STATEMENT OF JAMES M. BEGGS, UNDER SECRETARY, DEPARTMENT OF TRANSPORTATION, BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE ON THE CONVENTION FOR THE SUPPRESSION OF UNLAWFUL SEIZURE OF AIRCRAFT, MONDAY, JUNE 7, 1971.

Mr. Chairman and Members of the Committee:

I am most grateful for the opportunity to appear before this Committee to express the views of the Department of Transportation on the Convention which is before you. I am accompanied by Mr. Robert P. Boyle, Deputy Assistant Administrator for the Federal Aviation Administration, who was a member of the U.S. Delegation to the Diplomatic Conference at The Hague where this Convention was opened for signature.

As you know, the Department of Transportation is responsible for the safety and security of the air commerce of the United States. We strongly endorse the recommendations made by the Department of State that the United States Senate give its advice and consent to the ratification of the Convention for the Suppression of Unlawful Seizure of Aircraft. The safety and security of international air transportation is at issue.

This Convention is designed to supplement the Tokyo Convention which applies to the commission of all crimes aboard aircraft. The Tokyo Convention provides that in the case of aircraft in flight in international air transportation the law of the state of the flag of the aircraft applies to events occurring aboard that aircraft. That Convention gives certain powers and responsibilities to the commander of an aircraft with respect to crimes committed aboard his aircraft. Furthermore, it imposes on the state in which the aircraft lands following the commission of a crime certain obligations toward any alleged offenders which the aircraft commander asks it to

take into custody. In the case of a hijacked aircraft, these obligations include restoration of control of the aircraft to its lawful commander, to permit the passengers and crew to continue their journey as soon as practical, and return of the aircraft and its cargo to the lawful possessors. However, the Tokyo Convention does not oblige any state to establish jurisdiction over hijacking or to extradite or submit to prosecution hijackers in their custody. It is this gap in the international legal system which the Convention for the Suppression of Unlawful Seizure of Aircraft closes. This Convention would obligate its parties to establish jurisdiction over hijackers and agree to extradite or submit to prosecution offenders in its custody.

The Aministration, including the Department of Transportation, in the exercise of its responsibilities to assure the safety and security of the air commerce of the United States, is endeavoring to establish a system of international public law dealing with crimes in and to international air transportation. The Tokyo Convention of 1963 was a first and a most significant step in this direction. However, it does not adequately cover today's problems. We now need the additional guarantees that states will establish jurisdiction over the offense of hijacking and will extradite or submit to prosecution the offenders without any exception. In fact, in order to complete a system of international public law which will cope fully and completely with the problem of criminal acts of violence in and to international air transportation, we believe two additional international agreements are necessary.

The first is one which takes appropriate measures against those persons who commit acts on the ground directed against international air transportation or its facilities such as acts of sabotage or other forms of unlawful interference. The International Civil Aviation Organization has been at work on

this particular problem for some time, and its Legal Committee has completed a draft convention which we expect will be finalized and opened for signature at a Diplomatic Conference to be convened in September of this year.

The second of these additional international agreements is one which will provide for the application of some form of concerted action against any country who does not comply with the international undertakings expressed in the Tokyo Convention, the Convention before us today, and, upon its agreement, the Convention dealing with ground activities interfering against aircrafts.

This second proposed convention resulted from the rash of hijackings that occurred over the Labor Day weekend last year. At that time the President called for international action to curb the major threat to international air transportation represented by the so-called Dawson Field incidents. Secretary Volpe went to Montreal at the request of the President and presented to the Council of the International Civil Aviation Organization (ICAO) a resolution calling for the development of an international agreement to apply sanctions against any country which would countenance the use of aircraft hijacking for international blackmail purposes. As a direct result of this request by the Secretary on behalf of the United States, the ICAO Council asked its Legal Committee to begin work on a Convention which would provide for the taking of concerted action in such a situation. While this work is not yet completed, substantial progress has been made, and we are hopeful that this international agreement will be reached. We then would have an integrated system of public law adequate to cope with the major

threat to safety and security of international air transportation that aircraft hijacking poses.

To summarize, our objective is to have four conventions on hijacking:

1. The Tokyo Convention on Crimes on Board Aircraft. This Convention has been ratified and is operative.
2. The Convention for Suppression of Unlawful Seizure of Aircraft. We are asking the Committee to give its advice and consent on this unratified Convention.
3. The Convention on Interference Against Aircraft. A diplomatic conference in September this year will complete the drafted convention, and it will be submitted to the Senate.
4. A Convention providing sanctions against states which detain aircraft. The ICAO Legal Committee is working on a draft convention.

In order to effectively implement the Convention for the Suppression of Unlawful Seizure of Aircraft for which we are asking the advice and consent of the United States Senate, some additional legislation will be needed. At this time I would like to give the Committee a brief description of the key provisions of this legislation which has been submitted to the Congress. Since the groundwork for our international public law on the subject of crimes in international transportation was accomplished with the passage by Congress of the implementing legislation connected with the Tokyo Convention, no major new legislation is required for the implementation of the Convention currently before the Committee.

