International
The fall of 1950 saw the launching by ICAO of a new program—technical assistance—whereby relatively underdeveloped States may request the Organization to furnish them with experts to lend advice and assistance in the various branches of civil aviation and obtain aviation training fellowships for their nationals to study abroad. On November 8, 1950, the ICAO Council adopted a resolution establishing a Technical Assistance Fund, in which is to be placed the money to finance the ICAO program received from the United Nations Special Account for Technical Assistance. The same resolution gave the President of the Council the authority to decide, on the basis of recommendations made by the Secretary General, which technical assistance requests are to be fulfilled by the Organization and the manner in which they are to be carried out. The President is to exercise his authority in accordance with principles laid down by the Economic and Social Council for the United Nations Expanded Technical Assistance Program and by the ICAO Council from time to time.

Immediately preceding the adoption of its November 8 resolution, the Council had approved such a set of guiding principles. The Secretary General proceeded to establish an Advisory Board on technical assistance, consisting of senior officials of the Secretariat, which reviewed all requests for assistance. Requests from Indonesia and Iran for aviation assistance, which were part of comprehensive requests to the United Nations and its specialized agencies for assistance in developing the countries' economies, were given first priority. ICAO member States which had indicated their ability to supply experts to help the Organization carry out its technical assistance work were immediately asked to furnish the names of candidates for employment on ICAO projects in Indonesia and Iran. During December 1950 the ICAO External Relations Officer visited various countries in the Near and Middle East in order to work out with various requesting governments in the area arrangements for technical assistance.

The Council decided to exercise its authority under Article 54 (n) of the Chicago Convention to “consider any matter relating to the Convention which any contracting State refers to it” and answer a request from Pakistan for an interpretation of the Convention and the International Air Services Transit Agreement in relation to the right to fly over the territory of another contracting State. ICAO members States were informed that the Council on or after February 1, 1951 would proceed to formulate an advisory opinion as to whether Article 6 of the Convention requiring “special permission” for scheduled international air services to operate over or into the territory of another contracting State over-rides Article I, Section 1 of the Transit Agreement, granting the first two “freedoms of the air” to scheduled international air services of contracting States.

* Aviation Policy Staff, Department of State.
1 Resolution 222(a) (IX) (ECOSOC) of August 15, 1949.
2 The right to fly across another State's territory without landing and the right to land for non-traffic purposes.
In connection with the application of Article 9 of the Chicago Convention, which allows contracting States under certain conditions to restrict or prohibit aircraft of other contracting States from flying over parts of their territory, the Council approved definitions of prohibited, restricted, and danger areas, as developed by the Air Navigation Commission. At the same time the Council adopted a resolution urging contracting States to review the areas within their territory over which aircraft are restricted or prohibited from flying with a view to their elimination or reduction; also to locate such areas so as to interfere as little as possible with international air navigation. The adoption of this resolution appears to have come at an unfortunate time in world affairs.

Following adoption by the United Nations General Assembly on November 4, 1950 of a resolution revoking its recommendation of 1946 intended to debar Spain from membership in UN specialized agencies, Spain, which has been a member of ICAO since the Organization came into existence, resumed active participation by sending a delegation to the Fourth Session of the Rules of the Air and Air Traffic Control Division, held in Montreal November 14-December 13, 1950.

LEGAL COMMITTEE WORK

Since the ICAO Legal Committee was to convene for its seventh session in Mexico City on January 2, 1951 for the purpose of attempting to prepare a final draft of the Convention on Damage Caused by Aircraft to Third Parties on the Surface, the Council took the opportunity to solicit the Committee's views on the basic principles involved in the organization of ICAO's legal work. The 1950 session of the ICAO Assembly, in Resolution A4-5, had directed the Council to “study the organization of the legal work of the Organization and the relationship of the Legal Committee to the Council and the Secretariat, and formulate proposals for any reorganization and any amendment of the constitution of the Committee which may be found necessary, and submit the proposals to an early ensuing session of the Assembly.” The Council is expected to make its recommendations in time for the next session of the Assembly, which will be convened in Montreal on June 5, 1951.

After considerable discussion on the feasibility of moving the ICAO Far East and Pacific Office to a permanent location at Bangkok, Manila or Singapore, the Council decided that the office should continue to be located at Melbourne until January 1, 1952. On a broader administrative problem, that of reorganizing the ICAO headquarters Secretariat, the Council adopted substantially the recommendations of its Finance Committee affecting Administrative Bureaus. Before the Council adjourned its eleventh session on December 15, 1950, it also approved new salary scales and grades for the ICAO Secretariat, which will bring them into conformity with those recently adopted by the United Nations General Assembly. The effect of this action is to maintain the highest salaries at their previous level and to raise the salaries of the lower-grade professional and the clerical personnel.

