

1952

## International

Follow this and additional works at: <https://scholar.smu.edu/jalc>

---

### Recommended Citation

*International*, 19 J. AIR L. & COM. 338 (1952)  
<https://scholar.smu.edu/jalc/vol19/iss3/6>

This Current Legislation and Decisions is brought to you for free and open access by the Law Journals at SMU Scholar. It has been accepted for inclusion in Journal of Air Law and Commerce by an authorized administrator of SMU Scholar. For more information, please visit <http://digitalrepository.smu.edu>.

# INTERNATIONAL

## INTERNATIONAL CIVIL AVIATION ORGANIZATION (ICAO)

### WORK PROGRAM OF THE COUNCIL

**T**HE Council is holding its Seventeenth Session in Montreal. Its subsidiary bodies, the ICAO Air Navigation Commission, Air Transport Committee, and Committee on the Joint Support of Air Navigation Services are meeting at the same time. Included in the work program of the Council and its associated committees are the following:

*Air services from India across Pakistan.* A summary of the Indian protest to ICAO of Pakistan's refusal to allow Indian aircraft to fly across its territories on the direct route from New Delhi to Kabul in Afghanistan and a summary of the Pakistani reply are set forth below.) Both Governments have been asked to submit further information and the Council will take further action when this is received.

*Limits of liability of the air carrier for passengers and cargo.* Existing limits of liability of an air carrier in international operation for injury or damage to passengers and cargo are laid down by the Warsaw Convention of 1929. Work is now under way on the revision of this convention made necessary by the great changes in international aviation in the past twenty years.

*Eastern Mediterranean Air Traffic Coordination Centre.* A plan for the establishment of an ICAO-sponsored coordination centre to improve flight information services in the Eastern Mediterranean will be presented. The centre is required because of existing political conditions in the area.

*International airworthiness of aircraft.* A thorough study is being made of the policy of ICAO on this subject.

*Carriage of dangerous goods by air.* Certain types of cargo are intrinsically dangerous; the Commission is concerned with working out regulations to insure their safe carriage.

*Elimination of air navigation deficiencies.* The Commission maintains a continuing survey of the deficiencies which exist in the provision of air navigation facilities and services through the world's air routes, with the purpose of helping to eliminate as many of them as possible by implementation of the regional plans drawn up at ICAO air navigation meetings held in the world's eight flying regions.

*Revision of International Standards on Facilitation.* Amendments to the ICAO International Standards and Recommended Practices on the facilitation of international air transport (whose object is to reduce the formalities involved in border crossings) will be dealt with by the Committee, taking into account the experience gained during the past three years.

*Possibility of further joint financing agreements.* Consideration will be given to the possible joint financing of the Air Traffic Coordination Centre in the Eastern Mediterranean and of an upper air weather reporting station in Honduras, and to the establishment of a network of ocean stations in the North Pacific.

*Administration of existing joint support agreements.* This involves agreements maintaining air navigation facilities and services in Greenland, Iceland and the Faeroe Islands, and an ocean station network in the North Atlantic.

## INDIAN COMPLAINT AGAINST PAKISTAN

In June the Council of the International Civil Aviation Organization designated three of its members—delegates of Belgium, Brazil and Canada to consult with special representatives of India and Pakistan on the action to be taken by Council on a complaint received from the Government of India which charges that Pakistan is discriminating against its civil air transportation, and to report back to Council. Representing India in the discussions was His Excellency Shri R. R. Saksena, Indian High Commissioner to Canada, and representing Pakistan was His Excellency M. Ikramullah, Pakistani High Commissioner to Canada. Both countries were asked for further information and a working group on rules for disputes is currently preparing for the next steps by the Council.

According to the Indian complaint, the Government of Pakistan has taken action contrary to the Convention on International Civil Aviation and the International Air Services Transit Agreement to which both governments are parties. India, the complaint states, wishes to run commercial services between its capital, New Delhi, and Kabul, Afghanistan. The direct route between these two points is 642 miles. A prohibited area runs along the entire western boundary of West Pakistan and civil aircraft are not allowed to fly over this area. For this reason a trip from New Delhi to Kabul must be flown via Karachi, then through Iran up to Afghanistan with a total distance of approximately 1900 miles. The Government of India believes that the extent and location of this prohibited area are not reasonable and that the area interferes unnecessarily with air navigation. Furthermore, the Indian brief charges that an Iranian airline operates a scheduled international air service across this prohibited area and therefore the Government of India feels "reluctantly compelled to conclude that the real intention of the Government of Pakistan is to prevent easy communication between India and Afghanistan by prohibiting flights of aircraft by an easy and direct route."

In reply, the Government of Pakistan stated that the existing prohibited areas "are exactly those which have existed in undivided India since 1935" and believed that India cannot reasonably complain as these areas "have all along been considered essential for security and other reasons."

