REPORT OF THE SECTION OF INTERNATIONAL LAW

RECOMMENDATION*

Be It Resolved, That the American Bar Association:

1. Recognizes, consistent with its espousal of the principle of the rule of law, the urgent need for all countries to take all necessary measures within their jurisdiction to deter and prevent acts of international terrorism and to take effective measures to deal with those who perpetrate such acts.

2. Acknowledges and warmly supports the adoption by the United Nations of the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents ("Diplomats Convention") and the Convention Against the Taking of Hostages ("Hostage Convention"), which represent significant progress through international legal regimes nationally protected and innocent persons by individuals and groups engaged in terrorist activities.

3. Strongly recommends that the United States:
   a. take early action leading to its ratification of the Hostage Convention and take effective action to encourage ratification or accession to these conventions by as many States as possible, as well as the earlier conventions to prevent and punish crimes against civil aviation;
   b. stimulate other States in the achievement of maximum implementation of these conventions and in the facilitation of international cooperation in law enforcement and judicial assistance embodied in them;
   c. enact penal legislation to implement the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation of September 23, 1971;
   d. continue in its efforts to develop and support new initiatives to combat international terrorism such as:
      - the Bonn Declaration Against Aircraft Hijacking, and the Venice Declaration Against Taking of Diplomatic Hostages;
      - renewal of its initiatives supporting a convention to prevent the export or spread of terrorist violence across national boundaries;
      - the development of multilateral conventions for the enforcement by sanctions of the conventions presently in force to prevent international terrorism; and
      - the attainment of an international consensus not to regard crimes of terrorist violence, particularly those stipulated in the conventions referred to in this resolution, to be political offenses or offenses of a political character within the meaning of bilateral or multilateral extradition arrangements or national laws governing extradition.

*The recommendation was approved. See page 286.
4. Commends the United States Government on its leadership in promoting worldwide efforts against terrorism through international organizations, bilateral contacts among like-minded States, and fostering cooperation among law enforcement and related agencies.

**Be It Further Resolved,** That copies of this resolution be sent to the Secretary of State, the Senate Foreign Relations Committee, the House Foreign Affairs Committee, the Secretary General of the United Nations and to bar associations of other nations.

**REPORT**

**Introduction**

The threat of international terrorism continues to be a matter of major and urgent worldwide concern. In February 1973 the American Bar Association adopted a resolution which recognized the urgent need for all countries to take all necessary measures within their jurisdiction to deter and prevent acts of international terrorism and to take effective measures to deal with those who perpetrate such acts. The resolution recommended that the United States continue to seek the establishment of procedures for the exchange of information and data on the plans, activities and movement of terrorists in order to facilitate the prevention and suppression of acts of international terrorism and the prosecution of those who perpetrate such acts. It commended the United States Government for initiating a draft convention to prevent the export or spread of terrorist violence across national boundaries, and for supporting a convention for the prevention and punishment of crimes against diplomats and other internationally protected persons (Exhibit A).

The proposed draft resolution is intended to replace and update the 1973 resolution by acknowledging the international conventions which have been adopted on this subject since 1973, urging their ratification or accession by States which have not yet done so, and recommending continued action to improve international law and procedures to deter and prevent international terrorism, particularly by the provision of more effective sanctions against terrorists and States which violate their obligations under relevant treaties. It also urges the completion of legislative action to implement the provisions of a treaty to which the United States is a party.

The scope of multilateral treaties and conventions specifically designed to deter, prevent and punish certain terrorist activities and their implementation by U.S. legislation is summarized at Exhibit B.

**Discussion**

An analysis of the existing treaties shows a substantial and growing body of treaty law denounced the more common forms of terrorist activities as criminal violations under international law. Much work remains to be done to make the established norms enforceable and truly effective. Among the remaining tasks which should be addressed by the United States are those recommended in the accompanying resolution.