AIR NAVIGATION MATTERS

During the fall of 1950 the Council approved a set of principles governing the reporting of differences from ICAO standards, practices and procedures and fourteen recommendations submitted by the Air Navigation Commission concerning the relative functions of the Council, the Air Navigation Commission, the Divisions and the Secretariat in the development of annexes to the Chicago Convention. Considerable progress was made in the further development of international standards and recommended practices in several technical fields of air navigation. Amendments Nos. 1-118 to
Annex 6 of the Chicago Convention, Standards and Recommended Practices for Operation of Aircraft, were approved by the Commission and adopted by the Council. These amendments arose from proposals by the Third Session of the ICAO Operations (OPS) Division and subsequent comments by contracting States and include both revision of existing standards on scheduled operations and addition of new standards for non-scheduled operations. June 1, 1951 was established by the Council as the date for filing by contracting States of any disapprovals of the amendments, August 1, 1951 as the date for filing of differences and October 1, 1951 as the date for the amendments coming into force. At the time of adoption of the OPS amendments, the Council also approved a revision of the content and format of the standard historical material forming the introduction to the Annexes, which it had requested the Air Navigation Commission to make.

Looking toward the future, the Air Navigation Commission directed the Secretariat to request contracting States not to introduce rigid national regulations concerning turbine-powered aircraft which would hinder the development of international standards and recommended practices and to submit information for the further study of the problem.

The Commission completed its review of amendments to Annex 10, Standards and Recommended Practices for Aeronautical Telecommunications. These amendments, which consist of new material on utilization of High (HF) and Very High (VHF) Frequencies, radioteletypewriter equipment and communications procedures, codes and abbreviations, are now ready for examination and adoption by the Council. The Commission also completed its review of the draft Annex on Accident Investigation, but decided to defer submission of it to the Council pending a reexamination in the light of the Commission's recent acceptance of the United States position that Article 26 of the Chicago Convention in no way bars the development under Article 37 of standards for accident investigation. Procedures for Aeronautical Information Services (AIS), which establish basic specifications for Notices to Airmen (NOTAMS) and publications containing aeronautical information, and Instrument Approach-to-Land Procedures were approved by the Commission for submission to the Council.

Aeronautical Information Services Division

The Council approved the recommendation of the Air Navigation Commission for the establishment of a Division of Aeronautical Information Services (AIS) and tentatively approved the convening of an AIS meeting in 1952. The Commission decided that it was unnecessary to establish an ICAO Medical Division and that the medical problems of air navigation should be considered as they arise in relation to specific technical questions in recognized technical fields.

The Air Navigation Commission and the Council completed action on recommendations of the Special Airworthiness/Operations Meeting on Performance which call for action by contracting States and submission of the results to the Fourth Session of the ICAO Airworthiness and Operations Divisions, scheduled to be convened in Montreal on March 20 and March 27, 1951 respectively. The Council also approved the convening of the following additional meetings of Divisions of the Air Navigation Commission during 1951:

<table>
<thead>
<tr>
<th>Division</th>
<th>Location</th>
<th>Date</th>
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<tbody>
<tr>
<td>Communications Division</td>
<td>Montreal</td>
<td>April 24</td>
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<tr>
<td>Fourth Session</td>
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<tr>
<td>Search and Rescue Division</td>
<td>Montreal</td>
<td>September 25</td>
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<tr>
<td>Third Session</td>
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<tr>
<td>Maps and Charts Division</td>
<td>Montreal</td>
<td>October 30</td>
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<tr>
<td>Fifth Session</td>
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3 Held in Montreal, February-March, 1949.
4 Held in Paris, September 14-October 2, 1950.
With regard to the regional work being done by ICAO on problems of air navigation, the Air Navigation Commission decided to adopt the agenda of the Third European-Mediterranean Regional Air Navigation Meeting as a pattern for the agenda of any future regional meetings, subject to changes made necessary by specific requirements of a particular meeting. The Commission and the Council approved the Final Reports of the Second Middle East Regional Air Navigation Meeting with the exception of the parts dealing with establishment of a Nicosia (Cyprus) Flight Information Region and Flight Information Center. During October 1950 the ICAO Far East and Pacific Office convened an informal meeting at Sydney, Australia of government and airline representatives to discuss the introduction of long-range radiotelephony for air-ground communications in the South Pacific Region. Another recent accomplishment of this regional office was the issuance of reports showing the status of implementation of air navigation facilities and services recommended by the ICAO South-East Asia Regional Air Navigation Meeting.7

The Council during the fall of 1950 authorized the issuance of Parts I (General) and III (Commercial Pilot License) of the draft ICAO Training Manual, which had been approved by the Air Navigation Commission. Other parts of the Manual, particularly the part dealing with air traffic controllers, are to be issued as soon as available.

AIR TRANSPORT AND JOINT SUPPORT MATTERS

Assembly Resolution A4-15, on commercial rights in international air transport under Articles 5 and 6 of the Chicago Convention, had directed the Council to give priority to the question of the definition of a "scheduled international air service." The Air Transport Committee devoted considerable time during the fall of 1950 to a discussion of the elements to be included in such a definition, deciding that a scheduled international air service was one that met all the following criteria

a. Consisting of a recognizably systematic series of flights,
b. Serving two or more places or traffic areas, which considering relevant characteristics of the service, are materially the same,
c. Which is operated for remuneration of any kind,
d. Which is open to use by members of the public who from time to time seek to take advantage of it, for the transport of passengers, mail, or cargo, and
e. Which operates irrespective of payload on any individual flight within the series.

It was agreed that the definition which the Secretariat was directed to draft incorporating these elements and the accompanying commentary would have a tentative status pending a decision on the meaning and application of Article 5. The Committee also examined during its fall session the Secretariat's "Analysis of the Rights Conferred by Article 5" along with the comments of contracting States thereon and directed the Secretariat to make certain changes.

