RECENT ACTIVITIES OF PROVISIONAL INTERNATIONAL CIVIL AVIATION ORGANIZATION (PICAO)

THE last four months of 1946 were particularly active ones for PICAO. After a summer recess of two months, the Interim Council held its sixth session in Montreal from September 4 to November 18, 1946. During the period, the Council's Air Transport and Air Navigation Committees were in substantially continuous session. Five technical divisions of the Air Navigation Committee met and the third and fourth of PICAO's regional air navigation meetings were held.

GENERAL DEVELOPMENTS

Draft Agreement with the United Nations. A draft agreement defining the relationship between the United Nations and the permanent International Civil Aviation Organization (ICAO) was concluded by negotiating committees representing the Economic and Social Council of the U. N. and the Interim Council of PICAO, on September 28, 1946 at Lake Success, N. Y. The draft agreement was approved by the U. N. General Assembly on December 14, with the condition that ICAO comply with any decision regarding Franco Spain made by the U. N. General Assembly. The latter simultaneously passed a resolution recommending that the "Franco government of Spain be debarred from membership in international agencies established by or brought into relationship with the United Nations, and from participation in conferences or other activities which may be arranged by the United Nations or by these agencies, until a new and acceptable government is formed in Spain." The draft agreement is subject to final approval by the First Assembly of ICAO, scheduled to meet on May 6, 1947.

Rules for the Settlement of Differences Between States. Certain amendments in the rules for the settlement of differences between states were prepared by the First Interim Assembly of PICAO. These amendments were revised by a special legal committee, approved by the Council, and forwarded to Member States. The practical application of these rules was foreseen in a further Council resolution which requested Member States to submit the names of persons qualified to serve as members of committees, as arbitrators or as umpires for the settlement of differences.

Joint Support Program. The Joint Support Committee of the Interim Council gave considerable attention to the problems of financing the installation and operation of aids to international air navigation and the training of operating personnel, at locations where Member States themselves might be individually unable to provide the required aid. The development of this program is necessarily a slow one because of the complex problems involved.
AIR TRANSPORT

Statistical Reporting Forms. The Council approved for use in 1947, simplified statistical reporting forms, which were prepared by the Air Transport Committee assisted by governmental and IATA experts. A new Statistical Division of the Air Transport Committee was formed to develop statistical reporting forms for 1948.

Multilateral Air Transport Agreement. A subcommittee of the Air Transport Committee, comprising representatives of seven Member States, developed three successive preliminary drafts of a proposed Multilateral Agreement on Commercial Rights in International Civil Air Transport. A definitive draft is to be submitted to the Air Transport Committee in January 1947 on the basis of the discussion to date, accompanied by a full report setting forth the underlying principles of the draft agreement and the reasons governing its various provisions. The draft agreement will subsequently be passed upon by the Interim Council of ICAO, sent to all Member States for study, and submitted to the First Assembly of ICAO.

Views on the Warsaw Convention. The Air Transport Committee agreed not to submit views on the technical aspects of the Warsaw Convention at CITEJA's November 1946 meeting, because of insufficient response to ICAO's inquiry to Member States on the subject.

AIR NAVIGATION

Technical Divisions of the Air Navigation Committee. During the period under review, the Technical Divisions on Meteorology, Communications, Search & Rescue, and Rules of the Air & Air Traffic Control held their second meetings in Montreal. In general, each division did further work on the ICAO Recommendations for Standards, Practices and Procedures in their respective fields of air navigation, and considered matters arising from the regional air navigation meetings held thus far.

Keen interest was shown in the meetings of the Special Radio Technical Division, from October 30 to November 23, 1946, which meetings were preceded by demonstrations in the United Kingdom, the United States and Canada. The special division took substantial steps toward world-wide standardization of radio aids to air navigation, after reviewing the full range of navigation equipment now available to civil aviation. The division made recommendations in each category of air navigation aids: instrument approach and landing systems, short and long range navigation systems, and aerodrome zone aids.

Regional Air Navigation Meetings. These meetings are for the general purpose of determining requirements in air navigation matters peculiar to the various regions of the world. The meetings provide an opportunity for study and agreement on the introduction of ICAO Recommendations for Standards, Practices, and Procedures. ICAO held the third and fourth of a series of ten such conferences. The ICAO Caribbean Regional Air Navigation Meeting was held in Washington, D. C. from August 26 to September 13, 1946, and the ICAO Middle East Air Navigation Meeting in Cairo from October 1 to October 18.

The Council decided that the North Atlantic Procedures, developed at the first of the regional conferences, should be introduced on November 1, 1946, and that the date of the introduction of the European-Mediterranean Procedures, developed at the second conference, should be postponed for the time being.

North Atlantic Weather Stations Agreement. The London Conference on North Atlantic Weather Stations met under the auspices of ICAO from September 17 to September 25, 1946 and drew up an international agreement providing for the operation of thirteen Atlantic weather stations. The estab-
Establishment of this network, originally recommended by the PICAO North Atlantic Air Navigation Meeting in March 1946 represented the first major successful effort in joint international support of PICAO's regional air navigation program.

The weather stations will be located at strategic points across the North Atlantic, and will provide constant meteorological information, navigational aids, and search and rescue facilities for aircraft in distress, in addition bringing incidental benefits to shipping, fishing, agricultural and other activities aided by weather forecasts. Floating weather stations were used during the war with marked success, but their number has since been greatly reduced. Four of the thirteen stations are already in operation and it is expected that the system will be completed by July 1, 1947.

Some of the floating weather stations will be provided and maintained by a single nation while others will be the joint responsibility of two or three countries. Nine states of the North Atlantic Region—Belgium, Canada, France, Ireland, the Netherlands, Norway, Sweden, the United Kingdom and the United States—are to participate directly in the conduct or financial support of the operations. The agreement will be valid until June 1950 and ICAO will convene a conference in 1949 to consider its renewal.

ADMINISTRATION

Trainee Plan. A plan for introducing a small number of persons sponsored by Member States into the Secretariat on limited term appointments has been for some time under consideration. The First Interim Assembly approved the development of such a program and the Council recently directed that a plan be developed and implemented as soon as possible. It is anticipated that the program will contribute to the dissemination of knowledge of PICAO activities and that the Organization and participating States will derive mutual benefit from it.

PROGRAM FOR FIRST QUARTER OF 1947

The Interim Council is to reconvene on January 7, 1947, and its Air Transport and Air Navigation Committees shortly thereafter. The Council's Committee on the International Convention will meet for the first time on January 20, 1947, to consider the further development or improvement of the permanent Convention, either by amendment of the document or by action of the Council or Assembly designed to implement its present provisions.

The second meetings of five of the technical divisions of the Air Navigation Committee are scheduled for January and February. These will cover the fields of Personnel Licensing, Aeronautical Maps and Charts, Accident Investigation, Airworthiness and Airline Operating Practices. The South Pacific Regional Air Navigation Meeting will convene in Melbourne, Australia on February 4, 1947.

Highlighting the quarter is the anticipated simultaneous deposit on March 1, 1947 of sufficient instruments of ratification to bring the permanent Convention into force as of April 1. By the end of 1946, fourteen states had deposited their instruments, out of the twenty-six required. The date for the convening of the First Assembly of ICAO under the Convention has been set for May 6, 1947.

R. K. W.
CITEJA MEETING IN CAIRO, NOVEMBER 6-17, 1946

The XV Plenary Session and the several Commissions of CITEJA met in Cairo, Egypt, November 6-17, 1946. Approximately 20 countries were represented. The United States Delegation consisted of Messrs. John C. Cooper (Institute for Advanced Study, Princeton, N. J.), Richard E. Elwell (General Counsel, CAA), Arnold W. Knauth (Specialist in Maritime and Aviation Law, Department of Justice), Emory T. Nunneley, Jr., Chairman (General Counsel, CAB), Edward C. Sweeney (Professor of Law, Northwestern University), Stuart G. Tipton (General Counsel, Air Transport Association).

Meetings of the several Commissions were held from November 6th to 16th. It was determined at the opening meeting that, due to the limited size of some of the delegations and the interest of most delegates in the work of more than one Commission, only one Commission would meet at a time. The First Commission met on November 14 and 16 and discussed the draft convention on Aircraft Recordation and Aircraft Mortgages. The Second Commission met on November 9 to 12 and the discussion was directed primarily to the questions relating to revision of the Warsaw Convention. There was no meeting of the Third Commission. The Fourth Commission met on November 7 and 8. Its discussions were concerned primarily with the draft convention on the Legal Status of Aircraft Commander.

The Plenary Session was opened on November 15 by Mr. Roushdy Bey, Assistant Secretary of State for Air for Egypt. Dr. Beheri of Egypt was voted President of the session which held meetings on November 15, 16, and 17.

The results of the meetings of the Commissions and of the Plenary Session were as follows:

1. Draft Convention on Legal Status of Aircraft Commander. This was considered in the Fourth Commission and in the Plenary Session. There was adopted a draft Convention on the Legal Status of Aircraft Commander, and a resolution transmitting such draft convention to PICAO with a recommendation that it be adopted by the next Assembly of PICAO, or its successor. The text thereof is set forth on page 84, infra. It defines the aircraft commander, his authority with respect to matters of safety and discipline on board the aircraft, the period of time he may exercise this authority and the extent to which the commander may bind his principal in incurring expenses necessary for completion of the flight and for safeguarding persons and property aboard the aircraft. As approved by CITEJA the draft convention was substantially in accordance with the views of the U. S. Delegation, with the exception of one or two provisions. It contains no provisions concerning the status of the aircraft crew other than the commander, as it was agreed in the Fourth Commission that this was a subject which should be treated in a separate convention, the provisions of which were not discussed at the meetings in Cairo.

2. Revision of the Warsaw Convention. There was extended discussion in the Second Commission regarding the proposed revision of the Warsaw Convention. The Convention sets forth the conditions under which the operators of aircraft will be responsible for damages to persons and property in international transportation and defines the form and effect of air transport documents, consisting of passenger tickets, baggage checks and waybills. It was agreed that it was inappropriate at this time to undertake revision of the Warsaw Convention, and that further experience was required, particularly in relation to certain provisions, before revision of the Convention should be undertaken. However, various provisions of the draft
convention submitted by Mr. K. M. Beaumont, as Reporter, were discussed at considerable length, and the views of the experts with regard thereto were recorded for further reference and consideration. The following resolution was adopted and transmitted to PICAO (CITEJA Cairo Doc. 13; PICAO Doc. 2359, LG/5, 29/11/46, page 1):

“In pursuance of resolution No. LE/33 of the first Interim Assembly of the PICAO, the CITEJA has reviewed the whole Convention of Warsaw and has considered (inter alia:)

1. Observations of the International Chamber of Commerce, the International Air Transport Association and the International Union of Aviation Insurers,
2. A further report on revision of the Convention of Warsaw submitted to the Second Commission by its reporter Major K. M. Beaumont,
3. The draft of a new Convention annexed to the last mentioned report, and
4. A Summary of the discussion of the last mentioned draft Convention by the Second Commission at its Meeting at Cairo in November 1946.

a. The CITEJA resolves that the said Report shall be transmitted immediately to the PICAO together with the draft of the said new Convention, the aforesaid Summary and, as soon as possible, the Minutes of the discussions of this matter.

b. The CITEJA is of opinion that the aforesaid Report and draft of a new Convention, in conjunction with the Summary and Minutes of the discussions, constitute a useful basis for further study of the subject of revision of the Convention of Warsaw.

c. Pending the receipt from the IATA, of suggestions which are awaited, concerning technical matters, including traffic documents, the CITEJA is unable to finalize the draft of a new Convention and in view of the great and continuing growth of International Air Transportation following the termination of the War, considers that further study of certain aspects is necessary.

d. The CITEJA recommends that further study of this subject should be undertaken by the PICAO or its successor, through the medium of its permanent Committee on International Air Law, or otherwise, and that, in order to assist States concerned copies of the above mentioned report, draft Convention and Summary be circulated to such States as a basis for further study before the next Meeting of the Assembly of the PICAO.”