The major deficiencies in the system of treaties, and their implementation, designed to deter, prevent and punish international terrorism include the following:

1. The United States has not yet enacted appropriate penal legislation to implement the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation of September 23, 1971. Accordingly Title 49 U.S.C., Section 1472, should be amended to effect full implementation of that Convention.

2. Although most of the treaties relevant to this subject oblige the parties to enact penal legislation to deter and punish the acts of international terrorism denounced in the treaties and embody the principle acta deure aut judicata, there is no provision for the establishment and enforcement of sanctions against States that deliberately fail and refuse to carry out their responsibility with respect to the repression and suppression of international terrorism. Accordingly, the United States should continue to encourage the negotiation of appropriate enforcement instruments either dealing specifically with the scope of related subject matter such as the protection of civil aviation, the protection of diplomats and the repression of the taking of hostages, or generally covering all acts denounced as international terrorism. Moreover, the United States should seek means of reaching international consensus on removing those crimes of terrorist violence from the ambit of the political offense exceptions contained in most extradition arrangements and many national laws dealing with extradition. The European Convention on the Suppression of Terrorism (Exhibit C) represents a major international initiative in this direction.

**EXHIBIT A**

**TERRORISTS' ACTIVITIES**

**Be It Resolved,** That the American Bar Association:

1. Recognizes, consistent with its espousal of the principle of the rule of law, the urgent need for all countries to take all necessary measures within their jurisdictions to deter and prevent acts of international terrorism and to take effective measures to deal with those who perpetrate such acts;

2. Strongly recommends that the United States in cooperation with other States continue to seek to establish procedures for the exchange of information and data on the plans, activities and movements of terrorists in order to strengthen the capability of governments to prevent and suppress acts of international terrorism and to prosecute those perpetrating such acts; and

3. Commends the United States Government for initiating, and governments of other Nations for supporting, a convention to prevent the export or spread of terrorist violence, and a convention for the prevention and punishment of crimes against diplomats and other internationally protected persons.

**Be It Further Resolved,** That copies of this resolution be sent to the Secretary of State, the Senate Foreign Relations Committee, the Secretary General of the United Nations, bar associations of other nations and the Sixth World Conference on Peace Through Law to be held in August, 1983.
MULTILATERAL CONVENTIONS AND AGREEMENTS TO DETER AND PUNISH INTERNATIONAL TERRORISTS' ACTS AND IMPLEMENTING UNITED STATES LEGISLATION

A. International Conventions and Initiatives

There are three international conventions and the Bonn Declaration which address the question of offenses against civil aviation, which were prompted by terrorist attacks against aircraft engaged in civil air commerce. These Conventions which were adopted under the aegis of the International Civil Aviation Organization (ICAO) are:

1. Convention on Offenses and Certain Other Acts Committed on Board Aircraft (Tokyo Convention) of September 14, 1963

The Convention applies to offenses against penal laws and to acts, whether or not they are offenses, which may or do jeopardize the safety of the aircraft or of persons or property therein or which jeopardize good order and discipline on board, while the aircraft is in flight or on the surface of the high seas or of any area outside the territory of any State. (Article 1)

The Convention is concerned with ensuring that at least one State has jurisdiction of the alleged offender, but contains only limited provisions for the trial of persons accused of offenses under it. Article 3 provides that the State of registration of the aircraft is competent to exercise jurisdiction over the alleged offenders and, further, that each Contracting State is obliged to take necessary measures to establish its jurisdiction as the State of registration. Even though a Contracting State is required to adopt the laws necessary to give its courts jurisdiction, it is not obliged to ensure that all alleged offenders will be prosecuted. (Article 3)

The Convention provides for a Contracting State to take delivery of a suspected offender, but it places no obligation on the receiving State to extradite a suspected offender to a State that has jurisdiction to try him. Article 16 merely provides that offenses committed on aircraft registered in a Contracting State are to be treated, for the purposes of extradition, as if they had been committed not only in the place in which they had occurred, but also in the territory of the State of registration of the aircraft.

