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INTERNATIONAL CIVIL AVIATION ORGANIZATION

CONVENTION ON OFFENCES AND CERTAIN OTHER ACTS COMMITTED ON BOARD AIRCRAFT*

Chapter I — Scope of the Convention

Article 1

1. This Convention shall apply in respect of:
   a) offences against penal law;
   b) acts which, whether or not they are offences, may or do jeopardize the safety of the aircraft or of persons or property therein or which jeopardize good order and discipline on board.
2. Except as provided in Chapter III, this Convention shall apply in respect of offences committed or acts done by a person on board any aircraft registered in a Contracting State, while that aircraft is in flight or on the surface of the high seas or of any other area outside the territory of any State.
3. For the purposes of this Convention, an aircraft is considered to be in flight from the moment when power is applied for the purpose of take-off until the moment when the landing run ends.
4. This Convention shall not apply to aircraft used in military, customs or police services.

Article 2

Without prejudice to the provisions of Article 4 and except when the safety of the aircraft or of persons or property on board so requires, no provision of this Convention shall be interpreted as authorizing or requiring any action in respect of offences against penal laws of a political nature or those based on racial or religious discrimination.

Chapter II — Jurisdiction

Article 3

1. The State of registration of the aircraft is competent to exercise jurisdiction over offences and acts committed on board.
2. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction as the State of registration over offences committed on board aircraft registered in such State.
3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

Article 4

A Contracting State which is not the State of registration may not interfere with an aircraft in flight in order to exercise its criminal jurisdiction over an offence committed on board except in the following cases:

a) the offence has effect on the territory of such State;
b) the offence has been committed by or against a national or permanent resident of such State;
c) the offence is against the security of such State;
d) the offence consists of a breach of any rules or regulations relating to the flight or manoeuvre of aircraft in force in such State;
e) the exercise of jurisdiction is necessary to ensure the observance of any obligation of such State under a multilateral international agreement.

* Tokyo, Sept. 14, 1963.

Chapter III — Powers of the Aircraft Commander

Article 5

1. The provisions of this Chapter shall not apply to offences and acts committed or about to be committed by a person on board an aircraft in flight in the airspace of the State of registration or over the high seas or any other area outside the territory of any State unless the last point of take-off or the next point of intended landing is situated in a State other than that of registration, or the aircraft subsequently flies in the airspace of a State other than that of registration with such person still on board.
2. Notwithstanding the provisions of Article 1, paragraph 3, an aircraft shall for the purposes of this Chapter, be considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced landing, the provisions of this Chapter shall continue to apply with respect to offences and acts committed on board until competent authorities of a State take over the responsibility for the aircraft and for the persons and property on board.

Article 6

1. The aircraft commander may, when he has reasonable grounds to believe that a person has committed, or is about to commit, on board the aircraft, an offence or act contemplated in Article 1, paragraph 1, impose upon such person reasonable measures including restraint which are necessary:
   a) to protect the safety of the aircraft, or of persons or property therein; or
   b) to maintain good order and discipline on board; or
   c) to enable him to deliver such person to competent authorities or to disembark him in accordance with the provisions of this Chapter.
2. The aircraft commander may require or authorize the assistance of other crew members and may request or authorize, but not require, the assistance of passengers to restrain any person whom he is entitled to restrain. Any crew member or passenger may also take reasonable preventive measures without such authorization when he has reasonable grounds to believe that such action is immediately necessary to protect the safety of the aircraft, or of persons or property therein.

Article 7

1. Measures of restraint imposed upon a person in accordance with Article 6 shall not be continued beyond any point at which the aircraft lands unless:
   a) such point is in the territory of a non-Contracting State and its authorities refuse to permit disembarkation of that person or those measures have been imposed in accordance with Article 6, paragraph 1 c) in order to enable his delivery to competent authorities;
   b) the aircraft makes a forced landing and the aircraft commander is unable to deliver that person to competent authorities; or
   c) that person agrees to onward carriage under restraint.
2. The aircraft commander shall as soon as practicable, and if possible before landing in the territory of a State with a person on board who has been placed under restraint in accordance with the provisions of Article 6, notify the authorities of such State of the fact that a person on board is under restraint and of the reasons for such restraint.

