INTERNATIONAL REVIEW*
INTERNATIONAL CIVIL AVIATION ORGANIZATION (ICAO)
10TH ANNIVERSARY

IN DECEMBER 7, 1944, the Convention on International Civil Aviation was signed, after a conference in Chicago which was attended by representatives of more than fifty nations. To honor its 10th Anniversary the following statement was made by Dr. Edward Warner, President of the Council of ICAO:

“It is ten years today since the world's Governments signed the Convention on International Civil Aviation at Chicago. In those ten years the Organization that the Convention created has been busy in standardizing air navigation practices for the major part of the world; in planning the radio and other equipment to be installed, and the services to be rendered along the world's airways, and listing the specific provisions to be made at each point on the airway map; in encouraging Governments to reduce the formalities and paper work of international flight to a minimum; and in other activities leading to agreements among Governments or recommendations by the ICAO Council to Governments, some of them along lines foreseen at Chicago and others conceived since that time.

“All this specific accomplishment is important, and indeed much of it has been indispensable to the development of international air transport. Quite as important as the acts recorded in specific resolutions and plans, however, it seems to me, is the atmosphere in which the work to reach all these conclusions has been done. Quite as important is the very fact that the representatives of many nations have developed the habit of coming together in a common quest for measures that all may take for the common advantage. When Governments are in the habit of cooperating, they find more and more matters on which they can cooperate to advantage. When the representatives of twenty or thirty Governments come together to discuss the needs of civil aviation, twenty or thirty national views merge on many points into one; and even though differences of opinion on the best solutions for some of the problems may still exist, between nations and within nations, there is unity on the primary objective of enabling aircraft to move easily and surely from place to place on the errands of commerce. If the brightest spot in ICAO's history had to be stated in a phrase, it would be that the habit of the nations taking council together to reach agreement upon what specific actions will best advance the common objective has been thoroughly established.”

AIR TRANSPORT ACTIVITY

First action arising out of the Strasbourg Conference on European Air Transport

Having agreed, pursuant to the last section of Recommendation No. 28 of the Strasbourg Conference, to convene the first meeting of the proposed European Civil Aviation Conference, the Council of ICAO has decided in consultation with European States that the meeting shall open on the 29th of November 1955. A provisional agenda has been approved and circulated to the states due to take part in the Conference.

The PROVISIONAL AGENDA includes such subjects as the Establish-

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ment and Organization of the European Civil Aviation Conference; the Exchange of Traffic Rights; the Interchange of Aircraft; and Helicopter and Other Short-Stage Transport.

Also on the agenda is an Examination of Policy with respect to European fares and freight rates, with a view to focusing attention on any anomalies in the present European rate structure. Facilitation and Related Questions will be considered as will Air Navigation Facilities.

The ICAO Council has also agreed to initiate work on the preparation of draft multilateral agreements for scheduled and non-scheduled air services pursuant to Recommendations Nos. 2 and 6 of the 1954 Strasbourg Conference. Work on these problems for the European region is regarded as providing for the present the best method of seeking solutions for the world as a whole.

After careful consideration of Recommendation No. 16 of the 1954 Strasbourg Conference concerning the possible elimination or simplification of the journey log book, passenger list and cargo manifests for European use, the Council adopted the following resolution:

"WHEREAS the Strasbourg Conference on the Coordination of Air Transport in Europe recommended that States invited to participate in the Conference should in future refrain from requiring the presentation of log-books or of separate passenger manifests in connection with the entry and departure of aircraft engaged in transport between European States; and

WHEREAS there is nothing in the Convention or in any of its Annexes to prevent compliance with these recommendations; but

WHEREAS Article 29 of the Convention requires that all aircraft engaged in international air navigation carry certain documents, including a passenger list, cargo manifest, and journey log-book; and

WHEREAS even if States are willing to refrain from requiring the presentation of these documents for examination, as recommended by the Strasbourg Conference, the operators of aircraft would therefore still be obligated by the Convention to prepare and carry the documents; and

WHEREAS the Strasbourg Conference recommended that ICAO examine the question of amending Article 29 to delete such specific requirements for documents to be carried by every aircraft engaged in international air navigation as might in future unnecessarily handicap the facilitation of air transport or burden its operations; and

WHEREAS the Strasbourg Conference also recommended that ICAO consider the possibility that the requirements of Article 29 might be satisfied by the use of documents that also serve other purposes on board the aircraft.

THE COUNCIL RESOLVES:

(1) To examine the question of amending Article 29, and, in the event that preliminary study indicates a possibility that such an amendment would be practicable and desirable, to invite the views of all Contracting States on the desirability of proceeding with an amendment and on the form that it should take;

(2) That, as an immediate measure, the States invited to take part in the Strasbourg Conference may properly consider the simplification of the forms of journey log-book, passenger list, and cargo manifest, required to be carried by their aircraft in accordance with Article 29;

(3) That among the simplification of form that those States might consider approving for this documentation are:
   (a) The use, as a "list of [passengers'] names and places of embarkation and destination," of a complete set of ticket coupons for the passengers on board;
   (b) The use, as a "manifest and detailed declarations of the cargo," of a complete set of copies of the air waybills for the cargo carried;
   (c) The use, as a "journey log-book," of a "general declaration"
as specified in Annex 9, containing the information specified in Article 34 of the Convention.