Although the Convention does not contain an obligation to extradite, it does facilitate the extradition of an alleged offender by providing that the offense referred to in the Convention is deemed to be included as an extraditable offense in any extradition treaty existing between Contracting States and is to be included in every future extradition treaty to be concluded between Contracting States. (Article 8) Further, it is provided that Contracting States may consider the Convention as the legal basis for extradition. Article 8, however, makes it clear that extradition is to be subject to the laws of the requested State, which may preclude extradition of nationals or political offenders.


The Convention obliges Contracting States to make the offense of unlawful seizure of aircraft punishable by severe penalties. (Article 2) The definition provided in Article 1 states that any person commits an offense who, on board an aircraft in flight:

(a) unlawfully, by force or threat thereof, or by any other form of intimidation, seize, or exercises control of, that aircraft, or attempts to perform any such act;

(b) is an accomplice of a person who performs or attempts to perform any such act.

The Convention limits itself to cases where an international element is involved, i.e., that the place of take-off or the place of actual landing of the hijacked aircraft is outside the territory of the State of registration of that aircraft. The Convention does not apply to aircraft used in military, customs or police services. (Article 3)

The Convention requires the following States to establish its jurisdiction: (1) State of registration; (2) State of first landing; (3) State in which the lessee has its principal place of business or permanent residence. (Article 4) Further, in an attempt to prevent the establishment of havens for hijackers, the Convention provides that each Contracting State is to take measures to ensure that it does not allow the establishment of its jurisdiction over an offense in the case where the alleged offender is present in its territory and is not extradited.

Article 7 embodies the principal aut de dere aut judicare, i.e., a Contracting State, if it does not extradite an alleged offender, is obligated to submit the case "without exception whatsoever to its competent authorities for the purpose of prosecution."

Although the Convention does not contain an obligation to extradite, it does facilitate the extradition of an alleged offender by providing that the offense referred to in the Convention is deemed to be included as an extraditable offense in any extradition treaty existing between Contracting States and is to be included in every future extradition treaty to be concluded between Contracting States. (Article 8) Further, it is provided that Contracting States may consider the Convention as the legal basis for extradition. Article 8, however, makes it clear that extradition is to be subject to the laws of the requested State, which may preclude extradition of nationals or political offenders.


While The Hague Convention is concerned essentially with aircraft hijacking, the Montreal Convention covers a range of offenses affecting aircraft and air navigation. These offenses, requiring severe penalties are:

(1) Any acts of violence against a person on board an aircraft in flight; destruction of, or damage to an aircraft in service; sabotage of an aircraft in service; destruction of, or damage to air navigation facilities or interference with their operation; communication of false information which is likely to endanger the safety of aircraft in flight.

(2) Attempts or participation in these acts also constitutes offenses under the Convention. The Convention applies only if:

(a) the place of take-off or landing, actual or intended, of the aircraft is situated outside the territory of the State of registration of that aircraft;

(b) the offense is committed in the territory of a State other than the State of registration of the aircraft.

Further, notwithstanding the above provisions, the Convention applies if the alleged offender is found in the territory of a State other than the State of registration of the aircraft. (Article 4(3) and 4(4) The Convention does not apply to aircraft used in military, customs, or police services. (Article 4(1))

The Convention seeks to establish a form of universal jurisdiction. It recognizes, in addition to the traditional territorial jurisdiction,

23 U.S.T. 1641; TIAS 7192. NOTE: There are 106 Contracting Parties to The Hague Convention as of January 1, 1980.

4. Bonn Declaration

The Heads of State and Government of the Seven Summit countries' meeting in July 1978 in Bonn to discuss international economic issues, made a dramatic announcement at the conclusion of their conference. The following joint statement was read by Chancellor Schmidt at the Summit Press Conference on July 17th:

"The heads of state and government, concerned about terrorism and the taking of hostages, declare that their governments will intensify their joint efforts to combat international terrorism."

