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HANDBOOK ON ADMINISTRATIVE CLAUSES IN BILATERAL AIR TRANSPORT AGREEMENTS

Prepared by the Secretariat and published by authority
of the Secretary General for the information of Contracting States

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HANDBOOK ON ADMINISTRATIVE CLAUSES IN BILATERAL AIR TRANSPORT AGREEMENTS CONCLUDED BETWEEN ICAO MEMBER STATES

FOREWORD

Directives of the 1959 Assembly

1. The study of the provisions of bilateral air transport agreements has been on the Organization's work programme for many years, first, as part of the attempt to develop a multilateral agreement on commercial rights and, at a later stage, as a basis for finding some form of partial multilateral solution of which the standardization of the administrative clauses for bilateral use was one possibility.

2. In March 1959 the European Civil Aviation Conference (ECAC) adopted a set of standard administrative and technical clauses which it recommended to its members for use in framing future bilateral agreements.* At the same time the Conference suggested that these standard clauses should be examined in ICAO to see if they could be of value to other Contracting States. The Assembly in June 1959 directed the Organization to continue its study of the provisions of bilateral agreements with particular attention to the standard clauses developed by ECAC:

> Resolution A12-18(4)
>
> That the Council should continue the comparative and analytical study of the provisions of bilateral agreements and the study of the standard provisions approach to multilateral agreements taking account of the standard administrative and technical clauses adopted by the Third Session of ECAC (ECAC Recommendation 38/1959).

3. In October 1959 the Air Transport Committee decided to circulate to all ICAO States the set of standard clauses adopted by ECAC requesting views as to whether these clauses or some modification of them would be acceptable to Member States in general for use in their bilateral agreements. The response to this inquiry indicated some support for the idea of adopting within ICAO a set of standard clauses similar to those developed by ECAC, but States' comments suggested that it would not be possible to find sufficient agreement among ICAO States as a whole to produce any substantial measure of standardization on the European model.

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* ECAC Recommendation No. 38, in Doc 7977, ECAC/3-1 (European Civil Aviation Conference, Third Session, Vol. I - Report), p. 37.

Purpose of the Handbook

4. While it thus appeared that any recommendations favouring one or other form of phraseology for bilateral use would serve no practical purpose at this stage, it was felt that an analysis of the differences between the various clauses presently utilized in bilateral agreements and those recommended by ECAC and by the Chicago Conference in 1944, * would provide ICAO States with useful guidance material for drafting future agreements. The Secretariat was therefore asked to prepare an analysis of this kind in the form of a handbook, incorporating the essential points of States' comments on the ECAC standard clauses together with some notes explaining the significance of the main differences between the various phraseologies in use. The result of the Secretariat analysis shows that there is on the whole a large measure of uniformity in the drafting of the administrative and technical clauses in the bilateral agreements concluded between ICAO States.

5. The Handbook has been published by authority of the Secretary General for the information of Contracting States. The Council has approved its distribution to States as an ICAO Circular without endorsing any views contained in it. The order of presenting the textual material in the volume follows generally the sequence in which the various clauses appear in the Chicago form of standard agreement. Articles of the Convention on International Civil Aviation and other relevant material are indicated or reproduced in footnotes where a reference to them is required.

Method of presentation

6. Each section of the Handbook consists of three parts: part A contains the Chicago form standard clauses** and part B, the corresponding clauses adopted by ECAC.** A summary of States' views concerning the ECAC standard clauses is given in part C, but this part deals principally with the phraseologies of the administrative and technical clauses most commonly used in existing bilateral agreements.

7. Variations in wording of the bilateral clauses, as for example in the provision referring to granting of rights in part C of Section I, *** are expressed by the following means:

Each contracting party grants to the other contracting party	*(or)*	The Contracting Parties grant to each other
the rights specified in the annex to this Agreement	*(or)*	the rights specified in the attached Annex
(etc.)	*(or)*	(etc.) ... .

---

* Final Act of the Conference on International Civil Aviation (Chicago, 1944) - VIII: "Standard Form of Agreement for Provisional Air Routes".

** The text of the Chicago form of standard agreement is reproduced herein as Appendix I; pp. 113-115. The complete text of the ECAC standard clauses appears in Appendix II; pp. 116-120.

*** See p. 6.

Reading vertically from the first to the second part of a clause, and taking account of the variations in phraseology indicated in the next column by "*(or)*", the above shows that there are generally four main types of wording currently in use in bilateral agreements. Typically, the agreements concluded between Argentina and Denmark (1948), Burma and Ceylon (1950), Czechoslovakia and Finland (1949), the Netherlands and the United Kingdom (1946), use one or the other of the phraseologies appearing as:

(i) Each contracting party grants to the other contracting party the rights specified in the annex to this Agreement (etc.) ... .

(ii) Each contracting party grants to the other contracting party the rights specified in the attached Annex (etc.) ... .

(iii) The Contracting Parties grant to each other the rights specified in the annex to this Agreement (etc.) ... .

(iv) The Contracting Parties grant to each other the rights specified in the attached Annex (etc.) ... .

8. While the phraseologies contained in this analysis are generally those that are widely used in existing agreements, certain significant wording appearing in a small number of agreements has also been included. The latter often represents a departure from, rather than a variation of the main types of phraseology. In such cases, the minority clause is not indicated by "*(or)*".

Filing of agreements

9. In approving the Handbook for publication the Air Transport Committee expressed some concern over the question of registration of bilateral agreements. The attention of Member States is drawn to the Rules adopted by the Council relating to the subject, * particularly in respect of Article 9 concerning States' responsibility for registering agreements in the language or languages in which they are concluded, and, in the event that the original text is not in one of ICAO's official working languages, for forwarding copies of a translation into one such language. Compliance with these Rules by Member States would facilitate the future work of the Organization in the field of bilateral agreements.

* Rules for Registration with ICAO of Aeronautical Agreements and Arrangements (Doc 6685, C/767); reproduced herein at Appendix III, pp. 121-124.

Section 1 - Reference to granting of rights

A. CHICAGO FORM OF STANDARD AGREEMENT

(1) The contracting parties grant the rights specified in the Annex hereto necessary for establishing the international civil air routes and services therein described,... .

B. STANDARD CLAUSES ADOPTED BY ECAC

ARTICLE 1

Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement, for the purpose of establishing scheduled international air services on the routes specified /in an Annex hereto or in exchanges of notes/. Such services and routes are hereafter called "the agreed services" and "the specified routes" respectively. The airlines designated by each Contracting Party shall enjoy, while operating an agreed service on a specified route, the following rights:

(a) to fly without landing across the territory of the other Contracting party;

(b) to make stops in the said territory for non-traffic purposes.

(c) /Here insert a description of the traffic rights
(d) granted in the particular bilateral agreement./
etc.)

C. NOTES ON PHRASEOLOGY USED IN EXISTING BILATERAL AGREEMENTS, INCLUDING STATES' COMMENTS ON ECAC STANDARD CLAUSES

Phraseology most commonly used

1. Most bilateral agreements concluded in the early post-war years contain an article referring to operating rights described in the annexes, the actual granting of the rights being part of the main body of the agreement. It is usually the opening sentence of the first article. The main types of phraseology used are as follows:

Each contracting party grants to the other contracting party	(or)	The Contracting Parties grant to each other		
the rights specified in the annex to this Agreement	(or)	the rights specified in the attached Annex		
for the establishment of	(or)	for the purpose of establishing	(or)	necessary for the establishment of
the air services therein described (hereinafter referred to as "agreed services").	(or)	the international civil routes and the services enumerated in this Annex.	(or)	the international civil air routes and the services set out therein (hereinafter called "agreed services"),... .

Typical agreements: Argentina - Denmark (1948)
Burma - Ceylon (1950)
Czechoslovakia - Finland (1949)
Netherlands - U.K. (1946)

2. Agreements generally of a later date than those indicated above use slightly different wording from the examples given in paragraph 1:

Each Contracting Party grants to the other Contracting Party	(or)	The contracting parties grant to each other				
the rights specified in the Annex to this Agreement	(or)	the rights described in the present Agreement	(or)	the right to operate		
for the purpose of the establishment of	(or)	with a view to establishing	(or)	in order that there may be established	(or)	to enable its designated airlines to establish and operate
scheduled international air services	(or)	regular air services	(or)	the air services	(or)	international air services.

described herein (hereinafter referred to as "agreed services").	*(or)* on the routes specified in the Schedule (hereinafter called "agreed services" and "specified routes" respectively).	*(or)* specified in the Annex to the Agreement (hereinafter referred to as the "specified air services") on the routes specified in the said Annex (hereinafter referred to as the "specified air routes").	- - -

Typical agreements: Afghanistan - Pakistan (1957)
Canada - Japan (1955)
Ecuador - Netherlands (1954)
India - U.A.R. (Egypt) (1952)
Lebanon - U.K. (1951)

The Contracting Parties grant to each other the rights specified in this Agreement and its annex	The Contracting Parties grant to each other in time of peace the rights specified in the annex
for the establishment of the regular international air services defined in that annex	for the purpose of establishing the international air services therein described
which cross or serve their respective territories and which are hereinafter referred to as the "agreed services".	with aircraft landing in or traversing their respective territories.

Typical agreements: Irao - Switzerland (1952)
Israel - Switzerland (1952)

Bermuda agreement

3. The phraseology used in the U.K. - U.S.A. agreement concluded in 1946 shows a slight variation in wording:

ARTICLE 1

Each Contracting Party grants to the other Contracting Party rights to the extent described in the Annex to this Agreement for the purpose of the establishment of air services described therein or as amended in accordance with Section IV of the Annex (hereinafter referred to as "agreed services").

Reference to granting of rights in annexes

4. Some agreements contain, in addition to an article referring to granting of rights in the main body of the agreement, a similar provision in the annex. Such a provision is generally followed immediately by a clause describing the operating rights granted. This arrangement of providing a double reference to granting of rights appears to be more often used in bilateral agreements concluded before, say, 1955 or 1956 than those of later years. Given in the following are several variations in wording of the provisions in annexes:

The Government of ... grants to the Government of ...						
the right to operate air transport services by one or more airlines designated by the latter Government on the routes specified in schedule ... attached.	(or)	the right to designate one or more airlines to operate air transport services on the routes (specified in Schedule ... attached)	(or)	the right to conduct air transport services by one airline of ... nationality designated by the latter country on the routes specified in Schedule ... attached,	(or)	the right to operate, by an airline or airlines of ... nationality designated by the latter Government, air transport services
- - -		which transit or serve commercially the territory of	(or)	which cross or serve ... territories.	(or)	in transit through or carrying commercial traffic between ... and ..., without engaging in cabotage, on the routes specified in Schedule ... of this Annex.

Typical agreements: Argentina - Denmark (1948)
Brazil - U.S.A. (1946)
Burma - Ceylon (1950)
Ecuador - Netherlands (1954)
France - Portugal (1946)
Italy - Portugal (1950)

ECAC standard clauses and similar provisions

5. Article 1 of the ECAC standard clauses incorporates the reference to granting of rights and a description of the rights in one article. Commenting on the ECAC phraseology, one ICAO State felt that the rights granted should be stated in close connection with the designation of routes, and it would therefore prefer to follow the widely accepted arrangement of describing operating rights in the annex where route schedules appear. In actual practice, while agreements concluded prior to 1950 generally include in annexes provisions specifying operating rights, a substantial number of recent agreements enumerate rights granted in the main body of the agreement. Of the latter category, most agreements contain two articles,

the first referring to the granting of operating rights in phraseologies such as those indicated in paragraphs 1 to 3 above, and a second article giving a description of those rights.

6. In other agreements, reference to and the description of operating rights are expressed in a single article, using similar words to Article 1 of the ECAC standard clauses:

> (1) Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement for the purpose of establishing air services /to be operated by virtue of the said Agreement/ on the routes specified in the appropriate Section of the Schedule thereto (hereinafter called "the agreed services" and "the specified routes").
>
> (2) Subject to the provisions of the present Agreement, the airline /or airlines/ designated by each Contracting Party shall enjoy, while operating an agreed service on a specified route, the following privileges:
>
> (a) to fly without landing across the territory of the other Contracting Party;
>
> (b) to make stops in the said territory for non-traffic purposes /at airports designated by the other Contracting Party/; and
>
> (c) to make stops in the said territory ... for the purpose of putting down and taking on international traffic (etc.) ... .

Typical agreements: Canada - France (1950)
Ghana - Netherlands (1960)
Indonesia - U.K. (1960)
Libya - U.K. (1953)

7. Notwithstanding the differences in wording appearing in their existing bilateral agreements, most States commenting on Article 1 of the ECAC standard clauses found it acceptable. Two non-European States indicated that they have incorporated, with minor variations, the ECAC phraseology in their own draft standard agreements. Several European governments have in fact adopted the ECAC clauses in agreements concluded recently between them.

Other types of phraseology

8. Framed in a different way from the ECAC standard clauses are several agreements concluded by the Federal Republic of Germany, using the following wording and indicating that routes are dealt with separately in an exchange of diplomatic notes:

1. Each Contracting State grants to the other Contracting State	1. The Contracting Parties grant to each other
for the purpose of operating international air services by designated airlines over the routes specified in accordance with paragraph 2 of this Article:	the following rights with a view to the operation of international air services by the designated airlines:
the right to fly across its territory without landing;	the right to fly across the territory of the other Contracting Party,
the right to land in its territory for non-traffic purposes;	to make stops for non-traffic purposes, and
and the right to land in its territory at the points named on the routes specified in order to take on or discharge passengers (etc.)	the right to fly into and out of the territory of the other Contracting Party ... with passengers (etc.) ... on the routes determined in accordance with paragraph 2 of this Article.
2. The routes over which the designated airlines of the two Contracting States will be authorized to operate international air services shall be specified in a Route Schedule to be agreed upon in an exchange of notes.	2. The routes on which the airlines designated by the two Contracting Parties shall have the right to operate services, shall be determined in a Route Schedule agreed in an exchange of diplomatic notes.

Typical agreements: Canada - Germany (1959)
Germany - Sweden (1957)

Provision concerning State aircraft*

9. One administrative-type clause that sometimes forms part of the article referring to granting of rights concerns State aircraft. The provision appears in only a few existing agreements:

> The present Agreement shall not apply to State aircraft used as military, customs or police aircraft.

Typical agreement: France - Germany (1955)

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* The question of State aircraft is dealt with in Article 3 of the Convention, paragraphs (b) and (c) of which being relevant to the bilateral clause in question.

Section II - Conditions imposed on the exercise of the rights granted (Part 1): designation of airlines; granting of operating permits; competence of airlines

- Option as to inaugurating agreed services

A. CHICAGO FORM OF STANDARD AGREEMENT

(1) ...,* whether such services be inaugurated immediately or at a later date at the option of the contracting party to whom the rights are granted.

(2) (a) Each of the air services so described shall be placed in operation as soon as the contracting party to whom the right has been granted by paragraph (1) to designate an airline or airlines for the route concerned has authorized an airline for such route, and the contracting party granting the right shall, subject to Article (7) hereof,** be bound to give the appropriate operating permission to the airline or airlines concerned; provided that the airline so designated may be required to qualify before the competent aeronautical authorities of the contracting party granting the rights under the laws and regulations normally applied by these authorities before being permitted to engage in the operations contemplated by this Agreement; and provided that in areas of hostilities or of military occupation, or in areas affected thereby, such inauguration shall be subject to the approval of the competent military authorities.

B. STANDARD CLAUSES ADOPTED BY ECAC

ARTICLE 2

1. Each Contracting Party shall have the right to designate in writing to the other Contracting Party one or more airlines for the purpose of operating the agreed services on the specified routes.

2. On receipt of such designation, the other Contracting Party shall, subject to the provisions of paragraph (3) and (4) of this Article, without delay grant to the airline or airlines designated the appropriate operating authorizations.

3. The aeronautical authorities of one Contracting Party may require an airline designated by the other Contracting Party to satisfy them that it is qualified to fulfil the conditions prescribed under the

---

* See under Section I, part A; p. 6.

** Referring to the article relating to ownership of airlines and compliance by airlines with national laws; see under Section III, part A; p. 26.

laws and regulations normally and reasonably applied to the operation of international air services by such authorities in conformity with the provisions of the Convention on International Civil Aviation (Chicago, 1944).

4. Each Contracting Party shall have the right to refuse to grant the operating authorizations referred to in paragraph 2 of this Article, or to impose such conditions as it may deem necessary on the exercise by a designated airline of the rights specified in Article 1, in any case where the said Contracting Party is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in its nationals.

5. When an airline has been so designated and authorized, it may begin at any time to operate the agreed services, provided that a tariff established in accordance with the provisions of Article 7 of the present Agreement is in force in respect of that service.

C. NOTES ON PHRASEOLOGY USED IN EXISTING BILATERAL AGREEMENTS, INCLUDING STATES' COMMENTS ON ECAC STANDARD CLAUSES

Chicago and ECAC clauses compared

1. These clauses differ in several ways. Following the reference to granting of rights in article (1), which also provided that each contracting party has the option as to when to inaugurate agreed services, the Chicago form standard agreement indicates in article (2) the requirements to be met before the agreed services may be inaugurated. Article 2 of the ECAC standard clauses, on the other hand, begins by enumerating the various conditions imposed on the exercise of the rights granted, and then states at the end of the article that when these conditions are fulfilled, the parties concerned may at any time begin operating agreed services. With variations in wording and content, the majority of existing bilateral agreements follow the Chicago standard form. Nevertheless, several States replying to the ICAO inquiry found Article 2 of the ECAC clauses acceptable. The main differences between the two types of clauses are shown in the following:

Chicago standard form (Articles (1) and (2), (a))	ECAC standard clauses (Article 2)
Option as to inaugurating agreed services, subject to the following requirements being met:	- - -
	(Conditions imposed on the exercise of the rights granted:)
(1) designation of airlines;	(1) designation of airlines;
(2) granting of operating permits, subject to provision concerning ownership and control of airlines;	(2) granting of operating permits, subject to the provisions of (3) and (4) below;

..../15

(3) competence of airlines;	(3) competence of airlines;
- - -	(4) ownership and control of airlines;*
- - -	(5) tariff requirements;*
(4) provision concerning restricted areas.*	- - -
- - -	When these conditions are fulfilled, agreed services may be inaugurated at any time.

Option as to inaugurating agreed services

2. A limited number of agreements concluded prior to 1950 follow closely the phraseology appearing in article (1) of the Chicago standard form in framing the clause dealing with States' option as to inaugurating agreed services, as shown in (i) below. However, most agreements in which this clause and the clause referring to granting of rights appear in the same article use the types of wording indicated in (ii).

(i) ..., whether such services be *(or)* ..., which may be *(or)* ..., such services may be

inaugurated immediately or at a later date at the option of the contracting party to whom the rights are granted.

Typical agreements: Argentina - Denmark (1948)
Burma - Ceylon (1950)
Netherlands - Portugal (1946)
Sweden - Turkey (1946)

(ii) ... .

Subject to the provisions of this agreement, any of the specified air services *(or)* The agreed services *(or)* Such services

..../16

* These clauses are dealt with in Section III - Conditions imposed on the exercise of the rights granted (Part 2); pp. 26-33.

may be inaugurated *(or)* may be inaugurated in whole or in part

immediately or at a later date at the option of the contracting party to whom the rights are granted.

Typical agreements: Australia - Lebanon (1953)
Chile - Sweden (1952)
India - U.A.R. (Egypt) (1952)
Mexico - Portugal (1948)

3. Where reference to granting of rights and option as to inaugurating agreed services are dealt with in two separate articles, the article relating to the latter is usually phrased along the lines indicated below:

The agreed services	*(or)*	The agreed services on any specified route	*(or)*	Each of the specified air services
may be commenced	*(or)*	may be inaugurated		
immediately or at a later date at the option of the Contracting Party				
to which the rights are granted under Article ... of the present Agreement,...	*(or)*	to whom the rights are granted		
but not before	*(or)*	on condition that:	*(or)*	provided always that ... .

Typical agreements: Canada - Japan (1955)
Colombia - U.K. (1947)
France - Italy (1949)
U.K. - U.S.A. (1946)

Each Contracting Party shall	(or)	Each Contracting Party will		
designate an airline or airlines for the operation of agreed services and shall	(or)	designate in writing ... an airline for the purpose of operating the specified routes and will	(or)	designate one or more airlines to operate the agreed services and shall
decide upon the date of opening of such services.	(or)	decide on the date of the commencement	(or)	decide on the date of inauguration thereof.

Typical agreements: Austria - Israel (1955)
Iraq - Switzerland (1952)
Luxembourg - Portugal (1951)
Sweden - Uruguay (1952)

4. The ECAC standard clause feature of inserting, at the end of a list of specified conditions, the provision dealing with the option as to inaugurating agreed services is not new. The same sort of arrangement is found in agreements concluded prior to the adoption of the ECAC clauses, using the types of phraseology indicated below. The intent here is not to compare this type of phraseology with that of Article 2, paragraph 5, of the ECAC clauses. Such a comparison is made at the conclusion of Section III* following a discussion in this and the next section of all the conditions imposed on the exercise of the rights granted appearing in existing bilateral agreements.

At any time after the provisions of paragraphs ... of this Article have been complied with		
an airline so designated and authorized	(or)	an airline or airlines so designated and authorized
may begin to operate the specified air services.	(or)	may begin to operate the agreed services.

Typical agreements: Australia - U.A.R. (Egypt) (1952)
Canada - France (1950)
Netherlands - Sudan (1956)
Israel - Switzerland (1952)

* See pp. 32-33.

Designation of airlines

5. In dealing with this provision, a small number of bilateral agreements follow practically word for word the first part of article (2) (a) of the Chicago standard form. The majority of existing agreements are based on the Chicago phraseology in a general way. The main types of wording used are as follows:

Each of the air services so described	*(or)*	Each of the services specified in the Annex hereto	*(or)*	The agreed services	*(or)*	Each of the specified air services	
shall be placed in operation as soon as	*(or)*	may be put into operation as soon as	*(or)*	may be inaugurated immediately or at a later date at the option of the Contracting Party (etc.) ..., but not before:	*(or)*	may be inaugurated immediately or at a later date at the option of the contracting party (etc.) .... on condition that:	
the contracting party to whom the right has been granted by paragraph ... to designate an airline or airlines ror the route concerned	*(or)*	the Contracting Party to which the rights have been granted	*(or)*	the contracting party entitled ... to designate one or more airlines to operate the route or routes concerned	*(or)*	the Contracting Party to whom the rights have been granted	
has authorized an airline for such route,... .	*(or)*	has designated an airline ... to operate the specified routes.	*(or)*	has done so.	*(or)*	has designated an air carrier or carriers for the specified route or routes, ...	

