

Air Law - Unlawful Interference with Civil Aviation

Canada has been in the forefront of national, bilateral and multilateral efforts to combat the serious dangers and inconvenience posed by acts of unlawful interference with civil aviation. At the multilateral level, Canada made significant contributions to the negotiation, under the auspices of the International Civil Aviation Organization (ICAO), of three important international conventions to which Canada is a party: the 1963 Tokyo Convention, which, inter alia, obliges Contracting States to permit hijacked passengers and crew to continue their journey as soon as practicable, and to return hijacked aircraft and cargo; the 1970 Hague Convention, which gives Contracting States in whose territory an alleged hijacker is found the option of either extraditing or prosecuting him; and the 1971 Montreal Convention, which gives Contracting States in whose territory an offender, alleged to have committed an armed attack or act of sabotage, is found, the option of either extraditing or prosecuting him.

Since 1970 Canada and the U.S.A. have been trying to secure the approval of a fourth multilateral convention which would create international machinery for investigating, determining fault and taking "joint action" (such as by the suspension of air services) in cases in which states fail to live up to the obligations contained in the Tokyo, Hague and Montreal Conventions. In April, 1971 representatives of Canada and the U.S.A. presented a working paper, to an ICAO Legal Subcommittee, containing the draft text of such a convention. However, after the initiative encountered opposition from a number of countries including the U.S.S.R., France and Arab countries, in the summer of 1971 the ICAO Assembly voted, over the opposition of Canada, to remove the subject from the active list on the ICAO Legal Committee's work programme.