"To this end, in cases where a country refuses extradition or prosecution of those who have hijacked an aircraft or do not return such aircraft, the heads of state and government are jointly resolved that


*Canada (Prime Minister Trudeau); Federal Republic of Germany (Chancellor Schmidt); France (President Giscard); Italy (Prime Minister Andreotti); Japan (Prime Minister Fukuda); United Kingdom (Prime Minister Callaghan) and United States (President Carter).
their governments should take immediate action to cease all flights to that country. At the same time, their governments will initiate action to halt all incoming flights from that country or from any country by the airlines of the country concerned. The heads of state and government urge other governments to join them in this commitment.

The Summit leaders represent the major aviation powers whose airlines carry two-thirds of the air passenger traffic in the free world. Thus, their statement of intent (referred to as the "Boon Declaration") could have a profound influence upon countries which depend upon international air commerce to augment their economies and facilitate movement of goods and persons beyond their own borders. While the Boon Declaration has yet to be fully tested through implementation, it represents the first multilateral effort to develop enforceable measures for use against countries which refuse to extradite or prosecute hijackers and/or do not return hijacked aircraft. This Declaration was reaffirmed at the 1979 Tokyo Summit and the 1980 Venice Summit.

3. Venice Declaration

Mindful of the seizure of the U.S. diplomatic personnel in Teheran, the Heads of State and Government condemned the taking of diplomatic hostages and sought cooperation to deter this form of international terrorism to conduct. The Venice Declaration asserts:

"Gravely concerned by recent incidents of terrorism involving the taking of hostages and attacks on diplomatic and consular premises and personnel, the heads of state and government reaffirm their determination to deter and combat such acts. They note the completion of work on the International Convention Against the Taking of Hostages and call on all states to consider becoming parties to it as well as to the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons of 1971.

"The heads of state and government vigorously condemn the taking of hostages and the seizure of diplomatic and consular premises and personnel in contravention of the basic norms of international law and practice. The heads of state and government consider necessary that all governments should adopt policies which will contribute to the attainment of this goal and to take appropriate measures to deny terrorists any benefits from such criminal acts. They also resolve to provide to one another's diplomatic and consular missions support and assistance in situations involving the seizure of diplomatic and consular establishments or personnel.

"The heads of state and government reiterate that every state has the duty under international law to refrain from organizing, instigating, assisting, or participating in terrorist acts in another state or acquiescing in organized activities within its territory directed toward the commission of such acts and deprive in the strongest terms any breach of this duty."

B. U.S. Legislation

The U.S. has enacted laws to prevent and punish various crimes usually associated with terrorist activities. Some of these laws had anticipated the promulgation of international conventions and others were enacted to implement such conventions.

1. Crimes Against Aviation

The Anti-Hijacking Act of 1974 (Public Law 93-366, August 5, 1974) was enacted in implementation of the Convention for the Suppression of Unlawful Seizure of Aircraft (Hijacking) (The Hague Convention) adopted at The Hague on December 16, 1970. This law amended the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.) to redefine the "special aircraft jurisdiction of the United States" and to modify the offense of aircraft piracy to conform to the requirements of The Hague Convention. It also conferred extraterritorial jurisdiction upon U.S. Federal Courts to try alleged offenders under this statute and provided for the death penalty when the death of another person results from the commission or attempted commission of the offense.