The Air Transport Committee and the Council approved a communication to the Universal Postal Union on the costs of transporting international air mail in relation to principles for determining transportation charges. Prior to final approval of this communication, a working group of the Air Transport Committee had been appointed to consider the comments of contracting States on the draft communication prepared last June.

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5 Scheduled to be convened in Paris on June 26, 1951.
6 Held in Istanbul, Turkey, October 17-November 7, 1950.
7 Held in New Delhi, November 23-December 14, 1948.
8 ICAO Doc. 6894, AT 694. 26/8/49.
9 ICAO Doc. 7080, C/819, 7/12/50.
INTERNATIONAL

Burdensome Insurance Resolution

The Council approved the following resolution on burdensome insurance requirements:

"THE COUNCIL RESOLVES:

(1) If the laws of a Contracting State require persons engaged in international operation of aircraft into or over the territory of that State to maintain insurance against risks arising out of the conduct of such operations, those requirements should be deemed to be satisfied if the operator has effected insurance to the extent required by the State, with a financially responsible insurer domiciled in any Contracting State and entitled to insure such risks, and able to pay indemnities in the national currency of the State requiring such insurance.

(2) No Contracting State should require the submission of more than the following evidence that its requirements as to such insurance have been satisfied:

(a) A certificate from the insurer that the insurance has been effected for a stated period and that the State will be notified prior to any cancellation of the insurance;

(b) In the event of any reasonable doubt on the part of the State evidence from the insurer as to his financial responsibility and as to his ability to pay indemnities in the national currency of the State; and

(c) A certificate issued by the appropriate governmental authority exercising regulatory powers in insurance matters in the State in which the insurer is domiciled (or where the State itself has no regulatory powers in insurance matters, the highest political sub-division thereof having such powers) that he is entitled to effect such insurance.

(3) As used in this Resolution, the word "insurer" includes a group of insurers, and where a group is involved the domicile of the insurer shall be deemed to be the head under-writing office of the group."

This resolution had been approved in substantially the same form by the Air Transport Committee last year, but the United Kingdom Representative had requested postponement of Council action because his Government had desired to investigate the possibility of enlarging the scope of the resolution to include forms of security other than insurance. The United Kingdom had later concluded that such an attempt to expand the resolution was not worthwhile at this stage.

On the basis of recommendations of its Joint Support Committee, the Council approved the various contributing States' assessments for calendar year 1951 to cover the joint support of international air navigation services in Iceland, Greenland and the Faros. The Committee and the Council decided that there was not sufficient interest by States in the observation station on the Greenland Ice Cap (pioneered by Dr. Paul Victor, a Frenchman) to warrant its inclusion as a new service in the Greenland project but did approve inclusion in the project, retroactively to June 1, 1950, the weather services being provided by the Danes at Egedesminde. States contributing to the Greenland project are being solicited regarding their willingness to have included in the project at a later date the radio aids at Prins Christianssund.

The Joint Support Committee and the Council approved expansion of the Icelandic Joint Support Project so as to include maintenance and operation at Keflavik of a main meteorological office and an upper air observation program as from April 1, 1951 and July 1, 1951 respectively. Both these services were previously operated by the United States Government, but will now be turned over to Iceland for operation under the joint support arrangement. Iceland’s proportionate share of the entire Icelandic project was reduced by the Council from 17¼% to 12% for the calendar year 1951 on the basis that Iceland’s proportionate benefits had decreased.
THE interests of the world's airlines in present and proposed international public and private air law were exhaustively reviewed by the Sixth Annual General Meeting of IATA at San Francisco in October, 1950, by the Association's Legal Committee and its Warsaw Convention Special Committee.

Rome and Collisions Conventions

Adoption of the latest revision of the Rome Convention, which at the time of writing is before the ICAO Legal Committee at Mexico City for final action, was endorsed in principle by the IATA Legal Committee. It was considered highly desirable that the liability of the carrier to a third party be definitely established and its limitations spelled out. The Committee said that the risk which air carriers run at present without having a Convention providing liability limitation might prove to be catastrophic, considering the number of States where absolute liability without limitation is the rule for surface damage.1

The IATA Legal Committee also urged that provisions of any new convention on aerial collision be based on those in the Rome Convention. It opposed proposals that collision liability be put on a sliding scale according to the weight of the aircraft concerned, pointing out that under certain circumstances, the damage potential of a small aircraft might be just as great as that of larger equipment. The committee outlined six broad principles upon which it felt such a convention should be based and which will be found in the IATA Bulletin.

Interchange of Aircraft

At the request of the 1949 Annual General Meeting of IATA, the Legal Committee reported that it had found that the establishment of an international registry of aircraft, as an aid to interchange between operators, would be impracticable. Numerous important international and national regulations are based on the national registration of aircraft, the Committee said, and the establishment of an international register would involve an extensive revision of these, as well as the possible establishment of controlling agencies.

Generally, it added, no difficulties would arise if aircraft were chartered complete with crew by one operator to another; but complications would occur where national laws prevent or limit the use by an operator of a foreign registered aircraft or of crews holding foreign licenses.