Typical agreements: Afghanistan - India (1952)
Argentina - Denmark (1948)
Chile - Sweden (1952)
Czechoslovakia - Finland (1949)
Japan - Thailand (1953)
U.K. - U.S.A. (1946)

6. Other kinds of phraseology used in expressing the provision relating to designation of airlines are similar to, or precisely the same as, the wording of Article 2, paragraph 1, of the ECAC standard clauses:

Each contracting party shall designate in writing to the other contracting party	(or)	Each Contracting Party will designate in writing to the other Contracting Party	(or)	Each contracting party shall have the right to designate in writing to the other contracting party
an airline or airlines for the purpose of operating the agreed services on the specified routes.	(or)	one or more airlines for the purpose of operating by virtue of the present Agreement air services on the routes specified in the schedule ... to the present Agreement	(or)	an airline for the purpose of operating the specified routes ... .

Typical Agreements: Austria - Israel (1955)
Canada - France (1950)
Netherlands - Sudan (1956)
Chile - U.K. (1947)

7. In the drafting of Article 2, paragraph 1, of the standard clauses, ECAC States took particular care in providing for the designation of more than one airline for any route. One State, whose bilateral agreements follow the Chicago form in respect of this provision, informed ICAO of its preference for the Chicago wording, indicating that the ECAC clause, while granting that "one or more airlines" may be designated for the purpose of operating "the agreed services on the specified routes," is not clear as to whether more than one airline might be designated for a single route.

8. As a rule, agreements or their annexes do not contain a clause relating to the actual designation of airlines. A few agreements, however, include such a clause as shown in the example given below:

> The airlines designated by the Government of ... for the purpose of the operation of the air services on the routes specified in Schedules ... to this Annex shall be ... .

Typical agreements: Iceland - U.K. (1950)
Netherlands - U.K. (1946)

Changes of designated airlines

9. Some States consider it necessary to include in their bilateral agreements a provision dealing with changes of designated airlines or the designation of additional airlines. The following shows four types of phraseology used in existing

agreements. One of the States indicated hereunder felt that the ECAC standard clauses should include a provision enabling a contracting party to replace one designated airline by another having the same qualifications.

(i) Each Contracting Party shall be able freely to replace its concession-holding airlines operating the agreed services by other national airlines after previously informing the other Contracting Party of such changes. The newly designated airline shall have all the rights and duties of its predecessor.

Typical agreement: Argentina - Netherlands (1948)

(ii) Each Contracting Party, on prior notification to the other Contracting Party, shall, subject to ..., have the right to substitute another airline or airlines for the airline or airlines designated to operate the agreed services, and to designate additional airlines.

Typical agreement: Spain - U.K. (1950)

(iii) Each contracting party shall have the right by written notification to the other contracting party to withdraw the designation of any airline and to substitute the designation of another airline.

Typical agreement: Canada - France (1950)

(iv) The competent aviation authorites of either of the Contracting Parties may transfer from the airline originally designated to any other airline the authorization to operate any of the routes, provided at least one month's notice is given to the competent aviation authority of the other Contracting Party.

Typical agreement: Czechoslovakia - Yugoslavia (1948)

Granting of operating permits

10. In dealing with this provision, the Chicago standard form and the ECAC standard clauses differ in two ways. Firstly, in the Chicago phraseology, the granting of operating permits is subject, in the first instance, to the provision relating to ownership of airlines, etc. The requirement regarding competence of airlines is expressed in a second clause. Article 2, paragraph 2, of the ECAC clauses, on the other hand, refers to the two requirements in the same provision.

Secondly, while the Chicago form specifies that States "be bound" to give operating permits, the ECAC clause requires that such permits be granted "without delay". Commenting on the ECAC wording, one non-European State indicated that the requirement "without delay" seems unduly rigid and possibly unrealistic.

11. Agreements following generally the Chicago standard form are shown in (i) below. Other phraseologies commonly used are indicated in (ii).

(i)	The contracting party granting the rights shall,	*(or)*	Each Contracting Party will,	*(or)*	... contracting party granting the rights shall,
	provided that provisions in ... have been complied with	*(or)*	subject to article ...	*(or)*	subject to the provisions of ...
	be bound to give	*(or)*	be bound to grant without delay	*(or)*	without undue delay grant
	the desired operating permit to the airline or airlines concerned.	*(or)*	the authorization to the airline or airlines designated by the other Contracting Party.	*(or)*	the appropriate operating permission to the airline or airlines concerned; ... .

Typical agreements: Austria - Poland (1956)
Dominican Republic - U.S.A. (1949)
Jordan - Turkey (1948)
Portugal - Spain (1947)

(ii)	The agreed services may be inaugurated immediately or at a later date (etc.) ..., but not before:	*(or)*	The agreed services may be inaugurated immediately or at a later date (etc.) ..., on condition that:		
	... .		... .		
	the Contracting Party granting the rights shall have given	*(or)*	the Contracting Party granting the rights has given	*(or)*	the contracting party which grants the rights has given

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the appropriate permission to the air carrier or carriers concerned (which, subject to the provisions of ..., it shall do without undue delay).	*(or)*	the necessary operating permission to the airline or airlines concerned (which it shall do without delay, in accordance with the provisions of ...).	*(or)*	the appropriate operating permission to the airlines concerned ... which it shall do with the least possible delay.

Typical agreements: Brazil - U.S.A. (1946)
Ethiopia - Pakistan (1952)
India - Philippines (1949)
U.K. - U.S.A. (1946)

12. Agreements concluded since 1950 often use wording similar to that of Article 2, paragraph 2, of the ECAC standard clauses:

On receipt of the designation, the other contracting party shall, subject to the provisions of ...,

without delay	*(or)*	without undue delay	*(or)*	without unjustified delay
grant to the airline or airlines designated the appropriate operating authorization.	*(or)*	grant the necessary operating permit to the designated airline or airlines.		

Typical agreements: Canada - Mexico (1953)
Ghana - Netherlands (1960)
Israel - Switzerland (1952)
U.A.R. (Egypt) - Yugoslavia (1955)

Competence of airlines

13. A few bilateral agreements do not contain any provision requiring designated airlines to qualify under the laws and regulations of the country granting the rights. The majority of existing agreements follow generally the Chicago form in framing this clause, with variations in wording as indicated below:

Before being authorized to inaugurate the services contemplated in the agreement,		- - -		- - -
the contracting party granting the rights		The Contracting Party granting the ... rights		- - -
may require the airline or airlines designated by the other contracting party	(or)	may require such airline or airlines		... the airlines so designated may be required
to provide proof of qualification	(or)	to furnish complete evidence of qualification	(or)	to qualify before the competent aeronautical authorities of the Contracting Party granting the rights
in accordance with the laws and regulations normally applied by the aeronautical authorities issuing the operating permit.		in accordance with the laws and regulations in force in its territory	(or)	under the laws and regulations normally applied by these authorities
- - -		before being permitted to engage in the operations contemplated by this Agreement.		

Typical agreements: Finland - Netherlands (1949)
Netherlands - Switzerland (1949)
France - Turkey (1947)

The airlines designated may be required	(or)	The designated air-carrier or carriers may be required	(or)	Each of the designated airlines may be required

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to satisfy the aeronautical authorities of the other Contracting Party that it is	*(or)*	to satisfy the competent aeronautical authorities of the Contracting Party granting the rights that it or they is or are
qualified to fulfil the conditions prescribed by or under the laws and regulations normally applied by those authorities to the operations of commercial air carriers.	*(or)*	qualified to fulfil the conditions prescribed under the laws and regulations normally applied by those authorities to the operations of international air services.

Typical agreements: Australia - Lebanon (1953)
Argentina - Netherlands (1948)
Ireland - Italy (1947)
Peru - Spain (1954)
U.K. - U.S.A. (1946)

14. Most of the early bilateral agreements ask the airlines concerned to qualify under national regulations. Recent agreements often refer specifically to the requirements of the Chicago Convention along the lines of the ECAC article. Examples of the latter type are given in the following:

The aeronautical authorities of one Contracting Party,		The aeronautical authorities of one Contracting Party
before granting operating permission to an airline designated by the other Contracting Party,		- - -
may require an airline designated by the other Contracting Party	*(or)*	may require the airline
to satisfy them that it is qualified to fulfil	*(or)*	to satisfy them that it fulfils

..../25

the conditions prescribed under the laws, rules and regulations which they normally apply to the operation of scheduled air services	*(or)*	the conditions prescribed under the laws and regulations normally and reasonably applied by those authorities,		
provided that such laws, rules and regulations do not conflict with the provisions of the Convention or of the present Agreement.	*(or)*	**in conformity with** the Chicago Convention, to the operation of international air services.	*(or)*	**in conformity with** the provisions of the Convention to the operation of international commercial air services.

Typical agreements: Ghana - Netherlands (1960)
India - U.A.R. (Egypt) (1952)
Israel - Switzerland (1952)

15. None of the States commenting on Article 2, paragraph 3, of the ECAC standard clauses took exception to a specific reference being made to the provisions of the Convention in connection with the article dealing with competence of airlines. However, some States considered the point adequately covered in the preamble of their bilateral agreements, and felt that there would be no need to include the wording "in conformity with the provisions of the Convention..." elsewhere in the agreements. Perhaps more controversial is the expression "reasonably applied" in the ECAC clause. One ECAC Member State suggested its deletion, and a non-European State thought that it might lead to conflicting views regarding the interpretation of the word "reasonably". Both regarded the Chicago wording "normally applied" as more acceptable.

Section III - Conditions imposed on the exercise of the rights granted (Part 2): ownership of airlines; tariff requirements; restricted areas

- Option as to inaugurating agreed services

A. CHICAGO FORM OF STANDARD AGREEMENT

(2) (a) ... and provided that in areas of hostilities or of military occupation, or in areas affected thereby, such inauguration shall be subject to the approval of the competent military authorities.

... .

(7) Each contracting party reserves the right to withhold or revoke a certificate or permit to an airline of another State in any case where it is not satisfied that substantial ownership and effective control are vested in nationals of a party to this Agreement, or in case of failure of an airline to comply with the laws of the State over which it operates, as described in Article (6) hereof,* or to perform its obligations under this Agreement.**

B. STANDARD CLAUSES ADOPTED BY ECAC

ARTICLE 2

... .

4. Each Contracting Party shall have the right to refuse to grant the operating authorizations referred to in paragraph 2 of this Article, or to impose such conditions as it may deem necessary on the exercise by a designated airline of the rights specified in Article 1, in any case where the said Contracting Party is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in its nationals.

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* See under Section IX, part A; p.64.

** The wording of Article I, Section 5, of the International Air Service Transit Agreement and Article I, Section 6, of the International Air Transport Agreement (Chicago, 1944) is essentially the same as that used in article (7) of the Chicago form of standard agreement.

5. When an airline has been so designated and authorized, it may begin at any time to operate the agreed services, provided that a tariff established in accordance with the provisions of Article 7 of the present Agreement is in force in respect of that service.

C. NOTES ON PHRASEOLOGY USED IN EXISTING BILATERAL AGREEMENTS, INCLUDING STATES' COMMENTS ON ECAC STANDARD CLAUSES

Ownership of airlines

1. As indicated in article (2) (a) of the Chicago form standard agreement, * the granting of operating permits is subject, inter alia, to the provisions of article (7), according to which a contracting party has the right to "withhold" or "revoke" the permits if it has doubts as to the ownership and control of a designated airline being in the hands of nationals of a contracting party. The ECAC standard clauses provide, in Article 2, paragraph 4, for the right to "refuse" to grant operating permits if the ownership of an airline is in doubt, but leaves the question of "revoking" permits granted to the provisions of Article 3, paragraph 1 (a).** Dealing with the question of airline ownership solely as a prior condition to inaugurating agreed services, paragraphs 2 to 7 below are concerned only with the right to withhold or refuse the granting of operating permits referred to in the first part of article (7) of the Chicago standard form and in Article 2, paragraph 4, of the ECAC standard clauses.

2. The main types of phraseology currently used in framing the provision are based on the Chicago standard form, with variations in wording as described hereunder. Attention is drawn to the difference between agreements specifying that substantial ownership and effective control of an airline be vested in "nationals of either contracting party", as is apparently the intent of the Chicago wording "nationals of a party to this Agreement", and agreements referring to "nationals of the other contracting party", "nationals of the contracting party designating the airline", "the other contracting party", and other variations.

Each Contracting Party reserves the right to withhold ...	*(or)*	Each Contracting Party reserves the right to itself to withhold ...	*(or)*	Each Contracting Party shall have the right to refuse to accept the designation of an airline and to withhold ...			
the grant to an airline of the rights specified in ...	*(or)*	the exercise of the rights specified in ... by a carrier designated by the other Contracting Party	*(or)*	an operating permission	*(or)*	the privileges specified in ...	

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* See under Section II, part A; p.13.

** See under Section IV, part B; p.34.

in the event that it is not satisfied	(or)	in any case where it is not satisfied	(or)	in case it is not satisfied	(or)	upon failure ... to supply, upon request, the proof
that substantial ownership and effective control of such carrier	(or)	that substantial ownership and effective control of the airline	(or)	that substantial ownership and effective control of the designated airline of the other contracting party		
are vested in the Contracting Party designating the airline or in nationals of the Contracting Party designating the airline.	(or)	are vested in nationals of either Contracting Party,... .	(or)	are vested in the nationals of the other Contracting Party,... .		

Typical agreements: Afghanistan - Pakistan (1957)
Austria - Denmark (1949)
Brazil - Turkey (1950)
Norway - U.K. (1952)
U.K. - U.S.A. (1946)

3. Agreements using similar wording to that of Article 2, paragraph 4, of the ECAC standard clauses* are in the minority. Two examples are given below:

> Each Contracting Party shall have the right to refuse to accept the designation of an airline and to withhold ... the grant to an airline of the privileges specified in ... in any case where it is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in its nationals /in nationals of the Contracting Party designating the airline/.

Typical agreements: Ghana - U.A.R. (1960)
Malaya - U.K. (1957)

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* At the 3rd Session of the European Civil Aviation Conference when the ECAC standard clauses were adopted, there was considerable discussion of the provision relating to substantial ownership and effective control of an airline. Few States prefer "majority" ownership rather than substantial ownership to be vested in the Government concerned or in its nationals, but the Conference decided that it would be undesirable to change what had become a standard provision for the majority of ICAO States and that the words "substantial ownership", although admittedly vague, were sufficiently clear when associated with the words "effective control".

Other provisions relating to ownership of airlines

4. In agreements concluded by South Africa, the provision relating to ownership of airlines is entirely different from those described in paragraphs 2 to 4 above. It generally appears in connection with an article indicating agreement of the governments concerned to operate agreed services on designated routes, and is stated simply as follows:

> Substantial ownership and effective control of the airline designated by the Government of ... shall be /and shall continue to be/ vested in nationals of ... .

Typical agreements: Australia - South Africa (1958)
France - South Africa (1954)
Israel - South Africa (1953)
Italy - South Africa (1956)

5. Similar phraseology to that used in the South African agreements is contained in several agreements concluded by India and Pakistan:

> Substantial ownership and effective control of the designated airlines of each Contracting Party shall be vested in that Party or its nationals.

Typical agreements: Ceylon - India (1948)
Ceylon - Pakistan (1949)
Ethiopia - Pakistan (1952)
India - Pakistan (1948)

6. The Scandinavian countries have concluded a series of agreements containing, in addition to the provision concerning ownership of airlines, an article relating to joint operating organizations referred to in Chapter XVI of the Chicago Convention.* Two examples of such article are given below:

(i) A joint airline constituted in accordance with Chapter XVI of the Convention on International Civil Aviation signed at Chicago on 7 December 1944, and designated by a contracting party, shall be considered as having met the requirements set out in

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* Chapter XVI, Article 77, of the Convention reads in part as follows:

> Nothing in this Convention shall prevent two or more contracting States from constituting joint air transport operating organizations or international operating agencies and from pooling their air services on any routes or in any regions,... .

paragraph ...* if operating rights were granted to all participants in the company in accordance with the said Chapter, on the basis of special agreements. In such case, the joint airline shall be an operating organization constituted by private air transport companies, substantial ownership and effective control of one of which shall be vested in at least one of the Contracting Parties or its nationals.

Typical agreement: Norway - Switzerland (1954)

(ii) Nothing in this Article shall prevent either Contracting Party designating an air transport organization which is constituted with another country or countries for purpose of joint air transport operations provided that substantial ownership and effective control of such organizations are vested in the Governments or nationals of the Contracting Parties concerned and such other country or countries which have concluded air services agreement(s) with the other Contracting Party.

Typical agreement: Denmark - Thailand (1949)

7. In bilaterals where articles such as those indicated in paragraph 6 do not appear in the body of the agreement, a special clause, of which the following is an example, forms part of the agreement through an exchange of diplomatic notes:

A/B Aerotransport (ABA), which is operated jointly with Det Danske Luftfartselskab A/S (DDL) and Det Norske Luftfartselskap A/S (DNL) under the name of Scandinavian Airlines System (SAS), an organization constituted in conformity with Chapter XVI of the Convention on International Civil Aviation signed at Chicago on 7 December 1944, may as such operate the above-mentioned services, notwithstanding the provisions of Article 6 of the Agreement relating to ownership and control of national airlines.

Typical agreement: Greece - Sweden (1947)

Tariff requirement

8. The tariff requirement appearing in Article 2, paragraph 5, of the ECAC standard clauses is not generally included in existing bilateral agreements. The Chicago standard form contains no article requiring an established tariff to be in force before inaugurating agreed services. Several States commenting on the ECAC clause suggested its deletion. Nevertheless, a number of agreements now contain

* Referring to the clause relating to ownership of airlines.

the ECAC wording. Two such agreements are shown in paragraph 11 below.* Examples of agreements containing a provision similar in character to that of Article 2, paragraph 5, of the ECAC clauses are indicated hereunder:

> Subject to the provisions of Article ...,** at any time after the provisions of ...*** have been complied with, an airline so designated and authorized may begin to operate the agreed services.

Typical agreements: Canada - Mexico (1953)
Lybia - U.K. (1953)

Restricted areas

9. In the last qualifying clause of article (2) (a), the Chicago form of standard agreement provides that, in areas of hostility or of military occupation, inauguration of agreed services is subject to the approval of military authorities. The ECAC standard clauses do not include a provision of this kind, the subject having been regarded as adequately covered by the corresponding provisions of the Chicago Convention.**** Existing agreements containing such a provision generally use the following types of wording:

> The operation of the air services in the areas declared as prohibited areas by each Contracting Party shall be subject to the approval of the respective Contracting Party.

Typical agreement: Afghanistan - Pakistan (1957)

> In areas /of hostilities or/ of military occupation, or /in areas/ affected thereby, the inauguration of such services shall be subject to the approval of the competent military authorities.

Typical agreements: Greece - Norway (1951)
China - Netherlands (1947)

Adequacy of route organization

10. In addition to the afore-mentioned requirements, some agreements indicate the need for ensuring that route facilities and services are adequate before the inauguration of agreed services:

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* See pp. 33, under (ii) ECAC type provisions.

** Referring to the article relating to tariffs.

*** Referring to clauses relating to designation of airlines and granting of operating permits.

**** Article 9 of the Convention relates to prohibited areas.

The operation of each of the specified air services shall be subject to the agreement of the Contracting Party concerned that the route organization available for civil aviation on /that portion of/ the specified air route /which is within its territory/ is adequate for the safe operation of air services.

Typical agreements: Afghanistan - India (1952)
Australia - Pakistan (1949)
Ethiopia - Pakistan (1952)
India - Philippines (1949)

Chicago and ECAC phraseologies compared

11. Having examined in Sections II and III the various kinds of condition imposed on the exercise of the rights granted, it will be useful to compare as a whole provisions patterned after the Chicago form standard clauses with those that are similar in wording to the ECAC standard clauses. One kind of phraseology for each type of provision is given below:

(i) Chicago type provisions

Each of the air services so described shall be placed in operation as soon as the contracting party to whom the rights have been granted by Article ... to designate an airline /or airlines/ for the route concerned has authorized an airline for such route, and the contracting party granting the rights shall, subject to Article ... hereof,* be bound to give the appropriate operating permission to the airline /or airlines/ concerned, provided that:

1. the airlines so designated may be required to satisfy the competent aeronautical authorities of the contracting party granting the rights /that they are qualified to fulfil the conditions prescribed/ under the laws and regulations normally applied by these authorities before being permitted to engage in the operations contemplated by the present Agreement; and,

2. in areas of hostilities or of military occupation, or in areas affected thereby, such operations shall be subject to the approval of the competent military authorities.

Typical agreements: Italy - U.S.A. (1948)
Burma - Ceylon (1950)

* Referring to the article relating to ownership of airlines.

(ii) ECAC type provisions

(1) Each Contracting Party shall have the right to designate in writing to the other Contracting Party one or more airlines for the purpose of operating the agreed services on the specified routes.

(2) On receipt of the designation, the other Contracting Party shall, subject to the provisions of paragraph (3) and (4) of this Article, without delay grant to the airline or airlines designated the appropriate operating authorization.

(3) The aeronautical authorities of one Contracting Party may require an airline designated by the other Contracting Party to satisfy them that it is qualified to fulfil the conditions prescribed under the laws and regulations normally and reasonably applied by them in conformity with the provisions of the Convention to the operation of international commercial air services.

(4) Each Contracting Party shall have the right to refuse to accept the designation of an airline and to withhold or revoke the grant to an airline of the privileges specified in paragraph (2) of Article 2 of the present Agreement or to impose such conditions as it may deem necessary, on the exercise by an airline of those privileges in any case where it is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in nationals of the Contracting Party designating the airline.

(5) At any time after the provisions of paragraphs (1) and (2) of this Article have been complied with, an airline so designated and authorized may begin to operate the agreed services provided that a service shall not be operated unless a tariff established in accordance with the provisions of Article ... of the present Agreement is in force in respect of that service.

Typical agreements: Ghana - Netherlands (1960)
Malaya - U.K. (1957)

Section IV - Revocation and limitation of rights

A. CHICAGO FORM OF STANDARD AGREEMENT

(7) Each contracting party reserves the right to withhold or revoke a certificate or permit to an airline of another State in any case where it is not satisfied that substantial ownership and effective control are vested in nationals of a party to this Agreement, or in case of failure of an airline to comply with the laws of the State over which it operates, as described in Article (6) hereof,* or to perform its obligations under this Agreement.