Aside from the criminal provisions of the Act, it gives the President authority to suspend (1) the right of any air carrier or foreign air carrier to engage in foreign air transportation, and the right of any person to operate in foreign air commerce, to and from (any) foreign nation (which he determines permits the use of its territory as "a base of operations or training or sanctuary for, or in any way arms, aids, or abets, any terrorist organization which knowingly uses the illegal seizure of aircraft or the threat thereof as an instrument of policy") and (2) the right of any foreign air carrier to engage in foreign air transportation, and the right of any foreign person to operate in foreign air commerce, between the United States and any foreign nation which maintains air service between itself and (a nation subjected to the determination referred to in (1) above. Thus the President has, under specified circumstances, authority to suspend air service rights, both primary and secondary, and the Act makes it unlawful (civil penalty) for any air carrier to operate aircraft in foreign air commerce in violation of the suspension order. It should also be noted that a "notwithstanding clause" relieves the Secretary of Transportation and Civil Aeronautics Board of any statutory obligation to exercise their powers and duties (to grant certificates of public convenience and operation) pursuant to any treaty obligation of the United States and to take into consideration applicable laws of foreign countries.

The Act provides for the maintenance of minimum security measures in foreign air transportation and grants to the Secretary of Transportation, subject to the approval of the Secretary of State, authority to "withhold, revoke, or impose conditions on the operating authority of the airlines of (any nation he finds 'does not effectively maintain and administer security measures...equal to or above the minimum standards established pursuant to the Convention on International Aviation')."

It should be noted that the United States is a party to Convention on the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Sabotage) (the Montreal Convention); however, implementing legislation is needed to enable full discharge of obligations under this Convention. The U.S. Criminal Code (18 U.S.C. ch. 2) establishes felony offenses involving the destruction of aircraft and aircraft facilities; however, these offenses do not conform completely to the offenses described in the Convention nor is there extraterritorial jurisdiction in Federal Courts to try such offenses. Legislation has been submitted, but Congress has not acted upon it to date.

C. Internationally Protected Persons


The Convention obliges Contracting Parties:

23 U.S.T. 3227; TIAS 7502; 500 U.N.T.S. 93. NOTE: There are 43 Contracting Parties as of January 1, 1980.

States to make punishable by appropriate penalties the following acts against internationally protected persons:

(a) murder, kidnapping, or other attack upon the person or liberty of an internationally protected person;

(b) a violent attack upon the official premises, the private accommodation or the means of transport of an internationally protected person or liberty;

(c) a threat to commit any such attack;

(d) an attempt to commit any such attack; and

(e) an act constituting participation as an accomplice in any such act. (Article 2)

Each Contracting State is to "take such measures as may be necessary to establish its jurisdiction over the crimes" referred to in the Convention when:

(a) the crime is committed in the territory of that State or on board a ship or aircraft registered in that State;

(b) the alleged offender is a national of that State;

(c) the crime is committed against an internationally protected person who enjoys his status as such by virtue of functions which he exercises on behalf of that State. (Article 3)

Article 7 embodies the principle of use deere ad iudicature: The State Party in whose territory the alleged offender is present, is obliged, if it does not extradite him, to submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of the State Party in which the crime is alleged to have been committed.

For purposes of extradition, the crimes referred to in the Convention are deemed to be included as extraditable offenses in any extradition treaty existing between Contracting States and are to be included in every future extradition treaty to be concluded between Contracting States. (Article 8) And for States which do not make extradition conditional on the existence of a treaty, they are obliged to recognize these crimes as extraditable offenses between themselves subject to the procedural provisions and the other conditions of the law of the requested State. Further, it is provided that Contracting States may consider the Convention as the legal basis for extradition.

States Parties are obliged to "afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the crimes set forth in [the Convention], including the supply of all evidence at their disposal necessary for the proceedings." (Article 10)
The provisions of the Convention do not affect the application of the treaties on asylum, in force at the date of its adoption. (Article 12)

In 1972 the United States tabled a Draft Convention for the Prevention and Punishment of Certain Acts of International Terrorism in the Sixth Committee. The U.S. draft was aimed at the "export of terrorism" and sought to establish as offenses murder, kidnapping or bodily harm when the offense has an effect outside of the State of nationality of the alleged offender, the State against which the act is directed, or within a targeted State if the alleged offender knew that the victim was not a national of that State. Acts of or against armed forces were exempted. The modus vivendi of offense must be to damage the interests of or obtain concessions from a State or international organization. The draft convention employed the est dentere aut judicare technique to bring alleged offenders to justice. Although this Convention was not adopted, it led to the adoption of the New York Convention in 1973.

