THE President of the Council reported that the Economic and Social Council had now adopted a new procedure for reviewing the reports of the specialized agencies. This year's reports were presented as a whole, with a general introductory commentary by the Secretary General of the United Nations in his capacity as chairman of the Administrative Committee on Co-ordination. He referred especially to major common trends and to major changes of emphasis in the activities of the United Nations and specialized agencies, as well as to developments in the co-ordination of their activities. The matters treated were generally of greater concern to International Labour Organization, World Health Organization, Unesco and Food & Agricultural Organization of the United Nations than to ICAO and the other transport and communications agencies. There was therefore no specific discussion of ICAO's report as in past years.

The Council of Europe had invited the attendance of ICAO representatives at the meetings of the Consultative Assembly in Strasbourg in the latter part of October. The agenda includes discussion of the report of our Strasbourg Conference of 1954. The President of the Council regretted to have to report that there had been no further ratifications to the Geneva Convention, or that of Rome. His inquiries in those cases had brought assurance of intention on the part of 5 States to act on the Rome Convention and 3 on the Geneva Convention when the necessary studies could be completed and the necessary amendments to national legislation made. In some of these cases, however, the notification of intent came with a warning that it may take two or three years.

The President of the Council reported that the new Trainee Course (the ninth of the series) started on September 1st with seven members chosen from among sixteen applicants. They came from Bolivia, Ecuador, Honduras, Belgium, Ethiopia, Japan, and the United Kingdom (Singapore). Almost all had been working in their governments on some aspect of civil aviation, technical, administrative or legal, before coming to Montreal; and some had already been particularly concerned with ICAO's work.

The Airworthiness Panel finished its second meeting on July 8th in Paris, after four weeks of meeting. It assumed its own work to be at an end, and produced a final report with Annex material and a statement of "Acceptable Means of Compliance." The Panel's treatment of the vexing question of performance regulation was inconclusive. A majority of the group favored basing the only Acceptable Means of Compliance for the present on the type of regulation that appears in the present text of Annexes 8 (Airworthiness of Aircraft) and 6 (Operation of Aircraft—International Commercial Air Transport), while referring the means of taking future advantage of the work done on performance regulation in the past six years in the Standing Committee on Performance and elsewhere to a future Divisional meeting to determine. The Panel recommended that ICAO convene such a meeting, which would discuss the Panel's work as

* Compiled by J. G. Gazdik in co-operation with Dr. G. F. Fitzgerald and Mr. A. M. Lester (ICAO) and Miss S. F. Macbrayne.
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a whole. Excepting the treatment of performance, there was substantial agreement both on Standards and on Acceptable Means of Compliance (following the basic decision taken in the Panel’s initial session regarding the relation of the two types of material).

There had been a marked increase in interest in the Panel on teletype-writer questions which the Council established on 27 May 1955. Although only five States had stated their wish of naming representatives to the Panel in response to the original inquiry of last January, a total of ten have now done so, including two that had specifically declared in reply to the previous inquiry that they would not participate.

State comments on the draft provisional agreement (ICAO-International Telecommunication Union) on the handling of Class B messages were circulated to States, together with a Secretariat analysis, in July and August. Similar action was taken by the International Telecommunication Union Secretariat. Prior to circulation the analyses and suggestions prepared by the respective secretariats were exchanged and commented upon. Unfortunately, however, differences of opinion on how an analysis could best be presented caused substantial differences in the documents finally circulated by the respective organizations.

Trials of a system of “prearranged communication services” were initiated September 26th in a portion of the European-Mediterranean Region pursuant to Council action on Recommendation 23 of the Special European-Mediterranean Communications Meeting (Paris, November 1954). Procedures for the trials and arrangements for their introduction were initiated by the United Kingdom. States participating are: Netherlands, Western Germany, Denmark, Sweden, Luxembourg, Austria, Switzerland, United Kingdom, and possibly Greece, Turkey, and Yugoslavia.

Amendment 21 of Annex 10 (Aeronautical Telecommunications) became effective 1 September 1955. There had been no disapprovals.

The good number of replies already received to the State letter on proposed amendments to “the spelling alphabet,” mailed at the end of July, show a gratifying readiness to accept the conclusions reached in the Air Navigation Commission and Council. Though a number of answers express opinions on the changes under consideration, or make new suggestions, most conclude in effect that they would accept whatever was decided in ICAO.

A new edition of Annex 3 (Meteorological Codes) was issued in September. By the date of notification of disapprovals (1 August 1955) some disapprovals had been received, in particular regarding the Standards relating to the provision of operators’ local representatives with meteorological information in excess of that required by pilots-in-command. These disapprovals re-emphasized the need for further consideration of the relationship between the newly developing concept of operational control with that of the provision of meteorological service for international operations. Simultaneously with the issue of the new Annex 3 (Meteorological Codes) and Procedures for Air Navigational Services-Meteorological were issued to States. The texts of both Annex 3 and Procedures for Air Navigational Services-Meteorological were adopted by the 2nd Congress of World Meteorological Organizations, held in the Spring, for inclusion, in toto, in its Technical Regulations. The production of both documents took place in close coordination with World Meteorological Organizations, which will use the ICAO models for various attachments to Annex 3 and the Procedures for Air Navigational Services-Meteorological in its equivalent publications.

A complete redraft of the Supplementary Procedures-Meteorological for all Regions, prepared by the secretariat following the establishment of the new Annex 3 (Meteorological Codes) and Procedures for Air Navigational Services-Meteorological, was circulated to States during the summer months. There was a particularly good response by States to the invitation of the
Secretary General for comment on this draft, and the comments were generally favorable. The proposed redraft will be submitted to the Air Navigation Commission during the present session.

