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AIR NAVIGATION ARRANGEMENT BETWEEN THE UNITED STATES AND ITALY*

STEPHEN LATCHFORD†

By a note dated October 13, 1931, from the Secretary of State to the Chargé d'Affaires ad interim of Italy, and the reply of the Chargé d'Affaires ad interim of October 14, 1931, the United States and Italy entered into an air navigation arrangement which, in accordance with an agreement in the exchange of notes, became effective on October 31, 1931. The arrangement contains ten articles of which the following is a summary:

Article 1 establishes the right of aircraft of the one country to be navigated in the other subject to the conditions laid down in the arrangement. It provides that the arrangement shall apply to each country and its territories and possessions, and stipulates that the right of aircraft of either country to enter the territory of the other shall include the right of transit across such territory.

Article 2 provides that all state aircraft other than military, naval, customs and police aircraft shall be treated as civil aircraft.

Article 3 provides that the aircraft of the one country must, before entering the other, be registered and passed as airworthy by the competent authority of the former country and must bear the registration markings allotted to them by that authority preceded by a designated letter of the alphabet.

Under Article 4, the carriage of the Journey Log is made compulsory for all aircraft, while the carriage of the Aircraft Log and the Engine Log are compulsory only for aircraft assigned to the public transportation of passengers and cargo. The article provides that aircraft bearing the registration of either country and making flights into the other must carry certificates of registration and airworthiness issued by the competent authority of the country in which the aircraft is registered. The article further provides that the pilots of the aircraft shall bear a license issued by said authority as well as such permits as may be required by the country whose nationality the aircraft possesses.

Article 5 accords to pilots of each country the right to obtain

*The text of the Air Navigation Arrangement with Italy will be found on page 109 of this issue.

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pilots' licenses from the competent authority of the other country on the same terms as its own nationals, provided the pilots of the former country are qualified under the regulations of the latter covering the licensing of pilots. The license will be valid for six months and at the expiration of this period an application may be made for a renewal of the license.

The article stipulates that the right of pilots of the one country to obtain licenses in the other shall not be construed to accord to them the right to register aircraft in the latter country, or to operate aircraft wholly between points therein unless the aircraft is registered in the last named country. It will be recalled in this connection that a number of international air navigation agreements provide that the parties to the agreements may reserve to their own aircraft air commerce between points in their territory.

An important provision of this article is the one which accords to nationals of the one country holding unexpired pilot licenses issued by the competent authority of their own government the right to operate in the other country, for non-industrial or non-commercial purposes for a period of six months, civil aircraft registered by either of the countries which are parties to the arrangement. If, however, the license which the pilot holds from his own government will expire before the expiration of the said six month period he may enjoy this privilege only during the period for which this license is still valid. No pilot of either country to whom this provision applies shall be allowed to operate civil aircraft in the other country for non-industrial or non-commercial purposes after the expiration of the period for which he may operate by virtue of this provision unless he shall, prior to the expiration of such period, have obtained a pilot's license from the competent authority of the last mentioned country in the manner provided for in the arrangement.

Article 6 prohibits the carriage of photographic apparatus by aircraft of either country or the taking of photographs therefrom in the other country without its permission.

Article 7 accords to aircraft and pilots, licensed by one of the parties to the arrangement to carry passengers or cargo, the right to engage in such traffic between the United States and Italy in the operation of a regular air transport line, subject to the proviso that the operation of such a line of either country in the territory of the other shall be subject to the prior consent of the last mentioned country given on the principle of reciprocity.

Such lines of the one country if operated in the territory of the other may not, according to the arrangement, engage in air commerce wholly between points in the latter country, but may under the conditions stipulated in the article engage in through traffic to the extent of discharging at various points therein passengers and cargo from places beyond the territory of the last mentioned country and taking on passengers and cargo at various points in that country, destined to places beyond its boundaries. This provision is analogous to a provision found in a number of treaties entered into by the United States which reserve the coastwise traffic to American shipping.

The last paragraph of Article 7 contains a most-favored-nation clause as applied to the operation of civil aircraft. As a means for securing equality of treatment the most-favored-nation clause has been included in many international agreements. The most-favored-nation clause as applied to the operation of aircraft has already appeared in bi-lateral air navigation agreements entered into by several European countries.

Article 8 states that the right accorded to pilots and aircraft of either country to make flights in the other shall be subject to compliance with the laws, rules and regulations in effect in the latter country and its territories and possessions governing the operation of civil aircraft.

Article 9 relates to the aeronautical trade and provides that certificates issued in connection with aircraft, aircraft engines and spare parts of aircraft and engines, built in either country and exported to the other will be accepted by the competent authority of the latter if issued by the competent authority of the first mentioned country in accordance with its requirements as to airworthiness. Each country reserves the right periodically to check and test the materials of the classes specified after being brought into its territory, for the purpose of ascertaining their proper condition as to preservation and maintenance, according to its own rules and regulations.

Article 10 provides that the arrangement shall be subject to termination by either government on sixty days' notice given to the other, or by a further arrangement between the two governments dealing with the same subject.

Provisions in regard to the rights of pilots and the acceptance of certificates for aircraft exported as merchandise are more elaborate in the arrangement with Italy than they are in the air navigation

arrangement which has been in force between the United States and Canada since 1929, and the Canadian agreement does not contain a most-favored-nation clause with respect to the operation of aircraft. Aside from these differences, the arrangement with Italy is in general similar to the one now in force between the United States and Canada.

Italy is the first European country with which the United States has concluded an air navigation agreement.