Article 8

1. The aircraft commander may, in so far as it is necessary for the purpose of subparagraph a) or b) of paragraph 1 of Article 6, disembark in the territory of any State in which the aircraft lands any person who he has reasonable grounds

to believe has committed, or is about to commit, on board the aircraft an act contemplated in Article 1, paragraph 1 b).
2. The aircraft commander shall report to the authorities of the State in which he disembarks any person pursuant to this Article, the fact of and the reasons for such disembarkation.

Article 9

1. The aircraft commander may deliver to the competent authorities of any Contracting State in the territory of which the aircraft lands any person who he has reasonable grounds to believe has committed on board the aircraft an act which, in his opinion, is a serious offence according to the penal law of the State of registration of the aircraft.
2. The aircraft commander shall as soon as practicable and if possible before landing in the territory of a Contracting State with a person on board whom the aircraft commander intends to deliver in accordance with the preceding paragraph, notify the authorities of such State of his intention to deliver such person and the reasons therefor.
3. The aircraft commander shall furnish the authorities to whom any suspected offender is delivered in accordance with the provisions of this Article with evidence and information which, under the law of the State of registration of the aircraft, are lawfully in his possession.

Article 10

For actions taken in accordance with this Convention, neither the aircraft commander, any other member of the crew, any passenger, the owner or operator of the aircraft, nor the person on whose behalf the flight was performed shall be held responsible in any proceeding on account of the treatment undergone by the person against whom the actions were taken.

Chapter IV — Unlawful Seizure of Aircraft

Article 11

1. When a person on board has unlawfully committed by force or threat thereof an act of interference, seizure or other wrongful exercise of control of an aircraft in flight or when such an act is about to be committed, Contracting States shall take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve his control of the aircraft.
2. In the cases contemplated in the preceding pargraph, the Contracting State in which the aircraft lands shall permit its passengers and crew to continue their journey as soon as practicable, and shall return the aircraft and its cargo to the persons lawfully entitled to possession.

Chapter V — Powers and Duties of States

Article 12

Any Contracting State shall allow the commander of an aircraft registered in another Contracting State to disembark any person pursuant to Article 8, paragraph 1.

Article 13

1. Any Contracting State shall take delivery of any person whom the aircraft commander delivers pursuant to Article 9, paragraph 1.
2. Upon being satisfied that the circumstances so warrant, any Contracting State shall take custody or other measures to ensure the presence of any person suspected of an act contemplated in Article 11, paragraph 1, and of any person of whom it has taken delivery. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is reasonably necessary to enable any criminal or extradition proceedings to be instituted.

3. Any person in custody pursuant to the previous paragraph shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national.
4. Any Contracting State, to which a person is delivered pursuant to Article 9, paragraph 1, or in whose territory an aircraft lands following the commission of an act contemplated in Article 11, paragraph 1, shall immediately make a preliminary enquiry into the facts.
5. When a State, pursuant to this Article, has taken a person into custody it shall immediately notify the State of registration of the aircraft and the State of nationality of the detained person and, if it considers it advisable, any other interested State of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 4 of this Article shall promptly report its findings to the said State and shall indicate whether it intends to exercise jurisdiction.

Article 14

1. When any person has been disembarked in accordance with Article 8, paragraph 1, or delivered in accordance with Article 9, paragraph 1, or has disembarked after committing an act contemplated in Article 11, paragraph 1, and when such person cannot or does not desire to continue his journey and the State of landing refuses to admit him, that State may, if the person in question is not a national or permanent resident of that State, return him to the territory of the State of which is a national or permanent resident of that State, return him to the territory of the State of which he is a national or permanent resident or to the territory of the State in which he began his journey by air.
2. Neither disembarkation, nor delivery, nor the taking of custody or other measures contemplated in Article 13, paragraph 2, nor return of the person concerned, shall be considered as admission to the territory of the Contracting State concerned for the purpose of its law relating to entry or admission of persons and nothing in this Convention shall affect the law of a Contracting State relating to the expulsion of persons from its territory.

Article 15

1. Without prejudice to Article 14, any person who has been disembarked in accordance with Article 8, paragraph 1, or delivered in accordance with Article 9, paragraph 1, or has disembarked after committing an act contemplated in Article 11, paragraph 1, and who desires to continue his journey shall be at liberty as soon as practicable to proceed to any destination of his choice unless his presence is required by the law of the State of landing for the purpose of extradition or criminal proceedings.
2. Without prejudice to its law as to entry and admission to, and extradition and expulsion from its territory, a Contracting State in whose territory a person has been disembarked in accordance with Article 8, paragraph 1, or delivered in accordance with Article 9, paragraph 1, or has disembarked and is suspected of having committed an act contemplated in Article 11, paragraph 1, shall accord to such person treatment which is no less favourable for his protection and security than that accorded to nationals of such Contracting State in like circumstances.