B. STANDARD CLAUSES ADOPTED BY ECAC

ARTICLE 3

1. Each Contracting Party shall have the right to revoke an operating authorization or to suspend the exercise of the rights specified in Article 1 of the present Agreement by an airline designated by the other Contracting Party, or to impose such conditions as it may deem necessary on the exercise of these rights:

(a) in any case where it is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in nationals of such Contracting Party, or

(b) in the case of failure by that airline to comply with the laws or regulations of the Contracting Party granting these rights, or

(c) in case the airline otherwise fails to operate in accordance with the conditions prescribed under the present Agreement.

2. Unless immediate revocation, suspension or imposition of the conditions mentioned in paragraph 1 of this Article is essential to prevent further infringements of laws or regulations, such right shall be exercised only after consultation with the other Contracting Party.

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* See under Section IX, part A; p. 64.

C. NOTES ON PHRASEOLOGY USED IN EXISTING BILATERAL AGREEMENTS, INCLUDING STATES' COMMENTS ON ECAC STANDARD CLAUSES

1. Section III dealt with the right of a contracting party to withhold or refuse to grant an operating permit if it is not convinced that substantial ownership and effective control of an airline are vested in the government concerned or in its nationals. This section is concerned with the right to revoke, withdraw or suspend permits already granted, or to impose other limitations on an airline, either for reasons of airline ownership and control, or in cases where an airline does not comply with national laws and regulations, or fulfil the conditions laid down in the agreement.

Revocation of rights

2. Both article (7) of the Chicago standard form and Article 3, paragraphs 1, 1 (a) to 1 (c), of the ECAC clauses provide for the revocation of operating permits. Unlike the Chicago provision, the ECAC clauses do not provide for the right to withhold permits in the case of non-compliance by an airline with national laws and regulations or of non-performance of its obligations under the agreement. This seems sensible since such non-compliance or non-performance is not likely to occur before an airline is given a permit to operate agreed services. However, a majority of existing agreements use the Chicago type phraseology:

Each Contracting Party reserves the right to ... revoke	(or)	Each Contracting Party reserves the right to itself to ... revoke				
a certificate or permit to an airline of another State in any case where it is not satisfied	(or)	the exercise of the rights specified in ... by a carrier designated by the other Contracting Party in the event that it is not satisfied		such permit in any case which it is not satisfied	(or)	such permit, if issued, whenever it has no proof
that substantial ownership and effective control are vested in the nationals of a party to this Agreement,	(or)	that substantial ownership and effective control of such carrier are vested in nationals of either Contracting Party,	(or)	that substantial ownership and effective control of such airline are vested in nationals of the other Contracting Party,		that a substantial share in the ownership and the effective control of such airline are vested in nationals of either Contracting Party,

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or in case of failure by the designated airline or the government to comply with the laws and regulations of the State over which it operates, as described in Article ...	*(or)*	or in case of failure by that carrier to comply with the laws and regulations referred to in Article ... hereof,	*(or)*	or in case of failure by the designated airline to comply with the laws and regulations of the Contracting Party over whose territory it operates as described in Article ... hereof,	or whenever such airline fails to comply with the laws and regulations referred to in the ... article,
or otherwise the airline fails to operate in accordance with the conditions prescribed in the present agreement.	*(or)*	or otherwise to fulfil the conditions under which the rights are granted in accordance with this Agreement and its Annex.			or to perform its obligations under this Agreement.

Typical agreements: Belgium - Portugal (1946)
Denmark - Thailand (1949)
Jordan - Turkey (1948)
Netherlands - Venezuela (1954)
Switzerland - Yugoslavia (1953)
U.K. - U.S.A. (1946)

3. There are agreements in which the right to withhold or revoke operating permits does not apply to the provision relating to ownership of airlines. It applies only to cases where an airline fails to comply with national laws or to fulfil the conditions under the agreement.

... Each Contracting Party reserves the right to ... revoke	... Each Contracting Party reserves the right to itself to ... revoke,...
the certificate or permit of any airline of the other Contracting Party	with respect to an operating permission

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in case of failure of such airline to comply with the laws of the State over which it operates, as described in Article ... hereof,	in case of failure by a designated airline of the other Party to comply with the laws and regulations of the former Party,
or otherwise to fulfil the conditions under which the rights are granted in accordance with this Agreement and its Annex.	or in case, in the judgement of the former Party, there is a failure to fulfil the conditions under which the rights are granted in accordance with this Agreement.

Typical agreements: Ceylon - India (1948)
China - Netherlands (1946)

Suspension or limitation of rights

4. The Chicago form of standard agreement does not provide for the suspension of the rights granted or the imposition of limitations on the exercise of such rights. A majority of existing agreements are in this category. Since the revocation of an operating permit is usually the final sanction, suspension of the permit and imposition of special conditions are the two less drastic measures provided for in the ECAC standard clauses. Several States commenting on these clauses indicated that they would accept the provisions of Article 3, paragraph 1.

5. A fairly large number of bilaterals now provide for the right to impose special conditions on an airline either for reasons related to airline ownership, or in the event of failure by an airline to comply with laws and regulations or to perform its obligations under the agreement. Less often is the right to suspend operating permits appearing in existing agreements. Where such a right is provided, the right to withhold or revoke an operating permit generally becomes applicable only to the provision relating to ownership of airlines, while the right to suspend the permit applies solely to cases of non-compliance of regulations or non-performance of obligations under the agreement. The following shows the main types of phraseology used:

Each Contracting Party shall have the right to refuse to accept the designation of an airline and to withhold or revoke the grant to an airline of the privileges specified in ...	Each Contracting Party reserves the right to withhold or revoke the rights specified in ... in respect of an airline designated by the other Contracting Party

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or to impose such conditions as it may deem necessary on the exercise by an airline of those privileges in any case where it is not satisfied that substantial ownership and effective control of that airline are vested (etc.)	or to impose such conditions as it may deem necessary on the exercise by the airline of those rights, in any case where it is not satisfied that substantial ownership and effective control of such airline are vested (etc.) ... .
Each Contracting Party shall have the right to suspend the exercise by an airline of the privileges specified in ... or to impose	Each Contracting Party reserves the right to suspend the exercise by a designated airline of the other Contracting Party of the rights referred to in ..., or to impose
such conditions as it may deem necessary on the exercise by an airline of those privileges	such conditions as it may deem necessary on the exercise by the airline of those rights
in any case where the airline fails to comply with the laws /, rules/ and regulations of the Contracting Party granting those privileges	in any case where the airline fails to comply with such laws and regulations of the Contracting Party granting those rights as referred to in Articles 11 and 13 of the Convention*
or otherwise fails to operate in accordance with the conditions prescribed in the present Agreement;	or in case of failure of the airline or the Contracting Party designating it to perform its obligations under the present agreement;... .

Typical agreements: Canada - Mexico (1953)
Japan - Thailand (1953)
Lebanon - U.K. (1951)
U.A.R. (Egypt) - Turkey (1950)

* Articles 11 and 13 of the Chicago Convention relate to applicability of air regulations and to entry and clearance regulations, respectively.

Prior consultation

6. The Chicago form of standard agreement does not provide for consultation prior to withholding, revocation, or suspension of operating permits. Notwithstanding this, many existing agreements contain a provision for such consultation. In some agreements, it is a general type of clause as indicated in (i) below. In others, the requirement for consultation does not apply in cases of failure by an airline to comply with laws and regulations or to fulfil the conditions under the agreement, as shown in (ii). Provisions similar to Article 3, paragraph 2, of the ECAC standard clauses are given in (iii), and certain other types of phraseology are noted in (iv).

(i) (1) Each Contracting Party shall have the right, after consultation with the other Contracting Party, to refuse to accept the designation of an airline or to withhold or revoke the grant to an airline of the rights (etc.) ... .

(2) Each Contracting Party shall have the right, after consultation with the other Contracting Party, to suspend the exercise by a designated airline of the rights (etc.) ... .

Typical agreement: Italy - U.K. (1948)

1. Each Contracting Party reserves the right to withhold or revoke the grant of an operating permission (etc.) ... .

2. The rights conferred by paragraph 1 of this Article shall not be exercised except after consultation between the two Contracting Parties.

Typical agreement: Switzerland - U.K. (1950)

Subject to consultation with the other Party, such consultation to be held within a period of sixty days following the date on which it is requested, each of the Contracting Parties reserves the right to withhold or revoke the exercise of the rights (etc.) ... .

Typical agreement: Colombia - Spain (1951)

(ii) Each Contracting Party reserves the right to itself to withhold or revoke, ... with respect to an operating permission in case of failure by a designated airline ... to comply with the laws and regulations of the former Party, or in case, in the judgment of the

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former Party, there is a failure to fulfil the conditions ... in accordance with this Agreement. Except in case of failure to comply with laws and regulations, such action shall be taken only after consultation between the Parties ... .

Typical agreement: India - Ceylon (1948)

... It may ... without prior consultation, withhold or revoke the exercise of such rights, or impose such conditions (etc.) ... in any case where the airline fails to comply with the laws, regulations and other provisions ... of the present Agreement, or otherwise fails to fulfil the conditions under which the said rights were granted.

Typical agreement: Colombia - Spain (1951)

(iii) Each contracting party shall have the right to suspend the exercise by an airline of the privileges (etc.) ... provided that, unless immediate suspension or imposition of conditions is essential to prevent further infringements of such laws and regulations, this right shall be exercised only after consultation with the other contracting party.

Typical agreements: Belgium - Spain (1952)
Canada - Mexico (1953)
Japan - Thailand (1953)
Lebanon - U.K. (1951)

A party to this Agreement shall have the right to suspend the air services operated ... by the airline designated by the other party (etc.) ...: Provided that unless immediate suspension is essential to prevent further infringement of a law or regulation or term or condition above mentioned this right shall be exercised only after consultation with the other party to this Agreement

Typical agreement: Australia - South Africa (1958)

(iv) Each Contracting Party shall have the right to suspend the exercise by an airline of the rights (etc.) ... . Such unilateral action, however, shall not take place before the intention to do so is notified to the other contracting party and consultation between the aeronautical authorities of both contracting parties has not led to agreement within a period of twenty-eight days from the date of the said notification.

Typical agreement: U.A.R. (Egypt) - Turkey (1950)

Prior to exercising the rights ... to withhold or revoke, or to impose conditions with respect to any certificate or permit issued to the designated airline of the other Contracting Party, the Contracting Party desiring to exercise such right shall give notice thereof to the other Contracting Party and simultaneously to the designated airline concerned. Such notice shall state the basis of the proposed action and shall afford opportunity to the other Contracting Party to consult in regard thereto. Any revocation or imposition of conditions shall become effective on the date specified in such notice (which shall not be less than one calendar month after the date on which the notice would, in the ordinary course of transmission, be received by the Contracting Party to whom it is addressed) unless the notice is withdrawn before such date.

Typical agreement: Australia - Lebanon (1953)

Section V - Rights granted may be exercised at the earliest practicable date; rights granted to third parties

A. CHICAGO FORM OF STANDARD AGREEMENT

(2) (b) It is understood that any contracting party granted commercial rights under this Agreement should exercise them at the earliest practicable date except in the case of temporary inability to do so.

(3) Operating rights which may have been granted previously by any of the contracting parties to any State not a party to this Agreement or to an airline shall continue in force according to their terms.

B. STANDARD CLAUSES ADOPTED BY ECAC

(no corresponding provisions)

C. NOTES ON PHRASEOLOGY USED IN EXISTING BILATERAL AGREEMENTS

Rights granted may be exercised at the earliest practicable date

1. This clause appears in a limited number of agreements most of which were concluded in the early post-war years. The wording used is the same as that of article (2) (b) of the Chicago standard form.

2. Some agreements contain, either in the main body of the agreement, or in the annex, the following provision which appears to be related to the qualifying words "except in the case of temporary inability to do so" in the last two lines of the Chicago article (2) (b).

> In so far as the airline or airlines of one Contracting Party may be temporarily prevent through difficulties arising from the War from taking immediate advantage of the opportunity referred to in ... of the present Agreement* the situation shall be reviewed between the Contracting Parties /with the object of facilitating the necessary development

..../43

* Referring to "fair and equal opportunity" for the airlines of both parties to operate agreed services.

of the air services of the first Contracting Party/ as soon as the airline or airlines of that Contracting Party is or are in a position increasingly to make their /proper/ contribution to the service.

Typical agreements: Burma - Denmark (1951)
Greece - Turkey (1947)
Italy - U.K. (1948)

Rights granted to third parties to continue in force

3. Some agreements contain a provision based on article (3) of the Chicago standard form, using the same phraseology.

Operating rights which may have been granted previously by either of the Contracting Parties to any other State or to an airline of such State shall continue in force according to their terms.

Typical agreements: Finland - Netherlands (1949)
Portugal - Spain (1947)

Section VI - Airport and facility charges

A. CHICAGO FORM OF STANDARD AGREEMENT

(4) In order to prevent discriminatory practices and to assure equality of treatment, it is agreed that:

(a) Each of the contracting parties may impose or permit to be imposed just and reasonable charges for the use of airports, and other facilities. Each of the contracting parties agrees, however, that these charges shall not be higher than would be paid for the use of such airports and facilities by its national aircraft engaged in similar international services.*

B. STANDARD CLAUSES ADOPTED BY ECAC

(No corresponding provisions)

C. NOTES ON PHRASEOLOGY USED IN EXISTING BILATERAL AGREEMENTS

Introductory clause

1. The introductory clause of the Chicago article, "In order to prevent discriminatory practices (etc.) ...:" appears in agreements concluded generally before 1950. Few recent agreements contain this clause.

Charges for airports and facilities

2. There is no provision in the ECAC standard clauses dealing with charges for airports and facilities, the subject having been regarded as fully covered by the provisions of Article 15 of the Chicago Convention.** Also, such a provision does

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* The wording of Article I, Section 4(2) of the International Air Service Transit Agreement and of Article I, Section 5(2) of the International Air Transport Agreement (Chicago, 1944) is essentially the same as that of article (4) (a) of the Chicago form of standard agreement.

** Article 15 of the Convention provides (in the second paragraph):

Any charges that may be imposed or permitted to be imposed by a contracting State for the use of such airports and air navigation facilities by the aircraft of any other contracting State shall not be higher, ... (b) As to aircraft in scheduled international air services, than those that would be paid by its national aircraft engaged in similar international air services... .

not always appear in bilateral agreements, especially in those concluded in recent years. Examples of agreements in this category are:

Typical agreements: Australia - Pakistan (1949)
Austria - U.K. (1956)
Ethiopia - Pakistan (1952)
Ghana - U.K. (1958)
India - U.A.R. (Egypt) (1952)

3. A majority of existing agreements contain an article relating to airport and facility charges. Some agreements use the exact Chicago phraseology, but a large number of others have adopted a somewhat different wording from the Chicago article, several variations of which are shown below:

Each of the contracting parties may impose or permit to be imposed	(or)	Each of the contracting parties may impose or permit to be imposed on the designated airlines of the other contracting party		
just and reasonable charges for the use of public airports and other facilities under its control. Each of the contracting parties agree, however, that	(or)	just and reasonable charges for the use of airports and other facilities. Each of the contracting parties agree, however, that	(or)	fair and reasonable charges for the use of airports and other facilities;
these charges shall not be higher than would be paid for the use of such airports and facilities	(or)	such charges shall not be higher than would be paid	(or)	these charges shall not be higher than would be paid for the use of such airports and other facilities
by its national aircraft engaged in similar international services.	(or)	by its national aircraft or the aircraft of the most favoured nation engaged in similar international services.	(or)	by any national airline of the first Contracting Party engaged in similar international services.

Typical agreements: Argentina - Denmark (1948)
Burma - Norway (1953)
Denmark - Lebanon (1955)
Ecuador - Netherlands (1954)
Greece - Sweden (1947)

The charges which either of the Contracting Parties may impose, or permit to be imposed		
on the designated airlines of the other Contracting Party for the use of airports and other facilities /under its control/	*(or)* on the designated air carrier or carriers of the other Contracting Party for the use of airports or other facilities	
shall not be higher than would be paid for the use of such airports and other facilities by any national airline of the first Contracting Party engaged in similar international services.	*(or)* shall not be higher than would be paid for the use of such airports and facilities by its national aircraft engaged in similar international services.	*(or)* shall not be higher than would be paid for the use of such airports and facilities by any national airline of the first Contracting Party, or by the most favoured foreign airline, engaged in international air services.

Typical agreements: Australia - Japan (1956)
Canada - New Zealand (1950)
Germany - U.K. (1955)
Ireland - Italy (1947)
U.K. - U.S.A. (1946)

The charges or other duties levied by Each Contracting Party for the use of airports and other aeronautical facilities by the aircraft of the other Contracting Party shall not be higher than would be paid by its national aircraft of the same class engaged in similar operations.

Typical agreement: France - Germany (1955)

Use of airports and facilities

4. A number of bilateral agreements include a provision based on the first

paragraph of Article 15 of the Chicago Convention.* In some cases it is the only provision in the agreement relating to airports and facilities. In others, the provision is in addition to the usual article dealing with airport and facility charges. The following are examples of several types of phraseology used:

> The charges which either of the contracting parties may impose or permit to be imposed for the use of airports (etc.)... .
>
> Each designated airline shall have the right to use, on the routes specified in the Annex to this Agreement, all airports, airways and other facilities provided by the contracting parties for use by international air services.
>
> Typical agreement: Canada - New Zealand (1950)

> The aircraft of each of the Contracting Parties shall be entitled to make use of the aeronautical facilities at the airports of the other Contracting Party.
>
> The charges or other duties levied by each Contracting Party for the use of airports and other aeronautical facilities (etc.)... .
>
> Typical agreement: France - Germany (1955)

> The designated airline or airlines of each Contracting Party shall have the right to use all airports, airways and other facilities provided by the other Contracting Party in its territory for use by international air services on the air routes specified in the Annex ... .
>
> Typical agreement: Australia - Pakistan (1949)

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* Article 15 of the Convention provides (in the first paragraph):

> Every airport in a Contracting State which is open to public use by its national aircraft shall likewise, ... be open under uniform conditions to the aircraft of all the other contracting States. The like uniform conditions shall apply to the use, by aircraft of every contracting State, of all air navigation facilities, ... which may be provided for public use for the safety and expedition of air navigation... .

The airlines designated ... shall have the right to use

(i) for traffic purposes, airports provided for public use at the points specified in the Annex to this Agreement and auxiliary services provided for public use on the air routes specified in the said Annex ... and

(ii) for non-traffic purposes, all airports and ancillary services provided for public use on the specified air routes... .

Typical agreement: Ethiopia - Pakistan (1952)

Every airport in the territory of one of the Contracting Parties which is open to public use by its national aircraft shall be open under uniform conditions to the aircraft of the other Contracting Party... .

Typical agreement: Brazil - U.S.A. (1946)

Section VII - Customs duty and other charges

A. CHICAGO FORM OF STANDARD AGREEMENT

(4) In order to prevent discriminatory practices and to assure equality of treatment, it is agreed that

... .

(b) Fuel, lubricating oils and spare parts introduced into the territory of a contracting party by another contracting party or its nationals, and intended solely for use by aircraft of such other contracting party shall be accorded national and most-favoured-nation treatment with respect to the imposition of customs duties, inspection fees or other national duties or charges by the contracting party whose territory is entered.

(c) The fuel, lubricating oils, spare parts, regular equipment and aircraft stores retained on board civil aircraft of the airlines of the contracting parties authorized to operate the routes and services described in the Annex shall, upon arriving in or leaving the territory of other contracting parties, be exempt from customs, inspection fees or similar duties or charges, even though such supplies be used or consumed by such aircraft on flights in that territory.

B. STANDARD CLAUSES ADOPTED BY ECAC

ARTICLE 4

1. Aircraft operated on international services by the designated airlines of either Contracting Party, as well as their regular equipment, supplies of fuels and lubricants, and aircraft stores (including food, bevarages and tobacco) on board such aircraft shall be exempt from all customs duties, inspection fees and other duties or taxes on arriving in the territory of the other Contracting Party, provided such equipment and supplies remain on board the aircraft up to such time as they are re-exported.

2. There shall also be exempt* from the same duties and taxes, with the exception of charges corresponding to the service performed:

* The means of giving effect to exemption may vary from country to country; for example taxes may have to be paid to be refunded afterwards.

(a) aircraft stores taken on board in the territory of either Contracting Party, within limits fixed by the authorities of said Contracting Party, and for use on board aircraft engaged in an international service of the other Contracting Party;

(b) spare parts entered into the territory of either Contracting Party for the maintenance or repair of aircraft used on international services by the designated airlines of the other Contracting Party;

(c) fuel and lubricants destined to supply aircraft operated on international services by the designated airlines of the other Contracting Party, even when these supplies are to be used on the part of the journey performed over the territory of the Contracting Party in which they are taken on board.

Materials referred to in sub-paragraphs (a), (b) and (c) above may be required to be kept under Customs supervision or control.

ARTICLE 5

The regular airborne equipment, as well as the materials and supplies retained on board the aircraft of either Contracting Party may be unloaded in the territory of the other Contracting Party only with the approval of the customs authorities of such territory. In such case, they may be placed under the supervision of said authorities up to such time as they are re-exported or otherwise disposed of in accordance with customs regulations.

C. NOTES ON PHRASEOLOGY USED IN EXISTING BILATERAL AGREEMENTS, INCLUDING STATES' COMMENTS ON ECAC STANDARD CLAUSES

Phraseology most commonly used

1. This section deals with the provisions in bilateral agreements relating to treatment accorded foreign aircraft, their supplies of fuel and lubricants, spare parts, regular equipment and aircraft stores in respect of customs duties and other charges. These provisions are extremely complex, involving significant variations less in phraseology than in technical details. Most of the early agreements and some of the recent ones are framed along the lines indicated in article (4) (b) and (c) of the Chicago standard form. The main types of wording used in describing treatment accorded supplies introduced into or taken on board aircraft in the

territory of one contracting party by the other contracting party are given in paragraph 3 below. Variations in phraseology of the clause relating to equipment and supplies retained on board aircraft are indicated in paragraph 4.

2. It is generally understood that the obligations of contracting parties under the bilateral provisions dealing with customs duties and other charges are in addition to the obligations of the parties concerned under Article 24 of the Convention.* A majority of existing agreements do not make any specific reference to the Conventi article, but certain agreements include a clause worded in the following ways:

Without prejudice and in addition to the treatment to which each Contracting Party is under obligation to accord under Article 24 of the Convention,... .	This treatment shall be in addition to and without prejudice to that which each Contracting Party is under obligation to accord under /Article 24/ of the Convention.