The Committee foresaw no particular difficulties in the way of a limited form of interchange in which companies would exchange aircraft without crew on short notice and for short periods, under pooling agreements and where two or more companies operate the same aircraft on connecting routes, provided all national requirements for licensing, maintenance, etc., were met. If such interchange were to take place frequently, however, the Committee felt that a convention of limited scope might be possible.

Accident Investigation and Traffic Matters

Immediate access by aircraft operators and manufacturers involved to the scene of accidents was stated by the Committee to be essential. The

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1 Reports of these two bodies, which have been reprinted in full in IATA Bulletin No. 12, were accepted and approved by the General Meeting and form the basis of IATA's legal activity during the current year.
Committee pointed out that the proposed Annex to the Chicago Convention entitled “Aircraft Accident Inquiry” did not permit such access, either to the scene of the accident or to the official investigation and the evidence taken thereat, and strongly recommended that IATA continue to urge ICAO to modify its position in this regard.

The adjustment of a number of legal questions in conference with representatives of the Air Transport Association of America has made possible the coordination of domestic U.S. and international airline tickets and exchange orders, the Committee reported.

The Legal Committee also joined forces with an earlier recommendation by the IATA Financial Committee for the elimination of multiple and discriminatory taxation. It recommended that IATA and its members jointly urge government and international organizations to provide relief by domestic legislation granting exemptions unilaterally on a reciprocal basis, and by bilateral agreements.

**Warsaw Convention**

The Warsaw Convention Special Committee of IATA recommended that the airlines continue to oppose a revision of the Convention on the grounds that it would be premature and undesirable. They pointed out that the devaluation of currencies in many countries in September, 1949, had in effect constituted a change in the Convention, in that the actual monetary value of the maximum liability limit of 125,000 gold francs had considerably appreciated as a result.

At the same time, the IATA Committee recommended that airline studies of changes in the Convention should be continued, and laid before the meeting for comment proposed statements of position on a number of points.

Inclusion in the convention of a separate chapter of legal definitions would be undesirable and confusing, they said, since from a practical point of view, this Convention must be construed by many men who are not lawyers. Legal definitions will therefore tend to cause unnecessary trouble.

They urged that the Convention be given the widest possible geographical scope so that it would apply to any airline flight whose actual or intended destination is in a country other than the one from which it takes off. The committee said this suggestion goes further than any concrete recommendation heretofore made.

They also recommended that the Convention should apply to all carriers of persons or goods, including experimental, trial or free flights, in international traffic. At the same time, they felt that a revision would make it clear that carriers have no liability toward stowaways and recommended that liability toward company personnel be more clearly defined.

Any revision of the Convention, the report said, should take into account the possible introduction of negotiable air waybills by the airlines.

In the interest of uniformity, the committee advocated that coverage of the Convention should apply to cargo and baggage from the time it is put into the carrier's charge until it is given back to the owner or his agent, and to passengers when on incidental transport operated by the airline, such as bus from town center to airport.

Present provisions of the Convention subjecting carriers to unlimited liability where willful misconduct can be proved against them or agents should be eliminated from the Convention, the committee recommended.

The present willful misconduct clause, they said, constitutes an unfair, discriminatory and unwarranted sanction against the carrier and has invited unnecessary and expensive litigation, thereby increasing the cost to the general public of air transport. They pointed out that the basic idea of the convention is that carriers accept the burden of proof of showing that
their fault did not cause the damage in return for a real and effective limitation of liability.

They also suggested a provision that carriers are not responsible for delay or deviation of route, unless it can be proved that they were unreasonable.

The committee advocated that the presently prescribed limits of liability in terms of gold francs be retained, and urged that all parties to the lease or charter of an aircraft should be considered jointly covered and severally covered by the Convention.

If ICAO decides to proceed with the revision of the Convention, the report said, changes should be adopted in the form of a protocol covering the limited number of necessary points. To submit an entirely new substitute convention to the world's governments would lessen the present uniformity of the Convention's application, it added.

MEXICO DRAFT CONVENTION ON DAMAGE CAUSED BY FOREIGN AIRCRAFT TO THIRD PARTIES ON THE SURFACE

Editor's Note—The seventh session of the Legal Committee of ICAO, held in Mexico City, January 2 to January 24, 1951, adopted as a final draft the following convention as a revision of the Rome Convention (the Taormina draft is printed in 17 J. AIR L. & COM. 194 and the draft of the Fourth Session of the ICAO Assembly is printed in 17 J. AIR L. & COM. 328) together with the following resolution to the ICAO Council:

"THE LEGAL COMMITTEE CONSIDERS that the draft of the convention on damage caused by foreign aircraft to third parties on the surface is a final draft in so far as the Committee is concerned; DECIDES to transmit to the Council the draft, together with a report by the Chairman and

"RECOMMENDS TO THE COUNCIL (a) that the final draft and, as soon as they are ready, the minutes of the session, be circulated to contracting States and to such other States and International Organizations as may be determined by the Council; (b) that, in circulating the draft, the Council do so with such comments as it deems appropriate and that an opportunity be afforded to States and Organizations to submit comments to ICAO within a period of four months from the date of transmission, if they consider it appropriate; (c) that any comments received be circulated immediately to States and Organizations; (d) that subject to a possible decision by the Council, based on other than legal grounds, to postpone it or take some other action, a conference or a special Assembly be convened during the month of September 1951 for the consideration of the draft convention with a view that the convention approved by the conference or the special Assembly be opened to signature and ratification or adherence by contracting States and such other States as the conference or the Assembly may determine; (e) that, as regards the place of a conference, as one or more invitations may be received, consideration be given to any such invitation."