Subsequent to the session and without express authority, Mr. Beaumont, the Reporter, has prepared a second draft revision of the Warsaw Convention incorporating the recommendations made at Cairo upon which he considered there was substantial agreement. This draft was forwarded to PICAO for such assistance as it may be in its further study of the matter. The text of this second revision and that of the Warsaw Convention as adopted October 12, 1929 are set forth in parallel columns commencing on page 87, infra, with reference in the footnotes to the most helpful portions of the Beaumont report and the summary of discussions thereof at Cairo.

3. Draft Convention on the Recordation of Aircraft and Aircraft Mortgages. Extended discussion took place of the report prepared by Mr. De Smet of Belgium concerning the recommendations CITEJA should make to PICAO in response to the questions posed in the document adopted by the First Interim Assembly of PICAO in June 1946 (PICAO Doc. 1859, LE/44 of June 17, 1946) regarding the draft convention on Recordation of Title to Aircraft and Aircraft Mortgages prepared by the Fourth Commission of the Assembly. This convention provides for the recording by each con-
tracting state of title to aircraft engaged in international flights and the recording of mortgages and other similar encumterances on such aircraft, with a view to their being accorded recognition in other contracting states. As a result of this discussion, answers to be transmitted to PICAO were agreed upon in the Commission, and preparation of a report stating them in both French and English was entrusted to Mr. De Smet (aided by Mr. Beaumont as to the English text). In the Plenary Session a resolution transmitting this report, and also the report of Mr. De Smet to CITEJA, to PICAO was adopted.

4. Relation of CITEJA to PICAO. There was a good deal of discussion in the Plenary Session regarding the relation of CITEJA to PICAO (or its successor). Finally the following resolution was adopted containing suggestions to PICAO with regard to the manner of setting up the permanent legal committee:

a. That the method of preparing draft conventions used by CITEJA, including the designation of a member of the committee as a reporter, be retained by the Legal Committee;

b. That meetings of the Legal Committee be fixed so that one coincides with the annual meeting of the Assembly, and the Legal Committee have the option to fix the time and place of any supplementary meetings;

c. That the Legal Committee have authority to choose its own President from its members;

d. That the draft conventions prepared by the Legal Committee be submitted for approval to Conferences on International Air Law where qualified representation of the States has been adequately assured, particularly when such conferences coincide with the annual Assemblies of ICAO;

e. That ICAO consider the admission of States not members to the meetings of the Legal Committee under conditions deemed proper by ICAO;

f. That the specialized personnel of the Secretariat of CITEJA be utilized by ICAO, and that their competence and services to CITEJA be specially considered in determining their situation;

g. That the governments participating in CITEJA authorize the Secretary-General to place at the disposition of the Legal Committee all the records and archives of CITEJA.

The United States Delegation refrained from voting on this resolution inasmuch as their instructions covered only a portion of the matters covered in the resolution.

In addition to the foregoing, a resolution was adopted providing that if the Chicago Convention were by then ratified by enough States so that the next Assembly in Montreal was that of the permanent organization, there would be held in Montreal concurrently with such Assembly meeting a Plenary Session of CITEJA, the chief purpose of which would be the liquidation of CITEJA. A resolution was also adopted appointing Mr. Georgiades, or in case he was unable to act, Mr. Wilberforce as a committee of one to prepare a plan of liquidation for submission at the final meeting of CITEJA in Montreal.
THE INTERNATIONAL AIR TRANSPORT ASSOCIATION
(IATA) — 1946 ACTIVITIES

I. Preface

1946 was a year of organization and great activity for IATA, an association of more than 60 international airline operators. First was the organization of IATA itself, with its diversified staff, headquarters in Montreal and branch offices on several continents. By late spring the work of all departments was fully under way. Administered by the central establishment, over 200 days of meetings of four standing committees and innumerable sub-committees, staffed by the airline members of IATA, were held in various parts of the world.

II. Technical

Perhaps the busiest of these committees was the Technical, whose job has been to work with PICAO in adapting the aeronautical advances of the wartime years to postwar international civil air transport. A large number of IATA recommendations were made to PICAO and have helped to bring the benefit of practical operating experience to the drafting of Standards and Recommended Practices in all the diverse technical fields of air navigation. Nearly 200 practicing technical experts participated in the various Technical Committee sessions, PICAO divisional meetings, and Regional Air Navigation meetings.

IATA is also concerned with other technical matters of operating procedure and practice which do not come strictly within the purview of PICAO. Here much was done to standardize and bring about uniformity between airlines of all continents. Particularly valuable results were accomplished by the exchange of technical opinions and talent among American and European operators whose prewar operating experiences seldom overlapped.

III. Traffic and Rate Matters

The IATA Traffic Committee has made equally impressive progress toward bringing the commercial practices of the airlines into worldwide uniformity. A standard agreement between airlines and travel agencies is being put into effect through the IATA Traffic Conferences. Standard tickets and baggage checks are in the final processes of adoption, as is a standard inter-line agreement on an international traffic communications code. The function of the Traffic Committee is to draft principles which are applied to actual traffic practice by the Traffic Conference. Much has been done in this manner to bring uniformity into such matters as discounts, baggage allowances and others which directly concern the passenger.

The important responsibility of making recommendations in regard to rates, tariffs and related matters to the various interested governments for their approval has also been handled by Conference. In this important field, the IATA Conferences have adopted the principle that the price of air transport shall bear a reasonable relationship to the ascertained cost of the most efficient operation, a dynamic concept of rate-regulation which should function to reduce rates automatically as operations are made more efficient and economical.

The Traffic Committee has had charge of IATA's campaign to aid in the adoption by governments of PICAO's recommendations for cutting the red tape which now hampers international travel by air. Significant advances have been made as the result of the cooperation of these two organizations with the individual governments.
IV. Financial

In the financial field, the major achievement of the year has been the creation of the IATA Clearing House, an unprecedented international financial institution which, directed from Montreal, will handle the interline transactions of its members and reduce them from two score currencies to terms of dollars and sterling. The savings in internal administration in accounting and in protection from exchange risk are expected to be impressive. The Financial Committee has also made progress in the study of a uniform system of accounts and, with PICAO, toward a uniform system of statistical reporting. A continuing study of airline insurance problems was begun during the year.

V. Legal

IATA’s Legal Committee has been occupied with the continuing study of the international agreements on which world air transport is based. It is cooperating with PICAO and CITEJA on the adaption to postwar conditions of the Warsaw Convention, which governs relationships between international air carriers and their customers. IATA legal experts have also assisted in the drafting of new international conventions relating to aircraft mortgages and recordation of title which are now being examined by governments and other interested parties.

VI. General

The goal of IATA, which dovetails with that of PICAO, is to promote safe, regular and economical air transport for the benefit of the peoples of the world. Just as the operation of an airline resolves itself to the meticulous performance of a multitude of details, much of IATA’s work is concerned with the unglamorous inspection and revision of procedures, practices and papers. The gradual accretion of these small decisions, however, like the building of a coral reef, is already contributing to a strong, safe and lasting pattern of efficient and economical air transport.

R. K. W.

LEGAL STATUS OF AIRCRAFT COMMANDER—DRAFT CONVENTION

At the 15th Plenary Session of CITEJA held at Cairo, Egypt on November 16, 1946 the CITEJA adopted the following draft Convention concerning the Legal Status of the Aircraft Commander and a resolution transmitting it to PICAO with a recommendation that this draft Convention be submitted for approval to a Conference on Private International Air Law convened by the PICAO.

RESOLUTION ADOPTED BY CITEJA

“Requests its Secretary-General to transmit to the States members of the Committee, as well as to the PICAO, the draft International Convention concerning the Legal Status of the Aircraft Commander in the form in which it was adopted during the present session,

“Recommends that the said draft be submitted for approval to a Conference on Private International Air Law convened by the PICAO,

“Emphasizes the interest in having the terms: operator, international carriage, used in the draft, defined by the PICAO in accordance with the meaning given to the said terms in the various conventions on International Air Law at present in force.”

1 CITEJA Cairo Doc. 30; PICAO Doc. 2417, LG/6, 5/12/46.
INTERNATIONAL

DRAFT INTERNATIONAL CONVENTION CONCERNING THE LEGAL STATUS OF THE AIRCRAFT COMMANDER

(ENGLISH TRANSLATION BY M. GARNault, CITEJA REPORTER)

Article 1
Any aircraft engaged in international carriage is required to have on board a person vested with the powers of commander.

The choice of the commander shall be made by the operator of the aircraft.

In the absence of the commander thus appointed or in case he is prevented from performing his duties, and the operators have failed to designate his successor, the functions of commander shall be exercised by the remaining members of the crew in the following order: pilots, navigators, flight engineers, radiomen and stewards.

Within each such class of crew members, the order of succession shall be according to their rank as designated by the operator.

Article 2
During the periods specified in Article 5 hereof, the commander of the aircraft:

a. shall be in charge of the aircraft, crew, passengers and cargo;
b. shall have the authority and duty to supervise and direct the action of the crew and of the passengers to the extent necessary to insure order and the safe operation of the aircraft;
c. shall have the authority, for serious cause, to disembark any member of the crew or any passenger at an intermediate stop;
d. shall have authority over members of the crew within the scope of their employment, and in case of necessity, the determination of which is left to his judgment, may temporarily direct a member of the crew to perform service other than that for which the crew member was employed;
e. may take any other action necessary to insure that orders or directions given under this article are complied with by any crew member or passenger.

Article 3
The commander of the aircraft has the right, even without special agency:

a. to make purchases necessary for the completion of the flight undertaken;
b. to have made repairs necessary to permit the prompt resumption of the flight;
c. to make any arrangement and incur any expenses necessary to ensure the safety of the passengers and the crew and preservation of the cargo;
d. to borrow money necessary for the execution of the measures authorized in paragraphs a, b and c of the present article;
e. to hire, for the duration of the current voyage, in replacement of any missing members of the crew, any personnel who are indispensable for the completion of the voyage.

