

WORKING PAPER ON A PROPOSED CONVENTION ON AIRPORT SECURITY

Prepared by Canada, Austria, The Netherlands, New Zealand and Italy
for the Assembly of the International Civil Aviation Organization
and presented to the Meeting by the Government of Canada

1. Developments in recent years indicate that despite the advancement of technical preventative measures implemented under the auspices of ICAO and broad international acceptance of the Tokyo, Hague and Montreal Conventions, unlawful acts against the safety of civil aviation continue to seriously affect the operations of air services. Such unlawful acts have not been confined to aircraft in flight. In recent years, acts of violence at international airports have involved indiscriminate killing of innocent travellers. Incidents such as the bomb explosion at Narita Airport in June 1985 and the attacks at the Rome and Vienna airports in December 1985 are more recent examples of new forms of violence against the safety of civil aviation.

States have an understandable interest in the safety of airports in their territories and in the protection of their citizens travelling abroad. Since large concentrations of travellers at international airports make such airports preferred targets for attacks, enhanced cooperation between States appears to be desirable, not only to prevent unlawful acts of violence at airports, but also to ensure that the perpetrators of such acts do not go unpunished.

There have been in the past some attempts to establish, for acts of violence at airports, a prosecution/extradition regime similar to that applicable to offences under the Hague and Montreal Conventions. Specifically, such proposals were made by Greece at the International Air Law Conference held in Rome in August/September, 1973. The continued seriousness of the matter, and also the generally positive experience of States that have accepted and implemented the three Conventions dealing with unlawful interference with aviation, seem to require that an attempt be made to revisit the subject of suppression of unlawful acts of violence at airports serving international air transportation.

2. The following is a list of incidents of acts of violence at airports serving international air transportation in the period 1973-1985. This list, although possibly not complete, serves to illustrate the seriousness of the situation:

1973	3	incidents	(Calvi; Athens; Rome)
1974	2	incidents	(Heathrow; Los Angeles)
1975	2	incidents	(Orly; La Guardia)
1976	4	incidents	(Tel Aviv; Delhi; Beirut; Ajaccio)
1979	2	incidents	(Frankfurt)
1981	2	incidents	(Collingwood; Cairo)
1982	2	incidents	(Miami; Los Angeles)
1983	2	incidents	(Narita; Orly)
1984	2	incidents	(Kabul; Beirut)
1985	4	incidents	(Frankfurt; Narita; Rome; Vienna)

Not included in the list are several miscellaneous incidents other than bombing attacks at airports, adversely affecting the smooth operation of international air services and the security of passengers and airline personnel and facilities.

3. We consider that the time is ripe for a new international initiative within ICAO aiming at the adoption in respect of perpetrators of acts of violence at airports, of a prosecution/extradition regime comparable to that under the Hague and Montreal Conventions. At this stage, we are flexible as to the form of a possible new international instrument to deal with the matter, whether it be a new convention separate from the three existing Conventions or a supplementary protocol amending the 1971 Montreal Convention. This matter, as well as a number of other policy or legal problems, would have to be addressed in the course of the development of a new instrument.

To facilitate the Assembly's consideration of the proposal, an attempt has been made to formulate basic principles or elements of a possible new instrument. These elements are listed in the Appendix to this paper for the information of the Assembly and possible later examination by other appropriate bodies.

4. It is recommended that the Assembly include in the work programme of the Legal Committee, with the highest priority, the question of a possible instrument on the suppression of unlawful acts of violence at airports serving international air transportation. The subject would be considered in accordance with the ICAO procedures for the approval of draft conventions set forth in Assembly Resolution A7-6. The Council could be invited by the Assembly to use its powers with a view to speeding up the process of elaboration and adoption of the instrument, particularly in terms of early scheduling of preparatory meetings and the eventual convening of a diplomatic conference.

Suggested principles/elements for possible inclusion in an instrument for the suppression of unlawful acts of violence at airports serving international air transportation:

- (A) The following acts could be considered offences under the proposed instrument, whenever they were likely to endanger the safety of international civil aviation:
- (a) an act of violence against a person at an international airport, if the act interferes with the safe operation of an international flight or with the safe commencement or completion of an international journey by air;
 - (b) the placing or causing to be placed upon the premises of an international airport, by any means whatsoever, of a device or substance which is likely to cause destruction or damage thereon;
 - (c) the destruction or damaging of security control gates or other security facilities, or interference with the operation of airport security facilities and services; and
 - (d) the unlawful penetration of security controlled areas with the intention of endangering the safety of international civil aviation.

The definition of the second and third offences would remain close to Article 1, sub-paragraphs 1(c) and 1(d) of the Montreal Convention. The criterion of endangering the "safety of aircraft" of that Convention would be widened so that any acts resulting in serious infringement of the protection of international civil aviation provided by the security facilities and services of individual States would constitute an international offence. The objective would thus be to ensure in general terms the safe and orderly development of international civil aviation as postulated by the Preamble to the Chicago Convention.

The acts of violence subject to the new instrument would be those which take place at an "airport serving international air transportation". This concept would include any airport receiving scheduled air services or other international air transport flights and any area in such airports where acts of violence could have the effects expressed in the description of the offence.

- (B) The new instrument is aimed at ensuring that the perpetrators of acts of violence at airports do not go unpunished, especially when they leave the country in which the act of violence was committed. In such cases, a State Party to the new instrument in whose territory the offender is found would be obliged to establish its jurisdiction if it decides not to extradite such person(s) to the State where the offence was committed.
- (C) As in the Montreal Convention (Article 1, paragraph 2), the new instrument would also include "attempts" to commit the offence (i.e. an unlawful act of violence), and being an accomplice of a person who commits or attempts to commit any such offence.
- (D) A new instrument could also contain provisions on sharing of information among Contracting States relating to the prevention or suppression of unlawful acts of violence at airports (along the lines of Article 12 of the Montreal Convention).