1938

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Recommended Citation
James L. Brown, Pan American Cooperation in Aeronautics, 9 J. Air L. & Com. 468 (1938)
https://scholar.smu.edu/jalc/vol9/iss3/3

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PAN AMERICAN COOPERATION IN AERONAUTICS

JAMES L. BROWN*

A very definite step forward in cooperative effort with respect to aviation between countries, members of the Pan American Union, was made at the Inter-American Technical Aviation Conference held at Lima, Peru, September 15-25, 1937. Marking another milestone following the action taken at the Sixth International Conference of American States held at Habana, Cuba, January 16 to February 20, 1928, where the convention on commercial aviation was signed by all the countries of the union at the closing session, it indicated the trend toward better world relationships in this new means of transportation which has grown in leaps and bounds during the past decade.

Although the Lima conference pointed toward the need of a universal understanding of international air navigation problems and of a uniformly accepted solution therefor, it did not fail to recognize the existence of situations requiring special study by the countries of the Pan American Union. The work of the conference was not predicated upon a policy of isolation for the countries of this hemisphere but rather contemplated a consideration of those matters not only of interest to the countries of America but to other nations as well.

AVIATION EARLY RECOGNIZED AS AN AID TO COMMERCE

One of the first movements toward inter-American cooperation in aviation was made by the second Pan American Commercial Conference which was held in Washington, D. C., June 2-6, 1919. The third day of the conference opened with a consideration of the topic: Shipping; and Other Transportation, Including Aviation. The inclusion of this subject in the program of the conference was an indication of the views entertained by many at that time that aviation was destined to play an important part in inter-American commerce. That it was to be given some attention in a meeting of nations called to facilitate their commercial interests is significant. Its newness as a medium of commerce may be seen from the

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opening or introductory remarks of Mr. John Barrett, director general of the Pan American Union, as follows:

"... When we had the last Pan American Conference eight years ago, if anyone had suggested that one of the prominent features on the program should be aviation as an aid to commerce, they would have said 'you are crazy.' But now it is before us in a most practical way. I wish we had more time, a whole session to devote to the consideration of this subject."

The use of the airplane as an instrument of transporting cargo and for other commercial purposes was indicated in the discussion at this session. Mr. L. H. Lipman of New York City, representing the manufacturer of Sapolio, speaking of the practical benefits that will result from aviation called attention to the fact that his company had made a shipment of its product from Key West to Cuba by airplane. It was also stated by another speaker that other large companies, realizing the tremendous advertising value which that means of selling would have, were considering sending their salesmen out in airplanes. It was further said that the Standard Oil Company had bought six ships to go along the border of Mexico for taking the pay roll around to the different oil companies.¹

Three papers on the subject of aviation were read at this session as follows:

"Aviation as an Aid to Pan American Commerce" by Augustus Post, Secretary of The Aero Club of America.

"The Value of Aircraft in Commerce" by Captain Charles J. Glidden, Air Service, U. S. A.

"Development of Aviation in the United States" by Captain Max L. McCullough, Air Service, U. S. A.

The discussion which followed the addresses of these men who were eminently fitted to bring before the conference the tasks assigned to them is indicative of the lively interest displayed by those present if it disclosed the somewhat nebulous views in the minds of some as to the role aviation was to play in inter-American commerce in the future. The inability to foresee any measurable degree of increase in commerce through this new means of transportation was manifest, but at least there was some evidence to indicate that aviation was destined to play a part in Pan American commercial relationships.

FORERUNNERS IN AMERICAN AVIATION COOPERATION

The second commercial conference referred to above has often been styled the beginning of inter-American cooperative effort in aviation. This may be more or less true, but it is a fact that this conference was not the first in which delegates from the American countries came together to discuss cooperation in this field. There were at least two earlier conferences, the first being held at Santiago, Chile, March 9-18, 1916, which was attended by representatives from Argentina, Bolivia, Ecuador, United States of America, Peru, Paraguay, and Uruguay. These delegates adopted various recommendations relative to air transportation legislation and resolved to constitute a Pan American Aeronautic Federation.3

A Second Pan American Aviation Conference was held at Rio de Janeiro in 1917. According to the Brazilian press at that time, Señor Alberto Santos Dumont together with the executive committee of the Brazilian Aero Club were actively engaged in perfecting the organization of the work of that conference.3 Another Pan American Aeronautic Conference was held in Santiago, Chile, in 1923.4

The advancement of aviation was now going forward in most countries of the world. International air travel was growing. Its importance as an instrument of international transportation was an accomplished fact. Many countries had adopted legislation on the subject and others were prepared to do so.

UNIFORMITY OF POLICY AND REGULATION RECOMMENDED

Visualizing difficulties that were likely to arise by reason of many factors connected with this new form of international transportation, the Fifth International Conference of American States, Santiago, Chile, March 25 to May 3, 1923, the first conference of this kind to consider aviation, gave earnest thought to that subject.

Agreement on the laws and regulations concerning, and cooperation in the improvement of the facilities of, communication on ocean and land and in the air, known as topic 5 of the conference was within the scope of the work of the communications committee. Part three of that topic was devoted to a consideration of policy, laws, and regulations concerning commercial air-

craft, the advisability of an international technical commission on the location of standard landing places, the determination of aerial routes, and the formulation of special custom procedure for aircraft.

The delegation of the United States on the committee submitted a proposal recommending the establishment of an Inter-American Technical Commission to consider the policy, laws, and regulations relative to commercial aviation. This proposal formed the basis of resolution number forty of the conference. The delegation of the United States on the committee submitted a proposal recommending the establishment of an Inter-American Technical Commission to consider the policy, laws, and regulations relative to commercial aviation. This proposal formed the basis of resolution number forty of the conference.6

In introducing the resolution before the conference the report from Mr. Barros Borgono, Chile, stated that the importance of this subject, and the development and notable progress attained by commercial aviation, made advisable the acceptance of the proposal for the study of those rules which should govern international aeronautics. It called attention to the convention for regulating Aerial Navigation signed at Paris, October 13, 1919, by twenty-seven of the Allied Powers which was later adhered to by certain Latin American countries. Stating that the United States accepted this convention with certain reservations but that neither Chile nor Argentina had thus far adhered to it, it reminded the convention that although differences of opinion existed regarding certain points of that covenant, in the opinion of some it contained rules and stipulations which might serve as a basis for aeronautic legislation. Attention was also called to a convention between Uruguay and Argentina regulating aerial navigation between these two republics.6

**Commission Meets to Study Inter-American Commercial Aviation**

In accordance with the provisions of resolution number forty referred to above, the Inter-American Commercial Aviation Committee met at Washington, D. C., May 2-19, 1927. Delegates from Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, El Salvador, Guatemala, Mexico, Panama, Peru, the United States, Uruguay, and Venezuela attended this meeting.

The United States proposed that "Each contracting State agrees that citizens, including partnerships and corporations, of the other contracting States shall have equal rights with those accorded to any aliens under the laws of such State to register and operate aircraft, provided that such companies or corporations comply with

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the requirements established by the internal legislation of such State for their formation and operation." The conference did not wish to pronounce any opinion on this proposal for the reason that it did not possess complete information on the legal situations in the various States and the obligations that the States may have contracted, and therefore recommended it to the governing board of the Pan American Union for study.

**Clearing House for Aviation Information**

Sensing the need of creating a central agency for the collection and dissemination among the Pan American countries, of data concerning aerial navigation and of cooperation between the several states in this regard, the commission recommended to the Pan American Union the following functions:

1. So far as may be practicable, to collect and disseminate among the States, members of the Union, information on technical problems concerning inter-American commercial aerial navigation;
2. To compile and communicate to the States, members of the Union, any available information relative to radio, meteorology, and medical science which may be of value for promoting and advancing aerial navigation;
3. To gather and communicate to the States, members of the Union, the available information on laws and regulations governing aerial navigation in force in the countries members of the Union;
4. To endeavor to promote uniform legislation on aerial traffic among the countries members of the Union;
5. To perform whatever other duties may be assigned to it by inter-American air conventions or agreements and by the international conferences of American States, in connection with inter-American aerial navigation.
6. To recommend to the Bureau of the Pan American Postal Union, with headquarters in Montevideo, the signing of agreements between the postal administrations of the countries, members of the Union, to provide facilities for and regulate the carrying of mail by aircraft.