CHAPTER I—PRINCIPLES OF LIABILITY

Article 1

(1) Any person who suffers damage on the surface shall, upon proof only that the damage was caused by an aircraft in flight or by any person or thing falling therefrom, be entitled to compensation as provided by this Convention. Nevertheless there shall be no right to compensation if the damage is due to noise or the normal flight of aircraft through the airspace, or if the damage cannot be considered as a direct consequence of the incident giving rise to the damage.
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(2) For the purposes of this Convention, an aircraft is considered to be in flight from the moment when power is applied for the purpose of actual take-off until the moment when the landing run ends. In the case of an aircraft lighter than air, the expression “in flight” means the period from the moment when it is detached from the surface until it becomes attached thereto.

**Article 2**

(1) The liability for compensation contemplated by Article 1 of this Convention shall attach to the operator of the aircraft.

(2) (a) For the purposes of this Convention the term “operator” shall mean the person who was making use of the aircraft at the time the damage was caused, provided that if control of the navigation of the aircraft was retained by the person from whom the right to make use of the aircraft was derived, whether directly or indirectly, that person shall be considered the operator.

(b) A person shall be considered to be making use of an aircraft when he is using it personally or when his servants or agents are using the aircraft on his behalf while performing functions for which they were employed, whether or not within the scope of their authority.

(3) The registered owner of the aircraft shall be presumed to be the operator and shall be liable as such unless, in the proceedings for the determination of his liability, he proves that some other person is the operator and procures the joinder of such other person in the proceedings if such joinder is legally possible under the law of the court having jurisdiction.

**Article 3**

If the person who was the operator at the time the damage was caused had not the exclusive right to use the aircraft for a period of at least 30 days, dating from the time when such right commenced, the person from whom that right was derived shall be liable jointly and severally with the operator, each of them being bound in accordance with the provisions of this Convention.

**Article 4**

(1) A servant or agent of an operator who makes use of an aircraft of his principal while performing functions for which he was employed, but outside the scope of his authority, shall be jointly and severally liable with the operator, each of them being bound in accordance with the provisions of this Convention.

(2) Where a person makes use of an aircraft as operator without the consent of the person entitled to its navigational control, the latter shall be liable for damage caused on the surface unless he proves that he has taken proper measures to prevent such use or that it was impossible for him to do so. In default of such proof he shall be liable jointly and severally with the unlawful user, each of them being bound in accordance with the provisions of this Convention.

**Article 5**

There shall be no right to compensation under the provisions of this Convention if the damage is the direct consequence of armed conflict or civil disturbance, or if a person liable under the provisions of this
Convention has been deprived of the use of the aircraft by act of public authority.

Article 6

(1) No person who would otherwise be liable under the provisions of this Convention shall be liable for damage if he proves that the damage was caused solely through the negligence or other wrongful act or omission of the person who suffers the damage. When the damage is contributed to by the person who suffers the damage, the liability shall be reduced to the extent to which the person liable proves that the damage was contributed to by the negligence or other wrongful act or omission of the person who suffers the damage.

(2) The expression “person who suffers the damage” for the purpose of this Article, shall include the servants or agents of such person, when acting within the scope of their authority, and a person whose death or injury is asserted to give rise to damage.

Article 7

When damage for which a right to compensation is granted by Article 1 has been caused by two or more aircraft, the operators of the aircraft concerned shall be liable jointly and severally to the extent to which their obligations are concurrent; and for the excess each shall be liable up to the limit applicable to his own aircraft.

Article 8

The persons referred to in paragraph (3) of Article 2, Article 3 and paragraph (1) of Article 4, shall be entitled to all defences which are available to an operator under the provisions of this Convention.

Article 9

Neither the operator, the owner, any person liable under Article 3, nor their respective servants or agents, shall be liable for damage on the surface caused by an aircraft in flight or any person or thing falling therefrom otherwise than as expressly provided in this Convention, except in the case of such a person who is guilty of an act or omission done with intent to cause damage.

Article 10

Nothing in this Convention shall prejudice the question whether a person liable for damage in accordance with this Convention has a right of recourse against any other person.

Chapter II—Extent of Liability

Article 11

(1) Subject to the provisions of Articles 12 and 13, the liability for damage contemplated in Article 1, for each aircraft and incident, in respect of all persons liable under this Convention, shall not exceed:

(a) 500,000 francs for aircraft weighing 2,000 kilograms or less;
(b) 1,500,000 francs for aircraft weighing more than 2,000 kilograms, but not exceeding 6,000 kilograms;
(c) 1,500,000 francs, plus 125 francs per kilogram over 6,000 kilograms in weight of the aircraft, up to a maximum of 10,000,000 francs.
The liability in respect of loss of life or personal injury shall not exceed 300,000 francs per person killed or injured.1

"Weight" means the maximum weight of the aircraft authorized by the certificate of airworthiness for take-off, excluding the effect of lifting gas, when used.

The sums mentioned in francs in this Article refer to a currency unit consisting of 65½ milligrams of gold of millesimal fineness 900. These sums may be converted into national currencies in round figures.

