

1948

## International

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# INTERNATIONAL

## INTERNATIONAL CIVIL AVIATION ORGANIZATION (ICAO)

### INTRODUCTION

**I**N retrospect, the Second ICAO Assembly held in Geneva in June is considered by most to have been notably successful.<sup>1</sup> The absence of major critical issues made it possible to focus attention more or less equally on all aspects of the work program and accomplishments of ICAO. Agreement on all items on the agenda was readily reached. As a result it is generally believed that the way has been sufficiently cleared so that the work program of ICAO for the next two years should move rapidly ahead. The limiting of the 1949 Assembly to the consideration of administrative problems and the reserving of substantive problems for the 1950 meeting will contribute significantly to this objective.

The success of the Geneva Assembly is in part a tribute to the work that has been done in ICAO over the last few years. The establishment of the pattern of international participation in the solution of aviation problems has admittedly been slow, and a great amount of attention has necessarily been devoted to date to organizational and administrative problems. Even more important, it has been necessary, through the medium of regional air navigation meetings, divisional conferences, research by the Secretariat, and other means, to collect a large amount of basic data necessary to the satisfactory consideration of the type of problems with which ICAO is confronted. The establishment of working relations within the framework of the United Nations and the various specialized agencies has also required considerable effort. Although much of this nature remains to be done, it must be concluded that the blueprint of ICAO operation has been well planned.

United States participation in ICAO is formulated largely through the interdepartmental Air Coordinating Committee (ACC) on which all governmental agencies interested in aviation are represented. Progress in the formulation of adequate United States positions on problems before ICAO has been very satisfactory and it is generally felt that the return to the United States in terms of ICAO accomplishments more than compensates for our investment in the Organization.

### 1948 FALL WORK PROGRAM

The work program for ICAO in the immediate future is heavy but the outlook for substantial accomplishment is generally favorable.

As a result of Assembly action, the Council will give early attention to the reconstitution of the Air Navigation Committee along the general lines anticipated under Articles 54(e) and 56 of the Chicago Convention. Preliminary discussions indicate that it will be a twelve-man commission of technical specialists appointed as representatives of the nations on the Council and definitely responsible to the Council. The Air Transport Committee will be reestablished along the lines of Article 54(d) and will in all probability also consist of twelve members appointed by the Council from States represented thereon. These actions will simultaneously require a reappraisal of the rela-

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<sup>1</sup> See 15 J. Air L. & C. 339 (1948).

tionship between the Council, the committees, the divisions, and the Secretariat. Increasing emphasis is being placed on the use of the Secretariat wherever possible.

The preparation of specifications on the carriage by air of potentially explosive or inflammable supplies necessary for the safe and regular operation of international air services was discussed in the Assembly and will require early Council action, as will certain legal problems arising from international delivery of aircraft flights.

The recommendations of recent ICAO meetings, including those of the Aeronautical Charts, Rules of the Air and Air Traffic Control, Personnel Licensing, Statistics and Facilitation Divisions, in addition to the European-Mediterranean, North Atlantic, and North Pacific Regional Air Navigation meetings, will constitute an important phase of the fall work program.

The advent of new and larger types of transport aircraft along with several important changes in operational requirements has given added importance to the study ICAO is currently conducting on the complicated problem of runway requirements for international airports. Related to both the technical and aero-medical programs of ICAO is another study which is being conducted to determine what action might be taken to prevent the recurrence of aircraft accidents. ICAO is also engaged in refining the procedure for issuing international Notices to Airmen (NOTAMS).

Five technical Annexes to the Chicago Convention have recently been adopted. In addition, Annexes on Airworthiness (AIR) and Operations (OPS) will probably be placed before the Council in the near future for approval and subsequent referral to the member states.

Under the terms of the procedure for adopting Annexes to the Convention each member state is requested to file with ICAO a notice of differences between its own national practices and the ICAO standard. Since these differences are currently being filed, the need for analyzing their effect and recommending action to be taken by ICAO is apparent. A related aspect of this problem is the establishment of a procedure for the continuous reporting of breaches of or non-compliance with ICAO standards. Both of these problems must receive high priority attention in Montreal this fall.

Resolution A2-23 of the Second Assembly requests the Council to establish as soon as possible a program for providing and manning indispensable air navigation facilities. The success of this study is basic to many of the stated objectives of the ICAO Convention. The necessary steps will be (1) to indicate to each Member State the facilities that are deficient in its area, and (2) to request the States to provide information on their plans for correcting these deficiencies in accordance with the terms of Article 28 or to consider the possibility of requesting joint financial support by interested states under the provisions of Chapter 15 of the Convention.