A further resolution (number IV) recommends the simplification of customs, sanitary, and other formalities to facilitate the international navigation of aircraft.

**Action on Uniform Laws Postponed**

The commission was of the opinion that it was not opportune to enter upon the consideration of the draft laws and regulations referred to in paragraph 2 of the resolution number forty of the Fifth International Conference for the reason that its conclusions with respect to the proposed convention referred to in paragraph 4
of that resolution had not yet been accepted by the members of the Pan American Union, and because its conclusions left the partial regulation of aeronautics to each of the respective States. Among other accomplishments of the commission the most noteworthy is the draft of a convention recommended in the said paragraph 4 referred to above.\footnote{Text of Final Act, Bulletin Pan American Union, August, 1927, p. 751.}

During the time that the Inter-American Aviation Commission was in session, the Third Pan American Commercial Conference which met in Washington, D. C., May 2-5, 1927, had before it a topic of its agenda "transportation and inter-American commerce." Joint sessions were held between the two groups and when that topic was considered, an address was made by the Honorable William P. McCracken, Jr.\footnote{Report of the third Pan American Commercial Conference, Washington, D. C., May 2-5, 1927, pp. 108-113.} This address was limited to a very general discussion of the subject of inter-American Aviation and disclosed its limited development on this hemisphere at that time.

**First Multilateral American Aviation Treaty**

The Sixth International Conference of American States is of special interest to students in the field of inter-American aeronautics in that it adopted the first Pan American treaty on this subject. Topic III of the program of this conference was entitled, "problems of communication" and was considered by the committee on communications. Among the matter referred to this committee were the results of the work of the Inter-American Commission on Commercial Aviation which met in Washington, D. C., in 1927. In the deliberations\footnote{Report of the delegates of the United States of America to the Sixth International Conference of American States, Habana, Cuba, 1928.} of this committee the definition of private aircraft was the subject of discussion. A member of the Argentina delegation suggested the adoption of the definition of private aircraft contained in the international convention relating to regulation of aerial navigation, signed at Paris on October 13, 1919. A delegate of Colombia desired that aircraft under contract by a State or subsidized thereby, carrying both mail and passengers, should be considered private aircraft. There was discussion on this subject by the delegates of a number of countries, including Colombia, Peru, Chile, Panama, and the United States. With respect to an amendment presented by the United States delegation to article 31 of the project convention, a sub-committee was appointed to consider this and other amendments. This sub-committee desired to adopt the
definition of private aircraft contained in Article 30 of the Paris Convention with the addition of the words, "and naval," so that military aircraft would include both military and naval planes. It was also suggested that article 28 of the project convention relating to torts or crimes, etc., committed on aircraft in flight should be deleted from the convention and referred to the Committee on Private International Law. The sub-committee agreed to adopt the following proviso to article 31 of the project convention:

"Provided, however, that two or more states, for reasons of reciprocal convenience and interest may agree upon appropriate regulations pertaining to the operation of aircraft and the fixing of specified routes. These regulations shall guarantee quality of treatment of the aircraft of each and every one of the contracting states and shall be subject to the same conditions as are set forth in Article 5 of the Convention with respect to prohibited areas within the territory or a particular state.

"Nothing contained in this convention shall affect the rights and obligations established by existing treaties."

This proviso became Article 30 of the convention as finally signed by the delegates.¹⁰

**Development of Commercial Aviation between American Republics Urged**

The next commercial conference of the Pan American countries was that which convened at Washington, D. C., October 5-13, 1931, and like its two immediate predecessors which convened in the same city (1919 and 1927) it gave some attention to aviation. It considered several reports submitted by delegations from Chile, Colombia, and Brazil, and was addressed by Juan T. Trippe, president of the Pan American Airways, on Topic 10 of the conference which was devoted to "the development of commercial aviation in and between the American Republics."¹¹ In its third resolution which was also devoted to commercial aviation¹² the conference recommended the simplification of procedure relative to the arrival and departure of aircraft; the extension of every possible facility in the importation of aircraft apparatus including parts and accessories; the importation, free of duty, of fuel and lubricants required for aviation services; the examination of reduction of Federal, state and municipal taxes with respect to aircraft services; the maintenance without charge of beacon lights and communication stations;

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¹⁰ *Annex 3.*
¹¹ *Final Act, Fourth Pan American Commercial Conference, Washington, D. C., October 5-13, 1931.*
¹² *3 Journal of Air Law 104.*
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government assistance to aviation enterprises engaged in the transportation of passengers and merchandise at a financial loss; the establishment of aerodromes and airports and other aerial transportation facilities; and the encouragement of air mail service.

OFFENSES COMMITTED ON BOARD AIRCRAFT

On December 23, 1933, the Seventh International Conference of American States adopted a resolution (LIll) recommending the study by a Commission of experts, to be constituted in the manner and at the place to be designated by the Governing Board of the Pan American Union, of the means of further accelerating inter-American aviation by the establishment of a continuous line of radio stations, beacons, and aerodromes along lines of existing routes and others that may be considered desirable, and of the means to determine what additional methods may be devised to bring about more rapid inter-American aerial communication facilities.

It has been seen that the subject of torts or crimes, etc., committed on board aircraft was considered at the Sixth International Conference in Habana, when the project convention on commercial aviation was being considered by a subcommittee of the Committee on Communications, and that it was there referred to the Committee on Private International Law. The Seventh International Conference adopted the following resolution in this connection.

"1. The acts committed on board a private aircraft while it is in contact with the soil of a foreign State, fall within the competency of the Courts of that State, and shall be judged by its laws.

"2. Any aircraft without the boundaries of any State, on the high seas, is subject to the legislation and jurisdiction of its flag.

"3. If the offense be committed on an aircraft flying over a foreign State, its penalty shall come under the jurisdiction of that State, if the airship's next landing takes place in said State; otherwise the offense shall fall under the jurisdiction of the State where the next landing is effected. In this latter case, the legislation of the country over which the aircraft was flying when the offense was committed shall be applied; and, if it should be impossible to determine the territory over which the offense was committed, the legislation of the country to which the aircraft belongs shall be enforced.

"The pilot of aircraft in flight, to whom an offense is reported, shall effect a landing at the first known aerodrome and notify the competent authority. The summary of the case there made, shall determine the law to be applied.

4. In the case of damages effected from aircraft on persons or property of the underlying State, said State shall have competent jurisdiction in the matter and its legislation shall apply.

5. A State that does not concede extradition of its nationals, is obliged to punish them on their return to its territory after having committed on an aircraft an offense covered by its penal laws. In the case of a foreigner, the pertinent regulations of extradition shall be enforced.

(Mr. Wright placed on record that, as delegate of the United States of America, he abstained from voting on this question.)

"Furthermore, the Seventh Conference invites the different States to adhere to the Habana Convention, and recommends that its regulations be included in the Program of the Eighth International Conference of American States, and that all nations be urged to study the rules adopted at the Warsaw Convention."

Conference of Aerial Navigation Experts Recommended

The convocation of the Pan American Commercial Conference in Buenos Aires in 1935 was in accordance with the resolution of the Seventh International Conference at Montevideo. It considered those matters provided for in the topics of the program relating to aviation and which were included in its agenda. The second committee to which was assigned the subject of port facilities for the arrival, loading, unloading, and departure of ships and aircraft referred questions relating to aircraft to the fifth committee to which was assigned the subject of the improvement of land, maritime, fluvial, and aerial communications. This last committee organized a special sub-committee to deal with aviation matters. The conference adopted a convention relating to the transit of airplanes which was signed by the plenipotentiaries of Haiti, Mexico, Bolivia, Paraguay, Venezuela, Guatemala, Panama, Argentina, Nicaragua, Colombia, Brazil, Honduras, Costa Rica, Uruguay, and El Salvador. The plenipotentiaries of the Dominican Republic made a reservation. In addition to this convention eight resolutions with respect to aviation were adopted.

