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"JOINT SUPPORT ARRANGEMENTS FOR AIR NAVIGATION FACILITIES  
IN INTERNATIONAL CIVIL AVIATION."

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A THESIS

submitted in partial fulfillment of the  
requirements for the Degree of LL.M.,  
at the Institute of Air and Space Law,  
McGill University, Montreal.

March, 1961.

JOINT SUPPORT ARRANGEMENTS FOR AIR NAVIGATION  
FACILITIES IN INTERNATIONAL CIVIL AVIATION

This survey does not purport to be exhaustive or comprehensive. It is an introduction to the activities of ICAO, a U. N. specialized agency, in the field of air navigation facilities or services as carried out by the interested states in the North Atlantic.

ICAO's programme for the international financing of services necessary to civil aviation in areas which did not receive sufficient local support for them, now comprises the series of air navigation services in Iceland, Greenland and the Faroe Islands and a network of ocean vessels in the North Atlantic.

Presently, there are three international agreements dealing with the above-mentioned subject,

viz., (i) The North Atlantic Oceans Stations

Agreement (1954);

(ii) Agreement on the joint financing of

certain air navigation services in

Greenland and the Faroe Islands

(1956) and

(iii) Agreement on the joint financing  
of certain Air Navigation Services  
in Iceland, (1956).

Seven member states operate 21 ocean (weather) vessels and fifteen member states contribute to their support, whereas seventeen member states contribute to the joint support of air navigation services in Iceland, Greenland and the Faroe Islands.

In fact, each of the activities of ICAO is broad enough to justify a separate paper and undoubtedly, deserves a more exhaustive discussion. The main purpose of this paper is to explore the above-mentioned subject to enable the reader to grasp the problems encountered by the joint support committee and the council at large, with special emphasis on the latter's role in the handling of these problems.

The survey is entirely based on ICAO documentation including working papers and minutes of the meetings held by several bodies of ICAO.

If this paper stimulates further research into the activities of the ICAO, then this exposition will serve a useful purpose. The joint support activities of ICAO are good examples of international collaboration and coordination.

Montreal,

March, 1961

Rajnikant Pandya



### ACKNOWLEDGEMENTS

I wish to acknowledge my deep gratitude to Professor A. B. Rosevear, Director of the Institute of Air and Space Law, Montreal, under whose able guidance and supervision this study was prepared, for his inestimable aid, wise counsel and constructive criticism.

To Dr. R. H. Mankiewicz of the Legal Bureau of the ICAO, for the kind interest he has shown in my work and for his suggestions and valuable comments on the manuscript.

To Dr. P. K. Roy, the Director of the Legal Bureau of the ICAO, and Dr. Fitzgerald of the Legal Bureau, for graciously enabling me the use of the Organization's documentation.

Thanks are due to Mr. Charles S. H. Tsiang, Joint facilities department of ICAO, for sparing me his valuable time in essential oral explanations and in the collections of the material,

and finally, to McGill University, for granting me a 'Graduate Fellowship', without which the writing of this thesis would have been impossible.

## C O N T E N T S

|  |         |
|--|---------|
| Acknowledgements .....   | 111     |
| Key to the Symbols of ICAO Documents .....   | vi      |
| Introduction .....   | 1       |
| <br><u>CHAPTER I.</u> International Cooperation in<br>Civil Aviation.....              | <br>7   |
| <br><u>CHAPTER II.</u> Chapter XV of the Chicago Convention...                         | <br>13  |
| Summary of Chapter XV of the<br>Chicago Convention.....                                | <br>15  |
| History of Chapter XV of the<br>Chicago Convention.....                                | <br>20  |
| Legal Interpretation of Chapter XV...  | 29      |
| <br><u>CHAPTER III.</u> Implementation of Chapter XV of the<br>Chicago Convention..... | <br>34  |
| Committee on Joint Support of Air<br>Navigation Services.....                          | <br>35  |
| History of Joint Support Scheme.....   | 42      |
| Technical Advice and Assistance<br>through ICAO .....                                  | <br>49  |
| <br><u>CHAPTER IV.</u> North Atlantic Ocean Weather Stations..                         | <br>52  |
| History of Ocean Weather Stations....  | 52      |
| Action under PICA0 .....   | 55      |
| First N.A.O.S. Conference.....   | 56      |
| Second N.A.O.S. Conference.....  | 62      |
| Third N.A.O.S. Conference.....   | 67      |
| Fourth N.A.O.S. Conference.....  | 68      |
| Fifth N.A.O.S. Conference.....   | 71      |
| <br><u>CHAPTER V.</u> Icelandic Arrangements.....                                      | <br>84  |
| Work of the Legal Working Group.....   | 90      |
| Different Method of Financing.....   | 96      |
| <br><u>CHAPTER VI.</u> Danish Arrangements.....  | <br>98  |
| Position of the Danish Government -<br>Request under Chapter XV.....                   | <br>100 |

|                      |  |     |
|----------------------|--|-----|
| <u>CHAPTER VII.</u>  | Danish and Icelandic Arrangements,<br>1956.....  | 105 |
|                      | Assessments under the existing<br>Agreements.....  | 113 |
|                      | Difference between the Old and<br>New Agreements.....  | 114 |
|                      | Inclusion of new services.....   | 118 |
|                      | Advantages of the new agreements<br>as compared with the old ones.....   | 118 |
|                      | Secretary General's role in these<br>agreements.....   | 120 |
| <u>CHAPTER VIII.</u> | Interpretation of Danish and<br>Icelandic Agreements.....  | 122 |
| <u>CHAPTER IX.</u>   | Present Joint Support activities<br>of ICAO.....   | 133 |
| <u>CONCLUSIONS.</u>  |  | 138 |
| <u>APPENDIX I.</u>   | Resolution A1-65; Joint Support<br>Policy.....   | 143 |
| <u>APPENDIX II.</u>  | Final Act of the N.A.O.S.<br>Agreement, 1954.  | 151 |
|                      | Agreement on North Atlantic Ocean<br>Stations, 1954..  | 154 |
| <u>APPENDIX III.</u> | Agreement on the Joint Financing of<br>certain Air Navigation Services in<br>Greenland and the Faroe Islands.... | 165 |
| <u>APPENDIX IV.</u>  | Summary of main responsibilities of<br>the Organization under the new<br>agreements.....                         | 181 |
| <u>BIBLIOGRAPHY.</u> |  | 183 |

Key to the Symbols of ICAO Documents listed in footnotes:

|         |                                    |
|---------|------------------------------------|
| A       | - Assembly                         |
| AN, ANC | - Air Navigation Commission        |
| C       | - Council                          |
| DOC     | - Document                         |
| JS      | - Joint Support Committee          |
| P       | - Plenary Session                  |
| Rec.    | - Recommendation                   |
| TE      | - Technical Commission of Assembly |
| WP      | - Working Paper                    |
| NAOS    | - North Atlantic Ocean Stations    |

A combination of the above symbols should be interpreted as illustrated in the following examples:-

|                  |   |
|------------------|---|
| A1-1             | - First Assembly Resolution 1   |
| A4-Rec.5         | - Fourth Assembly Recommendation 5                                    |
| A10-WP/20, TE/6  | - Tenth Assembly Working Paper, Technical Commission, Sixth Meeting   |
| A10-WP/148, P/15 | - Tenth Assembly Working Paper, number 148, fifteenth plenary meeting |
| C-WP/2050        | - Council Working Paper 2050  |
| JS-WP/319        | - Joint Support Committee Working Paper 319                           |

Minutes of the Joint Support Committee are designated as Working Paper:

|                 |   |
|-----------------|---|
| JS-WP/MIN, X-20 | - Joint Support Committee Minutes, Tenth Session, twentieth meeting |
|-----------------|---|

## INTRODUCTION

History teaches us that man is by nature a wanderer upon the face of the earth. To satisfy his urge to travel, he has through the centuries moved from place to place on foot and by various means of transport, including the use of animals such as, camels, horses, mules and dogs. In more recent times man has invented machines which have given him the means of reliable and rapid transportation on land. He was not satisfied with land transport. He also invented canoes, barges, boats, and ships to enable him to travel on rivers, lakes, and oceans. But, when a mountain, a jungle or a desert was to be crossed, few people tried to cross them. Finally, in the beginning of the twentieth century, he perfected the flying machine (means of flying in the air). Civil Aviation has made it possible to cross with ease deserts, jungles and mountains.

Now, we have got jet-aircraft and in the near future, we will have super-sonic aircraft flying at a speed of fifteen hundred or two thousand miles an hour. The present activities will enable us to go to other planets also. Mostly the human being's ingenuity has been devoted to devising new methods

of transportation. Civil Aviation has helped human needs in transportation, by covering long distances at high speed. It also plays a very important role in current international programmes, especially in assistance to underdeveloped countries.

Aviation is an instrument of peace and should be used for the furtherance of goodwill and peace, but, at the same time, it can be used as an instrument of war and destruction. "Aviation for Peace" must be the slogan of the International Civil Aviation Organization.

Technically, one is in a position to fly anywhere in this world, but politically, one is restricted in doing so. The ability to fly exists, but the right to exercise this ability is not usually granted and as a result, we have some eight hundred bilaterals, dealing with such grants.

In many countries civil aviation is not developed entirely for commercial purposes. Political motives, national defence and even national prestige are elements of considerable importance. These aspects may also determine the planning of airports and air navigation facilities, without regard to the amount of revenue expected from their operations.

Civil aviation may be classified into two complementary parts, viz., Air navigation and Air transport.

Every scientific advancement brings with it some problems, and in case of civil aviation, the main problem is to provide proper air navigation facilities. Article 28 of the Chicago Convention, 1944, makes it obligatory on each member state to provide, in its territory, airports, radio services, meteorological services and other air navigation facilities to facilitate international air navigation. But, when aircraft have to cross an ocean, like the North Atlantic, the obligation to provide the necessary air navigation facilities, cannot be undertaken by a single member state. These facilities are provided by the joint cooperation of member states. For safe, regular and efficient flying, weather and meteorological information, is a "must", without which, airlines cannot decide in advance the route and the load to be carried.

How many of us think of the duties undertaken by a number of member states and the International Civil Aviation Organization to bring about safe and regular flights over the Atlantic! Presently, there

are nine ocean weather stations, with twenty-one vessels, supplying the necessary weather and meteorological information to aircraft flying across the Atlantic. These vessels also serve as floating search and rescue bases. A pilot is never alone. He is sure of assistance from these ocean weather stations. Delay in receiving information on which the pilot must act, can have a serious effect on the regularity and safety of operations.

Far flung networks of air navigation facilities and services guide the aircraft along its air routes. The well-planned ICAO network on the Atlantic, provides navigational aids and traffic control services. Weather information and forecasts are necessary to make air transport a safe means of international communication. This network of ocean stations is also used for scientific observations and in particular, it is very useful to the International Council for the exploration of the sea and the International Association for physical oceanography.

Some of the floating weather stations are provided and maintained by a single government, and others are jointly operated by two or more governments. ICAO acts as a co-ordinator only.



The jet aircraft now flying across the North Atlantic, are given adequate service in the field of upper air weather observations by the ocean weather stations. All aircraft operations in the North Atlantic are carried out in accordance with instrument flight rules (IFR), whereas domestic flight operations are conducted in accordance with visual flight rules (VFR).

*There is a lot of fog in the North Atlantic.*  
*Local* Radar stations are provided under the Joint Support Scheme, in Iceland, Greenland and the Faroe Islands, by the interested states. These radar stations are operated with the help of ICAO, as a co-ordinator, to make flying through fog easier and safer.

No one state by itself can make its civil aviation completely safe, regular or economical. This can only be done provided all states work together as good neighbours, irrespective of their political differences.

The Joint Support Scheme is undertaken by ICAO, with a view to ensuring equitable treatment for all the member states concerned, and it will be the duty of ICAO to see that no substantial inequalities are permitted to exist, which would

cause the collapse of the whole structure of the Joint Support Scheme.

The Joint Support enterprise carried out under the supervision of the International Civil Aviation Organization shows how states can cooperate for technical purposes. States may differ politically, but they always seem to come to a better understanding when the matter in question is, purely of a technical nature.

## CHAPTER I

### 'INTERNATIONAL COOPERATION IN CIVIL AVIATION'

The achievement of worldwide uniformity in international air transport requires two things, first an international organization, and secondly legislation which provides for the principles under which such an organization is to work. The Chicago Convention, 1944<sup>1</sup>, is the legislation establishing<sup>2</sup> the International Civil Aviation Organization.

The scope of cooperation of nations through ICAO falls into two categories, viz., world-wide cooperation and regional cooperation.

Dr. Warner, the former President of the Council of ICAO<sup>3</sup>, stated the position as follows:-

"ICAO is an association of national governments, which have recognized the need of working together for the good of civil aviation and for the healthy development of international relationships. No nation, acting within its own territory and with its own resources could make its civil aviation as safe, reliable, economical or useful as could be if that nation

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1. ICAO Doc. 7300, signed at Chicago on December 7, 1944.

2. For a detailed study of the Chicago Conference, see "Proceedings of the International Civil Aviation Conference", Chicago, 1944, U. S. Department of State Publication 2820, Washington (1948)

3. Dr. E. Warner: "The United Nations watches the Wings", United Nations World, March 1950, p.49

worked together with its neighbours. Recognition of this need for constant cooperation has brought into ICAO membership two thirds of the world,<sup>4</sup> nations which operate more than 90% of international airlines. The same recognition will, I believe, convince the remaining states that they cannot long forego only the benefits of membership."

ICAO has been charged with the responsibility of maintaining the orderly and equitable development of international civil aviation.<sup>5</sup> It also seeks to bring about a world-wide pattern of cooperation in the technical, economical, and legal fields of international civil aviation.

However, the speed and range of aircraft has played a very important role in international collaboration and co-ordination. In the present, jet age, the full utilization of speedy aircraft could be attained only by extensive world-wide planning and co-ordinated efforts made by all nations concerned, through the International Civil Aviation Organization.

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4. Note: Presently ICAO has a membership of 84 states as on 16th February, 1961.

5. Art. 44 of the Chicago Convention.

*Super 111*

The establishment of the United Nations and other specialized agencies of the United Nations, <sup>6</sup> is the first step towards one world government. (Aviation has made it possible to pass borders very easily.)

Article 1 of the Charter of the United Nations reads as under:

"The purpose of the United Nations are:

.....

(3) To achieve international co-operation in solving international problems of an economic, social, cultural or humanitarian character....." <sup>7</sup>

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6.

ICAO became a specialized agency of the United Nations on 30th October, 1947.

7.

Hans Kelsen: The Law of the United Nations, New York, (1950) p. 840

This has also been incorporated in the preamble of the Chicago Convention, 1944 which reads as under:-

".....to promote that cooperation between nations and peoples upon which<sup>8</sup> the peace of the world depends;"

The success of ICAO, like any other international organization of sovereign states, depends upon the fulfillment by individual member states, of their international commitments. Every member state should follow the recommendations of the ICAO.

Before dealing with the activities of the ICAO, it is worthwhile considering the establishment of international commercial air service in Atlantic.

The first international commercial air service was established on 8 February, 1919, between London and Paris. Subsequently, a line between Paris and Brussels was opened. Two crossings of the Atlantic Ocean were effected in 1920, one from the United

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8.

Proceedings of the International Civil Aviation Conference, Chicago, 1944, U. S. Department of State Publication 2820, Vol. I, p. 147

States, in stages via Azores and Lisbon to the United Kingdom, and the second non-stop crossing from Newfoundland to Ireland.<sup>9</sup> However,<sup>10</sup> regular crossings took place in 1941. In 1948, about 10,000 civil aircraft crossed the North Atlantic, each worth \$700,000. By 1955, over 20,000 civil aircraft crossed the Atlantic, each worth one and one-quarter million dollars. However, by 1960, there were about 120 daily crossings across the Atlantic, each may cost more than five million dollars and carrying more than one hundred persons.<sup>11</sup>

9. J. Shenkman: International Civil Aviation Organization, Geneva (1955), p. 13.

10. Regular transatlantic air services were inaugurated on 1 December, 1941.

11. The total number of crossings over both the Northern and Southern routes for the year 1958 are compared with the previous four years:

| <u>YEAR</u> | <u>TOTAL CROSSINGS</u> | <u>ANNUAL INCREASE</u> | <u>REFERENCE</u> |
|-------------|------------------------|------------------------|------------------|
| 1954        | 18,156                 | plus 18.7%             | ICAO C-WP/1925   |
| 1955        | 21,554                 | " 29.2%                | " C-WP/2187      |
| 1956        | 27,842                 | " 11.5%                | " C-WP/2381      |
| 1957        | 31,039                 | " 18.8%                | " C-WP/2639      |
| 1958        | 36,861                 |                        | " C-WP/2932      |

Trans-atlantic air transport begins with the great circle chart of the North Atlantic. Over a period of forty years, airlines were worried about a safe route to fly across the Atlantic. <sup>12</sup> As a result several solutions were put forward by various airlines. The technical advancement of the air transport has partly solved the problem. However, for the safe and regular flying across the Atlantic, airlines require full information pertaining to weather and meteorological details. To overcome this difficulty, ICAO decided to bring interested states together for operating ocean weather stations in the Atlantic. Further, Chapter XV of the Chicago Convention, 1944, spells out the possibility of having a joint financing scheme by interested states, with ICAO as a co-ordinator.