(4) That the use of such simplified forms of documentation in international air navigation by the States referred to in (2) must be dependent upon the willingness of the States entered by the aircraft either (a) to forego the presentation of the documents as recommended by the Strasbourg Conference to its participants; or, (b) if continuing to require the presentation of any of these documents for purposes of entry and clearance, to accept the simplified forms as adequate for their purposes;

(5) That this resolution be circulated to all Contracting States for their information."

The Strasbourg Conference directed a number of recommendations to the governments of participating States suggesting for example that they should encourage co-operation between European airlines, should liberalize their interpretation of capacity clauses in bilateral agreements, etc. All the states that participated in the Strasbourg Conference have not as yet informed ICAO of their reaction to these recommendations, but among those states that have sent in reports (about two-thirds of those invited to the Conference) the majority indicate that they are able to accept the main Strasbourg proposals at least in principle. In the case of the Recommendation No. 5, that certain specified categories of non-scheduled air service should be given freedom of international operation within Europe, nine States have indicated acceptance of the recommendation and so far no state has rejected it.

International non-scheduled air services

The Council has completed a first review of the definition of a scheduled international air service which it adopted in March 1952. Contracting States of ICAO were canvassed as to the acceptability of the definition now that they have had time to apply it in practice and some states suggested modifications or indicated that they had difficulties with particular parts of the definition. A strong move developed in the Air Transport Committee to insert in the definition the concept that a scheduled international air service was “normally operated irrespective of payload,” but the proposal failed by a small margin to achieve majority support in either Committee or Council. Special attention was given to the complaint that the phrase “so as to serve traffic between the same two or more points” was not clear and that the use of the definition of “international” taken from Article 96 of the Chicago Convention was unsatisfactory, but the Air Transport Committee could find no better solutions than those formerly adopted and the Council has therefore decided that its definition of a scheduled international air service shall for the present remain unaltered.

Problems of charging for route navigation facilities

The Air Transport Committee has completed a first reading of a draft report on the problems of charging for route air navigation facilities. It hopes to finalize this report in the autumn of 1955 for submission to the Council.

Passenger stop-overs in international transport

As the result of a request from the Government of Lebanon, the Air Transport Committee and Council have considered the problem raised by
passenger stop-overs in international air transport. It was decided that states would not wish the Council to make specific recommendations as to how each Government should treat stop-overs since these were questions of interpretation of the terms of bilateral agreements. A quantity of information concerning states' practices in this matter had, however, been collected by the secretariat and it was decided that this information should be analyzed and circulated to all contracting States for their information.

LEGAL SUB-COMMITTEE

The Legal Sub-Committee on the Negotiability of Air Waybill is meeting in Madrid beginning April 12th, 1955. In conjunction with this meeting, a small Sub-Committee will meet also in Madrid in order to see if the revision of the Warsaw Convention should be made by way of a Protocol of amendment or the drafting of an entirely new International Agreement. In this connection it should be noted that an International Conference will be held at the Hague in September, 1955, to revise the Convention for the Unification of Certain Rules Relating to International Carriage by Air; Warsaw 1929.

TECHNICAL ACTIVITY

INTERNATIONAL AIRWORTHINESS STANDARDS

In June, 1954, the Council considered a report from the ICAO Air Navigation Commission which indicated that efforts to develop a set of complete, comprehensive and detailed international airworthiness specifications for the type certification and operation of aircraft were impracticable of attainment; the report stated that the primary objective of international airworthiness standards should be to define, for application by the competent national authorities, the minimum international basis for the recognition by states of certificates of airworthiness for the purpose of the flight of foreign aircraft into and over their territories, thereby achieving, among other things, protection of other aircraft, third persons and property. The new airworthiness code should be less detailed than existing international airworthiness and corresponding aircraft operations standards.

The Council authorized the Air Navigation Commission to convene a panel of experts to prepare the initial draft for the development of new standards, on the basis of the principles listed above, and requested the Commission to report back when this has been done. The first meeting of this panel was convened in Montreal during the latter part of November, 1954.