Panama had been designated by the Governing Board of the Pan American Union as the place for the convocation of the conference of aerial navigation experts but withdrew in favor of Peru. The Buenos Aires Conference accordingly recommended that the Pan American Union request the government of Peru to convene a

15. 5 JOURNAL OF AIR LAW 617 (1935).
16. 6 JOURNAL OF AIR LAW 615 et seq.
conference which should assemble in the city of Lima, giving express notice that the desire of the Buenos Aires Conference be realized at the earliest possible date and prescribing the topics to be considered by that conference. These topics included: (a) study of the expediency of adopting paragraph (annex) G of the International Aerial Navigation Convention by all the countries that have not done so, as well as the "Regulation of the Radio Electric International Service," for Aerial Navigation adopted as a guide by the CINA; (b) international aerial legislation; (c) coordination and regulation of aerial traffic; (d) standardization of the meteorological cooperation with respect to aeronautics; (e) the establishment of organizations and their coordination in order to centralize and distribute the information, as well as to regulate the radio electric service; and (f) the agenda prescribed in Resolution LIII of the International American Conference at Montevideo.17

Another resolution adopted by the conference called the attention of the governments of the Pan American Union to the researches of the International Technical Committee of Aerial Legal Experts (C.I.T.E.J.A.). Attention was also called in resolution XXXV to the desirability of ratifying the International Sanitary Convention for Aerial Navigation opened to signature at The Hague on April 12, 1933. The abolition of protective measures established in favor of national aerial transports was urged. A resolution with respect to the international transit of aircraft was incorporated in the convention referred to above. Additional resolutions were to the effect that the countries, members of the Pan American Union adopt the convention of Warsaw of October 12, 1929, for the unification of certain rules relating to international aerial transport as well as its amending convention which was adopted at Rome on May 29, 1935. The countries, members of the Pan American Union were urged to construct airports and unify their characteristics. It was recommended that the convention on commercial aviation signed at Habana, Cuba, February 20, 1928, should be carefully considered and ratified by those countries which had not already taken the latter action.

THE LIMA CONFERENCE—AN OUTSTANDING ACHIEVEMENT

One often hears complaint made of the numerous international conferences called to obtain a better understanding between nations.

It has been said that the multiplication of these gatherings tends toward confusion and a lessening of the hopes of reconciling divergent views. That these statements are unfounded may be seen by a glance at the record of many international conventions particularly those relating to aeronautics. Examining the accomplishments in international cooperation in aviation during the last two decades, we will observe greater progress in this field of international relations than perhaps in any other.

The most recent step in these relations as they pertain to the countries, members of the Pan American Union, was the technical aviation conference held in Lima, Peru, from September 15-25, 1937. We have seen that this meeting composed of experts in aviation was the result of the Resolution (LIII) of the Montevideo convention which directed the Pan American Union to designate a country to convene an aviation conference. It has been noted that Panama was requested to take such action but that it later deferred to Peru as the country in which the meeting would be held. The Buenos Aires Commercial Conference not only specified the place of meeting as Lima, Peru, but also extended the Agenda to be considered.

The Governments of Argentina, Bolivia, Brazil, Colombia, Chile, Ecuador, United States of America, Mexico, Panama, Peru, Uruguay, and Venezuela were represented at the Lima conference the work of which was divided among the committees and sub-committees of (a) coordination and initiatives; (b) legislation; (c) meteorological protection to aviation; (d) radio; and (e) aviation, touring, and aero-clubs.

That the scope and work of the conference was extensive can be observed by a glance at the thirty-two resolutions adopted during its closing days. Much was accomplished in regard to meteorological services and radio but by and large the creation of a Permanent American Aeronautical Commission (C.A.P.A.) was one of its most outstanding achievements.

**Permanent Aeronautical Commission Proposed by Peru**

The delegation of Peru presented the proposal which served as the basis for the resolution providing for the establishment of this commission. Known as proposal No. 13 it contained a somewhat detailed statement of steps taken since the World War to establish uniform regulations with respect to aerial navigation and

18. 9 Journal of Air Law 424 et seq. (1938).
briefly referred to accomplishments made in this regard through the conventions signed at Paris, 1919, Madrid, 1926, Warsaw, 1929, and Habana, 1928. It called attention to the efforts of the American Institute of Comparative Law and the International Juridical Committee on Aviation in the preparation of a draft of an international air code, and to the work of the International Commission for Air Navigation (C.I.N.A.), and the International Technical Committee of Aerial Legal Experts (C.I.T.E.J.A.).

In reminding the conference that aviation as a means of transportation has already created in America a real need for uniform standards in aerial navigation, this proposal called attention to two schools of thought in America, as follows:

"The reason for the creation of the C. A. P. A. is the fundamental importance of solving the existing conflicts among the American Republics, due to the different standards adopted in their respective legislation, this being caused in the majority of cases by some governments of this continent following the direction of Europe in the forming and development of their international air policy, adopting doctrines in accord with the characteristics and juridical features of the Convention of Paris of 1919; while other Governments follow the so-called "American School" which admits only the points of view of the Pan American Commercial Aviation Convention of 1928 and those of Pan American Conference.

Many of the existing conflicts are due to the fact that while the Convention of Paris establishes technical standards which are incorporated as annexes to the Convention itself, and created an International Air Navigation Commission (C.I.N.A.), the Havana Convention of 1928 does not provide annexes of such a nature, nor a centralizing body like the C.I.N.A. with consultative, administrative and legislative functions.

The most important conflicts which arise under both of these existing tendencies in America may be summarized by the following analysis of the aforesaid two Conventions, which studies the difficulties which must occur to American States that ratify both Conventions with respect to States that ratify one of them, and emphasizes the circumstances that would make impossible legislative uniformity for air navigation in America."

PARIS AND HAVANA CONVENTIONS COMPARED

The introductory statement to this proposal included a comparative statement of provisions of the Paris and Havana Conventions on (a) Certificates of Competency; (b) Recognition of Certificates of Airworthiness, Certificates of Competency and Licenses; (c) Uniformity in the Requirements for Certificates of Competency; (d) Uniformity of Aviation Laws and Regulations; (e) Collection and Distribution of Meteorological Information and Other Data; (f) Customs Laws and Airport Formalities; (g) Ex-
change of Data Referring to Registration and Cancellation of the Registration of Aircraft; (h) The Right to Reject Certificates of Competency and Licenses; (j) Radio Equipment; (j) Establishment of International Airways; and (k) Legal Seizure of Aircraft in Transit. To this statement the following conclusions were added:

"(a) That in the matter of air legislation there exist two defined tendencies in America, which agree with the peculiarities of juridic regulations of the two great international collective Conventions of Paris and Havana;

(b) That as concerns the standards generally admitted by the international community, there are no substantial differences between the fundamental principles of the two Conventions, which in the greater part of their text are similar;

(c) That the conflicts arise from the difference in application and a different process of legislative systematization;

(d) That both Conventions have created a characteristic jurisprudence in the contracting States in which custom and precedents have a strong influence;

(e) That this influence, given the present development of aviation and the marked differences in the tendencies noted, makes difficult the work of unification of international air law in the American countries;

(f) That in view of such a situation there is great need for the unification of the existing standards of international air law by means of the creation of an international organization and subordinate national organizations which, with their joint action, will fulfill the following functions:

1. Provide the administrative, legislative and judicial means necessary to assure the international unification of the standards of law and the judicial aspects of the aeronautical regime.

2. Compare the existing standards of air law of the various countries in order to study their similar points, affirming that the progressive development of aeronautics should be simultaneous with the evolution of its own juridic discipline; and

3. Arrive at definite conclusions by means of annual international meetings, in order to build up gradually and progressively, in accordance with American needs, the "Air Code" of the States of this Continent."

The text of the Peruvian proposal together with certain suggestions made by the delegation of the United States, and the proposal of Columbia was accepted by the conference and approved as Resolution I on September 25, 1937. Subparagraphs (b) and (c) of Article 1; subparagraph (c) of Article 10; and Articles 13, 14, and 15 were not included in that proposal. Article 5 as submitted by Peru read as follows:

"The first session of the C.A.P.A. shall take place as soon as possible at the city designated at Lima by the Technical Aviation Conference. The
following sessions shall be held annually and shall convene at the capitals of
the States of America by rotation in the order established by lots.”