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12.

Normally, while considering a route between two points, the following points are taken into account:

- (a) Location with respect to other points (including political and military importance);
- (b) Temperature
- (c) Rainfall
- (d) Fog and Visability
- (e) Gales and other winds (storm)
- (f) Ice
- (g) Conditions affecting taking-off and landing (i.e. to see that there is no obstacle in the vicinity of the airport.)



CHAPTER II'CHAPTER XV OF THE CHICAGO CONVENTION'

"There would be no air transportation, as we now understand the term, without radio stations at short intervals along the route, maintaining constant communications with the aircraft; or without weather observers and forecasts keeping up a steady flow of reports; or without centralized traffic control to permit a pilot to fly for hour after hour through the densest clouds<sup>13</sup> or fog, free from fear of collision."

Dr. Warner has rightly mentioned that air transport, as we understand the term, would be without real meaning, if it were not accompanied by air navigational facilities. Aircraft, like trains do not run on rails, but for safe flying, airlines have to depend on permanent airway structures and other air navigation facilities, as the train depends upon its tracks and signals.

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13.

Address recorded for the B. B. C.  
and O. W. I. by Dr. Edward Warner, (1948).

Prior to the Chicago Convention of 1944, three conventions dealing with the regulations of International Civil Aviation were in existence. They were:

- (1) Convention relating to the regulation of Aerial Navigation, Paris, 1919;
- (2) Spanish-American Convention on Aerial Navigation, Madrid, 1926;
- (3) Commercial Aviation Convention between the United States of America and other American Republics, Havana, 1928.

But, none of these conventions, contained detailed provisions dealing with air navigation facilities similar to Chapter XV of the Chicago Convention.<sup>14</sup> ICAO was the first international specialized agency charged with the duty of undertaking the role of a co-ordinator. Undoubtedly, it

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14.

Dr. E. Warner: "International Financing of Air Navigation Facilities through ICAO"; AIR AFFAIRS, Vol. 2, No.3, July, 1948, p. 363:

"The world can be grateful to the authors of the Chicago Convention for their foresight in writing the joint support provisions into its terms; and those who are now privileged to share in the exciting experience of finding the means of giving effect to the authors' hopes can be grateful for their good future."

is more or less, an administrative job for ICAO, but it involves a number of complicated procedures for annual assessments and the auditing of the actual cost accounts.

Chapter XV, as the title suggests (Airports and other air navigation facilities), deals with the question of providing air navigation facilities and services. Before dealing with the history of this chapter, it is worthwhile summarizing it in brief.

#### SUMMARY OF CHAPTER XV OF THE CHICAGO CONVENTION.

Chapter XV of the Chicago Convention provides for a procedure, whereby States, which are not in a position to fulfil their international obligations of providing proper air navigation or services,<sup>15</sup> may request financial and technical assistance from the ICAO. ICAO merely plays the role of a co-ordinator. It consults the interested States on their willingness to co-operate and then convenes a conference, to decide on any project which has been proposed.

This is the first time in aviation history that an international agency was fixed with the responsibility of a co-ordinator as

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15.

Under Art. 28, each member state is obliged to provide in its territory, airports, radio services, meteorological services and other air navigation facilities to facilitate international air navigation.

envisaged in Chapter XV of the convention.

On this point, Dr. E. Warner has this to say:-

"International financing and internationally organized technical assistance may be vital to the creation and maintenance of a proper system of aids to navigation; but they are more than that. They are new stones for the slowly growing structure of international co-operation. International financing confronts ICAO with problems of a sort which no international organization has ever before had to face upon so large a potential scale." <sup>16</sup>

Further, an American writer has this to add:-<sup>17</sup>

"----- in no other field of international commercial endeavor has international co-operation on a governmental level been so carefully spelled out".

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16.

Dr. E. Warner: 'International Financing of Air Navigational Facilities through ICAO'; AIR AFFAIRS, July 1948, Vol. 2, No. 3, P.363.

17.

L. G. Cyr: 'Facilities for International Civil Aviation', U.S. Department of State Bulletin, Vol. XVII, No. 421, 27 July 1947, P. 170.

ICAO may furnish technical assistance either within the scope of its general responsibilities<sup>18</sup> on a joint support basis or at the expense of the State directly assisted.

In the light of Chapter XV of the convention and under the general obligations set forth in<sup>19</sup> Article 44, ICAO would appear to be authorized to send a small team of well qualified technicians in the field, to make a general survey of the position<sup>20</sup> and give the needed advice. However, the Secretariat

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18.

See Lexicon, ICAO Doc. 7200, p. 81:-

Joint Support:

"Financial and Technical aid through ICAO under the terms of Chapter XV of the convention on International Civil Aviation which has the aim of furthering the provision of air navigation facilities and services adequate for the safe, regular, efficient and economical operation of international services in areas of undetermined sovereignty, on the high seas, or in the territories of such States as are not undertaking the provision of the required facilities. (Resolution A1-65)."

19.

See Shawcross & Beaumont on Air Law, 2nd Edition, London (1951), p. 655-56.

20.

Iran asked for assistance in May, 1947.

is responsible for a continuous study of implementation of regional plans and for reporting serious deficiencies to the Air Navigation Commission and the Council.

Normally, member States, in whose territory the priority deficiencies are found by the Secretariat or the Regional Meetings, will be solicited to undertake their responsibility under the Chicago Convention and to correct such deficiencies, whenever practicable. Failing this ICAO may remedy the situation through its technical assistance or joint support programmes.<sup>21</sup>

ICAO can also on its own initiative recommend the improvement of air navigation facilities and services.<sup>22</sup> Under Chapter XV of the Convention, the Council is authorized to consult the State concerned and other interested States affected by such inadequate facilities, and to determine a method of improving them. If the State fails to provide the necessary air navigation facilities, the council may agree to provide for all or a portion of the costs

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21.

See J. Air L. & Com., Vol. 19 (1953), p. 66

22.

Art. 69 of the Convention

for installing the necessary facilities. Undoubtedly, the Council has no funds of its own to provide such facilities and as such, has to request the interested member states to finance the project and to collect charges from air carriers for the use of the facilities. However, these charges are distributed among the participating states on an equitable basis. The Council is solely responsible for deciding the charges, annually. It is further authorized to assess the capital funds required for the purposes of this chapter in previously agreed proportions over a reasonable period of time. The assessments will be subject to the consent of the participating states, whose airlines use the facilities.

A member state may take over all the facilities provided through the Council, under the joint support scheme, by paying the Council a reasonable amount. The amount will be decided by the Council, and in case of any dispute regarding this amount, the state concerned can appeal to the Assembly against the decision of the Council. The Assembly of ICAO may confirm or amend the decision of the Council.

## HISTORY OF CHAPTER XV OF THE CHICAGO CONVENTION

On the eve of the Second World War, the big western powers were interested in the furtherance of international civil aviation, especially the U.S.A. and the U.K. As a result of this interest the United States convened a Conference in Chicago to "make arrangements for the establishment of World air routes and services"<sup>23</sup> and to "set up an interim council to collect, record and study data concerning international aviation and to make recommendations for its improvement" and also to "discuss the principles and methods to be followed in the adoption of a new aviation convention."

At the Conference, the United States, the United Kingdom and Canada presented three draft proposals for the new aviation convention. After discussions, these three proposals were compiled in one tripartite proposal<sup>25</sup> entitled "Section of an International Air Convention Relating Primarily to Air Transport."<sup>26</sup> This Convention was a general outline

---

23.

In November, 1944.

24.

There was a fourth draft proposal jointly presented by Australia and New Zealand, which was rejected by the Conference.

25.

PICAO Doc.358

26. Issued on 20 November, 1944



for the present Chicago Convention of 1944. The tripartite proposal was discussed at the Conference and finally adopted by the Conference, with modifications and amendments. The present Chicago Convention, having 22 chapters and 96 articles, was the result of the strenuous efforts made by the delegates of the United States, the United Kingdom,<sup>27</sup> Canada and other states.

For the purpose of our discussion, we are mainly concerned with Chapter XV of the Chicago<sup>28</sup> Convention. The subject matter of this chapter is one, in which the Canadian Government was keenly interested and which appeared as Article VII of the Original Canadian Proposal. This was subsequently included in revised form as Article VI of the tri-<sup>29</sup>partite proposal.

Article 68 makes it obligatory on each member state to designate the route to be followed within its territory and the use of airports by any international air service.

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27.

In all representatives of 54 nations met at the Chicago Conference.

28.

Airports and other Air Navigation Facilities.

29.

PICAO Doc. 50

Improvement of air navigation facilities.

Article 69:

"If the Council is of the opinion that the airports or other air navigation facilities, including radio and meteorological services, of a contracting State are not reasonably adequate for the safe, regular, efficient, and economical operation of international air services, present or contemplated, the Council shall consult with the State directly concerned, and other States affected, with a view to finding means by which the situation may be remedied, and may make recommendations for that purpose. No contracting State shall be guilty of an infraction of this Convention if it fails to carry out these recommendations."

W. J. S. .  
This Article 69 is a revised version of Section I of Art. VI of the tripartite proposal, which was approved by the joint sub-committee. The joint sub-committee referred it to the drafting committee with a number of suggestions, including the definition of 'ground facilities' (which also includes radio and meteorological facilities).

The revised article was approved on 4 December, 1944 at the joint meeting of the three sub-committees of Committee I.  
30

Article 70: Financing of air navigation facilities:-

"A contracting State, in the circumstances arising under the provisions of Article 69, may conclude an agreement with the Council for giving effect to such recommendations. The State may elect to bear all of the costs involved in any such arrangement. If the State does not so elect, the Council may agree, at the request of the State, to provide for all or a portion of the costs."

This article is a revised version of Section II of Article VI of the tripartite proposal, incorporating also the substance of Section III. Few changes were made by the drafting committee in the first revision of the tripartite proposal and remained unchanged thereafter.

Under the article, two agreements were completed by the Council, with the Governments of Iceland and Denmark. But, in 1956, the Council decided not to become a party to the said agreements and followed the role of a co-ordinator only.

Article 71: Provision and maintenance of facilities by Council

"If a contracting State so requests, the Council may agree to provide, man, maintain, and administer any or all of the airports and other air navigation facilities, including radio and meteorological services

required in its territory for the safe, regular, efficient and economical operation of the international air services of the other contracting States, and may specify just and reasonable charges for the use of the facilities provided."

This article is a revised version of the first sentence of Section 4, Article VI. The second sentence appeared in the first revision of the tripartite proposal as Section 4. The article was adopted finally after minor drafting revisions.

Article 72. Acquisition of use of land.

"Where land is needed for facilities financed in whole or in part by the Council at the request of a contracting State, that State shall either provide the land itself, retaining title if it wishes, or facilitate the use of the land by the Council on just and reasonable terms and in accordance with the laws of the State concerned."

The origin of this article can be found in the second sentence of Article VI. This article was discussed at the second meeting of the joint sub-committee, which suggested that the word 'acquired' should be replaced by 'provided' and the word

'acquisition' by 'use' and the inclusion of the phrase 'in accordance with its laws' was recommended.<sup>31</sup> It was adopted by the Conference with one minor drafting change.

Article 73. Expenditure and assessment of funds.

"Within the limit of the funds which may be made available to it by the Assembly under Chapter XII, the Council may make current expenditures for the purposes of this Chapter from the general funds of the Organization. The Council shall assess the capital funds required for the purposes of this Chapter in previously agreed proportions over a reasonable period of time to the contracting States consenting thereto whose airlines use the facilities. The Council may also assess to States that consent any working funds that are required."

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31.

These changes were made by the drafting committee and the revised form of this article appeared as Section 4 of Article VI of PICA0 Document 402.

This article originated so as to distinguish between foreseeable expenditures provided for in the regular budget and major new items to be assessed by the Council among the states consenting thereto. It was reported by the drafting committee as Section 5, Article VI.<sup>32</sup> It was finally adopted by the Conference with one minor drafting revision.

Article 74. Technical assistance and utilization of revenues.

"When the Council, at the request of a Contracting State, advances funds or provides airports or other facilities in whole or in part, the arrangement may provide, with the consent of that State, for technical assistance in the supervision and operation of the airports and other facilities, and for the payment, from the revenues derived from the operation of the airports and other facilities, of the operating expenses of the airports and the other facilities, and of interest and amortization charges."

This article was proposed by the drafting committee. The delegate of the United Kingdom suggested at the Fourth Joint sub-committee meeting<sup>33</sup>

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32.

See PICA0 Doc. 402

33.

Appeared as Section 6 of Article VI of PICA0 Doc. 402

that this should provide for the payment of interest as well as amortization, and was agreed upon by the committee. The drafting committee subsequently<sup>34</sup> included the payment of operating expenses of airports and other facilities,<sup>35</sup> which, with some re-arrangement of language, appear in the present article.

Article 75. Taking over of facilities from Council.

"A contracting State may at any time discharge any obligation into which it has entered under Article 70, and take over airports and other facilities which the Council has provided in its territory pursuant to the provisions of Articles 71 and 72, by paying to the Council an amount which in the opinion of the Council is reasonable in the circumstances. If the State considers that the amount fixed by the Council unreasonable it may appeal to the Assembly against the decision of the Council and the Assembly may confirm or amend the decision of the Council."

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34. Which was included in PICA0 Doc. 422.

35. Which was included in PICA0 Doc. 442.

Article 76. Return of funds.

"Funds obtained by the Council through reimbursement under Article 75 and from receipts of interest and amortization payments under Article 74 shall, in the case of advances originally financed by States under Article 73, be returned to the States which were originally assessed in the proportion of their assessments, as determined by the Council."

These two articles were first proposed as Section 4, Article VII of the Canadian draft convention. In the tripartite proposal, these articles were omitted, but the joint sub-committee agreed to include them at its second meeting. It was revised by the drafting committee and reported as Section 7, Article 6. The drafting committee<sup>36</sup> decided to separate it into two articles, in the first consolidated draft of the Convention. These articles were discussed at length by the sub-committee and the drafting committee and were<sup>37</sup> reported as a revised article.

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36.

See PICA0 Doc. 402 which remained unchanged in the two subsequent revisions viz., PICA0 Docs. 422 and 442.

37.

See PICA0 Doc. 467.



Legal Interpretation of Chapter XV.

Article 69:-

This article covers a case where the Council takes the initiative without a specific request by a contracting State. (The case of a request by a contracting State is covered under Article 71).

The Interim Council of PICA0 (Provisional International Civil Aviation Organization) interpreted this article as extending the responsibility of the Organization to areas<sup>38</sup> of undetermined sovereignty and on the high seas.

The first PICA0 Interim Assembly approved the policy<sup>39</sup> adopted by the Interim Council.

Article 69, does not cover cases, where an air navigation facility, which, in the opinion of the Council (or of interested contracting States) should be established or operated, is located in the territory of a non-<sup>40</sup>contracting State.

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38.

See PICA0 Doc. 1016, P. 16-17

39.

See PICA0 Doc. 1843; A/47.

40.

Cases might arise which will require an arrangement with a non-contracting State.

Under Article 44,<sup>41</sup> the Organization shall foster the planning and development of international air transport so as to ensure the safe and orderly growth of international civil aviation throughout the world; encourage the development of airways, airports and air navigation facilities for international civil aviation; meet the needs of the peoples of the world for safe, regular, efficient and economical air transport; promote safety of flight in international air navigation; and promote generally the development of all aspects of international civil aeronautics. This article imposes on the Organization a universal responsibility which should not be interrupted geographically. Also, non-contracting States should be included in the scheme, when safety of international air services, one of the ultimate objectives of the organ is in question.

Article 69 and the following provisions of Chapter XV of the Convention, might be interpreted extending the responsibilities of the Council to territories of non-contracting States. The Assembly of ICAO might construe Chapter XV of the Convention, in this sense, or it may be amended in this sense at the appropriate time.

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41.

The aims and objects of the Organization are enumerated in this article.

Article 69 has been broadly interpreted by the Interim Council, extending the responsibility of the Council under the terms of Chapter XV,<sup>42</sup> to areas of<sup>43</sup> undetermined sovereignty and the high seas.

This broad interpretation has been given full effect in the International Agreement on North Atlantic (weather) Stations, in September 1946,<sup>44</sup> in London, and which has now been replaced by the Agreement of 1954.<sup>45</sup>

Article 69 does not cover cases, where an air navigation facility is to be established in a place located in the territory of a non-contracting State. In that event, ICAO will have to enter into a special agreement with such non-contracting State, or it may advise a member State to enter into an arrangement with such non-contracting State. In case the non-contracting State

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42.