Chapter VI — Other Provisions

Article 16

1. Offences committed on aircraft registered in a Contracting State shall be treated, for the purpose of extradition, as if they had been committed only in the place in which they have occurred but also in the territory of the State of registration of the aircraft.

2. Without prejudice to the provisions of the preceding paragraph, nothing in this Convention shall be deemed to create an obligation to grant extradition.

Article 17

In taking any measures for investigation or arrest or otherwise exercising jurisdiction in connection with any offence committed on board an aircraft the Contracting States shall pay due regard to the safety and other interests of air navigation and shall so act as to avoid unnecessary delay of the aircraft, passengers, crew or cargo.

Article 18

If Contracting States establish joint air transport operating organizations or international operating agencies, which operate aircraft not registered in any one State those States shall, according to the circumstances of the case, designate the State among them which, for the purposes of this Convention, shall be considered as the State of registration and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

Chapter VII — Final Clauses

Article 19

Until the date on which this Convention comes into force in accordance with the provisions of Article 21, it shall remain open for signature on behalf of any State which at that date is a Member of the United Nations or of any of the Specialized Agencies.

Article 20

1. This Convention shall be subject to ratification by the signatory States in accordance with their constitutional procedures.
2. The instruments of ratification shall be deposited with the International Civil Aviation Organization.

Article 21

1. As soon as twelve of the signatory States have deposited their instruments of ratification of this Convention, it shall come into force between them on the ninetieth day after the date of the deposit of the twelfth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.
2. As soon as this Convention comes into force, it shall be registered with the Secretary-General of the United Nations by the International Civil Aviation Organization.

Article 22

1. This Convention shall, after it has come into force, be open for accession by any State Member of the United Nations or of any of the Specialized Agencies.
2. The accession of a State shall be effected by the deposit of an instrument of accession with the International Civil Aviation Organization and shall take effect on the ninetieth day after the date of such deposit.

Article 23

1. Any Contracting State may denounce this Convention by notification addressed to the International Civil Aviation Organization.
2. Denunciation shall take effect six months after the date of receipt by the International Civil Aviation Organization of the notification of denunciation.

Article 24

1. Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration.

If within six months from the date of the request for arbiration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other Contracting States shall not be bound by the preceding paragraph with respect to any Contracting State having made such a reservation.

3. Any Contracting State having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the International Civil Aviation Organization.

Article 25

Except as provided in Article 24 no reservation may be made to this Convention.

Article 26

The International Civil Aviation Organization shall give notice to all States Members of the United Nations or of any of the Specialized Agencies:

a) of any signature of this Convention and the date thereof;
b) of the deposit of any instrument of ratification or accession and the date thereof;
c) of the date on which this Convention comes into force in accordance with Article 21, paragraph 1;
d) of the receipt of any notification of denunciation and the date thereof; and
e) of the receipt of any declaration or notification made under Article 24 and the date thereof.

THE INTERNATIONAL AVIATION POLICY OF THE UNITED STATES†

I

From its beginnings and by its very nature, international aviation has been bound up with fundamental issues of national sovereignty and with international relationships generally. During and immediately after World War II there was established a framework of internationally accepted principles within which governments and airlines were to operate. The Chicago Convention, and the Bermuda Agreement between the United States and the United Kingdom, laid down a basic pattern of understandings and guidelines which for the most part still obtains.

In retrospect, we must agree that the framers of Chicago and Bermuda were gifted with unusual wisdom and foresight. The principles they established have been flexible enough to allow the international industry to expand rapidly, and precise enough to permit governments to negotiate within them. Even so, no amount of human wisdom could have devised the means to reconcile all of the forces that play upon international aviation. For one thing, although the industry is worldwide, one market, the United States, is overwhelmingly important. Our large population and our relatively high income levels make it inevitable that we will provide more passengers and more cargo than any other national unit. But we are sovereign only over our own air space. If we wish to fly elsewhere in the world, then we must get permission from other sovereign states. Typically, the other sovereigns consider that rights to enter their air spaces should be exchangeable for reciprocal rights into the United States.

