INTERNATIONAL
Department Editor: Richard K. Waldo*

INTERNATIONAL CIVIL AVIATION ORGANIZATION (ICAO)

I. INTRODUCTION

November, December and January were busy months for ICAO, although the Council was in recess from December 12, 1947 to January 13, 1948. The center of attention was an unsuccessful meeting in Geneva during November of the Commission on a Multilateral Agreement on Commercial Rights in International Civil Air Transport.

The first meeting of the Statistics Division opened in Montreal on January 13, 1948, and an informal technical meeting was held in Paris in early December to discuss Search and Rescue problems in the Western Mediterranean Area.

ICAO membership increased during the period from 43 to 46 nations, with the admission of Colombia (November 30, 1947), Pakistan (December 10), and Italy (December 29).

II. GENERAL DEVELOPMENTS

A. Preparations Continued for 1948 Assembly

The Council decided to convene the Second Assembly in Geneva on June 1, 1948. It also agreed, after considerable discussion, to reduce the number of Assembly commissions from six to four: Administrative, Technical, Economic and Legal. Matters of the type dealt with by Commission I of the First Assembly (Constitutional and General Policy Questions) were distributed among the agendas for the other commissions and the Assembly itself. The Joint Support problems handled last year in a separate commission will be handled at the Second Assembly by the Economic Commission.

At the final meeting of its second session, on December 12, 1947, the Council approved a provisional agenda for the Assembly. This document was subject to further revision at the third session of the Council, which opened January 13, 1948, with the expectation that final approval would be forthcoming in early February, and that it would be circulated to the member states by March 15.

B. Regional Organization Structure Approved

Before the end of the second session, the Council approved the general framework of the ICAO Regional Organization. It will be recalled that the original PICAO plan provided for the division of the world into 10 air navigation regions, in each of which would be established a regional office. Under the new plan, responsibility for these regions will be divided among 5 field offices instead of 10 regional offices: the North American, South American, European and African, Middle East, and Far East and Pacific. The North American office will be at ICAO's headquarters in Montreal, and the South American office in Lima. The European-African and the Middle East offices will continue in Paris and Cairo respectively, at least for the time being. The existing South Pacific Mission at Melbourne will be converted into an interim Far East and Pacific Office, with the understanding that the permanent site will be chosen after the Southeast Asia Regional Air Navigation Meeting (the date of which has not yet been set).

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III. LEGAL ACTIVITIES

A. Establishment of Legal Commission for Second Assembly a Controversial Issue

It will be recalled that the ICAO Legal Committee decided at its first session in Brussels to hold its next session in Geneva, approximately two days before the opening of the Second Assembly of ICAO. At that time it will consider, among other things, revision of the Warsaw and Rome Conventions and will study the draft convention on the Legal Status of the Aircraft Commander.

Although certain Council Members held that the timing of this meeting would obviate the need for setting up a separate legal commission of the Assembly, the Council decided otherwise. A strong argument advanced for a separate legal commission was that having the Assembly refer items to the Legal Committee would tend to establish it as an element of the Assembly and to foreclose its possible status as an organ of the Council. The exact status of the Legal Committee in the ICAO Organization is as yet an unresolved and controversial question.

By Council action, a separate legal commission was set up, with two items on its agenda: a) report of the Legal Committee to the Assembly, and b) the final drafting and opening for signature of the Convention on International Recognition of Rights in Aircraft.

IV. AIR TRANSPORT DEVELOPMENTS

A. Special Economic Conference Unable to Draft Multilateral Agreement

The Commission on the Multilateral Agreement on Commercial Rights in International Civil Air Transport, meeting in Geneva from November 4 to November 27, 1947, adjourned without being able to draft an international convention on this difficult subject. This represented the fourth failure of the organization's Member States since 1944 to draft a generally acceptable agreement. An abridged version of the Commission's Final Report, which is largely self-explanatory, is reprinted elsewhere in this Department.*

B. First Meeting of Statistics Division Held

The Statistics Division's initial session opened in Montreal January 13, 1948. Some of the important questions with which it dealt included (a) the means by which improvements could be effected in the regularity and promptness with which Air Transport Statistical Reporting Forms were filed, (b) the interpretation, analysis and publication of the material contained in these forms, (c) what statistical and financial data on airports and other ground facilities could be made available to facilitate necessary ICAO economic and technical studies, and (d) the contribution that ICAO could make in the field of accident statistics.

This meeting can be expected to give impetus to ICAO statistical program, which has been developing very slowly because of rather spotty reporting by the Member States. The first comprehensive statistical publication of the organization has only recently been released, on a provisional basis. Entitled "ICAO Statistical Summary," it is to be circulated to Member States for their comments.

C. Progress Made on International Air Mail Study

The Council approved the outline of the study on International Air Mail, which ICAO undertook pursuant to a resolution of the First Assembly. Upon its completion, tentatively scheduled for February 1, 1948, the study will be submitted to the Air Transport Committee and later the Council. The views of contracting states will then be secured, in order to finalize

* See post, pp. 92.
the document for transmission to the Universal Postal Union, the last Congress of which requested ICAO to make the study.

V. AIR NAVIGATION ACTIVITIES

A. Progress Made on Standards and Recommended Practices

During January 1948, the Council neared final action on the first set of Standards and Recommended Practices (SARPS), covering the field of Search and Rescue. A similar document relating to Personnel Licensing is also in an advanced stage.

It will be recalled that PICAO Recommendations for Standards, Practices and Procedures were developed by the technical divisions and the Air Navigation Committee during the life of the Provisional Organization. They are applicable pending the adoption of Standards and Recommended Practices based upon the new definitions adopted at ICAO's first Assembly, which are more extensive and place greater emphasis upon the need for conformity.

Under the new definition a Standard means "any specification for physical characteristics, configuration, material, performance, personnel or procedure, the uniform application of which is recognized as necessary for the safety or regularity of international air navigation and to which Member States will conform in accordance with the Chicago Convention; in the event of impossibility of compliance, notification to the Council is compulsory under Article 38 of the Convention."

A Recommended Practice as now defined means "any specification for physical characteristics, configuration, material, performance, personnel or procedure, the uniform application of which is recognized as desirable in the interest of safety, regularity or efficiency of international air navigation, and to which Member States will endeavor to conform in accordance with the Convention."

The PICAO Recommendations for Standards, Practices and Procedures, after review by the technical division and the Air Navigation Committee and after approval by the ICAO Council will be replaced by ICAO Standards and Recommended Practices. The Search and Rescue document is the first of this new series.

PICAO and ICAO have also developed Procedures for Air Navigation Services (PANS). These are operating procedures worked out by the technical divisions at Montreal and approved by the Council for general application, ultimately on a world-wide basis. In due course all material contained in them will be reviewed and given the status of a Standard or a Recommended Practice.