Article 14 was proposed by Colombia as an addition to the
proposal of Peru.

World-wide Regulation Envisaged by Argentina

Argentina, in its proposal, suggested the establishment of a
committee charged with drafting an Air Code. This committee
was not to be permanent in character, and its duties would cease
after the draft had been prepared. The reason given for the
setting up of a temporary committee was based upon the view that
to continue its life would add to the already numerous committees
now in existence. With regard to conventions it reminded the
delegates that it would be disadvantageous to add more to those
already in existence for the reason that this would have a tendency
to delay international agreement. It also called attention to the
fact that any proposal for international regulation should not be
regional in character due to the universality of aviation.

The proposal of Argentina was as follows:

“1. To invite all the States, so that through their respective diplomatic
representatives accredited to the Government of ........, or through special
delegates which shall conciliate the differences between the distinct interna-
tional organs, and draft a project of an Air Code which may contemplate
the general aspiration to secure universal uniformity required for aerial
navigation;

2. To request the Government of ........ to assume the organization,
etc., of this Commission, in order that it may terminate its work before
the end of the calendar year 1938;

3. The same Commission shall study the method to transform into an
international document the Code which has been entrusted to it to draft.”

Uruguay Proposes Provisional Air Code Committee

The delegates of Uruguay submitted a proposal for the estab-
lishment of a committee to draft an air code. This committee like
the one suggested by Argentina would be organized for a limited
period and would be required to complete its work within one year
as is indicated in the following text:

“1. There shall be created a Provisional Air Code Committee, the
mission of which shall be the drawing up of a Pan American Code, destined
to govern continental aviation activities.

2. Said Code project or Inter-American Convention shall include two
parts; fundamental specifications, of public and private character, and speci-
fications of procedure.
3. There shall be given to the Committee, to be formed in accord with what is specified in Article 1, the function of specifying in the preliminary project which it is to draw up, the form in which said set of specifications shall be later modified in order to assure of its application and its constant up-to-dateness.

4. The Provisional Air Code Committee shall be made up of jurists and aviation experts named by each government.

5. The C. P. C. of A. (Provisional Air Code Committee) shall be divided into National Committees, which shall have as their mission the study of all the questions of juridic and technical character related to the set of laws to be formulated and shall keep in constant direct communication by means of the executive committee of the Provisional Committee, to be created by resolutions of this Conference.

6. Quarterly plenary meeting of the representatives of the National Committees shall be held, the first of which shall be held in the city of ...... on the ........ day of .......... 

7. The Provisional Air Code Committee shall have a maximum of one year from the date of its formation for submitting for the consideration and study of the Second Technical Aviation Conference, to be held in the city of ........, all the work done by said Committee and National Sub-committees, in order that at the end of the indicated period the First International Agreements on this matter may be signed.

**THREE COMMITTEES URGED BY BRAZIL**

Under the provisions of a plan submitted by Brazil three special commissions—juridical, administrative, and technical—would be established to draw up an air code under rules established by the Lima Conference. The code prepared by these commissions was to follow the standards established in the Paris and Havana Conventions, and the work done by the C.I.N.A. and the C.I.T.E.J.A. It must also contain the annexes of the Paris, 1919, Convention adapted to suit conditions in America.

The work of these commissions would be considered by a Second Inter-American Technical Aviation Conference to be convoked within three years after the close of the Lima Conference, for the purpose of adopting codes based upon such work.

Brazil recommended the establishment of a special technical committee to act as a “secretariat” and a connecting link between the American nations. That committee would do the preparatory work for the technical aviation conference. The plan also proposed that the Second Technical Aviation Conference should consider the possibility of having the American countries not parties to the Paris Convention cooperate with the C.I.N.A. in the technical work relative to the annexes.
Two Schools of Thought

The discussions of the delegates disclosed the general acceptance of the view that aviation is universal in scope and that there is a need for world-wide understanding regarding its regulation. As noted herein there was a definite indication of the existence of two schools of thought regarding the means of arriving at international rules. The proposals of Argentina and Peru and the comments of the delegates, including recommendations of Chile and the United States of America, present a clear conception of two points of view.

The Chilian recommendation expressed the belief that the codification could be built upon a base established by the Habana convention and this view is not entirely new in the field of international understanding. The progressive changes in the International Convention for the Protection of Industrial Property, the original of which has been revised four times to bring its provisions into harmony with changing conditions in industry is illustrative of this point.

Calling attention to the fact that if the Lima Conference is to have lasting effect it be perpetuated by the establishment of an organization to foster and encourage civil international aviation in the American Republics and between the American Republics and other states, the delegation of the United States presented further recommendations in addition to that referred to above.

These recommendations, practically all of which were embodied in Resolution I of the Final Act of the Conference, contained a provision limiting the work of C.A.P.A. to civil aeronautics thereby excluding consideration of matters relating to aerial warfare. That body would have no plenipotentiary powers according to another suggestion and therefore any draft conventions which it may adopt must be submitted for acceptance to special diplomatic conferences or to periodic Inter-American conferences. With respect to the matter of voting it was proposed that each State member of the Pan American Union shall, upon the adoption of the resolution establishing such Commission be entitled to representation on the Commission; that in the proceedings of the Commission each State so qualifying shall be entitled to one vote; and that a resolution of the Commission to become effective shall require a two-thirds vote.

of the states present at a regular meeting. The functions of the Commission according to other suggestions were to be expanded so as to include the promotion of technical matters relating to aeronautics, and the Commission itself and not the national commissions would define the classification of subjects to be treated by it. A further recommendation would permit the consideration at any regular meeting of the Commission of a subject not on the agenda for that meeting but which was deemed to be desirable by a majority of the States present.

C.A.P.A. FUNCTIONS MUCH LIKE C.I.T.E.J.A.

Since attention here has been directed mainly to the work of the conference with respect to the establishment of C.A.P.A., a few comparisons with it and other international bodies devoted to the study of air law may serve to show to some extent its organization and powers.

It is to be noted that C.A.P.A. is a permanent body and that in this regard it is similar to C.I.N.A. and C.I.T.E.J.A. Like the latter its resolutions are not binding upon the member countries, it being required to submit its draft conventions for action to other international conferences. In this connection it is unlike C.I.N.A. which may on its own authority amend annexes to the Paris Convention of 1919.

With respect to the field of law within the scope of the functions of these bodies, it will be recalled that C.I.N.A. deals with international public air law; that C.I.T.E.J.A. deals with international private air law, while C.A.P.A. deals with both international public and private air law.

NATIONAL COMMISSIONS MAY DIFFER IN SETUP

The Permanent American Aeronautical Commission (C.A.P.A.) may establish special committees to carry out adequately its prescribed aims, and it is further authorized to determine at its first session the scope of its organization, functions, and duties in accordance with the recommendations in Resolution I of the Lima Conference. The plan of organization of the National Commissions on the other hand is not provided for though their functions are prescribed in article eight of the first resolution adopted at Lima. From this it may be seen that each country may organize a commission according to its liking. It may appoint as many members on that commission, organize sub-committees, and provide rules for
these as it sees fit. It may therefore happen that the national commission in each country will have a setup different to that of the commissions in each of the other countries. However, the fact that there was not prescribed any uniform plan of organization may prove beneficial in the long run since it may afford an opportunity for comparison of the effectiveness of different types of national commissions.

DEFINITE ACCOMPLISHMENTS

To arrive at a proper appreciation of the forward steps taken by the Lima conference on the many matters relating to aviation that came before it would require a more complete examination into its work than is given herein. For instance much attention was devoted by the delegates to such subjects as meteorological services, sanitary aviation, aids to air transportation, encouragement of air commerce, courses in air law at universities, tourist travel, and many others. The resolutions on these subjects are indicative of the careful thought given to them.

The writer looked forward to a recommendation by the conference for the establishment of an Inter-American Aviation Union or at least a Permanent Secretariat on Aviation with headquarters in one of the Pan American Countries. This Secretariat could gather and disseminate information on matters pertaining to aeronautics. There is an evident need for such information.