Even this requirement for the exchange of rights between basically unequal trading partners might have been fully adjusted to, had the industry's technology stood still. In fact, however, aviation has been characterized by so dynamic a technology that it has never been possible for the adjustment processes to be worked out in full.

In large part because of rapid technological change, particularly the introduction of jets, governmental operations and policy-making in international aviation were in serious trouble in the late 1950's. By the end of the decade, our carriers were unhappy—perhaps that is an understatement—with what they considered unwise governmental actions, other governments were unhappy with us and with one another, and our own policy-making and operating agencies were unhappy with other governments and with one another. In this situation, forward movement on the governmental front was virtually impossible. Bilateral issues were piled up, negotiations were stalemated, and tempers rose, in many cases, to dangerously high levels.

Against this background, the new Administration in 1961 decided we had better take a new look at international aviation. This was done with considerable care and thoroughness. A private contractor was engaged to undertake a basic study of policy issues and policy alternatives. He turned in a report of two very substantial volumes. Then, an inter-agency committee, representing the several departments and agencies concerned with aviation policy set out to frame recommendations for the President, using the contractor's report as a part of its background material. The steering committee was in session over a period of seven or eight months. Its internal deliberations were supplemented by consultations with industry and labor. After an immense amount of discussion and argumentation, it agreed on the recommendations which the President accepted and restated in his April 24 statement.

† Address by the Honorable G. Griffith Johnson, Assistant Secretary for Economic Affairs, to the New York University Air Transport Conference, New York, Sept. 10, 1963.

I believe that the policy statement has helped greatly to clear the air and to permit us to go forward again with governmental business in the field of international aviation. Strictly speaking, the statement does not strike out in new or revolutionary directions. It accepts the reality that international aviation will not be allowed to operate in a wholly unregulated environment but it rejects the proposition that we should therefore adopt a system of thoroughgoing governmental restriction and control. In fact it is fair to interpret the policy statement as falling strongly on the side of giving competitive forces freedom to operate.

After looking at the alternatives, in effect, the statement harks back to Bermuda and to Chicago and finds the policy-makers of those days were in the main on the right track. It restates the basic objectives of the United States policy in terms that the negotiators at Bermuda would, I am sure, have found acceptable. That restatement is as follows:

> to develop and maintain an expanding, economically and technologically efficient international air transport system best adapted to the growing needs of the Free World, and to assure air carriers of the United States a fair and equal opportunity to compete in world markets so as to maintain and further develop an economically viable service network wherever a substantial need for air transportation develops.

II

Let me turn now to the question of organization and interagency relationships in this area.

As you know, the President has written to Secretary of State Rusk directing him, in the President's words, "to provide a focus of leadership for this vital area of foreign policy." The President's directive to the Secretary expressed his wish that the Secretary take the lead within the Executive Branch in identifying emerging aviation problems, in advising the President about them, in giving continuing attention to international aviation policy, and in assuring necessary follow-up actions.

In making clear the responsibilities of the Secretary in this field, the President made it equally clear that the Department of State would be expected to consult with and work in collaboration with the other agencies concerned. He mentioned by name the Departments of Defense and Commerce, the Federal Aviation Agency, the Agency for International Development and the Civil Aeronautics Board.

There has been established, pursuant to the President's directive, a new interagency committee on international aviation policy. Secretary Rusk has made Under Secretary Harriman the chairman of this committee while Najeeb Halaby of the Federal Aviation Agency serves as its vice chairman.

Within the Department we have made some organizational changes, the most important of which has been to establish the Office of International Aviation as a separate unit within the Bureau of Economic Affairs. Mr. Allen Ferguson has come in from the Rand Corporation to head the new Office and we are in the process of a modest expansion of staff.

All of these I would characterize as tidying-up and clarifying actions. The place of the Secretary of State in international aviation policy derives directly from his role as the President's chief foreign policy adviser. International aviation is a piece of our foreign relations and the Secretary must have a close concern for it if he is to discharge his general responsibilities to the President.

At the same time, we in the Department fully recognize that international aviation affairs should not be and cannot be an exclusive foreign policy preserve. Other agencies, and in particular the Civil Aeronautics Board, are obliged by statute to participate intimately in the development and conduct of international aviation policy. Even where there are no statutory requirements, we are very much aware that other agencies have capabilities and interests that bring

them into the field of international aviation policy. The task the President has laid on the Secretary of State is to lead, not to preempt. We intend to operate according to the spirit and the letter of the President's directive.