See Dr. E. Warner: 'Notes from PICA0 Experience,' Air Affairs, Vol. 1, No. 1, September 1946, p. 30-31.

43.

Refer to PICA0 Docs. 1016, C/77, p. 16-17 & 1843 A/47, where the policy was approved by the first PICA0 Interim Assembly.

44.

PICA0 Doc. 2668 - C/313, 'Report on the PICA0 Conference of North Atlantic States on Ocean Weather Observation Stations in the North Atlantic.'

45.

ICA0 Doc. 7510 - JS/559

does not co-operate with ICAO, there is no alternative for ICAO. (In such event, bilaterals agreements between the member State and non-member State will be advisable.) Although, so far, there has not been a single instance, where a non-contracting State refused to co-operate with the ICAO. Normally, States co-operate when the problem is of a technical nature.<sup>46</sup>

The powers of the Council under Article 69 are limited to those of consultation and recommendations. It has no power to compel a State to carry out its recommendations, if the State concerned does not wish to carry out those recommendations.

Article 73 speaks of general capital and working funds. The real distinction however, lies between general funds, which can be made available only by the Assembly to the Council for the purpose of Chapter XV, and Capital or working funds which in individual cases shall be provided by contracting States consenting thereto, in cash or in kind in agreed proportions.

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46.

This statement is supported by the existence of the United Nations and other specialized agencies. (ICAO).

*PICAO*  
*not for*  
*ICAO*

The term "assessed" in this article is not quite appropriate, since the Council cannot impose any contributions. The first PICAO Interim Assembly passed the resolution that the general funds of the Organization cannot be used either for capital expenditure or for the cost of operation of air navigation facilities or services, but only for PICAO cost of investigations, negotiations, conferences and other expenses incidental to the project.

Financial and technical aid through ICAO does not mean necessarily that the State concerned is financially unable to bear the cost. Article 70 of the Convention determines quite clearly that if a State does not elect to provide the air navigation facilities, the Council may agree to provide for all or a portion of the costs of such facilities. In this light, Council action, which may or may not result in the eventual granting of joint support, will be justified in any case, where it considers the provision of the air navigation facility or service as necessary and the State concerned does not provide it.  
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47.

Further see ICAO Doc. 4103, A1-FA/5; where Commission No. 6 requested for legal construction of certain phases of Chapter XV of the Convention.

### CHAPTER III

#### 'Implementation of Chapter XV of the Chicago Convention.'

The activities of ICAO can be classified in two major fields, namely:

- (1) The technical field of air navigation, and
- (2) The economic and financial problems of international civil aviation.

The second field represents a new endeavor in international collaboration, as ICAO is the first international organization empowered to deal with economic and financial problems.<sup>48</sup>

The Assembly is the supreme governing body of ICAO.<sup>49</sup> It reviews all the activities of the Organization, every three years.

The executive and administrative body of ICAO, is the Council.<sup>50</sup> It is a permanent body, comprised of twenty-one member states, elected by the Assembly, every three years. The Council confides most of its economic problems to a subordinate body, namely the Air Transport Committee.<sup>51</sup> Air Transport problems are in the first instance, processed by the Air transport Committee and the Secretariat. Further, the Council is also authorized to appoint other subordinate bodies to deal with specific problems.<sup>52</sup>

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48.

Under Chapter XV of the Chicago Convention.

49.

Articles 48 and 49 deal with the structure of the Assembly.

50.

See Article 50 for the composition and election of the Council.

51.

Under Article 54(d)

52.

Under Article 55.

The subordinate bodies of the Council may be broadly classified as those mentioned in the Chicago Convention and those which were established subsequently. The first category consists of:-

- (i) The Air Navigation Commission,<sup>53</sup> and
- (ii) The Air Transport Committee<sup>54</sup>

The second category consists of:-

- (iii) The Legal Committee<sup>55</sup>
- (iv) The Committee on Joint Support of Air Navigation Services,<sup>56</sup> and
- (v) The Finance Committee.<sup>57</sup>

For the purpose of our discussion, we will consider the structure of the Committee on Joint Support of Air Navigation Services only.

#### "THE COMMITTEE ON JOINT SUPPORT OF AIR NAVIGATION SERVICES"

The Chicago Convention does not lay down any special provisions for the establishment of this body, but it merely lays down the basic principle of charging ICAO with the duty of entering into arrangements for the maintenance of air navigation facilities on a joint support basis.

(Chapter XV of the Convention.)

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53. For a detailed study on this Commission, see Manachem Sheffy's thesis submitted to the Institute of International Air Law, Montreal, 1957; also see J. AIR L & COM. Vol.25, p. 281 and 428.

54. Jacob Schenkman: 'International Civil Aviation Organization, Geneva,' 1955, pp. 175-78

55. Ibid. pp. 178-82

56. Ibid. pp. 184-87

57. Ibid. pp. 187-90

As early as 1946, PICA0 felt that there should be a separate body dealing with financial and technical aid through the Organization pertaining to air navigation facilities. The Interim Council of PICA0 had a proposal for a Committee on Aids and Financial Assistance (CAFA), but subsequently changed its name to Committee on Joint Support of Air Navigation Services.<sup>58</sup> The Council of ICAO<sup>59</sup> under its general powers, established this Committee for the discharge of the responsibilities, envisaged in Chapter XV. The Council placed its comments on the Joint Support Committee before the First Assembly of ICAO.<sup>60</sup> As a result, the Assembly passed a Resolution setting up<sup>61</sup> a Committee on Joint Support of Air Navigation Services. The Resolution reads as under:

- "(a) That a Committee on Joint Support of Air Navigation Services be set up in ICAO; this Committee to be initially composed of nine members of the Council, selected by the Council itself, subject to change at the discretion of the Council or of the Assembly;
- (b) Any Contracting State not represented on the Council but particularly affected by a Joint Support problem may be invited by the President of the Council to participate, without voting rights, in the discussion of that problem by the Committee."

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58. See PICA0 Journal, Vol.1. no.7, July-August 1946, pp. 19-20

59. The delegation of powers by the Council are provided in Article 55(b)

60. The Council proposed for a membership of nine member states instead of five (which were proposed by the PICA0).

61. ICAO Doc. 4411, p.8, Resolution A1-7(5).



The Resolution provided that any state affected by a Joint Support problem, may be invited by the President of the Council, to participate in the discussion but without the right to vote.

The Committee started functioning in October 1947.<sup>62</sup>  
The problem was further discussed in the Second Session of the Council in October 1947.<sup>63</sup>

Members of this Committee are appointed annually at the beginning of the Council's autumn session.<sup>64</sup> The Chairman of the Committee is elected by the Council from the Committee members. The Secretary of the Committee is designated by the Secretary General of ICAO.

The Joint Support Committee directly reports to the Council.<sup>65</sup>

The First Assembly passed a resolution regarding funds for Joint Support of Air Navigation Facilities.<sup>66</sup>

"Projects requiring capital expenditure under Chapter XV of the Convention shall not be financed by the General Fund but by contributions in cash or in kind as agreed among the interested States."

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62. See ICAO Doc. 6968, A4-P/1, p. 116.

63. See ICAO Docs. 4787, C/595, pp. 2-26; 4795, C/602, p.2; 4788, C/598, p.2; 4766, C/588, pp. 3-5; 7048, C/816, pp. 1-2.

64. See ICAO Doc. 6968, A4-p/1, p. 116.

65. See ICAO Doc. 7526, C/875, Rev. 1, pp. 1-2, and under Article 55 (a), if there is any situation which requires consideration, a report should be submitted to the Council.

66. Resolution A1-58, Annex I (ICAO FINANCIAL REGULATIONS), Article IX deals with Funds for Joint Support of Air Navigation Facilities, See ICAO Doc. 4411, pp. 58-66 or ICAO Doc. 7325 - c/852, pp. 283-290.

Further the Assembly passed a resolution laying down the Joint Support Policy, which ICAO should follow in future.<sup>67</sup> It also approved the action taken by the Interim<sup>68</sup> Council on Joint Support cases.

The terms of reference of the Joint Support Committee, as adopted by the Council during its first session on 24 June 1947, are as under:-

"The Committee on Joint Support of Air Navigation Services shall:

- a) Consider matters related to the provisions of financial or technical aid through ICAO referred to it by the Council or on its behalf by the President and advise the Council thereon.
- b) Consider matters of general policy relating to financial and technical aid through ICAO and advise the Council in this respect.
- c) Analyse and consider requests from contracting States for financial and technical aid under the terms of Chapter XV of the Convention on International Civil Aviation; advise the Council on the sufficiency of the supporting documentation submitted by the requesting State and on the need for supplementary inquiries; advise the Council whether aid through ICAO is necessary, and if so, which potentially interested contracting States shall be notified or whether amplification of the documentation appears necessary and to what extent.
- d) Examine recommendations made by ICAO regional air navigation meetings which indicate the possibility of need for financial and technical aid and advise the Council thereon.
- e) Advise the Council on the intention of consultations with interested States in particular cases arising under c) and d) and on the need for special international conferences in any such cases.

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67. Resolution A1-65, ICAO Doc. 4411, pp. 72-77  
see Appendix I.

68. Resolution A1-64, ICAO Doc. 4411, p.71

- f) Consider the implementation of international agreements relating to financial and technical aid through ICAO, and advise the Council on the discharge of responsibilities imposed on the Organization.
- g) Receive reports on the progress of sciences relating to financial technical aid through ICAO, and advise the Council on the distribution of current information to contracting States.
- h) Advise the Council on acceptance and distribution of general monetary contributions made by contracting States towards the cost of joint support schemes and on the reimbursement of costs incurred by ICAO in connection with such schemes.
- i) Advise the Council on the use of the revolving emergency fund of the Organization and on its subsequent reimbursement, and take recommendations on the application from this fund for the next year's budgetary period.
- j) Consider requests for general technical advice and assistance and for training of personnel and advise the Council thereon.
- k) Consider, if necessary planning of joint support programs and make recommendations to the Council as to the priority of individual projects.
- l) Study channels and devices through which technical aid could be given for the operation of air navigation facilities and services, including the problem of the creation of air international agency for communications facilities and ground aids, and recommend to the Council thereon.
- m) Advise the Council on the policy of the organization in connection with loans to be provided for construction of air navigation services by loan-providing agencies.
- n) Discharge responsibilities delegated to the Committee by the Council under Art. 55 (e) of the Convention.
- o) Initiate proposals for amendments to the provisions of the Convention relating to financial or technical aid through ICAO.<sup>69</sup>

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69.

ICAO Doc. 4557, c/551, pp. 13-14

During the Second World War, several airports and air bases were operated and developed by the United States Army for defence purposes. About 958 airports and air bases, outside the continental United States were operated and maintained by the U. S. Army, at a cost of \$1,932,331,056.<sup>70</sup> Air navigation, Communications and Weather facilities were installed by the Army Airways Communications Service (AACS) and other branches of the U. S. Army and Navy.

Some radar stations were also installed by the United Kingdom Government in Greenland, during the Second World War. But, at the end of Second World War, these facilities were discontinued. They were very useful for civil and military air transport. Provisional International Civil Aviation Organization was faced with the problem of providing the necessary air navigation facilities in these territories, as they were of vital importance for the safe commercial flying across the Atlantic. Moreover, Chapter XV of the Convention spelled out the responsibility of the Organization to provide air navigation facilities, when a member state cannot provide the same due to lack of finance.

The general policy relating to financial and technical aid through ICAO was developed by the Air Navigation Committee and the Committee on Joint Support of Air Navigation Services, working in close co-operation. Their report

70.

CYR, Leo G: 'Facilities for International Civil Aviation' U. S. Department of State Bulletin, Vol. XVII, No. 421, p. 169, (July 1947).

on this subject was approved and adopted by the Interim Council of PICA0, on 21 March, 1947.<sup>71</sup>

Objective of the Report:

<sup>72</sup>  
The objective of this Report is the establishment of policy and procedures which the ICA0 should follow in the implementation of Chapter XV of the Convention on International Civil Aviation, by providing for uniform air navigation facilities and services, which would be adequate for the safe, regular, efficient and economical operation of international air services, in areas of undetermined sovereignty, on the high seas, and in national territories where the sovereign state is not undertaking the provision of required facilities from national resources.

Scope of the Report:

The scope of this Report comprises the provision of the following types of air navigation facilities and services:-

- (1) Aerodrome and Ground Aids to navigation.
- (2) Air Traffic Control Service.
- (3) Meteorological service.
- (4) Search and rescue service.
- (5) Telecommunications and Radio Aids to air navigation.

The above-mentioned types of air navigation facilities and services are contemplated under Chapter XV of the Convention.

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71.

See Picao 2947, C/346, p.5

72.

" " " " " , p.5; further this Report is also annexed to ICA0 Doc. 4025, as Appendix 1.

### History of Joint Support Scheme.

The question of financial and technical assistance to member states for the provision of air navigation facilities was discussed in the First Interim Assembly of PICA0. The Council appointed a Committee on Joint Support of Air Navigation services,<sup>73</sup> so as to implement the provisions of Article XI of the Interim Agreement and Chapter XV of the Chicago Convention, 1944.

The study was made as the result of a number of requests from member states for financial and technical assistance.

The main principles of the financial aspect of joint support scheme are enunciated in Resolution XX of the First Interim Assembly and in the Final Report of Sub-Commission 4<sup>74</sup> of Commission 1.

The Council decided that the projects should not be financed out of the general funds of the Organization,<sup>75</sup> but by contributions in cash or kind, as agreed upon by the

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73. ICAO Doc. 4029, A1-CP/2, pp. 3-4

74. PICA0 Doc. A/40

75. See ICAO Doc. 4026, A1-FA/4, Appendix 1, p.6 - The Secretary General undertook the study of common fund and reached a conclusion that it should be done by contributions from the participating States.

participating states. <sup>76</sup> However, the Assembly recommended that the Interim Council should investigate the possibility of financing through loans from the International Bank for Reconstruction and Development and study the desirability of building up a 'Common fund' from contributions of all member states, for the provision of airports and other air navigation facilities. <sup>77</sup>

As a result, the Interim Council approached the International Bank for the loan. The Bank was prepared to grant the loan under certain conditions. The loan was only <sup>78</sup> for capital expenditures and not for operational expenditures.

On the recommendation of the Interim Assembly, the Joint Support Committee studied the proposal of having a 'Common fund'. The Committee came to a conclusion that the Common fund was not practicable at that stage. It recommended that the work of the Organization would be facilitated, if a small 'emergency fund' could be provided for use by the Council, so as to avoid a breakdown of essential international air services.

In the beginning, the joint support problems were handled by the Joint Support Section of the Air Transport Bureau, in close consultation with the interested sections of the Air Navigation Bureau.

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76.

ICAO Doc. 4023, A1-P/3, pp. 61-66

77. Being one of the responsibility of the ICAO under Chapter XV of the Chicago Convention.

78. ICAO Doc. 4023, A1-P/3, page 62.

One of the most important responsibilities of the ICAO is to recommend remedial measures under Chapter XV of the Chicago Convention, in cases where air navigation facilities are inadequate for the safe, efficient and economical operation of International air services.

1. The first case, which came before the Interim Council, was that of the North Atlantic Ocean Weather Stations, which were recommended by the North Atlantic Regional Air Navigation Meeting, held in March 1946.

During the First Interim Assembly meeting, the representatives of the North Atlantic States expressed their desire to have a network of ocean weather stations, as an aid for safe and economical operations of air services, over the North Atlantic. As a result, the Interim Council initiated steps (in June 1946) to convene a meeting of the interested states. Presently, there is an international agreement of 1954, dealing with the operation and maintenance of nine ocean weather stations in the Atlantic.

Under the N.A.O.S. agreement of 1954, the Organization is responsible for co-ordinating the general operational programme and the applicable standards, Recommended Practices and procedures approved by the Council which should be observed by member states operating the ocean

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79.

The topic of N.A.O.S. is dealt with in the following chapter. Also see ICAO Doc. 4023, A1-P/3, pp. 62-63



weather stations. Further, the Council is required to allocate the monetary contributions among the Operating states.

2. Loran and Direction-finding Stations in Iceland.

The North Atlantic Regional Air Navigation Meeting further recommended the establishment of additional weather stations in the higher latitudes. However, during the meeting the delegates from Norway, Iceland and Denmark expressed doubt as to whether their governments would be able to provide such air navigation facilities within their territories without any assistance from ICAO.

In October, 1946, the government of Iceland notified the Organization that it could not tolerate the interference caused by the operation of the Loran station at VIK and asked for international financing for the erection and maintenance of a Consol station to replace the Loran installation. As the loss of this link would have seriously effected the international civil aviation, during the winter season, the Interim Council requested the Icelandic authorities to withdraw their objection to the continued operation of the station, pending the consideration of the problem. The Icelandic government agreed, provided it was to be reimbursed for operational and maintenance costs from International funds or by interested states through ICAO.

