which might arise from theft of a strategic quantity of weapons-usable special nuclear material coupled with the recognition of the willingness of some individuals or groups to resort to violence to achieve their goals, dictates that prudent safeguards be provided which afford a high confidence against attempts at theft by internal conspiracies or determined violent assault which might occur in the future.

As you are aware, implicit in the Energy Reorganization Act of 1974 (Public Law 92-438) is the concern expressed by Congress relative to safeguards against such threats. In response to this concern, numerous steps have been and are being taken by the responsible government agencies to ensure the adequacy of these safeguards at licensed as well as government-controlled facilities and to enhance safeguards as appropriate. These steps include such items as adequacy evaluation programs, safeguards research, and the generation and implementation of new or modified safeguards regulations. For example, some specific actions taken during this year to enhance safeguards include issuance by NRC of the following regulation changes:

A proposed rule requiring security clearances for individuals with access to or control of licensed special nuclear material.

A proposed rule requiring the development of safeguards contingency plans for dealing with threats, theft, and sabotage relating to licensed nuclear material and facilities.

A proposed rule upgrading the control and protection of nuclear materials at licensed fuel-cycle facilities.

A rule currently being implemented which improves the physical protection at nuclear reactor facilities.

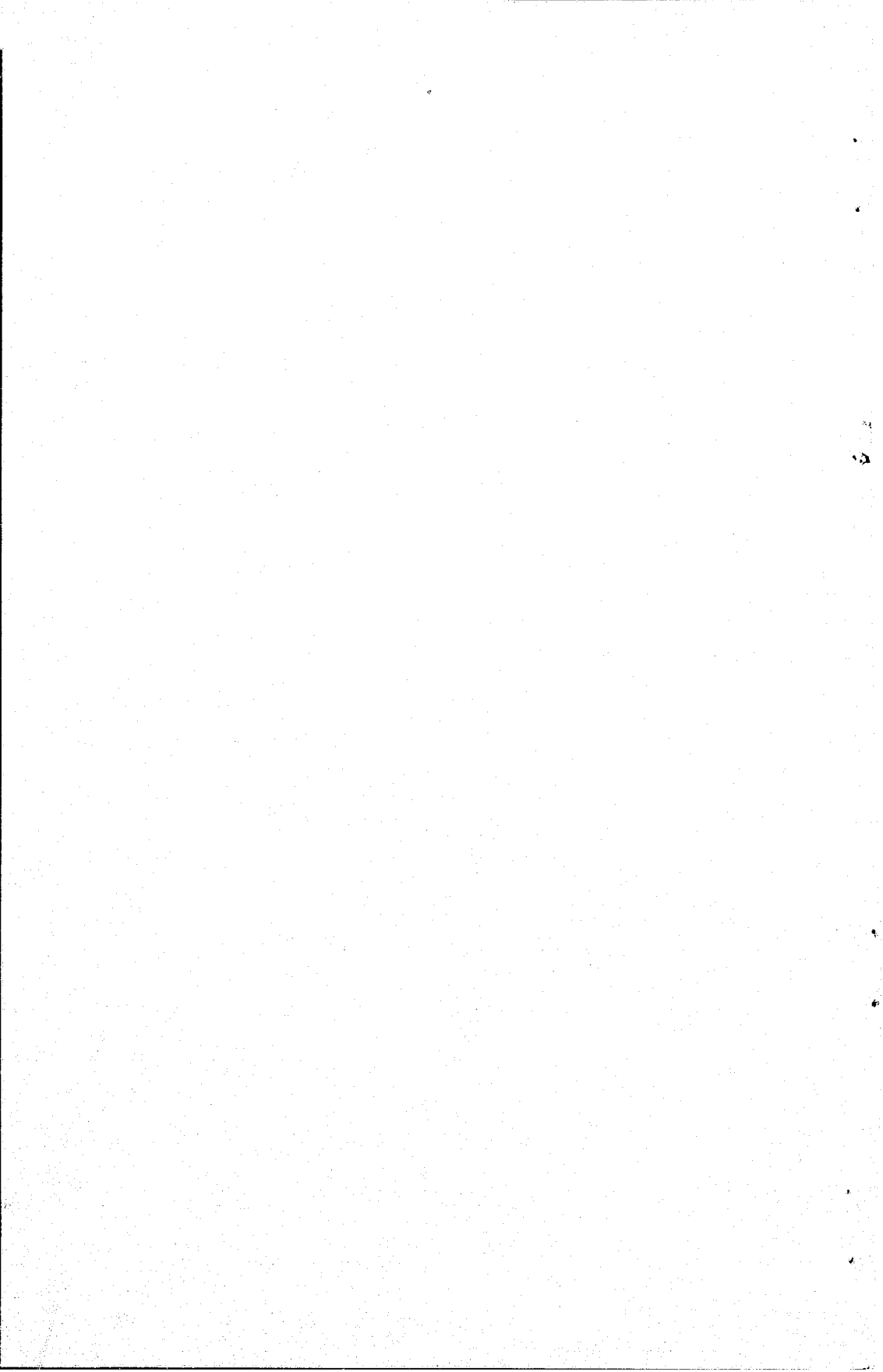
A proposed rule upgrading guard qualification, training and equipping requirements.