2. The Organization of American States (OAS) adopted on February 2, 1971, a Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extradition that are of International Significance (OAS Convension).

The focus of the Convention is on terrorist acts, characterized in Article 2 as common crimes of international significance, namely: kidnapping, murder and other assaults against the life or personal integrity of those persons whom the State has the duty to give special protection according to international law, as well as extortion in connection with those crimes. The extradition provision is the principal substantive difference between this Convention and the New York Convention.

The Convention obliges States to include in their penal laws the above prohibited acts. (Article 3) Article 5 embodies the principle of aut dentere aut judicare, i.e., a State is obliged either to extradite an accused offender or submit his case to its competent authorities for prosecution. Extradition is to be granted pursuant to extradition treaties in force between the Contracting States or, in the case of States not party to such treaties, upon request from the requested State. (Articles 3 and 7)

3. United States Implementation Crimes Against Internationally Protected Persons

Public Law 92-539, October 24, 1972, amended the Criminal Code (Title 18 U.S.C.) by adding crimes directed against Foreign Officials and Official Guests of the United States. These crimes included (1) murder or manslaughter (§ 1116); (2) conspiracy to murder (§ 1117); (3) kidnapping (§ 1201); (4) assaults, including harassment (treated as a misdemeanor) (§ 112); and (5) injury, damage, or destruction of real or personal property, owned or utilized by a foreign government, international organization, or foreign official or official guest (§ 970). This law antedated the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents (New York Convention) adopted by the United Nations General Assembly on December 14, 1973. Public Law 94-467, October 8, 1976, amending the New York and OAS Conventions, further amended those sections of Title 18 which were changed by Public Law 92-539 by adding "internationally protected persons" as a third category of individuals entitled to the special protection of the law. The new law adds Section 878 to Title 18, a new section which provides felony punishment for (a) willfully threatening to kill, kidnap or assault a foreign official, official guest or internationally protected person, and (b) making any extortions demand in connection with any violation of § 878(a) or actual violation of §§ 112, 1116, or 1201. It also confers jurisdiction upon U.S. Federal Courts to try alleged offenders present within the United States for offenses under §§ 1116, 1201, 112(a) and 878 which were committed outside the territory of the United States. The new law also authorizes the Attorney General, in his enforcement of §§ 1116, 1201, 112(a), or any conspiracy or attempt to commit those sections, to request assistance from "any Federal, State, or local agency, including the Army, Navy, and Air Force," thus providing an exception to the prohibition against use of military forces as "Passive Comitatus" (18 U.S.C. 1385).

D. HOSTAGES

On December 10, 1976 the Sixth Committee of the United Nations recommended to the 31st Session of the United Nations General Assembly that it consider a resolution to conclude an international convention against the taking of hostages. On December 17, 1979, the General Assembly adopted the Convention Against the Taking of Hostages by consensus on December 17, 1979 and it was opened for signature on December 18, 1979. The Convention defines an offender as:

Any person who seizes or detains and threatens to kill, to injure or to continue to detain another person (hereinafter referred to as the "hostage") in order to compel a third party, namely, a State, an international inter-governmental organization, a natural or a juridical person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage, commits the offence of hostage-taking within the meaning of this Convention.

Attempts and participation in these acts also are designated as offenses.