The Council asked the interested states as to whether they were prepared to contribute towards the cost of its operation. On the receipt of affirmative replies from interested states, two staff members of the Secretariat were sent to Iceland, to study the problem and to make the necessary arrangements with the Government of Iceland.

The mission recommended the continuation of the Loran station and informed the Council that the Government of Iceland was prepared to enter into a temporary arrangement for its continued operation, which was to be financed internationally through PICA0. The details of the first temporary arrangement were worked out in Montreal, by the representatives<sup>80</sup> of five member states, whose airlines were using the North<sup>81</sup> Atlantic Loran installations.

The first provisional arrangement under the joint financing scheme was concluded in April 1947, (only for<sup>82</sup> Vik LORAN). But, the main arrangement for air navigation services in Iceland was concluded in June 1948, between the<sup>83</sup> Council of ICAO and the Government of Iceland. The 1948 Joint Financing agreement consisted of Communications Services, Air Traffic Control Services, Meteorological and inter-

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- 80. Canada, France, the Netherlands, the United Kingdom and the United States.
  - 81. Icelandic arrangements are dealt in detail in Chapter V.
  - 82. See PICA0 Doc. 3104-C/389, p.2; ICAO Docs. 4413-JS/501; 6157-C/697, p.6; and 7107-20, C/823, p.317.
  - 83. ICAO Doc. 7000-JS/550, which has been replaced by an agreement of 1956 - ICAO Doc. 7727-JS/564. It is worth noting that the Council is no more a party to the new agreement of 1956.

communications Services. Other modifications with regard to the services have on several occasions been made either by explicit Council action with the consent of the participating states or gradually through implementation by Iceland of the recommendations of the ICAO Technical Mission<sup>84</sup> to Iceland, and the North Atlantic Regional Air Navigation<sup>85</sup> meetings.

However in 1951, the Council recommended to the participating states that, for reasons of equity and of simplicity and economy of administration, the Provisional Arrangement for Vik LORAN should be modified and brought into alignment with the Arrangement in respect of the other air navigation services in Iceland and should be administered under the same<sup>86</sup> terms and conditions as the latter. The unanimous consents were received from the participating states in January 1952. These modifications were formally carried out by a Protocol<sup>87</sup> signed in Brighton, on 13 July, 1953.

### 3. Equipment for Loran Station in the Faroes - Greenland.

In October, 1946, the Government of Denmark requested the assistance of the Organization, in obtaining from the Governments of the U. S. A. and the U. K., replacements for

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84. In December 1951.

85. See JF/DEN/ICE-WP/10.

86. C-WP/905.

87. See JF/DEN/ICE/-WP/10 - Appendix 2

unsatisfactory equipment and spare parts for the Loran station on the Island of Suderoy, whose operation was taken over from the U.K., by the Danish Navy Department. <sup>88</sup>

Indeed, this was not strictly speaking, a case for joint support, but its importance is worth mentioning. The Council felt that the maintenance of the North East Loran chain, of which the Sudaroy station was an essential link, and was of direct concern to international civil aviation and the President of the Council was authorised to make the necessary arrangements.

4. Rehabilitations of Airports and Meteorological facilities in GREECE.

In December 1946, the Greek government indicated that it would be unable to restore the disrupted network of meteorological stations in Greece, out of its own resources. <sup>89</sup> This request was not granted as the Council was not fully convinced that it should be included under the Joint Support scheme.

Over and above this, there were several requests from the following member states, viz., Afghanistan, <sup>90</sup> Ethiopia, <sup>91</sup> <sup>92</sup> Iran and <sup>93</sup> Norway, for technical assistance.

88. See ICAO Doc. 4023, A1-8/3, p.66

89. For details see PICA0 Docs. 1450, 2285, 2530, 2547, 2947; and ICAO Docs. 4023, 4024, 4025, 6786; J. AIR L & Com. Vol. 16 (1949), p. 328; Also see PICA0 Journal Vol. 1, No. 8, p. 17

90. PICA0 Doc. 2530; ICAO Doc. 4023

91. ICAO Docs. 4023, 4921, 4567.

92. A letter dated 26 May 1947, from the Govt. of Iran, ICAO Doc. 5221, A2-P/5

93. PICA0 Doc. 2947; ICAO Docs. 4023, 4025, 5221.

Technical advice and assistance through ICAO.

Chapter XV of the Convention provides for financial and technical aid. It also covers the specific requirement<sup>94</sup> of technical advice and assistance to be provided through ICAO.

Commission No. 6 of the First Assembly avoided considering technical advice and assistance through ICAO, as a special problem. The statement of basic principles and general policy was considered as relating to all phases of joint support, including technical advice and assistance.<sup>95</sup>

Requests for technical assistance can be classified as under:-

1. Requests for general assistance in planning a civil aviation programme;
2. Requests for technical assistance in designing and construction of air navigation facilities;
3. Requests for assistance in operating the facilities and services for which no adequate personnel are locally available, and in training local personnel to take over.

The Organization might furnish technical assistance either within the scope of its general responsibility on a joint support basis, or at the cost of the state directly assisted.

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<sup>94</sup>. See ICAO Doc. 4472-C/535, pp.1-2.

<sup>95</sup>. See ICAO Doc. 4268, A1-FA/24, pp. 8-13.

In the light of Chapter XV of the Convention and under the general obligations set forth in Article 44, ICAO is authorized to send a small team of well qualified technicians in the field, to make a general survey of the position and give the necessary advice.<sup>96</sup>

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*He...*  
*M...*  
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Financial and Technical aid through ICAO does not mean that the state concerned, is not in a position to bear the costs. If a state elects not to provide such air navigation facilities, on its own, then under Article 70 of the Convention the Council may agree to provide for all or a portion of the costs under the joint support scheme. This is justified, provided the facilities in question, are required for international civil aviation. So, it is the sole responsibility of the Council to provide air navigation facilities, when the state concerned fails to provide such facilities. This is one of the main objectives set out in the Preamble of the Chicago Convention.

Procedure to be followed in case of a request for technical aid and financial aid through ICAO:

When a request for aid in the provision of air navigation facilities or services is forwarded by a member state, and the Council decides that aid through ICAO is necessary, or when ICAO is taking the initiative in accordance with

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96. Recently, ICAO gave technical assistance to Congo.

Article 69; the Council will first bring the case to the notice of potentially interested member states and invite their comments with particular reference to the question whether or not they are prepared to consider participation in a scheme of joint support of the facility or service in question.

The Council after investigating all the circumstances affecting the application for and the possible grant of aid, will consult the interested states as to the arrangements to be made and will, if desirable, call a Conference of those states.<sup>97</sup>

ICAO will co-ordinate on a regional basis the programme for the execution of joint support projects. ICAO, with a view of maintaining the number of separate international arrangements at a minimum, will endeavour to secure the grouping of possible projects involving aid through ICAO.

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97.

ICAO Doc. 4025, A1-FA/2, p.11

## CHAPTER IV

### 'NORTH ATLANTIC OCEAN WEATHER STATIONS.'

#### 1. HISTORY OF OCEAN WEATHER STATIONS IN THE ATLANTIC.

The history of ocean weather stations goes as far back<sup>98</sup> as the early period after the First World War.

The need for such ocean weather observation stations was felt as early as 1921. A project about an International Meteorological Organization was discussed at the meeting of the International Meteorological Committee, held in London, from 12 to 18 Sept., 1921. A memorandum was submitted by<sup>99</sup> Colonel E. Delcambre, in which he stressed the need for such stations as follows:-

- "The necessity was stressed of establishing a stationary ship located in the North Atlantic between 25° and 35° West and 47° and 49° North for purposes of weather observation and forecasting to benefit merchant shipping and trans-Atlantic air navigation, which will, without doubt, materialize in the near future." 100

Between 1921 and 1939, the French Meteorological Service had one ship in operation on the North Atlantic, to transmit meteorological observations to Paris. These observations<sup>101</sup> were also collected by some merchant ships.

98.

See PICA0 Doc. 2668-C/313; p.7,

and ICAO Doc. 7040-JS/551, Appendix A, p.18

99. The Director of Meteorological Service of France.

100. As reported in ICAO Doc. 7040-JS/551 ibid.

101. Merchant ships belonging to Compagnie General Transatlantique.



Germany had a weather observation ship in the South Atlantic, mainly for meteorological purposes. This ship was very useful for the flights between Africa and South America.

These vessels prepared synoptic charts and made forecasts both for ships at sea and for aircraft, which were making the first attempts to establish a trans-Atlantic  
102  
air route between Europe and North America.

These vessels also collected meteorological observations from other merchant ships, whenever they could contact them and supplied them with weather forecasts.

Regular meteorological observations were transmitted to Paris and this information was broadcast on the international meteorological transmissions, established by the I.M.O. , for the benefit of all meteorological services. These observations were also transmitted to aircraft in flight. Alterations in route patterns for the remaining portion of a flight, position information to assist in air navigation, and other information requested by an aircraft in flight was transmitted when it was available.

In 1940, the United Kingdom operated two ocean weather  
103  
observation vessels in the North Atlantic. After the outbreak of the Second World War, the number of vessels in the Atlantic  
102.

Particularly for Air France and Pan American Airways.  
103.

These vessels were sunk by enemy action.

was increased, as a result of major contributions by the United States. The number of these vessels was increased from time to time and reached a peak in 1945<sup>104</sup>. After the end of the Second World War, the number of stations declined to four.

Following is the tabulation of the number of stations maintained between 1937 and 1946<sup>105</sup>.

| <u>Year</u>      | <u>No. of Stations.</u> |
|------------------|-------------------------|
| 1937-39          | 1 Station               |
| 1940-41          | 1 "                     |
| 1942             | 4 Stations              |
| 1943             | 9 "                     |
| 1944             | 9 "                     |
| 1945             | 17-21 "                 |
| 1946 (February)  | 6 "                     |
| 1946 (May 15)    | 1 Station               |
| 1946 (June 1st)  | 5 Stations              |
| 1946 (June 30th) | 4 Stations              |

The ocean weather stations provide meteorological and navigational aids to aircraft and also serve as floating search and rescue bases.

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104.

Between 17 to 21 stations were operated.

105.

ICAO Doc. 7040-JS/551; Appendix A, p. 19.

2. Action under the Provisional International Civil Aviation Organization.

After the Second World War the Interim Council of PICA0 in 1945 immediately realized the vital importance of an appropriate network of ocean weather stations in the North Atlantic. In addition to activities of the Council, the Meteorological Search and Rescue Division of PICA0 undertook<sup>106</sup> a special study about this subject and recommended:

"That the Meteorological Secretariat undertake a study of the number of weather patrol ships and meteorological reconnaissance flights required to provide adequate meteorological service for international civil aeronautics, and the cost of maintaining such services;

"That the Council initiate studies regarding the equitable pro-rata sharing between Member states of costs arising from the establishment and maintenance of weather patrol ships and meteorological reconnaissance flights;

"That the Council initiate action with the Member states with a view to co-operative establishment of a permanent network of weather patrol ships and meteorological reconnaissance flights, if necessary through international agreement, regarding personnel and funds." 107

108

The PICA0 Regional Air Navigation Meeting, and the PICA0 Air Navigation Meeting held in Dublin stressed the importance of the seven Stations in the North Atlantic.

As a result of these Conferences, the Interim Council resolved on 15 May, 1946 that the question of Ocean Weather Observation Stations in the North Atlantic be laid before the

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106. As reported in PICA0 Doc. 2668-C/313, p. 39

107. PICA0 Doc. 769

108. Which was held in Paris in April and May, 1946

109

North Atlantic States at the first Interim Assembly. The North Atlantic States had an understanding that they would give immediate consideration to a plan for the operation of stations in the North Atlantic. However, it was assumed that it would be the responsibility of each State undertaking the operation of a station, to maintain it without any co-operative financial assistance.

### 3. First North Atlantic Ocean Stations Conference.

The Interim Council, at its meeting held on 28 June, 1946  
110  
passed a resolution stating the necessity of immediate consultation between the interested member states with a view to the development of a basis of participation for the future financing of the stations by contributions in cash or kind. The President of the Interim Council was authorised to convene a meeting of representatives of interested States to consider the technical and financial problems involved for the operation of Stations in the North Atlantic. The President of the Interim Council initiated steps to convene a Conference of the states of the North Atlantic Region, on Ocean weather observation stations in that region. The Government of the United Kingdom accepted the function of acting as the host country and on 27 August, 1946 an invitation

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109.

Two meetings of delegates of the North Atlantic States were held on 3 June 1946, and 5 June, 1946.

110.

PICAO Docs. 1921; 1942

was extended to thirteen Member States of the North Atlantic<sup>111</sup>  
 to attend a Conference, to be held in London, on 17 September,<sup>112</sup>  
 1946.

The main purpose of this Conference was to complete arrangements for the establishment and maintenance of Ocean weather observation stations in the North Atlantic. This conference was also in accordance with the obligations laid down under the Interim Agreement on International Civil Aviation and the Chicago Convention of 1944.<sup>113</sup> The Chicago Convention provides that where there appears to be shortcomings in the facilities, and services needed for the regular and efficient conduct of international air navigation, the Council is to work in collaboration with the Member States<sup>114</sup> of the I.C.A.O. to overcome, to remedy, those shortcomings.

The need for ocean weather reporting stations in the North Atlantic was desired by all the representatives attending the Conference. It was also agreed that it was not possible to have these stations without the joint support and co-operation of all the interested states in co-ordinating the services. The burden of having these stations should be shared by all states interested in the North Atlantic air services.

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111. Belgium, Canada, Denmark, France, ~~Iceland~~, Iceland, Ireland, the Netherlands, Norway, Portugal, Spain, Sweden, the U. K., and the United States.

112. I.M.O. and the I.A.T.A. were also invited at the Conference.

113. Especially Article XI of the Interim Agreement

114. Article 69 of the Chicago Convention, 1944.

The North Atlantic is not a private lake and as such, it is not the responsibility of any individual state to operate these stations. The benefits to be derived by such vessels was of enormous importance both for aviation and meteorological purposes.

The Conference established two Commissions, Viz., <sup>115</sup>the Financial Commission, and <sup>116</sup>the Technical Commission.

One of the major problems to be solved at the Conference was to determine which body should undertake the co-ordination of the whole project. The delegation of the U. K. proposed <sup>117</sup>a co-ordination Committee, but this proposal did not meet with acceptance and the Conference finally adopted at its fourth Plenary meeting the following resolution:-

"Resolved-that the project for the provision and operation of 13 ocean weather stations in the North Atlantic, as drawn up by the PICA0 Conference of North Atlantic States held in London, September 1946, shall be carried out by the operational efforts of states or group of states, as agreed in this Conference, and shall be co-ordinated by PICA0.

"Representatives of the I.M.O., Regional Commission for Europe and North America will be invited to participate in the deliberations concerning the co-ordination of the programme. The manner of making meteorological observations and of collecting and recording reports and transmitting them to the meteorological offices or forecasting centres shall at all times be in accordance with <sup>118</sup>the appropriate procedure promulgated by the I.M.O.

115. PICA0 Doc. 2668-Q313; Appendix 5 & 6, pp.54-56 for the Report of the Financial Commission.

116. Ibid; Appendix 9 & 10, pp.59-60, for the report of the technical commission.

117. Ibid; Appendix 11, pp.68-70

118. This resolution was moved by the delegation of Canada and amended by the addition of the last two paragraphs by the delegation of Norway.

The drafting committee of the Conference was entrusted with the work of preparing a draft of the Final Act and of the International Agreement on North Atlantic Ocean Weather Observation Stations. This draft was considered by the Conference with certain amendments, on 24 September, 1946.<sup>119</sup>

The International Agreement mainly consisted of:

- |     |                      |     |  |
|-----|----------------------|-----|--|
| (1) | The Agreement proper | --  | consisting of eight articles only, setting forth the basic mutual rights and obligations;  |
| (2) | Annex I              | --- | Location of ocean weather stations and services to be performed;   |
| (3) | Annex II             | --- | Agreement between the Governments of the United States and Canada for the financing and operation of ocean weather Station B;          |
| (4) | Annex III            | --- | Agreement between the Governments of Sweden, the United Kingdom and Norway for the financing and operation of ocean weather station M. |
| (5) | Annex IV             | --- | Agreement between the Governments of Belgium and the Netherlands for the financing and operation of ocean weather station K.           |

Additional Protocol was signed by the Representative of Portugal on 24 January, 1947 and thus Portugal became a party to the International Agreement.<sup>120</sup>

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119. The Final Act was signed by the heads of all 13 delegations on 25 September, 1946; whereas the International Agreement was signed by the heads of 9 delegations, representing the Contracting member states. See PICA0 Doc. 2136-C/235.

120. Whereby the Government of Portugal offered to contribute 1,000 per annum towards the maintenance of the ocean weather stations as contemplated by Art. 4 of the Agreement.