The Panel has recommended that the concept of certification in an ICAO Category be dropped. In lieu thereof it is proposed that ICAO adopt a set of "broad," "general" or "objective" airworthiness requirements, and that all aircraft engaged in international operation be certificated to comprehensive and detailed national codes which meet all the broad international requirements. Inasmuch as the broad international requirements do not of themselves specify any practical level of airworthiness, it is proposed that in order to establish some degree of uniformity in the level of airworthiness of the various national codes, "Acceptable Means of Compliance" (AMCs) be developed to cover certain aspects of airworthiness in connection with which a more specific indication of the intended level of airworthiness is required than that contained in the corresponding standard. An AMC is, therefore, an example of the level of airworthiness intended by its corresponding Standard. There is no obligation to observe the letter of the AMC;
there is, however, an obligation to observe the level of airworthiness which it portrays.

At this first meeting the ICAO Airworthiness Panel prepared a first draft of the proposed Standards and agreed that AMCs should be developed at its next meeting to cover (a) performance, (b) structures, (c) engines and propellers. Inasmuch as agreement could not be reached on any one form that the AMC dealing with aircraft performance should take, it was decided that two parallel AMCs should be developed on this subject — one based on the SCP “statistical” approach and the other based on the “empirical” approach as contained in the present Annexes.

The status of this ICAO Airworthiness Panel is that of a working group of the Air Navigation Commission. At the present time it has only half completed its job and has officially presented no recommended Standards or Acceptable Means of Compliance to the Air Navigation Commission. Following its next meeting, to be held on June 14th, 1955, the findings of the Panel will be processed through the Air Navigation Commission and given wide distribution as a proposed re-draft of the present Annexes for consideration at a subsequent Air Navigation Conference.

**FOURTH SESSION OF THE METEOROLOGY DIVISION**

The Fourth Session of the Meteorology Division of the International Civil Aviation Organization (ICAO) held simultaneous meetings with the Commission for Aeronautical Meteorology of the World Meteorological Organization (WMO) at ICAO’s Montreal Headquarters from June 15th-July 14th, 1954.

Twenty-five ICAO Contracting States and four International Organizations were represented. The USSR, a member of WMO, had sent observers to the Meeting. The Division succeeded in preparing a comprehensive set of standards and recommended practices covering the needs of International Air Navigation for Meteorological Services. These provisions are intended to be embodied in a new annex to the Chicago Convention which is the charter of ICAO.

The discovery of weather in the higher layers of atmosphere has caused airline operators to realize that the present meteorological information of importance for their operations is inadequate. With modern airliners now flying on scheduled routes through the upper atmosphere, a better knowledge of weather conditions there is indispensable. The ICAO Division having assessed the progress to date fully explored the potentialities of modern observation techniques in order to fill the gap that exists today in the knowledge of weather conditions near the tropopause and in the stratosphere.

The Meeting also dealt with many other items bearing on the reliability and comfort of international air transportation.

**THIRD NORTH ATLANTIC REGIONAL AIR NAVIGATION MEETING**

The ICAO Third North Atlantic Regional Air Navigation Meeting held its sessions in Montreal in October, 1954. The Meeting revised completely the regional air navigation plan which lists the air traffic control and communications networks, the aerodromes, and the other facilities and services required to make air transport safe over the North Atlantic. The revision was necessary because of recent advances in aviation technology and because of the potential introduction of trans-polar flying and of turbo-jet- and-turbo-propeller-engined aircraft during the next few years.
Traffic in the region has increased greatly, and this year total aircraft crossings of the Atlantic are likely to exceed 60,000, with a fifty per cent increase expected in the next five years. The present long-range air navigation aids, while allowing aircraft to navigate safely, do not permit of extremely accurate position fixes at all times, and therefore a wide separation between aircraft in flight at the same altitude levels is required; this wide separation has inevitably resulted in delays for aircraft ready to take off. To improve the long-range navigation system, the meeting recommended that Consol radio beacons be installed in Iceland, Southern Greenland, Azores, Eastern Newfoundland, Labrador, and at Nantucket Island and Atlantic City in the United States. With the existing Consol stations in Europe, this will provide a complete long-range navigation chain for the North Atlantic and make it possible for aircraft in flight to report their positions back to traffic control with accuracy and regularity. Until these new facilities are provided, the meeting recommended that in general a minimum separation of thirty minutes' flying time should be maintained by two aircraft on the same or on converging tracks, and a minimum lateral separation between aircraft on parallel tracks of 120 nautical miles.
The 1954 sessions of the International Air Transport Association Traffic Conferences at Venice have approved almost 500 unanimous resolutions which are subject to government approval. The agreements reached on October 15 cover virtually all phases of fares, rates and conditions of carriage on the international services of the 71 IATA airlines during the year beginning April 1, 1955.

The Conferences have agreed on worldwide passenger fares tariffs which will maintain present price levels in most areas. There were a number of upward fares adjustments in a few regions, notably in Europe, to meet rising costs, as well as some actual reductions in fares.

A new feature of the 1955-56 tariffs is the inclusion of fares for service over the North Pole between the West Coast of the United States and Copenhagen.

A number of changes have been made in the rules for tourist services to maintain a price differential about 20 per cent below first class and to adjust the physical conditions and permissible amenities of tourist service to the past year’s experience in their operation.