Typical agreements: Australia - Lebanon (1953)
Belgium - U.K. (1951)
Ghana - U.A.R. (1960)

3. Concerning treatment accorded aircraft supplies introduced into or taken on board aircraft in the territory of a contracting party, the provision appearing in

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* Article 24 of the Chicago Convention reads as follows:

> (a) Aircraft on a flight to, from, or across the territory of another contracting State shall be admitted temporarily free of duty, subject to the customs regulations of the State. Fuel, lubricating oils, spare parts, regular equipment and aircraft stores on board an aircraft of a contracting State, on arrival in the territory of another contracting State and retained on board on leaving the territory of that State shall be exempt from customs duty, inspection fees or similar national or local duties and charges. This exemption shall not apply to any quantities or article unloaded, except in accordance with the customs regulations of the State, which may require that they shall be kept under customs supervision.
>
> (b) Spare parts and equipment imported into the territory of a contracting State for incorporation in or use on an aircraft of another contracting State engaged in international air navigation shall be admitted free of customs duty, subject to compliance with the regulations of the State concerned, which may provide that the articles shall be kept under customs supervision and control.

a large number of agreements is very much the same as that expressed in article (4) (b) of the Chicago form standard agreement. Examples of this type of provision are given in the following:

Fuel, lubricating oils and spare parts introduced into	(or) Fuel, lubricating oils and spare parts introduced into, or taken on board aircraft in,		
the territory of one contracting party by, or on behalf of, a designated air carrier of the other contracting party	(or) the territory of one Contracting Party by, or on behalf of, the other Contracting Party or its designated airlines	(or) the territory of a contracting party by the other contracting party or its nationals	(or) the territory of one Contracting Party by or on behalf of the airlines designated by the other Contracting Party
and intended solely for use by the aircraft of such carrier	- - -	and intended solely for use by aircraft of such other contracting party	(or) and intended solely for use by the aircraft of such designated airlines
shall be accorded with respect to customs duties, inspection fees or other national duties or charges imposed by the former contracting party,	(or) shall be accorded, with respect to customs duties, inspection fees or other charges imposed by the former Contracting Party,	(or) shall, with respect to the imposition of customs duties, inspection fees or other national duties or charges, by the contracting party whose territory is entered, be accorded	(or) shall, with respect to customs duties, inspection fees or similar charges, be accorded
treatment not less favourable than that granted to national air carriers engaged in international air services or such carriers of the most favoured nation.	(or) treatment not less favourable than that granted to its national airlines engaged in international public transport or to the airlines of the most favoured nation.	(or) the same treatment as that granted to national or other foreign airlines engaged in international air transport.	(or) treatment as favourable as that applying to national airlines and to airlines of the most-favoured-nation.

Typical agreements: Ceylon - Thailand (1950)
Cuba - Portugal (1951)
Ethiopia - Pakistan (1952)
Iceland - Netherlands (1950)
Italy - U.S.A. (1948)
U.K. - U.S.A. (1946)

Fuel, lubricating oils and spare parts introduced into	(or)	Fuel, lubricating oils and spare parts introduced into or taken on board aircraft in	
the territory of either Contracting Party by or on behalf of an airline designated by the other Contracting Party,	(or)	the territory of one contracting party by an airline designated by the other contracting party, or on behalf of such an airline,	(or) the territory of one Contracting Party by the other Contracting Party directly or by, or on behalf of, the airline designated by the other Contracting Party,
and intended solely for use by the aircraft of the latter,	(or)	and intended solely for use by the aircraft of such designated airlines,	(or) and intended solely for use by the aircraft of the other Contracting Party
shall be accorded treatment as favourable as that given to the national airline or to that of the most-favoured-nation	(or)	shall enjoy national or most-favoured-nation treatment	(or) shall be accorded national or most-favoured-nation treatment
as regards the imposition of customs duties, inspection fees or other national duties or charges by the Contracting Party into whose territory the supplies have been imported.	(or)	with respect to customs duties, inspection fees or other national duties or charges.	

Typical agreements: Brazil - Portugal (1946)
Denmark - Turkey (1947)
Greece - Lebanon (1948)

4. Phraseology commonly used in framing the provision regarding aircraft equipment and supplies retained on board aircraft of a contracting party while in the territory of the other party is based on the wording and content of article (4) (c) of the Chicago standard form. In a limited number of agreements, the provision is almost identical to the Chicago article as shown in (i) below. A majority of agreements differ from it in respect of the opening words "Aircraft of one Contracting Party..." or "Aircraft operated on the agreed services ..." as indicated in (ii). "Aircraft" forms part of the provision of Article 24 (a) of the Convention, but not of article (4) (c) of the Chicago standard form.

(i)

Fuel, lubricating oils, spare parts, regular equipment and aircraft stores retained on board civil aircraft of the airlines of one contracting party authorized to operate services described in ...	(or)	Supplies of fuel, lubricating oils, spare parts, regular equipment and aircraft stores retained on board aircraft of a designated air carrier of one Contracting Party
shall be exempt in the territory of the other contracting party	(or)	shall, upon arriving in or leaving the territory of the other contracting party, be exempt
from customs duties, inspection fees or similar duties or charges, even though such supplies be used or consumed by such aircraft on flights above the territory of the other party.	(or)	from customs duties, inspection fees or similar duties or charges, even though such supplies be used by such aircraft on flights within that territory.

Typical agreements: Finland - Norway (1949)
Paraguay - U.S.A. (1947)
U.K. - U.S.A. (1946)

(ii)

Aircraft of one Contracting Party operating the agreed services	(or)	All aircraft operated by the airline or airlines designated by one contracting party on the routes specified in ...	(or)	Aircraft operated on the agreed services [by the airline designated by one contracting party]
and fuel, lubricating oils, spare parts, regular equipment and aircraft stores retained on board aircraft [of the designated airline or airlines of one contracting party]	(or)	and supplies of fuel, lubricating oils, spare parts, normal equipment and aircraft stores retained on board such aircraft		

..../55

shall, on entry into or departure from the territory of the other contracting party, be exempt	(or) shall, on arriving in or /until/ leaving the territory of the other contracting party, be exempt	(or) shall be exempt in the territory of the other contracting party
from customs duties, inspection fees or similar duties or charges, even though such supplies be used /or transported/ by such aircraft on flights in that territory.	(or) from customs duties, inspection fees or similar duties or charges, even though such supplies be used or consumed by such aircraft on flights over that territory.	

Typical agreements: Brazil - Turkey (1950)
China - Netherlands (1947)
France - Ireland (1946)
Lebanon - Switzerland (1954)

> The aircraft of the airlines designated by one Contracting Party engaged in operating the agreed services shall, on arrival in or departure from the territory of the other Contracting Party, be exempt from customs duties, inspection fees or similar duties or charges. The same exemptions shall apply to fuel, lubricating oils, spare parts, regular equipment, supplies in general and aircraft stores retained on board such aircraft, even though such supplies be used or consumed on flights in that territory; ... .

Typical agreement: Ecuador - Netherlands (1954)

Provisions with varying technical details

5. Bilateral clauses other than those indicated in paragraphs 3 and 4 above vary in technical detail from the provisions of article (4) (b) and (c) of the Chicago standard form. In combination with the Chicago phraseology, many agreements incorporate, in whole or in part, the requirements contained in Article 24 of the Convention and the appropriate sections of Annex 9 (Facilitation). Attention is also drawn to agreements according national treatment, as distinct from national or most-favoured-nation treatment, with respect to duties and charges, and to agreements granting exemption or remission of duties and charges on condition of reciprocity, as shown in the following examples:

> Supplies of fuel, lubricating oils, spare parts, regular equipment and aircraft stores introduced into or taken on board aircraft of the designated airline of one

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Contracting Party in the territory of the other Contracting Party and remaining on board on departure from the last airport of call in that territory shall be accorded, with respect to customs duty, inspection fees or similar charges, treatment not less favourable than that granted by the second Contracting Party to its national airlines engaged in international public transport: provided that neither Contracting Party shall be obliged to grant to the designated airlines of the other Contracting Party exemption or remission of customs duty, inspection fees or similar charges unless such other Contracting Party grants exemption or remission of such charges to the designated airlines of the first Contracting Party.

Typical agreement: Afghanistan - India (1952)

Neither Contracting Party shall ... be obliged to grant to the designated airlines of the other Contracting Party exemption or remission of customs duties, inspection fees or similar national or local duties or charges, unless such other Contracting Party grants exemption or remission of the duties or charges in question to the designated airlines of the first Contracting Party.

Typical agreement: Denmark - Japan (1953)

ECAC standard clauses

6. Most of the technical details appearing in Article 4 of the ECAC standard clauses are found in existing agreements. As a whole, the article represents a set of requirements generally acceptable to European States. On certain specific points, the article is drafted in such a way that:

(a) the introduction of aircraft fuel into the territory of a contracting party may be carried out by means of surface transport under the appropriate customs control, either by the airline itself or on its behalf;

(b) the benefit of examption provisions and customs simplification is extended not only to aircraft operating the agreed services but also to any aircraft engaged in international services, thus enabling, for instance, aircraft making technical stops or being diverted, to benefit from this provision;

(c) it provides for exemption from duty of supplies taken on board aircraft in the territory of any contracting party within the limits fixed by the authorities of the said contracting party for the aircraft of the other contracting party.

7. However, the provisions of Article 4 of the ECAC clauses differ from and are, in some respects, of a lower standard than (1) Article 24 of the Convention, (2) "Resolutions on taxation of fuel, lubricants and other consumable technical supplies" adopted by the ICAO Council in 1951,* and (3) provisions of Annex 9.** Some points of difference are described below:

(a) Article 4, paragraph 1, of the ECAC clauses is generally comparable with Article 24, paragraph (a), of the Convention but the former does not include spare parts on an arriving aircraft;

(b) Article 4, paragraph 1, of the ECAC clauses provides that both the aircraft and the regular equipment, supplies of fuel and lubricants, and aircraft stores should be exempt from all customs duties, inspection fees and other duties or taxes, whereas Article 24, paragraph (a), of the Convention distinguishes between the aircraft and other material as regards freedom from duty (i.e., the Convention article states that the aircraft shall be "free of duty" and the other material shall be exempt from "customs duty, inspection fees or similar national or local duties and charges");

(c) Article 4, paragraph 2 (b), of the ECAC clauses refers to spare parts only, whereas Article 24, paragraph (b), of the Convention also includes equipment. Moreover, Article 4, paragraph 2 (b), of the ECAC clauses requires exemption from all customs duties, inspection fees and other duties or taxes, whereas Article 24, paragraph (b) of the Convention mentions only customs duty;

(d) Article 4, paragraph 2 (a) of the ECAC clauses refers to aircraft stores available in the contracting party concerned (i.e., not necessarily imported and not carried on an arriving aircraft). Apparently this provision is not based on Article 24 of the Convention nor on paragraph 4.13 of Annex 9, the latter referring to imported stores only. Both paragraphs 2 (a) and 2 (c) of Article 4 of the ECAC clauses appear to stem from paragraph 2 of the Council's Resolution indicated above, although aircraft stores as such are outside the scope of this Resolution. In fact the "loan" of aircraft equipment and spare parts*** and the "import" of stores**** are not covered in the ECAC standard clauses.

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* DOC 7145, C/824.

** Annex 9, Fourth Edition.

*** Paragraph 4.12 of Annex 9.

**** Paragraph 4.13 of Annex 9.

8. Comments received from ICAO States indicated that as it stands, Article 4 of the ECAC standard clauses would not receive wide support. However, apart from suggestions for minor drafting changes on the one hand, and views representing technical requirements of a controversial nature on the other, it appears that the several States making the comments generally agree that:

(a) spare parts on arriving aircraft should be added to the list of supplies referred to in Article 4, paragraph 1;

(b) regular equipment should be included with spare parts in Article 4, paragraph 2 (b).

9. Other points referred to by States as requiring clarification or changes in Article 4 of the ECAC clauses include:

(a) the words "or are used on the part of the journey performed over that territory." should be added to the end of paragraph 1, to prevent the clause from being interpreted in an unduly restrictive manner;

(b) the word "outbound" should be inserted between "on board" and "aircraft" in paragraph 2 (a) to make it clear that duty-free stores cannot be taken up in the territory of a contracting party solely for use on the internal leg of an inward flight; and

the word "outbound" should also be inserted between "supply" and "aircraft" in paragraph 2 (c) to prevent the clause from being interpreted as granting exemption for fuel uplifted within the territory of a contracting party on an inward international journey and used on an internal flight to another airport;

(c) the word "destined" in paragraph 2 (c) should be understood to exclude the introduction into the territory of a contracting party of duty-free fuels and oils excepting those on board arriving aircraft.

Provision based on ECAC standard clauses

10. Some States have adopted the provisions of Article 4 of the ECAC clauses in agreements recently concluded by them. One such agreement, embodying changes referred to in paragraphs 2, 8 and 9 above, is reproduced below:

(1) Aircraft operated on international services by the designated airlines of either Contracting Party, as well as supplies of fuels, lubricants, spare parts, regular aircraft equipment and aircraft stores (including food, beverages and tobacco) on board such aircraft shall be exempt from all customs duties, inspection fees and other

duties or taxes on arriving in the territory of the other Contracting Party, provided such equipment and supplies remain on board the aircraft up to such time as they are re-exported or are used on the part of the journey performed over that territory.

(2) There shall also be exempt from the same duties and taxes, with the exception of charges corresponding to the service performed:

(a) aircraft stores, spare parts and regular aircraft equipment taken on board in the territory of a Contracting Party, within limits fixed by the authorities of the said Contracting Party, and for use on board outbound aircraft engaged in an international service of the other Contracting Party;

(b) spare parts and regular aircraft equipment introduced into the territory of either Contracting Party for the maintenance or repair of aircraft used on international services by the designated airlines of the other Contracting Party;

(c) fuel and lubricants destined to supply outbound aircraft operated on international services by the designated airlines of the other Contracting Party even when these supplies are to be used on the part of the journey performed over the territory of the Contracting Party in which they are taken on board;

(d) materials referred to in sub-paragraphs (a), (b) and (c) above may be required to be kept under Customs supervision or control.*

(3) The exemptions stated above shall be in addition to and without prejudice to that which each Contracting Party is under obligation to accord under Article 24 of the Convention.

Typical agreement: Ghana - U.A.R. (1960)

Other provisions relating to customs exemptions

11. In addition to the usual clauses dealing with airline equipment and supplies, a few agreements contain special provisions enabling the importation of spare parts free of duties and other charges.

* See paragraph 12.

(a) The airline or airlines designated by one Contracting Party for operating the routes specified in the annex hereto may introduce into and store in the territory of the other Contracting Party, free of customs duties and other charges, the necessary quantity of spare parts for aircraft maintenance provided that their total value, according to the official price list, does not exceed 5 per cent of the value of one aircraft.

(b) Such airlines may also introduce, free of customs duties and other charges, such spare parts as are required to make airworthy any aircraft that has had to be left in a non-airworthy condition on the territory of the other Contracting Party.

Typical agreement: Czechoslovakia - Yugoslavia (1948)

Customs supervision of equipment and supplies

12. The last provision of Article 4 of the ECAC standard clauses provides for customs supervision or control of supplies imported or taken on board aircraft by airlines. Article 5 of the ECAC clauses indicates that regular aircraft equipment, materials and supplies retained on board aircraft, may only be unloaded from an aircraft of a contracting party in the territory of the other contracting party with the approval of the customs authorities of such territory. There is no corresponding article in the Chicago form of standard agreement.

13. Some States feel that Article 5 should specifically mention fuel, lubricating oils, or spare parts which also may not be unloaded without the approval of the customs authorities. However, a majority of existing agreements do not contain a clause dealing with this matter. States may well consider such a provision unnecessary on the ground that they are adequately protected by the provisions of Article 24 of the Convention and of paragraphs 4.13 and 4.14 of Annex 9. Agreements containing an article dealing with customs supervision of exempted goods use the following types of phraseology:

Goods so exempted may /only/ be unloaded with the approval of the Customs authorities of the other Contracting Party.	(or)	Goods so exempted may not be unloaded save with the approval of the Customs authorities of the other Contracting Party.		
These goods shall be kept /in bond/ until re-exportation under customs supervision.	(or)	These goods which are to be exported shall be kept /in bond/ until re-exportation under customs supervision.	(or)	These goods shall be re-exported and kept under Customs supervision until re-exportation, but the right to dispose

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of them shall not be affected thereby.

Typical agreements: Argentina - Denmark (1948)
Ceylon - Pakistan (1949)
China - Netherlands (1947)
Iceland - Netherlands (1950)

The supplies enjoying the exemption provided may not be unloaded save with the approval of the customs authorities of the other Contracting Party. Where such supplies cannot be used or consumed they shall be re-exported. They shall be kept, until their re-exportation, under the customs supervision of the other Contracting Party, but shall remain at the disposal of the airline.

Typical agreements: Austria - Luxembourg (1952)
Italy - Portugal (1950)

Section VIII - Recognition of certificates and licenses

A. CHICAGO FORM OF STANDARD AGREEMENT

(5) Certificates of airworthiness, certificates of competency and licenses issued or rendered valid by one contracting party shall be recognized as valid by the other contracting parties for the purpose of operating the routes and services described in the Annex. Each contracting party reserves the right, however, to refuse to recognize, for the purpose of flight above its own territory, certificates of competency and licenses granted to its own nationals by another State.

B. STANDARD CLAUSES ADOPTED BY ECAC

(No corresponding provisions)

C. NOTES ON PHRASEOLOGY USED IN EXISTING BILATERAL AGREEMENTS

1. The European Civil Aviation Conference did not think it necessary to include in the standard clauses an article relating to recognition of certificates and licenses. It was felt that Articles 32 and 33 of the Chicago Convention* adequately

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* Article 32 of the Chicago Convention provides:

(a) The pilot of every aircraft and the other members of the operating crew of every aircraft engaged in international navigation shall be provided with certificates of competency and licenses issued or rendered valid by the State in which the aircraft is registered.

(b) Each contracting State reserves the right to refuse to recognize, for the purpose of flight above its own territory, certificates of competency and licenses granted to any of its nationals by another contracting State.

Article 33 of the Chicago Convention provides:

Certificates of airworthiness and certificates of competency and licenses issued or rendered valid by the contracting State in which the aircraft is registered, shall be recognized as valid by the other contracting States, provided that the requirements under which such certificates or licenses were issued or rendered valid are equal to or above the minimum standards which may be established from time to time pursuant to this Convention.

covered the subject. Also, such a provision does not always appear in bilateral agreements, as for example:

Typical agreements: Afghanistan - India (1952)
Australia - Japan (1956)
Canada - Mexico (1953)
Ghana - U.A.R. (1960)
Libya - U.K. (1953)

2. Most agreements containing a provision relating to recognition of certificates and licenses use the phraseology of article (5) of the Chicago standard form. There are certain variations in wording as shown in the following:

Certificates of airworthiness, certificates of competency and licenses issued				
or rendered valid	(or)	or validated	(or)	or recognized as valid
by one Contracting Party	(or)	by either of the Contracting Parties		
shall normally be recognized as valid by the other Contracting Party	(or)	shall [, provided that they have not expired,] be recognized as valid by the other Contracting Party	(or)	and still in force shall be recognized as valid by the other Contracting Party
for the purpose of operating	(or)	for the purpose of operation of		
the agreed services.	(or)	the routes and services specified in	(or)	the routes and services described.
Each Contracting Party reserves the right, however, to refuse to recognize for the purpose of flight above its own territory,	(or)	However, each Contracting Party reserves the right to refuse to recognize [, as valid,] for flight above its own territory,		
certificates of competency or licenses granted to its own nationals by another State.	(or)	certificates of competency or licenses issued to its own nationals by another State.		

Typical agreements: Afghanistan - Pakistan (1957)
Brazil - U.S.A. (1946)
Chile - Sweden (1952)
France - U.K. (1946)
Iraq - Switzerland (1952)
U.K. - U.S.A. (1946)

Section IX - Applicability of air regulations; entry and clearance regulations with respect to passengers, crew and cargo

A. CHICAGO FORM OF STANDARD AGREEMENT

(6) (a) The laws and regulations of a contracting party relating to the admission to or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft while within its territory, shall be applied to the aircraft of all contracting parties without distinction as to nationality, and shall be complied with by such aircraft upon entering or departing from or while within the territory of that party.

(b) The laws and regulations of a contracting party as to the admission to or departure from its territory of passengers, crew, or cargo of aircraft, such as regulations relating to entry, clearance, immigration, passports, customs, and quarantine shall be complied with by or on behalf of such passengers, crew or cargo upon entrance into or departure from or while within the territory of that party.

B. STANDARD CLAUSES ADOPTED BY ECAC

ARTICLE 6

Passengers in transit across the territory of either Contracting Party shall be subject to no more than a very simplified control. Baggage and cargo in direct transit shall be exempt from customs duties and other similar taxes.

C. NOTES ON PHRASEOLOGY USED IN EXISTING BILATERAL AGREEMENTS, INCLUDING STATES' COMMENTS ON ECAC STANDARD CLAUSES

Applicability of air regulations

1. Save for a slight variation in wording, the provision of article (6) (a) of the Chicago standard form is identical to that of Article 11 of the Chicago Convention. The ECAC standard clauses contain no provision relating to applicability of air navigation regulations. This is also the case with certain bilateral agreements:

Typical agreements: Belgium - U.K. (1951)
Ceylon - India (19-)
Denmark - Japan (1953)
Germany - U.K. (19--)
Iran - Netherlands (19-)

2. **Agreements containing an article dealing with air regulations generally use a phraseology similar to that of article (6) (a) of the Chicago standard form, except for the omission of the words "without distinction as to nationality".**

The laws and regulations of one Contracting Party relating to entry into or departure from its territory of aircraft engaged in international air navigation	*(or)*	The laws, rules, and regulations of a contracting party /especially those/ relating to admission into or departure from its territory of aircraft engaged in international air navigation	
or to flights of such aircraft above its territory,	*(or)*	or to the operation and navigation of such aircraft while within its territory	
shall apply to aircraft of the designated air carrier or carriers of the other Contracting Party.	*(or)*	shall be applied to aircraft of the other contracting party and shall be complied with by such aircraft upon entering or departing from or while within the territory of the first party.	*(or)* shall be applied to the aircraft of the airline or airlines of the other Contracting Party.