This agreement deals in general with the responsibilities of the Organization and its role in co-ordinating the programme of the operation of the stations.<sup>121</sup> It also deals with the distribution of the General monetary contributions made<sup>122</sup> by a state towards the financing of ocean weather stations. In case of a dispute, between two or more signatory states relating to the interpretation or application of the Agreement, it is first settled, if possible, by direct negotiation and<sup>123</sup> failing this by the Council of ICAO. The annexes are mainly arrangements between participating states for the financing and operation of ocean weather stations.

The Interim Council of PICA0 approved the Final Act of the PICA0 Conference and North Atlantic States on ocean weather observation stations in the North Atlantic and the International Agreement on North Atlantic ocean weather stations (1946), on November 8, 1946. Further the Interim Council agreed to accept the responsibilities imposed on PICA0<sup>124</sup> by the terms of the Agreement. In November, 1947, the Council of ICAO, which replaced the Interim Council of PICA0, accepted the responsibilities placed upon the latter, under the said terms of the Agreement.

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121. Art. 2(2) of the Int. Agreement.

122. Art. 4 of the Int. Agreement.

123. Article 5 of the Agreement.

124. Article 3(2) of the Agreement.

*Supra*



Article 4 of the Agreement lays down a responsibility on the Council that it should approach the non-signatory States with a view to invite them to consider making general monetary contributions. The only non-signatory state utilizing the benefits was Switzerland. The Council initiated negotiations with the Government of Switzerland to secure its accession to the Agreement of 1946<sup>125</sup> without success, and Swiss North Atlantic Services were undertaken on a trial basis only.

Article 6 of the Agreement provides that  
(1) "this Agreement shall come into force upon acceptance by all the signatory Governments."

All the signatory states indicated their acceptance, except the acceptance of the Government of Belgium. The acceptance of the Government of Belgium was subject to ratification by legislature and it was not officially ratified. This Agreement technically speaking never came into force.

Notwithstanding this legal deficiency of the International Agreement, the signatory states gradually implemented its provisions. By June 10, 1949, the entire network was in full operation.<sup>126</sup> This Agreement was drawn up for a period of three years (i.e. from 1 July, 1947 to 30 June, 1950).<sup>127</sup>

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125.

Under this Agreement thirteen stations were operated.  
126. A detailed report of the dates when the stations commenced operation is given in ICAO Doc. 7040-JS/551, p.7  
127. Article 7(1) of the Agreement.

4. Second North Atlantic Ocean Stations Conference.

According to Article 7 of this Agreement, a Second Conference was to be held before 1 April, 1949. The Council at its meeting held on 15 February, 1949 decided to convene the Second Conference on ICAO North Atlantic Oceans Stations; at the same time as the ICAO Conference on Air Navigation Services, Greenland and the Faroes, and the ICAO Conference on Air Navigation Services: Greece.

Once again the Government of the United Kingdom agreed to act as a host country and the Conference was held in London on 20 April, 1949. The Conference was attended by thirteen states, one governmental organization, and one private international organization.

The Conference adopted its agenda and established its technical and financial Committees. The Technical Committee had to determine the number of stations to be operated in the North Atlantic. The delegation of the United States and the I.A.T.A. expressed their views that the location of the station should be decided on a give and take basis. It recommended a network of ten vessels instead of thirteen.

128. See ICAO Doc. 7103-JS/552 for a detailed report on this Conference.

129. These three Conferences are collectively designated as 'the ICAO Conferences on the Joint Financing and Operation of Air Navigation Services, London, 1949.'

130. Belgium, Canada, Denmark, France, Iceland, Ireland, Italy, Mexico, the Netherlands, Norway, Portugal, Switzerland, (which did not attend the Conference), the U.K. and the U.S.A.

131. The U.N., I.M.O., I.M.C.O., I.H.B., I.A.P.O., International Council for the exploration of the Sea. (But I.M.O. only attended.)

132. I.A.T.A., FI.T.A.P. (Only I.A.T.A. attended.)

133. ICAO. Doc. 6787

134

The Financial Committee was asked to measure the aeronautical benefits derived by each state and assess their contributions accordingly. It finally recommended "that the distribution of responsibilities should be based on the number of scheduled airline flights traversing the North Atlantic, regardless of other criteria such as load, capacity. Exclusion of non-scheduled flights, flights by state aircraft and other type of flights, such as flights on particular sectors was necessitated by the incompleteness of data thereon available at the Conference."<sup>135</sup> The Financial Committee also agreed that the main basis for assessing aeronautical benefits to the various states should be the average of actual 1948 and estimated 1949 trans-Atlantic flights of their scheduled airlines.

As compared to the new agreement of 1949, the 1946 agreement is a rigid one. The 1946 agreement did not provide for periodic re-adjustment for variations in the benefits actually derived.

The Organization pointed out this deficiency and mentioned that some states shouldered operational and financial responsibilities in excess of benefits they derived (as measured by actual flights over the North Atlantic.)

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134.

ICAO Doc. NAOS-43, Fl-9

135.

Ibid.

The Conference considered Article 4 of the 1946 agreement inadequate, as it did not offer an effective means of adjusting the inequities in the above-mentioned cases. The Organization suggested that the new agreement should provide for periodic revision of the responsibilities assigned to states. However, the Financial Committee, agreed to recommend that the proportions of responsibilities (to be established in the new agreement) should not be revised periodically and accepted the United Kingdom's proposal that "the financial responsibility of each participating state should be broadly in proportion to the benefits to be derived by that state".<sup>136</sup>

The International Agreement of 1949, consists of 18 articles and two Annexes.<sup>137</sup> This agreement came into force on 13 January, 1950, as the United States and the United Kingdom accepted the agreement and agreed to supply more than 18 vessels.<sup>138</sup> The Instrument of acceptance should be deposited by the signatory state with the ICAO. It was valid for three years,<sup>139</sup> terminating on 30 June, 1953.

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136.

ICAO Doc. 7040-JS/551, p.14, Para 52.

137. whereas the 1946 agreement consisted of 8 articles only, and four annexes.

138. Article XV (3)

139. Art. XIII (1)

The main differences between the two agreements are as follows:-

- (1) The 1946 agreement was a rigid one and did not provide for periodic re-adjustment for variations in the benefits actually derived by the States, whereas the 1949 agreement provided for such periodic revision.
- (2) The 1946 agreement provided that it shall come into force upon the acceptance by all of signatory governments; whereas the 1949 agreement provided that it shall come into force among the accepting governments and shall supersede the 1946 agreement, when accepted by Governments responsible for the operation of not less than 18 of the Ocean station vessels provided for in the new agreement.
- (3) The 1949 agreement provided that Annex II may be amended by the Council with the consent of 3/4 of the contracting states, including the consent of the Governments responsible for operating at least 18 vessels under the agreement. This provision is very useful, as it avoids the convening of a new Conference for any changes in Annex II.

140.

Article X of the Agreement, 1949 provided that any Contracting state may agree with any other contracting state to take over all or part of the obligations under the agreement. As a result of this provision, there was an arrangement between the Governments of the United States and Canada (concluded on July 25, 1949, but came in force on 1 April, 1950).

*Amplified*

The Council adopted a resolution on 3 June, 1949 accepting on behalf of the Organization, the terms of the agreement on North Atlantic Ocean Weather Stations, 1949, and the responsibilities placed upon the Organization under the agreement and the Final Act of the Second Conference<sup>141</sup> on ICAO N.A.O.S.

Article XVII (2) of the 1949 agreement states:

"The Council shall convene a Conference of all interested Governments not later than 1st October, 1952, to consider the revision and renewal of this Agreement."

But the Council, at its meeting held on 7 December, 1952 did not find it necessary to call a Conference and recommended the postponement of the Third Conference and the extension of the 1949 agreement for one year.<sup>142</sup>

However, the Council was of the opinion that the principles of international co-operation and equity required that all states deriving benefits from these stations, should bear the costs equally and no one state should be called upon to carry an excessive burden. It also pointed out that this would be contrary to the international co-operation necessary for achieving the aims and objectives laid down in Article 44 of the Chicago Convention.

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141. See Doc. 6913-10-C/802-10 (open) Minutes of the 10th meeting of Council-7th Session.

142. A protocol was signed on 28 May, 1952.

### 5. Third North Atlantic Ocean Stations Conference.

The Council recommended that the Third Conference be held in close connection with the Seventh Session of the Assembly in Brighton (England), as a majority of the signatory states were on the European side. All the governments concerned agreed to convene the Third Conference on 8 July, 1953 in Brighton. Only twelve signatory states to the 1949 agreement attended the Conference. Out of eight states, which were invited to adhere to the agreement, four states only attended the Conference.

The Third Conference was mainly restricted to administrative and financial matters, and the 1949 agreement was considered still workable as far as its provisions were concerned. The Conference failed to reach an agreement, because of the emergence of operational problems, which could not be solved at the Conference. As such, the Conference recommended that a Fourth Conference be convened as soon as possible.

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143.

Belgium, Canada, Denmark, France, Iceland, Ireland, the Netherlands, Norway, Portugal, Sweden, the U. K., the U. S. A.

144. Colombia, Cuba, Israel, Italy, Mexico, Spain, Switzerland, Venezuela.

145. Israel, Italy, Spain, Venezuela.

146. The Conference was also attended by the I.M.O. & the U. N.

147. See ICAO Doc. 7510-JS/559, p/8

At this stage, mention should be made of the United States' position regarding the operation and maintenance of these Ocean stations.

The U. S. A. was carrying a burden in excess of the benefits derived by their airlines and as such, in the summer of 1953, it decided to withdraw from the N.A.O.S. Agreement of 1949. It was in a position to have a separate network of ocean stations, completely financed by the Government, without any assistance from other member states. By providing these facilities, it could have charged exorbitant rates to various airlines, using these facilities in the North Atlantic. As these facilities are essential for the safe, regular and economical flight across the Atlantic, each airline would have been obliged to pay the charges decided by the U. S. Government.

Most of the participating states realized this and as such, requested the U. S. Government to continue its participation in the N.A.O.S. Agreement. When these facilities are provided under international arrangements, the charges are usually reasonable, compared to those charged by an individual state, providing such facilities.

#### 6. Fourth North Atlantic Ocean Stations Conference.

The Council decided to convene a Fourth Conference on North Atlantic Ocean Stations in Paris, on 9 February, 1954.<sup>148</sup> This Conference was attended by seventeen member states,

148.

Belgium, Canada, Denmark, France, Iceland, Ireland, the Netherlands, Norway, Sweden, the U.K., the U.S.A., Portugal, Israel, Italy, Spain, Switzerland, Venezuela.



W. M. O. and five Private international Organizations. <sup>149</sup>

At this stage, the United States decided not to participate in this Joint Support programme after 30 June, 1954. But subsequently, the United States revised its position after hearing the views of the representatives of other <sup>150</sup> states, who expressed the following opinion<sup>1</sup>:

- "a) an ocean stations network should continue to exist;
- b) such a network might be somewhat reduced in scope and still remain useful; and
- c) that substantial non-aeronautical benefits accrue to Western Europe."

The Conference established a Technical Committee, <sup>151</sup>  
<sup>152</sup>  
 a Financial Committee, and a Drafting Committee.

The Technical Committee considered a nine station network with 22 vessels and this proposal was accepted by the Conference. The success of the Fourth Conference mainly depends upon the willingness of the United States to operate ten vessels (though in excess of its theoretical responsibility.)

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<sup>149</sup>.

I.A.TA.; IFALPA; IANC; IAPO; FITAP.

<sup>150</sup>.

See ICAO Doc. 7510-JS/559, p.9, Para 46.

<sup>151</sup>.

NAOS-IV-WP/50, TE/19 and NAOS-IV-WP/52, GEN/15.

<sup>152</sup>.

NAOS-IV-WP/57, GEN/20.

The main responsibilities entrusted to the Council are:

1. co-ordination of the general programme of operation of the stations with the states concerned;
2. co-ordination with other international organizations as it considers appropriate (viz., The U.N., W.M.O.);
3. collection and allocation of cash contributions between the states;
4. reports on the operation, cost and utilization of the stations, which should be based on the reports received from contracting governments;
5. review and revise the obligations of states to pay and to receive cash contributions;
6. convening of a conference of interested governments to consider any matter connected with the agreement; or for a new agreement; and
7. convening Conferences for the settlement of disputes;
8. allocation of cash contributions received from adhering or additional user states.

The Council adopted a resolution, (on 7 April 1954), accepting, on behalf of the ICAO, responsibilities placed upon the Organization as mentioned in the terms of the Agreement on North Atlantic Ocean Stations and of the Final Act of the Fourth Conference on N.A.O.S.

The Council at its meeting held on 27 May, 1954,  
153  
recommended as follows:

"Recommendation a) - authorised the Secretary General, in the event any government has not implemented the new agreement on or about 1 July, 1954 to urge it to do so without delay;

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153.

See ICAO 7510-JS/559, page 15.

- Recommendation b) - requested the Secretary General to take the action required under Recommendation (b) on the understanding that the Secretary General report to Council, in due course, on the implementation and on the coming into effect of the agreement on North Atlantic Ocean Stations, pursuant to Article XVIII of the Agreement;
- Recommendation c)d)e)- authorized the President of the Council to proceed on behalf of the Council with negotiations in accordance with Article XVII of the Agreement and to submit any proposals resulting from such negotiations."

The 1954 agreement consists of 20 articles and two annexes. It was for two years only, i.e. from 1 July, 1954 to 30 June, 1956, with a provision for extension from year to year, unless notice in writing is given to the Secretary General prior to the date of termination of the last  
154  
extension.

The most important thing worth noting is that the Council is not a party to this Agreement. The Council accepted certain administrative responsibilities spelled out in the  
155  
Agreement.

#### 7. FIFTH ICAO JOINT FINANCING CONFERENCE ON N.A.O.S.

The Fifth ICAO Conference on N.A.O.S. was held in the  
156  
Hague from 17 to 29 March 1960.

This Conference was convened by the Council at the request of the Netherlands for the purpose of considering

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154. See Article XV (a) & (b).

155. This agreement has greatly influenced the Icelandic and Danish Agreements of 1956.

156. See J. AIR L. & COM., Vol. 27; (1960), p.78 also ICAO Bulletin Vol. XV, No. 3 pp. 38-39.

revision of the existing method of calculating certain cash adjustments and various other matters under the 1954 agreement. The Conference was attended by representatives of fifteen governments, parties to the 1954 agreement. <sup>157</sup>

The study undertaken by the Conference resulted in an unanimous agreement to modify certain principles of the 1954 Agreement, so as to secure more equitable distribution of the costs of the scheme among the participating states. The declared objective of the meeting having been achieved, the Conference did not proceed with the remainder of the <sup>158</sup> Agenda.

157. Representatives of the following governments attended the conference:- Australia, Belgium, Canada, Denmark, France, the Federal Republic of Germany, Ireland, Israel, Italy, the Netherlands, Norway, Sweden, Switzerland, the U. K., the U. S. A.; in addition Iceland, Mexico and W.M.O. sent observers to the meeting.

158. For a detailed Agenda, see NAOS - V-WP/1, (6 July 1959);
- "2. Re-arrangement of undertakings among the European contributing states through bilateral agreements as envisaged by Article XI, or by such amendment of the Agreement as would enable one or more European states to become cash contributors instead of operators, or vice-versa.
  3. Approval and signature of protocol, if any, amending the existing agreement."

The main modifications adopted at the Conference are:-

1. allowance was made for differences in the operational costs of vessels operated by European States;
2. account was taken of the participation of additional states since 1954 and the European States were regrouped in accordance with the present situation;
3. re-assessment was made of the cash contributions required of the States not operating vessels;
4. counterpart fund was established in recognition of the operations performed by North American States in excess of their theoretical responsibilities; and
5. a formula was established, whereby these contributions are to be shared annually by all states who are parties to the Agreement, in proportion to their theoretical responsibilities.

The present agreement has a network of 21 vessels. It also effected a change in the distribution of costs substantially. Out of 21 vessels, 10 vessels are being operated by the five European States, <sup>159</sup> and ten by the United States and one by Canada.

*2. 10-18*

The Conference adopted a number of recommendations relating to the costing of, and accounting for expenditures made by those states operating various Ocean stations. The Conference particularly called upon the operating states to exclude customs duties and other imports from costs chargeable under the agreement, and specified the capital values and rates of depreciation to be associated with the different vessels and their equipment while assessing the indirect costs of operation, set minimum period of time over which vessels were to be depreciated.

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159.

France, the Netherlands, Norway, Sweden, and the United Kingdom.

The Conference also recommended:-

that future capital expenditures exceeding £ 50,000 per vessel in any one year be submitted for advance consideration by the Council and the participating states.

that a specific procedure be established for setting off the proceeds from the sale of vessels and equipment against replacement costs and for determining new capital values for purposes of charging depreciation, and

that interest on the undepreciated capital value of vessels and equipment be charged at the rate prevailing in the country concerned for financing similar governmental projects.