More than 30 States have responded to ICAO's inquiry of last April about the studies in progress on problems of flight-crew fatigue and the measures adopted to avert fatigue. Nearly half of those replying have studies of their own in progress or in prospect. A considerable proportion have established flight-time limitations by regulation, while others are requiring action by the operator in accordance with governmentally-approved principles. Several States urged that ICAO take further action, at least to collect and circulate the fullest possible information. The Air Navigation Commission has already considered the subject, and its report to Council is in preparation.

A general review of correspondence received from States in recent months regarding the application of amendments to Annexes, or differences which will exist in respect of such amendments, shows exceptionally thorough and informative response since the practice of supplying detailed explanatory notes on implementation of particular amendments and the reporting of differences in respect to those specific cases was introduced late in 1954. There has been an encouragingly widespread readiness to report differences precisely in the form (in tabulations or otherwise) requested in the State letters.

In June the Secretary General, at the request of the Air Navigation Commission, asked that States having experience with weather warning by airborne radar supply any available information on that subject, pursuant to the Meteorological Division's recommendation that a panel of experts prepare a guide to the interpretation of radar indications of the weather. Two States have given such information. One of the two implies that the question is premature, and that it could be much better answered with another year's experience. Other States have replied that they had nothing to offer; though one or two of them, too, believed that they could help when their pending experiments were complete.

During the summer it was confirmed that world-wide standardization of the format and much of the content of Air Almanacs is now almost complete, as the ultimate consequence of arrangements started in ICAO during the last Aeronautical Maps and Charts Division session three years ago.

The response to the State letter of last February about aircraft rescue and fire fighting equipment and operating procedures (Air Navigation 4/13.2 — 975) has been somewhat scanty, only 9 States having given more than a mere acknowledgment. Among those who have replied, however, marked interest was evident, and a general desire that ICAO continue to work on the matter, with some specific suggestions for the points on which the work might best be concentrated. Two Governments and International Federation of Air Line Pilots Associations supplied exhaustive analyses of the problem of detailed and comprehensive specifications of the measures that they had taken to deal with it.

FINAL ACT OF THE INTERNATIONAL CONFERENCE

On Private Air Law Held Under the Auspices of the International Civil Aviation Organization at The Hague in September 1955

The Delegates at the international Conference on private air law held under the auspices of the International Civil Aviation Organization met at The Hague, on the invitation of the Government of the Netherlands, from 6 September to 28 September 1955, for the purpose of considering a draft
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protocol, prepared by the Legal Committee of the International Civil Aviation Organization, to amend the Convention for the Unification of Certain Rules relating to International Carriage by Air signed at Warsaw on 12 October 1929.

The Delegates elected as President Dr. D. Goedhuis, Chief of the Netherlands Delegation, and further elected as Vice-Presidents Messrs. A. Ambrosini (Italy), K. M. Beaumont (United Kingdom), T. Findzinski (P.R. of Poland) and C. Gómez Jara (Spain). The Conference decided to establish a Credentials Committee, a Committee on Rules of Procedure, a Drafting Committee and a Committee on Final Clauses.

I

Following their deliberations, the above-mentioned Delegates formulated the text of a Protocol to amend the Convention for the Unification of Certain Rules relating to International Carriage by Air signed at Warsaw on 12 October 1929. The said Protocol has been opened for signature this day at The Hague and will remain open for signature until it comes into force.

II

The Conference furthermore adopted the following resolutions and recommendations:

A. THE CONFERENCE, BEING OF THE OPINION that nothing in the Warsaw Convention, as now in force, prevents the issue of a negotiable air waybill, DECLARES that Article IX of the Protocol to Amend the Warsaw Convention has been inserted therein only for the purpose of clarification.

B. THE CONFERENCE, RECOGNIZING that the national legislations of some States establish systems for the guarantee of the payment of compensation in cases of liability of the air carrier, and CONSIDERING that, in the meetings of the Legal Committee of the International Civil Aviation Organization which have studied the revision of the Warsaw Convention, proposals have been made to establish a guarantee for the payment of compensation, with the support of the Delegates of several States, who have thus shown their desire to bring about uniformity of air law in this regard, RECOMMENDS to the Council of the International Civil Aviation Organization that it instruct the Secretariat and Legal Committee

a) to make a study of a system of guarantees for the payment of compensation in the case of liability of the air carrier, in pursuance of the Warsaw Convention; and, if it is considered advisable,

b) to ask the States for information concerning the provisions of national legislations which have adopted such a system, as well as their opinion as to the possibility of extending the system to international air transport, by means of compulsory insurance, a bank guarantee or a cash deposit.

C. THE CONFERENCE, CONSIDERING that neither the Convention Warsaw nor the Protocol to amend the said Convention signed at The Hague on 28 September 1955, contains rules relating to the execution of judgments rendered under the Convention or the Protocol, INVITES the International Civil Aviation Organization to consider whether it is desirable to include, in the Warsaw Convention, rules relating to procedure in cases arising under the Convention, including the execution of judgments.

D. THE CONFERENCE, HAVING CONSIDERED the report of the Sub-Committee of the Legal Committee of the International Civil Aviation Organization on the charter and hire of aircraft, AND BEING OF THE OPINION that the matter is of too great complexity to permit the insertion of provisions relating thereto in the Protocol to Amend the Warsaw Convention, BUT CONSIDERING that the matter is of considerable practical importance in view
of the extent of charter and hire arrangements and requires further study, RECOMMENDS to the International Civil Aviation Organization that this subject should be further studied by that organization.

