

AIR LAW: CANADIAN INITIATIVE ON AIRPORT SECURITY

In September 1986, the 26th Assembly of the International Civil Aviation Organization (ICAO) unanimously adopted a Canadian proposal calling for the development of a new international instrument for the suppression of terrorist acts at airports serving international civil aviation, and establishing a timetable for its negotiation. The first stage was a meeting of a special sub-committee of the ICAO Legal Committee in February 1987. The sub-committee drew up a draft text that was then reviewed and substantially changed by the Legal Committee, which met in Montreal from April 28 to May 13.

On February 21, 1988, the International Conference on Air Law, held under the auspices of ICAO in Montreal, adopted by consensus the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (done at Montreal on 23 September, 1971). The President of the Conference was Mr. Philippe Kirsch, currently Minister and Deputy Permanent Representative of Canada to the United Nations. The Protocol adds to the Convention a new offence covering acts committed at airports serving international civil aviation, and includes acts of violence against persons, the destruction of property, attempts to commit such acts and complicity in the commission of offences. It also provides for jurisdiction base on the "extradite or prosecute" principle found in the 1971 Montreal Convention, whereby States have an obligation to prosecute offenders or to extradite them to other States with jurisdiction.

The Protocol is broader than Canada had originally envisaged, since it covers not only international airports and their facilities but also airport services and aircraft not in service located at airports. However, an offence, whether committed against persons or property, can only be caught by the Protocol if it meets a double condition: it must be of a serious nature in itself and it must endanger or be likely to endanger safety at an international airport.

Forty-seven States, including Canada, signed the Protocol on the day it was opened for signature, or almost two-thirds of those which signed the Final Act. As the