Finally, Supplementary Procedures for Air Navigation Services have been developed at the 7 Regional Air Navigation Meetings, in the course of which exclusively regional operating procedures were found necessary to supplement the general procedures.

VI. RELATIONS WITH OTHER INTERNATIONAL ORGANIZATIONS

A. United Nations

Coordination of Specialized Agencies. The UN General Assembly's second session, which ended on November 29, 1947, called upon UN Member States to take measures to insure on a national level a coordinated policy of their delegations to the UN and to the Specialized Agencies, in order that full cooperation might be achieved between that organization

* Emphasis is supplied.
** A valuable 6-page check list of the Status of ICAO Air Navigation Bureau Publications as of October 20, 1947 is found in the ICAO Monthly Bulletin for November 1947. This can be obtained from the Secretary General of ICAO, Dominion Square Building, Montreal, Canada. The list completely identifies each document, including its current status and price.
and the specialized bodies. The Specialized Agencies were called upon to present each year to the Economic and Social Council, before the opening of the General Assembly, reports on their past activities and proposed programs for the following year. The Agencies were also called upon to transmit their budgets or budgetary estimates for each year to the UN Secretary General before July 1, in order that they might be incorporated as information annexes to the annual UN budgetary estimates. The UN Secretary General, in consultation with the Specialized Agencies, was requested to prepare recommendations for the next UN General Assembly concerning: (a) measures for achieving greater uniformity in presenting the budgets of the UN and Specialized Agencies, (b) feasibility of improving budgetary coordination between the UN and the Agencies, and (c) the fiscal year to be adopted by the UN and the Agencies. The UN's Coordination Committee, composed of its Secretary General and the Heads of the Specialized Agencies, had previously agreed that the time was not yet ripe for a consolidated budget of the Agencies and the UN.

Privileges and Immunities. The UN General Assembly approved a Convention on the Privileges and Immunities of the Specialized Agencies, which had been drafted by the UN Secretariat with the assistance of representatives of the Agencies. The convention is now to be submitted to each Specialized Agency for its approval and for final drafting of the specific annex concerning it. In the case of ICAO, these matters will be considered at the Second ICAO Assembly, in June. Ultimately, the Convention will be opened for accession to UN Members and to other States Members of any Specialized Agency.

UN Approval of Italy and Austria for ICAO Membership. Under the terms of Article 93 of the Chicago Convention and the UN-ICAO Relationship Agreement, the UN General Assembly considered the applications of Italy and Austria for membership in ICAO, and approved them in principle. The admission of Italy, already voted by the First ICAO Assembly, has now been effected, as of December 29, 1947. Austria's application, however, will require consideration by the Second ICAO Assembly.

International Civil Service Advisory Board. The establishment of an International Civil Service Advisory Board has been proposed by the UN Coordination Committee. Its function will be to contribute to the improvement of recruitment of personnel in all of the international organizations through advice and exchange of information, and the development and recommendation of guiding principles and policies within the field of personnel administration. The ICAO Council has agreed to participate in the work of the proposed board and to contribute to its support a maximum of $1500 per annum.

B. Conference on Safety of Life at Sea and in the Air

A preparatory meeting of experts for the International Conference on Safety of Life at Sea and in the Air was convened in London in late January, with representatives of ICAO, the International Telecommunication Union (ITU), the International Meteorological Organization (IMO) and the Intergovernmental Maritime Consultative Organization (IMCO) in attendance. The main Conference itself will open in London on April 16, 1948.

C. International Meteorological Organization (IMO)

The Conference of Directors of the IMO, held in Washington during September and October, took steps to strengthen IMO's relationship with ICAO. It was agreed to arrange for joint meetings of the IMO Commission for Aeronautical Meteorology and the Meteorological Division of ICAO. The former commission has already adopted the ICAO's Recommendations for
Standards and Recommended Practices as the "General Regulations for Meteorological Service for International Aeronautics."

D. Federation Aeronautique Internationale (FAI)

At FAI's September Congress in Geneva, the desirability of close FAI-ICAO relations was agreed upon. Among FAI's recommendations to ICAO were that ICAO take into consideration the elimination, within a more or less early period, of landing fees for private aircraft.

R. K. W.

INTERNATIONAL AIR TRANSPORT ASSOCIATION (IATA)

I. INTRODUCTION

The major work of putting into effect the world-wide standardization of traffic practices and procedures voted by the first Joint Traffic Conferences at Rio de Janeiro last October has occupied a large part of IATA's attention during the current Winter. The more than 300 resolutions passed by the Conference meetings at Rio have been filed with interested governments and their approvals are anticipated in time to make the new regulations effective by July 1, 1948.

II. TRAFFIC CONFERENCES

In the meanwhile, the three Conferences are holding individual and joint meetings to perfect the Rio arrangements and to iron out a number of inter-Conference questions. The Conference regions are: No. 1 — the Western Hemisphere, including Greenland and the Hawaiian Islands; No. 2 — Europe, Africa and the Middle East, including Iran; and No. 3 — Australasia and the islands of the Pacific. Conference 2 is scheduled to meet at Cairo on February 10, 1948 at which time it will also hold joint meetings with each of the other two. Conference 3 will meet on March 2 at Sydney, Australia, and will also have a joint meeting with Conference 1 at that time. All three Conferences will hold a joint meeting in Europe on June 8.

Formal certification of agents by the Traffic Conferences is now well under way. Under the terms of Conference resolutions, the Conferences act on behalf of their members in examining the qualifications of agents with whom the members then enter into individual relationship on the basis of a standard agency agreement. It is anticipated that about 2,500 agents, operating in approximately 6,000 locations, will hold IATA certificates during 1948.

As part of this process, certificated agents are automatically covered by a blanket fidelity bond of $100,000 each. The negotiation of this bond by IATA on a world-wide basis eliminates heavy individual premiums and releases the agent from the necessity of providing a separate bond for each IATA member airline with whom he does business.

III. CLEARING HOUSE

Negotiations for a working agreement between the IATA Clearing House and the Airlines Clearing House, which serves United States domestic air lines, are expected to be completed soon. The IATA institution, which operates from London, is now handling both dollar and sterling transactions.

The gross turnover of the IATA Clearing House during its first year of operation is expected to reach $51,000,000 by the time all 1947 transactions have been settled. The Clearing House now serves 24 members of IATA by offsetting interline transactions and enabling them to settle
their monthly balances by a single payment in either dollars or sterling. It is estimated that the entire 1947 turnover will have been settled by cash payments of only $9,500,000, or 18 per cent of the gross total. At the same time, the Clearing House has already cut down the amount of time required to settle all monthly accounts from 80 to 40 days.