E. THE CONFERENCE, CONSIDERING that the uniform interpretation of the Warsaw Convention and of the Protocol to amend the said Convention as well as of other existing private air law conventions, is of vital importance for the unification of private air law aimed at by these conventions, CONSIDERING ALSO that the international nature of the situations to which these conventions apply, especially in connection with the distribution of the amounts to which liability is limited in some of these conventions, raises certain serious problems which cannot easily be solved otherwise than by means of some international legal forum, CONSIDERING FURTHER that the problems envisaged in the foregoing are so complicated that a complete study will require much time, RECOMMENDS that such international bodies and organizations, as are responsible for or interested in the development of international private air law, commence as soon as possible to study the problems involved in the promotion of uniform interpretation of the international private air law conventions and in the international settlement of disputes arising under said conventions.

IN WITNESS WHEREOF the Delegates have signed this Final Act. DONE at The Hague on the twenty-eight day of September One Thousand Nine Hundred and Fifty-five, in three authentic texts in the English, French and Spanish languages, in two copies which shall be deposited in the archives of the International Civil Aviation Organization and a certified copy of which shall be delivered to the Government of the People's Republic of Poland and to all other Governments represented at the Conference.

PROTOCOL TO AMEND THE CONVENTION

For the Unification of Certain Rules Relating to International Carriage by Air
Signed at Warsaw on 12 October 1929

THE GOVERNMENTS UNDERSIGNED, CONSIDERING that it is desirable to amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw on 12 October 1929, HAVE AGREED as follows:

CHAPTER I — AMENDMENTS TO THE CONVENTION

Article I

In Article 1 of the Convention —

a) paragraph 2 shall be deleted and replaced by the following:

"2. For the purposes of this Convention, the expression international carriage means any carriage in which, according to the agreement between the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transhipment, are situated either within the territories of two High Contracting Parties or within the territory of a single High Contracting Party if there is an agreed stopping place within the territory of another State, even if that State is not a High Contracting Party. Carriage between two points within the territory of a single High Contracting Party without an agreed stopping place within the territory of another State is not international carriage for the purposes of this Convention."
b) paragraph 3 shall be deleted and replaced by the following:

“3. Carriage to be performed by several successive air carriers is deemed, for the purposes of this Convention, to be one undivided carriage if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within the territory of the same State.”

Article II

In Article 2 of the Convention—
paragraph 2 shall be deleted and replaced by the following:

“2. This Convention shall not apply to carriage of mail and postal packages.”

Article III

In Article 3 of the Convention—
a) paragraph 1 shall be deleted and replaced by the following:

“1. In respect of the carriage of passengers a ticket shall be delivered containing:

a) an indication of the places of departure and destination;

b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;

c) a notice to the effect that, if the passenger's journey involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and that the Convention governs and in most cases limits the liability of carriers for death or personal injury and in respect of loss of or damage to baggage.”

b) paragraph 2 shall be deleted and replaced by the following:

“2. The passenger ticket shall constitute prima facie evidence of the conclusion and conditions of the contract of carriage. The absence, irregularity or loss of the passenger ticket does not affect the existence or the validity of the contract of carriage which shall, none the less, be subject to the rules of this Convention. Nevertheless, if, with the consent of the carrier, the passenger embarks without a passenger ticket having been delivered, or if the ticket does not include the notice required by paragraph 1 c) of this Article, the carrier shall not be entitled to avail himself of the provisions of Article 22.”

Article IV

In Article 4 of the Convention—
a) paragraphs 1, 2 and 3 shall be deleted and replaced by the following:

“1. In respect of the carriage of registered baggage, a baggage check shall be delivered, which, unless combined with or incorporated in a passenger ticket which complies with the provisions of Article 3, paragraph 1, shall contain:

a) an indication of the places of departure and destination;

b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;

c) a notice to the effect that, if the carriage involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and that the
Convention governs and in most cases limits the liability of carriers in respect of loss of or damage to baggage.”

b) paragraph 4 shall be deleted and replaced by the following: —

“2. The baggage check shall constitute *prima facie* evidence of the registration of the baggage and of the conditions of the contract of carriage. The absence, irregularity or loss of the baggage check does not affect the existence or the validity of the contract of carriage which shall, none the less, be subject to the rules of this Convention. Nevertheless, if the carrier takes charge of the baggage without a baggage check having been delivered or if the baggage check (unless combined with or incorporated in the passenger ticket which complies with the provisions of Article 3, paragraph 1 c) does not include the notice required by paragraph 1 c) of this Article, he shall not be entitled to avail himself of the provisions of Article 22, paragraph 2.”

**Article V**

In Article 6 of the Convention —

paragraph 3 shall be deleted and replaced by the following: —

“3. The carrier shall sign prior to the loading of the cargo on board the aircraft.”

**Article VI**

Article 8 of the Convention shall be deleted and replaced by the following: —

“The air waybill shall contain:

a) an indication of the places of departure and destination;

b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;

c) a notice to the consignor to the effect that, if the carriage involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and that the Convention governs and in most cases limits the liability of carriers in respect of loss of or damage to cargo.”

**Article VII**

Article 9 of the Convention shall be deleted and replaced by the following: —

“If, with the consent of the carrier, cargo is loaded on board the aircraft without an air waybill having been made out, or if the air waybill does not include the notice required by Article 8, paragraph c), the carrier shall not be entitled to avail himself of the provisions of Article 22, paragraph 2.”

**Article VIII**

In Article 10 of the Convention —

paragraph 2 shall be deleted and replaced by the following: —

“2. The consignor shall indemnify the carrier against all damage suffered by him, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor.”

**Article IX**

To Article 15 of the Convention —

the following paragraph shall be added: —

“3. Nothing in this Convention prevents the issue of a negotiable air waybill.”
Article X

Paragraph 2 of Article 20 of the Convention shall be deleted.