In addition, recognizing the dynamic nature of the situation, cognizant agencies maintain a current awareness of political threat capabilities and characteristics through ongoing studies and intelligence liaison and information exchange among and between members of the Intelligence Community and the agencies responsible for nuclear programs.

These efforts at upgrading U.S. safeguards also serve as an example to other nations who share our concern about this threat in a global context. In dealing with our nuclear exports, the U.S. physical security program includes bilateral consultations and periodic examination on a country-by-country basis of the adequacy of physical security for U.S. origin material and equipment in that country.

Question 12. I understand that your office is working closely with your counterparts in Canada and Great Britain to develop anti-terrorist cooperative measures. Can you elaborate on the progress of these discussions? What other countries are you dealing with in this regard?

Answer. Following the September 1976 hijacking of a TWA plane by five Croatian/American terrorists, an incident which directly involved both the U.S. and Canadian Governments, we approached the Canadian authorities to compare notes on lessons-learned with a view to establishing closer working relationships. We have exchanged useful visits in this regard which we believe will enhance our respective capabilities to handle future incidents. We have agreed to consult periodically to address issues of mutual and parallel concern. We and interested officials of the British Government have begun similar discussions. We hope in the future to engage in cooperative efforts with our counterparts in other like-minded governments.



## APPENDIX

AMERICAN FOREIGN SERVICE ASSOCIATION,  
Washington, D.C., September 21, 1977.

Hon. HUBERT HUMPHREY,

*Chairman, Subcommittee on Foreign Assistance and Economic Policy of the Senate Foreign Relations Committee, Washington, D.C.*

DEAR MR. CHAIRMAN: The American Foreign Service Association, which is the professional representative of active and retired Foreign Service personnel as well as the bargaining agent for Foreign Service employees of the Department of State and the Agency for International Development, welcomes your Subcommittee's interest in the problem of international terrorism. We are deeply concerned about international terrorism, which on numerous occasions in recent memory has had tragic consequences for our Members and other federal government employees overseas, and which daily confronts our colleagues abroad. We have created a Committee on Extraordinary Dangers and have sought to develop and urge the adoption of policies which will assist in protecting U.S. government employees abroad.

The fundamental causes of terrorism—political, social, economic, or psychological—are well known. The dangers of politically-motivated terrorism are increased by the actions of certain governments which harbor, support, or release terrorists, as well as by the weakness of certain other governments in dealing with terrorists. In particular, we note the cowardly act of the Government of the French Republic in releasing Abu Daoud, who allegedly masterminded the attack on the Israeli Olympic Team in Munich in 1972. A number of other countries have released convicted terrorists on the threat of reprisals by their colleagues. So long as such intimidations succeed, terrorists will feel confident of avoiding punishment for their violent acts.