IV. TECHNICAL MATTERS

While busy with examining and submitting recommendations to the International Civil Aviation Organization (ICAO) on subjects of mutual interest, the IATA Technical Committee and its panels have also been pressing work on standardization of practices and procedures as between air lines.

In order to facilitate the treatment of technical problems in the European region, a Technical Liaison Officer has been detached from the IATA Head Office and stationed temporarily in Paris.

The IATA Technical Secretariat has also undertaken a special survey of the frequency assignments for aeronautical communications voted by the recent International Telecommunication Union Conference. At the same time, a special working group of the Technical Committee has brought about agreement among IATA members operating over the North Atlantic on the use of certain frequency bands, and has recommended to ICAO certain improvements in that organization's existing communications plan for that region.

In order to maintain communications over the North Atlantic during periods when long range high frequency transmission is disrupted, the IATA air lines have agreed experimentally to maintain constant watch on the shorter range, very high frequency bands so that messages can be relayed from plane to plane until they come within reach of ground stations.

V. OTHER MATTERS

The IATA Financial Committee, experts of member companies and members of the IATA Secretariat, participated in the January meeting of the ICAO Statistics Division, assisting in the preparation of new statistical reporting forms and studies. Final details of the Universal Air Travel Credit Plan are being settled by consultation between experts of IATA and of the Air Transport Association of America. The Administrative Sub-Committee of the Executive Committee met at London during January to discuss and act upon a score of active points resulting from the Rio meetings and pertaining to new projects of day-to-day administration. The Executive Committee will meet next at Montreal on April 20 and again at Brussels on September 6, a week before the opening of the Fourth Annual General Meeting in that city.

R. K. W.

MULTILATERAL AGREEMENT ON COMMERCIAL RIGHTS IN INTERNATIONAL CIVIL AIR TRANSPORT — FINAL REPORT OF ICAO COMMISSION (Geneva Conference, November 4-27, 1947)*

1. The Commission was convened pursuant to Resolution No. A1-38 of the First Assembly of the Organization.1 Its first meeting was opened in the Palais des Nations at Geneva on 4 November 1947 under the temporary Chairmanship of Dr. Edward Warner, President of the Council of the Organization.

2. The Governments of Argentina, Australia, Belgium, Brazil, Canada, China, Colombia, Czechoslovakia, Denmark, Dominican Republic, Egypt, Egypt,

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* MAC/65 Rev. 1. 26/11/47.
1 Reported 14 JOURNAL OF AIR LAW AND COMMERCE 381, 495 (1947).
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El Salvador, France, Greece, India, Ireland, Italy, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Portugal, Sweden, Switzerland, Turkey, Union of South Africa, United Kingdom, United States of America, and Venezuela were represented by duly authorized Delegations. Representatives of the Governments of Luxembourg, Guatemala and Poland attended as Observers. The IATA and the International Chamber of Commerce were represented by Observers.

3. At the first meeting, Professor Eduard Amstutz, Head of the Delegation of Switzerland, was elected Chairman, Sir Frederick Tymms, K.C.I.E., M.C., one of the Delegates, of the United Kingdom, was elected first Vice-Chairman, and Dr. E. A. Ferreira, Head of the Delegation of Argentina, was elected second Vice-Chairman. On 13 November 1947 a Drafting Committee was appointed with M. Andre Garnault, one of the Delegates of France, as Chairman and Mr. Manuel Palavicini, Head of the Delegation of Mexico, as Vice-Chairman. Mr. E. M. Weld, Assistant Secretary General of ICAO, acted as Secretary of the Commission. Meetings of the Commission were held on twenty days, the final meeting being concluded on 27 November 1947.

4. The Commission proceeded, in the very terms of its assignment, to discuss and develop an agreement respecting the exchange of commercial rights in international civil air transport. After a preliminary study of relevant data and statistics compiled by the Secretariat, the Commission proceeded to an examination seriatiom of the major problems involved in such an agreement. No specific draft was adopted as a basis for discussion. The Majority Draft of the Air Transport Committee submitted to the First Assembly in 1947 was used as a general guide to content, while from time to time drafts of particular articles submitted by individual Delegations were adopted as the basis for discussion of particular subjects.

5. The discussion on each of the major issues before the Commission proceeded on the hypothetical basis that satisfactory and acceptable provisions would be worked out for each of the others, it being recognized at an early stage of the conference that all are closely interrelated. The approach to the discussions may be best illustrated by a statement of the major differing proposals and views of Delegates which were put before the Commission in its initial stages:

(i) That the multilateral agreement should comprise the grant of the Third, Fourth and Fifth Freedoms, but that authority to operate over specific routes should be subject to separate bilateral negotiation, without obligation to grant any such authorization.

(ii) That the multilateral agreement should grant the Third and Fourth Freedoms automatically, leaving only the Fifth Freedom to be negotiated bilaterally; provided, however, that if this Freedom be granted, it shall be granted in accordance with certain principles, some guarantees being given that routes would not unreasonably be refused. (Canada addition.)

(iii) That the right to exercise Fifth Freedom traffic should be recognized as subsidiary to the right of every State to operate air services to carry its own Third and Fourth Freedom traffic, notwithstanding the fact that Fifth Freedom rights could be granted on a complementary basis at the discretion of the interested States.

There was general accord that, while an all-embracing multilateral agreement was unlikely to find general acceptance, the aim of the Commission should be to embody the largest measure of agreement in the multilateral

2 For complete text see 14 JOURNAL OF AIR LAW AND COMMERCE 241 (1947).
agreement, and to leave as little as possible to the field of bilateral agreements.

6. The major questions on which the Commission concentrated its attention were, in order: (1) Nature of the rights to be granted (the so-called Freedoms); (2) Authorization of Air Routes; (3) Capacity; (4) Rates; (5) Arbitration. The first of these is partly a separate question and partly so bound up with the next two that certain aspects of it must be discussed with these, after first drawing off the separable elements.

7. Nature of the Rights to Be Granted (First phase)

It developed early in the discussion that, in view of the existence of the International Air Services Transit Agreement, to which 36 States are parties, it might not be necessary to include the first two Freedoms (the privilege to fly across a territory without landing and to land for non-traffic purposes) in an agreement dealing essentially with commercial rights. The discussions, therefore, proceeded on the assumption, which is reflected in Annex III, that only the Third, Fourth and Fifth Freedoms were to be covered, and that they were likely to be covered as a whole. Nevertheless, it was agreed to hold in abeyance the question of whether the multilateral agreement should comprise the Third, Fourth and Fifth, or only the Third and Fourth Freedoms, pending final decision by the Commission, namely, on the capacity provisions.