Article 4
The commander cannot, without special agency, sell the aircraft or by contractual act encumber it with mortgages or other right of the same nature.

Article 5
The beginning and end of the period during which the commander shall possess disciplinary power over the crew may be fixed by the operator. Such

2 This English text, prepared by the Reporter, M. Garnault, was transmitted by CITEJA to PICAO. The document is identified as Revised PICAO Doc. 2417, LG/6 of May 12, 1946.
power shall in any case be conferred upon the commander upon the embarkation of the crew. It shall cease at the earliest at each stop when the formalities of arrival have been completed or when the commander has been replaced in his command.

The authority of the commander over the aircraft and the passengers, and the cargo on board, shall commence at the time the aircraft with passengers and cargo is turned over to him at the beginning of the flight until the termination of the flight when the aircraft, passengers and cargo respectively are delivered to the proper representatives of the operator or other appropriate authority. When the turnover of the aircraft, passengers and property shall actually occur shall be determined by the practices of the operator.

**Article 6**

The commander has the right in all countries and under all circumstances, of access to:

a. The consul of the State of which any person whatsoever on board the aircraft is a national;

b. the consul of the State in which the aircraft is registered;

c. the consuls of the States of which shippers or charters are nationals.

After hearing the commander such consuls shall take such action as is in accordance with the consular laws and instructions of their respective countries.

Whenever the commander goes first to the consul of a State other than that in which the aircraft is registered, the commander shall notify the nearest consul of the State in which the aircraft is registered as promptly as practicable.

**Article 7**

Births and deaths occurring on board the aircraft shall be recorded in the documents on board by the commander who shall deliver copies thereof to interested persons. He shall, as soon as possible, transmit certified copies thereof to the competent authority of the country in which the aircraft is registered, as well as to the country in which the next landing occurs, if the local authorities so request.

**Article 8**

The provisions of the present Convention shall not affect international conventions or internal legislation of the contracting States, defining the conditions of qualification of the aircraft commander.

**Article 9**

The present Convention shall be applicable in the case of any aircraft engaged in international carriage whenever the aircraft is registered in a contracting State or whenever the aircraft is being operated by an operator who is a national of a contracting State.

**Article 10**

The present Convention shall not apply to the commander in service on board military, customs, or police aircraft.
WARSAW CONVENTION — COMPARISON OF 1929 TEXT WITH PROPOSED BEAUMONT REVISION (DRAFT OF DECEMBER 1946)

WARSAW CONVENTION
OF 1929

CHAPTER I.
SCOPE — DEFINITIONS

Article 1
(1) This convention shall apply to all international transportation of persons, baggage, or goods performed by aircraft for hire. It shall apply equally to gratuitous transportation by aircraft performed by an air transportation enterprise.

(2) For the purposes of this convention the expression "international transportation" shall mean any transportation in which, according to the contract made by the parties, the place

BEAUMONT REVISION—
DRAFT OF DECEMBER 1946

CHAPTER I.
DEFINITIONS — SCOPE

Article 2
(1) This convention applies to all international carriage of passengers, passengers' baggage and cargo by aircraft for remuneration. It also applies to gratuitous international carriage by aircraft performed by an air transport undertaking.

For the purpose of this Convention the following words and expressions shall have the meanings undermentioned:
"International Carriage" means any...
of departure and the place of destination, whether or not there be a break in the transportation or a transshipment, 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 a territory subject to the sovereignty, suzerainty, mandate, or authority of another power, even though that power is not a party to this convention. Transportation without such an agreed stopping place between territories subject to the sovereignty, suzerainty, mandate, or authority of the same High Contracting Party shall not be deemed to be international for the purposes of this convention.

(3) Transportation to be performed by several successive air carriers shall be deemed, for the purposes of this convention, to be one undivided transportation, if it has been regarded by the parties as a single operation, whether it has been agreed upon under the form of a single contract or of a series of contracts, and it shall not lose its international character merely because one contract or a series of contracts is to be performed entirely within a territory subject to the sovereignty, suzerainty, mandate, or authority of the same High Contracting Party.

Carriage performed by successive carriers is deemed to be one undivided carriage if it was regarded by the parties to the contract as a single transaction or operation, whether agreed upon in 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 has to be performed entirely within the territories of a Single State. For the purpose of the above definitions the expression "Territory of a (Contracting) State" is deemed to comprise not only the territory of the State concerned but also all territories subject to the Sovereignty, Suzerainty, Mandate, Authority or Trusteeship of such State.

[EDITOR'S NOTE: The following definitions are found only in the Beaumont revision (Article 1) and are printed across the page to save space.]

"Carrier" means the owner or operator of an aircraft who enters into a contract with a passenger or consignor.
"Cargo" means anything carried on behalf of a consignor.
"Cash on Delivery" means the sum to be collected, on behalf of a consignor, from a consignee of cargo upon delivery thereof to him. It may include the cost of the cargo, the cost of carriage, customs dues and any other expenses required by the consignor, under the contract of carriage, to be collected on delivery.
"Charter" of an aircraft means the case when an entire aircraft, together with the crew required for its operation, is hired by the owner or operator thereof to a charterer for a particular voyage or series of voyages (voyage charter) or for a specified period (time charter).
"Consignment Note" means the air consignment note (air waybill) required to be completed in connection with the carriage of cargo by air.

5 Cairo Summary: "It was provisionally arranged to delete this definition. If it was eventually found necessary to have a definition the one given above was suggested. The definition is related to 'International Carriage'"
"Consignee" means the party who, according to the contract of carriage, is entitled to receive cargo at the place of destination specified in the contract of carriage.

"Consignor" (shipper) means the party who enters into a contract with a carrier for the carriage of cargo by air.

"Contract of Carriage" means the arrangement to carry by air made between a carrier and a passenger or consignor.

"Contracting State" means a State which has ratified or adhered to this Convention and whose denunciation thereof has not become effective.

"Hand Baggage" means all articles which accompany a passenger in an aircraft and which are not included in registered baggage, as hereafter defined. Hand baggage may include live animals and cameras, if permitted by the regulations of the carrier.

"International Carriage" [See supra, opposite Article 1 (2) of 1929 Convention].

"Last Carrier" means the carrier performing the last stage of the carriage (transportation) contemplated by the contract of carriage in all cases where more than one carrier engages in the carriage. Provided that, when the carriage actually terminates at a point short of the place of destination contemplated by the contract of carriage, the expression "last carrier" shall mean the carrier engaged in the carriage when it actually is terminated.

"Passenger" means any person carried in an aircraft with the consent of the carrier, except persons bound to the carrier by a contract of employment who are carried in connection with their duties.

"Period of Carriage (Transportation) by Air" means:

(a) for the purpose of cargo and registered baggage [See infra, page 98, opposite Article 17 of 1929 Convention].

(b) for the purpose of passengers and hand baggage [See infra, page 99, opposite Article 18 of 1929 Convention].

"Place of Departure" means the place of departure referred to in the contract of carriage.

"Place of Destination" means the place of destination referred to in the contract of carriage.

"Registered Baggage" means all baggage and other articles accepted by the carrier for carriage as registered baggage. Registered baggage may include live animals and cameras, if permitted by the regulations of the carrier.

"Servants" (of a carrier) means (a) persons bound to a carrier by a contract of employment acting within the scope of their duties, and (b) authorized agents of a carrier acting within the scope of their agency, including servants of such agents.

"Signatory State" means a State which has signed this Convention but has not ratified or adhered to it.

"Valuable Articles" means precious metals, coin, currency, notes, stamps, deeds, securities, jewelry, precious stones, pictures, furs, lace and other articles the value of which exceeds 2500 francs per kilogram of their weight, based upon the formula comprised in Article 25 (4).

Article 2

(1) This convention shall apply to transportation performed by the state or by legal entities constituted under public law provided it falls within the conditions laid down in Article 1.

(2) This convention shall not apply to transportation performed under the terms of any international postal convention.

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6 Cairo Summary: "This definition has a bearing both upon the definition of 'international carriage' and upon the obligatory requirements of traffic documents. For the former purpose reference to 'airport' should be deleted, but for the latter purpose it would be desirable. It appears that differing definitions for the two purposes might be required, but no definition could be framed until (a) a definition of 'international carriage' was settled, and (b) the method of dealing with documents under Articles 3 to 9 was decided."

6a Beaumont draft Article 2(3)(b) is found opposite old Article 34.
CHAPTER II.
TRANSPORTATION DOCUMENTS

SECTION I. PASSENGER TICKET

Article 3

(1) For the transportation of passengers the carrier must deliver a passenger ticket which shall contain the following particulars:

(1) Subject to the provisions of Article 19, the carrier must deliver a ticket to each passenger carried, provided that:

(a) A separate ticket need not be delivered for a child under 2 years of age for whom no separate seat is reserved, who is carried by a passenger and who is included in the ticket of that passenger;

(b) Members of a family travelling together in the same aircraft and between the same places of departure and destination may be included in one ticket.

(2) Each passenger ticket must contain the following particulars:

7 Mr. Beaumont notes on his December draft: "The following Articles 3 to 10 will be eliminated altogether if it is decided to adopt the proposal of Brigadier R. O. Wilberforce, on behalf of the British Delegation which combines a new Article 3 with the principle that ICAO should determine from time to time the particulars which must compulsorily be included in traffic documents, and the regulations concerning the same." The Wilberforce proposal follows:

"(1) The carrier shall deliver

(a) for the carriage of passengers, a passenger ticket.

(b) for the carriage of registered baggage, a baggage check.

"(2) For the carriage of cargo every carrier has the right to require the consignor to make out and hand over to him a consignment note and every consignor has the right to require the carrier to accept this document.

"(3) The International Civil Aviation Organization shall determine from time to time the particulars which must compulsorily be inserted in the passenger ticket, the baggage check and the consignment note, and the regulations concerning the same. Such particulars shall be such as will effectively protect the essential interests of carriers, passengers and consignors, in accordance with this Convention, and must, in any event, contain a statement that the carriage is subject to the rules relating to liability established by this Convention.

"(4) Until such compulsory particulars and regulations are so determined they shall be as set out in the Annex to this Convention. [Note: These rules would be the same as those comprised in Articles 3 to 10, unless others are decided.]

"(5) The absence, irregularity or loss of a passenger ticket or baggage check, or of a consignment note, 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.

"(6) If a carrier accepts a passenger, registered baggage or cargo without having delivered a passenger ticket or a baggage check, or without a consignment note having been made out, or if the passenger ticket or baggage check or consignment note does not contain the compulsory particulars to be inserted by the carrier, the carrier shall be liable for any damage thereby caused to the passenger, consignor or consignee.