Article 12

If the person who suffers damage proves that it was caused by a deliberate act or omission of the operator, his servants or agents, done with intent to cause damage, the liability of the operator shall be unlimited, unless such act or omission was done with the object of avoiding greater damage, or unless, in the case of an act or omission of the servants or agents concerned, the operator proves that it was done without his express authority.

If a person wrongfully takes and makes use of an aircraft without the consent of the person entitled to use it, his liability shall be unlimited.

Article 13

Whenever, under the provisions of Article 3 or of Article 4, two or more persons are jointly and severally liable for damage, or a registered owner who was not the operator is made liable as such, as provided in paragraph (3) of Article 2, the persons who suffer damage shall not be entitled to compensation greater than the highest single indemnity recoverable under Article 11.

When the provisions of Article 7 are applicable, the person who suffers the damage shall be entitled to be compensated up to the aggregate of the limits applicable to each of the aircraft involved, but no operator shall be liable for a sum in excess of the limits applicable to his aircraft unless his liability is unlimited under the provisions of Article 12.

Article 14

If the total amount of the claims established exceeds the limit of liability applicable under the preceding Articles, an allocation shall be made according to the following rules, taking into account the provisions of paragraph (2) of Article 11:

(a) If the claims are exclusively in respect of loss of life or personal injury or exclusively in respect of damage to property, such claims shall be reduced in proportion to their respective amounts.

(b) If the claims are both in respect of loss of life or personal injury and in respect of damage to property, one-half of the total sum distributable shall be appropriated preferentially to meet claims in respect of loss of life or personal injury and, if insufficient, shall

1 The foregoing limits of liability convert to U.S. dollars at the present rate of exchange for the French gold francs specified in the Convention, and to pounds, as follows:

(a) $33,162.50 for aircraft weighing 4,409.2 pounds or less;
(b) $99,487.50 for aircraft weighing more than 4,409.2 pounds, but not exceeding 13,227.6 pounds;
(c) $99,487.50, plus $3.76 per pound over 13,227.6 pounds in weight of the aircraft, up to a maximum of $663,250.00.

(2) The liability in respect of loss of life or personal injury shall not exceed $19,897.50 per person killed or injured.
be distributed proportionally between the claims concerned. The remainder of the total sum distributable shall be distributed proportionally among the claims in respect of damage to property and the portion not already covered of the claims in respect of loss of life and personal injury.

CHAPTER III—SECURITY FOR OPERATOR'S LIABILITY

Article 15

(1) Any Contracting State may require that the liability of the operator of an aircraft registered in another Contracting State, in respect of damage contemplated in Article 1 sustained in its territory, shall be secured by means of insurance up to the limit applicable according to the provisions of Article 11.

(2) The insurance shall be deemed satisfactory if it conforms to the provisions of this Convention and has been effected by an insurer, or group of insurers, authorized or permitted under the laws of the State where the aircraft is registered to effect such insurance and whose financial responsibility has been verified by that State.

(3) Instead of insurance, either of the following securities authorized by the State in which the aircraft is registered shall be deemed satisfactory if the security conforms to Article 17 of this Convention:

   (a) a cash deposit in a depository maintained by the State where the aircraft is registered or with a bank duly authorized or permitted to act as a depository by that State,

   (b) a guarantee given by a bank authorized or permitted to do so by the State where the aircraft is registered.

(4) The State overflown may also require that the aircraft shall carry a certificate issued by the appropriate authority of the State where the aircraft is registered certifying that insurance has been effected in accordance with the provisions of paragraph (2) of this Article, or that other security has been furnished in accordance with the provisions of paragraph (3) of this Article; unless a certified copy of such certificate has been filed with the appropriate authority designated by the State overflown. The form of such certificate is set out in the Annex of this Convention.

(5) Any requirements imposed in accordance with this Article shall be notified to the Secretary General of the International Civil Aviation Organization who shall inform each Contracting State thereof.

Article 16

(1) The insured or other party providing security for the liability of the operator may set up against claims by third parties, in addition to defences available to the operator, only the following defences:

   (a) that the damage occurred after the security ceased to be effective. However, if the security expires during a trip, it shall be continued in force until the next landing supervised by public authority, but no longer than twenty-four hours; and if the security ceases to be effective for any reason other than the expiration of its term, it shall be continued until the withdrawal of the certificate referred to in paragraph (4) of Article 15 becomes effective, but not beyond fifteen days after notification to the State where the aircraft is registered by the insurer or the guarantor that the security has ceased to be effective;
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(b) that the damage occurred outside the territorial limits provided for by the contract of insurance or guarantee, unless flight outside of such limits was caused by force majeuré, assistance justified by the circumstances, or an error in piloting, operation or navigation.

(2) Without prejudice to any right of direct action which he may have under the law governing the contract of insurance or guarantee, the person suffering damage may bring a direct action against the insurer or guarantor in cases where the liability of the latter is extended, under the provisions of paragraph (1) of this Article, for the benefit of the person suffering damage. He shall also have a right of direct action against the insurer or guarantor in case of the operator's bankruptcy.

(3) The provisions of this Article shall not prejudice the question whether the insurer or guarantor has a right of recourse against any other person.