8. Air Route Authorization

While some delegations held the view that the multilateral agreement should obviate the necessity of bilateral agreements, the Commission proceeded on the understanding that the multilateral agreement should not in itself convey the right to operate air services over the territory of another State, and moreover that every State should retain freedom to refuse a route agreement without assigning a cause, or to refuse an agreement for any particular route.

9. The Commission agreed to incorporate in the Agreement a number of provisions governing route agreements, among them the following:

(i) Designation and number of air lines to operate the routes.

(ii) Withholding or revocation of rights where an air line does not satisfy conditions regarding its nationality and control.

(iii) Special conditions applicable to joint operations.

It was decided, after discussion, to leave entirely to bilateral agreement conditions regarding routing and the designation of points open to international traffic, as well as the closely related matter of the location of the terminal of an air route.

10. Capacity

After preliminary discussion, it was decided to refer the preparation of a provision dealing with this subject to a Working Group, which reported in due course a proposal which would maintain total capacity over a given route in reasonable relationship to the requirements of the public for air transportation thereon. Services so operated would have the primary object of providing capacity for the carriage of Third and Fourth Freedom traffic, with provision that such capacity might be augmented by complementary Fifth Freedom capacity related to the traffic requirements of the areas through which the air line operates, after taking account of the special position of local and regional air services.

11. The Commission considered and accepted a principle, arising from the discussion of capacity, to be incorporated in the body of the Agreement to the effect that, in the development of long distance air transport services
the development of local and regional services should not be unduly prejudiced. This Article recognized that, subject to the other provisions which might be comprised in the Agreement, the development of the latter services is a primary right of the countries concerned.

12. **Nature of the Rights To Be Granted (Second Phase)**

The definition of capacity in terms of the Third and Fourth Freedoms (the privilege to take on and put down traffic originating in or destined for points in a given State's own territory) and of the Fifth Freedom (the privilege to handle traffic moving between other points) immediately again raised the question of the rights to be granted. It soon developed that the Delegations of certain States did not regard the position of the local and regional services as sufficiently assured under the proposed capacity provision. The matter came to a head in the consideration together of air route authorization and capacity, where opposing suggestions were made as to the necessary regulatory measures. Certain Delegations were of the opinion that, as stated in the minutes of the Seventeenth meeting, "if a route agreement authorizes stops in the territory of States other than the parties to the route agreement, such agreement shall, subject to the conclusion of appropriate agreements with such other States, also authorize taking on and putting down international traffic destined for or originating in such other States under the conditions of Chapter III (Capacity)." Other Delegations favored a system under which the granting of Fifth Freedom rights would remain optional. The latter alternative prevailed. It was this conflict of views that led to statements by certain Delegations that an agreement acceptable to them was no longer attainable.

13. **Rates**

The Commission's discussion on rates comprised an original proposal for the fixing of rates by the interested air lines in consultation, or by the air lines organization, subject to the approval of the Contracting States concerned. Discussion centered largely on a provision which permitted, in the event of disagreement and failure to reach a solution by consultation or arbitration within a specified period of time, the unilateral fixing of a rate by the air line concerned with the approval of its own Government. After discussion, the Commission appointed a Working Group to consider the matter. The Working Group produced a new draft which provided that rates should be set if possible by conferences of air lines, subject to approval of the Governments concerned. In the event of disapproval of an agreed rate by any Contracting State or of disagreement among the air lines, a procedure was provided for prompt consultation among governments and, if necessary, prompt submission of the differences to adjudication. Provision was also made for the establishment of initial rates in order not to delay the inauguration of new air services, without prejudice to the rights of governments to object to such rates. In addition, the right was preserved for Contracting States which did not believe that existing rates were fixed at reasonable levels to initiate consultation among the Governments and adjudication if necessary.

14. **Arbitration**

One point on which a reasonable degree of unanimity was apparent was the need for effective and binding machinery for the settlement of disputes arising under the multilateral agreement. There was general willingness among the States represented at this Commission to agree to submit disputes to the jurisdiction of the International Court of Justice or, if the disputants so desired, to arbitral tribunals with powers to render binding decisions — in each case with provision for *modus vivendi* measures for preserving the respective rights of the parties. The following question was...
raised but not solved: some States are not parties to the Statute of the International Court of Justice, and for such States the acceptance of its jurisdiction inevitably raises difficulties.

15. Facilitation

The Commission considered provisions concerning the facilitation of International air services which were suggested by the Delegation of the United States, and of which the substance is included in Annex IV. The Commission decided that such provisions were not suitable for inclusion in an agreement of the type under consideration, but recommended that they should be referred to ICAO for further study and discussion at the next Annual Assembly.

16. The Commission decided, in the concluding stages of its deliberations, that owing to the divergence of views on important issues, the submission of an Agreement in a form recommended for signature would not be justified. The results of the deliberations of the Commission are set forth in Annex III to this Report, each Chapter being annotated to show the extent to which the provisions therein were considered by the Commission, as well as in the verbatim record of its proceedings.

17. The Commission submits this Report to the Member States and to the Assembly of ICAO for decision as to future measures towards the consummation of a Multilateral Agreement.

18. The Commission suggests that Member States may study and consider the elements contained in Annex III and make use, if found suitable, of certain elements to be inserted in agreements of more limited scope.

ANNEX III TO FINAL REPORT—
RESULTS OF THE DELIBERATIONS OF THE GENEVA CONFERENCE OF ICAO ON MULTILATERAL AGREEMENT ON COMMERCIAL RIGHTS IN CIVIL AIR TRANSPORT

PREAMBLE

NOTE: The text of the Preamble was prepared by the Drafting Committee after considering the discussions of the Commission on the subjects involved. The Draft Preamble itself was not considered by the Commission.

WHEREAS the parties to the present Agreement (hereinafter called the Contracting States), being members of the International Civil Aviation Organization (hereinafter called the Organization) formed by the Convention on International Civil Aviation (hereinafter called the Convention) drawn up at Chicago on 7 December 1944, desire to further the aims of the Convention as set forth in the Preamble, and of the Organization as set forth in Article 44, of the Convention;

WHEREAS the Contracting States desire to define the terms upon which the special permission or other authorization required by Article 6 of the Convention as a condition precedent to the operation of international air services over or into the territory of any Contracting State shall be granted;

WHEREAS in the interest of promoting fairness and equality of opportunity in international air transport and mutual understanding and cooperation in the conduct of international air services, the Contracting States have agreed on certain principles hereinafter set forth;

NOW THEREFORE the undersigned plenipotentiaries, being duly authorized for this purpose by their respective Governments, have agreed as follows:
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CHAPTER I — RELATION TO OTHER INTERNATIONAL AGREEMENTS

NOTE: The text of all Articles of this Chapter was prepared by the Drafting Committee without specific instructions from the Commission, except that of Article 1, paragraph (b), the text of which was prepared by the Drafting Committee after consideration of the instructions of the Commission. The draft text was not considered by the Commission.