The record of inter-American effort in aviation during the past twenty years is indicative of the spirit of cooperation which exists between the Pan American countries in this field. Much was done at Lima to further this spirit of cooperation and to arrive at a better understanding of those matters of specific interest to the nations of this hemisphere. If the Lima Conference had done no more than to establish C.A.P.A. it accomplished thereby an outstanding achievement which should go far in creating desirable results in Pan American aviation.

ANNEX 1

RESOLUTION*

Commercial Aviation

The Fifth International Conference of American States,
RESOLVES:
1. To establish under the name of Inter American Commercial Aviation

* Report of the Delegates of the United States of America to the Fifth International Conference of American States at Santiago, Chile, 1923.
Commission, an inter American technical commission to study the policy, laws, and regulations relative to commercial aviation, which shall be composed of not more than three Delegates from each State, member of the Pan American Union, and this Commission will meet at the time and place which the Governing Board of the Pan American Union may determine;

2. The Inter American Commercial Aviation Commission shall prepare a draft of laws and regulations, the adoption of which is to be recommended to all the American States, with respect to commercial aviation, the determination of aerial routes, the establishment of special Customs procedure for aviation, and the determination of adequate landing places; and it shall make recommendations with regard to the places at which said stations should be established;

3. The meeting of the Inter American Commercial Aviation Commission shall not last more than three months from the date of the first meeting. The conclusions at which it may arrive, shall be presented to the Governing Board of the Pan American Union;

4. The Governing Board of the Pan American Union shall prepare in the form of a Convention or Conventions, the conclusions of the Inter American Aviation Commission which may be suitable for inter American agreements, and shall submit same to the consideration of the States belonging to the Pan American Union;

5. The Inter American Commercial Aviation Commission shall take into consideration in its deliberations the Conventions already existing, in order to take advantage of same in so far as possible, making the modifications demanded by the progress of commercial aviation, and the interests of the States belonging to the Pan American Union.

ANNEX 2

CONVENTION BETWEEN ARGENTINA AND URUGUAY, EFFECTIVE NOVEMBER 18, 1922

Art. 1. The high contracting parties agree to facilitate, by all means, aerial navigation between their respective countries; and to this end they reciprocally concede to the civilian airships of each contracting party the right to free flight over their territories and territorial waters, provided always that the conditions laid down in the Convention are complied with.

Art. 2. To comply with this convention, the airships must be inscribed and registered before the corresponding authorities of the respective contracting parties.

For legal purposes, it is hereby established that the nationality of the airships is that of their country's register.

Art. 3. An airship coming from another State is strictly prohibited to land, without having touched at one of the aerodromes, provided by virtue of Article 16.

In case of a forced landing outside the aerodrome indicated in Article 16, the pilot will be responsible for all departures with passengers, cargo, correspondence, documents and airship accessories. The pilot must give immediate advice to the nearest authority, before the arrival of whom nobody will be authorized to modify the position or contents of the airship.
ART. 4. No airship may fly over cities or important centers at a height inferior to that permitted, so that in case of motor trouble it will be possible to reach a landing field. Besides, it is prohibited to execute acrobatic feats over cities and agglomerations, as also to fly at a low altitude over places where public meetings are taking place, and especially over race courses.

All airships belonging to military aviation units are permitted access to any of the aerodromes provided in Art. 16, and the utilization of the hangars and other installations is also permitted them.

ART. 5. Authorization extended to all members of the personnel of an airship, or that conceded to use any aerodrome, may be revoked or suspended by the respective Government, always when in its opinion, and prior investigation of the case, there is reason for these measures.

ART. 6. Every airship must be registered, carrying its navigation permit, its log book, its register and signals, which must be uniform for all airships of the same nation, in order to permit of identification whilst in flight, and at a distance of not less than two kilometers. Each contracting party should make known to the other State the signs that it has adopted for its airships.

ART. 7. The crew must be provided with documents issued by the authorities of the nation to which the airship belongs. The high contracting parties shall communicate to each other the legal requisites in force in the territory of each.

The crew must be provided in all cases with passports. Their passports are also subject to all the requirements of the laws and regulations of the country to which they belong, and in which they land.

ART. 8. No airship may carry wireless telegraph or telephone apparatus without special authority from a competent official of the country of its origin, said official to fix conditions and cases when the apparatus may be used.

Operators of the wireless apparatus, duly inscribed and with special permit, shall be exclusively permitted to receive and transmit messages.

ART. 9. Airships destined to international navigation may transport persons and merchandise between one and another country in conformity with the regulations established, excluding internal traffic in each country which is reserved for airships having the national register. They must carry: The nominal list of passengers and bills of lading of merchandise carried, and in general all documents exacted by the respective regulations. The mail service, letters and postal packages, may be carried on, always in agreement with the post-office administrations of both countries.

ART. 10. Both Governments may prohibit flight over determined zones of their territories, under penalties imposed by one and the other party. Airships which break this rule will be obliged to alight at the nearest accessible spot, on advice or signal to do so.

The zones over which flight is prohibited, and the signal obliging descent must be notified to the other contracting State.

ART. 11. The airship, crews, and passengers of the aerial navigation companies are subject to all the judicial obligations resulting from legislation in force in the country where present; in consequence, custom-house legis-
lation, fiscal and public security legislation, as also regulations governing aerial legislation in the State, is applicable in its totality to the above. The permits and licenses conceded to the airship and to the crews of one of the contracting parties, shall enjoy the same value in the other country as in the country where issued.

Art. 12. It is prohibited to drop any kind of objects from airships except fine sand and water, and on departure and landing of airships, the authorities of both countries must in all cases inspect the airship externally and internally to verify the compliance of all regulations pertaining thereto.

Art. 13. In case of danger, the airships of the other State shall have a right to land and to obtain assistance in the same measure as national airships.

Art. 14. Every aerodrome which functions in any one of the States and which is utilized by the public shall be open under the same conditions to the airships of the other State.

Art. 15. The aerial frontier between both countries may only be crossed between the points to be fixed later, and in common agreement by the high contracting parties.

Art. 16. Each one of the parties shall designate in its own territory one or more aerodromes which shall be obligatory for use by the airships to be listed, for departure by the one State, and arrival by the other. Each State must communicate to the other the list of aerodromes selected, and may at any time, on its own decision alone, modify or complete this list by giving the other State fifteen days' notice.

Art. 17. The contracting parties shall communicate reciprocally to each other the laws and regulations which exist for aerial navigation between their respective territories.

Art. 18. No military airship of one State may enter the territory of the other, without military authorization, issued in each case, by the latter State. This military authorization is to be granted with limitations, and shall be modified as to space, time, and other considerations.

Art. 19. This convention shall remain in force for an indefinite period, its provisions shall be null and void in case of denunciation by either one of the high contracting parties. The denunciation shall take effect one year after the other high contracting party is notified.

Art. 20. Ratifications shall be exchanged in Montevideo at the briefest possible period in compliance with the prescribed Constitutional requisites set forth by the fundamental charters of both the high contracting parties.

ANNEX 3

COMMERCIAL AVIATION CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND OTHER AMERICAN REPUBLICS SIGNED AT HABANA, FEBRUARY 20, 1928

The Governments of the American Republics, desirous of establishing the rules they should observe among themselves for aerial traffic, have
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decided to lay them down in a convention, and to that effect have appointed as their plenipotentiaries:

Perú: Jesús Melquiades Salazar, Víctor Maúrtua, Enrique Castro Oyanguren, Luis Ernesto Denegri.
Uruguay: Jacobo Varela Acevedo, Juan José Améfiaga, Leonel Aguirre, Pedro Erasmo Callorda.
Panamá: Ricardo J. Alfaro, Eduardo Chiari.
Ecuador: Gonzalo Zaldumbide, Víctor Zevallos, Colón Eloy Alfaro.
Guatemala: Carlos Salazar, Bernardo Alvarado Tello, Luis Beltranena, José Azurdia.
Nicaragua: Carlos Cuadra Pazos, Joaquín Gómez, Máximo H. Zepeda.
Bolivia: José Antezana, Adolfo Costa du Rels.
Venezuela: Santiago Key Ayala, Francisco Gerardo Yanes, Rafael Angel Arraíz.
Colombia: Enrique Olaya Herrera, Jesús M. Ypes, Roberto Urdaneta Arbeláez, Ricardo Gutiérrez Lee.
Honduras: Fausto Dávila, Mariano Vázquez.
Costa Rica: Ricardo Castro Beeche, J. Rafael Oreamuno, Arturo Tinoco.
Chile: Alejandro Lira, Ricardo Alvarez, Carlos Silva Vildósola, Manuel Bianchi.
Argentina: Honorio Puertyredón, (Later resigned), Laurentino Olascoaga, Felipe A. Espil.
Paraguay: Lisandro Díaz León.
Haití: Fernando Dennis, Charles Riboul.
Cuba: Antonio S. de Bustamante, Orestes Ferrara, Enrique Hernández Cartaya, José Manuel Cortina, Arístides Agüero, José B. Alemán, Manuel Márquez Sterling, Fernando Ortiz, Néstor Carbonell, Jesús María Barraqué.
Who, after having exchanged their respective full powers, which have been found to be in good and due form, have agreed upon the following:

ARTICLE I

The high contracting parties recognize that every state has complete and exclusive sovereignty over the air space above its territory and territorial waters.