Article XI

Article 22 of the Convention shall be deleted and replaced by the following:

"Article 22

1. In the carriage of persons the liability of the carrier for each passenger is limited to the sum of two hundred and fifty thousand francs. Where, in accordance with the law of the court seised of the case, damages may be awarded in the form of periodical payments, the equivalent capital value of the said payments shall not exceed two hundred and fifty thousand francs. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

2. a) In the carriage of registered baggage and of cargo, the liability of the carrier is limited to a sum of two hundred and fifty francs per kilogramme, unless the passenger or consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the passenger's or consignor's actual interest in delivery at destination.

b) In the case of loss, damage or delay of part of registered baggage or cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the loss, damage or delay of a part of the registered baggage or cargo, or of an object contained therein, affects the value of other packages covered by the same baggage check or the same air waybill, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

3. As regards objects of which the passenger takes charge himself the liability of the carrier is limited to five thousand francs per passenger.

4. The limits prescribed in this article shall not prevent the court from awarding, in accordance with its own law, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff. The foregoing provision shall not apply if the amount of the damages awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.

5. The sums mentioned in francs in this Article shall be deemed to refer to a currency unit consisting of sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. These sums may be converted into national currencies in round figures. Conversion of the sums into national currencies other than gold shall, in case of judicial proceedings, be made according to the gold value of such currencies at the date of the judgment."
Article XII
In Article 23 of the Convention, the existing provision shall be renumbered as paragraph 1 and another paragraph shall be added as follows:—

"2. Paragraph 1 of this Article shall not apply to provisions governing loss or damage resulting from the inherent defect, quality or vice of the cargo carried."

Article XIII
In Article 25 of the Convention—paragraphs 1 and 2 shall be deleted and replaced by the following:—

"The limits of liability specified in Article 22 shall not apply if it is proved that the damage resulted from an act or omission of the carrier, his servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result; provided that, in the case of such act or omission of a servant or agent, it is also provided that he was acting within the scope of his employment."

Article XIV
After Article 25 of the Convention, the following article shall be inserted:—

"Article 25 A
1. If an action is brought against a servant or agent of the carrier arising out of damage to which this Convention relates, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the limits of liability which that carrier himself is entitled to invoke under Article 22.

2. The aggregate of the amounts recoverable from the carrier, his servants and agents, in that case, shall not exceed the said limits.

3. The provisions of paragraphs 1 and 2 of this article shall not apply if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result."

Article XV
In Article 26 of the Convention—
paragraph 2 shall be deleted and replaced by the following:—

"2. In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within seven days from the date of receipt in the case of baggage and fourteen days from the date of receipt in the case of cargo. In the case of delay the complaint must be made at the latest within twenty-one days from the date on which the baggage or cargo have been placed at his disposal."

Article XVI
Article 34 of the Convention shall be deleted and replaced by the following:—

"The provisions of Articles 2 to 9 inclusive relating to documents of carriage shall not apply in the case of carriage performed in extraordinary circumstances outside the normal scope of an air carrier's business."

Article XVII
After Article 40 of the Convention, the following Article shall be inserted:—
"Article 40 A

1. In Article 37, paragraph 2 and Article 40, paragraph 1, the expression High Contracting Party shall mean State. In all other cases, the expression High Contracting Party shall mean a State whose ratification of or adherence to the Convention has become effective and whose denunciation thereof has not become effective.

2. For the purposes of the Convention the word territory means not only the metropolitan territory of a State but also all other territories for the foreign relations of which that State is responsible."

CHAPTER II — SCOPE OF APPLICATION OF THE CONVENTION AS AMENDED

Article XVIII

The Convention as amended by this Protocol shall apply to international carriage as defined in Article 1 of the Convention, provided that the places of departure and destination referred to in that Article are situated either in the territories of two parties to this Protocol or within the territory of a single party to this Protocol with an agreed stopping place within the territory of another State.

CHAPTER III — FINAL CLAUSES

Article XIX

As between the Parties to this Protocol, the Convention and the Protocol shall be read and interpreted together as one single instrument and shall be known as the Warsaw Convention as amended at The Hague, 1955.

Article XX

Until the date on which this Protocol comes into force in accordance with the provisions of Article XXII, paragraph 1, it shall remain open for signature on behalf of any State which up to that date has ratified or adhered to the Convention or which has participated in the Conference at which this Protocol was adopted.

Article XXI

1. This Protocol shall be subject to ratification by the signatory States.

2. Ratification of this Protocol by any State which is not a Party to the Convention shall have the effect of adherence to the Convention as amended by this Protocol.

3. The instruments of ratification shall be deposited with the Government of the People's Republic of Poland.

Article XXII

1. As soon as thirty signatory States have deposited their instruments of ratification of this Protocol, it shall come into force between them on the ninetieth day after the deposit of the thirtieth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.

2. As soon as this Protocol comes into force it shall be registered with the United Nations by the Government of the People's Republic of Poland.

Article XXIII

1. This Protocol shall, after it has come into force, be open for adherence by any non-signatory State.

2. Adherence to this Protocol by any State which is not a Party to the Convention shall have the effect of adherence to the Convention as amended by this Protocol.
3. Adherence shall be effected by the deposit of an instrument of adherence with the Government of the People's Republic of Poland and shall take effect on the ninetieth day after the deposit.

Article XXIV

1. Any Party to this Protocol may denounce the Protocol by notification addressed to the Government of the People's Republic of Poland.

2. Denunciation shall take effect six months after the date of receipt by the Government of the People's Republic of Poland of the notification of denunciation.

3. As between the Parties to this Protocol, denunciation by any of them of the Convention in accordance with Article 39 thereof shall not be construed in any way as a denunciation of the Convention as amended by this Protocol.

Article XXV

1. This Protocol shall apply to all territories for the foreign relations of which a State Party to this Protocol is responsible, with the exception of territories in respect of which a declaration has been made in accordance with paragraph 2 of this Article.