State Parties are required to make Article I offenses punishable under their domestic law by "appropriate penalties which take into account the grave nature of these offenses." (Article 2)

As in the New York Convention, State Parties are obligated to cooperate in the prevention of the offenses by taking measures to prohibit the use of their territories for preparation for the commission of these offenses and exchanging information with other State Parties. (Article 4) There is also a requirement to ease the plight of the hostage, secure his release, facilitate his return and return "any object gained as a result of the offenses to the hostage or any third party (including States or international organizations) against whom a demand was made and concerning which." (Article 3) It also contains an obligation to assist other State Parties in criminal proceedings brought in respect of offenses under the Convention; however, not to exclusion of mutual judicial assistance embodied in other treaties. (Article 11)

To enable States Parties to prosecute offenders if extradition is not elected, the Convention requires an establishment of jurisdiction over the offenses when committed: (a) in its territory or on board a ship or aircraft registered in that State; (b) by any of its nationals, or, if that State considers it appropriate, by those stateless persons who have their habitual residence in its territory; (c) in order to compel that State to do or abstain from doing any act; or (d) with respect to a hostage who is a national of that State, if that State considers it appropriate. (Article 5)

The Convention obligates a State Party to take an alleged offender into custody when found in its territory and to notify directly (or through the Secretary General) the State where the offense was committed, the State which was the object of a demand, the State of nationality of the hostage and the offender, and all other States or international organizations concerned or affected. (Article 6)

Article 8 of the Convention incorporates the est dentere aut judicare principle by requiring a State Party in whose territory an alleged offender is found, if it does not extradite him, "to submit the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State." The Convention contains provisions for extradition if no extradition treaty exists between State Parties (when permitted by applicable domestic law) incorporation of the offenses of the Convention in existing extradition treaties between State Parties. A somewhat controversial Article 9 permits a State Party which has received an extradition request to deny extradition if it has "substantial grounds for believing" that (a) the request has been made "for the purpose of prosecuting or punishing a person on account of his race, religion, nationality, ethnic origin or political opinion" or (b) the person's position may be prejudiced for those reasons or lack of rights of protection in the requesting State. This provision would apply to existing extradition treaties amended by this Convention to include its designated offenses, to the extent of its application to these offenses.

The Convention does not apply to an act of hostage-taking committed in the course of armed conflicts as defined in the Geneva Conventions of 1949 and the Protocols.
TEXT OF THE CONVENTION ON THE SUPPRESSION OF TERRORISM

The member States of the Council of Europe, signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its Members;

Aware of the growing concern caused by the increase in acts of terrorism;

Wishing to take effective measures to ensure that the perpetrators of such acts do not escape prosecution and punishment;

Convinced that extradition is a particularly effective measure for achieving this result,

Have agreed as follows:

Article 1
For the purposes of extradition between Contracting States, none of the following offences shall be regarded as a political offence or as an offence connected with a political offence or as an offence inspired by political motives:

a. an offence within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970;

b. an offence within the scope of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971;

c. a serious offence involving an attack against the life, physical integrity or liberty of internationally protected persons, including diplomatic agents;

d. an offence involving kidnapping, the taking of a hostage or serious unlawful detention;

e. an offence involving the use of a bomb, grenade, rocket, automatic firearm or letter or parcel bomb if this use endangers persons;

f. an attempt to commit any of the foregoing offences or participation as an accomplice of a person who commits or attempts to commit such an offence.

Article 2
1. For the purposes of extradition between Contracting States, a Contracting State may decide not to regard as a political offence or as an offence connected with a political offence or as an offence inspired by political motives a serious offence involving

an act of violence, other than one covered by Article 1, against the life, physical integrity or liberty of a person.

2. The same shall apply to a serious offence involving an act against property, other than one covered by Article 1, if the act created a collective danger for persons.

3. The same shall apply to an attempt to commit any of the foregoing offences or participation as an accomplice of a person who commits or attempts to commit such an offence.

Article 3
The provisions of all extradition treaties and arrangements applicable between Contracting States, including the European Convention on Extradition, are modified as between Contracting States to the extent that they are incompatible with this Convention.

Article 4
For the purposes of this Convention and to the extent that any offence mentioned in Article 1 or 2 is not listed as an extraditable offence in any extradition convention or treaty existing between Contracting States, it shall be deemed to be included as such therein.