We have encouraged the efforts being made by the Executive Branch to deal with this problem—the increases in funds for physical security abroad, for which we are grateful for the budget support authorized by the Congress; the special courses offered by the Foreign Service Institute on this subject; and the death gratuity for survivors of terrorist victims which was authorized by the Congress not long ago. Yet, like Brian Jenkins in his testimony before you, we have been dissatisfied in certain respects with the government's performance—notably in its rhetorical excesses and rigidity in hostage situations, and its reluctance or inability to deal effectively with pro-terrorist governments.

S. 483 appears to us to be a first, but necessary, step in the right direction in what must be a concerted effort to put into place a comprehensive set of sanctions against, and/or incentives to foreign governments in their dealings with terrorists. We believe Senator Heinz has made an extremely useful contribution to this effort, building on Senator Bengtson's S. 206 and the "Wolff Amendment" in the House of Representatives. Yet we would respectfully suggest two further improvements in S. 483:

"Denial of access to the Generalized System of Preferences should be added to the list of measures the President can take against countries which aid and abet terrorism; and

"The time period for which the President may suspend rights or assistance should extend until such time as the foreign government in question ceases its assistance to terrorism."

As professionals, we generally understand and support the need for Presidential flexibility in the day-to-day conduct of our foreign policy. But we find that too often in the past, even the most minor consideration of bilateral relations has led our government to decide not to act effectively against pro-terrorist governments. As Brian Jenkins pointed out in his testimony, "Desire to combat terrorism seldom overrides the pursuit of other national interests." We believe

that S. 483, with the changes we have proposed, would effectively express the nation's strong commitment to fight international terrorism, and provide a means to make that commitment more effective, while permitting adequate flexibility through the national security exception, subject to Congressional veto. While many of the sanctions of the act will not greatly affect a number of the most flagrantly pro-terrorist countries, they may have an impact on other countries more dependent on our political goodwill, trade, and assistance.

We believe that there are further measures our government should take to fight international terrorism and to compensate its victims:

"Further improvements should be made in physical security abroad, with more attention toward the protection of lower-ranking foreign service people;

"The Foreign Service Institute's anti-terrorist courses should be expanded, and more employees and dependents encouraged and enabled to participate;

"The office of the Coordinator in Combating Terrorism in the Department of State should be strengthened;

"In hostage situations, U.S. officials should stop saying we will never negotiate or make concessions, and adopt tactics flexible enough to maximize the prospects of saving lives, while discouraging further such incidents;

"In our diplomatic contacts with other governments, the United States should continue to strongly urge their adherence to the 1973 Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, as well as other existing anti-terrorist conventions. We should support other anti-terrorist proposals such as that of the Federal Republic of Germany against the taking of hostages."

We hope that the Committee on Foreign Relations will also examine the present provisions in the Foreign Service Act which provide for compensation to victims of international terrorist attacks, and to their survivors. Present provisions include a death gratuity of one year's salary, and we have recommended that this be amended to not less than the annual salary of an FSO-4, Step 1. Yet these provisions, in our view, are totally inadequate to compensate the families of American employees who are killed or permanently disabled in terrorist attacks overseas. These employees are assigned abroad, with their families, at the orders of the United States government, in dangerous areas which create strong pressures and problems for family life. It is tragic when individuals are killed and the family is left with inadequate compensation to care for growing children and the other needs of affected families.

Finally, while the implementation of the above suggestions may reduce somewhat the exposure of our diplomats and our citizens to acts of international terrorism, there is a need to deal with the more fundamental conditions which give rise to these politically-motivated attempts to destroy innocent lives. In this respect, we recommend strongly that the Congress, while continuing to reject and abhor the terrorists' methods, examine carefully and systematically the roots of international terrorism and support efforts to provide fundamental solutions.

Thank you for this opportunity to place our views on the record. We hope that the Subcommittee and the Congress as a whole will maintain a continuing interest in this issue.

Sincerely yours,

LARS H. HYDLE,  
President.