The Conference also reviewed the activities of the Advisory Committee of the European Operating States, a body which was established pursuant to a recommendation of the Fourth N.A.O.S. Conference in 1954. The main object of this body was to improve efficiency and economy in the operation of the Ocean stations maintained by European States. The  
160  
Conference reached the following conclusions:-

- (i) that the Advisory Committee should continue to study operational costs with the object of achieving further economy;
- (ii) that the Committee should develop a replacement programme for vessels, the life of which is now expiring, and invite comments on its proposal from all participating states; and
- (iii) that the cash contributing states should be invited to participate in the foregoing tasks.

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160.

J. AIR L. COM. Vol. 27 (1960) pp.78-81

The conclusions and recommendations of the Conference are recorded in the Final Act, signed by the representatives<sup>161</sup> of fourteen governments. The Council was requested to determine whether the modifications unanimously agreed upon, which applied the principles of the 1954 agreement, would require a Protocol amending the agreement.

The 1954 agreement has been extended up to 30 June, 1961.<sup>162</sup><sup>163</sup> A report was submitted by the Joint Support Committee, which<sup>164</sup> was subsequently approved by the Council.

161.

The representative of Italy did not sign the Final Act, but is expected to sign very soon. The states represented at the Conference were: Australia, Belgium, Canada, Denmark, France, the Federal Republic of Germany, Ireland, Israel, Italy, the Netherlands, Norway, Sweden, Switzerland, the U. K., the U. S. A. In addition Iceland, Mexico, and the W. M. O. sent observers at the meeting.

162. Presently 22 states have adhered to this agreement. They are: Australia, Belgium, Canada, Colombia, Cuba, Denmark, France, the Federal Republic of Germany, Iceland, Ireland, Israel, Italy, the Netherlands, Norway, Spain, Sweden, Switzerland, the U. K., the U. S. A., Venezuela; Mexico and India (in certain cases.)

163.

See ICAO Bulletin, Vol. XV, No.3. (1960) pp. 38-39;  
" " " " XIV, No. 7-8. (1959) pp. 138-139.

164.

See C-WP/2943, where the 1954 agreement is extended from 1 July 1960 to 30 June 1961.

8. The important features of the 1954 Agreement are as follows:-<sup>165</sup>

Under Article I, certain states (called "Operating States") have agreed to provide, maintain and operate suitable Ocean station Vessels at specific sites in the North Atlantic.<sup>166</sup>

Other states (called "Cash-contributing states") are contributing the amounts of cash specified in Article III, para 1, to the cost of the operation of the Ocean stations.<sup>167</sup>

Out of such contributions, the amounts specified in para 2 of Article III, are to be paid to France, the Netherlands, Norway, Sweden and the U. K. Further para 3 of Art. III provides for the sharing of the contributions of Spain and Iceland between the European states, which are listed in paras 1 & 2 of Art. III of the Agreement. The theoretical responsibilities of Iceland and Spain are taken over by the European states by a proportional increase of their own cash contributions.<sup>168</sup>  
<sup>169</sup>

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165. See ICAO Doc. C-WP/3164; Appendix 1, p.3

166. -These states are Canada, France, the Netherlands, Norway Sweden, the U. K., and the U. S. A.

167. These states are Australia, Belgium, Cuba, Colombia, Denmark, the Federal Republic of Germany, Iceland, India, Ireland, Israel, Italy, Mexico, Spain, Switzerland, Venezuela.

168. which are listed in paras 1 & 2 of Article III.

169. It should be noted that this provision refers to the contributions which may actually be paid in cash by Iceland and Spain.



Article IV, authorizes the Council to review the relationship between the cost of operation of the vessels provided by certain states other than Canada and the U. S. A., and the available amount of cash and "if it considers it necessary to establish an equitable distribution of responsibilities among the states concerned" to "calculate a revision of the obligations to pay and rights to receive cash pursuant to Article III, in accordance with the principles on which this Agreement is based." Under this authorization, as well as under paras 2 & 3 of Article III, and taking into account its powers under Article XII of the Agreement, the Council can alter both the figures appearing in Para 1 of Article III and the percentages listed in para 3 of Article III.

A new state may participate in the financing or operation<sup>170</sup> of these Ocean vessels, if it agrees to make, subject to the terms of the agreement, 'such contributions, in cash or otherwise, as the Council may consider reasonable, having regard to the benefits derived by that Government from the operation of the stations.' According to Article XII, any balance of such additional cash contributions by a new adhering state, after re-imburement of ICAO for the

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170.

under Article XVII.

expenses specified in the Article, "shall be allocated by the Council to the contracting governments on an equitable basis in accordance with the principles on which the Agreement has been based."

West Germany became a party to this Agreement after it came into force in 1954, and her contribution was therefore determined by the Council in accordance with Article XVII. Nothing in that article prevents Council from deciding that these contributions shall be calculated as if Germany had been listed in Article III, para 1, among the cash-contributing European states, if the resulting amount of the Germany's contribution is considered by the Council to be 'reasonable having regard to the benefits derived by that Government.'

Ireland, on the other hand, has been a state signatory to the 1954 Agreement and, in accordance with Article V has to provide an annual cash contribution of  $\frac{1}{2}$ 1,000, so long as aircraft of that country do not operate across the North Atlantic and consequently Article V is no longer available for the determination, of Ireland's contribution. This question was put to the Legal Bureau of ICAO and they<sup>171</sup> were of the opinion, "that in these circumstances, a basis must be found for making that determination." The Legal<sup>172</sup> Bureau suggested that the Agreement of 1954 be amended.

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171.

See ICAO Doc. C-WP/3164; p.4.

172.

This was one method to overcome the difficulty.

But, the Legal Bureau said "that this does not appear to be unavoidable, since the power of the Council under para 2 of Article IV of the Agreement can be construed to be, in effect, a power, for the purpose of implementing the Agreement, to make alterations not only in the amounts specified in para 1 of Article III, but also in regard to the names of the Governments appearing in that paragraph. This contribution is applicable in the case of a state, which was not a signatory to the said Agreement, but which subsequently, participates in the scheme of Joint Financing under the Agreement in question." Further the Legal Bureau was of the opinion, that "technically, this power of the Council is not the same as that of actually amending the Agreement of 1954, but is a power to make provisions for the assessment of States which will be making a cash contribution and whose names do not already appear in paragraph 1 of Article III. Since, Ireland has herself consented to the scheme formulated at the Hague N.A.O.S. Conference,<sup>173</sup> her position, so far as rights and obligations are concerned, is indistinguishable from that of a state which was not a signatory to the 1954 Agreement but which subsequently adheres thereto; for example Germany."

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173. This Conference is known as the Fifth N.A.O.S. conference, held in Hague from 17 to 29 March, 1960.

A further question was asked of the Legal Bureau, as to the grouping of Germany and Ireland or the setting up of the common fund and whether such grouping prevents the participating States from receiving their share of the moneys paid by Germany and Ireland.<sup>174</sup>

The Legal Bureau replied "that the grouping of Ireland and Germany under Article III benefits the other European States, because it results in the decrease of their own contributions as far as the cash-contributing States are concerned, and in higher reimbursements as regards the European operating states."

"No direct benefit accrues from the grouping above-mentioned for Canada and the U. S. A. These states will receive, however, a share of the German contributions paid into the common fund, because the surplus to that fund is divided annually among all contributing states. They will derive no benefit, either directly or indirectly, from the Irish contribution or from that part of the German contribution, which is used in accordance with para (g) (ii) of Recommendation No. 1 for off-setting the shortfall of payments of cash-contributing European states."<sup>175</sup>

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174.

See ICAO Doc. C-WP/3164; (3-6-60); under Art. XII second sentence.

175.

Ibid, Appendix I.

176

Under Article XII, the Council is free to decide how and to whom it allocates additional contributions, provided such decision is equitable and in accordance with the principles of the Agreement. Since nothing in the Agreement provides that the benefits derived from additional contributions shall be shared equally by all the contributing Governments, the Council is competent to take decisions, as to the extent to which they should benefit. In fact, the Council so decided when the surplus of the third year of operation was allocated to the European States<sup>177</sup> only. As such it is not contrary to the Agreement that Canada and the U. S. A. will benefit from the contributions of Germany and the increased contribution of Ireland only in respect to part of the German cash contribution, namely the portion paid into the common fund.

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176.

ARTICLE XII. "The Organization shall be reimbursed for its extraordinary expenses incidental to this Agreement, so far as possible from the contributions provided for in Article V, and, subject to the provisions of paragraph 3 of Article III, from any contributions in cash received by it under the provisions of Article XVII. Any balance remaining from such contributions after the extraordinary expenses of the Organization have been met shall be allocated by the Council to the Contracting Governments on an equitable basis in accordance with the principles on which the Agreement has been based. If the contributions are insufficient to reimburse the Organization, the balance remaining due shall be met by the Contracting Governments in equal shares.

177. See paras. 2.4 & 3.3 of ICAO Doc. 7588, JS/560.

A question as to the form of the Council's resolution determining contributions, was asked of the Legal Bureau.

The Legal Bureau stated as under:-

"On the additional question raised by the implementation of the Final Act, of whether the Council resolution fixing the various contributions should be drafted in the traditional form or, on the contrary, changed so that Germany and Ireland actually are listed with the cash-contributing States enumerated in Article III, para 1, and that a special paragraph of the resolution deals with the Common fund, the answer is that it is purely a question of technique and procedure on which Council has a free hand. The Council can therefore change the form of the resolutions so as to reflect more properly the recommendations of the 1960 Conference, it being assumed that the basis of such resolution will be recited to be the 1954 Agreement as well as the recommendations of the Conference of 1960."<sup>178</sup>

This kind of regional arrangement is not new to the aeronautical world. There were few arrangements in the beginning of air transportation. "There were formed the Conference Aeronautique Internationale (CAI) of the Eastern European states, the Mediterrean Aeronautic Conference (CA) and the Aeronautic Conference of Baltic<sup>179</sup> and Balkan states (CAEBB)." Presently, there is a separate Organization, known as 'The Transatlantic Air Services Safety Organization' (TASSO).

<sup>178</sup>.

See ICAO Doc. G-WP/3164; Appendix I, para 9.

<sup>179</sup>.

Dr. Edward Warner, "PICAO after six months", Interavia, (1945) p.7.

After the analysis of these arrangements,  
it is very difficult to disagree with Dr. R. H.  
Mankiewicz, who is of the following opinion:-<sup>180</sup>

"A review of the Paris Conference, which covers essentially the same matter as previous conferences, reveals that the ICAO Council is vested with definite administrative functions. It is the ultimate authority in matters concerning the administration and future development of the North Atlantic Ocean Stations. To be sure, in many instances, its decisions must be approved by a majority of the states concerned. However, this fractioning of the statutory power between several bodies appear also at the national law level, in cases where the decisions of the administrative authority must be approved or ratified by another branch of the executive power in order to become operative."

"Prior to the Paris Conference, certain opinions were expressed within the Council to the effect that the function of ICAO and its Council with reference to the ocean station weather ships was to serve merely as a mail-box. A study of the agreements seems to demonstrate that this point of view is incorrect. In fact, the ICAO Council is directly responsible for the regular operation and improvement of this network. The Council exercises its authority over this network in virtue of its own power."<sup>181</sup>

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180.

Dr. R. H. Mankiewicz., "Le Role de Conseil de l'OACI Comme Administrateur de Service de Navigation Aerienne," Revue Francaise de Droit aerien, No. 3, July-October 1954, pp. 235-36

181. This has translated from the French Article of Dr. Mankiewicz, for reference see foot note 180.

## CHAPTER V

### 'ICELANDIC ARRANGEMENTS'

Several Conferences have been held on the North Atlantic Route Services, the first being held in Dublin in March, 1946. At this Conference, it was recommended that Iceland should provide an Area Control Centre at Reykjavik and certain meteorological and telecommunication services for the North Atlantic Region.<sup>182</sup>

The delegate of Iceland made a statement that without financial aid, his government would not be able to provide the services recommended by the Conference. However, in November 1946, the Government of Iceland proceeded to implement the recommendations of Air Traffic Control and Communication services. In April 1946, the Meteorological observations and forecasts were taken over by the Office of the Government of Iceland.

On 16 May, 1947, during the first Session of ICAO Assembly, the Minister of Iceland to the U.S.A., Mr. Thor Thoss, submitted on behalf of his government for financial and technical aid in respect of Air Traffic Control, Communication and Meteorological Services in Iceland in accordance with Chapter XV of the Chicago Convention.<sup>183</sup>

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182.

These recommendations were subsequently approved by the Council of PICA0 on 17 April and 9 May 1946, See ICAO Doc. 7000-JS/550, p.7.

183.

Ibid., para 1.3.1, p.8



On 19 May, 1947, the President of the Council convened an informal meeting of Assembly delegations in order to initiate general discussion of the subject matter.

The Council, at its meeting of 25 June, 1947, reached the conclusion that the request made by Iceland constituted a prima facie case for financial and technical aid to be rendered through the Organization under the provisions of Chapter XV of the Convention.

On 5 November, 1947, the Council resolved that an ICAO Technical Mission should be sent to Iceland to report on the services for which financial and technical aid was requested, and that interested States, the International Meteorological Organization and the International Air Transport Association should be invited to join the Mission through representatives.

The Technical Mission arrived in Iceland on 5 December, 1947, and submitted a Report to the Council. In its report, the Mission reached the conclusion that the air traffic control, communications and meteorological services in Iceland for which financial and technical aid was requested were necessary for the safe operation of international air services in the North Atlantic Region, and submitted estimates of costs of operation of these services.

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184.

See ICAO Doc. 5122-JS/520

At a meeting held on 3 March, 1948, the Council recommended that the Technical Mission's report be submitted to all the member states, which were invited to the Second North Atlantic Regional Air Navigation Meeting for comments. The Council also decided that discussion should be initiated with the International Meteorological Organization to ascertain its position in this matter. However, the Council proposed two alternatives:

- (a) that the responsibility for financing the meteorological services be secured in its entirety among the potentially interested States at the meeting sponsored by ICAO alone; or
- (b) that the responsibility be divided in some appropriate way between ICAO and the IMO, each Organization then separately providing for the financing of its own portion of the total project.

Finally, the Council adopted the proposal of financing the entire scheme through ICAO. This new scheme was unique in the history of International Organization. ICAO was the first International Organization to work on a Joint Financing Scheme among nations, although the arrangement was in accordance with the provisions of the Chicago Convention.<sup>185</sup>

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185.

Chapter XV of the Chicago Convention, Articles 69-76

On 23 March, 1948, a meeting of the Committee on Joint Support of Air Navigation Services was called. Mr. Kofoed-Hansen, the Chairman of the Icelandic Aeronautics Board informed the Committee that without financial assistance, the air navigation will have to be discontinued. Thereupon, a preliminary meeting of representatives of States, represented on the Council and interested in these Icelandic Services was convened. The main purpose of such a meeting was to reach a tentative conclusion and to draft an agreement.

Seven meetings were held in Montreal during the Spring of 1948, by the representatives of the North Atlantic Region interested in financing the Icelandic Services. At these meetings, a tentative agreement was reached on several points, which were also presented to the Conference to assist in its work.

186

The said points are set out below.

- "a) Services provided by the Government of Iceland as outlined in the report of the Technical Mission were considered necessary for the safe, regular and economic operation of international air services in accordance with ICAO procedures.
- b) Although there was no legal obligation on the part of interested States to reimburse costs incurred by Iceland in the past, a moral obligation was considered to have arisen. Accordingly, it was proposed that the Government of Iceland should be compensated for costs incurred in the period ending 31 December 1948 by a lump sum of approximately 6,200,000 Icelandic Kronur.<sup>187</sup> It was

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186. See ICAO Doc. 7000-JS/550, pp.8-9

187. Approximately \$380,600 (U.S.)

- tentatively agreed that payment of 80 per cent of this amount should be made to Iceland before 31 December 1948 and the balance thereof 30 June 1949.
- c) The reimbursement of current actual costs of operation should commence from 1 January 1949 with interested States contributing proportionately up to an agreed maximum figure. An amount of 3,834,190 Icelandic Kronur per annum was considered a reasonable maximum. 188
  - d) The initial proportions of contributions by States should be based on published schedules of weekly round trips across the North Atlantic, excluding flights scheduled to stop at the Azores or Bermuda, and be subject to readjustment by the Council of ICAO in the light of any new information concerning the extent to which the facilities were used by individual contributing States.
  - e) Having regard to the direct aeronautical benefits to Icelandic domestic and international air services, and the indirect benefits gained particularly through the import of foreign currency and improved communications for Icelandic nationals and commerce, it was considered reasonable to allocate 20 per cent of the actual cost of operation to Iceland.
  - f) It was tentatively agreed that the Conference should attempt to arrive at a Final Act containing recommendations fixing the obligations of the contributing States and the Organization, and setting forth the substance of an agreement to be concluded between the Government of Iceland and the Organization. Each individual contributing State should notify the Organization of its concurrence in the recommendations of such Final Act and of its consent to be assessed in accordance with Article 73 of the Convention.
  - g) The Organization should, upon the close of the Conference, proceed to the conclusion of an agreement with Iceland, providing for the services to be operated and maintained by Iceland, and for the financial obligations of the Organization towards Iceland. The agreement would necessarily contain a stipulation that the obligation of the Organization to make payments to Iceland be limited to payment of amounts actually received from contributing States under the terms of the agreement."