ARTICLE II

The present convention applies exclusively to private aircraft.
ARTICLE III

The following shall be deemed to be state aircraft:

a) Military and naval aircraft;
b) Aircraft exclusively employed in state service, such as posts, customs, and police.

Every other aircraft shall be deemed to be a private aircraft.

All state aircraft, other than military, naval, customs and police aircraft shall be treated as private aircraft and as such shall be subject to all the provisions of the present convention.

ARTICLE IV

Each contracting state undertakes in time of peace to accord freedom of innocent passage above its territory to the private aircraft of the other contracting states, provided that the conditions laid down in the present convention are observed. The regulations established by a contracting state with regard to admission over its territory of aircraft of other contracting states shall be applied without distinction of nationality.

ARTICLE V

Each contracting state has the right to prohibit, for reasons which it deems convenient in the public interest, the flight over fixed zones of its territory by the aircraft of the other contracting states and privately owned national aircraft employed in the service of international commercial aviation, with the reservation that no distinction shall be made in this respect between its own private aircraft engaged in international commerce and those of the other contracting states likewise engaged. Each contracting state may furthermore prescribe the route to be followed over its territory by the aircraft of the other states, except in cases of force majeure which shall be governed in accordance with the stipulations of Article 18 of this convention. Each state shall publish in advance and notify the other contracting states of the fixation of the authorized routes and the situation and extension of the prohibited zones.

ARTICLE VI

Every aircraft over a prohibited area shall be obliged, as soon as this fact is realized or upon being so notified by the signals agreed upon, to land as soon as possible outside of said area in the airdrome nearest the prohibited area over which it was improperly flying and which is considered as an international airport by the subjacent state.

ARTICLE VII

Aircraft shall have the nationality of the state in which they are registered and can not be validly registered in more than one state.

The registration entry and the certificate of registration shall contain a description of the aircraft and state, the number or other mark of identification given by the constructor of the machine, the registry marks and na-
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...tionality, the name of the airdrome or airport usually used by the aircraft, and the full name, nationality and domicile of the owner, as well as the date of registration.

ARTICLE VIII

The registration of aircraft referred to in the preceding article shall be made in accordance with the laws and special provisions of each contracting state.

ARTICLE IX

Every aircraft engaged in international navigation must carry a distinctive mark of its nationality, the nature of such distinctive mark to be agreed upon by the several contracting states. The distinctive marks adopted will be communicated to the Pan American Union and to the other contracting states.

ARTICLE X

Every aircraft engaged in international navigation shall carry with it in the custody of the aircraft commander:

a) A certificate of registration, duly certified to according to the laws of the state in which it is registered;

b) A certificate of airworthiness, as provided for in Article 12;

c) The certificates of competency of the commander, pilots, engineers, and crew, as provided for in Article 13;

d) If carrying passengers, a list of their names, addresses and nationality;

e) If carrying merchandise, the bills of lading and manifests, and all other documents required by customs laws and regulations of each country;

f) Log books;

g) If equipped with radiotelegraph apparatus, the corresponding license.

ARTICLE XI

Each contracting state shall every month file with every other state party to this convention and with the Pan American Union, a copy of all registrations and cancellations of registrations of aircraft engaged in international navigation as between the several contracting states.

ARTICLE XII

Every aircraft engaged in international navigation (between the several contracting states) shall be provided with a certificate of airworthiness issued by the state whose nationality it possesses.

This document shall certify to the states in which the aircraft is to operate, that, according to the opinion of the authority that issues it, such aircraft complies with the airworthiness requirements of each of the states named in said certificate.

The aircraft commander shall at all times hold the certificate in his custody and shall deliver it for inspection and verification to the authorized representatives of the state which said aircraft visits.
Each contracting state shall communicate to the other states parties to this convention and to the Pan American Union its regulations governing the rating of its aircraft as to airworthiness and shall similarly communicate any changes made therein.

While the states affirm the principle that the aircraft of each contracting state shall have the liberty of engaging in air commerce with the other contracting states without being subjected to the licensing system of any state with which such commerce is carried on, each and every contracting state mentioned in the certificate of airworthiness reserves the right to refuse to recognize as valid the certificate of airworthiness of any foreign aircraft where inspection by a duly authorized commission of such state shows that the aircraft is not, at the time of inspection, reasonably airworthy in accordance with the normal requirements of the laws and regulations of such state concerning the public safety.

In such cases said state may refuse to permit further transit by the aircraft through its air space until such time as it, with due regard to the public safety, is satisfied as to the airworthiness of the aircraft, and shall immediately notify the state whose nationality the aircraft possesses and the Pan American Union of the action taken.

ARTICLE XIII

The aircraft commander, pilots, engineers, and other members of the operating crew of every aircraft engaged in international navigation between the several contracting states shall, in accordance with the laws of each state, be provided with a certificate of competency by the contracting state whose nationality the aircraft possesses.

Such certificate or certificates shall set forth that each pilot, in addition to having fulfilled the requirements of the state issuing the same, has passed a satisfactory examination with regard to the traffic rules existing in the other contracting states over which he desires to fly. The requirements of form of said documents shall be uniform throughout all the contracting states and shall be drafted in the language of all of them, and for this purpose the Pan American Union is charged with making the necessary arrangements amongst the contracting states.

Such certificate or certificates shall be held in the possession of the aircraft commander as long as the pilots, engineers and other members of the operating crew concerned continue to be employed on the aircraft. Upon the return of such certificate an authenticated copy thereof shall be retained in the files of the aircraft.

Such certificate or certificates shall be open at all times to the inspection of the duly authorized representatives of any state visited.

Each contracting state shall communicate to the other states parties to this convention and to the Pan American Union its regulations governing the issuance of such certificates and shall from time to time communicate any changes made therein.

ARTICLE XIV

Each and every contracting state shall recognize as valid, certificates of competency of the aircraft commander, pilots, engineers, and other members
of the operating crew of an aircraft, issued in accordance with the laws and regulations of other contracting states.

**Article XV**

The carriage by aircraft of explosives, arms and munitions of war is prohibited in international aerial navigation. Therefore, no foreign or native aircraft authorized for international traffic shall be permitted to transport articles of this nature, either between points situated within the territory of any of the contracting states or through the same even though simply in transit.

**Article XVI**

Each state may prohibit or regulate the carriage or use, by aircraft possessing the nationality of other contracting states, of photographic apparatus. Such regulations as may be adopted by each state concerning this matter shall be communicated to each other contracting state and to the Pan American Union.

**Article XVII**

As a measure of public safety or because of lawful prohibitions, the transportation of articles in international navigation other than those mentioned in Articles 15 and 16 may be restricted by any contracting state. Such restrictions shall be immediately communicated to the other contracting states and to the Pan American Union.

All restrictions mentioned in this article shall apply equally to foreign and national aircraft employed in international traffic.

**Article XVIII**

Every aircraft engaged in international traffic which enters the air space of a contracting state with the intention of landing in said state shall do so in the corresponding customs airdrome, except in the cases mentioned in Article 19 and in case of force majeure, which must be proved.

Every aircraft engaged in international navigation, prior to its departure from the territorial jurisdiction of a contracting state in which it has landed, shall obtain such clearance as is required by the laws of such state at a port designated as point of departure by such state.