"(7) The consignor is liable for all damage suffered by the carrier by reason of the irregularity, incorrectness or incompleteness of any particulars or statements inserted by the consignor in the consignment note."

8 Beaumont September Report: "It is suggested that the particulars comprised in paragraph (2) are all that are necessary. For the reasons of traffic efficiency, it is desirable to restrict particulars and rubrics in traffic documents to the essential minima. There would seem to be no necessity to require particulars of 'agreed stopping places' in traffic documents. The normal sequence of events is that a passenger (or consignor) requests the carrier to provide specified carriage. The carrier quotes the fare or rate, and anything further which he requires to include in the contract, for the purpose of complying with the Convention, or otherwise. Normally this is done by the issue of a ticket against
(a) The place and date of issue;
(b) The place of departure and of destination;
(c) The agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right, the alteration shall not have the effect of depriving the transportation of its international character;
(d) The name and address of the carrier or carriers;
(e) A statement that the transportation is subject to the rules relating to liability established by this Convention.

(2) The absence, irregularity or loss of the passenger ticket shall not affect the existence or the validity of the contract of transportation, which shall none the less be subject to the rules of this Convention. Nevertheless, if the carrier accepts a passenger without a passenger ticket having been delivered he shall not be entitled to avail himself of those provisions of this Convention which exclude or limit his liability.

SECTION II. BAGGAGE CHECK

Article 4

(1) For the transportation of baggage, other than small personal objects of which the passenger takes charge himself, the carrier must deliver a baggage check.

(2) The baggage check shall be made out in duplicate, one part for the passenger and the other part for the carrier.

(3) The baggage check shall contain the following particulars:
(a) The place and date of issue;
(b) The place of departure and of destination;
(c) The name and address of the carrier or carriers;
(d) The number of the passenger ticket;
(e) The places of departure and of destination.
(b) The name of the carrier who makes the contract of carriage.
(c) The office or address of the carrier, unless this is contained in his published timetables.
(d) The name or names of the passenger or passengers.
(e) A statement to the effect that "international carriage," as defined herein, is subject to the rules relating to liability established by this Convention.

(3) Other particulars or stipulations which do not conflict with the provisions of this Convention may be inserted or referred to in the passenger ticket.

(4) The absence, irregularity or loss of the passenger ticket does not affect the existence or validity of the contract of carriage, which shall none the less be subject to the rules of this Convention. But if the carrier accepts a passenger without having delivered to him a ticket containing all the particulars specified in paragraph (2) of this Article, he shall be liable to the passenger for any damage sustained by the passenger arising directly from the non-delivery to him of such a ticket.

SECTION II. BAGGAGE CHECK

Article 4

(1) Subject to the provisions of Article 19, the carrier must deliver a baggage check for the carriage of registered baggage. This must be prepared in duplicate, one part for the passenger and the other for the carrier.

(2) The baggage check must contain the following particulars:
(a) The places of departure and of destination.
(b) The name of the carrier who makes the contract of carriage.
(c) The office or address of the carrier, unless this is contained in his published timetables.
(d) The number of the packages, unless a separate baggage check is issued for each piece of baggage.
(e) The weight of the baggage comprised in the baggage check.

payment of the fare, or, in the case of goods, by acceptance of a consignment note delivered to him with the goods. Where regular airline operators are concerned, traffic documents normally refer to timetables, which indicate stopping places on the route contemplated in the contract. But routes and stopping places (or one or more of the latter), if agreed, can equally well be recorded in correspondence, or otherwise, between the parties. A carrier, seeking to prove that any particular carriage is 'international carriage,' has to show that a landing in a foreign country had been contemplated by the parties. The method of achieving this can well be left to the carrier. . . . Carriers who are not regular airline operators, and do not publish timetables, should indicate in the contract of carriage that foreign ('international') carriage is contemplated.”

9 Mr. Beaumont on his December draft notes: “The same principle has been suggested for Articles 2(4), 4(4) and 9.”
(e) A statement that delivery of the baggage will be made to the bearer of the baggage check;
(f) the number and weight of the packages;
(g) The amount of the value declared in accordance with Article 22 (2);
(h) A statement that the transportation is subject to the rules relating to liability established by this Convention.

(4) The absence, irregularity or loss of the baggage check shall not affect the existence or the validity of the contract of transportation which shall none the less be subject to the rules of this Convention. Nevertheless, if the carrier accepts baggage without a baggage check having been delivered, or if the baggage check does not contain the particulars set out at (d), (f) and (h) above, the carrier shall not be entitled to avail himself of those provisions of the Convention which exclude or limit his liability.

SECTION III. AIR WAYBILL

Article 5
(1) Every carrier of goods has the right to require the consignor to make out and hand over to him a document called an "air waybill"; every consignor has the right to require the carrier to accept this document.

(2) The absence, irregularity or loss of this document shall not affect the existence or validity of the contract of transportation which shall none the less be subject to the rules of this Convention. But if the carrier accepts registered baggage without having delivered a baggage check containing the particulars specified in paragraph (2) of this Article, he shall be liable for any damage sustained by the passenger arising directly from the non-delivery to him of such a baggage check.

SECTION III. CONSIGNMENT NOTE

Article 5
(1) Subject to the provisions of Article 19, the consignor must deliver to the carrier a consignment note, duly completed in accordance with the provisions of Article 8, for all cargo which the consignor requires to be carried. The carrier must accept the consignment note if and when he accepts the cargo for carriage.

(2) The absence, irregularity or loss of the consignment note does not affect the existence or validity of the contract of carriage, which shall none the less be governed by the rules of this Convention.

Article 6
(1) The air waybill shall be made out by the consignor in three original parts and be handed over with the goods.

(2) The first part shall be marked "for the carrier," and shall be signed by the consignor. The second part shall be marked "for the consignee;" it shall be signed by the consignor and by the carrier and shall accompany the goods. The third part shall be signed by the carrier and handed by him to the consignor after the goods have been accepted.

(3) The absence, irregularity or loss of a baggage check does not affect the existence or validity of the contract of carriage, which shall none the less be governed by the provisions of this Convention. But if the carrier accepts registered baggage without having delivered a baggage check containing the particulars specified in paragraph (2) of this Article, he shall be liable for any damage sustained by the passenger arising directly from the non-delivery to him of such a baggage check.

Article 6
(1) The consignment note shall be prepared by the consignor in three parts, each of which shall have equal validity. These shall be handed to the carrier with the cargo concerned.

(2) The first part shall be marked "For the carrier," and shall be signed by the consignor. The second part shall be marked "For the consignee." This part shall be signed by the consignor and the carrier, and shall accompany the goods. The third part shall be signed by the carrier and handed by him to the consignor when the goods are accepted for carriage.
INTERNATIONAL

The carrier shall sign on acceptance of the goods.

The signature of the carrier may be stamped; that of the consignor may be printed or stamped.

If, at the request of the consignor, the carrier makes out the air waybill, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

If, at the request of the consignor, the carrier completes the particulars in the consignment note required by Article 8 to be supplied by the consignor, the carrier shall be deemed to be acting as the agent of the consignor for this purpose unless the contrary is proved.

If further copies of the consignment note are required for customs or other purposes, they shall be supplied by the consignor on demand.

The carrier of goods has the right to require the consignor to make out separate waybills when there is more than one package.

The consignment note shall contain the following particulars to be supplied by the consignor:

(a) The place and date of its completion.
(b) The places of departure and of destination.
(c) The name and address of the consignee, if the case so requires.
(d) The nature of the goods;
(e) The number of packages, the method of packing and the particular marks or numbers upon them;
(f) The weight of the cargo, including packing.

If the consignment is against cash on delivery, the total amount to be collected on delivery.

The consignment note shall contain the following particulars to be supplied by the carrier:

(a) The name of the carrier who makes the contract of carriage.
(b) The office or address of the carrier, unless this is contained in his published timetables.
(c) The cost of carriage, if necessary.
(d) A statement to the effect that "international carriage," as defined herein, is subject to the rules relating to liability established by this Convention.

The consignment note shall also contain a rubric for the insertion of the apparent condition of the cargo and its packing.
(p) The time fixed for the completion of the transportation and a brief note of the route to be followed, if these matters have been agreed upon;

(q) A statement that the transportation is subject to the rules relating to liability established by this Convention.

Article 9

If the carrier accepts goods without an air waybill having been made out, or if the air waybill does not contain all the particulars set out in Article 8 (a) to (i) inclusive and (q), the carrier shall not be entitled to avail himself of the provisions of this Convention which exclude or limit his liability.

Article 10

(1) The consignor shall be responsible for the correctness of the particulars and statements relating to the goods which he inserts in the air waybill.

(2) The consignor shall be liable for all damages suffered by the carrier or any other person by reason of the irregularity, incorrectness or incompleteness of the said particulars and statements.

Article 11

(1) The air waybill shall be prima facie evidence of the conclusion of the contract of transportation.

(2) The statements in the air waybill relating to the weight, dimensions and packing of the goods, as well as those relating to the number of packages, shall be prima facie evidence of the facts stated; those relating to quantity, volume and condition of the goods shall not constitute evidence against the carrier unless they have been (and are stated in the air waybill to have been) checked by him in the presence of the consignor, or relate to the apparent condition of the goods.

Article 12

(1) Subject to his liability to carry out all his obligations under the contract of transportation, the consignor shall have the right to dispose of the

(4) Other particulars or stipulations which do not conflict with the provisions of this Convention may be inserted or referred to in the consignment note.

Article 9

If the carrier accepts cargo for carriage without a consignment note, or if the latter does not include the particulars comprised in Article 8 (2) (a), (b) and (d), the carrier shall be liable for any damage sustained by the consignor or the consignee, arising directly from the carrier's failure to observe his obligations under this Article and Article 8 (2).

Article 10

(1) The consignor is responsible for the correctness of the particulars and statements which he inserts, or causes to be inserted, in the consignment note.

(2) The consignor shall be liable for all damage suffered by the carrier by reason of the irregularity, incorrectness or incompleteness of the said particulars and statements.

Article 11

(1) The consignment note, when duly completed and signed by the parties, is prima facie evidence of the conclusion of the contract of carriage, of the receipt of the cargo by the carrier and of the conditions of carriage.

(2) Particulars in the consignment note (when duly completed and signed by the parties) relating to the number of packages, the weight, the dimensions and the packing of the cargo are prima facie evidence of the facts stated; those relating to quantity, volume and condition of the goods do not constitute evidence against the carrier unless they have been (and are stated in the consignment note to have been) checked by him in the presence of the consignor.

