

BRIEFING NOTE

INTERNATIONAL CONFERENCE ON AIR LAW: DRAFT PROTOCOL ON UNLAWFUL ACTS OF VIOLENCE AT AIRPORTS MONTREAL, FEBRUARY 9-24, 1988

In early 1986 Canada proposed the development, in the International Civil Aviation Organization (ICAO), of an international legal instrument aimed at deterring and punishing the perpetrators of unlawful acts of violence at airports. Terrorists choose airports as targets because of their international character: at large international airports in particular, the interests of many States can be directly and seriously affected by terrorist attacks. Moreover, there is no international legal regime for dealing with the prosecution and punishment of the perpetrators of these attacks.

However, such an international regime already exists for attacks against aircraft and is embodied in the Hague and Montreal Conventions, which seek to ensure that those who are responsible do not go unpunished, particularly by escaping from the territory of the State where the attack was carried out. These conventions oblige a State where an alleged offender is found to submit the case to its competent authorities for the purpose of prosecution or to extradite him to another State with jurisdiction over the offence. The Canadian proposal therefore sought to extend this "extradite or prosecute" regime to unlawful acts of violence at airports, thus complementing the Hague-Montreal system.

The draft instrument to be considered by the Diplomatic Conference is drafted in the form of a Protocol to the 1971 Montreal Convention, to which Canada and 135 other countries are already parties. Hence, while it only contains provisions that are particular to airports, it includes by reference a comprehensive set of internationally agreed measures based on the "extradite or prosecute" principle common to all previous anti-terrorist conventions. Like them, it is designed to eliminate safe havens for terrorists, to increase international cooperation in the prevention and repression of terrorist acts and thereby to deter their perpetrators.