

ISSUE:

The CASB has written a report which they are considering preliminary and the knowledge of its existence surfaced at the Kirpal Inquiry in Delhi. The report suggests that the accident was the result of an explosion in the forward cargo compartment.

BACKGROUND:

After the first round of the Kirpal Inquiry concluded in November, the Canadian Aviation Safety Board asked its staff to prepare a report on the accident. They planned on having this report ready for the next round of the Kirpal Inquiry which started January 22nd. At the Interdepartmental meeting when this was announced, both the RCMP Criminal Investigation staff and Transport Canada felt it was far too premature to have a report written because there was no conclusive evidence to indicate what transpired with Air India 182. There is the strong circumstantial evidence as developed through the RCMP scenario of a bag getting on board through the system from Vancouver but the RCMP, who have far more details on this than the CASB, are not prepared to say that an explosive device entered the system this way and that it caused the disintegration of Air India 182.

At a meeting chaired by the PMO (Dr. Fred Doucette) on Thursday, January 16th, the CASB introduced their report for the first time. The Department of Justice lawyer (Ivan Whitehall) felt very strongly that the report should not go forward until he had a chance to review it and that it could not be presented to the Kirpal Inquiry if it had any information which was not in line with other facts being brought forward through the Canadian input into the Kirpal Inquiry. There was long and sometimes heated discussion with Bernard Deschenes at the meeting. The statutory role of the CASB itself was questioned on why they would write the report when it was an Indian Government investigation of an Indian registered aircraft over the high seas. The only other Government that should have been involved by law is the United States Government because they were the country that manufactured the aircraft. The decision taken at the PMO meeting was that the report itself may not be presented to Kirpal but that the author of the report would be put on the stand and his testimony could be entered as just another piece of testimony for Kirpal. The Cabinet Ministers concerned have agreed with this approach. There were many reasons for not wishing to enter the report such as the fact that it was based on inconclusive evidence and could not even be complete from an Indian standpoint until after the Kirpal.

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Inquiry. Also, it was felt that our submission of the report would be pre-empting the Court of Inquiry and its conclusions.

Justice Kirpal has tried for some time to tie in the Tokyo incident with Air India 182 and he has been unsuccessful. One potentially damaging part of this report is that it does provide him the linkage which was not given to him by the Japanese police or the RCMP.

CURRENT STATUS:

In examining the report one cannot find too many points of factual error. The main problem with it is the way it is written for it leads one to conclude that there is only one possible way an explosive device got on board, if indeed one was put on board. The report is probably more damaging because of the way it is written and what it does not say than for what it does say. The following are some of the difficulties that we have with it:

- It leaves out any other possibility of how a device could have been placed on board, such as having been planted and strategically located from any location including Frankfurt, India, Toronto or Montreal.
- It leaves out the possibility of it entering the system through checked baggage or cargo at Toronto or Montreal.
- The report does not contain a section dealing with information which might be obtained from an explosives expert. Although we have nothing conclusive, one of the best experts in the world is available through the FAA and a preliminary indication is that a bomb the size of the one that was at Narita would not be able to do this type of damage to a B747. We have seen photographs of a bomb putting a hole in a BAC 111 which was still able to fly, also a plastic device in the passenger compartment of a 747 over the Pacific which only loosened some of the rivets in the fuselage. An expert in explosives would probably conclude that if the device was packed inside a suitcase in a container, it would have to have been to be assisted in order to do this type of damage. One possible way it was assisted was through the oxygen tanks.
- The report goes way beyond the normal mandate of the CASB which would conclude what caused the accident i.e. an explosion, if that were the case. Normally they would not get into how a device was put on board, other than to just say it was there.
- The report does not question whether the device was meant to go off in London in view of the fact that the aircraft was one hour and forty minutes late.