Pakistan's note also states that only Iranian Airways has been permitted to fly across this prohibited area between Zahidan and Karchi. This has been done because "while an airline carrying the nationality of a Muslim State such as Iran could be allowed to traverse a narrow air corridor across the prohibited areas to which the Search and Rescue operations could be confined, and to the occupants of which the attitude of the inhabitants of the tribal area might reasonably be considered to be friendly in the event of a forced landing, no guarantee for effective search and rescue operations over wide area could be made and the attitude of the inhabitants of the tribal areas towards an Indian airliner forced down would be completely unpredictable. In fact it could even be said that the tribal people are definitely unfriendly to India on account of India's attitude over the Kashmir and the Pushtoonistan issue. The tribesmen are all armed and there are reason to believe that they take delight in taking shots at the flying aircraft. It was therefore entirely to ensure the safety of aircraft of the Indian airline themselves that the prohibition of flying across the prohibited areas was enforced and the Indian protest has come as a surprise. It may be noted by the Council that a similar prohibition was extended to K. L. M. (Royal Dutch Airlines) when they applied for a similar concession in view of the doubtful attitude of the inhabitants of the tribal area in the event of

a forced landing there, even though there are no special reasons for the tribesmen to be unfriendly towards the Dutch."

In summary, the Government of Pakistan declares that "the application made by India should be rejected in the interests of safety of air passengers and crew."

#### SIXTH ICAO ASSEMBLY

The sixth session of the Assembly of the International Civil Aviation Organization adopted a net budget of \$2,817,167 for the conduct of the Organization's business in 1953, and apportioned this cost among the 57 nations which are members of the world aviation body. This amount marks a reduction of \$17,027 over the budget for the current year, and is in line with strong calls for economy made by many of the delegates to the meeting.

During the Assembly the Government of Canada offered to reduce the rent which ICAO is paying for its headquarters building in Montreal by the sum of approximately \$130,000 per annum, subject to the approval of the Canadian Parliament. In the course of discussion on the question of economy, the Assembly turned down a Portuguese proposal which would have directed the ICAO Council to study the relative merits of the existing headquarters in Montreal and of other possible sites, bearing in mind the need to maintain the highest standard of efficiency and, at the same time, to effect a substantial reduction in the budget. As the next session of the Assembly will be a major one, reviewing the work of ICAO in the technical, economic and legal fields, as compared to this year's session which was devoted only to administrative matters, it was decided to hold it outside of Montreal. The Governments of France and the United Kingdom have offered to play host to this meeting.

The largest assessment in the ICAO budget for 1953 was that of the United States (27% or approximately \$760,000), followed by the United Kingdom 9% or \$250,000, France (5.7% or \$161,000), Canada (5% or \$139,000) and India and Australia (3.5% or \$98,000). All figures are in Canadian dollars.

#### JAPAN APPLIES FOR ICAO MEMBERSHIP

The Government of Japan has applied for membership in the International Civil Aviation Organization. The application has been forwarded to the United Nations; submission to the United Nations General Assembly, which begins on 14 October, and to the ICAO Assembly, is necessary before Japan's application can be accepted. Membership in ICAO involves becoming a party to the Convention on International Civil Aviation, which is ICAO's charter.

According to the terms of the Treaty of Peace with Japan, signed in San Francisco on 8 September, 1951, "pending its becoming a party to the Convention on International Civil Aviation . . . Japan will give effect to the provisions of that Convention applicable to the international navigation of aircraft, and will give effect to the standards, practices and procedures adopted as annexes to that Convention in accordance with the terms of the Convention." In an attachment to the peace treaty, the Government of Japan also declared its intention to apply for admission to participation in the Convention on International Civil Aviation within six months of the date of ratification of the Treaty of Peace.

The present membership of ICAO consists of 57 nations.

## INTERNATIONAL AIR TRANSPORT ASSOCIATION (IATA)

## REPORT BY THE DIRECTOR GENERAL

**S**IR WILLIAM P. HILDRED, Director General of the International Air Transport Association, predicted at the Eighth Annual General Meeting in Geneva in September, that the international airlines will do 250 per cent more revenue flying this year than they did five years ago.

By the end of December, he forecast, 45,000,000 passengers will have been carried during the year. They will have travelled an average of 1,000 kilometers each, while the 2,500 aircraft of IATA's member companies will have flown a total of 1,700,000,000 kilometers. Cargo operations for 1952 will pass the 1,000,000,000 ton-kilometer mark for the first time, while approximately 275,000,000 ton-kilometers of mail will be carried.

In the course of these operations, the scheduled airlines will perform almost 5,000,000,000 revenue ton-kilometers, which is nearly two and one-half times their 1947 figure.