Article 1

(a) The provisions of the present Agreement shall be supplementary to the provisions of the Convention as from time to time amended, and the rights and obligations resulting from the present Agreement shall be exercised and performed in conformity with and subject to the provisions of the Convention.

(b) In the event of any conflict between the provisions of the present Agreement and those of the Convention, the provisions of the Convention shall prevail. Nevertheless, in the event of any dispute between Contracting States hereunder the settlement of which involves the application or interpretation both of the Convention and of the present Agreement, the provisions of Chapter VII of the present Agreement shall apply.

(c) References to the territory of a Contracting State shall not include references to any territory for whose foreign relations that Contracting State is responsible and to which the present Agreement does not for the time being apply but, save as aforesaid and except as herein otherwise expressly provided to the contrary, any expression defined in the Convention shall have the same meaning in the present Agreement.

Article 2

Nothing in the present Agreement shall be deemed to require any Contracting State or any air line of a Contracting State to re-negotiate or change any route accorded to it under any arrangement entered into by it before the date on which such Contracting State became bound by the present Agreement.

Article 3

Any provisions relating to capacity, rates or the settlement of disputes which are contained in any arrangements entered into between Contracting States prior to their signature of or adherence to the present Agreement and which do not conform with the present Agreement shall be superseded by the provisions of the present Agreement relating to those matters, and the provisions of this Agreement as to capacity, rates and the settlement of disputes shall be deemed to be included in such prior arrangements.

Article 4

Subject to the provisions of Article 2 hereof, if a Contracting State has, before the date on which it has signed or adhered to the present Agreement, made with a State not a party to the present Agreement any arrangement inconsistent with the present Agreement, such Contracting State shall endeavor to secure at the earliest opportunity the amendment of such arrangement so as to conform with the present Agreement.

Article 5

Subject to the provisions of Articles 2 and 3 above, if a Contracting State has, before the date on which it signed or adhered to the present Agreement, made with another Contracting State any arrangement containing provisions inconsistent with the present Agreement which are not covered by Article 3 hereof, such Contracting States shall as soon as practicable, and in any event within —— years after the date on which both
become parties to the present Agreement, amend such arrangements so as to conform with the present Agreement.

Article 6

No Contracting State shall, after it has signed or adhered to the present Agreement, enter into any arrangement which is in conflict with the present Agreement.

Article 7

(a) Each Contracting State shall prevent its air lines from entering into any arrangement into which such a Contracting State would itself be precluded from entering by the provisions of Article 6 of the present Agreement.

(b) If an airline of any Contracting State has already entered into any such arrangement, such Contracting State and any other Contracting State which is a party to such arrangement shall each endeavor to secure as soon as practicable the amendment of the arrangement so as to conform with the present Agreement and, failing such amendment within —— years, shall cause the arrangement to be terminated as soon as legally possible.

CHAPTER II — ROUTES AND ARRANGEMENTS FOR THE OPERATION OF INTERNATIONAL AIR SERVICES

NOTE: Articles 8, 10, 11, 12 and 13 were adopted by the Commission by different majorities. Article 9 was adopted on a roll-call vote. The text of Article 14 was prepared by the Drafting Committee after consideration of the instructions of the Commission, but the draft text was not considered by the Commission.

Article 8

The privileges granted to a Contracting State of taking on and putting down international air traffic in the territory of another Contracting State under the provisions of the present Agreement shall be granted only by a separate arrangement (hereinafter called a Route Agreement) between such Contracting States. No Contracting State shall be required to enter into a Route Agreement for the grant of such privileges.

Article 9

Nothing in the present Agreement shall prevent a Contracting State from entering into a Route Agreement which will grant to another Contracting State only the privilege of taking on and putting down international air traffic originating in or destined for the territory of the other party to the Route Agreement, and not the privilege of carrying international air traffic both originating in and destined for points on the agreed routes in the territories of States other than the parties to the Route Agreement.

Article 10

Where two or more Contracting States are acting jointly under the provisions of Chapter XVI of the Convention, nothing in the present Agreement shall prevent them from entering jointly into a Route Agreement with any other Contracting State.

Article 11

(a) Each party to a Route Agreement shall have the right to designate the air line or air lines which will operate the route or routes accorded to such party thereby and from time to time to substitute another air line for any air line so designated. The number of air lines to be designated by any party to the Route Agreement shall be the subject of agreement between the parties.
The party designating an air line shall give notice of such designation to the other party to the Route Agreement at least one month prior to the date on which such designated air line proposes to inaugurate operations under the Route Agreement. The same notice shall be given of any substitution of an air line for one already designated.

**Article 12**

Each party to a Route Agreement shall have the right, after consultation with the other party or parties concerned, to refuse to accept the designation of an air line or to withhold or revoke the grant to an air line of the privileges conferred by such Route Agreement where it is not satisfied that substantial ownership and effective control of that air line are vested in the party designating the air line or in nationals of that property.

**Article 13**

A joint air line, constituted in accordance with the provisions of Chapter XVI of the Convention, and designated by a Contracting State, shall be deemed to meet the requirements of Article 12 if all of the Contracting States participating in accordance with the provisions of the said Chapter in such joint air line have been accorded the route or routes in question either under the same Route Agreement or under separate Route Agreements, and either

(i) the joint air line is an operating agency consisting of an association of a number of individual air lines and such Contracting State or its nationals are vested with substantial ownership and effective control of one of such air lines, or

(ii) the joint air line is one corporate enterprise and such Contracting State or its nationals are vested with a substantial interest in such air line.

**Article 14**

For any purpose relating to operations under a Route Agreement, any party to such agreement may, if it finds the statistical data available through the Organization insufficient, require any other party on a basis of reciprocity to supply such statements as may be reasonably required with regard to the traffic (including information concerning the origin and destination of such traffic) carried by the designated airline or airlines of such other party on services to, from, or through the territory of the party requiring such information. A copy of any statements so supplied shall be transmitted to the Organization.

**CHAPTER III — CAPACITY**

**NOTE:** Articles 15 and 16 of this Chapter were adopted by the Commission by different majorities. Certain delegations suggested that Article 16 be placed in a more general context and not in Chapter III.

**Article 17(a)** was prepared by a Working Group. The Article was discussed, but the Commission decided that the clause needed further study.

The text of Article 17(b) was prepared by the Drafting Committee after consideration of the instructions of the Commission. The draft text was not considered by the Commission.

The possibility of expanding Chapter III by additional provisions relating to stopover, cabotage and change of gauge was discussed, but no action thereon was taken by the Commission.