The Second Assembly also took action with respect to the application of Article 5 of the Convention, the article designed to insure greater freedom of international movement to non-scheduled flights. Contracting States have been asked to study an interpretation of Article 5 drafted in Geneva and to submit their comments by November 30, 1948. Progress toward the resolution of the problems that have arisen in implementing this provision of the ICAO Convention therefore appears possible in the near future.

The Universal Postal Union in formulating a set of policies designed to govern the practices of international air mail requested ICAO for the coordi-

nated comments of its member states. These comments have recently been formulated and transmitted to the UPU.

#### SECRETARIAT STUDIES

In April 1948 the ICAO Secretariat issued a preliminary report on its study of airport economics. A resolution adopted by the First Assembly instructed the Council to insure that its study of this problem take into consideration the economics of all phases of airport and air navigation services for international civil aviation. Work on this problem will undoubtedly extend over a long period; however, the Council has been directed to pursue it as a matter of urgency.

The Organization has also for some time been conducting studies concerning undue economic burdens on international air transport, especially in relation to burdensome insurance and taxation requirements. Different aspects of this question are being investigated by the Legal Bureau and the Air Transport Bureau in Montreal, and a resolution adopted by the Second Assembly contains an Annex designed to provide some relief to international air transport. States have been asked for comments by December 31, 1948.

No further action is expected in the next several months on a multilateral agreement on commercial rights in international civil air transport. However, the Contracting States agreed in an Assembly resolution to submit by June 30, 1949, their comments and recommendations for further action on this subject. Thereafter the Council was directed to determine the next step and to make recommendations to the Contracting States not later than December 31, 1949.

It is evident that most of this work program will not be carried to a conclusion during the fall of 1948. Much of it represents continuing projects for which a terminal date is not in sight. However, definite signs indicate that substantial progress should be made in the next few months. Against this present hopeful optimism the ICAO accomplishments this fall will have to be measured.

#### ACTIVITIES SINCE THE GENEVA ASSEMBLY

The Council reconvened for its Fifth Session on Tuesday, September 7, 1948, its first meeting since June in Geneva. In the interim period, preparatory work for the Fall Session was carried on by the Member States and by the Secretariat. Several additional states signed the Convention on the Recognition of Rights in Aircraft, bringing the total at present to twenty.

In the Spring of this year when the Council approved five sets of Annexes to the Convention, it stipulated that each Annex would automatically go into effect on a certain date if a majority of States did not indicate their disapproval of all or a part of it. States were also given a date (later than the date for filing disapprovals) by which they should indicate any differences that would be expected to exist between their national regulations and the ICAO Standards in force. By September 15, the deadline for filing disapprovals on four of the Annexes, only six States had filed disapprovals and none disapproved of an entire Annex. Consequently, all five Annexes will go into effect on approximately January 1, 1949.

With respect to the Annex on Rules of the Air, however, the United States expressed concern believing that this Annex, as revised by the Council, was subject to multiple interpretation and would be confusing unless the Organization clarified its intent. Accordingly, the Council has recently been

asked if its interpretation was the same as that understood by the United States. This problem is being thoroughly explored in Montreal at this time, and a decision should soon be reached.

On September 16, the Organization passed a new milestone when an agreement on the joint support of air navigation services in Iceland was signed by the Council President and by a representative of the Icelandic Government. This agreement marks the successful culmination of discussions initiated over a year ago when the Government of Iceland requested financial and technical assistance for the maintenance and operation of certain facilities and services provided for trans-Atlantic air navigation. Under the agreement with the Government of Iceland, ICAO will pay to Iceland certain specified sums received from the contributing States, will exercise general supervision over the operation of the services, and will furnish such advice as Iceland may reasonably require.

As the result of favorable Congressional action, the United States indicated to ICAO on September 14 its intention of implementing the remaining five ocean weather stations for which this Government is responsible under the terms of the North Atlantic Ocean Weather Stations Agreement. This means that the entire ocean weather station program in the North Atlantic will have been implemented by June 1949.

On October 7 the Council completed its consideration of the comments by Contracting States on international air mail and transmitted its study to the Universal Postal Union (see reference above).

A detailed investigation of what can be done to improve approach runway lighting at international airports in Europe was made at a special ICAO meeting on September 14, 1948 in London. A report on the outcome of this meeting has not yet been submitted.

