

International Legal Measures Against Hijacking

Over the past year, Canada was instrumental in the elaboration of two international pronouncements, a resolution and a multilateral statement, on measures to help deter unlawful interference with civil aviation.

The first of these was Resolution A23-21 adopted unanimously on October 6, 1980 by the Assembly of the International Civil Aviation Organization (ICAO). The resolution was entitled "Encouragement of Ratification or of Accession to International Air Law Conventions and Reporting Requirements under Article 11 of the Hague and Article 13 of the Montreal Conventions." Although both the 1970 Hague and 1971 Montreal Conventions contain provisions requiring states parties to report to the ICAO Council relevant information following occurrences of unlawful interference, and in particular information on whether the hijackers were extradited or had their cases submitted for prosecution to local authorities, Canada had noted that these obligations were not, for the most part, being met. As a result, Canada put forward Resolution A23-21, which, among other things, directed the Secretary-General of ICAO within a reasonable time from the date of a specific occurrence of unlawful interference, to ask that states parties concerned forward to the Council in accordance with their national law all relevant information required by the Hague and Montreal Conventions concerning such occurrence. As a result of the Assembly resolution, the Secretary-General has been reminding members of ICAO, by state letter, to report to the ICAO Council in accordance with the resolution and the two international conventions. Reports are now being made by states to the ICAO Council (although some states still are negligent in meeting this international obligation) and as a result the Council has a clearer idea of the degree to which member states are abiding by the international law requiring extradition or prosecution of hijackers.

A second measure taken during the last year to help deter unlawful interference with civil aviation, was the Ottawa Summit Statement on Terrorism, released on July 20, 1981. While other paragraphs of the Statement deal with cooperation among the seven Economic Summit states to prevent and deal with incidents of terrorism, paragraph 3 refers to the March 1981 hijacking of a Pakistan International Airline aircraft (aboard which were Canadian citizens). It expressed the view of the seven states that Afghanistan was in flagrant breach of its international obligations both during the incident and subsequently in giving refuge to the hijackers. The Statement continued as follows: "Consequently the Heads of State and Government propose to suspend all flights to and from Afghanistan in implementation of the Bonn Declaration unless Afghanistan immediately takes steps to comply with its obligations." This was the first time it was considered necessary to implement the 1978 Bonn Declaration