Article 5
Nothing in this Convention shall be interpreted as imposing an obligation to afford mutual assistance if the requested State has substantial grounds for believing that the request for extradition for an offence mentioned in Article 1 or 2 has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion or that that person's position may be prejudiced for any of these reasons.

Article 6
1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over an offence mentioned in Article 1, in the case where the suspected offender is present in its territory and it does not extradite him after receiving a request for extradition from a Contracting State whose jurisdiction is based on a rule of jurisdiction existing equally in the law of the requested State.

2. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.
Article 10
1. Any dispute between Contracting States concerning the interpretation or application of this Convention, which has not been settled in the framework of Article 9, paragraph 2, shall, at the request of any Party to the dispute, be referred to arbitration. Each Party shall nominate an arbitrator, and the two arbitrators shall nominate a referee. If any Party has not nominated its arbitrator within the three months following the request for arbitration, he shall be nominated at the request of the other Party by the President of the European Court of Human Rights. If the latter should be a national of one of the Parties to the dispute this duty shall be carried out by the Vice-President of the Court or, if the Vice-President is a national of one of the Parties to the dispute, by the most senior judge of the Court not being a national of one of the Parties to the dispute. The same procedure shall be observed if the arbitrators cannot agree on the choice of referee.

2. The arbitration tribunal shall lay down its own procedure. Its decisions shall be taken by majority vote. Its award shall be final.

Article 11
1. This Convention shall be open to signature by the member States of the Council of Europe. It shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

2. The Convention shall enter into force three months after the date of the deposit of the third instrument of ratification, acceptance or approval.

3. In respect of a signatory State ratifying, accepting or approving subsequently, the Convention shall come into force three months after the date of the deposit of its instrument of ratification, acceptance or approval.

Article 12
1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Convention shall apply.

2. Any State may, when depositing its instrument of ratification, acceptance or approval or at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend this Convention to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings.

3. Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn by means of a notification addressed to the Secretary General of the Council of Europe. Such withdrawal shall take effect immediately or at such later date as may be specified in the notification.

Article 13
1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, declare that it reserves the right to refuse extradition in respect of any offence mentioned in Article 1 which it considers to be a political offence, an offence connected with a political offence or an offence inspired by political motives, provided that it undertakes to take into due consideration, when evaluating the character of the offence, any particularly serious aspects of the offence, including:
   a. that it created a collective danger to the life, physical integrity or liberty of persons;
   b. that it affected persons foreign to the motives behind it;
   c. that cruel or vicious means have been used in the commission of the offence.

2. Any State may wholly or partly withdraw a reservation it has made in accordance with the foregoing paragraph by means of a declaration addressed to the Secretary General of the Council of Europe which shall become effective as from the date of its receipt.

3. A State which has made a reservation in accordance with paragraph 1 of this article may not claim the application of Article 1 by any other State; it may, however, if its reservation is partial or conditional, claim the application of that article so far as it has itself accepted it.

Article 14
Any Contracting State may denounce this Convention by means of a written notification addressed to the Secretary General of the Council of Europe. Any such denunciation shall take effect immediately or at such later date as may be specified in the notification.

Article 15
This Convention ceases to have effect in respect of any Contracting State which withdraws from or ceases to be a Member of the Council of Europe.

Article 16
The Secretary General of the Council of Europe shall notify the member States of the Council of:
   a. any signature;
   b. any deposit of an instrument of ratification, acceptance or approval;
   c. any date of entry into force of this Convention in accordance with Article 11 thereof;
   d. any declaration or notification received in pursuance of the provisions of Article 12;
   e. any reservation made in pursuance of the provisions of Article 13, paragraph 1;
   f. the withdrawal of any reservation effected in pursuance of the provisions of Article 13, paragraph 2;
   g. any notification received in pursuance of Article 14 and the date on which denunciation takes effect;
   h. any cessation of the effects of the Convention pursuant to Article 15.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Convention.

Done at Strasbourg, this 27th day of January 1977, in English and in French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each of the signatory States.