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188. Approximately \$254,800 (U.S.)

The Second North Atlantic Regional Air Navigation Meeting was held in May 1948, in Paris. At this Conference, the Report of the ICAO Technical Mission to Iceland was reviewed and it was confirmed that there was a necessity for such Icelandic services, for the safe and regular operation of international air navigation on the North Atlantic. Further, the Conference noted the aeronautical significance of Iceland, especially during unfavourable meteorological conditions, and recommended for a Conference to deal with this subject.

On 12 May, 1948, letters of invitations were sent to member states,<sup>189</sup> (interested in this project) to attend the Conference on Air Navigation Services in Iceland.

The first Conference for Air Navigation Services in Iceland was held in Geneva, in June 1948.<sup>190</sup> Three Working Groups<sup>191</sup> were established at the Conference.

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189. Belgium, Canada, Czechoslovakia, Denmark, France, Ireland, Mexico, the Netherlands, Norway, Sweden, the United Kingdom, the United States, and an invitation was also extended to the International Meteorological Organization.

190. See ICAO Doc. 7000-JS/550, for a detailed report on this Conference.

191. Viz., a technical working group, a financial group and a legal (drafting) working group.

For the purpose of our discussion, we will only consider the work of the Legal (Drafting) Group, this Group comprised of representatives from Canada, the Netherlands, Norway, the United Kingdom, and the United States. Mr. Wilberforce, a member of the U. K. delegation was appointed as a Chairman. Subsequently, Brigadier C. S. Booth, a member of the Canadian delegation succeeded as a Chairman.

The main purpose of this Group was to study certain legal questions with regard to the proposed form of the Final Act and the contemplated Agreement, to review and to draft the Final Act; to prepare the final text of such parts of the proposed agreement between Iceland and the Organization. This was also recommended by the Conference to the Council.

Work of the Legal (Drafting) Working Group:-

This group mainly concentrated on the preparation of the Final Act of the Conference, which sets forth the arrangements for the financing of the services in a detailed resolution.

The Final Act, when accepted by the various signatory states in the manner provided by their respective laws, has a binding and continuing effect as between the Organization and the signatory states, although the states undertake no obligations inter se.

The arrangements contained in the Final Act make a new approach to international financing which has provided

a model for subsequent projects.

The essential features of the arrangement can be summarised as under:-

- (1) to make use of the existing mechanism afforded by Chapter XV of the Chicago Convention.
- (2) to provide the Council with funds to finance the projects, and
- (3) it is up to the Council to enter into an agreement with the assisted state (e.g. Iceland.)<sup>192</sup>

From the above-mentioned analysis, it can be seen that the contributing states have no direct contractual relation with the assisted state; they merely contribute the money to enable the Council to finance such a contract.

To carry out this scheme, the Final Act of the Conference contained a detailed resolution recommending that the Council of the Organization should proceed to assess contributing states the requisite amounts for the support of the scheme upon certain terms and conditions, and that the contracting states consent to such assessment.<sup>193</sup> The resolution also contained a recommendation that the Council forthwith enter into an agreement with Iceland to give effect to this agreement and, in particular, for the purposes of securing the provision, operation and maintenance of the air navigation services. Although the general character of this agreement

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192. Under the present agreement of 1956, the Council is no more a party to the agreement, it plays the role of a co-ordinator only.

193. This being the procedure, formally recognised by Article 73 of the Convention.

will be determined largely by the terms of the Conference recommendations, the discretion of the Council as to the consent of the agreement is left unrestricted.

The Conference recommendations deal with a number of details such as times at which payments to Iceland will be due; method of assessment; deficiencies in payment of assessments and their re-adjustment; the undertaking of contributing states to furnish a statement to the Council, with full particulars of actual flights made by their scheduled airlines; currencies in which payments shall be made to Iceland, and the responsibility of the Council including the supervision and inspection of the operation of the Icelandic services; maintenance of accounts under the arrangements; and the audit of Icelandic expenditures and report thereon to the contributing states.

To ensure the success of the scheme, it was also provided that no consent to the initial assessment shall become effective until consents have been received from contributing states representing an aggregate of not less than 80% of the total assessments for the initial period of operation ending 31 December, 1948.

The percentages of assessments were determined on the basis of information submitted by signatory states in compliance with paragraph 4 of the Final Act, <sup>194</sup> on the number 194.

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ICAO Doc. 7000-JS/550, pp.20-21



of transatlantic crossings on the northern route made by all civil aircraft in both scheduled and non-scheduled flights for the twelve months' period from 1 July, 1948 to 30 June, 1949, excluding flights to the Azores and Bermuda, and excluding also, for reasons of convenience, the flights reported over various sectors of the North Atlantic route.<sup>195</sup>

The Final Act of the Conference makes specific recommendations to each of the interested states, to Iceland and to the ICAO Council concerning the principles and procedures to be followed in financing on an international basis the costs of air traffic control, communications and meteorological services located in Iceland. These services have been found essential for safe, efficient and regular international air transportation over the important North Atlantic routes.

<sup>196</sup>  
The agreement provides that if a dispute arises between States respecting the interpretation of the agreement, the Council is to have authority to deal with the dispute and the Council's decision is to be final and binding upon the parties concerned.

Report of estimated costs should be submitted by the Icelandic Government before 31 October, of each year. The Council can examine and audit such accounts.

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195.

The Council Resolution fixing the assessments for 1950, was adopted on 13 December, 1949-See Ibid., p.65

196. See ICAO Doc. 7000-JS/550, Appendix D, p. 54.

The agreement was signed by the President of the Council and the representatives of Iceland, both duly authorised, on 16 September, 1948.

Upon the signature of the Final Act, the Council unanimously accepted the recommendations contained in the Final Act of the Icelandic Conference and took action to assess the contributing states in accordance with Article 73 of the Convention.

The Council passed a resolution at its meeting on 26 June, 1948, which reads as under:

"WHEREAS the Council, in conformity with the provisions of Chapter XV of the Convention and relative acts of the Council and the Assembly, has noted the recommendations of the Conference on Air Navigation Services in Iceland:

THE COUNCIL RESOLVES:

- a) That the recommendations of the Final Act of the Conference signed at Geneva on 26 June 1948 and addressed to the Council are accepted and that action will be taken by the Council in accordance therewith;
- b) That, pursuant to Article 73 of the Convention, the Contracting States signatory to the Final Act of the Conference, whose airlines use the Iceland Air Navigation Services, be and are hereby assessed for the period ending 31 December 1948 and for the calendar year 1949 in accordance with the terms and conditions and in proportions set forth in the Final Act; and that the signatory States be requested to notify the Council of their consent to be assessed in accordance with the Final Act at the earliest possible date.

62. 21  
THE COUNCIL FURTHER DECIDES, in accordance with Chapter XV of the Convention, to enter into an agreement with the Government of Iceland to give effect to the purposes of the Final Act of the Conference; that the terms and conditions of such agreement shall conform in principle with those recommended in the Final Act; that the draft form of agreement submitted by the Conference to the Council be taken into account; and that a draft text of such an agreement with the Government of Iceland be prepared and laid before the Council for its consideration and formal action at the beginning of its next session."

The annual review of Iceland's rate of participation in the arrangement was a complicated matter facing the Council in connection with the assessment. In 1951, Iceland applied for reduction of the rate contending that benefits derived by Iceland are substantially lower than 17½% fixed by the Conference of 1948. In the beginning Iceland did not participate in the Ocean stations scheme and the Air navigation services in Greenland. Subsequent negotiations achieved the adherence of Iceland to both the Ocean stations and Danish arrangements for Greenland and the Faroe Islands.

In 1951, the Council approved the transfer of the main meteorological office from Reykjavik to Keflavik and the inclusion of the Upper Air Observation station in Keflavik under the joint support scheme. These new services had the unanimous consent of the participating states and were included in the assessment programme of 1954.

197.

See ICAO Doc. 7083-C/830

198. These new services are included pursuant to Article 2 (c) of the agreement, (1948)

The Council also recommended the inclusion of  
<sup>199</sup>  
 hourly observations at Holar, but these new services  
 were never implemented as the participating states did  
 not agree unanimously. New services at Grindavik for  
 ground-wave transmission were proposed in connection  
 with the 1955 and 1956 assessment programmes, which  
 were subsequently consented to, by all the participating  
<sup>200</sup>  
 states.

Different method of financing:-

A new method was devised for the financing of the  
 capital expenditures required (pursuant to Article 7  
 of the agreement) for a new transmitter building at  
 Rjupnahaed. The building was deemed necessary by the  
 Council. Due to the inability of Iceland to finance  
 the costs of the new building, the Council suggested  
 that the Government of Iceland should approach the  
 International Bank for a loan.

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199.

See ICAO Doc. C-WP/1620, pp. 3-9

200.

See ICAO Doc. C-WP /1840 and 2064

As payments of amortization and interest are provided for through annual contributions of the participating states, the International Bank was willing to grant the loan on the condition that differences between the rates of amortization and interest required by the Bank and those specified in the arrangement were reconciled. Consequently, a protocol, amending the rates of amortization and interest in the Annexes to the agreement so as to facilitate the loan, was signed in Brighton on 13 July, 1953, following unanimous consents from the participating states.

In the following Chapter, we will consider Danish arrangements. Present Icelandic arrangement of 1956, will also be considered in details, in Chapter VII of this paper.

## CHAPTER VI

### 'DANISH ARRANGEMENTS'

The importance of Greenland for international aviation became evident during the early years of the Second World War.

As the aircraft on long-distance flights across the Atlantic follows the shortest possible route, it was desirable to set up air bases in the Arctic. The location of these bases were recommended between main centres of population in the Eastern part of the United States and Canada and North-western Europe. This great circle course passes over central Labrador, Southern Greenland and Iceland. Particular importance is attached to Greenland, because of its geographical position (as it is half-way on the route between Europe and the U. S. A. and Canada.)

The bulk of trans-Atlantic great circle flights pass to the south of Greenland and knowledge of the pressure distribution to the north of the main great circle routes from Europe to America is essential in making wind forecasts and deciding the route to be taken by any particular flight.

Denmark, which holds sovereignty over Greenland,<sup>201</sup> has been operating meteorological stations, along the coasts of Greenland for many years. Further, Denmark was asked to provide new instruments by the ICAO Regional Navigation Meetings. This was a heavy burden placed upon Denmark alone and as such a special meeting of North Atlantic States was convened in London, during April 1949, under the auspices of ICAO. The purpose of this meeting was to draft an international<sup>202</sup> agreement, for the financing of meteorological and telecommunications facilities already provided, or to be provided, by Denmark in Greenland, in accordance of Chapter XV of the Convention.

The London Conference, simultaneously, examined the Danish request for the international financing of<sup>203</sup> the Loran station at Skuvanes in the Faroes.

Operation of the Faroes Loran station was initially undertaken by the Government of the United Kingdom, during the Second World War, but was taken over by the<sup>204</sup> Danish Government on 9 November, 1946.

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201. During the Second World War, with the consent and co-operation of the wartime Danish administration in Greenland, the U. S. Military forces assumed principal responsibility for the extension and development of the Greenland Weather Services.
202. Which was similar to the Icelandic Agreement of 1948; See ICAO Doc. 7000-JS/550.
203. See ICAO Doc. 7103-JS/552, for a detailed report of this Conference.
204. Ibid, ICAO Doc. 7103-JS/552, p. 3

Position of the Danish Government--Request under Chapter XV.

During the First PICA0 North Atlantic Route Conference, (DUBLIN, 1946), the delegate of Denmark made a statement that it will not be possible for the Danish Government to accept the financial responsibility for the operation and administration of the stations in Greenland and the Faroes.

Further, the Danish delegate expressed the view,<sup>205</sup>  
'that the Danish Government believed it to be just and fair that part of the costs (operation of stations) be reimbursed through ICA0 by the interested states, according to the principles already recognized in the field of<sup>206</sup>  
air navigation services in the North Atlantic Region.'

On 13 January 1949, the Organization received from the Government of Denmark, a request, submitted under Chapter XV of the Convention, for the reimbursement on an international basis of the costs of establishment and operation of the Skuvanes Loran station in the Faroes Islands. This request was first, considered by the Committee on Joint Support of Air Navigation Services, and the Council decided to convene a Conference on the financing of the Skuvanes Loran station. The Conference was arranged alongwith the Second Conference on N.A.O.S.<sup>207</sup>  
and the ICA0 Conference on Air Navigation Services, Greece.

205. At the First Session of the ICA0 Assembly, held in Montreal, in 1947.

206. ICA0 Doc. 7103-JS/552; p. 4.

207. These three Conferences being designated as ICA0 Conferences on the Joint Financing and Operation of Air Navigation Services, London, 1949.



Three committees were established at the Conference,  
<sup>208</sup> <sup>209</sup>  
 viz., a Technical, a Financial and a Drafting Committee.

The Financial Committee recommended that all States, whose airlines used the facilities under consideration should be assessed in agreed proportions computed on the basis of the average number of scheduled flights per annum across the North Atlantic, excluding flights with stops at the Azores or Bermuda. Since 1951, the basis for assessment was left to the Council of ICAO, with an indication that consideration should be given not only to information on scheduled flights, but also to such data as might be obtained on other aircraft movements and non-aeronautical benefits.

The Drafting Committee had followed the Icelandic  
<sup>210</sup>  
 Agreement of 1948, and recommended the same form of  
<sup>211</sup>  
 agreement. The Final Act, when accepted by the various signatory states in the manner provided by their respective laws, has a binding and continuing effect as between the Organization and the participating states, although the states undertook no obligations inter sese.

The essential features of the arrangement was to make use of the existing mechanism afforded by the Chicago Convention (Chapter XV) to provide the Council

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208. Report of Technical Committee, See ICAO Doc. 7103-JS/552, p. 39

209. Report of Financial Committee, See ICAO Doc. 7103-JS/552, pp. 40-41

210. ICAO Doc. 7000-JS/550.

211. which consisted of the Final Act and an Agreement.

with the funds to finance the project, and for the Council then, to enter into an agreement with the assisted state, Denmark, to govern the operation of the project. The contributing states were to have no direct contractual relations with the assisted state, they were merely to contribute the money to enable the Council to finance such a contract.<sup>212</sup>

<sup>213</sup>  
Under the terms of the Final Act of the Conference, signed on May 12, 1949, Denmark was to be reimbursed by participating states for 90% of the cost of past, current and future maintenance and operation of the services and facilities in Greenland and 95% of the cost of maintaining and operating the Skuvanes station.

In June 1949, the Council concluded the requisite agreement with the Government of Denmark and passed a resolution required under the terms of the Final Act, whereby, it was to assess the participating states according to proportionate benefits received by each of them from the international services and facilities.

Under this arrangement, the United States was to contribute between 50 and 60% of the sum reimbursed to Denmark by the participating states for the period ending 31 December, 1949 and the calendar year 1950.

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212. Presently, the position has been changed and the Council is no more a party to the Agreement of 1956.

213. ICAO Doc. 6755, pp. 1-7.

The arrangement was to come into force upon receipt by the Council of consents from states, the aggregate of whose assessments was not to be less than 80% of all assessments for the period ending 31 December, 1949.

This agreement is similar to the Icelandic Agreement of 1948, which was discussed in detail in the<sup>214</sup> last chapter. But, the Danish Agreement incorporates two additional provisions, which may be considered as an improvement on the Icelandic Arrangement, namely:

a) 'provision for the Council to decide the application of a different twelve-month period than the one specified (i.e. the twelve-month period ending 30 June of the preceding year for which the assessment is to be made); for the statistics concerning aircraft movements which are to be used as the basis for the assessment of each year after 1950;

b) provision for the Council to establish, in agreement with Denmark, the rates of exchange to be used in making payments to Denmark after consultation with the International Monetary Fund.'

<sup>215</sup>  
Denmark considered that the Final Act "constituted an inspiring confirmation of the fact that it was still possible, in this troubled World, for governments to act on the basis of confidence and equity without the<sup>216</sup> security of written law."

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214. The Agreement was signed by the President of the Council and the representative of Danish Government, both duly authorized, on 9 September 1949, in Montreal, See ICAO Doc. 6904 or ICAO Doc. 7103-JS/552, pp. 87-92

215. See *ibid*, pp. 18-28 for the Final Act.

216. See *ibid*, p. 12

The 1949 Joint Financing Agreement between the Council and the Government of Denmark consisted of the Loran Services and the Greenland Services. Subsequent modifications with regard to the services have on several occasions, been made either by explicit action with the consent of the participating states or gradually through implementation by Denmark of the recommendations of the Technical Committee of the 1949 Conference on<sup>217</sup> Air Navigation Services, in Greenland and the Faroes.