*Tourist Services.* The success of scheduled airline tourist fares on the North Atlantic route has been "triumphantly demonstrated" by a 50 per cent increase in traffic during the first three months of their operation, Sir Hildred asserted.

Approximately 150,000 persons crossed the North Atlantic by scheduled airliners during May, June and July of this year, the first three months of tourist service, as compared with 100,000 in the same period of 1951. The 50 per cent increase in traffic was achieved by only a 10 per cent increase on the number of flights. At the same time, the average number of passengers carried on first class flights increased by nearly 20 per cent as compared with last summer.

These phenomenal results were achieved in spite of the drastic curtailment of services in May, when North Atlantic carriers were forced to cancel a large proportion of scheduled services because a strike of refinery workers in the United States limited their fuel supplies.

Tourist fares will become effective inside Europe next May, Hildred said. He asserted that these intra-European tourist services "will be a step toward bringing down the price of air transport to the level that the average European can afford and will do much to encourage the sense of continental, as well as national, identity which is so important to our future."

Reporting on the economic health of the world airline industry, Hildred estimated that the airlines had ended 1951 with a gross profit of about \$150,000,000 from operating revenues of \$1,700,000,000 but that most of this profit was immediately consumed by taxes, development expenses, financing of new equipment and servicing of debts.

*Postal Union Rates.* On behalf of the airlines, Hildred expressed the hope for some change in the decision of the Universal Postal Union Congress at Brussels in June to cut by one-third the rates paid the airlines for the carriage of certain types of foreign mail. He urged the carriers to resist any pressure upon them to accept these rates earlier than the formal effectiveness date in July of next year.

Hildred laid before the General Meeting a full record of the dealings between IATA and the Universal Postal Union during the recent Brussels Congress at which the UPU voted to cut by one-third the compensation paid the airlines for carrying certain important classes of air mail.

He pointed out that "there had been no discussion and no negotiation" between the airlines and the organization of postal administrations, that IATA's representatives had been permitted to make only a single statement to the Congress and that this had been "completely ignored," and that the UPU decision was entirely one-sided.

*Charges for Facilities.* Hildred urged governments to consider an international agreement on a standard system of charges for the use of air navigation and airport facilities, "instead of imposing, arbitrarily and independently, rates which threaten to affect the economic well-being of the airlines which serve their territories and link them with their neighbors."

Hildred pointed out that while the industry has had a profitable year, most of the profits have already gone into taxes, new equipment and development. "If, at the same time," he added, "they have to yield to insistent financial pressure from every government which sees therein an opportunity for breaking even on its aviation budget (and thereby subsidizing all other forms of transport, military and commercial), there is a danger we shall be forced to retreat into our shell and instead of leading public opinion, follow it but grudgingly, continuously looking behind our backs at the threatening, many-headed spectre of the government collector of revenue.

"I would, therefore, make this statement on behalf of the airlines to all the governments. We, the airlines, clearly realize that an ever expanding and ever improving network of airports and air navigation facilities must be set up in order to keep pace with the expansion of air traffic. We fully appreciate that these installations cost a lot of money, since in many cases, we have had to bear the expenditures ourselves. We agree that for some services we should be charged and we shall pay willingly, provided that the charges are reasonable and that no fantastic disparities exist between airports one hundred miles apart merely because there is a border between them. At the same time, we would like the governments to acknowledge in return, that there are types of service for which we should not pay, and that other forms of air transport should be assessed their fair share of the expense."

*IATA Traffic Conferences.* The agreement on tourist fares in the IATA Traffic Conferences at Nice last December "has strengthened our own concept and practice of international co-operation inside IATA," Hildred said. "The difference of opinion as to whether the time was ripe to introduce them was one of the most keenly felt and strongly fought issues which have ever been raised in IATA," he said, "but we did reach agreement through the machinery of cooperation we have labored over many years to perfect. Having survived the stresses and strains of the tourist fare discussions, that machinery is stronger than ever."

Hildred strongly urged that meetings of the Traffic Conferences, which now gather twice a year to work out rates, fares and related matters for government approval on a six-month basis, be held only once annually. Such a decision, he said, would save a quarter million dollars a year in administrative costs; would relieve the pressure on the traffic vice presidents who must spend three to four weeks at a time in the Conferences and away from their offices; reduce the cost of reprinting and amending tariffs; and lighten the load on governments who must approve Conference resolutions before they become effective.

The enforcement of IATA Conference resolutions, a process begun two years ago to discover and penalize breaches of Conference agreements, has shown itself since to be "salutary, constructive and educational," Hildred reported. It has also revealed "a need for education of airline staffs in

exactly what the Conference resolutions mean and how they must be carried out," and he therefore urged the airlines to set up an educational bridge between the traffic experts in the Conferences and the sales staffs in offices around the world.