2. Any State may, at the time of deposit of its instrument of ratification or adherence, declare that its acceptance of this Protocol does not apply to any one or more of the territories for the foreign relations of which such State is responsible.

3. Any State may subsequently, by notification to the Government of the People's Republic of Poland, extend the application of this Protocol to any or all of the territories regarding which it has made a declaration in accordance with paragraph 2 of this Article. The notification shall take effect on the ninetieth day after its receipt by that Government.

4. Any State Party to this Protocol may denounce it, in accordance with the provisions of Article XXIV, paragraph 1, separately for any or all of the territories for the foreign relations of which such State is responsible.

Article XXVI

No reservation may be made to this Protocol except that a State may at any time declare by a notification addressed to the Government of the People's Republic of Poland that the Convention as amended by this Protocol shall not apply to the carriage of persons, cargo and baggage for its military authorities on aircraft, registered in that State, the whole capacity of which has been reserved by or on behalf of such authorities.

Article XXVII

The Government of the People's Republic of Poland shall give immediate notice to the Governments of all States signatories to the Convention or this Protocol, all States Parties to the Convention or this Protocol, and all States Members of the International Civil Aviation Organization or of the United Nations and to the International Civil Aviation Organization:

a) of any signature of this Protocol and the date thereof;

b) of the deposit of any instrument of ratification or adherence in respect of this Protocol and the date thereof;

c) of the date on which this Protocol comes into force in accordance with Article XXII, paragraph 1;

d) of the receipt of any notification of denunciation and the date thereof;

e) of the receipt of any declaration or notification made under Article XXV and the date thereof; and

f) of the receipt of any notification made under Article XXVI and the date thereof.
IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Protocol.

DONE at The Hague on the twenty-eight day of the month of September of the year One Thousand Nine Hundred and Fifty-five, in the authentic texts in the English, French and Spanish languages. In the case of any inconsistency, the text in the French language, in which language the Convention was drawn up, shall prevail.

This Protocol shall be deposited with the Government of the People's Republic of Poland with which, in accordance with Article XX, it shall remain open for signature, and that Government shall send certified copies thereof to the Governments of all States signatories to the Convention or this Protocol, all States Parties to the Convention or this Protocol, and all States Members of the International Civil Aviation Organization or of the United Nations, and to the International Civil Aviation Organization.

AIR NAVIGATION CONFERENCE

The Second Air Navigation Conference which commenced its work in Montreal on August 30th, 1955 (reported in the last issue), ended on September 29th, 1955. A partial list of the results of the meeting is as follows:

Near-miss Reports. The Conference requested ICAO's member states to set up a system of reporting “near-misses” between aircraft in flight. The purpose of this is not to enforce existing rules of the air by taking disciplinary action against the pilots concerned but, by a systematic analysis of these near-misses and the determination of their causes, to find a way of avoiding them in the future.

Anti-collision Lights. Flashing high intensity lights which considerably increase chances of recognition under night flying or dull weather conditions will shortly become mandatory for heavier aircraft in at least one ICAO member state. Research is now being carried on in this field, and the Conference recommended that member states forward information to ICAO on the results of their trials and experiments.

Night Flying. The Conference recommended that ICAO revise its international standards to prohibit all flights in controlled airspace between sunset and sunrise unless these flights are carried out under air traffic control from the ground. This would prevent any night flights being carried out under Visual Flight Rules in controlled airspace unless specific permission is granted by the appropriate authorities.

Non-Controlled Flights. Because of the traffic complications which result from aircraft flying under Visual Flight Rules (not under ground control) in controlled airspace, the Conference proposed an amendment to the international standards on rules of the air which would bring under traffic control a number of flights now being made under VFR. In addition it suggested a vigorous educational program to persuade pilots not to fly under VFR wherever there is doubt about the practicability of completing the flight under Visual Flight Rules; other suggestions included increasing when necessary the controlled airspace to provide separate in-bound and out-bound routes, improvement of current air traffic services techniques, and the increased and coordinated use of radar.

Distance from Cloud. Visual Flight Rules specify the distance air traffic must keep away from cloud to avoid the danger of collision. The
Conference was of the opinion that the increased speed of modern aircraft, which greatly reduces the time available to pilots to avoid collisions, required an increase in these distances. The new standard would require that forward visibility be at least 8 kilometres (5 miles), and distance from cloud be 1.5 km. (1 mile) horizontally and 300 metres (1,000 feet) vertically. This compares with the present standard of 5 kilometres (3 miles) for forward visibility and 600 metres (2,000 feet) and 150 metres (500 feet) for horizontal and vertical distance from cloud.

The Conference believed that the lower flying speed and greater visibility and maneuverability of the helicopter would make it possible to use lower limits than those specified above for VFR flights. It also recommended that helicopters be allowed to operate in reduced visibility conditions outside controlled airspace at heights below 200 metres (700 feet), although fixed-wing aircraft are not allowed to do so.

Helicopters. Although existing marshalling signals (hand signals used to direct aircraft taxiing on the ground) are applicable to helicopters, they provide little guidance for landing from a hovering position. The Conference therefore devised a new set of signals to be used for this purpose.

Other subjects discussed by the conference included the determination of the optimum siting of Instrument Landing System marker beacons and of the location of the ILS reference point and its relationship to visual landing aids, an exchange of views on the problems of specifying aerodrome meteorological minima with particular regard to visibility, requirements of air traffic services for communications between aerial control centers, and determination of the operational requirements for long distance navigational aids.

FACILITATION SESSION OF ICAO

The Third Session of the Facilitation Division of ICAO completed a 15-day session at Manila in the Philippines on October 24th, 1955. Among the items on the Agenda were questions pertaining to: — the entry and departure of passengers, non-scheduled flights, helicopters and jets, development of air cargo clearance procedures to complement the recommendations of the General Agreements on Tariffs and Trade (GATT) which were designed to facilitate the smooth passage of goods from one country into another. Means of speeding up the handling of air cargo, airmail and baggage were also discussed.