**Article 15**

(a) The capacity provided by the designated air lines of a party to a Route Agreement, together with the capacity provided by the designated air lines of the other party, shall be maintained in reasonable relationship to the
requirements of the public for air transportation on the agreed routes.

(b) In the application of the principle stated in paragraph (a) above,
   (i) the air services provided by a designated air line under a Route
       Agreement shall have as their primary objective the provision,
       at a reasonable load factor, of capacity adequate to the current
       and reasonably anticipated requirements of that air line for the
       carriage of international air traffic originating in or destined for
       the territory of the party designating the air line;
   (ii) the capacity provided under sub-paragraph (i) may be augmented
        by complementary capacity adequate for the carriage of inter-
        national air traffic both originating at and destined for points on
        the agreed routes in the territories of States other than that
        designating the air line. Such additional complementary capacity
        shall be related to the traffic requirements of the areas through
        which the air line operates, after taking account of the special
        position of other air services established
        by air lines of the States
        referred to above in so far as they are carrying, on the whole or
        part of the agreed routes, international air traffic originating in
        or destined for their territories.

(c) This Article shall not be interpreted to require changes in capacity
    more frequently in point of time, nor at a larger number of points along
    a route, than is consistent with sound operating practices of international
    air services.

(d) Nothing in this Article shall prevent unfilled space in any aircraft
    operated in accordance with this Article from being used for the carriage
    of any international air traffic offered.

(e) In the case of through passenger tickets allowing of breaks in the
    journeys, the origin and final destination of the journeys for the purpose
    of this Article shall be those specified in the tickets, and subject to the
    conditions of their issue. The parties to a Route Agreement may, if they
    so desire, make provision in the Route Agreement for the determination
    of the origin and destination of cargo for the purposes of this Article.

Article 16
In the development of long distance air transport services to meet the
needs of the public for such transport, the development of local and regional
services shall not be unduly prejudiced. Subject to the other provisions of
the present Agreement, it is recognized that the development of such local
and regional services is a primary right of the Contracting States concerned.

Article 17
(a) The term “capacity” means pay load expressed in metric tons-
kilometers offered on the route concerned during a specified period of time.
(b) The term “international air traffic” means any air traffic (including
    passengers, mail and cargo) which cannot be reserved under Article 7 of
    the Convention.

Note: The possibility of expanding this Chapter by additional pro-
visions relating to stopover, cabotage and change of gauge was mentioned
in the course of the deliberations, but no action was taken thereon by the
Commission or the Drafting Committee.

Chapter IV — Rates

Note: After discussion by the Commission on the subject of rates, a
Working Group of the Commission prepared the text of this Chapter. This
text was subsequently discussed by the Commission but no decision was
taken on it.
Article 18

(a) The rates to be charged for passengers and freight on any international air services operated under Route Agreements shall be fixed at reasonable levels. Due regard shall be paid to all relevant factors, including costs of operation, reasonable profit and the rates charged by other air lines on any part of the route.

(b) The rates shall be agreed, if possible between the air lines, in accordance with one of the following alternatives:

(i) through such rate resolutions as may be adopted by an organization representative of air lines (hereinafter called the air lines' organization), accepted for that purpose by the Contracting States concerned, or

(ii) where no such organization is available, between the air lines of all Contracting States which operate over the route or any part thereof.

(c) Any agreement made pursuant to paragraph (b) shall be transmitted to the Contracting States whose territories are served by the route or whose air lines exercise traffic rights thereon (hereinafter called the Contracting States concerned) and to the Organization. Such agreements may become effective two months after receipt thereof by the Contracting States concerned unless one or more of such Contracting States have given notice of disapproval to the Organization. The Organization shall immediately give notice of such disapproval to the Contracting States concerned.

(d) In the event of any such disapproval, the Contracting States concerned shall consult with a view to reaching an agreement. Within the two months following the two months' period referred to in paragraph (c) they shall either agree or submit the matter to the International Court of Justice (hereinafter called the Court) or to an arbitral tribunal in accordance with Chapter VII hereof and shall request the Court or the arbitral tribunal, as the case may be, to indicate within two months of such submission provisional measures which ought to be taken to preserve the respective rights of the parties. Such provisional measures and final decision of the matter shall be binding upon the Contracting States concerned, even though one or more such Contracting States fail to join in submitting the matter to the Court or the arbitral tribunal as provided herein.

(e) In the event that agreement is not reached in accordance with paragraph (b), the air lines' organization of the air lines, as the case may be, shall notify the Organization which shall immediately notify the Contracting States concerned. Within two months of the receipt of such notice such Contracting States shall either agree or submit the matter to the Court or an arbitral tribunal in the manner provided in paragraph (d), and the provisional measures and final decision shall be binding upon such Contracting States as provided therein. If any Contracting State whose designated air line is party to a disagreement under paragraph (b) fails to conform to this procedure, the dissent of the designated air line under paragraph (b) shall be deemed to have been withdrawn.

(f) When a rate (hereinafter called an initial rate) is initially proposed for a new service and an agreement has been reached under paragraph (b), such initial rate may be made effective upon notice to the Contracting States concerned. If an initial rate has been considered under paragraph (b), but agreement has not been reached, the procedure prescribed in paragraph (e) shall be observed. If an initial rate has not been considered under paragraph (b), it shall become effective upon approval by the Contracting States concerned.

(g) Nothing in this Chapter shall prevent any Contracting State, when it is not satisfied that the existing rates conform to the requirements of
paragraph (a), after consultation and agreement with other Contracting States concerned, from establishing reasonable rates to be charged by an air line designated by it. Within two months of the request for such consultation, the Contracting States concerned shall either agree or submit the matter to the Court or to an arbitral tribunal in the manner provided in paragraph (d) and the provisional measures and final decision shall be binding upon such Contracting States as provided therein.

(h) Each Contracting State shall ensure that its air lines put into effect the rates determined in accordance with this Chapter.

CHAPTER V — PROHIBITED PRACTICES

NOTE: The subject matter set forth in Article 19 was referred to the Drafting Committee for the preparation of a suitable text, but the draft text was not considered by the Commission.

Article 19

Each Contracting State shall refrain from engaging in unfair or deceptive practices affecting competition in international air services and shall prevent its air lines from so doing.

CHAPTER VI — CONSULTATION

NOTE: The text of Article 20 was prepared by the Drafting Committee after consideration of the instructions of the Commission, but the draft text was not considered by the Commission.

Article 20

For the purpose of maintaining close collaboration among Contracting States in the observance of the principles and provisions of the present Agreement, there shall be consultation as necessary between

(i) the appropriate authorities of the parties to a Route Agreement at the request of either one of them, or

(ii) the appropriate authorities of all Contracting States affected by a matter of common interest arising out of the present Agreement or of Route Agreements concluded under Chapter II of the present Agreement at the request of two or more Contracting States so affected.