#### THIRD SESSION OF LEGAL COMMITTEE

The agenda of the Third Session of the ICAO Legal Committee, which convened in Lisbon on September 17, 1948, included items on: the revision of the Warsaw Convention for the unification of certain rules relating to international transportation by air; the remuneration of States and other organizations for search and rescue operations undertaken by them in regard to aircraft missing or in distress; the proposed amendment of Article 94 of the Chicago Convention; the consideration of several questions related to burdensome insurance requirements based on a resolution of the Second Assembly; a report by the Secretariat on the question of publication of national laws on aviation; the future work program of the Legal Committee; and the date and place of the Fourth Session of the Legal Committee.

#### UNITED NATIONS

The problem before the UN General Assembly which is of greatest concern to ICAO is a recommendation that favorable consideration be given to the application of the Government of Finland for membership in the Organization, under the provisions of Article 93 of the Chicago Convention. Should the General Assembly give its assent, Finland will become the 51st member of ICAO.

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INTERNATIONAL AIR TRANSPORT ASSOCIATION (IATA)—  
FOURTH ANNUAL GENERAL MEETING

The Fourth Annual General Meeting of IATA was held in the Palais Provincial de Brabant at Brussels from September 14 to 18, 1948. M. Gilbert Perier, President of SABENA, presided. The 200 delegates of member airlines and observers for other organizations were welcomed on behalf of the Belgian government by M. Achille Van Acker, the Minister of Transport. The sessions were preceded and followed by the 12th and 13th Meetings, respectively, of the Executive Committee of the Association.

REPORT OF THE DIRECTOR GENERAL

In his Annual Report the Director General, Sir William P. Hildred, pointed out that while the number of planes and route miles reported by IATA member airlines had not greatly increased during the preceding year, the number of schedules operated and the size of the planes now used had appreciably grown. The result was a far greater space offering on the part of the scheduled international airlines. The ratio of space taken up to the amount of the actual offering had gone down, due to seasonal fluctuations and because schedules were being arranged and aircraft equipped to give more convenience and comfort to the passenger. Nevertheless, the number of revenue ton miles actually operated internationally by the members of IATA had continued to increase during 1948 at about the same rate as the 67 per cent growth recorded in 1946.

The Director General reported that 50 members replying to IATA's special questionnaire on the subject had a 1947 record of 21,184,000 passenger miles per fatality, and had had, by a slight margin, fewer accidents in 1947 than in 1946. He pointed out that despite the large degree of political importance attached to international air transport, the industry itself ranked low on the list of the world's productive industries. The entire annual income of civil aviation throughout the world was equivalent to about 50 cents per head of the world's population, and its gross income was less than that of the cosmetics industry and about the same as that of the synthetic vitamins industry.

In contrast to the size of this industry, the capital cost of providing it with ground facilities and services was continuing to mount. The annual cost of running, maintaining and depreciating these facilities was roughly equal to a quarter of the gross annual revenues of all the scheduled operators.

The Director General reported that he was concerned by a growing trend on the part of governments to inhibit the revenues of the airlines, through their demands for lower fares and lower mail rates, while at the same time adding to their costs through increased charges for airports and navigation facilities. Should the trend continue, the Director General felt, the airlines might well be faced with bankruptcy. He was confident, however, that if manufacturers, governments and operators realized that they were in partnership as trustees of the public interest in air transport service and worked in cooperation to cut costs down the line, the danger would be averted.

In commenting on other matters, the Director General reported that the campaign for the facilitation of international air travel was satisfactorily, although not ideally, progressing. Urging the airlines to consider the possibilities of second class transport service at lower rates, the Director

General asserted that they could thereby tap a vast market of persons anxious to fly, but unable to afford air service at its present rates.

#### EXECUTIVE COMMITTEE

The Executive Committee reported to the Meeting that direct contact had been established for the first time between the airlines and postal administrations on a worldwide basis. Informal discussions on postal matters had already been held with members of the Executive and Liaison Commission of the Universal Postal Union and would be continued. IATA could not bind its members to any agreements, but it would attempt to work informally with UPU on a cooperative and practical basis at all times.

During the year, the Executive Committee had approved the admission of 12 companies to active membership and four to associate membership.<sup>1</sup> The Committee presented a budget for 1949, which was later approved by the meeting, and which represented a reduction from the 1948 budget.