Article 12

The consignor shall be entitled to stop, redirect or otherwise deal with cargo during the period of carriage by air provided he makes arrangements for

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10 Cairo Summary: "It was agreed that all proper rights of consignors should be safeguarded. A long discussion ensued as to whether the words 'or any other person' in para. (2) should be deleted. Brig. Wilberforce (U.K.) contended that they involved a principle bad in law in this case, since they purported to import a provision concerning rights and liabilities in delict (misrepresentation) as between third parties in a document dealing with contractual rights and obligations as between carriers and consignors. The matter was left open for further consideration."
goods by withdrawing them at the airport of departure or destination, or by stopping them in the course of the journey on any landing, or by calling for them to be delivered at the place of destination or in the course of the journey to a person other than the consignee named in the air waybill, or by requiring them to be returned to the airport of departure. He must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and he must repay any expenses occasioned by the exercise of this right.

(2) If it is impossible to carry out the orders of the consignor the carrier must so inform him forthwith.

(3) If the carrier obeys the orders of the consignor for the disposition of the goods without requiring the production of the part of the air waybill delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill.

(4) The right conferred on the consignor shall cease at the moment when that of the consignee begins in accordance with Article 13, below. Nevertheless, if the consignee declines to accept the waybill of the goods, or if he cannot be communicated with, the consignor shall resume his right of disposition.

Article 13

(1) Except in the circumstances set out in the preceding article, the consignee shall be entitled, on arrival of the goods at the place of destination, to require the carrier to hand over to him the air waybill and to deliver the goods to him, on payment of the charges due and on complying with the conditions of transportation set out in the air waybill.

(2) Unless it is otherwise agreed, it shall be the duty of the carrier to give notice to the consignee as soon as the goods arrive.

(3) If the carrier admits the loss of the goods, or if the goods have not arrived at the expiration of seven days after the date on which they ought to have arrived, the consignee shall be entitled to put into force against the carrier the rights which flow from the contract of carriage set out in the air waybill.

Cairo Summary: "This amendment sought to shorten greatly the existing Article. Certain members considered that the existing Article should be maintained subject to the addition of words 'through the contracting carrier' in para. (1) as agreed in January 1946. Other members considered that it would suffice to give to consignors such rights to stop cargo in transit 'as are compatible with practical necessities.' It was generally agreed that all reasonable rights to stop in transit must be reserved to consignors. Some members considered that the new draft might meet the case, possibly with slight amendment on addition. The matter was left open for further study."
Article 14
The consignor and the consignee can respectively enforce all the rights given them by Articles 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract.

Article 15
(1) Articles 12, 13 and 14 shall not affect either the relations of the consignor and consignee with each other or the relations of third parties whose rights are derived either from the carrier or from the consignee.

(2) The provisions of Articles 12, 13 and 14 can only be varied by express provision in the air waybill.

Article 16 (New)

[Editor's Note: The following Article is found only in the Beaumont revision and is printed across the page to save space.]

(1) If delivery of the cargo to the consignee is impossible the carrier or the last carrier, as the case may be, must so inform the consignor forthwith and request instructions. The cost of furnishing this information shall constitute a lien on the cargo.

(2) If it is impossible to dispatch the cargo, for any reason other than the negligence of the carrier or his servants, the consignor shall be liable for all expenses which result, including the cost of the ultimate return of the cargo. Where perishable cargo is concerned, or if the return of the cargo to the consignor is impracticable, the carrier shall be entitled to sell the cargo by auction, under conditions fixed by the laws and regulations in force where the cargo is situate in order to cover costs incurred which are not otherwise provided for.

(3) When it is impossible to affect delivery to the consignee, for any reason other than the negligence of the carrier or his servants, the carrier or the last carrier, as the case may be, is entitled to make charges for storage, which shall constitute a lien on the cargo. If, after being advised, the consignor does not immediately make necessary arrangements for its disposal, the cargo may, at the cost and risk of the consignor, be stored with a third party, under conditions fixed by the laws and regulations in force where the cargo is situate.

(4) If, upon the sale of undelivered cargo the net proceeds of sale do not cover unpaid charges for carriage, costs and any other expenses incurred, the party entitled to dispose of the cargo shall be liable for payment of the difference.

Article 17

(1) The consignor must furnish such information and attach to the air waybill such documents as are necessary to meet the formalities of customs, octroi or police before the goods can be delivered to the consignee. The consignor shall be liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier or his agents.

(2) The provisions of Articles 13 and 14 may be varied only by express agreement in writing between the carrier who made the contract of carriage and the consignor or consignee, as the case may be.
The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

[EDITOR'S NOTE: The following Article is found only in the Beaumont revision and is printed across the page to save space.]

The carrier is entitled to a lien on the cargo for all sums owing to him arising from the contract of carriage. This right continues as long as the cargo remains in the possession of a carrier participating in the carriage or of a third party who holds them on his behalf. The consequences of the lien are governed by the laws of the State where it is exercised.

CHAPTER III.

CHARTER OF AIRCRAFT

Article 19 (New)

[EDITOR'S NOTE: The following Article is found only in the Beaumont revision and is printed across the page to save space.]

(1) When an aircraft is chartered, it shall be considered to be engaged in international carriage throughout the voyage or voyages, or the period, for which it is chartered, if the charter agreement includes arrangements which involve international carriage as defined in Article 1. But this shall not affect the rights or liabilities of any passenger or consignor who makes use of the chartered aircraft for an individual complete voyage or flight (performed during the currency of the charter agreement) which does not constitute international carriage.

(2) The owner or operator of a chartered aircraft is considered to be the carrier for all the purposes of this Convention except in the case when the charterer is himself a carrier, as defined in Article 1. In the latter event the charterer is considered to be the carrier for all such purposes unless the charter agreement expressly provides that the owner or operator shall undertake the obligations of the carrier, in which case he shall be considered to be the carrier for all such purposes.

(3) In the case of an aircraft operated under a charter agreement, neither the owner or operator, nor the charterer, shall be obliged to comply with the provisions of Articles 3 to 9 (inclusive) if each passenger and consignor of cargo concerned (and the charterer if he is not himself a carrier) is supplied, before embarkation, by the carrier, with a statement in writing (a) specifying the name and address of the party who is to be regarded as the carrier for the purpose of this Convention, and (b) stating that international carriage, as defined herein, is subject to the rules relating to liability established by this Convention.

(4) If the carrier fails to deliver a ticket or baggage check, or to accept a consignment note, or to supply a statement as contemplated by paragraph (3), he shall not be entitled (in connection with the case concerned) to avail himself of the provisions of Article 25 which would otherwise limit his liability. The absence, irregularity or loss of any of the said documents of carriage, or of the said statement, does not affect the liability of the carrier, which shall none the less be governed by the provisions of this Convention.

(5) If the owner or operator is considered to be the carrier (under the provisions of paragraph (2)), he may discharge any obligation on his part to deliver a ticket or baggage check, or to accept a consignment note, as the case may be, or to supply a statement as contemplated by paragraph (3), by providing the charterer with sufficient copies of the statement contemplated by paragraph (3) to enable the charterer, on behalf of the owner or operator, to supply a copy thereof to each passenger and consignor concerned. In that event the charterer shall be liable to the owner or operator for any damage sustained by the latter consequent upon the charterer's failure to supply a copy of such statement to any passenger or consignor concerned.

(6) The owner or operator (if he is considered to be the carrier under the provisions of paragraph (2)) shall be entitled (but not obliged) to require from the charterer particulars of all passengers and consignors, and of all or any baggage and cargo carried on any journey or flight during the currency of the charter, in order to establish the names of passengers and consignors concerned, and the number and nature of the pieces of baggage and cargo carried, and their condition, at the commencement of any journey or flight. 

12 Cairo Summary: “It was agreed that discussion of questions concerning charters should be deferred until more definite arrangements concerning Arti-
CHAPTER III.
LIABILITY OF THE CARRIER

Article 17
The carrier shall be liable for damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

CHAPTER IV.
LIABILITY OF THE CARRIER

Article 20
Subject to the provisions of Article 23, the carrier is liable for damage sustained in the event of the death of a passenger, or any other bodily injury caused to a passenger, if the accident which caused the damage so sustained took place during the period of carriage by air.

Article 1
"Period of Carriage (Transportation) by Air" means:
(b) for the purpose of passengers and hand baggage, the time running from the moment when the passenger leaves the airport building in charge of a servant of the carrier in order to enter the aircraft until the moment when he enters the airport building at the end of the journey or at any intermediate stopping places or, if there is no airport building at a place where the aircraft lands, then when the passenger leaves the airfield (or, in the case of a forced or accidental landing, the vicinity) where the aircraft lands.

Article 18
(1) The carrier shall be liable for damage sustained in the event of the destruction or loss of, or of damage to,
any checked baggage or any goods, if the occurrence which caused the damage so sustained took place during the transportation by air.

(2) The transportation by air within the meaning of the preceding paragraph shall comprise the period during which the baggage or goods are in charge of the carrier, whether in an airport, or on board an aircraft, or in the case of a landing outside an airport, in any place whatsoever.

(3) The period of the transportation by air shall not extend to any transportation by land, by sea or by river performed outside an airport. If, however, such transportation takes place in the performance of a contract for transportation by air, for the purpose of loading, delivery or transshipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the transportation by air.

“Period of Carriage (Transportation) by Air” means:—

(a) for the purpose of cargo and registered baggage, the time running from the moment when the cargo or baggage are in the custody of the carrier in the airport at the place of departure until the moment when the cargo or baggage reaches the customs shed (or other authorized place for its reception) in the airport at the place of destination contemplated by the contract of carriage; or, if the carriage terminates at a point short of the place of destination, then at the moment when the cargo or baggage reaches the customs authorities (or other authorized place for its reception) at the point where the carriage terminates.

(2) The period of carriage by air does not extend to any carriage by land or water outside an airport. If, however, such carriage occurs in connection with the performance of a contract of carriage by air, for the purpose of loading, delivery or transshipment, any damage is presumed to have been the result of an occurrence which took place during the period of carriage by air, unless the contrary is proved.

(3) If cargo is delivered to the consignee without recovery of the cash on delivery which should have been collected by the carrier under the provisions of the contract of carriage, the carrier is liable for immediate payment to the consignor of the cash on delivery, without prejudice to his right of recovery from the consignee.

The carrier shall be liable for damage occasioned by delay in the transportation by air of passengers, baggage or goods.

Subject to the provisions of Article 23, the carrier is liable for damage occasioned by delay during the period of carriage by air of passengers, registered baggage and cargo.

14 Mr. Beaumont notes on his December draft: “It may be necessary to insert here, or in Article 26, a safeguarding provision about specially valuable articles, in view of Article 27.”

15 Cairo Summary: “A revised form of this article was suggested: ‘Subject to the provisions of Article 23, the carrier is liable for damage occasioned by delay in the performance of a contract of carriage.’”
JOURNAL OF AIR LAW AND COMMERCE

Article 20

(1) The carrier shall not be liable if he proves that he and his agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures.

(2) In the transportation of goods and baggage the carrier shall not be liable if he proves that the damage was occasioned by an error in piloting, in the handling of the aircraft or in navigation and that, in all other respects, he and his agents have taken all necessary measures to avoid the damage.