Article 17

(1) If security in a form other than insurance is furnished it shall be specifically and preferentially assigned to payment of claims under the provisions of this Convention.

(2) The Security shall be deemed sufficient if, in the case of an operator of one aircraft, it is in an amount equal to the limit applicable according to the provisions of Article 11, and in the case of an operator of several aircraft, if it is for an amount not less than the aggregate of the limits of liability applicable to the two aircraft subject to the highest limits.

(3) As soon as notice of a claim has been given to the operator, the amount of the security shall be increased to a total sum equivalent to (a) the amount of the security then required by paragraph (2) and (b) the amount of the claim not exceeding the limit of liability applicable to the aircraft causing the damage. This increased security shall be maintained until the claim has been disposed of.

Article 18

The claim of an operator against an insurer or guarantor shall be exempt from seizure and execution by creditors until claims of third parties under this Convention have been satisfied.

CHAPTER IV—RULES OF PROCEDURE AND LIMITATION OF ACTIONS

Article 19

If a claim for compensation is not made against the operator within twelve months from the date of the incident which caused the damage, the claimant shall only be entitled to compensation out of the amount for which the operator remains liable after all claims made within that period have been met in full, subject to the limits provided by paragraph (2) of Article 11.

Article 20

(1) Actions against any person from whom payment of compensation may be claimed under the provisions of this Convention may be brought only before the courts of the place where the damage occurred. However, upon agreement between all persons who have made claims for compensation within the period contemplated by Article 19 and the persons from whom payment of compensation may be claimed under the provisions of this Convention all actions in respect of such claims may be brought before the courts of any Contracting State.
(2) Each Contracting State shall take all necessary measures to ensure that the defendant and all other parties interested are notified of any proceedings concerning them and have a fair and adequate opportunity to defend their interests.

(3) Each Contracting State shall so far as possible ensure that all actions arising from a single incident and brought in accordance with paragraph (1) of this Article are consolidated for disposal in a single proceeding before the same court.

(4) Where any final judgment is pronounced by a competent court in conformity with this Convention, whether in the presence of the parties or in default of appearance, on which execution can be issued according to the procedural law of that court, the judgment shall be enforceable, upon compliance with the formalities prescribed by the laws of the Contracting State where execution is applied for,

(a) in the Contracting State where the judgment debtor has his residence or principal place of business or,

(b) if the assets available in that State and in the State where the judgment was pronounced are insufficient to satisfy the judgment, in any other Contracting State where the judgment debtor has assets.

(5) The merits of the case may not be reopened in proceedings under paragraph (4) of this Article.

(6) The provisions of paragraph (4) of this Article shall not be deemed to require the issue of execution if the court applied to for execution is satisfied that:

(a) the judgment was given by default and that the defendant did not acquire knowledge of the proceedings in sufficient time to act upon it;

(b) the defendant was not given a fair and adequate opportunity to defend his interests;

(c) the judgment is in respect of a cause of action which has already, as between the same parties, formed the subject of another judgment which is recognized under the law of that court is final and conclusive;

(d) the judgment has been obtained by fraud of any of the parties;

(e) the right to enforce the judgment is not vested in the person by whom the application for execution is made;

(f) the judgment is one which is contrary to the public policy of the State in which that court is located.

(7) If, in proceedings brought according to paragraph (4) of this Article, execution of any judgment is refused on any of the grounds referred to in sub-paragraphs (a), (b), (d), or (f) of paragraph (6) of this Article, the claimant shall be entitled to bring, before the courts of the State where execution has been refused, a new action for compensation not exceeding the amount adjudicated to him in the previous judgment. In such new action the previous judgment shall be in a defence only to the extent to which it has been satisfied. The previous judgment shall cease to be enforceable as soon as the new action has been started.

The right to bring a new action under this paragraph shall, notwithstanding the provisions of Article 21, be subject to a period of limitation of one year from the date on which the claimant has received notification of the refusal to execute the judgment.

(8) Notwithstanding paragraph (4) of this Article, the court applied to may refuse execution until final judgment has been given on all claims
filed within the one year period referred to in Article 19 if it is evident that judgments exceeding in aggregate the limits of liability prescribed in this Convention might be entered, and shall not be obliged to execute judgments exceeding in aggregate the relevant limit until they have been reduced in accordance with Article 14 by the courts of the State where the actions were brought.

(9) Where a judgment is rendered enforceable under this Article, payment of costs recoverable under the judgment shall also be enforceable. Nevertheless the court applied to for execution may, on the application of the judgment debtor, limit the amount of the costs to a sum equal to ten per cent of the amount for which the judgment is rendered enforceable.

(10) Interest not exceeding four per cent per annum may be allowed on the judgment debt.

(11) A judgment to which this Article applies shall only be enforceable within five years from the date on which it became final.

Article 21

(1) Actions for compensation under this Convention shall be subject to a period of limitation of two years from the date of the incident which caused the damage.

(2) The grounds for suspension or interruption of the period referred to in paragraph (1) shall be determined by the law of the court trying the action; but in any case the right of action shall be extinguished on the expiration of three years from the date of the incident which caused the damage.

CHAPTER V—APPLICATION OF THE CONVENTION AND GENERAL PROVISIONS

Article 22

(1) This Convention applies to damage contemplated in Article 1 caused in the territory of a Contracting State by an aircraft registered in another Contracting State.