Each and every contracting state shall notify every other state party to this convention and the Pan American Union of such airports as shall be designated by such state as ports of entry and departure.

When the laws or regulations of any contracting state so require, no aircraft shall legally enter into or depart from its territory through places other than those previously authorized by such state as international airports, and the landing therein shall be obligatory unless a special permit, which has been previously communicated to the authorities of said airport, is obtained from the competent authorities of said state, in which permit shall be clearly expressed the distinctive marks which the aircraft is obliged to make visible whenever requested to do so in the manner previously agreed upon in said permit.
In the event that for any reason, after entering the territorial jurisdiction of a contracting state, aircraft of another contracting state should land at a point other than an airport designated as a port of entry in that state the aircraft commander shall immediately notify the nearest competent authority and hold himself, crew, passengers and cargo at the point of landing until proper entry has been granted by such competent authority, unless communication therewith is impracticable within twenty-four hours.

Aircraft of one of the contracting states which flies over the territory of another contracting state shall be obliged to land as soon as ordered to do so by means of the regulation signals, when for any reason this may be necessary.

In the cases provided for in this article, the aircraft, aircraft commander, crew, passengers and cargo shall be subject to such immigration, emigration, customs, police, quarantine or sanitary inspection as the duly authorized representatives of the subjacent state may make in accordance with its laws.

**ARTICLE XIX**

As an exception to the general rules, postal aircraft and aircraft belonging to aerial transport companies regularly constituted and authorized may be exempted, at the option of the subjacent state, from the obligation of landing at an airdrome designated as a port of entry and authorized to land at certain inland airdromes, designated by the customs and police administration of such state, at which customs formalities shall be complied with. The departure of such aircraft from the state visited may be regulated in a similar manner.

However, such aircraft shall follow the normal air route, and make their identity known by signals agreed upon as they fly across the frontier.

**ARTICLE XX**

From the time of landing of a foreign aircraft at any point whatever until its departure the authorities of the state visited shall have, in all cases, the right to visit and examine the aircraft and to verify all documents with which it must be provided, in order to determine that all the laws, rules and regulations of such states and all the provisions of this convention are complied with.

**ARTICLE XXI**

The aircraft of a contracting state engaged in international air commerce shall be permitted to discharge passengers and a part of its cargo at one of the airports designated as a port of entry of any other contracting state, and to proceed to any other airport or airports in such state for the purpose of discharging the remaining passengers and portions of such cargo and in like manner to take on passengers and load cargo destined for a foreign state or states, provided that they comply with the legal requirements of the country over which they fly, which legal requirements shall be the same for native and foreign aircraft engaged in international traffic and shall be communicated in due course to the contracting states and to the Pan American Union.
Each contracting state shall have the right to establish reservations and restrictions in favor of its own national aircraft in regard to the commercial transportation of passengers and merchandise between two or more points in its territory, and to other remunerated aeronautical operations wholly within its territory. Such reservations and restrictions shall be immediately published and communicated to the other contracting states and to the Pan American Union.

The establishment and operation of airdromes will be regulated by the legislation of each country, equality of treatment being observed.

The aircraft of one contracting state engaged in international commerce with another contracting state shall not be compelled to pay other or higher charges in airports or airdromes open to the public than would be paid by national aircraft of the state visited, likewise engaged in international commerce.

So long as a contracting state shall not have established appropriate regulations, the commander of an aircraft shall have rights and duties analogous to those of the captain of a merchant steamer, according to the respective laws of each state.

The salvage of aircraft lost at sea shall be regulated, in the absence of any agreement to the contrary, by the principles of maritime law.

The aircraft of all states shall have the right, in cases of danger, to all possible aid.

Reparations for damages caused to persons or property located in the subjacent territory shall be governed by the laws of each state.

In case of war the stipulations of the present convention shall not affect the freedom of action of the contracting states either as belligerents or as neutrals.

The right of any of the contracting states to enter into any convention or special agreement with any other state or states concerning international aerial navigation is recognized, so long as such convention or special agree-
ment shall not impair the rights or obligations of any of the states parties to this convention, acquired or imposed herein; provided, however, that two or more states, for reasons of reciprocal convenience and interest may agree upon appropriate regulations pertaining to the operation of aircraft and the fixing of specified routes. These regulations shall in no case prevent the establishment and operation of practicable inter-American aerial lines and terminals. These regulations shall guarantee equality of treatment of the aircraft of each and every one of the contracting states and shall be subject to the same conditions as are set forth in Article 5 of this convention with respect to prohibited areas within the territory of a particular state.

Nothing contained in this convention shall affect the rights and obligations established by existing treaties.

ARTICLE XXXI

The contracting states obligate themselves in so far as possible to cooperate in inter-American measures relative to:

a) The centralization and distribution of meteorological information, whether statistical, current or special;

b) The publication of uniform aeronautical charts, as well as the establishment of a uniform system of signals;

c) The use of radiotelegraph in aerial navigation, the establishment of the necessary radiotelegraph stations and the observance of the inter-American and international radiotelegraph regulations or conventions at present existing or which may come into existence.

ARTICLE XXXII

The contracting states shall procure as far as possible uniformity of laws and regulations governing aerial navigation. The Pan American Union shall cooperate with the governments of the contracting states to attain the desired uniformity of laws and regulations for aerial navigation in the states parties to this convention.

Each contracting state shall exchange with every other contracting state within three months after the date of ratification of this convention copies of its air-traffic rules and requirements as to competency for aircraft commanders, pilots, engineers, and other members of the operating crew, and the requirements for airworthiness of aircraft intended to engage in international commerce.

Each contracting state shall deposit with every other state party to this convention and with the Pan American Union three months prior to the date proposed for their enforcement any additions to or amendments of the regulations referred to in the last preceding paragraph.

ARTICLE XXXIII

Each contracting state shall deposit its ratification with the Cuban Government, which shall thereupon inform the other contracting states. Such ratification shall remain deposited in the archives of the Cuban Government.
The present convention will come into force for each signatory state ratifying it in respect to other states which have already ratified, forty days from the date of deposit of its ratification.

Any state may adhere to this convention by giving notice thereof to the Cuban Government shall inform the other signatory states of such adherence.

In case of disagreement between two contracting states regarding the interpretation or execution of the present convention the question shall, on the request of one of the governments in disagreement, be submitted to arbitration as hereinafter provided. Each of the governments involved in the disagreement shall choose another government not interested in the question at issue and the government so chosen shall arbitrate the dispute. In the event the two arbitrators cannot reach an agreement they shall appoint another disinterested government as additional arbitrator. If the two arbitrators cannot agree upon the choice of this third government, each arbitrator shall propose a government not interested in the dispute and lots shall be drawn between the two governments proposed. The drawing shall devolve upon the Governing Board of the Pan American Union.

The decision of the arbitrators shall be by majority vote.

Any contracting state may denounce this convention at any time by transmitting notification thereof to the Cuban Government, which shall communicate it to the other states parties to this convention. Such denunciation shall not take effect until six months after notification thereof to the Cuban Government, and shall take effect only with respect to the state making the denunciation.

IN WITNESS WHEREOF, the above-named plenipotentiaries have signed this convention and the seal of the Sixth International Conference of American States has been hereto affixed:

Uruguay: Varela, Pedro Erasmo Callorda.
Guatemala: Carlos Salazar, B. Alvarado, Luis Beltranena, J. Azurdia.
Nicaragua: Carlos Cuadra Pazos, Máximo HH. Zepeda, Joaquín Gómez.
Bolivia: José Antezana, A. Costa du R.
Reservation of the Dominican Republic

The delegation of the Dominican Republic records, as an explanation of its vote, that upon signing the present convention it does not understand that the Dominican Republic dissociates itself from conventions it has already ratified and which are in force.

Note: The following countries have ratified this convention to date: United States of America, Guatemala, Mexico, Nicaragua, Panama, Dominican Republic, Costa Rica, Haiti, Honduras, Chile, and Ecuador.

ANNEX 4

RECOMMENDATION OF THE DELEGATION OF CHILE

Mr. President:

The Chilean Delegation has given serious and meditated attention to the motions presented in the first session of this subcommittee by the Peruvian and Argentine Delegations.