The line on fares and rates despite the rising prices of the ingredients which go into airline service has by and large held up. Where the airlines had to give way, adjustments have been kept to a minimum — increases seldom exceeded 7 per cent and average a good deal less, while agreed reductions will run as much as 20 per cent below fares presently charged on the routes concerned.

The worldwide fare structure has been made more flexible and responsive to the needs of particular regions by the expansion of special “B” or excursion fares, lower than tourist, for service in older and non-pressurized aircraft.

In short, the public will get still more air transport for its money, in terms of its real purchasing power, next year than ever before. Any reductions in the net incomes of the Airlines as a result of these decisions will probably be compensated by expanding service, by more aggressive sales and development, and by plugging up the revenue leaks in commercial practices and procedures.

Decisions taken on passenger fares in various regions of the world, were as follows:

Western Hemisphere — Maintenance of present levels on routes within the Americas, with a few minor and local adjustments. Some reductions of 7 to 8 per cent in tourist fares in Central America between Mexico City and Panama, and some new excursion fares within the Caribbean area.

Intra-Europe — Adjustments of many individual fares within Europe, involving increases of 2.5 to 5 per cent, in order to meet rising operating costs and iron out anomalies in the tariffs structure which have come to light during the first full year of tourist services in that area. Some reductions in fares into and out of Yugoslavia; and a small decrease in special tourist fares between the United Kingdom and Scandinavia.

A new European Creative Fares Board was created to bring greater order into the setting up of special fares for off-peak, night services, and the like, and to make certain that they will really develop new traffic and will not dilute normal revenues.

Europe, Middle East and Africa — Fares will remain generally the same.
except for increases of 5 per cent or less between Europe and Dakar; and between Europe and Madagascar, Reunion and Mauritius, applicable mainly to first class services. Some reductions in fares on routes between the Eastern Mediterranean and points within the Middle East.

Far East — A new class of round-trip excursion fares running about 12.5 per cent below tourist levels has been agreed for services within the Far East on equipment inferior to four engined, pressurized aircraft. Otherwise fares within the Far East and Pacific Areas, and between this region and Europe, will remain generally the same.

North Atlantic — Passenger fares over the North Atlantic between U.S. east coast gateways and Europe will remain unchanged, except for slight adjustments in through fares to interior points in Europe made necessary by alterations to continental tariffs.

North Pole — Fares were agreed for both first and tourist class services from the West Coast of North America to Copenhagen via Canada and Greenland. Because of the shorter distance between these points as against the normal route across the American continent and over the North Atlantic, the North Pole fare will be above $18 cheaper to certain Scandinavian points.

South Atlantic — Existing fare levels will be generally maintained, and a new "B" class service discount about 20 per cent below tourist, will be offered between Spain and South America in non-pressurized equipment.

Mid-Atlantic — Maintenance of the status quo. A special working group will attempt to rationalize the Mid-Atlantic fare structure during the coming year.

Trans-Pacific — Generally unchanged, over all routes between the Far East and Australasia and the Americas.

The Conferences did not agree on Cargo rates over the Atlantic. (This problem has been the subject of another Conference in New York in March, 1955.)

Tourist Traffic

A large amount of Conference time was spent in the review and revision of standards for the physical differences between first and tourist class services. A new list of specified minimum seating densities for tourist class in types of aircraft now in use, which eliminates a substantial number of special exceptions allowed during the present year, was agreed.

In an attempt to set long-range specifications which will assist airlines and manufacturers in designing future aircraft specifically for tourist services, the Conferences adopted in principle a formula which sets limits in terms of allowable floor space per passenger and a correlation between the width and pitch of the individual seat. (Pitch is the space between the front edge of one seat cushion and the front edge of the seat immediately in front.)

Because it was felt that the formula still fell short of fulfilling some requirements, the Conferences voted to set up a joint committee of airline technical and commercial experts to study it in relation to all aircraft now in use and with a view towards its possible adoption by the Conferences as an absolute rule next year.

Some alterations were made in the rules for tourist amenities in order to reinforce the restriction that tourist meals should be simple and inexpensive, while allowing more substantial breakfasts and giving carriers more
Results of the discussions of agency matters indicate that the airlines are aiming at the achievement of a reasonable stability in agency affairs for 1955-56. After three years of great change and development in air transport, involving new services, new tariffs and new agency arrangements, the Conferences felt that both agents and airlines need a breathing spell in which to sort out loose ends, iron out anomalies in existing rules, and to make the relationship between the airline and the agent more easy and efficient. Emphasis was on improvements in agency machinery, rather than any sweeping policy changes.

The airlines also took full account of pre-Conference talks at London early in September between IATA and the International Consultative Council of Travel Agents (ICCTA), which was also represented by official observers at IATA's Annual General Meeting in Paris last month. ICCTA's suggestions helped substantially in the effort to improve the IATA agency resolutions, not only by pointing out existing weak spots, but also by helping to avoid complications.