III

Let me take up now some of the substance of policy, in the way of routes, rates, and capacity.

The existing structure of air routes around the world has been built up, sometimes painfully, mainly through the negotiation of bilateral air agreements. The United States has been a leader in creating the existing route structure. On the whole we have succeeded fairly well in establishing our own flag lines on the main traffic arteries of the world. I am aware that our industry, or parts of the industry, have not always been enthusiastic about the route exchanges that have been negotiated. I have heard it asserted that we have bargained badly, in the first place, and, moreover, that the United States Government often has given up valuable traffic rights in order to advance other international policies. During the re-examination of our policy, this subject was given very close scrutiny. We found precious little to support the proposition that we had been out-bargained or that your Government had been in the habit of giving away aviation interests to achieve other objectives.

Our conclusion was rather that American negotiators had done a reasonably satisfactory job of placing our carriers on the routes that we needed to build an adequate system of international civil air communications. Obviously, as I have already said, the United States has always bargained from a position of being the largest single source of traffic in the world. If we had insisted on absolute economic equivalence in all of our bilateral agreements, we would have had very few agreements, or routes. What we set out to get, and what we did get, is a network of rights for our flag carriers which makes it possible for an American traveler to go by air in an American-owned and operated aircraft to most of the places in the world that he is likely to wish to visit.

Now, in any event, we have this rather fully developed system of routes. The statement of aviation policy says that we should go cautiously in expanding it. In particular, the statement warns against adding more carriers to the North Atlantic route and against proliferating the number of carriers over thin routes.

The guidance of the policy statement is unexceptionable in principle. In practice, it is easy to foresee that we are going to have a very difficult time ahead. Even though the principal route network is fairly well developed, we have some unfinished business so far as our own carriers are concerned. We also have left over, from the past, route exchanges in which rights have been accorded but not exercised. These are commitments of the United States and we are going to have to honor them if we are called upon to do so.

In the case-by-case operation of route policy, we are going to be faced with hard choices. In working within the policy guidelines laid down, we will not have an easy time obtaining traffic rights that American carriers would like to have and that we would like to get for them. One can predict that there are going to be instances where carriers and government negotiators are going to be pulled in one direction by our broad policy interests and in another by the immediate desires and interests of our flag lines. I hope that we can find imaginative and successful solutions to the tough cases. But I have been around long enough to expect that there will be occasions when we will have to make decisions on routes that will not please our industry.

Next for rates: I want to say, first of all, that the Department of State does not intend to become a rate-making agency. We do not have a statutory mandate to substitute for the CAB nor do we have the staff or the expertise to do the Board's job. We do have an interest in rates, however, not only because they bear

on the health of the industry but also because international air rates bear upon relations with other governments. I need only recall to your mind the fare dispute of last spring to make the point that the Secretary of State can come to have a lively concern indeed with the way in which fares on international air carriers are established or not established.

Now the Department agreed with the Civil Aeronautics Board last spring that the Chandler fares were unnecessarily high. We participated with the Board in subsequent intergovernmental talks about the Chandler rate decisions. We have joined with the Board in supporting legislation that would give the CAB power to control international air rates. We believe that the legislation requested by the Administration is a necessity if your Government is to be able to operate with full effectiveness in this area of international relations.

So far as the immediate future is concerned, we accept the Civil Aeronautics Board's judgment that lower fares, especially on the North Atlantic, are justified in the light of cost considerations and in terms of market development. It seems to us also that experiments with lower fares on the North Atlantic will move the capacity problem to a solution faster than anything else. From the point of view of our balance of payments, we would be interested in a fare structure that would contribute to an increasing flow of tourists to the United States. With the New York World's Fair just around the corner, now would be an especially apt time for designing promotional fares that would facilitate tourism into this country.

The President's policy statement deals with the rate question. It accepts the IATA mechanism as the most practical means available for developing rate proposals. But it stresses that our Government in accepting the IATA mechanism is not prepared to abdicate its responsibilities for assuring reasonable rates for the air traveler and the shipper of air cargo. We have told other governments that we interpret the President's guidance to mean that the United States Government will take an active and even an aggressive part in seeking to assure that rates are in fact reasonable.

Since our own carriers have made clear that they stand for lower international fares, there should be no difference between industry and Government on the rate issue. I take it that we both hope and wish that the decisions taken in Salzburg in the near future will be ones that the CAB can readily approve. A number of European governments have expressed approval of the philosophy of lower fares and this is a heartening sign. If our hopes are disappointed, however, then you may be justified in expecting that your Government will be consulting urgently with other aviation powers to see what can be done about getting a more acceptable answer.