Typical agreements: Belgium - Greece (1949)
Ceylon - Thailand (1950)
Ethiopia - Greece (1954)
Israel - Switzerland (1952)
Paraguay - U.S.A. (1947)
U.K. - U.S.A. (1946)

Entry and clearance regulations

3. **Practically all agreements not containing a provision relating to applicability of air regulations do not include a provision regarding entry and clearance regulations. This may be due to the fact that documentary and other requirements at international airports are set forth in the relevant provisions of Annex 9 (Fourth Edition). In a majority of existing agreements, the phraseology most commonly used in expressing entry and clearance requirements conforms to that of article (6) (b) of the Chicago standard form, but there are the usual variations in wording as indicated in (i) below. A somewhat different type of phraseology is shown in (ii).**

(i)

The laws, rules and regulations of one Contracting Party relating to entry into or departure from its territory	(or)	The laws and regulations of one Contracting Party relating to the entry into or departure from its territory	(or)	The laws, regulations and instructions of each contracting party relating to the entry into, stay at or departure from its territory
of passengers, crew, or cargo of aircraft (such as regulations relating to entry, clearance, immigration, passports, customs and quarantine)	(or)	of passengers, crew or cargo of aircraft (such as regulations relating to /police,/ entry, /exit,/ clearance, immigration, passports, customs and quarantine /and exchange regulations/)		
shall be applicable to	(or)	shall apply to	(or)	shall be complied with by or on behalf of
the passengers, crew or cargo of the aircraft of the airline or airlines designated by the other Contracting Party while in the territory of the first Contracting Party.	(or)	the passengers, crew or cargo of the aircraft of the designated air carrier or carriers of the other Contracting Party while in the territory of the first Contracting Party.	(or)	the passengers, crew and senders of air cargo as well as to their representatives.

Typical agreements: Afghanistan - Pakistan (1957)
Brazil - Portugal (1946)
India - U.A.R. (Egypt) (1952)
Ireland - Italy (1947)
U.K. - U.S.A. (1946)

(ii)

Passengers, crews and consignors of cargo	(or)	Passengers, crews and consignors of goods
shall be required to comply personally or through a third person acting in their name and on their behalf	(or)	shall be bound, either in person or through third parties acting on their behalf and in their name, to comply

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with the laws and regulations in force in the territory of each Contracting Party as to admission to, stay in and departure from the territory of the other Contracting Party	*(or)*	with the laws and regulations as to the entry into, stay in and departure from the territory of each contracting party
of passengers, crews or cargo [carried by air] such as regulations relating to entry, clearance, immigration, passports, customs and quarantine.	*(or)*	of passengers, crews and goods. This applies especially to regulations relating to import, export, immigration, customs, and quarantine.

Typical agreements: Austria - Poland (1956)
Luxembourg - Sweden (1952)

Passengers and cargo in transit

4. The wording of Article 13 of the Chicago Convention is almost identical to that of article (6) (b) of the Chicago standard form. The European Civil Aviation Conference did not retain a provision in its standard clauses dealing with entry and clearance regulations, the Convention article having been regarded as sufficient. However, it agreed to include in Article 6 a clause indicating that passengers in direct transit should be subject only to a simplified form of control and that baggage and cargo should be exempt from customs duty, inspection fees and similar charges. A few bilateral agreements use a phraseology similar to that of Article 6 of the ECAC clauses:

Passengers in transit across the territory of a contracting party shall be subject to a simplified form of control.	*(or)*	Passengers in transit through the territory of either of the Contracting Parties shall be subject to a simplified form of control.
Baggage and freight shall be exempt from customs duties, inspection fees and other national duties and charges if in direct transit.	*(or)*	Baggage and goods in [direct] transit shall be exempt from customs duties, inspection fees and similar charges.

Typical agreements: Denmark - Lebanon (1955)
Ireland - Luxembourg (1954)
Sweden - Switzerland (1950)

5. The majority of the States commenting on Article 6 of the ECAC clauses considered it unnecessary or unacceptable on the ground that the provisions of Chapter 5 of Annex 9 (Fourth Edition) should be adhered to by all Contracting States. It was felt that no useful purpose would be served by singling out one or two points on control formalities for re-statement in bilateral agreements.

Visa for aircrews

6. While in many countries aircrews may use their certificate or license as a travel document in lieu of passports, some States would only accept this practice within the framework of their bilateral arrangements. Two types of wording used in existing agreements for this purpose are given hereunder:

> So long as a visa is required for the admission of aliens into the two countries, the crews employed on the agreed services whose names appear on the documents of aircraft of the two countries, shall be exempt from the compulsory visa. They shall be required to hold valid passports issued in their own name and an identity document issued by the airline by which they are employed.
>
> Typical agreement: Argentina - Denmark (1948)

> Notwithstanding that a visa is normally required for the admission of foreigners into the territory of either Contracting Party, crew registered in the log-book of any aircraft operating an agreed service under this Agreement shall be exempted from the requirements of a visa provided they are nationals of one of the Contracting Parties and provided they are in possession of a valid passport and an identity document issued by the designated airline to which the aircraft belongs.
>
> Typical agreement: Spain - U.K. (1950)

General provision relating to Facilitation

7. In the absence of a provision dealing with entry and clearance regulations concerning passengers, crew or cargo, a number of agreements contain an article providing for consultation between aeronautical authorities on matters in the facilitation field. Two types of phraseology used are indicated below:

> If, in the opinion of the aeronautical authorities of one of the Contracting Parties, the administration of regulations relating to customs, immigration, quarantine and similar matters in the territory of the other Contracting Party imposes an onerous burden on its designated airlines

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in the operation of the air services pursuant to this Agreement, the aeronautical authorities of such other Contracting Party shall, upon request, enter into consultation to examine the situation.

Typical agreement: Afghanistan - India (1952)

In the application of its immigration, quarantine and similar regulations, each Contracting Party shall grant to the designated airline or airlines of the other Contracting Party treatment equal to that accorded to its own airline or airlines engaged in similar international air transport... .

In the administration of customs, immigration, quarantine and similar regulations, both Contracting Parties will use their best endeavours to follow closely such standards and recommended practices relating to the facilitation of international air transport as are adopted by the Council of the International Civil Aviation Organization. Moreover, the aeronautical authorities of the Contracting Parties shall as necessary consult regarding the administration of these regulations if, in the opinion of one of the Contracting Parties, such regulations impose an onerous burden on its designated airline in the operation of air services pursuant to this Agreement.

Typical agreement: Australia - Pakistan (1949)

Section X - Registration of agreement; supersession of previous agreements or arrangements

A. CHICAGO FORM OF STANDARD AGREEMENT

(8) This Agreement and all contracts connected therewith shall be registered with the Provisional International Civil Aviation Organization.

B. STANDARD CLAUSES ADOPTED BY ECAC

(No corresponding provision)

C. NOTES ON PHRASEOLOGY USED IN EXISTING BILATERAL AGREEMENTS

Registration of agreement

1. There is no provision in the ECAC standard clauses dealing with registration of agreement, the provisions of Article 83 of the Chicago Convention being sufficient.* With a few exceptions, all existing bilaterals contain an article requiring registration of the agreement with ICAO, using generally the Chicago standard form phraseology. Certain variations in wording are indicated below:

This Agreement /and all contracts connected therewith/	(or)	The agreement, its annex and all documents connected therewith	(or)	The present Agreement /and any exchange of notes .../	(or)	This agreement, all amendments thereto, and contracts connected therewith	
shall be registered with the Provisional International Civil Aviation Organization set up by the Interim Agreement on International	(or)	shall be registered with the International Civil Aviation Organization set up under the Convention on International Civil	(or)	shall be registered with the Council of the International Civil Aviation Organization in accordance with the provisions of			

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* Article 83 of the Convention reads in part as follows:

> ... any contracting State may make arrangements not inconsistent with the provisions of this Convention. Any such arrangement shall be forthwith registered with the Council, which shall make it public as soon as possible.

Civil Aviation signed at Chicago on the 7th December, 1944.	Aviation done at Chicago on 7th December, 1944.	Article 83 of the Convention opened for signature at Chicago on 7 December 1944.

Typical agreements: Colombia - Spain (1951)
Greece - Norway (1951)
Korea - U.S.A. (1957)
Netherlands - U.K. (1946)
U.K. - U.S.A. (1946)

Supersession of agreements

2. In addition to the registration article, a limited number of existing bilaterals contain a provision dealing with supersession of previous agreements and arrangements. Two types of phraseology used are shown hereunder:

> This agreement shall take the place of all other previous agreements between ... and ... concerning air transport.

Typical agreement: Belgium - Portugal (1946)

> The present agreement supersedes any permissions, privileges, or concessions already in existence at the time of its entry into force which have been granted for any reason by either of the contracting parties in favour of the air transport companies of the other contracting party.

Typical agreement: Spain - U.K. (1950)

Section XI - Settlement of disputes

A. CHICAGO FORM OF STANDARD AGREEMENT

(9) /Where desired, here insert provisions for arbitration, the details of which will be a matter for negotiation between the parties to each agreement./

B. STANDARD CLAUSES ADOPTED BY ECAC

ARTICLE 13

1. If any dispute arises between the Contracting Parties relating to the interpretation or application of this present Agreement, the Contracting Parties shall in the first place endeavour to settle it by negotiation.

2. If the Contracting Parties fail to reach a settlement by negotiation, they may agree to refer the dispute for decision to some person or body, or the dispute may at the request of either Contracting Party be submitted for decision to a tribunal of three arbitrators, one to be nominated by each Contracting Party and the third to be appointed by the two so nominated. Each of the Contracting Parties shall nominate an arbitrator within a period of sixty days from the date of receipt by either Contracting Party from the other of a notice through diplomatic channels requesting arbitration of the dispute and the third arbitrator shall be appointed within a further period of sixty days. If either of the Contracting Parties fails to nominate an arbitrator within the period specified, or if the third arbitrator is not appointed within the period specified, the President of the Council of the International Civil Aviation Organization may be requested by either Contracting Party to appoint an arbitrator or arbitrators as the case requires. In such case, the third arbitrator shall be a national of a third State and shall act as president of the arbitral body.

3. The Contracting Parties undertake to comply with any decision given under paragraph 2 of this Article.

C. NOTES ON PHRASEOLOGY USED IN EXISTING BILATERAL AGREEMENTS, INCLUDING STATES' COMMENTS ON ECAC STANDARD CLAUSES

Early agreements

1. Bilateral agreements concluded in the early post-war years generally provide, in the event of dispute, for application to ICAO Council or to some other

tribunal or authority for advisory opinion or arbitral decision. Most of these agreements do not contain provisions dealing with arbitration procedure. The following are examples of this type of agreement:

> Except where otherwise provided in this Agreement or in the Annex, any dispute between the Contracting Parties relating to the interpretation or application of this agreement or its annex which cannot be settled by consultation or through diplomatic channels shall be referred to arbitration by a tribunal appointed by the two Governments.

Typical agreement: Argentina - Denmark (1948)

Except as otherwise provided in this Agreement or in its Annex,		- - -
any dispute between the Contracting Parties relating to the interpretation or application of this Agreement or its Annex		Any dispute between the Contracting Parties regarding the interpretation or application of the present Agreement or its Annex
which cannot be settled through consultation		- - -
shall be referred for an advisory report to	(or)	shall be referred to
the Interim Council of the Provisional International Civil Aviation Organization (in accordance with the provisions of Article III, Section 6 (8), of the Interim Agreement on International Civil Aviation signed at Chicago on the 7th December, 1944), or its successor.	(or)	the Interim Council of the Provisional International Civil Aviation Organization in accordance with the provisions of Article III, Section 6 (8), of the Interim Agreement on International Civil Aviation, signed at Chicago on 7 December 1944, or its successor,

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	unless the Contracting Parties agree to submit the dispute to an Arbitration Tribunal designated by agreement between the same Contracting Parties, or to some other person or body	*(or)*	unless the contracting Parties agree that the dispute be settled by arbitration and submit it to an Arbitral Tribunal appointed by common agreement between the two Contracting Parties ... .
- - -			

Typical agreements: Brazil - U.S.A. (1946)
Greece - Sweden (1947)
U.K. - U.S.A. (1946)

Any dispute between the Contracting Parties relating to the interpretation or application of this Agreement or /of/ the Annex /thereto/			
	that cannot be settled by direct negotiations,	*(or)*	
- - -			
shall be referred for decision to an Arbitral Tribunal appointed by agreement between the Contracting Parties	shall be referred for decision to the Council of the International Civil Aviation Organization,	*(or)*	
or to any Tribunal competent to decide which may hereafter be established within the International Civil Aviation Organization or if there is no such Tribunal to the Council of the said Organization	unless the Contracting Parties agree to settle the dispute by arbitration and refer it to an Arbitral Tribunal appointed by common agreement between the two Contracting Parties	*(or)*	unless the Contracting Parties agree to settle the dispute by reference to an Arbitral Tribunal appointed by agreement between the Contracting Parties,
			or to some other person or body.
- - -	- - -		

Typical agreements: Ceylon - Thailand (1950)
Greece - Norway (1951)
Iceland - Netherlands (1950)
Mexico - Portugal (1948)

Direct negotiation as a first step

2. Three of the eight agreements indicated above do not specify direct negotiation or consultation between the contracting parties as a first step towards settling disputes. However, a majority of existing agreements contain this requirement, using the following types of phraseology. Some agreements refer specifically to consultation between airlines or aeronautical authorities, as shown in (i) and (iii). The phraseology indicated in (ii) is precisely the same as that used in Article 13, paragraph 1, of the ECAC standard clauses.

(i) Any dispute between the Contracting Parties relating to the interpretation or application of this agreement /or its annex/

(or) ... any dispute between the Contracting Parties relating to the interpretation or application of this Agreement or its Annex

which cannot be settled through consultation (etc.) ... .

(or) which cannot be settled through direct consultation between the airlines, aeronautical authorities, or the respective governments, (etc.) ... .

(or) which cannot be resolved through consultation or through diplomatic channels (etc.) ... .

(or) which cannot be settled by direct negotiation (etc.) ... .

Typical agreements: Argentina - Denmark (1948)
Argentina - Netherlands (1948)
Ecuador - Netherlands (1954)
Ireland - Italy (1947)
U.K. - U.S.A. (1946)

(ii) If any dispute arises between the Contracting Parties relating to the interpretation or application of the present Agreement, the Contracting Parties shall in the first place endeavour to settle it by negotiation between themselves.

Typical agreements: Australia - Malaya (1959)
Ghana - U.K. (1958)
India - Philippines (1949)
Iran - Netherlands (1949)

(iii) To the extent to which any disagreement arising out of the interpretation or application of the present Agreement cannot be settled in accordance with Article ...* (etc.) ... .

Typical agreement: Canada - Germany (1959)

3. In a limited number of agreements, direct negotiation between the parties concerned appears to constitute the only means of settling disputes:

> If any dispute arises between the Contracting Parties relating to the interpretation or application of this Agreement, the Contracting Parties shall settle it by direct negotiations between the aeronautical authorities or, in case of failure of the negotiations, through diplomatic channels.

Typical agreement: Czechoslovakia - Iraq (1960)

> Any dispute between the Parties relating to the interpretation or application of this Agreement ... shall be settled by agreement between the aeronautical authorities of the two countries and confirmation of that agreement by an exchange of notes shall be necessary in each case.
>
> Consultation on such a dispute shall begin within a period of no more than thirty days from the date on which a request for consultation is received or, in the case of changes, within a period of thirty days from the date on which notice of the proposed changes is given to the other party.

Typical agreement: Venezuela - Netherlands (1954)

Arbitration

4. A majority of bilateral agreements provide, as the step following direct negotiation, reference to ICAO, its Council or a tribunal established within ICAO for advice or decision, while other agreements refer to ad hoc tribunals, the International Court of Justice, or some other person or authority. With few exceptions, all existing agreements - irrespective of whether direct negotiation or reference to ICAO Council forms part of the agreed procedure - provide for arbitration either as an alternative to a decision by Council or as the principal means of settling disputes. Most of the agreements also specify the obligation of contracting parties to comply with arbitral decisions rendered.

* Referring to the article relating to consultation between aeronautical authorities concerning, inter alia, the interpretation or application of the agreement.

5. The main types of provision for arbitration are described hereunder. They may be compared with the content of Article 13, paragraphs 2 and 3, of the ECAC standard clauses. Agreements referring to the provisions of Part IV, Chapter XVIII of the Chicago Convention* are shown in (i). A majority of existing agreements, however, make no reference to the Convention articles. Some of them leave the question concerning the composition of arbitral tribunal to further agreement between the contracting parties, as indicated in (ii). Other agreements contain detailed procedure for arbitration, several examples of which are given in (iii).

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* Articles 84 and 85 (Part IV, Chapter XVIII) of the Chicago Convention provide:

> Article 84: If any disagreement between two or more contracting States relating to the interpretation or application of this Convention or its Annexes cannot be settled by negotiation, it shall, on the application of any State concerned in the disagreement, be decided by the Council. No member of the Council shall vote in the consideration by the Council of any dispute to which it is a party. Any contracting State may, subject to Article 85, appeal from the decision of the Council to an ad hoc arbitral tribunal agreed upon with the other parties to the dispute or to the Permanent Court of International Justice. Any such appeal shall be notified to the Council within sixty days of receipt of notification of the decision of the Council.
>
> Article 85: If any contracting State party to a dispute in which the decision of the Council is under appeal has not accepted the Statute of the Permanent Court of International Justice and the contracting State parties to the dispute cannot agree on the choice of the arbitral tribunal, each of the contracting States parties to the dispute shall name a single arbitrator who shall name an umpire. If either contracting State party to the dispute fails to name an arbitrator within a period of three months from the date of the appeal, an arbitrator shall be named on behalf of that State by the President of the Council from a list of qualified and available persons maintained by the Council. If, within thirty days, the arbitrators cannot agree on an umpire, the President of the Council shall designate an umpire from the list previously referred to. The arbitrators and the umpire shall then jointly constitute an arbitral tribunal. Any arbitral tribunal established under this or the preceding Article shall settle its own procedure and give its decisions by majority vote, provided that the Council may determine procedural questions in the event of any delay which in the opinion of the Council is excessive.

(i) Any dispute ... shall be referred for decision to the Council of the International Civil Aviation Organization (in accordance with the provisions of Part IV, Chapter XVIII of the Convention on International Civil Aviation signed at Chicago on 7 December, 1944) unless the contracting parties agree to settle the dispute by reference to an Arbitral Tribunal appointed by agreement between the contracting parties, or to some other person or body. The contracting parties undertake to comply with the decision given.

Typical agreement: Norway - Portugal (1947)

(a) The Contracting Parties agree to submit to arbitration any dispute (etc.) ... .

(b) Such arbitration shall take place in accordance with the rules established in Chapter XVIII of the Convention on International Civil Aviation, signed at Chicago on 7 December 1944.

(c) The Contracting Parties may, however, by agreement settle the dispute by referring it either to an arbitral tribunal or to any other person or body designated by them.

(d) The Contracting Parties undertake to comply with the decision given.

Typical agreement: Austria - Luxembourg (1952)

(ii) (1) ... .

(2) If the Contracting Parties fail to reach a settlement by negotiation

(a) they may agree to refer the dispute for decision to an arbitral tribunal appointed by agreement between them, or to some other person or body; or

(b) if they do not so agree or if, having agreed to refer

(or)

(a) they may agree to refer the dispute for decision to an arbitral tribunal or to some other person or body appointed by agreement between them, or

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the dispute to an arbitral tribunal, they cannot reach agreement as to its composition, either Contracting Party may submit the dispute for decision to any tribunal competent to decide it which may hereafter be established within the International Civil Aviation Organization or, if there is no such tribunal,				
to the International Court of Justice.	*(or)*	to the Council of the said Organization.	*(or)*	to the Council of the said Organization, or if the Council of the said Organization declines to consider such a dispute or is not empowered to do so, to the International Court of Justice.
(3) The Contracting Parties undertaking to comply with any decision given under paragraph (2) of this Article.	*(or)*	(3) The Contracting Parties undertake to comply with any decision given, including any interim recommendation made, under paragraph (2) of this Article.		

Typical agreements: Afghanistan - Pakistan (1957)
Australia - Lebanon (1953)
Ghana - U.K. (1958)

(iii) ... .

If the Contracting Parties fail to reach a settlement by negotiation the dispute shall be submitted for decision to	*(or)*	If the Contracting Parties fail to reach a settlement by negotiation, the dispute may at the request of either Contracting Party be submitted for decision to	*(or)*	... any dispute between the contracting parties relative to (etc.) ... which cannot be settled through consultation shall be submitted /for an advisory report/ to

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a tribunal of three arbitrators, one to be named by each Contracting Party, and the third to be agreed upon by the two arbitrators so chosen, provided that such third arbitrator shall not be a national of either Contracting Party.	(or)	an arbitral tribunal composed of three members. Each Contracting Party shall appoint one member; the third shall be appointed by the first two members and shall not be a national of either Contracting Party.		
Each of the Contracting Parties shall designate an arbitrator within a period of sixty days from the date of receipt by either Contracting Party from the other Contracting Party of a diplomatic note requesting arbitration of the dispute	(or)	Each of the contracting parties shall designate an arbitrator within two months of the date of delivery by either party to the other party of a diplomatic note requesting arbitration of a dispute;		
and the third arbitrator shall be agreed upon within a further period of sixty days.	(or)	and the third arbitrator shall be agreed upon within one month after such period of two months.		
If either of the Contracting Parties fails to designate its own arbitrator within a period of sixty days or if the third arbitrator is not agreed upon within the period indicated,	(or)	If either Contracting Party fails to designate its arbitrator or if the third arbitrator is not agreed	(or)	If either of the contracting parties fails to designate its own arbitrator within two months, or if the third arbitrator is not agreed upon within the time limit indicated,
the President of the International Court of Justice may be requested by either Contracting Party to appoint an arbitrator or arbitrators.	(or)	the vacancies thereby created shall be filled by persons designated by the President of the International Civil Aviation Organization on application by either Contracting Party.		the dispute shall be referred to the permanent conciliation commission established by the Conciliation and Arbitration Treaty between /Spain and Switzerland, signed at Madrid on 2 April 1926./

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The Contracting Parties undertake to comply with any decision given under paragraph ... of this Article.	*(or)* The Contracting parties will use their best efforts under the powers available to them to put into effect the opinion expressed in any /such advisory/ report. A moiety of the expenses of the arbitral tribunal shall be borne by each party.	The Contracting Parties undertake to accept the decisions given and to adopt any provisional measures which might be ordered in the course of the arbitration proceedings.