However, we will, for example, have to amend our existing laws to extend jurisdiction by the United States over any aircraft outside the United States on which the offense as defined in the Convention is committed whenever that aircraft lands in the United States with the offender still on board. Additionally, we will have to establish jurisdiction over any aircraft, no matter what its registration, if it is leased without crew to an operator who has his principal place of business in the United States or who is a permanent resident of the United States.

In addition, in order to satisfy Article 4, paragraph 2 of the Convention our legislation proposes a special provision to establish jurisdiction over the offense of hijacking when it occurs anywhere outside the special aircraft jurisdiction of the United States but the alleged offender is found here. We are proposing that there be established a separate substantive offense to cover this situation, carrying its own penalty provision. The proposed penalty for this offense would be death or imprisonment for any term of years, or for life, whereas, under our existing law (and our proposed law as it relates to the extension of our special aircraft jurisdiction) the offense of aircraft piracy is punishable by death if the verdict of the jury so recommends or by imprisonment for not less than 20 years if the death penalty is not imposed. This separate offense of hijacking outside the special aircraft jurisdiction of the United States, however, would cover a wider variety of situations, ranging from the most flagrant case of hijacking by force and violence with the individual being ultimately overcome by a violent struggle to the situation where the offender even peacefully surrenders within the United States many years after the commission of a hijacking under extenuating circumstances which took place in

another country. To cope with this wide range of possible offenses which may be presented to courts, it is our judgment that flexibility in the penalties that may be applied is necessary. Simply stated, we do not wish to compel courts to apply the penalty of a minimum sentence of 20 years in the case of hijackers where special equities may be present. Thus, while the Convention imposes on the United States the obligation to undertake prosecution without exception whatsoever, we think it necessary that the courts be allowed to consider motivation and other special circumstances. These are the essential provisions of the implementing legislation which we are recommending.

The Convention on Suppression of Unlawful Seizure of Aircraft when combined with the implementing legislation I have just outlined, will significantly add to our integrated system of international public law designed to preserve and protect the safety and security of international air transportation. I urge this Committee to recommend to the Senate to give its advice and consent to the ratification of this Convention.

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REMARKS BY UNDER SECRETARY OF TRANSPORTATION JAMES M. BEGGS BEFORE THE CONFERENCE ON THE TIRE INDUSTRY, MARRIOTT INN, CLEVELAND, OHIO, JUNE 20, 1971 12:00 NOON

Good afternoon, gentlemen. It's pleasure to be here in Cleveland and to have this opportunity to address today's Conference on the Tire Industry, because we, in the Department of Transportation are indeed concerned with... to quote a much-used TV jingle..."Where the rubber meets the road."

And today, the roads are there to be "Met". American motorists who take to the highways this year will have an additional 1,472 more miles of Interstate Highway on which to travel than they did a year ago. That means more than 79% of the 42,500-mile Interstate system is now open to traffic. 3,735 miles are currently under construction, and engineering or right-of-way acquisition is in progress on another 3,935 miles. Only 509 miles are awaiting route approval, for which public hearings are being held. Thus, about 98% of the total system is in the works.

The result, of course, is that more drivers are driving more cars, more miles on more highways every day. Right now, for instance, there are more than 115 million vehicles using our highways...and often, misusing them. In terms of death, injury and property damage, the price we are paying for our mobility is indeed high...more than 45 billion dollars and 55,000 fatalities annually. And sometime during this year, someone will become the two-millionth American to die on our highways! No wonder then, the public has demanded, Congress has acted and the Department of Transportation has been ordered to do something about it. It is our job to attack the broad spectrum of highway safety from every side...to pinpoint every aspect, no matter how minute it might seem. During the past four years, we have been doing everything within our power to implement this mandate.

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Inevitably, we found it necessary to move in two directions...crash survivability and crash prevention. The Experimental Safety Vehicle...or ESV...program has probably captured the spotlight in this "survivability" program because of the seemingly dramatic suddenness of its approach. Until recently, design changes which incorporated safety features have been made on a gradual, piecemeal basis. Now, under the ESV program, whole vehicles are being designed, fabricated and tested with survivability the primary objective.

Simultaneously, of course, the Department has been addressing itself to the problems of crash prevention. Here, the elements involved are more widespread, and certainly more unpredictable.

Road building, traffic engineering, police enforcement, driver education... getting drunks from behind the wheel...are all crash-avoidance activities. In the vehicle, crash avoidance means better lighting, better windshields, better steering, better brakes and better tires. Today, of course, we are primarily concerned with only one of those elements...tires.