(2) For the purpose of this Convention a ship or aircraft on the high seas shall be regarded as part of the territory of the State in which it is registered.

Article 23

This Convention does not apply to damage caused to an aircraft in flight, or to persons or goods on board such aircraft.

Article 24

This Convention shall not apply to damage on the surface if liability for such damage is regulated either by a contract of carriage between the person who suffers such damage and the operator or the person entitled to use the aircraft at the time the damage occurred, or by a contract of employment between such persons.

Article 25

This Convention does not apply to damage caused by military, customs or police aircraft.
Contracting States will, as far as possible, facilitate payment of compensation under the provisions of this Convention in the currency of the State where the damage occurred.

For the purposes of this Convention:

"Territory of a State" means the metropolitan territory of a State and all territories for the foreign relations of which that State is responsible, subject to the provisions of Article 35.

"Person" means any natural or legal person, including a State.

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

"Normal flight" means flight which, having regard to the prevailing conditions is in conformity with existing air traffic regulations.

If legislative measures are necessary in any Contracting State to give effect to this Convention, the Secretary General of the International Civil Aviation Organization shall be informed forthwith of the measures so taken.

As between Contracting States which are also parties to the International Convention for the Unification of Certain Rules relating to Damage caused by Aircraft to Third Parties on the Surface opened for signature at Rome on the 29 May 1933, the present Convention supersedes the said Convention of Rome.

This Convention shall remain open for signature until it comes into force in accordance with the provisions of Article 31.

(1) This Convention shall be subject to ratification by the signatory States.

(2) The instruments of ratification shall be deposited in the archives of the International Civil Aviation Organization, which shall give notice of the date of deposit to each of the signatory and adhering States.

(1) As soon as ——— of the signatory States have deposited their instruments of ratification of this Convention, it shall come into force between them on the ninetieth day after the date of the deposit of the ——— instrument of ratification. It shall come into force, for each State which deposits its instrument of ratification after that date, on the ninetieth day after the deposit of its instrument of ratification.

(2) The International Civil Aviation Organization shall give notice to each signatory State of the date on which this Convention comes into force.

(3) As soon as this Convention comes into force, it shall be registered with the United Nations by the Secretary General of the International Civil Aviation Organization.
Article 33

(1) This Convention shall, after it has come into force, be open for adherence by non-signatory States.

(2) Adherence shall be effected by the deposit of an instrument of adherence in the archives of the International Civil Aviation Organization, which shall give notice of the date of the deposit to each signatory and adhering State.

(3) Adherence shall take effect as from the ninetieth day after the date of the deposit of the instrument of adherence in the archives of the International Civil Aviation Organization.

Article 34

(1) Any Contracting State may denounce this Convention by notification of denunciation to the International Civil Aviation Organization, which shall give notice of the date of receipt of such notification to each signatory and adhering State.

(2) Denunciation shall take effect six months after the date of receipt by the International Civil Aviation Organization of the notification of denunciation.

Article 35

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

(2) The International Civil Aviation Organization shall give notice of any such declaration to each signatory and adhering State.

(3) With the exception of territories in respect of which a declaration has been made in accordance with paragraph (1) of this Article, this Convention shall apply to all territories for the foreign relations of which a Contracting State is responsible.

(4) Any Contracting State may adhere to this Convention separately on behalf of all or any of the territories regarding which it has made a declaration in accordance with paragraph (1) of this Article and the provisions of paragraphs (2) and (3) of Article 32 shall apply to such adherence.

(5) Any Contracting State may denounce this Convention, in accordance with the provisions of Article 33, separately for all or any of the territories for the foreign relations of which such State is responsible.

Article 36

(1) When the whole or part of the territory, to which this Convention applies, of a Contracting State is transferred to a non-Contracting State, or when part of such territory becomes an independent State responsible for its own foreign relations, this Convention shall cease to apply to the territory so transferred or becoming an independent State as from the date of the transfer or achievement of independence.

(2) When the whole or part of the territory, to which this Convention applies, of a Contracting State is transferred to another Contracting State, this Convention shall, as from the date of such transfer, apply to the territory so transferred as part of the territory of the Contracting State to which it has been transferred.
IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Convention.

DONE at........................................... on the...........................................
day of the month of........................................... of the year.................. in the English, French and Spanish languages, each text being of equal authenticity.

This Convention shall be deposited in the archives of the International Civil Aviation Organization where, in accordance with Article 29, it shall remain open for signature.

ANNEX TO THE CONVENTION

Certificate of Insurance, Guarantee or Deposit

It is hereby certified that the aircraft with Registered Number............. has been duly insured for the period from......................... to

........................................... for flights over the following territories...........

........................................... against the risks of liability of the operator contemplated by the Convention

of ........................................... in accordance with the provisions of, and up to the limit specified in, the said Convention as appropriate to the said aircraft, with an insurer or group of insurers authorized or permitted by the State of Registry of the said aircraft, and whose financial responsibility has been verified by that State; or that, for the same period, and in respect of the same territories, such risks of liability have been properly secured by guarantee or deposit, as alternatively required by the said Convention and authorized or permitted by the State of Registry of the said aircraft.

Signed...........................................

An authorized official on behalf of

...........................................
(State of Registry of the Aircraft)

Date...........................................

Place...........................................