Typical agreements: Denmark - Japan (1953)
Germany - U.K. (1955)
Korea - U.S.A. (1957)
Spain - Switzerland (1950)

(1) Any dispute between the Contracting Parties relating to (etc.) ... which is not settled by negotiation between the two Parties within a period of sixty days from the request for negotiation by one of the Parties shall, unless otherwise agreed, be referred to the International Civil Aviation Organization or to an arbitral tribunal or to some other person or body appointed by agreement between them. The Contracting Parties undertake to comply with the decision given.

(2) If the dispute is referred to an Arbitral Tribunal, the composition and functioning of said Tribunal shall be determined in the following manner:

(a) The Tribunal shall be composed of three arbitrators. Each Contracting Party shall appoint one representative; the third member shall be appointed by agreement between the first two members and shall be a national of a country other than that of the first two members;

(b) The appointment of the first two arbitrators shall take place within a period of fifteen days from receipt by one of the Parties of the diplomatic note from the other Party requesting arbitration. The third arbitrator shall be appointed within thirty days after nomination of the first two arbitrators;

(c) If, within said period, no agreement is reached on the nomination of the third arbitrator, the

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Contracting Parties shall request the Council of the International Civil Aviation Organization to appoint him;

(d) The Arbitral Tribunal established in accordance with the above procedure shall render its decision within thirty days of its constitution. This period may be extended by mutual agreement between the two Parties.

Typical agreement: Belgium - Spain (1952)

ECAC standard clauses

6. Paragraphs 1 and 3 of Article 13 of the ECAC clauses are very similar in wording to the corresponding provisions appearing in existing bilateral agreements. The arbitration procedure indicated in paragraph 2 of Article 13 contains points of similarity to the provisions of Article 85 of the Convention and to the bilateral clauses shown in paragraph 5 (iii) above. Commenting on the ECAC clauses, a few States felt that the words "they may agree to refer the dispute for decision to some person or body" appeared vague and could well be omitted. Concerning the selection of arbitrator or arbitrators not appointed by the parties concerned, some States preferred to leave the matter to the President of the International Court of Justice, rather than to the President of the ICAO Council. Other States considered the type of procedure provided for in the ECAC clauses either impractical or unnecessary. They indicated that much the best way of settling disputes would be by direct negotiation between aeronautical authorities, or failing this, through diplomatic channels.

Failure to comply with arbitral decision

7. A substantial number of existing agreements provide for withholding or revocation of the operating rights granted a contracting party if it fails to comply with an arbitral decision. The main types of phraseology currently in use are shown below. Such a provision does not appear in the ECAC standard clauses.

If and so long as either Contracting Party or a designated airline of either Contracting Party fails to comply with a decision

given under paragraph ... of this Article, *(or)* given in accordance with this article,

the other Contracting Party may limit, withhold or revoke any rights /or privileges/ which it has granted by virtue of the present Agreement		
to the Contracting Party in default or to the designated airline /or airlines/ of that Contracting Party or to the designated airline in default.	(or)	to the Contracting Party in default or to its designated airline or airlines in default.

Typical agreements: Australia - U.A.R. (Egypt) (1952)
Germany - U.K. (1955)
Ghana - U.A.R. (1960)
Iran Netherlands (1949)
Libya - U.K. (1953)
Netherlands - Sudan (1956)

Section XII - Modification of agreement; conformity of agreement with provisions of a multilateral convention

A. CHICAGO FORM OF STANDARD AGREEMENT

(10) This Agreement shall continue in force until such time as it may be amended, or superseded by a general multilateral air convention, ...

B. STANDARD CLAUSES ADOPTED BY ECAC

ARTICLE 10

1. If either of the Contracting Parties considers it desirable to modify any provision of the present Agreement, it may request consultation with the other Contracting Party; such consultation, which may be between aeronautical authorities and which may be through discussion or by correspondence, shall begin within a period of sixty (60) days of the date of the request. Any modifications so agreed shall come into force when they have been confirmed by an exchange of diplomatic notes.

2. Modifications to routes may be made by direct agreement between the competent aeronautical authorities of the Contracting Parties.

ARTICLE 11

The present Agreement and its Annexes will be amended so as to conform with any multilateral convention which may become binding on both Contracting Parties.

C. NOTES ON PHRASEOLOGY USED IN EXISTING BILATERAL AGREEMENTS, INCLUDING STATES' COMMENTS ON ECAC STANDARD CLAUSES

Modification of agreement by negotiation

1. Bilateral agreements indicating a single method for making amendments to the body of the agreement and to the annex generally provide the following types of procedure:

If either of the Contracting Parties consider it desirable to modify			
any provision of the Agreement or the Annex	(or) the terms of this Agreement	(or) any provision or provisions of the agreement or the annex (including the routes specified in ... the annex)	
it may request consultation between the aeronautical authorities of both Contracting Parties /in relation to the proposed modification/	(or) it may request consultation between the aeronautical authorities of the two contracting parties,	(or) the competent aeronautical authorities of the Contracting Parties shall consult in order to realize such modification(s).	
such consultation to begin within a period of sixty days from the date of the request.	(or) and such consultation shall begin within a period of sixty (60) days from the date of the request.	Such consultation shall begin within a period of sixty (60) days from the date of request of either of the aeronautical authorities.	
When these authorities agree on modifications to the Agreement, those modifications will come into effect when they have been confirmed /by the Contracting Parties/ by an exchange of notes through diplomatic channels.	(or) Any modification to the Agreement or the Annex a/ agreed upon by the said authorities shall come into effect when it has been confirmed by an exchange of notes through the diplomatic channels.	(or) When the aforesaid authorities agree to modifications to the present Agreement, such modifications shall come into effect /after appropriate constitutional requirements have been met/ when they have been confirmed by an Exchange of	(or) Any modifications so agreed shall come into force when they have been confirmed by an exchange of /diplomatic/ notes.

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Notes through the diplomatic channels and shall forthwith be communicated to the Council of the International Civil Aviation Organization.

Typical agreements: Australia - Ireland (1957)
Argentina - Netherlands (1948)
Burma - U.K. (1952)
France - Italy (1949)
Portugal - Spain (1947)

Either Contracting Party may at any time request consultation with the other with a view to initiating any amendments of the Agreement which it may deem desirable. Such consultation shall begin within a period of sixty days from the date of the request. Any modification of this Agreement agreed to as a result of such consultation shall come into effect when it has been confirmed by an exchange of diplomatic notes.

Typical agreements: Afghanistan - Pakistan (1957)
India - Philippines (1949)

Consultation between the competent authorities of both Contracting Parties may be requested at any time by either of the Contracting Parties for the purpose of discussing the interpretation, application or amendment of the present Agreement. The consultation shall commence within sixty days after the request is received. Agreed amendments to the present Agreement shall come into force in accordance with the procedure in Article XXIV.

. . .

(Article XXIV) The present Agreement shall enter into force one month after the date on which both Contracting Parties have informed each other of the completion of their respective constitutional processes.

Typical agreement: France - Germany (1955)

2. A majority of existing agreements make a distinction between amendments to the body of the agreement and amendments to the annex or to the route schedule: in the former case, a procedure identical to that for bringing the agreement itself into effect might be required for some countries, whereas in the latter case,

modifications can be dealt with by means of an exchange of notes, or simply by direct agreement between the aeronautical authorities concerned. The separate procedures for amending the agreement and the annex are described in (ii) below. Agreements indicating a procedure for amending the annex only are shown in (ii).

(i) (1) If either of the Contracting Parties considers it desirable to modify the terms of this Agreement, it may at any time propose such modification to the other Contracting Party. Consultations between the two Contracting Parties concerning such proposed modification shall begin within a period of sixty days from the date the request was made by one of the Contracting Parties.

(2) In the event either of the Contracting Parties considers it desirable to modify one of the Annexes of this Agreement, such modification shall be agreed upon in consultation between the Aeronautical Authorities of the two Contracting Parties.

(3) Any modifications of this Agreement or its Annexes according to paragraphs (1) and (2) of this Article shall come into effect when they have been confirmed by an Exchange of Notes through diplomatic channels.

Typical agreement: Austria - Poland (1956)

(1) If either of the Contracting Parties considers it desirable to modify any provision of the present Agreement, such modification, if agreed between the Contracting Parties, shall be confirmed by an exchange of Notes and shall come into effect on a date to be agreed between the two Contracting Parties.

(2) If either of the Contracting Parties considers it desirable to modify the routes specified in the Schedule, such modification, if agreed between the Contracting Parties, shall be confirmed by an exchange of Notes and shall come into effect as from the date of that exchange of Notes.

Typical agreement: Ghana - Netherlands (1960)

If either of the Contracting Parties desires to modify the terms of this Agreement or of its annex, it may request consultation between the aeronautical authorities of the Contracting Parties, such consultation to begin within a period of sixty days from the date of the request. The annex may be modified by direct agreement between the said authorities.

Typical agreement: Austria - Luxembourg (1952)

If either Contracting Party considers it desirable to modify any clause of this Agreement it may at any time request, through the diplomatic channels, negotiations on the matter between the aeronautical authorities of the two Contracting Parties. These negotiations shall begin within a period of sixty days from the date of the request. If the said authorities agree on the modifications to be made, the latter shall enter into force only after each of the Contracting Parties has notified the other Party of the ratification or approval of the modifications in accordance with the constitutional procedures.

If either of the Contracting Parties considers it necessary to modify or add to any clause of the annex, the aeronautical authorities of the Contracting Parties may by agreement make such modification or addition by means of an arrangement in writing fixing the date of its entry into effect. Consultation between the said authorities shall take place within a period of sixty days from the date of the request.

Typical agreement: U.A.R. (Egypt) - Yugoslavia (1955)

(ii) Except as otherwise provided in this Agreement or its Annex,

- - -		- - -	
if either of the Contracting Parties considers it desirable to modify the terms of the Annex to this Agreement,		In the event that either of the Contracting Parties considers it desirable to modify the provisions of the annex to this Agreement,	(or) If either of the Contracting Parties considers it desirable to modify the routes or conditions set forth in the attached Annex,
it may request consultation between the competent authorities of the two Contracting Parties, such consultation to begin within a period of sixty days from the date of the request.	(or)	it may request consultation between the aeronautical authorities of both Contracting Parties, such consultation to take place within a period of sixty days from the date of the request.	

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When these authorities agree on modifications to the Annex, these modifications will come into effect when they have been confirmed by an Exchange of Notes through the diplomatic channels. *(or)* When these authorities mutually agree on new /or revised/ routes or conditions affecting the Annex, their recommendations on the matter shall come into effect when they have been confirmed by the Contracting Parties by an exchange of diplomatic notes. *(or)* Any modification of the routes or of the Annex agreed upon between the said authorities shall come into effect when it has been confirmed by an exchange of diplomatic notes.

Typical agreements: Burma - Norway (1953)
Colombia - Spain (1951)
Cuba - Portugal (1951)
Paraguay - U.S.A. (1947)
U.K. - U.S.A. (1946)

3. Under the provisions of a few agreements, making recommendations for modification of the annex is a function of the standing joint committee made up of the representatives of airlines and of aeronautical authorities of the contracting parties, as for example:

> The two contracting parties agree to appoint a Standing Joint Committee to co-ordinate their respective air services and, where necessary, to submit for the approval of the competent aeronautical authorities of the two countries proposals for the modification of the Annex of this Agreement.

Typical agreement: France - U.K. (1946)

Changes in designated routes

4. A large number of bilaterals contain a provision indicating that changes in or omission of points on designated routes are not considered as modifications of the agreement.

Any alterations made by one of the designated airlines in the routes described in the attached schedules, Changes made by either Contracting Party in the specified routes,

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except those which change the points served by such airlines within the territory of the other Contracting Party,	except those which change the points served by the designated airlines in the territory of the other Contracting Party,
shall not be considered as modifications of this Agreement.	shall not be considered as modifications of the Agreement.
The Aeronautical Authorities of either Contracting Party may, therefore, proceed unilaterally to make such changes, provided however, that notice of any change shall be given without delay to the Aeronautical Authorities of the other Contracting Party.	The aeronautical authorities of either Contracting Party may therefore effect those charges unilaterally, provided that notice of any such changes is given immediately to the aeronautical authorities of the other Contracting Party.

Typical agreements: Afghanistan - Pakistan (1957)
Italy - Spain (1949)

ECAC standard clauses

5. Article 10 of the ECAC clauses contains one set of procedure for amending the agreement and another procedure for amending the annex. While several States considered the article acceptable, a majority of the States commenting on it indicated that they would not be prepared to adopt the clauses for future agreements. Certain States are prevented by constitutional or legislative limitations from accepting exchange of notes as a means of bringing into effect amendments to the body of the agreement. Other States assigned various reasons for rejecting the provisions relating to verbal consultation, consultation by correspondence, and modification of routes by direct agreement between aeronautical authorities.

Modification of agreement so as to conform with a multilateral convention

6. Article 10 of the Chicago standard form refers to the supersession of agreement by a multilateral convention. Bilateral agreements generally provide for modification of the agreement if both contracting parties ratify a multilateral convention. There are agreements, however, that do not contain such a provision, as for example:

Typical agreements: Dominican Republic - U.S.A. (1949)
Ecuador - Netherlands (1954)
Iceland - Netherlands (1950)

7. Most States commenting on Article 11 of the ECAC standard clauses appeared to find it acceptable. The clause is essentially the same in substance as the corresponding article appearing in a majority of existing agreements. Several types of wording are currently in use, as indicated below:

If a general multilateral /air/ Convention	(or)	If a general multilateral convention on traffic rights for scheduled international air services	(or)	If a /general/ multilateral air transport agreement
comes into force in respect of both Contracting Parties,	(or)	enters into force in relation to both Contracting Parties,		
this Agreement shall be modified in such a way so that the provisions will conform to those of the Convention under reference.	(or)	the present Agreement shall be amended so as to conform with the provisions of such /multilateral/ Convention.		

Typical agreements: Australia - Japan (1956)
Brazil - U.S.A. (1946)
Ceylon - U.A.R. (Egypt) (1950)
Ireland - Italy (1947)
Netherlands - U.K. (1947)
U.K. - U.S.A. (1946)

In the event of the conclusion of		
any general Multilateral Convention /or agreement/	(or)	a multilateral convention
concerning air transport by which both contracting Parties become bound,	(or)	to which both Contracting States adhere,
this Agreement shall be modified to the extent necessary to so conform.	(or)	the present Agreement shall be amended so as to conform with the provisions of such Convention /or agreement/.

Typical agreements: Canada - Mexico (1953)
Ceylon - India (1948)
Israel - Philippines (1951)
Libya - U.K. (1953)

If a general multilateral air transport convention accepted by both Contracting Parties enters into force the provisions of the multilateral convention shall prevail. Discussions may be held ... to determine the extent to which a multilateral agreement cancels, amends or supplements the present Agreement.

Typical agreement: Germany - Sweden (1951)

Section XIII - Entry into force and termination of agreement

A. CHICAGO FORM OF STANDARD AGREEMENT

(10) This Agreement shall continue in force ...,* provided, however, that the rights for services granted under this Agreement may be terminated by giving one year's notice to the contracting party whose airlines are concerned. Such notice may be given at any time after a period of two months to allow for consultation between the contracting party giving notice and the contracting parties served by the routes.

B. STANDARD CLAUSES ADOPTED BY ECAC

ARTICLE 12

Either Contracting Party may at any time give notice to the other Contracting Party of its decision to terminate the present Agreement; such notice shall be simultaneously communicated to the International Civil Aviation Organization. In such case the Agreement shall terminate twelve (12) months after the date of receipt of the notice by the other Contracting Party, unless the notice to terminate is withdrawn by agreement before the expiry of this period. In the absence of acknowledgment of receipt by the other Contracting Party, notice shall be deemed to have been received fourteen (14) days after the receipt of the notice by the International Civil Aviation Organization.

C. NOTES ON PHRASEOLOGY USED IN EXISTING BILATERAL AGREEMENTS, INCLUDING STATES' COMMENTS ON ECAC STANDARD CLAUSES

Entry into force of agreement

1. Both the Chicago standard form and the ECAC standard clauses are silent on this matter. Existing bilaterals indicate generally the following four main types of procedure used in respect of the coming into force of agreements.

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* See under Section XII, part A; p. 84.

(i) as from date of signature

This Agreement, [including the provisions of the Annex hereto]

shall enter into force	(or)	will come into force	(or)	shall be applied
on the date of signature.	(or)	on the day it is signed.	(or)	... days after the date of its signature.

Typical agreements: Burma - U.K. (1952)
Ceylon - Thailand (1950)
Iceland - Norway (1951)
U.K. - U.S.A. (1946)
U.S.A. - Venezuela (1953)

The present agreement shall enter into force on the day of its signature; it shall be ratified and the instruments of ratification shall be exchanged at ... as soon as possible.

Typical agreement: Greece - Lebanon (1948)

(ii) provisionally as from date of signature

This agreement shall be provisionally applicable from the date of its signature and shall come into force on a date agreed upon in an exchange of notes.

Typical agreement: Ghana - Netherlands (1960)

(1) The present Agreement shall be subject to ratification and instruments of ratification shall be exchanged in ... as soon as possible.

(2) The present Agreement shall enter into force provisionally on the date of signature and definitively on the exchange of instruments of ratification.

Typical agreement: Libya - U.K. (1953)

This Agreement shall be ratified or approved, as appropriate, by each Contracting Party in accordance with its constitutional requirements. Pending such ratification or approval, both Contracting Parties undertake to apply the provisions of the Agreement from the date of its signature in accordance with their domestic legislation.

Typical agreement: Chile - Sweden (1952)

The present Agreement shall come into force as soon as the Contracting Parties exchange diplomatic notes confirming that the Agreement has been approved in conformity with their national legislations. The provisions of this Agreement shall, however, be applied by the Contracting Parties as from the date of signature.

Typical agreement: Czechoslovakia - U.A.R. (1959)

The present Agreement shall be ratified in conformity with the constitutional requirements of each Contracting Party and shall come into force on the date following the exchange of the instruments of ratification which shall take place in ... as soon as possible.

Pending the definitive coming into force of this Agreement its provisions shall be applied provisionally by the two Governments as from the date which it is signed. The Government of either country, however, may prior to the exchange of ratification terminate the provisional application of the Agreement by giving three months' notice to the other Government.

Typical agreement: Canada - Peru (1954)

(iii) as from date of fulfilment of legal or diplomatic requirements

This Agreement shall enter into force on the date of the exchange of the instruments of ratification.

Typical agreement: Greece - Turkey (1947)

This Agreement shall enter into force ... months after the Contracting Parties have informed each other that the relevant constitutional processes have been completed.

Typical agreement: Denmark - Germany (1957)

The present Agreement shall be approved by each Contracting Party in accordance with its legal procedures, and shall enter into force upon exchange of diplomatic notes indicating such approval.

Typical agreement: India - Japan (1955)

(iv) date to be determined

The coming into force of this agreement will be determined through an exchange of notes.	The date of the coming into force of the present Agreement shall be determined through an Exchange of Diplomatic Notes.

Typical agreements: Austria - Israel (1955)
Austria - Sweden (1949)

Termination of agreement

2. Article (10) of the Chicago standard form and Article 12 of the ECAC standard clauses indicate the same period of notice of 12 months for terminating agreements. The other requirements specified in the ECAC clause are in accord with the corresponding requirements contained in a majority of existing agreements. Possibly for these reasons, States commenting on Article 12 were generally agreed that the article appeared to present no problem. Several types of provision used in bilateral agreements are given below:

Whether or not the procedure for consultation provided for ... has been indicated, either Contracting Party may (etc.)		Either Contracting Party may at any time request consultation with the other with a view to initiating any amendments to this Agreement or its Annex ... . Pending the outcome of such consultation, it shall be open to either Contracting Party (etc.)		- - -
Either Contracting Party may at any time give notice to the other of its desire to terminate this Agreement /and/	(or)	It shall be open to either Party at any time to give notice to the other of its desire to terminate this Agreement.	(or)	Either contracting party may at any time give notice to the other if it desires to terminate this Agreement
such notice shall be simultaneously communicated to /the Council of/ the International Civil Aviation Organization /formed by the Convention/.	(or)	Such notice shall be simultaneously communicated to the /Provisional/ International Civil Aviation Organization /or its successor/.		

If such notice is given, this Agreement shall terminate twelve /calendar/ months after the date of receipt of the notice by the other Contracting Party,	(or)	If such notice is given, the present Agreement shall terminate on the date specified in the notice but in any case not less than 12 months after the date of receipt of the notice by the other contracting party,	(or)	The agreement shall then terminate twelve (12) months after the date of receipt of the notice by the other Contracting Party.
unless by agreement between the Contracting Parties the notice under reference is withdrawn before the expiration of that period.	(or)	unless the notice to terminate is withdrawn by /mutual/ agreement before the expiry of this period.		
In the absence of acknowledgement of receipt by the other Contracting Party /specifying an earlier date of receipt/	(or)	If the other Contracting Party fails to acknowledge receipt,		
notice shall be deemed to have been received fourteen days after the receipt of the notice by the /Provisional/ International Civil Aviation Organization /or its successor/.	(or)	notice shall be deemed to have been received fourteen days after the receipt of the notice by /the Council of/ the International Civil Aviation Organization.		
				If before the expiry of this twelve (12) month period, the Contracting Parties come to a new agreement or agree to the withdrawal of the termination notice,
- - -		- - -		

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they shall communicate this decision to the International Civil Aviation Organization.

Typical agreements: Afghanistan - India (1952)
Australia - Lebanon (1953)
France - Italy (1949)
France - Japan (1956)
India - U.A.R. (Egypt) (1952)
Ireland - Italy (1947)
Libya - U.K. (1953)
U.K. - U.S.A. (1946)

Each Contracting Party may [at any time] give notice to the other Contracting Party [through the diplomatic channels] of its desire to terminate this Agreement. The Agreement shall terminate one year [12 months] after [the date of] receipt of the notice by the other Contracting Party, unless, by agreement between the Contracting Parties, the notice is withdrawn [by common consent] before the expiry of that period.

Typical agreements: Czechoslovakia - U.A.R. (1959)
Germany - Switzerland (1956)

If one of the Contracting Parties desires to terminate this Agreement, it shall address a request for consultation to the other Contracting Party. If no agreement is reached within sixty days after the date on which the request for consultation is sent, the Contracting Party may give notice of termination. Such notice shall be simultaneously communicated to the International Civil Aviation Organization.

On receipt of such notice, the Agreement shall cease to be operative on the date mentioned in the notice, though it shall not in any case cease to be operative until ten months have elapsed since the date on which the other Contracting Party received it.