The enforcement process has also revealed a need for simpler, more clear cut and more succinct agreements, he said. "After all," he commented, "the greatest decisions of life, war, marriage, allegiance, are usually expressed in a few well-chosen words."

*Governmental Travel Restrictions.* IATA's efforts, in conjunction with the International Civil Aviation Organization (ICAO) to reduce the amount of papers and formalities required for international air travel and transport "have been increasingly effective during the past year, but they still fall dismally short of the real needs of the situation," Hildred said.

"Thousands of men still make a living, but not a life, by interposing themselves between the international traveller and his destination. It is a feature of this century that men should suspect men and that petty officials should bristle like diphtheria germs in a child's throat.

"But there is no consistency in the folly. Go around Europe on a bicycle, go across frontiers on a train, and you will find that transport by air is something which rouses the highest degree of cupidity and obstruction.

"I am told that so oppressive are the obstructions on air transport that the crooks and the smugglers stick to the older forms of transport where the restrictions are less oppressive."

The accomplishments of the past year have included an improved set of international standards for these matters, drafted by ICAO as Annex 9 to its Convention; the establishment of government facilitation committees in 13 countries; the start of pre-clearance for passengers and baggage; and a reduction of the documents needed for cargo shipments to many countries.

*Terminal Facilities.* Congestion and lack of facilities at airports constitute one of the gravest problems in passenger handling, Hildred said. Even in places where runways and navigational aids are magnificent and procedures streamlined and officials courteous, he continued, traffic cannot be handled efficiently "because the terminal was never designed for anything larger than a DC-3 and no provision was made for an easy and inexpensive expansion of existing terminal facilities."

"I note with consternation," he declared, "that some of the terminals which are so pitifully inadequate for the volume of traffic today were designed and built within the last five years and I am very much afraid that the terminals being designed now to be built within the next few years will also be too small to deal with the even greater expansion of international air travel which we confidently expect."

The main economical principle in the building and location of airports, Hildred said, "is to build now in such a way that future changes can be dealt with by cleverly foreseen additions and do not necessitate reconstruction."

If a government wishes to make its airport "a living monument to this century, rather than an obelisk to national pride," he said, "let it gain its reputation not through being the most luxurious terminal that money can devise, but through being the terminal which can handle at lightning speed and with clockwork precision the ever growing number of air travellers."

*Performance Requirements.* Hildred said that he could not over-emphasize the importance of the airlines' keeping in close watch through the IATA

Technical Committee on the efforts of the International Civil Aviation Organization (ICAO) to draft new performance requirements for aircraft.

"These will constitute the limits within which our future aircraft will have to be built," he said. "They can be either a firm skeleton to support the future growth of the industry, or a cage to confine its possibilities. The present rate of scientific development makes it certain that the aircraft of the future will be so different from those of today that flexibility and practicability, together with safety and economy, must be the keystones of these requirements."

Designers of transports years from now may be faced by the fact that the thin, swept-back wing and high wing loading necessary for high speed and high altitude flight may not be conducive to the slow approach and landing speeds which are wanted for all-weather landings. "Therefore, he declared, "this may mean that our future transport must be capable of changing from an aerodynamically clean, high speed aircraft in the en route configuration to a low speed aircraft for approach and landing, while still retaining its sensitivity of control. This could involve changing the design of the aircraft in mid-air, on which I understand a good deal of experimental work has been done."

Hildred noted with approval the fact that the IATA Technical Conference has begun attempts to define the actual operating requirements for future developments in that field by bringing specialists of all types into a coordinated consideration of individual problems.

*Cargo and Helicopters.* Hildred pointed out in the conclusion of his report that "what the airlines have achieved has never come by settling down to a static business, but from being willing to take economic risks, to retire good equipment in favor of better; to open up new services and routes, to create new demands to put service ahead of reward. Air transport has grown by jumping from crest to crest.

"Scheduled air cargo may be a future crest. Its development to date has been little less than phenomenal — it has grown more than 330 per cent in volume in five years—and the more cargo we carry the more we learn about its potentialities. We have hardly scratched the surface of all-cargo transport.

"The helicopter may be hovering just over the horizon as the instrument of a new field of exploitation for the industry. If it does develop to the stage where it becomes a commercial proposition for carrying traffic in volume, even over stages of only a few hundred miles, it is surely destined to divert far more people from surface transport to the air than the jet plane, the atomic plane, or any other kind of plane that needs several square miles of airport to get it into the air."

Hildred encouraged those airlines which have already begun helicopter experiments to exchange the information they have gained with others. He said that he would be interested himself to know whether it would be practicable to operate helicopters from the center of London to Swiss mountain resorts, between cities like Montreal and New York, or from city centers to airports on the fringe.