Fifty-two important changes to the International Standards and Recommended Practices on Facilitation were recommended and seventeen other recommendations, designed to reduce formalities involved in the crossing of frontiers, were made. These recommendations, of course, must be approved by the Council of ICAO before they can come into effect.

They include the adoption of a policy aimed at the early elimination of the passenger manifest and the later elimination of the embarkation/disembarkation card; this involves the acceptance by member states of a general declaration signed by an authorized agent. The amendments will assist the operation of non-scheduled aircraft, for they simplify existing requirements for these aircraft to give notice of arrival in foreign countries and to receive prior permission for their flights; also in future, if these recommendations are accepted, non-scheduled aircraft which remain in a foreign country for not more than 48 hours will not require a “carnet de douanes.”

The meeting arrived at a definition of the term “tourist” for the guidance of immigration officials and took action to simplify the problems of visas and to re-define the terms “free airport” and “free zone.” Because of the problems posed by the introduction of jet and helicopter aircraft, the
meeting recommended the careful study of terminal installations to see whether waiting time on the ground could be reduced. In the field of customs the new amendments involve the acceptance of oral passenger baggage declarations and the preferential treatment of airmail and its elimination in the air cargo manifest. Aircraft spare parts on loan are to be free of duty, as is airline training material. The simplification of customs documentation is also required.

Other recommendations provide for the simplification and standardization of the present embarkation/disembarkation card, including the reduction of the number of questions on this card from 20 to 10. The validity of entrance visas is extended to 12 months, and the acceptance of the E/D card for entry purposes is recommended. The proposed amendments prohibit the withdrawal of passports from passengers; they involve the partial elimination of crew manifests, and the waiving of documentation required for direct transit passengers. Simplification of the procedures for freeing aircraft from insects which may carry disease, and the provision of facilities for direct transit crews and passengers free from possible contamination by insects, are required. Standardized plant and animal documentation and sanitary requirements and procedures are laid down.

INTERNATIONAL AIR TRANSPORT ASSOCIATION (IATA)

11th ANNUAL GENERAL MEETING OF IATA,
October 17th-21st, 1955, at New York

The 11th Annual General Meeting, and the 10th Anniversary Meeting, was held in New York between the above mentioned dates. Mr. Juan T. Trippe, President of Pan American World Airways, took office at the opening of the meeting and will continue as President until the Annual Meeting next year in Edinburgh when Lord Douglas of Kirtleside, Chairman of British European Airways, will take over office. Reports were submitted to the meeting by the Director General, Sir William P. Hildred, and by the Executive, Financial, Technical, Traffic and Legal Committees.

Executive Committee Report

Among other subjects dealt with were Charges for Airports and Facilities and the new Prorate Agency. With regard to the first subject, the Committee urged the airlines to continue opposition to the imposition of passenger service charges at international airports. “Efforts to have these charges removed or replaced by some more equitable and less cumbersome methods of collecting revenues have been made by IATA at various levels, but so far without success,” the report said. “We do not, however, intend to give up and will continue to look for opportunities to mobilize opinion against this inequitable form of charging.”

Charges for air navigation facilities are under study by ICAO, the report stated. It said it is likely that ICAO’s final report may confine itself to stating the pros and cons of such charges without recommending definite conclusions. “However,” it added, “there is some danger that the report may be weighted in favor of charging, and IATA will endeavor to argue against this tendency and to stress that full weight should be given in the ICAO report to the benefits which the community derives from the facilities and to the fact that civil aviation is only one of the many users of them.” The Committee also noted that charges for airports is scheduled for discussion in an intergovernmental conference under ICAO auspices in the late part of 1956 or early in 1957.

Establishment of an IATA Prorate Agency was announced by the Committee. Prorating is the term applied to the division of revenue from
interline passenger and cargo transport between the participating carriers. The Report pointed out that the great expansion of interline traffic created millions of prorate situations a year. In order to keep up with the resulting accounting problems involved, the airlines have been meeting informally for the past five years to set up agreed prorate tables which are published in manual form.

Financial Committee Report

The following is a summary of the report of the IATA Financial Committee, submitted to the organization's Tenth Anniversary General Meeting. It reported that exchange controls and fluctuations still plague the international airlines and make it difficult, in many cases, for carriers to bring to their home treasuries at full value the revenues which they earn in other countries. During the past year, the committee has canvassed the possibilities of some drastic easement, such as convertibility of currencies on a wide scale, but has had to conclude that it "does not anticipate any immediate panacea." It was mentioned that problems of revenue transfer and discriminatory currency controls have been greatly eased in Europe during the past two years, due in large measure to the aid of the Organization for European Economic Cooperation. Asserting that the airlines had found OEEC "most helpful and cooperative," the committee noted that no difficulties have been reported by members during the past 12 months with regard to the transfer of revenue in the OEEC countries, with the exception of one country.

The Committee reported that it had examined and found "impracticable" proposals put forward at the last IATA General Meeting in Paris that the airlines create an IATA Monetary Unit to serve as a basis for international airline fares and accounting in the absence of a single accepted worldwide currency standard. In addition, the proposal that fares and rates be expressed in Postal Gold Francs had also been examined and discarded. In any case, the IATA Clearing House, in London, now in its ninth year of operations, will continue to serve the 46 member airlines either directly or through the link with the Airlines Clearing House, Inc., in the U. S. The Clearing House provided them with the means of settling their worldwide interline business in either dollars or sterling which is freely convertible into their home currencies. Turnover in the Clearing House during 1954 rose 19 per cent to $287,000,000—an increase of $45,000,000 over 1953.