In the absence of acknowledgement of receipt of the notice by the other Contracting Party, notice shall be deemed to have been received fourteen days after the receipt of the notice by the ICAO.

Typical agreement: Argentina - Netherlands (1948)

The present Agreement shall remain in force for a period of one year, and, should neither Contracting Party notify the other, three months prior to its expiry, of its intention to terminate the Agreement, it shall continue in force for another period of one year and so on.

Typical agreement: India - Japan (1955)

Section XIV - Tariffs

A. CHICAGO FORM OF STANDARD AGREEMENT

(no tariff provisions)

B. STANDARD CLAUSES ADOPTED BY ECAC

ARTICLE 7

1. The tariffs to be charged by the airlines of one Contracting Party for carriage to or from the territory of the other Contracting Party shall be established at reasonable levels due regard being paid to all relevant factors including cost of operation, reasonable profit, and the tariffs of other airlines.

2. The tariffs referred to in paragraph 1 of this Article shall, if possible, be agreed by the designated airlines concerned of both Contracting Parties, in consultation with other airlines operating over the whole or part of the route, and such agreement shall, where possible be reached through the rate-fixing machinery of the International Air Transport Association.

3. The tariffs so agreed shall be submitted for the approval of the aeronautical authorities of the Contracting Parties at least thirty (30) days before the proposed date of their introduction; in special cases, this time limit may be reduced, subject to the agreement of the said authorities.

4. If the designated airlines cannot agree on any of these tariffs, or if for some other reason a tariff cannot be fixed in accordance with the provisions of paragraph 2 of this Article, or if during the first 15 days of the 30 days' period referred to in paragraph 3 of this Article one Contracting Party gives the other Contracting Party notice of its dissatisfaction with any tariff agreed in accordance with the provisions of paragraph 2 of this Article, the aeronautical authorities of the Contracting Parties shall try to determine the tariff by agreement between themselves.

5. If the aeronautical authorities cannot agree on the approval of any tariff submitted to them under paragraph 3 of this Article and on the determination of any tariff under paragraph 4, the dispute shall be settled in accordance with the provisions of Article 13 of the present Agreement.

C. NOTES ON PHRASEOLOGY USED IN EXISTING BILATERAL AGREEMENTS, *INCLUDING STATES' COMMENTS ON ECAC STANDARD CLAUSES*

Tariff provisions in bilateral agreements

1. The Chicago form of standard agreement does not contain any provision relating to airline tariffs. Also, such a provision does not always appear in bilateral agreements. Typically the following agreements concluded in the early post-war years are without tariff provisions:

Typical agreements: Burma - Ceylon (1950)
Greece - Sweden (1947)
Iceland - Netherlands (1950)
Ireland - Italy (1947)
Paraguay - U.S.A. (1947)

2. Of agreements containing a provision concerning tariffs, some use a simple form, stating that rates and fares charged by airlines shall be those agreed upon in the first instance by IATA or by the airlines themselves, as shown in (i) below. Other agreements indicate additional requirements, such as factors to be taken into account in determining rates, procedure to be followed in case of disagreement between the parties, etc. These kinds of clauses are described in (ii). The tariff provisions of the U.K. - U.S.A. Bermuda agreement (1946) and, for purpose of comparison, those contained in the more recent Mexico - U.S.A. agreement (1960), are reproduced in (iii)

(i) The fares and rates to be charged by the airlines designated by the parties to this Agreement and the conditions of carriage applicable to carriage by each such airline shall be those agreed upon by the International Air Transport Association and approved by the Government of ... and by the Government of ... .

Typical agreements: France - South Africa (1954)
Italy - South Africa (1956)

1. The ... airlines which are to be designated ... shall adopt the tariffs established by the International Air Transport Association (IATA).

2. In the absence of such tariffs they shall apply the rates established by joint agreement between the ... airlines concerned and by the competent authorities of the two countries.

Typical agreement: Greece - Norway (1951)

Tariffs to be charged by the air carriers referred to in this Annex	Rates to be charged on routes or on parts of a route by the designated airlines
shall, where appropriate, be agreed upon in the first instance between them in consultation with other air carriers interested.	shall be agreed upon in the first instance between themselves in consultation with other airlines operating on the respective routes or any section thereof.
Such tariffs shall be subject to the approval of the contracting parties.	Any rates so agreed shall be subject to the approval of the aeronautical authorities of the respective Contracting Parties.
- - -	In the event of disagreement between the airlines the aeronautical authorities themselves shall endeavour to each agreement.

Typical agreements: Finland - Netherlands (1949)
Ireland - U.K. (1946)

(ii) Rates shall be fixed at reasonable levels, due regard being paid to economical operation, reasonable profit, the rates charged by other airlines operating all or part of the same route and the characteristics of each service, such as speed and accommodation; such rates shall in all cases be subject to approval by the aeronautical authorities of both countries.

Typical agreement: Netherlands - Venezuela (1954)

Tariffs shall be fixed at reasonable levels, due regard being paid in particular to economy of operation, reasonable profit and the characteristics of each service, such as standards of speed and comfort.

In establishing such tariffs, the recommendations of the International Air Transport Association shall be taken into consideration.

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Failing recommendations by the said Association, the ... airlines shall agree on the passenger and goods tariff, to be applied on the jointly operated sections of their lines, after consultation, if necessary, with the airlines of third countries operating on all or part of the same routes.

Typical agreement: Czechoslovakia - Sweden (1947)

Rates shall be fixed at reasonable levels, due regard being paid to economical operation, normal profit and the characteristics of the agreed services. In fixing these rates account shall also be taken of the principles governing international air navigation in the matter.

The rates and time-tables agreed upon between the designated airlines shall first be submitted to the aeronautical authorities of the Contracting Parties for approval. If the airlines are unable to reach agreement, they shall refer the matter to their aeronautical authorities, which shall endeavour to find a solution within thirty days. In the interim, the existing rates and time-tables shall remain in effect.

Typical agreement: Turkey - Yugoslavia (1953)

Rates shall be fixed at reasonable levels, due regard being paid to economy of operation, reasonable profit and the characteristics of each service, such as speed and accommodation. The recommendations of the International Air Transport Association (IATA) shall also be taken into consideration so far as possible. In the absence of such recommendation, the ... airlines shall consult with the airlines of third countries operating on the same routes. Their arrangements shall be subject to the approval of the competent aeronautical authorities of the Contracting Parties. If the designated airlines are unable to reach agreement, those authorities shall endeavour to find a solution. In the last resort, the procedure prescribed in ...* of this Agreement shall be applied.

Typical agreement: Lebanon - Sweden (1953)

A. The tariffs to be charged for the carriage of passengers and cargo on any of the specified air services shall be fixed at reasonable levels, due regard being paid to all relevant factors, including economical operation, reasonable profit, difference of characteristics of service (including standards of speed and accommodation) and the tariffs charged by other airlines on the route or section thereof concerned.

* Referring to the provisions relating to settlement of disputes.

B. The tariffs in respect of each route and each section thereof shall be agreed between the designated airlines concerned and shall have regard to any relevant rates adopted by the International Air Transport Association. The tariffs so agreed shall be subject to the approval of the aeronautical authorities of both Contracting Parties, except that the approval of the aeronautical authorities of a Contracting Party shall not be necessary in respect of tariffs for a route or section in which no designated airline of that Contracting Party is concerned. In the event of disagreement between the designated airlines concerned or in case the aeronautical authorities do not approve the tariffs as required under this paragraph, the Contracting Parties shall endeavour to reach agreement between themselves failing which the dispute shall be dealt with in accordance with Article ...* pending determination of the tariffs in accordance with this Article, the tariffs already in force shall prevail.

C. Nothing in this Article shall be deemed to prevent either Contracting Party, in agreement with the other Contracting Party, from bringing into force tariffs fixed in accordance with practice recommended from time to time by International Civil Aviation Organization.

Typical agreement: India - Thailand (1956)

(1) The tariffs on any agreed service shall be established at reasonable levels, due regard being paid to all relevant factors including cost of operation, reasonable profit, characteristics of service (such as standards of speed and accommodation) and the tariffs of other airlines for any part of the specified route. These tariffs shall be fixed in accordance with the following provisions of this Article.

(2) The tariffs referred to in paragraph (1) of this Article, together with the rates of agency commission used in conjunction with them shall, if possible, be agreed in respect of each of the specified routes between the designated airlines concerned, in consultation with other airlines operating over the whole or part of that route, and such agreement shall, where possible, be reached through the rate-fixing machinery of the International Air Transport Association. The tariffs so agreed shall be subject to the approval of the aeronautical authorities of both Contracting Parties.

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* Referring to the provisions relating to settlement of disputes.

(3) If the designated airlines cannot agree on any of these tariffs, or if for some other reason a tariff cannot be agreed in accordance with the provisions of paragraph (2) of this Article, the aeronautical authorities of the Contracting Parties shall try to determine the tariff by agreement between themselves.

(4) If the aeronautical authorities cannot agree on the approval of any tariff submitted to them under paragraph (2) of this Article or on the determination of any tariff under paragraph (3), the dispute shall be settled in accordance with the provisions of Article ...* of the present Agreement.

(5) No tariff shall come into force if the aeronautical authorities of either Contracting Party are dissatisfied with it except under the provisions of paragraph ... of Article ... ** of the present Agreement.

(6) When tariffs have been established in accordance with the provisions of this Article these tariffs shall remain in force until new tariffs have been established in accordance with the provisions of this Article.

Typical agreement: Ghana - U.K. (1958)

(iii) **Bermuda agreement (1946)**

(a) Rates to be charged by the air carriers of either Contracting Party between points in the territory of the United States and points in the territory of the United Kingdom referred to in this Annex shall be subject to the approval of the Contracting Parties within their respective constitutional powers and obligations. In the event of disagreement the matter in dispute shall be handled as provided below.

(b) The Civil Aeronautics Board of the United States having announced its intention to approve the rate conference machinery of the International Air Transport Association (hereinafter called "I.A.T.A."), as submitted, for a period of one year beginning in February 1946, any rate agreements concluded through this machinery during this period and involving United States air carriers will be subject to approval by the Board.

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* Referring to the provisions relating to settlement of disputes.

** Referring to the provisions relating to the obligation of contracting parties to comply with arbitral decision.

(c) Any new rate proposed by the air carrier or carriers of either Contracting Party shall be filed with the aeronautical authorities of both Contracting Parties at least thirty days before the proposed date of introduction; provided that this period of thirty days may be reduced in particular cases if so agreed by the aeronautical authorities of both Contracting Parties.

(d) The Contracting Parties hereby agree that where -

(1) during the period of the Board's approval of the I.A.T.A. rate conference machinery, either any specific rate agreement is not approved within a reasonable time by either Contracting Party, or a conference of I.A.T.A. is unable to agree on a rate, or

(2) at any time no I.A.T.A. machinery is applicable, or

(3) either Contracting Party at any time withdraws or fails to renew its approval of that part of the I.A.T.A. rate conference machinery relevant to this provision,

the procedure described in paragraphs (e), (f) and (g) hereof shall apply.

(e) In the event that power is conferred by law upon the aeronautical authorities of the United States to fix fair and economic rates for the transport of persons and property by air on international services, and to suspend proposed rates in a manner comparable to that in which the Civil Aeronautics Board at present is empowered to act with respect to such rates for the transport of persons and property by air within the United States, each of the Contracting Parties shall thereafter exercise its authority in such manner as to prevent any rate or rates proposed by one of its carriers for services from the territory of one Contracting Party to a point or points in the territory of the other Contracting Party from becoming effective, if in the judgment of the aeronautical authorities of the Contracting Party whose air carrier or carriers is or are proposing such rate, that rate is unfair or uneconomic. If one of the Contracting Parties on receipt of the notification referred to in paragraph (c) above is dissatisfied with the new rate proposed by the air carrier or carriers of the other Contracting Party, it shall so notify the other Contracting Party prior to the expiry of the first fifteen of the thirty days referred to, and the Contracting Parties shall endeavour to reach agreement on the appropriate rate. In the event that such agreement is reached, each Contracting Party will exercise its statutory powers to give effect to such agreement. If agreement has

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not been reached at the end of the thirty-day period referred to in paragraph (c) above, the proposed rate may, unless the aeronautical authorities of the country of the air carrier concerned see fit to suspend its operation, go into effect provisionally pending the settlement of any dispute in accordance with the procedure outlined in paragraph (g) below.

(f) Prior to the time when such power may be conferred by law upon the aeronautical authorities of the United States, if one of the Contracting Parties is dissatisfied with any new rate proposed by the air carrier or carriers of either Contracting Party for services from the territory of one Contracting Party to a point or points in the territory of the other Contracting Party, it shall so notify the other prior to the expiry of the first fifteen of the thirty-day period referred to in paragraph (c) above, and the Contracting Parties shall endeavour to reach agreement on the appropriate rate. In the event that such agreement is reached, each Contracting Party will use its best efforts to cause such agreed rate to be put into effect by its air carrier or carriers. It is recognized that if no such agreement can be reached prior to the expiry of such thirty days, the Contracting Party raising the objection to the rate may take such steps as it may consider necessary to prevent the inauguration or continuation of the service in question at the rate complained of.

(g) When in any case under paragraphs (e) and (f) above the aeronautical authorities of the two Contracting Parties cannot agree within a reasonable time upon the appropriate rate after consultation initiated by the complaint of one Contracting Party concerning the proposed rate or an existing rate of the air carrier or carriers of the other Contracting Party, upon the request of either, both Contracting Parties shall submit the question to the Provisional International Civil Aviation Organization, or to its successor for an advisory report, and each party will use its best efforts under the powers available to it to put into effect the opinion expressed in such report.

(h) The rates to be agreed in accordance with the above paragraphs shall be fixed at reasonable levels, due regard being paid to all relevant factors, such as cost of operation, reasonable profit and the rates charged by any other air carriers.

(j) The Executive Branch of the Government of the United States agrees to use its best efforts to secure legislation empowering the aeronautical authorities of the United States to fix fair and economic rates for the transport of persons and property by air on international services, and to suspend proposed rates in a manner comparable to that in which the Civil Aeronautics Board at present is empowered to act with respect to such rates for the transport of persons and property by air within the United States.

Mexico - U.S.A. agreement (1960)

1. All rates to be charged by an airline of one contracting party to or from points in the territory of the other contracting party shall be established at reasonable levels, due regard being paid to all relevant factors, such as costs of operation, reasonable profit, and the rates charged by any other carriers, as well as the characteristics of each service. Such rates shall be subject to the approval of the aeronautical authorities of the parties, who shall act in accordance with their obligations under this Agreement, within the limits of their legal powers.

2. Any rate proposed to be charged by an airline of either contracting party for carriage to or from the territory of the other contracting party, shall, if so required, be filed by such airline with the aeronautical authorities of the other contracting party at least thirty (30) days before the proposed date of introduction unless the contracting party with whom the filing is to be made permits filing on shorter notice. The aeronautical authorities of each contracting party shall use their best efforts to insure that the rates charged and collected conform to the rates filed with either contracting party, and that no carrier rebates any portion of such rates, by any means, directly or indirectly, including the payment of excessive sales commissions to agents or the use of unrealistic currency conversion rates.

3. It is recognized by both contracting parties that during any period for which either contracting party has approved the traffic conference procedures of the International Air Transport Association, or other associations of international air carriers, any rate agreements concluded through these procedures and involving airlines of that contracting party will be subject to the approval of that contracting party.

4. If a contracting party, on receipt of the notification referred to in paragraph 2 above, is dissatisfied with the rate proposed, it shall so inform the other contracting party at least fifteen (15) days prior to the date that such rate would otherwise become effective, and the contracting parties shall endeavor to reach agreement on the appropriate rate.

5. If a contracting party upon review of an existing rate charged for carriage to or from its territory by an airline of the other contracting party is dissatisfied with that rate, it shall so notify the other contracting party and the contracting parties shall endeavor to reach agreement on the appropriate rate.

6. In the event that an agreement is reached pursuant to the provisions of paragraph 4 or 5, each contracting party will exercise its best efforts to put such rate into effect.

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7. (a) If under the circumstances set forth in paragraph 4 no agreement can be reached prior to the date that such rate would otherwise become effective.

(b) If under the circumstances set forth in paragraph 5 no agreement can be reached prior to the expiry of sixty (60) days from the date of notification:

then the contracting party raising the objection to the rate may take such steps as it may consider necessary to prevent the inauguration or the continuation of the service in question at the rate complained of provided, however, that the contracting party raising the objection shall not require the charging of a rate higher than the lowest rate charged by its own airline or airlines for comparable service between the same pair of points.

8. When in any case under paragraphs 4 and 5 of this Article the aeronautical authorities of the two contracting parties cannot agree within a reasonable time upon the appropriate rate after consultation initiated by the complaint of one contracting party concerning the proposed rate or an existing rate of the airline or airlines of the other contracting party, upon the request of either, the terms of Article 13 of this Agreement shall apply. In rendering its advisory opinion, the arbitral tribunal shall be guided by the principles laid down in this Article.

9. Unless otherwise agreed between the parties, each contracting party undertakes to use its best efforts to insure that any rate specified in terms of the national currency of one of the parties will be established in an amount which reflects the effective exchange rate (including all exchange fees or other charges) at which the airlines of both parties can convert and remit the revenues from their transport operations into the national currency of the other party.

ECAC standard clauses and bilateral provisions compared

3. Article 7 of the ECAC clauses differs from the tariff provisions of a majority of existing agreements in one or more of the following ways:

(i) reference to "all relevant factors" in Article 7, paragraph 1, of the ECAC clauses is intended to cover evaluation criteria relating to characteristics of service, such as speed, accommodation, etc., generally contained in bilateral agreements;

(ii) omission of any reference to agency commissions, referred to in some agreements in a provision corresponding to Article 7,

paragraph 2. There was, however, considerable support among European States for including the question of agency commission in the matters to be agreed upon by airlines for the reason that commission rates are an important part of the tariff structure and might have particular value in cases where IATA failed to agree on tariffs;

(iii) retention of a provision concerning the possible reduction of the period of 3 days for submitting agreed tariffs for the approval of aeronautical authorities before the proposed date of the introduction of the tariffs (Article 7, paragraph 3). Many agreements do not contain a provision corresponding to this clause;

(iv) inclusion of a provision stating that tariffs should remain in force until new tariffs have been established (Article 7, paragraph 7).

4. Comments received concerning Article 7 of the ECAC standard clauses indicated that States agree generally with the provisions of the article. However, there are notable exceptions. A few States regarded tariff provisions as outside the scope of administrative clauses. One State informed ICAO that it would not accept any reference to IATA in the ECAC article. Another felt that the provision of Article 7 was too complicated and suggested that it should cover only the essential principles required for the establishment of airline tariffs.

Section XV - Other provisions

A. CHICAGO FORM OF STANDARD AGREEMENT

(No provisions)

B. STANDARD CLAUSES ADOPTED BY ECAC

ARTICLE 8

Either Contracting Party undertakes to grant the other Party free transfer, at the official rate of exchange, of the excess of receipts over expenditure achieved on its territory in connection with the carriage of passengers, baggage, mail shipments and freight by the designated airline of the other Party. Wherever the payments system between Contracting Parties is governed by a special agreement, this agreement shall apply.

ARTICLE 9

In a spirit of close co-operation, the Aeronautical Authorities of the Contracting Parties shall consult each other from time to time with a view to ensuring the implementation of, and satisfactory compliance with, the provisions of the present Agreement and the Annexes thereto.

C. NOTES ON PHRASEOLOGY USED IN EXISTING BILATERAL AGREEMENTS, INCLUDING STATES' COMMENTS IN ECAC STANDARD CLAUSES

Facilitation of currency exchange

1. In Europe, the transfer of funds from one country to another is covered by an OEEC (Organization for European Economic Co-operation) agreement, but some ECAC member States are not party to the agreement or have reservations concerning certain clauses in the agreement. The provisions of Article 8 are therefore of particular interest to these States. Only a limited number of bilaterals concluded between ICAO States contain an article of this kind, using the following types of wording:

Transfer of funds received by the airlines designated by the Contracting Parties shall be made in accordance with the foreign exchange regulations in force in the two countries. The Parties shall do everything in their power to facilitate the transfer of such funds.

Typical agreement: Lebanon - Switzerland (1953)

Each Contracting Party grants to the designated airlines of the other Contracting Party the right to remit to their head offices at the appropriate official rates of exchange the excess over expenditure of receipts earned in the territory of the first Contracting Party.

Typical agreement: Libya - U.K. (1953)

Each Contracting Party grants to the designated airlines of the other Contracting Party

(a) the right to transfer to their head offices ... currency at the official rates of exchange all surplus earnings, whatever the currency in which they were earned, and

(b) so far as the currency regulations of the first Contracting Party in force at the time will allow, the right to transfer surplus earnings to their head offices in the currency in which they were earned.

Typical agreement: Ghana - Netherlands (1960)

(1) Each Contracting Party grants to the designated airline of the other Contracting Party the right to transfer to their Head Office, the excess of receipts over expenditure, after conversion at the official rate of exchange in the currency of the other Contracting Party.

(2) At the request of the creditors remittance of earnings in currency other than ... or ... may be made in the currency in which they are earned, as far as possible in accordance with the currency regulations of the Contracting Party in force at the time.

Typical agreement: Germany - U.K. (1955)

The Contracting Parties agree that the transfer of funds representing excess of receipts over expenditure earned by their respective airlines shall be the subject of an Exchange of Notes between them.

Typical agreement: Ghana - U.A.R. (1960)

Consultation between aeronautical authorities

2. . Article 9 of the ECAC standard clauses is in the nature of a general provision, requiring consultation between aeronautical authorities to ensure implementation of, and compliance with, the provisions of the agreement and annexes. It is not concerned with specific functions, such as modification of agreement, establishment of tariffs, etc. Some States considered it necessary to make this distinction quite clear. Most States commenting on the ECAC article found it acceptable. The phraseology used in existing agreements is very similar to that of Article 9:

> There shall be regular and frequent consultation between the aeronautical authorities of the Contracting Parties to ensure close collaboration in all matters affecting the fulfilment of the present Agreement.

Typical agreements: Denmark - Japan (1953)
Malaya - U.K. (1957)

> In a spirit of close collaboration the aeronautical authorities of the two Contracting Parties will consult /regularly/ on request with a view to assuring the observance of the principles and implementations of the provisions outlined in this Agreement.