This brings me to the capacity question. In our policy review, we looked most carefully at possible alternatives to the capacity guidelines laid down in the basic Bermuda Agreement. We considered at great length, also, the possibility of suggesting that legislation be submitted to the Congress to permit the Civil Aeronautics Board to regulate the capacity offerings of foreign carriers serving United States gateways. In the end, we recommended to the President that the United States should continue to base its policies on the Bermuda capacity principles. We did *not* recommend legislation to give the CAB authority control over foreign air carrier capacity.

I believe that we were right. The Bermuda rules, with all their ambiguities and all the room they leave for differing interpretations, still provide a set of principles compatible with the objective of an expanding international aviation industry. As for capacity legislation, I think that it would be a most unfortunate mistake for the United States to provide an example which could be taken to justify restrictionism by other national governments.

Much of the argument of capacity has been over the kinds of capacity being

offered by international carriers. There has been a vast amount of discussion about Fifth Freedom capacity and, as a further refinement, Sixth Freedom capacity. Disputes over Fifth and Sixth Freedom questions no doubt will continue to arise, even though the jet airplane has altered greatly the condition under which at least the Sixth Freedom question came into being. At the same time, the more difficult and the more persistent capacity problem of the remaining years of the subsonic jet age is likely to involve allegations of disproportionately large capacity offerings, without regard for the freedom classification of the traffic.

It has always been our governmental policy, and it continues to be our policy, to insist that carriers should be given a maximum amount of management freedom to decide in the first instance their own capacity offerings. It has been our position that if a carrier considers that a substantial increase in its capacity will help earnings, either on a short or long term basis, then the carrier should be permitted to make its own decision, subject to intergovernmental review after an appropriate period of operating experience. We have argued—and I think correctly—that added capacity tends to bring added demand and that, in any case, governments should not substitute their judgments for those of management about what traffic may be available.

It would be an exaggeration to say that our philosophy has been fully accepted around the world, even though our practice has generally been allowed. The future, however, is likely to bring more strenuous challenges to our position. There is an important body of opinion in parts of the international aviation community that favors arrangements for market sharing and for advance agreement on capacity increases. I do not expect that this point of view will disappear. Rather, I anticipate that some lively discussions will be arising from it.

So far as our policy is concerned, the President's statement gives no color of support for the division of markets or for intercarrier or intergovernmental arrangements to control capacity offerings in advance. Our writ, of course, does not run beyond our own carriers and our own bilateral agreements. If foreign carriers and foreign governments choose to experiment with market sharing beyond the arrangements already in being, we probably will normally have only an onlooker's interest. But we are not prepared to become an active participant in a system which we believe would have the effect of dampening down the very dynamic qualities that have made international civil aviation the burgeoning industry that it has been.

IV

Let me close with a word about the relationships between your industry and Government.

I suppose that nobody nowadays would argue seriously that there should be no governmental interest in a public utility operating in an international environment. There is a Constitutional requirement that the Executive Branch be concerned with the agreements under which air carriers conduct their business abroad. There is an obvious element of public interest in an industry in which only a limited number of carriers can be allowed to carry on the business of international air transportation.

The case for the intervention of the Government thus is perfectly clear. On the other hand, it is implicit in our system that the decision-making role of the Government ought to be circumscribed. Government officials need constantly to remind themselves that even industries touched heavily with a public interest have managements and stockholders who have responsibilities and interests too.

Unhappily these generalizations do not provide much guidance in particular cases. When we negotiate a bilateral air agreement, we inevitably touch on the

basic concerns of the people who manage and own our carriers. Governmental decisions need to reflect these concerns as well as considerations of international polity and domestic welfare. For this, there is no substitute for close communication between industry and government.

Traditionally, our carriers have been kept well informed about the progress of the Government's business in international aviation. In our negotiations, a carrier representative has customarily been at hand to advise the Government negotiators. I see no reason for change in this respect. We are not always going to agree with one another. Probably it would not even be desirable for us to aim at constant agreement. But we do need to know pretty fully what the other party to the relationship is doing or thinking and why. I can speak for the Department of State—and I think for the whole of the Executive Branch—when I say that we intend for our part to keep the lines of communication with the industry open.