Further successful efforts towards standardization and simplification of the settlement of interline transactions was reported on behalf of the Committee's Sub-Committee on Interline Revenue Accounting Manual, which is of increasing value to the industry as the volume of interline business expands, the Committee said. This increase in the volume of interline transactions has inevitably led to rising accounting costs, and a new technique for settling interline passenger accounts on a sampling basis has been devised and will be tried out in certain areas during the coming winter. The new basis may provide sufficient accuracy of accounting while dispensing with a great deal of the clerical work required by orthodox methods, it added.

It also revealed that a second study is being made of the possibility of establishing a centralized agency for settling interline cargo transactions, which it termed "an important and complex financial problem." The Committee also reported that a special Taxation Sub-Committee has been created during the past year to deal with the growing tendency by governments to tax a wide range of aspects of international operations, and to make suggestions on a cooperative basis among the airlines for equitable solutions to the problems which are currently arising.
The Report emphasized the necessity for improving navigation aids and
ground organization, the condition of which at the present time left a great
deal to be desired. Were improvements not to be effected quickly enough,
the economic future of the industry might find itself threatened. The
Report stated that airlines had on order expensive new aircraft, running
into billions of dollars, which is was understood would be flown at reduced
seat-mile cost. It was generally loosely assumed that the new craft would
be operated under almost technically perfect conditions. However, if the
various problems with which the industry was forced to live today were not
eliminated—e.g., the need to carry excessive fuel loads, delays in departure,
slow handling due to inadequate terminal facilities, inefficient routing or
assignment to uneconomic altitudes due to inflexible air traffic control,
excessive flight time resulting from inadequate and delayed meteorological
information and inefficient communications—the advantages of possessing
up-to-date aircraft would be doubtful and, what is important, airline opera-
tors would be considerably handicapped in their efforts to satisfy the
demands of the general public.

The Report also dealt with Penalties imposed by Statutes. A compre-
hensive review of legislative restrictions as they affect air operations, under-
taken in the 1955 Technical Conference at Puerto Rico, had indicated that
airlines were suffering additional economic penalties from variations in the
interpretation and application of national and international air regulations,
the Report said. Specific action to alleviate these difficulties was now being
planned. As an example of the kind of restriction which was their target,
the Technical Committee cited the fact that one country still required air-
lines to adhere to rules laid down during the early days of radio. Thus,
while radio telegraphy had since been replaced by radio-telephone, “strange
situation exists whereby operators have to carry an additional crew member
as a radio operator who has no duties to perform and, indeed, no equipment
on board with which to perform any duties.” This was only one illustration
of how national law, if not amended to keep in step with the rapid technical
advancement of our operation, could become both costly and meaningless,”
the Report said.

The Report, which was lengthy and comprehensive, also treated the
following subjects: — Approach and Landing, Fog Dispersal Lighting, In-
strument Flight Rules and Visual Flight Rules Criteria, Operational Control,
Meteorology, Communications, Navigation Aids, Airborne Radar, Mainte-
nance and Overhaul, Turbine Fuels, Aircraft Noise, Helicopters, Regional
Activity, etc. Lack of space precludes publication of the full text but
anyone particularly desirous of obtaining this information may apply to
IATA, International Aviation Building, Montreal, Que.

Legal Committee Report

During the year, the Legal Committee held its 16th and 17th Meetings
at Rome and Princeton, New Jersey, respectively. At Princeton, the Com-
mittee discussed certain problems arising out of the Protocol adopted at
The Hague to amend the Warsaw Convention. On the one hand, the Com-
mittee was impressed by the fact that the Protocol contained clarification
of several ambiguities under the present Warsaw Convention and simplifi-
cation of provisions relating to traffic documents. On the other hand, the
Committee was advised that the fact that the limits of carrier's liability
were increased, might produce a considerable increase in the insurance
premiums which carriers would have to pay and which might be reflected
in the fares charged by IATA Members. It was the view of the Committee
that the implications of the Protocol were far reaching and that the Committee and other interested groups in IATA would have to study the problems raised by the Protocol in order to make recommendations to IATA as to the position it should take with respect to the ratification of the Protocol by States. The Committee has put the question on the Agenda of its next meeting.

In view of the CAB Order tentatively disapproving the proposed IATA Conditions of Carriage in Resolution 030, a Special IATA Committee, under the Chairmanship of Professor John C. Cooper, began consultations with the CAB staff. The consultations aimed first at finding a compromise solution to the several objections which were made by the CAB on the IATA Conditions of Carriage. During the consultations, it appeared, however, that it would be more practicable to obtain agreement with the CAB first on the much shorter conditions on the Ticket and the Air Waybill and to attempt agreement on the more voluminous Conditions of Carriage subsequently. At the time of reporting, the Special Committee was not in a position to indicate the results of its deliberations, the language of the contract on the Passenger Ticket and Air Waybill not having as yet been finalized. It is hoped, however, that the consultations with the CAB will result in maintaining the present worldwide uniformity with respect to the Ticket and Air Waybill. It is also hoped that it will be possible to find a way in which the Conditions of Carriage can be made effective on a worldwide basis. Next year will be the testing time, and it is hoped that nothing will occur which might disrupt the worldwide uniformity which the IATA Conditions of Carriage attempt to achieve.

Discussions have also taken place with the staff of the Canadian Air Transport Board which raised questions affecting Canadian tariff laws. As a result of these discussions with the ATB, the Special Committee is now aware of the main points on which the Canadian Board seeks clarification and it is expected that a solution can be found for these problems, at the same time as a solution is found to the CAB objections.