While no drastic changes in agency certification and inspection rules were enacted, the Conferences approved a series of measures designed to simplify IATA's machinery and tighten up its procedures.

The Conferences also reviewed and approved action taken by Agency Sub-Committees during the past year to keep the total of certificated agencies to the numbers actually needed to serve the public adequately without jeopardizing the livelihoods of active and productive locations. The Sub-Committees were instructed to keep the lists under constant country-by-country scrutiny to maintain these levels.

The process of certification of new locations set up by an approved agent in a Conference area other than that of its head office was simplified by another Conference decision, which gives the final word to the Agency Sub-Committee in the area of the new location. In view of the fact that the bonafides of the principal agency office involved would be well established, it was felt that the existing requirement for referral to the Conferences could be dropped.

In other phases of agency administration, the Conferences voted a mandatory requirement for nil sales reports by agents. They also decided that in cases where agents fail to settle outstanding accounts, they would be listed as being in default 25, rather than 30 days after the expiration of the present period of grace.

A number of specific proposals aimed at securing settlement of accounts within the specified periods were rejected by the Conferences on the grounds that the same object would be better achieved by stringent enforcement effort in particularly troublesome spots, than by increasing the load of paperwork and reporting on agents generally.

Proposals to permit the transportation of agents' wives at reduced fares were fully examined by the Conferences, both with reference to specific events and on a more general basis; as were several other proposals designed to ease the problems posed by present limitations on privilege transport for agents themselves.

The Conferences found, however, that fluctuations in seasonal demand and limitations of capacity on a number of routes create "bottleneck" situations which act as natural checks on the amount of reduced rate traffic which can be accommodated. It was felt that it would thus be impossible to make
concessions in one direction without setting up limitations in another, and that it would be best to leave present arrangements as they are.

However, some mechanical changes in the Conference resolutions will benefit agents in this regard. One provides that reduced fare transport over the lines of both partners on a pool route will only be counted against the agent's privilege allotment from one carrier, rather than from both, as at present.

Another change provides that the 75 per cent agent's discount can be applied to creative fares, as well as to normal tariffs.

Confusion over the period in which agency privilege tickets can be used was cleared up by a decision that while the outward journey must be taken within the calendar year of issue, the return trip may be taken within the normal validity period of the ticket, even though this may extend beyond the end of the year in question.

To assist in the administration of privilege travel, and to make certain that it is used only for bona fide employees of agencies, the Conferences also adopted a standard wording for all future travel applications and stipulated that these must be submitted in writing and on the agent's own letterhead.

The new IATA rules for consolidators, which were adopted a year ago and which came into effect last April, were reviewed by the Conferences in order to straighten out their provisions in the light of the first actual experience. A series of interpretations issued earlier this year by the IATA Traffic Director to clarify a dozen such clauses, and published in the trade press, were given formal effect by changes in the resolutions.

In particular, the Conferences voted to liberalize the rules so that groups of agents can join together to form consolidation enterprises, with the proviso that all partners must be IATA certificated agents.

In another decision, the Conferences voted to ban free pickup and delivery by the agent, unless charged for as an additional service. The rendering of this service without extra charge was considered to be in effect a rebate of the sort which would provoke unhealthy competitive practices as between agents.

Other Subjects

In order to make their worldwide tariffs more efficient and economical, as well as to prevent the attrition of normal revenues, the Conferences tightened up generally on special discount provisions, among them the so-called "open-jaw" rule by which round trip deductions are given for journeys which begin and end in nearby cities, rather than in the same place.

Existing provisions for students' discounts, which were set when only first class transportation was available on the routes affected, were also reviewed in the light of the spread of tourist and "B" class services throughout the world. The Conferences felt that these services now go a long way toward providing substantially cheaper travel within the normal tariffs structure for students travelling between homes and schools abroad, and agreed that discounts could be reduced from 50 per cent to 25 per cent in most areas, except on a few routes of which most are still served by first class only.

The airlines also voted unanimously not to absorb in their fares any airport service charges levied against passengers and shippers by governments.

The Conferences voted to hold their 1955 sessions next September in the eastern United States, after a preparatory meeting of tariffs technicians in Scandinavia or Spain during June.
The first session of the international working group of commercial helicopter operators which met in Montreal under the auspices of the International Air Transport Association in November, 1954, decided that any attempt to fix the characteristics of tomorrow’s helibuses must be preceded by a realistic determination of the size and location of the city heliports they plan to use.

The IATA Group has adopted the principle that the helicopter must fit the landing area, rather than vice versa, as a basis for its attempts to determine the shape of rotorcraft operations throughout the world as far as commercial operators are concerned, the world air transport organization said. A special commission has already been put to work to explore the practical limits of landing spaces on the ground and on rooftops in city centers and will report to the IATA Group’s next meeting at Brussels late in February.