Typical agreements: Afghanistan - India (1952)
Australia - Lebanon (1953)

APPENDIX I

Form of Standard Agreement for Provisional Air Routes

(Recommendation VIII of the Final Act of the Chicago Conference, 7 December 1944)

(1) The contracting parties grant the rights specified in the Annex* hereto necessary for establishing the international civil air routes and services therein described, whether such services be inaugurated immediately or at a later date at the option of the contracting party to whom the rights are granted.

(2) (a) Each of the air services so described shall be placed in operation as soon as the contracting party to whom the right has been granted by paragraph (1) to designate an airline or airlines for the route concerned has authorized an airline for such route, and the contracting party granting the right shall, subject to Article (7) hereof, be bound to give the appropriate operating persmission to the airline or airlines concerned; provided that the airline so designated may be required to qualify before the competent aeronautical authorities of the contracting party granting the rights under the laws and regulations normally applied by these authorities before being permitted to engage in the operations contemplated by this Agreement; and provided that in areas of hostilities or of military occupation, or in areas affected thereby, such inauguration shall be subject to the approval of the competent military authorities.

(b) It is understood that any contracting party granted commercial rights under this Agreement should exercise them at the earliest practicable date except in the case of temporary inability to do so.

(3) Operating rights which may have been granted previously by any of the contracting parties to any State not a party to this Agreement or to an airline shall continue in force according to their terms.

(4) In order to prevent discriminatory practices and to assure equality of treatment, it is agreed that:

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* An annex will include a description of the routes and of the rights granted whether of transit only, of non-traffic stops or of commercial entry as the case may be, and the conditions incidental to the granting of the rights. Where rights of non-traffic stop or commercial rights are granted, the Annex will include a designation of the ports of call at which stops can be made, or at which commercial rights for the embarkation and disembarkation of passengers, cargo and mail are authorized, and a statement of the contracting parties to whom the respective rights are granted.

(a) Each of the contracting parties may impose or permit to be imposed just and reasonable charges for the use of airports, and other facilities. Each of the contracting parties agrees, however, that these charges shall not be higher than would be paid for the use of such airports and facilities by its national aircraft engaged in similar international services.

(b) Fuel, lubricating oils and spare parts introduced into the territory of a contracting party by another contracting party or its nationals, and intended solely for use by aircraft of such other contracting party shall be accorded national and most-favored-nation treatment with respect to the imposition of customs duties, inspection fees or other national duties or charges by the contracting party whose territory is entered.

(c) The fuel, lubricating oils, spare parts, regular equipment and aircraft stores retained on board civil aircraft of the airlines of the contracting parties authorized to operate the routes and services described in the Annex shall, upon arriving in or leaving the territory of other contracting parties, be exempt from customs, inspection fees or similar duties or charges, even though such supplies be used or consumed by such aircraft on flights in that territory.

(5) Certificates of airworthiness, certificates of competency and licenses issued or rendered valid by one contracting party shall be recognized as valid by the other contracting parties for the purpose of operating the routes and services described in the Annex. Each contracting party reserves the right, however, to refuse to recognize, for the purpose of flight above its own territory certificates of competency and licenses granted to its own nationals by another State.

(6) (a) The laws and regulations of a contracting party relating to the admission to or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft while within its territory, shall be applied to the aircraft of all contracting parties without distinction as to nationality, and shall be complied with by such aircraft upon entering or departing from or while within the territory of that party.

(b) The laws and regulations of a contracting party as to the admission to or departure from its territory of passengers, crew, or cargo of aircraft, such as regulations relating to entry, clearance, immigration, passports, customs, and quarantine shall be complied with by or on behalf of such passengers, crew or cargo upon entrance into or departure from or while within the territory of that party.

(7) Each contracting party reserves the right to withhold or revoke a certificate or permit to an airline of another State in any case where it is not satisfied that substantial ownership and effective control are vested in nationals of a party to this Agreement, or in case of failure of an airline to comply with the laws of the State over which it operates, as described in Article (6) hereof, or to perform its obligations under this Agreement.

(8) This Agreement and all contracts connected therewith shall be registered with the Provisional International Civil Aviation Organization.

(9) [Where desired, here insert provisions for arbitration, the details of which will be a matter for negotiation between the parties to each agreement.]

(10) This Agreement shall continue in force until such time as it may be amended, or superseded by a general multilateral air convention, provided, however, that the rights for services granted under this Agreement may be terminated by giving one year's notice to the contracting party whose airlines are concerned. Such notice may be given at any time after a period of two months to allow for consultation between the contracting party giving notice and the contracting parties served by the routes.

APPENDIX II

Standard Clauses for Bilateral Agreements Developed by ECAC at Its Third Session (March 1959)

ARTICLE 1

Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement, for the purpose of establishing scheduled international air services on the routes specified /in an Annex hereto or in exchanges of notes/. Such services and routes are hereafter called "the agreed services" and "the specified routes" respectively. The airlines designated by each Contracting Party shall enjoy, while operating an agreed service on a specified route, the following rights:

(a) to fly without landing across the territory of the other Contracting Party;

(b) to make stops in the said territory for non-traffic purposes.

(c) /Here insert a description of the traffic rights granted
(d) in the particular bilateral agreement./
etc.)

ARTICLE 2

1. Each Contracting Party shall have the right to designate in writing to the other Contracting Party one or more airlines for the purpose of operating the agreed services on the specified routes.

2. On receipt of such designation, the other Contracting Party shall, subject to the provisions of paragraphs (3) and (4) of this Article, without delay grant to the airline or airlines designated the appropriate operating authorizations.

3. The aeronautical authorities of one Contracting Party may require an airline designated by the other Contracting Party to satisfy them that it is qualified to fulfil the conditions prescribed under the laws and regulations normally and reasonably applied to the operation of international air services by such authorities in conformity with the provisions of the Convention on International Civil Aviation (Chicago, 1944).

4. Each Contracting Party shall have the right to refuse to grant the operating authorizations referred to in paragraph 2 of this Article, or to impose such conditions as it may deem necessary on the exercise by a designated airline of the rights specified in Article 1, in any case where the said Contracting Party is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in its nationals.

5. When an airline has been so designated and authorized, it may begin at any time to operate the agreed services, provided that a tariff established in accordance with the provisions of Article 7 of the present Agreement is in force in respect of that service.

ARTICLE 3

1. Each Contracting Party shall have the right to revoke an operating authorization or to suspend the exercise of the rights specified in Article 1 of the present Agreement by an airline designated by the other Contracting Party, or to impose such conditions as it may deem necessary on the exercise of these rights:

(a) in any case where it is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in nationals of such Contracting Party, or

(b) in the case of failure by that airline to comply with the laws or regulations of the Contracting Party granting these rights, or

(c) in case the airline otherwise fails to operate in accordance with the conditions prescribed under the present Agreement.

2. Unless immediate revocation, suspension or imposition of the conditions mentioned in paragraph 1 of this Article is essential to prevent further infringements of laws or regulations, such right shall be exercised only after consultation with the other Contracting Party.

ARTICLE 4

1. Aircraft operated on international services by the designated airlines of either Contracting Party, as well as their regular equipment, supplies of fuels and lubricants, and aircraft stores (including food, beverages and tobacco) on board such aircraft shall be exempt from all customs duties, inspection fees and other duties or taxes on arriving in the territory of the other Contracting Party, provided such equipment and supplies remain on board the aircraft up to such time as they are re-exported.

2. There shall also be exempt* from the same duties and taxes, with the exception of charges corresponding to the service performed:

(a) aircraft stores taken on board in the territory of either Contracting Party, within limits fixed by the authorities of said Contracting Party, and for use on board aircraft engaged in an international service of the other Contracting Party;

* The means of giving effect to exemption may vary from country to country; for example taxes may have to be paid to be refunded afterwards.

(b) spare parts entered into the territory of either Contracting Party for the maintenance or repair of aircraft used on international services by the designated airlines of the other Contracting Party;

(c) fuel and lubricants destined to supply aircraft operated on international services by the designated airlines of the other Contracting Party, even when these supplies are to be used on the part of the journey performed over the territory of the Contracting Party in which they are taken on board.

Materials referred to in sub-paragraphs (a), (b) and (c) above may be required to be kept under Customs supervision or control.

ARTICLE 5

The regular airborne equipment, as well as the materials and supplies retained on board the aircraft of either Contracting Party may be unloaded in the territory of the other Contracting Party only with the approval of the customs authorities of such territory. In such case, they may be placed under the supervision of said authorities up to such time as they are re-exported or otherwise disposed of in accordance with customs regulations.

ARTICLE 6

Passengers in transit across the territory of either Contracting Party shall be subject to no more than a very simplified control. Baggage and cargo in direct transit shall be exempt from customs duties and other similar taxes.

ARTICLE 7

1. The tariffs to be charged by the airlines of one Contracting Party for carriage to or from the territory of the other Contracting Party shall be established at reasonable levels due regard being paid to all relevant factors including cost of operation, reasonable profit, and the tariffs of other airlines.

2. The tariffs referred to in paragraph 1 of this Article shall, if possible, be agreed by the designated airlines concerned of both Contracting Parties, in consultation with other airlines operating over the whole or part of the route, and such agreement shall, where possible be reached through the rate-fixing machinery of the International Air Transport Association.

3. The tariffs so agreed shall be submitted for the approval of the aeronautical authorities of the Contracting Parties at least thirty (30) days before the proposed date of their introduction; in special cases, this time limit may be reduced, subject to the agreement of the said authorities.

4. If the designated airlines cannot agree on any of these tariffs, or if for some other reason a tariff cannot be fixed in accordance with the provisions of paragraph 2 of this Article, or if during the first 15 days of the 30 days' period referred to in paragraph 3 of this Article one Contracting Party gives the other Contracting Party notice of its dissatisfaction with any tariff agreed in accordance with the provisions of paragraph 2 of this Article, the aeronautical authorities of the Contracting Parties shall try to determine the tariff by agreement between themselves.

5. If the aeronautical authorities cannot agree on the approval of any tariff submitted to them under paragraph 3 of this Article and on the determination of any tariff under paragraph 4, the dispute shall be settled in accordance with the provisions of Article 13 of the present Agreement.

6. Subject to the provisions of paragraph 3 of this Article, no tariff shall come into force if the aeronautical authorities of either Contracting Party have not approved it.

7. The tariffs established in accordance with the provisions of this Article shall remain in force until new tariffs have been established in accordance with the provisions of this Article.

ARTICLE 8

Either Contracting Party undertakes to grant the other Party free transfer, at the official rate of exchange, of the excess of receipts over expenditure achieved on its territory in connection with the carriage of passengers, baggage, mail shipments and freight by the designated airline of the other Party. Wherever the payments system between Contracting Parties is governed by a special agreement, this agreement shall apply.

ARTICLE 9

In a spirit of close co-operation, the Aeronautical Authorities of the Contracting Parties shall consult each other from time to time with a view to ensuring the implementation of, and satisfactory compliance with, the provisions of the present Agreement and the Annexes thereto.

ARTICLE 10

1. If either of the Contracting Parties considers it desirable to modify any provision of the present Agreement, it may request consultation with the other Contracting Party; such consultation, which may be between aeronautical authorities and which may be through discussion or by correspondence, shall begin within a period of sixty (60) days of the date of the request. Any modifications so agreed shall come into force when they have been confirmed by an exchange of diplomatic notes.

2. Modifications to routes may be made by direct agreement between the competent aeronautical authorities of the Contracting Parties.

ARTICLE 11

The present Agreement and its Annexes will be amended so as to conform with any multilateral convention which may become binding on both Contracting Parties.

ARTICLE 12

Either Contracting Party may at any time give notice to the other Contracting Party of its decision to terminate the present Agreement; such notice shall be simultaneously communicated to the International Civil Aviation Organization. In such case the Agreement shall terminate twelve (12) months after the date of receipt of the notice by the other Contracting Party, unless the notice to terminate is withdrawn by agreement before the expiry of this period. In the absence of acknowledgement of receipt by the other Contracting Party, notice shall be deemed to have been received fourteen (14) days after the receipt of the notice by the International Civil Aviation Organization.

ARTICLE 13

1. If any dispute arises between the Contracting Parties relating to the interpretation or application of this present Agreement, the Contracting Parties shall in the first place endeavour to settle it by negotiation.

2. If the Contracting Parties fail to reach a settlement by negotiation, they may agree to refer the dispute for decision to some person or body, or the dispute may at the request of either Contracting Party be submitted for decision to a tribunal of three arbitrators, one to be nominated by each Contracting Party and the third to be appointed by the two so nominated. Each of the Contracting Parties shall nominate an arbitrator within a period of sixty days from the date of receipt by either Contracting Party from the other of a notice through diplomatic channels requesting arbitration of the dispute and the third arbitrator shall be appointed within a further period of sixty days. If either of the Contracting Parties fails to nominate an arbitrator within the period specified, or if the third arbitrator is not appointed within the period specified, the President of the Council of the Civil Aviation Organization may be requested by either Contracting Party to appoint an arbitrator or arbitrators as the case requires. In such case, the third arbitrator shall be a national of a third State and shall act as president of the arbitral body.

ARTICLE 14

3. The Contracting Parties undertake to comply with any decision given under paragraph 2 of this Article.

APPENDIX III

Rules for Registration with ICAO of Aeronautical Agreements and Arrangements*

(Doc 6685, C/767, 6/4/49)

ARTICLE 1

For the purpose of these Rules aeronautical agreement or arrangement means any agreement or arrangement, whatever its form and descriptive name, relating to international civil aviation.

ARTICLE 2

The following aeronautical agreements or arrangements shall be registered with the Council of ICAO:

a) Pursuant to Article 81 of the Convention, any aeronautical agreement or arrangement in existence on the coming into force of the Chicago Convention, i.e. on April 4th, 1947, between

   (i) a Contracting State and any other State,

   (ii) a Contracting State and an airline of any other State,

   (iii) an airline of a Contracting State and a non-contracting State,

   (iv) an airline of a Contracting State and an airline of any other State;

b) Pursuant to Article 83 of the Convention, any aeronautical agreement or arrangement coming into force after April 4th, 1947, between

   (i) a Contracting State and any other State,

   (ii) a Contracting State and an airline of any other State,

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* These Rules have been adopted by the Council on 1 April 1949.

(iii) a Contracting State and a national (physical person or corporation) of any other State if it relates to the ownership or operation of any international air service, aerodrome or air navigation service.

Article 3

Any aeronautical agreement or arrangement registrable pursuant to Article 81 of the Convention and Article 2 (a) of these Rules shall be registered forthwith.

Article 4

Any aeronautical agreement or arrangement registrable pursuant to Article 83 of the Convention and Article 2 (b) of these Rules shall be registered as soon as possible after execution by the parties thereto and, in any event, forthwith upon its coming into force.

Article 5

Any modification in the parties, terms or scope of any aeronautical agreement or arrangement of the type referred to in Article 2 (b) registered pursuant to these Rules shall be registered in the same manner as the original agreement or arrangement.

Article 6

1. Each Contracting State shall be responsible for the registration of any aeronautical agreement or arrangement registrable hereunder to which it is a party.

2. Any Contracting State responsible hereunder for the registration of an aeronautical agreement or arrangement, which receives the certificate of registration provided for in Article 11, shall be relieved of the obligation of registration.

Article 7

Any aeronautical agreement or arrangement registrable hereunder shall be registered, ex officio, by ICAO in any case where the Organization is a party thereto or where, by the terms thereof, it is entrusted with the registration thereof; or where it is the custodian thereof. Any party thereto other than ICAO shall be relieved of the obligation of registration.

Article 8

Any aeronautical agreement or arrangement to which a Contracting State is a party and which is registered with ICAO shall, except in any case where the State concerned has notified the Organization that it intends to do so itself, be transmitted by the Secretary General of ICAO for registration to the Secretariat of United Nations in the cases provided by Article 4 (2) of the United Nations Regulations on registration and publication of treaties and international agreements.

Note: The registration of an aeronautical agreement or arrangement with the Secretariat of United Nations by the Secretary General of ICAO will have, pursuant to Article 4 of the said United Nations Regulations, the effect of relieving States parties thereto of the necessity for registering such agreement or arrangement with the Secretariat of United Nations.

Article 9

1. Registration hereunder of any aeronautical agreement or arrangement, with particulars of any reservation made by any party thereto, shall be effected by transmitting to the Secretary General of ICAO a true copy thereof duly certified by the appropriate authority of the registering party.

2. Such certified copy shall reproduce the original text in the language or languages in which the said agreement or arrangement was concluded and shall be accompanied by one additional copy. If the original text is not in one of the three official working languages of ICAO it shall also be accompanied by two copies of a translation into one of such working languages. In any case where an agreement or arrangement between States is to be registered with the United Nations by the Secretary General of ICAO, three additional copies shall be provided.

3. The registering party shall also, at the same time or as soon as possible thereafter, notify the date of the coming into force of any such agreement or arrangement if it is not evident from the terms thereof, and whether it enters into force by ratification, acceptance, exchange of ratification, accession or adherence.

Article 10

The date of receipt by the Secretary General of ICAO shall be deemed to be the date of registration. Any aeronautical agreement or arrangement registered ex officio by ICAO pursuant to Article 7 of these Rules shall be deemed to be registered on the date on which such agreement or arrangement first came into force between two or more of the parties thereto.

Article 11

A certificate of registration of any aeronautical agreement or arrangement signed by the Secretary General of ICAO or his representative shall be issued to the registering party of any aeronautical agreement or arrangement and to any other party thereto.

Article 12

A register shall be kept by the Secretary General of ICAO containing, in respect of each agreement or arrangement registered, a record of:

a) the serial registration number assigned to it;

b) the title of the agreement or arrangement and a summarized statement of its purpose or effect;

c) the names of the parties thereto;

d) the dates of signature; the date of ratification, acceptance, exchange of ratification, accession or adherence, and the date of entry into force;

e) the duration;

f) the language or languages used;

g) the name of the party registering and the date of registration.

Article 13

1. The text of aeronautical agreements or arrangements concluded subsequent to April 4th, 1947 and registered with ICAO shall be made public immediately after such registration.

2. Monthly summaries of agreements and arrangements registered with ICAO shall be issued.

Article 14

The Council may make revisions in these Rules from time to time.

- E N D -

ICAO TECHNICAL PUBLICATIONS

The following summary gives the status, and also describes in general terms the contents of the various series of technical publications issued by the International Civil Aviation Organization. It does not include specialized publications that do not fall specifically within one of the series, such as the ICAO Aeronautical Chart Catalogue *or the* Meteorological Tables for International Air Navigation.

INTERNATIONAL STANDARDS AND RECOMMENDED PRACTICES are adopted by the Council in accordance with Articles 54, 37 and 90 of the Convention on International Civil Aviation and are designated, for convenience, as Annexes to the Convention. The uniform application by Contracting States of the specifications comprised in the International Standards is recognized as necessary for the safety or regularity of international air navigation while the uniform application of the specifications in the Recommended Practices is regarded as desirable in the interest of safety, regularity or efficiency of international air navigation. Knowledge of any differences between the national regulations or practices of a State and those established by an International Standard is essential to the safety or regularity of international air navigation. In the event of non-compliance with an International Standard, a State has, in fact, an obligation, under Article 38 of the Convention, to notify the Council of any differences. Knowledge of differences from Recommended Practices may also be important for the safety of air navigation and, although the Convention does not impose any obligation with regard thereto, the Council has invited Contracting States to notify such differences in addition to those relating to International Standards.

PROCEDURES FOR AIR NAVIGATION SERVICES (PANS) are approved by the Council for worldwide application. They comprise, for the most part, operating procedures regarded as not yet having attained a sufficient degree of maturity for adoption as International Standards and Recommended Practices, as well as material of a more permanent character which is considered too detailed for incorporation in an Annex, or is susceptible to frequent amendment, for which the processes of the Convention would be too cumbersome. As in the case of Recommended Practices, the Council has invited Contracting States to notify any differences between their national practices and the PANS when the knowledge of such differences is important for the safety of air navigation.

REGIONAL SUPPLEMENTARY PROCEDURES (SUPPS) have a status similar to that of PANS in that they are approved by the Council, but only for application in the respective regions. They are prepared in consolidated form, since certain of the procedures apply to overlapping regions or are common to two or more regions.

The following publications are prepared by authority of the Secretary General in accordance with the principles and policies approved by the Council.

ICAO FIELD MANUALS derive their status from the International Standards, Recommended Practices and PANS from which they are compiled. They are prepared primarily for the use of personnel engaged in operations in the field, as a service to those Contracting States who do not find it practicable, for various reasons, to prepare them for their own use.

TECHNICAL MANUALS provide guidance and information in amplification of the International Standards. Recommended Practices and PANS, the implementation of which they are designed to facilitate.

AIR NAVIGATION PLANS detail requirements for facilities and services for international air navigation in the respective ICAO Air Navigation Regions. They are prepared on the authority of the Secretary General on the basis of recommendations of regional air navigation meetings and of the Council action thereon. The plans are amended periodically to reflect changes in requirements and in the status of implementation of the recommended facilities and services.

ICAO CIRCULARS make available specialized information of interest to Contracting States. This includes studies on technical subjects as well as texts of Provisional Acceptable Means of Compliance.

EXTRACT FROM THE CATALOGUE

ICAO SALABLE PUBLICATIONS

Aeronautical Agreements and Arrangements - Tables of agreements and arrangements registered with the Organization - 1 January 1946 - 31 December 1959.
(Doc 8066 - LGB/155). ix + 137 pp. incl. 1 chart.
20 cm x 26 cm (8" x 10-1/2"). (English only) $1.50

- First Annual Supplement (for the year 1960).
(Doc 8147 - LGB/166). January 1961. x + 31 pp. incl. 1 chart.
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- Second Annual Supplement (for the year 1961).
(Doc 8203 - LGB/177). January 1962. x + 31 pp. incl. 1 chart.
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Convention on International Civil Aviation. Signed at Chicago, on 7 December 1944, and amended by the Eighth Session (Montreal, June 1954) of the ICAO Assembly.
(Doc 7300/2). Second edition, 1959 [incorporating the Protocols relating to Articles 45, 48(a), 49(e) and 61].
Trilingual. 40 pp. 20 cm x 26 cm (8" x 10-1/2") $1.00

ANNEX TO THE CONVENTION

Annex 9 - Facilitation.
Fourth edition (incorporating Amendments 1-3).
November 1960. 28 pp. 20 cm x 26 cm (8" x 10-1/2") $0.50

RECORDS OF THE EUROPEAN CIVIL AVIATION CONFERENCE

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Volume I: Report.
(Doc 7977, ECAC/3-1). 76 pp. 20 cm x 26 cm (8" x 10-1/2") ... $1.00

Fourth Session. Strasbourg, 4-18 July 1961.
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