CHAPTER VII — SETTLEMENT OF DISPUTES

NOTE: The text of Articles 21 and 22 was prepared by the Drafting Committee after consideration of the instructions of the Commission. The draft text was considered by the Commission, but no action was taken on it.

Article 21

(a) If any dispute arises between Contracting States with respect to the Interpretation or application of the present Agreement, or of a Route Agreement concluded hereunder, they shall use their best efforts to settle such dispute by negotiation.

(b) If such dispute cannot be settled by negotiation, and it is a dispute within the subjects stated in Article 36(2) of the Statute of the Court, it shall, upon the request of any party to such dispute, be referred for decision to the Court. The Contracting States hereby declare that they accept the jurisdiction of the Court and will comply with its decision, and with any provisional measures which ought to be taken to preserve the respective rights of the parties indicated by the Court pending its final decision in respect of any dispute to which they are parties and which is referred to the Court under this paragraph.
(c) Contracting States that are parties to a dispute may in the alternative, if they so agree, refer such dispute for final decision to an arbitral tribunal composed in accordance with Article 22 or to some other person or body. The Contracting States agree that the decision of such arbitral tribunal or other person or body, and any provisional measures indicated by it pending its final decision, shall be binding on the parties to such dispute.

_Article 22_

(a) There shall be established a panel of five or more jurisconsults of recognized competence in international law nominated by the President of the Court and a panel of ten or more experts on matters within the scope of the present Agreement nominated by the President of the Court after consultation with the Council of the Organization.

(b) The panels shall be maintained by the Organization and shall always be available for inspection by any Contracting State. The Organization shall furnish copies of the panels, and of any changes thereof, to all Contracting States.

(c) When Contracting States agree, as provided in Article 21, to refer the dispute to an arbitral tribunal composed in accordance with the present Article, the tribunal shall be composed of a member or members selected by agreement between those Contracting States from the panels established under paragraph (a) above, or, if such Contracting States fail to agree on the composition of the tribunal, it shall be composed of a member or members selected from the panels by the President of the Court.

(d) The Council of the Organization shall from time to time determine the remuneration, allowances and period of service of the members of the panels. The Organization shall make such arrangements as may be necessary for accommodation and staff required in connection with arbitral tribunals composed in accordance with the provisions of this Article, and shall keep the records of the proceedings and publish the decisions of such tribunals.

(e) The arbitral tribunal may make any direction as to the payment of the costs of the parties and the expenses of the tribunal incurred in connection with the dispute. In the absence of any such direction, each party shall bear its own costs, and the expenses of the tribunal shall be divided equally between the parties.

**CHAPTER VIII—WAR, NATIONAL EMERGENCY AND EXCEPTIONAL CIRCUMSTANCES**

_Note:_ The text of Articles 23 and 24 was prepared by the Drafting Committee in the light of the discussions of the Commission, but the draft text was not considered by the Commission.

_Article 23_

In the case of war, the provisions of the present Agreement and of any Route Agreement entered into pursuant to the present Agreement shall not affect the freedom of action of any of the Contracting States affected, whether as belligerents or as neutrals. The same principle shall apply in the case of any Contracting State which declares a state of national emergency and notifies the fact to the Council of the Organization.

_Article 24_

Nothing in the present Agreement shall be deemed to prevent the parties to a Route Agreement from including in such Route Agreement provisions to the effect that in exceptional circumstances, which may be specified in the Route Agreement, either party shall be free to suspend temporarily the said Route Agreement in respect of all or any of the routes accorded therein, if at any time grave national or international developments require such sus-
pension in the national interests of the party concerned. In the event of such right of suspension being exercised by one party to a Route Agreement, any other party to such Route Agreement may reciprocally suspend the Route Agreement in respect of the routes accorded by it to the first party.

CHAPTER IX—FINAL PROVISIONS

NOTE: The text of Articles 25-28 was prepared by the Drafting Committee after consideration of instructions of the Commission, but the draft text was not considered by the Commission.

Article 25

The present Agreement shall remain open until the close of the Annual Assembly of the Organization for signature on behalf of any State which is a party to the Convention and a member of the Organization.

Article 26

The present Agreement shall be subject to ratification by the signatory States. The instruments of ratification shall be deposited with the Organization.

Article 27

From the close of the Annual Assembly of the Organization the present Agreement shall be open for adherence on behalf of any non-signatory State which is a party to the Convention and a member of the Organization. Adherence shall be effected by the deposit of an instrument of adherence with the Organization.

Article 28

Before the entry into force of the present Agreement in accordance with Article 29, instruments of ratification or adherence already deposited may be withdrawn by a written notice addressed to the Organization and any instrument so withdrawn shall, for the purpose of Article 29, be deemed not to have been deposited.

Article 29

(a) Three months after the date on which there have been deposited instruments of ratification or adherence on behalf of States, not less than twenty in number, among which there is apportioned an aggregate of not less than 60% of the expenses of the Organization as determined by its Assembly for the financial year current on that date, the present Agreement shall enter into force as between those States which have deposited instruments of ratification or adherence not later than one month before the expiry of the period of three months. If, however, the present Agreement does not enter into force before the day of 19, it shall become null and void.

(b) Instruments of ratification or adherence deposited later than one month before the entry into force of the present Agreement under paragraph (a), shall take effect one month after the date of their deposit, provided that no State shall become a party to the present Agreement in accordance with the provisions of this paragraph unless its instrument of ratification or adherence includes ratification of all amendments which have been in force for six months preceding the deposit of such instrument or until it has deposited with the Organization separate instruments of ratification in respect of all such amendments.

Article 30

(a) The Council of the Organization may, and upon the request of any ten Contracting States shall within one year, call a meeting of all Contracting States for the purpose of considering any matter pertaining to amendment of the present Agreement. The Council may invite other states and international organizations to send observers to the meeting.
(b) Any proposed amendment approved by a two-thirds vote of the Contracting States whose representatives have been duly accredited to the meeting shall enter into force, between all Contracting States which have ratified the amendment and whose instruments of ratification of the amendment have been deposited with the organization for one month, three months after the date on which there have been deposited such instruments of ratification on behalf of Contracting States, not less than twenty in number, among whom there is apportioned an aggregate of not less than 60% of the expenses of the Organization as determined by its Assembly for the financial year current on that date. Instruments of ratification of the amendment deposited later than one month before the entry into force of the amendment shall take effect one month after the date of their deposit. In its resolution approving a proposed amendment the meeting may specify a period at the end of which its approval of the amendment shall cease to be effective if the amendment has not entered into force.