#### CLEARING HOUSE

The IATA Clearing House at London was reported to be handling the settlement of interline traffic transactions at the rate of more than \$100,000,000 per year, and by its operation to be reducing the actual amount of transactions for which cash settlement was to be made to about 10 per cent of that total. It had reduced the time of settlement to only 41 days. In addition to saving approximately \$28,000 per year on the sale and purchase of foreign exchange alone, members of the Clearing House were also protected from fortuitous loss in the revaluation of currencies, as in the depreciation of the French franc and the appreciation of the New Zealand pound. At the present level of turnover, the expenses of the Clearing House were being met by a charge of only one-sixteenth of one per cent on total of debits and credits. The agreement for inter-clearance made during the year between IATA and the Airlines Clearing House at Chicago had proved successful and beneficial.<sup>2</sup>

#### FINANCIAL COMMITTEE

During the year, the Financial Committee reported, the interests of the airlines in many phases of financial management, reporting, etc., had been studied and acted upon. Revised cost analysis forms for the use of the Traffic Conference costs committees were devised and circulated to members. The Statistical Working Group had cooperated closely with the Statistics Division of ICAO. The Clearing House Sub-Committee had been active in the guidance and supervision of that institution, and arrangements had been made for the preparation, by the IATA and Airlines Clearing Houses in conjunction, of a handbook of procedures for revenue and interline accounting.

The Committee had carried on active studies of airline insurance problems, including the IATA agents' fidelity bond, carriers' liability insurance, shippers' cargo insurance and valuation charges. It had also begun a study of optimum types of voluntary passenger accident insurance, and had given consideration to such problems as taxation on the export of funds, joint financing of flight equipment, etc.

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<sup>1</sup> As of November 15, IATA had 63 active and 8 associate members.

<sup>2</sup> As of November 15, the IATA Clearing House had 31 members.

## LEGAL MATTERS

The Legal Committee had been closely concerned, with the Traffic Committee, in the drafting of universal and legally acceptable standard Conditions of Carriage for the Transport of Passengers and of Goods, to be used in conjunction with the IATA passenger ticket and air waybill/consignment note.

A report was rendered on IATA participation as an observer at the meetings of the Legal Committee of ICAO and in the Legal Commission of the ICAO Assembly during the year. ICAO had drafted and sent to member states a convention on International Recognition of Rights in Aircraft: the IATA Legal Committee presented and the General Meeting later approved a resolution urging the ratification by governments.

The Meeting discussed at length a report by the Legal Committee on the definition of "scheduled international air services" which ICAO was attempting to draft and for which comments had been solicited. The phrase was used, but never defined, in Articles 5 and 6 of the Chicago Convention. Because of this ambiguity, the Meeting felt that a situation existed in which certain non-scheduled carriers were providing what was virtually scheduled service on preferential terms as against scheduled operators. The Meeting decided that IATA should submit views to ICAO on the matter and should, as part of its submission, include a proposed draft definition which would take into account the suggestions of the Legal Committee and the General Meeting.

The Warsaw Convention Special Committee reported to the Meeting on IATA's views on the revision of the Warsaw Convention affecting liability, which the ICAO Legal Committee has decided is not urgently necessary. An ICAO Sub-Committee is now studying the project further.

## TECHNICAL MATTERS

The Technical Committee reported at length on the activities during the year and on those of the IATA Technical Conference, in which the technical policies of the organization are shaped. IATA had worked closely throughout the year with ICAO and had acted on behalf of the airlines in presenting the needs of civil air transport to the frequency allocation conferences of the International Telecommunications Union and to other international organizations.

The Technical Conference at Ste. Agathe, P.Q., during the Summer had among other matters, pushed forward projects for the pooling of certain ground equipment and supplies amongst the airlines; giving impetus to more widespread installation of airport approach lighting; inaugurating better measures for the quick handling of planes at international airports; providing greater coordination of communications and navigation facilities; promoting the use of pressure pattern flying on long routes; and bringing about worldwide agreement among airlines on conformity of approach and letdown procedures.

The fact that improvements in air traffic control were not keeping pace with developments in flight was stressed as one of the major problems now facing air transport and special urgency was assigned to standardization of approach lighting and of communications and radio aids as between countries. The budget later approved by the General Meeting included special appropriations for technical staff to work on these problems.

## TRAFFIC MATTERS

The Traffic Committee had proceeded during the year with the work of recommending to the Traffic Conferences measures for the standardization of traffic practices which would be acceptable on a worldwide basis. In most cases, among them in the questions of applications of changes of fare, the effort had been successful.

The IATA Agency program was well under way, with approximately 6,000 sales agents for IATA member airlines certificated throughout the world. All of these agents were covered by a \$100,000 fidelity bond and paid a small fee. The Committee also reported on its activities in connection with facilitation, postal matters and the General Conditions of Carriage, treated above, on joint tariffs, reservations codes and the like. In connection with the Conditions of Carriage, the Committee pointed out that the new document represented a far more liberal attitude toward the public than had hitherto been reflected in the old Conditions.

The Committee had also considered the question of charter flights by IATA members and had recommended to the Conferences the adoption of a resolution that all charter prices should be quoted on a plane-load basis and that charter space should not be resold at lower rates.