Article 23

(1) The carrier is not liable if he proves that he and his servants took all reasonable measures to avoid the damage, or that it was impossible for him or them to take such measures.

(2) In the case of hand baggage, the carrier is liable only if the passenger proves that the damage was due to the negligence of the carrier or his servants.

(3) Any deviation made for the purpose of saving or attempting to save life, or other reasonable deviation, shall not be deemed to be a breach of this Convention or of the contract of carriage, and the carrier shall not incur any liability merely by reason of such deviation. A deviation made for the reasons of safety or on account of meteorological conditions shall, for this purpose, be deemed to be reasonable.

Article 21

If the carrier proves that the damage was caused by or contributed to by the negligence of the injured person the Court may, in accordance with the

\[\text{Observations:} \text{ It is evident that if all necessary measures have been taken, there will be no damage. Almost the same observation applies to the word 'useful' which has replaced the word 'necessary' in the Rome Convention. The word 'reasonable,' which has for a long time had a well-settled meaning in the English legal system, is now equally recognized nearly everywhere.}\]

\[\text{Beaumont September Report: "This was agreed in January 1946." Resolution 149 of the XIV Plenary Session of CITEJA held in Paris, January 1946, states: "In the second line substitute the word 'reasonable' for the word 'necessary.' Observations: It is evident that if all necessary measures have been taken, there will be no damage. Almost the same observation applies to the word 'useful' which has replaced the word 'necessary' in the Rome Convention. The word 'reasonable,' which has for a long time had a well-settled meaning in the English legal system, is now equally recognized nearly everywhere."}\]

\[\text{See, "Some Anomalies Requiring Amendment in the Warsaw Convention of 1929" by K. M. Beaumont, page 30, supra. Cairo Summary: "A long discussion ensued as to whether or not para. (2) of the existing Article 20 should be inserted. Mr. Knauth pressed for its insertion on the ground that it was required by an important section of American insurers."}\]

\[\text{Beaumont September Report: "This was agreed in January 1946, and it is obviously fair, taken in conjunction with the definition of 'hand baggage.' A carrier who does not have the custody of or control over such baggage should not be responsible unless negligent. Fraudulent claims in connection with hand baggage are not uncommon. They are easy to achieve and difficult to detect." Cairo Summary: "Mr. Knauth pointed out that different categories of loss of hand baggage existed: [(a) articles removed from baggage without knowledge of passenger, (b) accidents to aircraft with resulting damage to baggage] but no revision of this paragraph was suggested."}\]

\[\text{Mr. Beaumont adds a note to his December draft: "Among the Delegations in Cairo there was a very general opinion that it might be wise to eliminate paragraph (3) altogether and to leave the courts to decide what was, and what was not, a reasonable deviation in each case."}\]

\[\text{Beaumont September Report states that "at the suggestion of a valued Member" paragraphs (5) and (6) were inserted, namely: "(5) The carrier is not liable for damage sustained through the jettison of goods or baggage rendered necessary, in case of danger, for the safety of the aircraft and passengers. Damage sustained by the owners of jettisoned goods or baggage, and that sustained consequentially by third parties on the surface shall be governed by the law of general average. "(6) Proof of concealed inherent defects in the aircraft, its components or equipment, shall not relieve the carrier of liability."}\]

\[\text{Mr. Beaumont remarks in his September Report: "It should be remembered, however, that the circumstances of air transport differ materially from those of marine carriage in relation to jettison. Lightening a ship may help to avoid it}\]
provisions of its own law, exonerate the carrier wholly or partly from his liability.

Article 22

(1) In the transportation of passengers, the liability of the carrier for each passenger shall be limited to the sum of 125,000 francs. Where, in accordance with the law of the Court to which the case is submitted, damages may be awarded in the form of periodic payments, the equivalent capital value of the said payments shall not exceed 125,000 francs. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

(2) In the transportation of checked baggage and of goods, the liability of the carrier shall be limited to a sum of 250 francs per kilogram, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of the value at delivery and has paid a supplementary charge for the same.

Subject to the provisions of Article 27:-

Article 25

(1) For the carriage of passengers, the liability of the carrier for each passenger is limited to the sum of 125,000 francs. Where, in accordance with the law of the Court trying the action, damages may be awarded in the form of periodic payments, the equivalent capital value of the said payments shall not exceed 125,000 francs. Nevertheless, by special agreement between the carrier and the passengers, a higher limit of liability may be fixed.  

(2) For the carriage of registered baggage and cargo, the liability of the carrier is limited to the sum of 250 francs per kilogram of the weight of the baggage or cargo. Nevertheless, by special agreement between the carrier and the passenger or consignor, a higher limit of liability may be fixed.

sinking. Lightening an aircraft in flight makes very little difference to the time it will stay in the air. It may, therefore, be considered that this addition is not necessary. With respect to paragraph (6) "your Reporter considers that the point sought to be established is governed by Article 23(1), and the judgment of the Court thereon. Therefore he personally considers that this paragraph is unnecessary." Cairo Summary: "It was agreed that both these paragraphs should be deleted; and that the following paragraph suggested by the International Union of Aviation Underwriters should not be inserted," i.e.:

"The total disappearance of the aircraft shall not be construed as proof that the carrier took all necessary measures."

20 The Cairo meeting decided to delete the following addition suggested by the Reporter: "The provisions of this Article are applicable to articles contained in baggage, or in consignments of goods, which are inherently dangerous, perishable, defective or inadequately packed according to their nature." In his September report Mr. Beaumont stated: "It is submitted that the last sentence in this Article is desirable to cover the case of inherent defects of which the carrier cannot be expected to have knowledge." Cairo Summary: "Mr. Knauth desired that attention should be called to Article 4(6) of the Brussels Convention on Carriage of Goods by Sea in relation to goods which were inherently dangerous, etc."

21 See "The Adequacy of the Passenger Liability Limits of the Warsaw Convention" by J. B. B. Parker, page 37, supra. Cairo Summary: "This was agreed, though Brig. Wilberforce (U.K.) officially proposed increasing the limit to 250,000 Francs. It was agreed that no distinction should be drawn in the case of damages for delay, though Brigadier Wilberforce questioned whether there was any reason why the delay for contract should not be unlimited. It was not considered that any danger existed from the possibility of pilots flying unwisely in order to avoid risk of liability for delay." Subsequently, Brig. Wilberforce amplified his remarks in correspondence: "All I was intending to do was, during a general discussion on the basis of liability of the Convention, to throw into the pool the thought that the basis of liability under the Convention is rather different in this case of delay from what it is in the case of injury or loss. In the latter case the carrier, as a counterpoise to the assumption by him of the burden of proof gets a limit put to his liability. In the case of delay this is, however, not so, since Article 19 merely leaves the passenger, etc., with his claim for breach of contract (the carrier not being permitted to contract out of this) and in addition Article 20 provides the carrier with a defense which might not ordinarily be assailable. It certainly was not my intention to urge that the Article be altered and I do not think it should; but at most, to suggest reasons for considering that the carrier is quite well treated in this connection."

Cairo Summary: "This was agreed (subject to deletion of the words 'lost, damaged or delayed' at the end of the first sentence), though Brigadier Wilberforce considered the limit too low. The new paragraph was considered to be a sound and practical improvement upon paragraph (2) of the existing Article 22."
mentary 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 actual value to the consignor at delivery.

(3) As regards objects of which the passenger takes charge of himself the liability of the carrier shall be limited to 5000 francs per passenger.

(3) For hand baggage, the liability of the carrier is limited to 5000 francs per passenger, unless by special agreement between the carrier and the passenger a higher limit is fixed.

Beaumont September Report considers the problem at length: "In the opinion of some, the present limits are too low. Others consider them too high, because of the largely increased sums payable now, as compared with 1929, in most countries, in relation to the gold franc (which, in paragraph (4), provides a constant yardstick based on value), as compared with currencies which have suffered from inflation."

"A number of points have to be considered. For instance, in each of the first three paragraphs of this Article, it is specifically provided that higher limits may be agreed between the carrier and his clients. It is therefore open to carriers (and this is specially applicable to those which are Members of the IATA) to agree among themselves to accept higher limits. This obviously is preferable to individual carriers accepting different limits higher than those imposed by the Convention, however, higher limits would involve the payment by carriers of higher insurance premiums, and these would be reflected in increased passenger fares and freight rates. It might well happen that some passengers and consignors would object to pay increased fares and rates simply because limits of liability were increased. The reason for this is because in some cases the risks involved would not warrant the extra payment, and in some cases because the passenger or consignor might prefer to insure the risk of damage himself rather than to rely upon the possibility of establishing a limited claim against the carrier.

"Whether or not increases in the limits of liability are imposed (or agreed to by the carriers), it is easy for passengers and consignors to insure risks of damage in sums exceeding the Convention limits. It appears to your Reporter wise to leave this freedom of action to passengers and consignors, rather than to impose upon them compulsorily the payment of higher limits of liability. The reason for this is because in some cases the risks involved would not warrant the extra payment, and in some cases because the passenger or consignor might prefer to insure the risk of damage himself rather than to rely upon the possibility of establishing a limited claim against the carrier.

"Alternatively, the carriers (Members of the IATA or otherwise) might base fares and rates upon liability limits higher than those provided by the Convention, and at the same time offer to passengers and consignors lower fares and rates if they preferred the lower liability limits of the Convention to apply. This would be a matter for the carriers to arrange, if so desired by them, or required by their respective Governments. No mention thereof is required in the Convention, except as provided at the end of paragraphs (1), (2) and (3) of Article 25.

"The damage sustained by a passenger or consignor may well be much less, or greater, than any limits imposed. It is necessary to bear in mind the fundamental difference between insurance of the risk of liability, which is a matter for the carrier, and insurance of the risk of damage, including death and personal injury, which is a matter for passengers and consignors. The risk of liability should not be great in the case of a responsible carrier, because he should normally be able to prove that he has taken all 'reasonable measures' to avoid the damage, in which event the passenger (or his dependents), or the consignor, can recover nothing. The cost of insuring risk of damage is greater because the amount of the damage sustained, up to the amount insured, will always be recoverable from the insurer, whether or not the carrier is liable.

"The passenger or consignor is the only party who can assess in advance the value of damage subject to the risk—i.e., the damage he will sustain in the event of loss; and the only way in which complete indemnity (in the financial sense) can be provided is by insurance of the risk of damage, including death and personal injury, up to the full value estimated for this.

"Actually the limit of liability towards passengers for death may, in many cases, not be important, for the following reasons. If the person is killed, the limit does not concern him or her personally. If he has dependents (a female is unlikely to have dependents in the financial sense), these may in fact benefit financially; (for instance, if he is a rich man), in which case no question of damage would arise, or at most it would be an instance of damnum sine injuria. Furthermore, the deceased person may have no one financially
The sums mentioned above shall be deemed to refer to the French franc consisting of 65 ¾ milligrams of gold at the standard of fineness of nine hundred thousandths. These sums may be converted into any national currency in round figures.

Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this Convention shall be null and void.

Any provision tending to relieve the carrier of liability, or to fix lower limits than those prescribed by Article 25, shall be null and void, but the null-

dependent upon him or her, in which case no one could establish a claim for dam-
ages. If he has dependents who require financial provision, the probability is that he has insured himself, against the risk of death or permanent injury, in a sum greater than the maximum recoverable from a carrier, even if the latter proves to be liable, which in many instances would not be the case. The dependents who suffer most damage are those of a young man earning a large income who has little or no capital. Total disablement also gives rise to large claims. This class of person would normally insure risk of death or disablement for the benefit of dependents (if any); and commercial firms usually insure similarly employees travelling on business.

Nowadays air travel risks are normally included in life and accident polici-

es without extra premium. Life and accident insurance must be more attrac-
tive to passengers than a possible claim for damages against a carrier, because in the former case the amount insured is inevitably paid, whereas, in the event of an air accident, the liability of the carrier must be established before anything can be recovered. And the premium rates for life and accident risks to individual air passengers are very moderate.”

In the case of goods, the limit of liability is based on weight, and a small package of light weight may be of very great value, whereas a heavy consignment may be worth very little. “If the goods or baggage are valuable, the owners normally insure in sums greatly in excess of any limits which could be contemplated for air carriers’ liability. Here again, payment up to the amount insured is certain in the event of loss or damage, whereas it is by no means certain that a claim (even limited in amount) for damages arising from liability can be est-

ablished against the carrier.

“It is competent for individual States to impose compulsory insurance of risks of injury, death, loss or damage (as distinct from carriers’ risk of liability) upon its national carriers. Compulsory insurance of this kind was in fact imposed upon the Deutsche Luft Hansa by the German Government before the war, the insurance being for the maximum sum imposed by the Warsaw Conven-
tion. The passenger was charged a sum over and above the fare, which was sup-
posed to represent the premium for this insurance; but the rate charged was very high. It probably showed a profit to the Deutsche Luft Hansa or their insurers. This method, however, had the effect of giving the passenger (at extra expense to him) absolute coverage of the risk up to the Warsaw Convention limit, instead of a potential claim against the carrier which might not be sus-
tained. The conditions of the German carriers required that this insurance should be accepted in place of the Warsaw Convention liability, which was less favorable to the passenger, except in a case which fell under Article 25 (new Article 27). Incidentally, no claim under this Article has yet been recorded as having been substantiated in any Court in the world.

“Among other aspects of this matter, if limits are increased, there would probably be a tendency for insurers of liability to require carriers to fight claims rather than, as at present, to settle them reasonably without investigating closely whether or not the carrier is actually legally liable. By the latter method, the majority of claims are settled without claimants having to incur the risk, expense, trouble and delay involved in legal proceedings.

“Bearing in mind the above points, among many which have to be considered in connection with this question and which will no doubt occur to Members, your Reporter is of the opinion that it would be wise, and tend to obviate possible legislative difficulties, to leave the limits of liability as they are at present.”

23 Beaumont September Report: “It is essential to fix an invariable yard-

stick based upon value which is not subject to variation inherent in any currency. Your Reporter can think of no sound reason for departing from the principle incorporated in this paragraph, which has prevailed for many years, and which has also been incorporated in Article 19 of the Rome Convention of 1933 relating to third party liability.”
but the nullity of any such provision shall not involve the nullity of the whole contract, which shall remain subject to the provisions of this Convention.

(1) In the cases covered by Articles 18 and 19 any action for damages, however founded, can only be brought subject to the conditions and limits set out in this Convention.

(2) In the cases covered by Article 17 the provisions of the preceding paragraph shall also apply, without prejudice to the questions as to who are the persons who have the right to bring suit and what are their respective rights.

(1) The carrier shall not be entitled to avail himself of the provisions of this Convention which exclude or limit his liability, if the damage is caused by his wilful misconduct or by such default on his part as, in accordance with the law of the Court to which the case is submitted, is considered to be equivalent to wilful misconduct.

(1) In cases governed by Articles 21 (1) and (2) and 22, an action for damages, however founded, may only be brought subject to the conditions and limits prescribed by this Convention.

(2) In cases governed by Article 20, the provisions of the preceding paragraph also apply, without prejudice to questions as to who are the persons entitled to take action and what are their respective rights.

(1) The carrier shall not be entitled to avail himself of the provisions of this Convention which exclude or limit his liability (except as provided by Article 26 (2)) if the damage is caused by his wilful misconduct or by such default on his part as, in accordance with the law of the Court trying the action, is considered to be equivalent to wilful misconduct.

24 Mr. Beaumont notes on his December draft: "This additional paragraph [and the definition of 'valuable articles' (Article 1)] are suggested in order to meet views expressed in Cairo that valuable articles should be dealt with on lines similar to those applicable in marine practice under the Brussels Convention of 25th August 1924."

25 In his September Report Mr. Beaumont observes: "This Article has always created a certain difficulty, because the exact equivalent of the word 'dol' is unknown in the legal systems of some States. It is believed, however, that the translation 'wilful misconduct' constitutes the best English and American equivalent."
Similarly the carrier shall not be entitled to avail himself of the said provisions, if the damage is caused under the same circumstances by any agent of the carrier acting within the scope of his employment.

**Article 26**

1. Receipt by the person entitled to the delivery of baggage or goods without complaint shall be *prima facie* evidence that the same have been delivered in good condition and in accordance with the document of transportation.

2. In 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 three days from the date of receipt in the case of baggage and seven days from the date of receipt in the case of goods. In case of delay the complaint must be made at the latest within fourteen days from the date on which the baggage or goods have been placed at his disposal.

3. Every complaint must be made in writing upon the document of carriage or otherwise in writing despatched within the times aforesaid.

4. Failing complaint within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on his part.

**Article 27**

In the case of the death of the person liable, an action for damages lies in accordance with the terms of this Convention against those legally representing his estate.

26 *Cairo Summary:* “Mr. Knauth suggested that the limits of notice of claims should be extended to one year in all cases, corresponding with marine practice. The Reporter pointed out that the greatly increased speed of air travel made such notice unreasonable and gave the carrier no chance of discovering when, where or how loss or damage occurred. He suggested however, that perhaps the notice could be extended to seven days for baggage and fourteen for goods in case of loss or damage and to 30 days in both cases for delay.” In his September Report Mr. Beaumont explains: “The reason why a limit of three days is given for registered baggage and seven days for goods is because a passenger should have ample time, within three days, to unpack his baggage and discover if anything is lost or damaged, whereas in the case of goods, especially goods in Customs, it is reasonable to allow longer to the consignee to unpack his goods. In both cases, however, it is essential that the carrier should be given the earliest reasonable notification of losses, because most of these are attributable to theft, and even slight delay makes the tracing of theft more difficult. The periods concerned have, in practice, created no difficulty. In the case of delay, immediate notification is not so important; and it may take longer to ascertain if in fact delay has caused damage. Consequently, in this case the period of fourteen days under the existing Convention has been retained.”

27 *Beaumont September Report:* “It has been suggested that this Article should be omitted because it states a principle of common law. The principle, however, may not be universally admitted, especially in the case of an action based on delict or tort, which might be brought under Article 27 (existing Article 25). Similar provisions are incorporated in the Rome Convention (Article 18) concerning third party liability.”
Article 28
(1) An action for damages must be brought, at the option of the plaintiff, in the territory of one of the High Contracting Parties, either before the Court of the domicile of the carrier or of his principal place of business, or where he has a place of business through which the contract has been made, or before the Court at the place of destination.

(2) Questions of procedure shall be governed by the law of the Court to which the case is submitted.

Article 29
(1) The right to damages shall be extinguished if an action is not brought within two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the transportation stopped.

(2) The method of calculating the period of limitations shall be determined by the law of the Court to which the case is submitted.

Article 30
(1) In the case of transportation to be performed by various successive carriers and falling within the definition set out in the third paragraph of Article 1, each carrier who accepts passengers, baggage or goods shall be subject to the rules set out in this Convention, and shall be deemed to be one of the contracting parties to the contract of transportation in so far as the contract deals with that part of the transportation which is performed under his supervision.

(2) In the case of transportation of this nature, the passenger or his representative can take action only against the carrier who performed the transportation during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.

(3) As regards baggage or goods, the passenger or consignee shall have a right of action against the first carrier, and the passenger or consignee who is

Article 32
The right to damages shall be extinguished if an action is not brought within two years reckoned from the date of arrival at the place of destination specified in the contract of carriage, or from the date on which the aircraft concerned ought to have arrived, or from the date on which the carriage stopped, whichever is the latest.

Article 33
(1) In the case of carriage performed by successive carriers, each carrier who accepts passengers, baggage or cargo for carriage is deemed to be one of the contracting parties to the contract of carriage insofar as concerns that part of the carriage which is performed by him.

(2) In the case of carriage of this nature, a passenger or, if he is dead, his representatives may take action only against the carrier who performed the carriage during which the occurrence giving rise to the damage happened, unless, by express agreement with the passenger, another carrier assumed liability for such carriage.

(3) As regards registered baggage and cargo, a passenger or consignor shall have a right of action against the first carrier, and the passenger or consignee who is

28 Cairo Summary: “It was agreed that settlement of this must await approval of the definition of ‘International Carriage.’” In his September Report Mr. Beaumont observed: “Owing to the revised definition proposed for ‘international carriage,’ it is essential to revise this Article, in order to ensure that action is taken in the Court of a Contracting State. Otherwise the provisions of the Convention might not be applied. In order to lessen the possibility of actions arising from the same accident being tried in several different States, it is desirable to limit jurisdiction as much as possible, while preserving to claimants all reasonable latitude.”

29 Cairo Summary: “The question was discussed of making the contracting carrier the only party liable under the contract, but it was agreed that the principle of the paragraph should not be changed.”
entitled to delivery shall have a right of action against the last carrier, and further, each may take action against the carrier who performed the transportation during which the destruction, loss, damage or delay took place. These carriers shall be jointly and severally liable to the passenger or to the consignor or consignee.

CHAPTER IV.
PROVISIONS RELATING TO COMBINED TRANSPORTATION

Article 31
(1) In the case of combined transportation performed partly by air and partly by any other mode of transportation, the provisions of this Convention shall apply only to the transportation by air, provided that the transportation by air falls within the terms of Article 1.

(2) Nothing in this Convention shall prevent the parties in the case of combined transportation from inserting in the document of air transportation conditions relating to other modes of transportation, provided that the provisions of this Convention are observed as regards the transportation by air.

CHAPTER V.
PROVISIONS RELATING TO COMBINED CARRIAGE

Article 32
(1) In the case of combined carriage performed partly by air and partly by other means of carriage, the provisions of this Convention apply only to carriage by air which is international carriage.