A similar commission is drafting operational requirements for air traffic control, navigation and communications requirements for helicopters, while the technical secretariat of IATA has been put to work gathering data on what commercial operators believe should be the desirable economic characteristics and sizes of transport rotorcraft.

At the same time, the Group will urge manufacturers to pay special attention to the suppression of noise in the new aerial vehicles.

“The future development of the helicopter must very largely be conditioned by the fact that it will have to operate into the hearts of the world’s cities,” it was asserted on behalf of the Group by their Chairman, Capt. Anselme Vernieuwe, Vice President of SABENA Belgian Airlines.

Pointing out that this decision marks a radical departure from the traditional course of fixed-wing aircraft development, he added: “With the fixed-wing aircraft, we could almost always design the airplane and then find enough landing area for it somewhere out in the country. But now that the helicopter has moved air transport downtown we must design the vehicle to fit the accommodation actually available to it well inside built-up areas.”

All companies represented agreed in principle that while helicopter operations are by nature short range, their problems are universal and the solutions to them most likely to be found by international consultation. The Group also accepted four other major principles, as follows:

(1) Helicopter problems are of interest to all airlines, even though they may never intend to use them, if only because they must share the same air space in terminal areas.

(2) The Helicopter must be given a chance to develop on the basis of its own capabilities as we know them now and as experience will reveal them further.

(3) The helicopter must not be fettered by confinement to the limitations of fixed-wing-aircraft—we must not accept fixed-wing answers to helicopter questions.

(4) Regulation of helicopter operations should not become rigidly fixed before experience proves the need for regulation and the most desirable ways of applying it. We find that the helicopter is making its own rules, day by day.

The Group also hopes to provide manufacturers with operational data and specifications of operators’ needs to serve as a reliable basis for future designs.
In this respect, the group unanimously felt that simplicity must be the keynote of helicopter design and operation because simplicity is the only answer to the higher flying costs imposed by the lesser aero-dynamic efficiency of rotorcraft, and by the necessity of flying them into a far higher number of ground stations on short routes.

For the same reasons, the group felt that the utmost simplicity in procedures, paperwork and the handling of passengers, baggage and freight must be achieved.

**Heliport Limitations and Operational Requirements**

Parallel groups of European and North American operators have been put to work on the related questions of heliport size and location and performance requirements, with instructions to coordinate their work so that compatible recommendations can be brought to the Brussels meeting next year.

The heliport commission will look into such locational problems as proximity to traffic and city services, obstruction profiles of surrounding buildings, noise, air traffic control, sitting of approach aids, weather, wind direction and turbulence.

They will also attempt to formulate principles influencing dimensions and layout of take-off and alighting areas, space for loading, servicing, maintenance and parking— and taking into consideration such factors as cost, size of city blocks and the like. In addition, they will consider visual aids, refuelling and loading procedures, group operating safety problems, and questions of ownership and operation of heliports. They were told to apply their studies to ground-level and roof-top heliports and to facilities at conventional airports as well.

The commission on operational requirements will attempt to draft performance criteria for multi-engine helicopters during all phases of flight, but especially within the practical landing area limitations developed by the heliport group. The IATA group agreed, however, that these criteria should be sufficiently flexible to allow operators to use various operational techniques within the limits of safety, so as not to throttle experiment and inquiry.

**Guidance for Manufacturers**

Members of the group will also prepare for the Brussels meeting forecasts of the desirable size and economic characteristics of future helicopters, based upon their individual routes. These will be analysed by IATA to determine whether they can be boiled down to certain basic types and sizes which could cover all types of commercial operations. It was felt that in this way, operators could work with manufacturers to avoid the heavy capital and maintenance costs of too great a variety of sizes and types of machines.

The Group considered that because of the high proportion of in-town operations forecast, noise suppression is a paramount problem, but one which they were confident could be overcome. In bringing this need to the attention of manufacturers, they noted that suppression can be accomplished by mechanical means in the construction of the helicopter, as well as by careful routing of operations and suppression or deflector walls around heliports. They felt as well that the problem is principally one of external noise since over the short distances of helicopter operation, passengers show little sign of being bothered by the noise of existing vehicles.

Some of the matters discussed included various types of vertical, forward, rearward, and spiral take-off techniques; holding and hovering positions; instrument flying techniques; hail and icing; identification lighting; auto-
stabilization; and the like. On the same basis, they also discussed crew position and numbers; primary flight instruments and cockpit comfort and visibility standards.

It also commissioned the drafting of a draft presentation of the kind of technical data, including flight and maintenance manual information which the operators require of manufacturers. Noting that the life of instruments and radio equipment in helicopters is less than that of similar equipment in aircraft, due to low frequency vibration, the Group stated a requirement for improved instrument and radio shock mountings.