(c) In the event that two or more Contracting States fail to deposit their instruments of ratification of an Amendment that has come into force, and if, in the opinion of the Council of the Organization the resulting situation is of such a nature as to justify this course, the Council shall call a meeting of all Contracting States, which shall examine the situation.

Article 31

(a) Any Contracting State which ceases to be a party to the Convention or a member of the Organization shall automatically cease to be a party to the present Agreement.

(b) At any time after the expiry of two years from the date of the entry into force of the present Agreement, any Contracting State may give notice of denunciation of the present Agreement to the Organization. Denunciation shall take effect one year after the date of the receipt of the notification by the Organization.

Article 32

(a) Any State may, at the time of signature or the deposit of its instrument of ratification or adherence, declare that its acceptance of the present Agreement does not apply to all or any of the territories for the foreign relations of which such State is responsible.

(b) With the exception of territories in respect of which a declaration has been made in accordance with paragraph (a) of this Article, the present Agreement shall apply to all territories for the foreign relations of which a Contracting State is responsible.

(c) Any State may adhere to the present Agreement separately on behalf of all or any of the territories regarding which it has made a declaration in accordance with paragraph (a) of this Article.

(d) Any Contracting State may denounce the present Agreement, in accordance with the procedure specified in Article 31, separately for all or any of the territories for the foreign relations of which such Contracting State is responsible.

(d) Nothing in the present Agreement shall affect any rights or obligations of Contracting States with respect to territories under trusteeship.

Article 33

The Organization shall inform each of the States' members of the Organization of the date of the deposit of any instrument of ratification or adherence and of the withdrawal of any such instrument and of any declaration made in accordance with paragraph (a) of Article 32, and of the date on which the present Agreement enters into force and of the date of the receipt of any notice of denunciation.
IN WITNESS whereof the undersigned plenipotentiaries, having been duly authorized, have signed the present Agreement.

Done this —— day of —— 19— at — in the English, French and Spanish languages, each text being equally authentic.

The present Agreement shall remain deposited with the Organization and certified copies thereof shall be transmitted by the Organization to the Governments of all States members of the Organization.

ANNEX IV TO FINAL REPORT — STATEMENT BY THE DELEGATION OF THE U.S.A. WITH RESPECT TO SUGGESTED DRAFT PROVISIONS FOR THE ELIMINATION OF BURDENS UPON INTERNATIONAL AIR LINES

The U.S. Delegation presents for the consideration of the Commission the attached provisions having as their purpose the elimination of burdens upon international air lines. We recommend their insertion in any multilateral agreement to be developed by the Commission. They were contained in a draft of multilateral agreement presented by the U.S. Delegation to the First Assembly of ICAO (Doc. 4510, AI-EC/72 pp. 167, 179) and thus have been before the members of this Commission for study during the past six months.

Article A would permit an international air line to import necessary aircraft, ground equipment and supplies free of duty subject to the regulations of the country into which they are imported. This will permit the air line concerned to develop its maintenance and other ground facilities to meet its needs without suffering a possible substantial financial penalty for its efforts to increase the safety and efficiency of its operations.

Article B would relieve the aircraft, ground equipment, spare parts and supplies of an international air line from the laws of a state (other than its own) authorizing the requisition of such property for public use. This proposed Article has the general purpose of providing the international lines with additional security in their property so as to foster the most extensive development of their maintenance and ground facilities in the countries through which they operate. This proposed Article should be considered in connection with the Article on war contained in the United States draft multilateral presented in the First Assembly (Doc. 4510, AI-EC/72 pp. 167, 182).

Article C would insure to international air lines the right to bring a reasonable number of supervisory and technical employees into any country into which it was operating. This would facilitate the development of uniform operating practices throughout the length of an international route, thus contributing to safety and efficiency.

Article D provides a method by which reasonable insurance requirements imposed upon international air lines by contracting states may be met without imposing undue burdens upon such air lines. The international operators, speaking through IATA, have already brought the problem of duplicating insurance requirements to the attention of ICAO and pointed to the need for immediate solution.

Article E would provide the basic requirement for the solution of the difficult problem of multiple taxation of international air lines and their employees. Steps should be taken as soon as possible to eliminate the inequities among States which result from multiple taxation and the heavy burdens thus imposed on international carriers. The multilateral air transport agreement presents an opportunity to do this.

The foregoing discussion of these articles shows their relevance to the other provisions of the multilateral agreement. One of the basic purposes of this Agreement is to eliminate discrimination against international air
transport operators. If the multilateral agreement fails to include articles similar to those proposed here, we will have left open means of discrimination which can impair the rights and privileges given to operators under the Convention.

Article A

Aircraft, ground equipment, and supplies imported into the territory of a contracting State for use by an air line of another contracting State in connection with the international air service performed by such air line shall be admitted free of customs duty subject to compliance with the regulations of the state concerned, which regulations shall not interfere with the necessary use in such air service of such aircraft, ground equipment, and supplies.

Article B

The aircraft, ground equipment, spare parts, and supplies of an air line located in a contracting State (other than the State by which such air line is designated) for use in connection with an international air service serving such state shall be exempt from the laws of such state authorizing the requisition or seizure of aircraft, equipment, parts, or supplies for public use.

Article C

Each contracting State agrees to permit designated air lines of other contracting States operating to or through its territory to bring into its territory a reasonable number of ground or flight personnel in the employ of such air lines to perform supervisory or technical duties or flight operations directly connected with the operation of the international air services being performed by such air lines under arrangements made in accordance with Article 6, but nothing herein contained shall prohibit a contracting State from denying entry to or expelling any person deemed by such contracting State to be undesirable for reasons of national policy.

Article D

(a) If the laws of a contracting State require air lines providing an international air service through or within such State to maintain insurance of risks arising out of the conduct of such air service, such requirements shall be deemed to have been met by a showing that the air line concerned has procured insurance covering such risks with the limits required by such laws from an insurance company which

(i) is organized and is doing business in the territory of the contracting State of the nationality of the air line concerned, or

(ii) is organized and doing business in the territory of any other contracting State, provided that the contracting State whose territory is entered is satisfied that the insurance company concerned is in a sound position with respect to capital and reserves.

(b) Except for the proviso of paragraph (a)(ii) of this Article, the showing contemplated by paragraph (a) may be made by submitting a duly authenticated certificate from the appropriate governmental authorities of the jurisdiction under whose laws such insurance company is organized that such insurance company is organized under its laws and is authorized to conduct an insurance business covering the risks insured, and by submitting a duly acknowledged statement from such insurance company that such insurance has in fact been issued, is in effect and will according to its terms remain in effect, for the period of time stated therein.

Article E

Each contracting State agrees to adopt all practicable measures in cooperation with other contracting States concerned to eliminate multiple, unfairly burdensome, or discriminatory taxation of air lines and their employees.