(2) Nothing in this Convention shall prevent the parties, in the case of combined carriage, from inserting in the document or documents dealing with the air carriage, conditions relating to other means of carriage, provided that the provisions of this Convention are observed as regards international carriage by air.

CHAPTER V.
GENERAL AND FINAL PROVISIONS

Article 33
Any clause contained in the contract and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless for the transportation of goods arbitration clauses shall be allowed, subject to this Convention, if the arbitration is to take place within one of the jurisdictions referred to in the first paragraph of Article 28.

30 Cairo Summary: "This, read in conjunction with the definition of ‘Last Carrier’ (in Article 1), was provisionally agreed.”

31 Cairo Summary: "It was suggested that, if revision of the Warsaw Convention is not effected in the near future, further consideration might be given to the question of combined carriage.”

32 In the September draft revision the Reporter included “stipulations concerning general average” along with “arbitration clauses” in the last sentence of this Article. Cairo Summary: “It was considered that further study should be given to the suggested inclusive of reference to general average. The Reporter
Nothing contained in this Convention shall prevent the carrier either from refusing to enter into any contract of transportation or from making regulations which do not conflict with the provisions of this Convention.

This Convention shall not apply to international transportation by air performed by way of experimental trial by air navigation enterprises with the view to the establishment of regular lines of air navigation, nor shall it apply to transportation performed in extraordinary circumstances outside the normal scope of an air carrier's business.

The expression "days" when used in this Convention means current days, not working days.

This Convention is drawn up in French in a single copy which shall remain deposited in the archives of the Ministry for Foreign Affairs of Poland and of which one duly certified copy shall be sent by the Polish Government to the Government of each of the High Contracting Parties.

This Convention is drawn up in the English, French and Spanish languages (each of which shall be of equal authority) in a single copy in each language. These three copies shall remain deposited in the archives of the PICAO or its successor. One duly certified copy of this Convention shall be sent by the Secretary-General of the PICAO or its successor to the Government of each signatory State.

This Convention shall be so interpreted as to effectuate its general purpose of making uniform the law of those States which adopt it.

felt that it might not be possible to apply general average while maintaining the minimum limits of Article 25. The general feeling was that all reference to general average should be omitted.”

"Mr. Maniatopoulos (Greece) suggested that after the word 'refusing' there should be added the words 'on reasonable grounds.' After discussion concerning Common Carriers, etc., it was agreed not to make any change.”

"Certain members considered that these two sub-paragraphs [Article 2(3)(a) and (b)] should be deleted; or that the carriage thereunder might be made subject to the Convention by special agreement. It was decided that these sub-paragraphs, or their deletion, should remain for further consideration.”

"Mr. Beaumont notes on his December draft: "The following provisions, Articles 35 to 47, will not be required if the revisions in the Warsaw Convention are made by means of a Protocol. They are inserted upon the supposition that an entirely new Convention will supersede the Warsaw Convention, and they are based upon suggestions made by the PICAO.”

"It was agreed that PICAO might be asked to say what was the intended procedure if difference existed between the English, French and Spanish texts in the case of Countries which used language other than any of these.”

"This Article was added at the suggestion of Brigadier Wilberforce in order to ensure uniformity in interpretation.”
Article 37
(1) This Convention shall be ratified. The instruments of ratification shall be deposited in the archives of the Ministry for Foreign Affairs of Poland, which shall give notice of the deposit to the Government of each of the High Contracting Parties.

(2) As soon as this Convention shall have been ratified by five of the High Contracting Parties it shall come into force as between them on the ninetieth day after the deposit of the fifth ratification. Thereafter it shall come into force between the High Contracting Parties which shall have ratified and the High Contracting Party which deposits its instrument of ratification on the ninetieth day after the deposit.

(3) It shall be the duty of the Government of the Republic of Poland to notify the Government of each of the High Contracting Parties of the date on which this Convention comes into force as well as the date of the deposit of each ratification.

Article 38
(1) This Convention shall, after it has come into force, remain open for adherence by any State.

(2) The adherence shall be effected by a notification addressed to the Government of the Republic of Poland, which shall inform the Government of each of the High Contracting Parties thereof.

(3) The adherence shall take effect as from the ninetieth day after the notification made to the Government of the Republic of Poland.

Article 39
(1) Any one of the High Contracting Parties may denounce this Convention by a notification addressed to the Government of the Republic of Poland, which shall at once inform the Government of each of the High Contracting Parties.

(2) Denunciation shall take effect six months after the notification of denunciation, and shall operate only as regards the party which shall have proceeded to denunciation.

Article 40
(1) This Convention shall be ratified. Instruments of ratification shall be deposited in the archives of the PICAO or its successor, which will notify the deposit to the Governments of each of the signatory States.

(2) As soon as this Convention shall have been ratified by 25 of the signatory States, it shall come into force as between them on the ninetieth day after the deposit of the 25th ratification. Thereafter it shall come into force between the States which have already ratified and any other State which deposits its instrument of ratification on the ninetieth day after such deposit.

(3) It shall be the duty of the PICAO or its successor to notify to the Governments of each of the Contracting States the date on which this Convention comes into force and the date of deposit of each ratification.

Article 41
(1) This Convention shall, after it has come into force, remain open for adherence by any State.

(2) Adherence shall be effected by a notification addressed to the PICAO or its successor, which will inform the Governments of each of the Contracting States.

(3) Adherence shall take the effect as from the ninetieth day after notification thereof to the PICAO or its successors.

Article 42
(1) Any Contracting State may denounce this Convention by notification addressed to the PICAO or its successor, which will at once inform the Governments of each of the Contracting States.

(2) Denunciation shall take effect six months after the notification of denunciation, and shall operate only as regards the State which shall have denounced.

38 In his September Report Mr. Beaumont “suggested that the Convention should not become operative until it has been ratified by 25 Signatory States. The reason for this is to ensure that, when it does become operative, its application will at once become effective over a large part of the world, instead of divergent legal rules prevailing, and frequent local changes occurring, as various States ratify from time to time. The main objectives of an International Convention are uniformity and universality, and the most desirable objective would be that all States which are parties to the Warsaw Convention (or a substantial majority) should denounce this and ratify the new Convention at the same time, thereby simultaneously substituting the new Convention for the old.”
Article 40
(1) Any High Contracting Party may, at the time of signature or of deposit of ratification or of adherence declare that the acceptance which it gives to this Convention does not apply to all or any of its colonies, protectorates, territories under mandate, or any other territory subject to its sovereignty or its authority, or any other territory under its suzerainty.

(2) Accordingly any High Contracting Party may subsequently adhere separately in the name of all or any of its colonies, protectorates, territories under mandate, or any other territory subject to its sovereignty or to its authority or any other territory under its suzerainty which have been thus excluded by its original declaration.

(3) Any High Contracting Party may denounce this Convention in accordance with its provisions, separately or for all or any of its colonies, protectorates, territories under mandate or any other territory subject to its sovereignty or to its authority, or any other territory under its suzerainty.

Article 48
(1) Any Signatory or Contracting State may, at the time of signature or the deposit of ratification or of adherence, declare that the acceptance which it gives to this Convention does not apply to all or any of its Colonies, Protectorates, Mandated Territories or any other territory subject to its sovereignty or authority, or any territory under its suzerainty or trusteeship.

(2) Any Contracting State may subsequently adhere separately on behalf of all or any of its Colonies, Protectorates, Mandated Territories or any other territory subject to its sovereignty or authority or any territory under its suzerainty or trusteeship which has been excluded as aforesaid by its original declaration.

(3) Any Contracting State may denounce this Convention, in accordance with its provisions, separately or for all or any of its Colonies, Protectorates, Mandated Territories or any territory subject to its sovereignty or authority, or any territory under its suzerainty or trusteeship.

Article 44 (New)
(1) Upon ratification or adherence, or at any time thereafter, any Contracting State may declare that any territory subject to its sovereignty, protectorate, suzerainty, mandate, authority or trusteeship is to be regarded as a separate Contracting State for the purpose of this Convention. In that event, the territory concerned shall be deemed to be not subject to the sovereignty, protectorate, suzerainty, mandate, authority or trusteeship of the original Contracting State for the purpose of the definition of “international carriage” contained in Article 1. 59

(2) It shall be the duty of the PICAO or its successor to notify to the Governments of each of the Contracting States every declaration made in pursuance of paragraph (1) and the date of such declaration.

(3) Any declaration made as aforesaid shall become effective, in relation to the territory concerned, on the ninetieth day after the date of such declaration.

(4) Any such declaration may be rescinded by notification thereof to the PICAO or its successor, which shall notify such rescission to the Governments of each of the Contracting States, and the date thereof. Such rescissions shall become effective on the ninetieth day after the date of rescission.

Article 45 (New)
Each Contracting State undertakes, immediately upon the coming into force of this Convention, to give notice of denunciation of the Convention for the Unification of Certain Rules relating to International Carriage by Air drawn up at Warsaw on the 12th day of October 1929, if it is a party to the latter Convention, provided that the Warsaw Convention shall be superseded by the present Convention only so far as regards the relations between States which are Contracting States for the purpose of the present Convention.

Article 46 (New)
Any difference between two or more Contracting States, relating to the interpretation or the application of this Convention, shall be submitted to the Interim Council of the PICAO or its successor, as provided by Chapter XVIII of the Convention on International Civil Aviation open for signature at Chicago on the 2nd day of December 1945.

59 In his September Report Mr. Beaumont notes that: “This is entirely new. The provisions are merely permissive. Your Reporter submits that they are, or may be, useful for those States which have Colonial or similar possessions, with a view to extending the scope of the Convention as widely as possible, bearing in mind the definition of ‘international carriage.’”
**Article 41**

Any High Contracting Party shall be entitled not earlier than two years after the coming into force of this Convention to call for the assembling of a new international Conference in order to consider any improvements which may be made in this Convention. To this end it will communicate with the Government of the French Republic which will take the necessary measures to make preparations for such Conference.

This Convention done at Warsaw on October 12, 1929, shall remain open for signature until January 31, 1930.

**Article 47**

Any Contracting State shall be entitled, not earlier than five years after the coming into force of this Convention, to call upon the PICA or its successor to arrange for consideration, by the Assembly of the PICA or its Successor, or by an International Conference convened by the PICA or its successor, of any improvements in this Convention which are proposed.

This Convention shall remain open for signature until the ... day of ... 194...

Done at Montreal the ....... day of ........., 194...

IN WITNESS whereof the undersigned plenipotentiaries, duly authorized, signed this Convention on behalf of their respective Governments.

**ADDITIONAL PROTOCOL**

*(With reference to Article 2)*

The High Contracting Parties reserve to themselves the right to declare at the time of ratification or of adherence that the first paragraph of Article 2 of this Convention shall not apply to international transportation by air performed directly by the State, its colonies, protectorates or mandated territories or by any other territory under its sovereignty, suzerainty or authority. 40

40 The United States is understood to be the only country that has adhered to the Convention subject to the reservation of this protocol.