**Air Traffic Control**

A similar discussion of air traffic control problems, which were considered still to be in a fluid and exploratory stage, was carried on as a preface to the special review of navigational and communications facilities and equipment requirements which was commissioned by the Group.

The latter study will analyze radio navigation aids in terms of operational requirements for en-route aids on existing airways, on new helicopter routes, and on off-airways operations; in terminal areas for holding and initial approach purposes; for approach and landing; as well as for the integration of these aids in the helicopter. Communications equipment needs will be examined with the idea of deriving operational requirements for air-to-ground facilities for control and company communications purposes, and for point-to-point communications.

**INTERNATIONAL CHAMBER OF COMMERCE**

**COMMISSION ON AIR TRANSPORT**

The 83rd Session of the Council of the I.C.C. in March, 1955, approved the following draft resolution for submission to the Fifteenth Congress of the I.C.C. to be held in Tokyo in May, 1955:

Confirming its Resolution No. 15 B, adopted at the Fourteenth Congress in Vienna, May, 1953, the I.C.C. emphasizes again that a Revision of the Convention would be unwise at the present time. The revision seems particularly inexpedient since the discussions concerning the revision of the Convention, in particular of Art. 25, have shown that no unanimity can be reached.

If, however, there were to be general agreement among the Signatory States on the need for certain amendments, the I.C.C., confirming its Vienna Resolution, considers that such amendments should be confined to a few essential points, such as those mentioned below, on which general agreement may be reasonably expected and which should be incorporated into an additional protocol to the existing Convention. In this sense, the I.C.C. appreciates the position adopted at Rio de Janeiro by the Legal Committee of the ICAO, which abandoned the idea of drawing up a new Convention and confined itself to including a few amendments in the Draft Protocol. However, as regards this text, the I.C.C. wishes to repeat its recommendation that such a Protocol should not become effective until ratified by three-quarters of the Signatory States to the existing Convention.

As regards the traffic documents, the I.C.C. welcomes the simplification of these documents proposed by the “Legal Committee” of the ICAO in the Rio Protocol but feels that the possibility of further simplification should be more explored.

Details of the particulars to be included in the passenger ticket and baggage check should not be laid down in the Convention. Some form of ticket and baggage check is necessary but its description in the Convention,
if any, should be kept as simple as possible. All details concerning air waybills should be omitted from the Convention and the precise form of the documents should be left to air carriers and users to evolve in the light of commercial experience.

With regard to the liability of the air carrier, the I.C.C. is of the opinion that, as it has recommended in the opening paragraph of this resolution, the limits referred to in Art. 22 and the wording of Art. 25 should remain unchanged. If, however, the Diplomatic Conference decides to revise Art. 25 along the lines proposed in the Rio Protocol, the I.C.C. believes that it would then be necessary to compensate for this by making an appropriate increase in the limits of liability, the size of this increase being left to the appreciation of the governments.
OBSERVATIONS AND COMMENTS ON FOREIGN CASES

Ass. Calcio Torino/A.L.I., Corte di Cassazione, Rome, March 9, 1953.—Facts: In the crash of an Italian airliner near Turin, May 4, 1949, the whole team of the Football Club of Turin, en-route from Lisbon (Portugal) to Turin (Italy), was killed. The Club claimed damages. The claim was dismissed both by the first and by the second instance (Tribunale di Torino, 1950, and Corte di Appello di Torino, 1952).—The Court: Article 24, para. 1, of the Warsaw Convention does not bar damage actions based upon an extra-contractual fault of the carrier, but such actions too can only be brought subject to the conditions and limits set out in the Convention. The question “as to who are the persons who have the right to bring such an action and what are their respective rights” (Article 24, para. 2 of the Convention) being subject to substantive Italian law, a right of action against the air carrier is vested but in the persons whose damage was caused by the infringement of an absolute right (i.e. a right *erga omnes*) and was a direct consequence of the damaging deed (Cod. civ., Art. 1223). For want of this direct link, the right of action of claimants must be denied.—Remarks: With regard to the possibility of basing a damage action within the ambit and the limits of the Convention upon extra-contractual relations, this case may be joined to the examples listed in our remarks to the Munier/Divry case, 21 J. of Air Law & Com., 369, 1954). The conflict rules according to which the Court applied its own substantive law in the present case are not mentioned in the decision; considering the plethora of factual links to Italian law, this is unfortunate but by no means uncomprehensible (in the Munier/Divry case too there was “general agreement” as to the applicability of substantive French law). The decision has already been published in the “Zeitschrift für Luftrecht” (1955, p. 70), with interesting remarks (by Reemts) which show that under German law the decision, reached by quite different ways and means, would probably have been the same.