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- The report does not say that the RCMP have not come to the same conclusion yet it is RCMP evidence being used. In fact the RCMP is still actively investigating several other alternatives.
- The report does not talk about interlining of bags worldwide and would leave one with the conclusion that it is only the Canadian system that would allow this, whereas that is not at all the case.
- The report does not point out that if a device similar to that in Tokyo was on this aircraft (in a Sanyo receiver) that device would not be picked up on the x-ray as being other than what it appeared. Even opening the bags probably would not have identified it as other than a radio.
- The report seems to dismiss without due consideration the expert testimony in the British report which dismisses the idea of a bomb.
- The report uses only the RCMP evidence which it finds suitable to arrive at its conclusions even though the RCMP have other evidence which cannot be mentioned because of their investigation.
- The report does not really bring out the fact that the noise from the PD-4 sniffer at Toronto was not the noise which would be generated through an explosive device, i.e. a long whistling sound.
- The report implies that Air India only asked for increased security in June 1985, whereas in fact they had asked for increased security for just about all of their flights since June 1984 (after the incident of the Golden Temple); nor that the letter they wrote said they were concerned about a hijacking during the Gandhi visit but the Gandhi visit to the United States had concluded prior to June 22nd.
- The report on page 11 implies that Annex 17 calls for certain measures for "special risk flights". These measures are not in Annex 17 and are in the Security Manual which provides guidelines for States and Operators. This portion of the Manual are measures for the operator to take. In any event this particular flight was not considered by the operator to be a "special risk flight".

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- There probably was a passenger reconciliation at Toronto as suggested by the ICAO Security Manual for if a bag did get on board as suggested, through Vancouver, the individual in question was not a passenger, therefore, there was no question of a passenger not showing up for the flight. This particular bag should never have been checked through for someone on standby and when this was done, Air India should have been alerted.
- The report mentions the Vienna Convention and questions
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- Page 17 says that checked baggage was not normally subjected to any security control. It was always subjected to some control such as being accepted from passengers only, bags identified, with baggage tags on the baggage and that tags were under control of the carrier; also, cargo and baggage were kept in restricted areas once they entered the system. CP Air in a letter of August 1985 said that they were taking additional measures to identify potential problem passengers. They said they identified these as "agitated behaviour, one way tickets, cash payment, late bookings, etc."
- Page 18 talks about Air India alerting certain people about their flight in a letter of May 17th. This letter was never sent to CP Air Vancouver so that they could alert their staff of the problem.
- On page 54 it says that there is nothing to suggest that the bag was not transferred to Terminal 2 but by the same token there is really no positive proof to say that it was.
- The report condemns Burns and Transport Canada for not having adequately trained people. At present Transport Canada only requires people to be trained at the passenger screening point; the other Burns employees hired for checked baggage and for searching the aircraft, etc. were working for Air India and were not part of the Canadian program.

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- On page 66 the report indicates that Air India had two different systems, one for Toronto and one for Montreal as far as matching bags and reconciling bags and passengers. In the Affidavit of Mr. Sarwal an Air India Manager, no distinction is made between the systems at Toronto and Montreal.

CONCLUSIONS PORTION OF CASB REPORT:

The CASB concluded there was no evidence to indicate a structural failure, but they found nothing conclusive to say that it was not a structural failure. Page 59, conclusion 3 says that an unaccompanied suitcase was interlined. Since the suitcase was never recovered, the RCMP have not been able to be this positive. Conclusion 8, page 59 indicates the numbering system at Toronto did not prevent unaccompanied interlined baggage. The system at Mirabel would not either because it was matching them with passengers and M. Singh was never a passenger on that flight (he was only on standby).

PRESENT SITUATION:

By being critical of the report, we are not trying to say that this is not what happened to Air India 182; in fact there is very strong circumstantial evidence that it was brought down in the manner described. Our position and that of the RCMP is that there is no conclusive evidence that the aircraft was brought down by an explosion in a piece of checked baggage.

The author of the report will probably take the stand next week in India which will cause much publicity. We understand that Boeing and others may already have a copy of the CASB report.

Attached for guidance is a memorandum prepared by our legal branch which deals with the legal aspects of the problem.

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