It has also studied carefully the later motions presented by the Uruguayan, Colombian and Brazilian Delegations and listened with great interest to the declarations of the American Delegation.

At this point the Chilean Delegation thinks it necessary to present to the Subcommittee its points of view regarding the proposals of Peru and Argentina.

Chile is in an outstanding position in the matter of International aviation legislation. It is perhaps the only country represented in this Conference which has ratified the Paris Aviation Convention of 1919, the Habana Conference of 1928, that of Buenos Aires in 1935 and the Hague Sanitary Avia-
tion Conference of 1933. The ratification of this series of pacts, the prescriptions of which have been incorporated in our national legislation, shows how eager Chile is to keep step with the other nations and cooperate in the development of this most important specialization of Air Law and reveals the importance attributed by our country to its gradual and progressive codification.

For reasons too extensive to explain here, Chile has thought it desirable to denounce the 1919 Paris Convention, this becoming effective next October.

Chile continues its connection with the 1928 Habana Conference. It had been the desire of this Delegation that the Inter-American Technical Aviation Conference should recommend to the other countries which have not done so to ratify promptly that Pan American Convention. On the basis of that pact which has already been ratified by eleven countries of the continent, the Chilean Delegation believes that, with whatever modifications might be desirable, it would have been possible to build the codification of Air Law.

Nevertheless, the Chilean Delegation has abstained from presenting any motion to that effect for it has noted that, because of the diversity of the opinions expressed here, that procedure would perhaps retard or make more difficult the precise codification to which we aspire.

As soon as the Chilean Delegation became acquainted with the Peruvian motion it was in perfect agreement with its aims, which are the gradual and progressive codification of Public and Private Air Law by means of a Permanent Commission integrated by National Commissions. On the other hand the opinion of the Chilean Delegation coincides amply with that of the Argentine Republic that the desideratum in all work of codification, and especially in the complex branch of modern Air Law, is the universality of its application. The existence of American Law, in opposition to and separated from an European or world system, would be inconceivable. As has been well explained by the Peruvian Delegation, the great principles of Air Law are universal, notwithstanding certain special features required by the diversity of geographic conditions on the American Continent.

The Chilean Delegation, I repeat, has listened with profound interest to the debate on the Argentine and Peruvian proposals, confident that the discussion of this subject would illuminate and sufficiently explain the diverse methods proposed for arriving at the desired codification of Air Law. After considering the brilliant explanations by Sr. Gen. Verdaguer and Dr. Arias, the Chilean Delegation has arrived at the meditated conviction that, if we wish to do practical work, if we do not desire to incur in an “American dream” as Sr. Fonseca Hermes put it, the method recommended in the Peruvian proposal offers us the greater hope of reaching our goal.

The Colombian Delegation has presented a motion, contained in the system proposed by Peru, which tends toward universalization. The Chilean Delegation desires also to express its agreement with this Colombian initiative which augurs well for the universalization of Air Law. Another method which would lead to the same end and which has already been substantiated by conspicuous examples in the field of international agreements, would be simply to have the agreements, which may be drawn up by the Permanent Aviation Commission proposed by Peru, open for ratification by all the countries of the world.
The Chilean Delegation does not at this time desire to make a motion to this effect, but merely suggests it for the consideration of the members of the Committee.

At the same time that the Chilean Delegation expresses its decided agreement with the Peruvian proposal in general terms, it desires to reserve the privilege of discussing some minor details regarding the organizing and functioning of the proposed organizations.

ANNEX 5

RECOMMENDATION OF THE DELEGATION OF THE UNITED STATES OF AMERICA

After careful examination of the proposals made by the delegates of Argentina and Peru to the Legislative Committee on Friday, September 17, it is our pleasure to commend the delegates of both countries since their ideas comprehend not only our national interest in aeronautics but worldwide interests in this vital subject. They both look toward an organized study of aeronautical regulation and encouragement in the Americas.

In order to integrate the different points of view of the American Republics before proceeding to consolidating them in universal air laws, the Peruvians propose the establishment of an organization to progressively codify the air laws of the American states. The Argentine proposals would seek to more directly achieve universality in air law through another conference or commission which would complete the work of elaborating a universal air code before the end of 1938.

There is much force in the argument offered to substantiate the suggestion advanced by the Argentine delegates. The universal aspect of transportation and travel by air is undeniable. In this respect the modern developments in aircraft material are prophetic. Nor should there be fostered an undue number and variety of organizations and conventions dealing with international aerial navigation. But if we are now to intelligently serve our own people and all mankind, to provide them with the maximum benefit of aviation, presently and in the foreseeable future, we must, in the light of reason and experience, act as practical men. Therefore, because of the actualities, as we see them, we are disposed to favor the formation of an inter-American organ to conduct a study of the status and needs of aviation in our Pan American countries. This attitude is expressed not in depreciation of the Argentine position because the laudable comments made by the Argentine Delegation with respect to the universal character of air navigation would no doubt be a primary concern of such an organ. It might well be, after due deliberation, that this Inter-American Aeronautical Commission would deem it wise to recommend the convening in one of the countries of the Americas of an aviation conference to which all of the nations of the world would be invited. It is thus to be noted that we do not reject in principle the Argentine proposals but being in good measure committed to the Peruvian proposals, feel that advantage should be taken of this occasion to establish a standing American aviation commission or committee to which should be referred the Argentine program, together with any other important proposals that our brother delegates intend to submit to this Conference.
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Incidentally, this plan will enable us to avail ourselves of the contributions that may be made by the many experts gathered here. To delay in a field where speed is the sine qua non would likely reflect unhappily upon us.

If this suggestion is found acceptable then the few days of the conference remaining could be utilized by the Legislative Committee to define the functions and scope of such a committee as is contemplated in the Peruvian proposals. We shall submit definite proposals in the course of the discussions of this Committee.

Lima, September 20, 1937.

ANNEX 6

FURTHER RECOMMENDATION OF THE DELEGATION OF THE UNITED STATES OF AMERICA

The Inter-American Technical Aviation Conference;

WHEREAS:
Since in the deliberations of the first and third sub-committees of the Legislative Committee it was voted that the work to be inaugurated by this Conference should have an American character with a tendency toward universality, considering for this purpose the conventions and work of international institutions and with due regard for the proposals heretofore made by the Peruvian, Colombian, and other Delegations;

IT IS RECOMMENDED:

1. That if this Conference is to have lasting effect it be perpetuated by the establishment of an organization to foster and encourage civil international aviation in the American Republics and between the American Republics and other states.

2. That the function and scope of the Commission contemplated in the Peruvian proposals, which appear to be directed at legal codification, be expanded so that it may serve as an organ to promote mutual interests in technical matters relating to aircraft, airmen, airways, air navigation facilities, including airports, and operational practices and procedures.

3. That in such legal draft conventions or technical projects as it may undertake the Commission shall have due regard for already existing or subsequently applicable conventions or technical projects in other regions.

4. That the delegates appointed to the Commission do not possess plenipotentiary power but that such legal conventions as may be elaborated by the Commission be submitted for acceptance to special diplomatic conferences or to the periodic Inter-American Conferences.

5. That the meetings of the Commission be held annually or at intervals not to exceed two years.

6. That the orbit of the Commission be limited to civil aeronautics and consequently should not consider aerial warfare.

7. That each State member of the Pan American Union shall, upon the adoption of the resolution establishing such Commission be entitled to representation on the Commission. In the proceedings of the Commission each State so qualifying shall be entitled to one vote.

8. That a resolution of the Commission to become effective shall require a two-thirds vote of the states present at a regular meeting.
9. That in keeping with Recommendation No. 2 hereof the function and scope of the national commissions to be established to cooperate in the labors of the Inter-American Aviation Commission be likewise expanded to include consideration of technical matters.

10. That definitive classification of the subjects to be treated by the Commission should be the function of the Commission and not of the national commissions.

11. That at any regular meeting of the Commission, if it is deemed desirable to do so by a majority of the States present, a subject not on the agenda for that meeting may be considered and resolved.

12. That no objection is perceived to the proposals previously made by the Delegation of Colombia with respect to additions to be added to the Peruvian proposals.