Dr. Werner Guldemann

Gallais vs. Aero Maritime, Ltd.—Tribunal Civil de la Seine (5e) Chambre), Paris, April 28, 1954.—Facts: On November 11, 1952, at 5:25 GMT a C-54 took off from Fort Lamy (Tchad) for a regular flight to Beyrouth (Syria). In fair weather and daylight, the pilot-in-command continued after take-off to hold the aircraft on a very low altitude. After ten minutes of low-level flight, the aircraft touched the top of two contiguous trees and crashed. Mr. Gallais, the only passenger of the flight, travelling under a Warsaw contract of carriage, was killed. His widow claimed from the carrier 100 million French francs as compensation for the total damage caused to herself and her two children by the death of her husband.—The Court: By willfully holding a regular flight for public transportation on a dangerously low level after take-off, the pilot-in-command infringed an elementary rule of flight discipline. He showed a conscious temerity or a carelessness crazy to such a degree that consciousness could be presumed or that it was inexcusable, his conduct thus constituting “wilful misconduct” according to Anglo-Saxon law and, the more so (à plus forte raison), the fault being equivalent to dol in French law.—Remarks: As has justly been pointed out elsewhere (Revue française de droit aérien, 1954, p. 190), the most interesting aspect of the judgment, which belongs to the recent series of French judgments on Article 25 of the Warsaw Convention, is the care shown by the Court to establish the element of consciousness in the pilot’s conduct and thus to bring it into the orbit of “wilful misconduct” at the same time distinguishing the latter concept from the fault which is in
French law equivalent to *dol* and which is implicitly presupposed to be rather more ample than the Anglo-Saxon notion.

DR. WERNER GULDIMANN (Zurich)

*Royal Aero Club of Victoria vs. Commonwealth of Australia*—There have been no decisions in any Australian courts on the meaning of the expression “wilful misconduct” as used in the Warsaw Convention. Litigation is at present pending in both U.S.A. and Australian courts arising out of a fatal accident to an Australian aircraft in California in which the question of wilful misconduct will have to be considered. In a recent decision delivered on Nov. 8, 1954 (as yet unreported), Mr. Justice Webb of the High Court of Australia had occasion to consider the meaning of the term “wilful misconduct” as used in a contract between the Commonwealth of Australia and the Royal Victorian Aero Club for the instruction and training by the Club of Royal Australian Air Force trainees.

The agreement provided that where damage was caused to Club property from wilful misconduct of a trainee the Commonwealth would recompense the Club for such damage. Whilst being flown by a trainee in the course of solo forced landing practice, an aircraft owned by the Club fouled high tension wires and crashed and was totally destroyed. The Club sued the Commonwealth under the agreement for the value of the aircraft.

The trainee who was very near the completion of his course had been instructed that in solo forced landing practice he was not to come below 200 feet. By the time he descended to that height he should have known whether he could safely land in the field selected by him if he had continued; but whether he knew this or not, at that height he should then open the throttle and resume normal flying. The trainee gave evidence that when he had descended to about 200 feet in the course of the practice he was not absolutely certain whether he would have made the field which he had selected for landing, or whether he was landing dead into the wind, so he came down “slightly” further to check on these two points. At about 50 to 70 feet he noticed two wires running across the boundary fence and opened the throttle and pulled back on the stick. This would ordinarily have enabled the aircraft to clear the wires but the engine spluttered and the aircraft hit the wires and crashed nose down. He was aware that he was flying below 200 feet, it was part of the exercise to be aware of it, but he did not think of the instruction about not coming down below 200 feet. It was conceded that the trainee would have been guilty of wilful misconduct if he had recollected as he came below 200 feet that he was acting contrary to instructions but still continued to descend instead of going up again.

The Court held that in considering the meaning of the term “wilful misconduct” it was proper to have regard to the context of the particular contract but subject to that there was no reason why the meaning given to a similar term in contracts for carriage by railway should not be applied. In none of the English railway cases either the context or the subject matter required a departure from the natural meaning of the term “wilful misconduct.” For the purpose of the agreement the Court thought that the meaning of “wilful misconduct” was best expressed by Brett L. J. in *Lewis vs. Great Western Railway* (LR 3 Q.B.D. at 210-11) as follows:

“In a contract where the term wilful misconduct is put in as something different from and excluding negligence of every kind, it seems to me it must mean the doing of something, or omitting to do something,
which it is wrong to do or omit, when the person who is guilty of the act or omission knows that the act which he is doing, or that which he is omitting to do, is a wrong thing to do or omit, and it involves the knowledge of the person that the thing he is doing is wrong. . . . Care must be taken to ascertain that it is not only misconduct but wilful misconduct, and I think that those two terms together import a knowledge of wrong on the part of the person who is supposed to be guilty of the act or omission."

The question to be considered in this case was — did the trainee know and appreciate that it was wrong conduct on his part in the existing circumstances to do or fail to do a particular thing and yet intentionally did or failed to do or omitted to do it? Or, to put it another way, did the trainee act with reckless carelessness, not caring what the results of his carelessness might be? The Court held that the answer to both questions on the evidence in this case was that he did not.

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