The Committee devoted considerable time to consideration of the Draft of a proposed Interline Cargo Claims Procedures Agreement which had been the subject of a study between a Joint Meeting of the Insurance Subcommittee and Members of the Legal Sub-committee on Traffic Matters, held in New York on October 7th, 1955. The object of establishing this document is: 1) to secure and preserve harmonious relationships in claim matters among carriers, and between carriers and the public; and 2) to effect prompt and equitable apportionment among carriers of amounts paid and expenses incurred in the settlement of claims and thereby; 3) to effect and maintain a prompt and efficient service to the public in connection with the investigation and settlement of air cargo claims. The new document, when implemented, will permit small cargo claims below a minimum amount and of a concealed loss nature, to be settled with the minimum amount of delay.

Traffic Conferences Report

The last issue carried information concerning results of the meeting of IATA Traffic Conferences at Palmas, Majorca, in July 1955. Prior to the AGM, there was a Composite Traffic Conference Meeting at Miami, Florida. The Report of the Traffic Conferences to the AGM dealt with, among other matters, G.I. Discounts, Foreseeable Price Trends, Polar Rating, Simplification of the Airlines Rating machinery, Through Traffic and Through Handling Procedures and Documents—a subject which grows more pressing with each year's increase in traffic.

With regard to Price Trends, remarks were confined mainly to inter-
national traffic trends foreseeable in the coming year. The hope was expressed that the airlines would continue to hold the line on the cost of basic air transport in tourist class by cutting costs through simplification of handling and other procedures; by increasing traffic through such means as off-season family fares over the North Atlantic and special night fares in Europe, etc. Increases of up to 10 per cent for first class service on most world routes, voted by the Conferences to take effect next April 1, have been designed primarily to compensate the airlines for the cost of supplying the greater luxury demanded by first class passengers, rather than to swell the net revenue of operation.

On the subject of Polar Fares, it was reported that while the Miami meeting had succeeded in reaching short-term agreement on fares and rates between the continents via Polar routings, a long term solution for this problem would be one of the pressing tasks of the 1956 Conferences. The differences in distances over Polar routings as against the more orthodox tracks of east-west international flying may disrupt the whole balance of the present structure of inter-related fares and rates, the report said, while the matter is made the more difficult by "the highly competitive background." Because Polar routes between Europe and the Pacific will not be regularly operated until next Fall, the situation is still too fluid for definite settlement but by the time the Conferences meet in 1956 it will be obviously imperative that a permanent solution be found.

Regarding Helicopter services, they have their own peculiar characteristics and usefulness, but are also supplementary fixed wing routes, and while they must be related to the latter for inter-line traffic purposes, they must have sufficient freedom to develop in their own way.

Reference was made to the increasing complexity of negotiations in the Conferences and the problems encountered in obtaining necessary government approvals for their resolutions. Attention was also called to a tendency on the part of governments to upset delicately balanced agreements by conflicting or unnecessary alterations to Conference resolutions and carriers were advised not to inspire governments to make changes which they were themselves unable to secure in Conference negotiation. "We have, of course," said the Chairman of the Traffic Conferences, "always been plagued by minor government reservations, conditions and deferments, usually made in order to protect some philosophy dear to the heart of one government. In this form, they have been a kind of inevitable nuisance and we have always had hopes that they would automatically diminish as more governments become educated to the needs of international uniformity."

**OBSERVATIONS AND COMMENTS ON FOREIGN CASES**

*Engeli et al. vs. Swissair.*

Tribunal de 1re instance de Genève, March 8, 1955 (Revue française de droit aérien, 1955, 335 ss.).

**Facts:** Plaintiffs, a firm of architects domiciled at Geneva, Switzerland, planned to take part in an international competition for the reconstruction of Izmir City, Turkey, in which a time limit was set for delivery of projects on December 15, 1951. After some correspondence, during which defendant was fully informed about the importance of that limit, the case containing the projects elaborated by plaintiffs was handed over to defendant's office at Geneva on November 23, 1951, under the usual air waybill, for air transportation to Istanbul, where defendant's representative would have to send it to Izmir by surface transportation without delay. The case was deviated at Istanbul (allegedly by confusion with another case) and did not reach Izmir until April 9, 1952. Plaintiffs claimed damages for Sw. frs. 150,000.00.
The Court: Turkey is not a party to the Warsaw Convention, and the transportation was therefore not "international" within the meaning of Art. 1, para. 2 of the Convention, notwithstanding the fact that there were stopping places in third countries. Both parties being domiciled in Switzerland and the contract having been concluded in Switzerland, Swiss law must therefore apply. According to Swiss law, the carrier cannot contractually exclude his liability for culpa lata, and there was culpa lata with defendant's representative at Istanbul, because not only was a confusion of different cases impossible without negligence, but his attention had particularly been directed to the special requirements of this transportation. The delay of the case equals to its loss, for which defendant is liable. Judgment entered in favor of plaintiffs in the sum of Sw. frs. 20,000.00 (15,000.00 for work and expenses wasted, 5,000.00 for tort moral and lost chances).

Remarks: The case arose before the Warsaw rules were introduced into Swiss municipal law by the Air Transport Regulations, 1952. The Court's construction of Art. 1, para. 2 of the Convention is in accordance with the leading authorities, and its holding Swiss law to be the proper law of the contract agrees with Airtrafic vs. Transocean (21 J. of Air Law and Commerce 109, 1954) and other cases decided by the Supreme Federal Court of Switzerland. More important however are two other elements of the opinion, because they might hold good under Warsaw rules as well: first, the equation between delay and loss which might open some interesting perspectives in the insurance field, and second, the evaluation of carrier's conduct as culpa lata (which as such, before Swiss courts, would release the mechanism of Art. 25 of the Convention). Still, it is submitted that this evaluation is rather extensive and open to some doubts.

DR. WERNER GULDIMANN (Zurich)