The importance of the safety of motor vehicle tires was recognized by Congress as far back as the National Traffic and Motor Vehicle Safety Act of 1966 which in Section 203 specifically directs that: "In order to assist the consumer to make an informed choice in the purchase of motor vehicle tires, the Secretary shall, through standards established under this Act, prescribe by order and publish in the "Federal Register", a uniform quality grading system for motor vehicle tires..."

As a result, in 1968 minimum performance standards for passenger car tires were established. These standards (#'s 109 and 110), as I'm sure you know, were the first of their kind and their importance should not be minimized. They called for all new passenger car tires to meet minimum performance standards in the following categories: High speed, Endurance, Strength, Bead Unseating, Dimensions and Labeling. Now, this should not have imposed any real hardship on the manufacturers since, in general, these requirements were the same as those set up by the Rubber Manufacturers' Association. There was only one problem. Most of the companies were making little effort to meet even these minimal standards. Consumer pressure made Federal action inevitable.

Shortly after Standard 109 went into effect, the National Highway Traffic Safety Administration of D.O.T. started nationwide random tests. Since then. more than 440,000 tires have been recalled, and more than $175,000 in penalties have been assessed. An additional 760,000 tires have been voluntarily recalled by the manufacturers. Thus, over the past few years a total of more than 1.2 million tires have failed to meet these minimum compliance standards. However...and most unfortunately, this did not mean all of those defective tires were sucessfully removed from the highway. In one case, where the manufacturer agreed to replace all recalled tires on a "no charge" basis, and publicized this fact widely, less than 5% of the unsafe tires were recovered. Obviously, a Standard had been issued to identify defective tires, but failed to provide any good way of getting them off the highway once they were in the hands of the consumer.

The development of additional standards was interrupted, and a Recordkeeping and Identification Regulation was worked out, and put into effect in May, 1971. This is now beginning to have effect as a result of our recent directives to assure dealer compliance, and the situation is continually improving. For instance, the tire safety standards have only been in effect for a little over three years, yet experience has already shown that these standards have brought about safer tires. This appears to be due to two reasons. First, the requirement to meet minimum performance standards has caused the tire industry to pay considerably more attention to quality control within their plants. Second, it has more than doubled the control testing being done by the manufacturers who can point with pride to the lowest number of failures in compliance testing.

It would seem, therefore, that the tire safety program has worked for the benefit of all. Equitable, industry-wide tire and testing standards are in effect. Irresponsible, "cheapie" competition is being eliminated, overall tire quality is being improved, and foreign imports are subject to the same safety requirements as domestic manufacturers. The Department of Transportation has created standards, developed testing procedures, and instituted Recordkeeping regulations designed to keep unsafe tires off the highways through the Uniform Tire Quality Grading System.

Seemingly an idyllic Government/Industry relationship has come into being. There is only one thing wrong: The consumer is still confused.

Various consumer groups and Congress have become active in urging industry to come up with some sort of system to assist the buyer in making an informed choice. Recently, three major tire companies have independently offered proposals for a Uniform Tire Quality Grading System to cover the three parameters of prime interest to the consumer....treadwear, traction and high speed...Stated, of course, in terms the consumer can easily understand. This is not only an excellent example of Government/Industry cooperation...it is also an outstanding display of enlightened self-interest, since every step towards adequate consumer protection initiated or implemented by the tire industry obviates further Federal measures in the same area. Just as every gap allowed to remain in industry's capability for adequate safety controls becomes an open invitation to additional Government regulation.

For the tire industry...for ANY industry, for that matter...there must be freedom to create products and move them to the marketplace. They must be free to advertise and promote their products factually. And there must be the promise and achievement of profit. For a healthy free enterprise system, these are essentials. Essentials that can only exist if industry is free from unreasonable or impracticable regulations laid down by the Federal quest for consumer safety.

But, like all freedoms, these impose a responsibility on the part of industry...not to the Government, but to the consumer as a result of consumer demand. Certainly the regulations being urged on the tire industry are not a capricious activity hatched by a handful of technicians in the Department of Transportation. They are the result of consumer demands that have been translated into Congressional legislation that must be implemented.

But, for the tire industry, the worst is over...and, I might add, it hasn't been too bad. Among the so-called "big five" in the rubber industry, gross sales reached a record $10 billion plus in 1971, and 1972 sales expectancy is estimated at as much as 10% greater!

The National Highway Traffic Safety Administration's plans for 1972-73 should have no major impact on the industry since those plans are currently limited to the extension of the already existing programs to include all types of road wheels, such as truck, bus trailer, motorcycle and multi-purpose vehicle tires.

Of course, current testing standards can only be considered transient because the tire industry is continually developing new techniques, using new and better materials. Undoubtedly, these new types of tires will require new kinds of standards. However, the machinery exists, and the industry as a whole is capable of, and willing to fulfill its obligation to the consumer by continuing to create better, safer tires through new tire technology. Perhaps some day, we will arrive at a truly "fail-safe" tire. I know we all hope so.

Thank you.

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