There were number of reservations at the Conference,<sup>218</sup> which were resolved by negotiations afterwards.

As the provisions of this agreement are similar to the Icelandic agreement, they are not discussed here. Because of their similarity, the Council decided in 1956, to hold a Conference, to revise these agreements. This being the present position recent events respecting these agreements will be discussed in the next chapter.

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217. The historical review of the significant modifications of the services, is set out in JF/DEN/ICE-WP/3.

218. See JF/DEN/ICE-WP/3, p. 3

## CHAPTER VII

### 'Danish and Icelandic Arrangements, 1956'

The Joint Support Committee, at its first<sup>219</sup> meeting of the 24th Session, recommended to the Council to convene a Joint Financing Conference for the revision of the existing Danish and Icelandic Arrangements. Further, a Working Group was established to facilitate the work of the Conference and was entrusted to prepare a draft of the arrangements.

The Working Group noted that Joint Financing projects under Chapter XV of the Convention may be divided into two main categories:-

1. Projects initiated at the request for aid by a Contracting State in respect of:
  - a) provision for all or a portion of the costs of air navigation services and facilities provided, manned, maintained and administered by the aided State.<sup>220</sup>
  - b) provision, manning, maintenance and administration by the Council of air navigation services and facilities required in a Contracting State.<sup>221</sup>
2. Projects initiated by the Council.<sup>222</sup>

Arrangements in this category would concern means for giving effect to recommendations for improvement of air navigation services and facilities but excluding the financing, provision and maintenance of services and facilities by Council which can only take place at the request of a State.

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219. Held on 17 February, 1955, See JF/DEN/ICE-WP/2.  
 220. Article 70 - last sentence.  
 221. Article 71.  
 222. Articles 69 and 70.

Danish and Icelandic Agreements of 1956, fall<sup>223</sup>  
under the 1 (a) category mentioned above.

In April 1956, the Working Group finalised the draft model arrangements in the light of the comments received from the participating States. These comments were accepted as the basic working paper for the consideration of the Conference by the Joint Support Committee.

The main difference between the existing agreements and the model draft, lies in the change from a system of individual limits for assessments to that of an overall maximum cost limit for the services being jointly financed.

Article VI of the Model Agreement achieves maximum equity and simplification by introducing procedures according to which advances from the contributing states take the place of final assessments, until both approved costs and statistics showing the benefits derived are available in respect of the same annual period, when the necessary adjustments are made.

The Rules of Procedure for the 1956 Joint Financing Conference were similar to the one adopted by<sup>224</sup>  
the Fourth N.A.O.S. Conference and the First ECAC<sup>225</sup>  
Conference.

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223. Two papers were prepared by the Secretariat, which were sent to States concerned for their comments, See JF-WG/44, SIMP/1 & JF-WG/45, SIMP/2.  
224. See N.A.O.S. - IV - WP/25.  
225. See ECAC/1-WP/4.

A Conference was convened by the Council on 6 September, 1956, in Geneva, to revise the arrangements with the Governments of Denmark and Iceland for the joint financing of certain air navigation services. <sup>226</sup>

<sup>227</sup> The Conference established five Committees, viz., a General Committee, a Technical Committee, a Financial Committee, a Drafting Committee and a Co-ordinating Committee.

<sup>228</sup> The Conference considered:

- " a) that the joint financing of certain air navigation services provided by the Government of Denmark and the Government of Iceland is justified and that appropriate arrangements should be concluded, pursuant to the principles of Chapter XV of the Convention, for the purpose of providing such joint financing;
- b) that experience with earlier projects for joint financing has shown that there appeared to be advantage in basing joint financing arrangements on agreements between the interested States, with the Council acting in an administrative capacity with specifically defined responsibilities, rather than relying on agreements, on terms decided by a conference, between the Council and the Government of Denmark and the Government of Iceland;
- c) that there is nothing in Chapter XV of the Convention to prevent the adoption of arrangements as proposed by the Conference;
- d) that these arrangements are also consistent with the general policy relating to joint financing of air navigation services as laid down by the Assembly of the Organization in Resolution A1-65."

226. See ICAO Doc. 7725-JS/562 for the report on the Proceedings of the 1956 ICAO Joint Financing Conference.

227. Mr. D. Haguenan, head of the French delegation was elected Chairman of the Conference, and Mr. S. Sorenson, head of the Swedish delegation was elected as Vice-Chairman.

228. See ICAO. Doc. 7725-JS/562, p.4.

The Conference expressed the following opinions:-

- 1) that the Council is acting in an administrative capacity with specifically defined responsibilities.
- 2) that there is nothing in Chapter XV of the Convention, preventing the adoption of proposed arrangements by the Conference.
- 3) that these arrangements are also consistent with the general policy relating to joint financing of air navigation services as laid down by the Assembly in Resolution A1-65.

Further, the Conference approved the texts of the following Agreements:

- (i) an Agreement on the Joint Financing of certain Air Navigation Services in Greenland and the Faroe Islands;<sup>229</sup>
- (ii) an Agreement on the Joint Financing of certain Air Navigation Services in Iceland.<sup>230</sup>

The Conference also approved a report on its proceedings and referred this report to the Organization for action.

The Conference noted that, on 18 July, 1956, the Council authorized its President, inter alia, to take on behalf of the Council such action as appeared necessary and appropriate in the light of the proceedings of the Conference, including the signing of any relevant instruments developed by the Conference, for arranging with the Governments of Denmark and Iceland for the suspension and/or termination of the Agreement dated 9 September, 1949 between the Council and the

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<sup>229</sup> ICAO Doc. 7726-JS/563.  
<sup>230</sup> ICAO Doc. 7727-JS/564.



Government of Denmark on certain Air Navigation Services in Greenland and the Faroe Islands, and the Agreement dated 16 September, 1948 between the Council and the Government of Iceland on certain Air Navigation Services in Iceland, respectively. The Conference<sup>231</sup> passed two recommendations terminating the old Danish and Icelandic agreements. The Conference was attended<sup>232</sup> by fifteen member states, W.M.O. and I.A.T.A.

At the Conference, the French delegation confirmed the principle laid down in Resolution A1-65 of the first session of the ICAO Assembly, and stated<sup>233</sup> as under:-

"The provision of financial and technical aid through ICAO will always be based on voluntary actions on the part of contracting States."

But, they were of the opinion that the Danish and Icelandic Joint Financing Agreements placed too many responsibilities upon the Council, with two disadvantages following from such machinery:-

- ' (1) these responsibilities would increase the burden of the Council at a time when the common desire is to reduce its work-load by concentrating it on essential tasks;
- (2) the envisaged machinery commits participating states in the financial and technical fields through decisions that would be taken by a body comprising a certain number of non-interested and non-participating states.'

231. Recommendations Nos. 7 & 8, See ICAO Doc. 7725-JS/562, pp. 12-14.

232. Members attending the Conference were: Belgium, Canada, Denmark, France, Federal Republic of Germany, Iceland, Israel, Italy, the Netherlands, Norway, Sweden, Switzerland, the United Kingdom, the United States and Dominican Republic.

233. See JF/DEN/ICE-WP/33.

However, they proposed for the administration of the agreement that it should be allocated between --

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- (a) an ad hoc Committee consisting of one representative from each of the participating states and the aided state, and
- (b) the Secretary General of ICAO, duly authorised by the Council to discharge certain responsibilities laid down in the agreement and acting for and on behalf of participating states.

The United States proposed that the administration of the joint support arrangements should be conducted by the Council pursuant to the powers set forth in Chapter XV of the Convention, in a manner inconsistent in general with the past principles that body applied to such administrative supervision. This proposal was examined by the General Committee. The proposal was adopted by 10 to 3, with one abstention. However, the French delegate pointed out that direct administration of these agreements by the Council was not obligatory under Chapter XV of the Convention.

Canadian authorities considered that these arrangements impose an unnecessary heavy administrative burden on the ICAO Secretariat, operating Governments and participating States.

The Canadian delegation suggested that new agreements should provide minimum of administrative burden commensurate with adequate financial control and efficient operation.

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234. This proposal was rejected in General Committee by 8 to 5, with one abstention, See JF/DEN/ICE-WP/66.

It suggested that this objective could be achieved by:

- ' (a) adopting the financial procedures used in the United Nations and most of the Specialized Agencies,
- (b) granting to the Council authority to approve the estimates, supplementary estimates, assessments and accounts without securing the consent of each participating state, and
- (c) abolishing ceilings on overall expenditures and contributions of individual states.'

Present Joint Support or Joint financing Agreements in general contain stipulations of the following nature:-

- (1) the Secretary General shall generally supervise the operation of the services and may at any time arrange for inspection of the services, including any equipment used in connection therewith;
- (2) the costs may be increased by the Council with the consent of all the contracting states;
- (3) the contracting states agree to share 95% of the approved annual costs of the services in a proportion to the aeronautical benefit derived therefrom by each contracting state;
- (4) the Government of each participating state shall furnish the Secretary General not later than six months after the end of each calendar year, a statement of the actual costs of the services during that year. The Secretary General shall subject the statements to such audit and other examination as he deems appropriate and shall furnish to each participating state a report of the audit;
- (5) the statement of actual costs for each year shall be subject to approval by the Council;
- (6) the Council may, subject to....and in agreement with the Government of Iceland (or Denmark), include under the agreement new capital expenditures necessary for the proper operation of the services.

235. See JF/DEN/ICE-WP/30.

236. Similar rules should in my opinion, be applied to the operation of ocean weather vessels.

It should be noted that the drafters of the 1956 Agreements had in mind the complications, which normally arises, if specific mention is made of certain things in the Annexes. As a result, they decided to have Annexes with general terms, so as to avoid amendments of these Annexes every now and then.

Article III of the Model Agreement, which corresponds with Article 3 of the existing Icelandic and Danish Agreements, deals with the manner in which the services shall be operated and refers in this connection to compliance with ICAO Standards, Recommended Practices, procedures and specifications, as a general rule. Since the ICAO and WMO regulations may be changed from time to time, it creates unnecessary complication, if the Annex goes into too much detail in respect of the manner in which the services are to be operated, because it requires consequential amendments to the Annex whenever ICAO or WMO adopt amendments. In drafting the new technical Annex, this point has been kept in mind, applying general terms whenever possible and incorporating only sufficient details so as to identify the type and scope of the services.<sup>237</sup>

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237. See JF/DEN/ICE-WP/12, p.2

Assessments under the existing Danish and Icelandic Agreements:

The ICAO Assembly resolution A1-65<sup>238</sup> established as a general policy of the Organization pursuant to actions under Chapter XV of the Convention, for any joint financing scheme, that such financing will be provided collectively by those states which will benefit from the jointly financed services, and that in assessing the amount of contribution of each state, account will be taken of the benefit that may be derived by such state. Above all, there is the basic principle that the provision of financial and technical aids through ICAO will always be based on voluntary actions<sup>239</sup> on the part of contracting states.

From the above, it can be seen that the basic factors determining the assessments for any joint financing scheme are:

- a) benefits to be derived by the participating states from the services;
- b) cost of the services to be jointly financed;
- c) consent of the participating states to be assessed.

In the existing Danish and Icelandic arrangements, the Council has been governed by the principle that the costs of the services should be borne in proportion to the aeronautical benefits derived by each of the states from the services concerned, provided that the Council may take into account, so far as practicable, the non-aeronautical benefits.<sup>240</sup>

<sup>238</sup>. See Appendix I.

<sup>239</sup>. See JF/DEN/ICE-WP/20.

<sup>240</sup>. Assessments machinery was provided in Article VI of the draft agreement.

'Difference between the Old & New Agreements';-

At the ICAO Joint Financing Conference for the revision of the existing Danish and Icelandic Arrangements, held in Geneva, in 1956, there was a general agreement to change the old style of having important provisions in the Final Act. The basic difficulty encountered by the Conference was to separate the Final Act from the Agreement. In the old agreements dual bases were established for the administration of the scheme by making the separation between a Final Act, signed by participating states and an Agreement between the Council and the aided State. In other words, although the Agreements were concluded between the Council and the Governments of Iceland and Denmark, the scope of the services and the cost of providing them, as well as the assessments of contributing States,<sup>241</sup> are tied to the Final Acts of the respective Conferences.

In fact, this dual basis has hampered the orderly development of the schemes, as it was difficult to have full consistency between related instruments and also between projects, and partly it was due to the absence<sup>242</sup> of any method of amending the Final Acts.

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241. See JF/DEN/ICE-WP/9.  
 242. ICAO Doc. 7000-JS/550 &  
 ICAO Doc. 7103-JS/552.

It was generally felt at the Conference that although the Council entered into the Agreements as a party on behalf of the States, its powers were intended as those of a Co-ordinator. This situation added a number of complexities to the administration of the projects.

It is worthwhile mentioning here that the N.A.O.S. Agreement differs from the Old Agreements,<sup>243</sup> in the sense that the N.A.O.S. project is covered by an agreement between all participating States, with the Council, designated as a Co-ordinator. This system was considered very valuable by the representatives of the 1956 Conference, and as such was used in the revision of these arrangements.

One of the major aims in preparing model draft of these arrangements, was to have standardized provisions for the two separate agreements as much as possible.

The proposed new arrangements consisted of a Final Act and an agreement.<sup>244</sup> The Final Act of the 1956 Agreement contains formal provisions and pertinent recommendations and leaves the agreement as a completely self-supporting instrument, with Denmark and Iceland (the aided States) and the contributing States as direct parties. The Council has, however, in the agreement been

243. See ICAO Doc. 7000-JS/550, and ICAO Doc. 7103-JS/552.

244. See JF/DEN/ICE-WP/2.

given specific responsibilities as a Co-ordinator or an administrative party.

As the States cannot impose responsibilities of this nature, without the consent of the Council, the question arises as to the form in which the Council may accept its tasks. In the past, no difficulty arose in connection with the Council's responsibility under the N.A.O.S. agreement, but it would be advantageous if the Council could express its consent at the same time as an agreement is signed by the States concerned. This was incorporated in the draft Final Act of the model arrangements,<sup>245</sup> whereby the President of the Council was authorised to sign the agreement, as an indication of the Council's willingness to accept its responsibilities alongwith the signatory states.

The General Committee of the 1956 Conference had recommended

- (1) that there should be two separate agreements, one for Denmark and one for Iceland;
- (2) that they should have the greatest possible similarity;
- (3) that they should be made directly between the participating States and Denmark and Iceland respectively; and
- (4) that the President of the Council should sign the Agreements on behalf of the Council, thereby accepting, subject to final confirmation of the Council, the duties and responsibilities assigned to it and the Organization under the terms of the Agreements.

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<sup>245</sup>. See Clause V of the draft Final Act, JF/DEN/ICE-WP/2.



But the President of the Council did not sign the Agreements and there was a controversy on this point.<sup>246</sup> If we look at the Agreement, ICAO is not at all mentioned in the beginning of the Agreement.<sup>247</sup> The Agreement reads as under:

"The Governments of.....  
 .....  
 DESIRING to conclude an agreement.....  
 .....  
 HAVE AGREED as follows:"

The Agreement concludes as under:

"IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have, on behalf of their respective Governments, signed this Agreement.."

As such, it is irrelevant for a person or a body (ICAO) to sign an agreement in which he or it is not mentioned as a party. But, as the agreement deals with the functions of the Secretary General and the Council of ICAO, it is desirable to have a formal acceptance by the Organization of the functions cast upon it (including its bodies, such as the Council and the Secretary General). The declaration should be endorsed on the Agreement itself. But, this system has not been followed in the existing Danish and Icelandic agreements. Normally, the Council passes a resolution accepting the responsibilities mentioned in the said agreements.<sup>248</sup>

<sup>246</sup>. See C-WP/2283, pp. 9-10, for comments regarding the signing of the 1956 Danish and Icelandic Joint Financing Agreements by the President of the Council.

<sup>247</sup>. See Appendix III

<sup>248</sup>. For a summary of the main responsibilities of the Organization under the new agreements, see Appendix IV.

Inclusion for new services:

New services can be included by following the  
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procedure mentioned hereunder:

- "(1) Additional services may be introduced when agreed upon between the aided state and the Council, with the proviso, however that the consent of all participating states is necessary, when the addition is of a substantial nature.
- (2) New Capital expenditures on account of the services may be agreed upon between the aided state and the Council without the specific consent of the states.
- (3) Renewal of buildings and equipment from contributions received for depreciation may be undertaken by the aided state without the specific approval by the Council or consent from participating states."

From the above-mentioned analysis, it can be seen that the signatory states have granted the Council, a very wide power in the running of the scheme.

The advantages of the new agreements as compared with the old ones were as follows:-

- " a) they eliminate individual maximum assessments and therefore the need to obtain individual consents except in certain special circumstances;
- b) they relate the maximum total project costs to hard currency values;
- c) they contain identical principles and procedures and establish a single basis for administration, without reference to Final Acts or other instruments;

- d) they accomplish truly equitable sharing of the costs amongst participating states by relating costs to benefits derived in the same year;
- e) they establish a uniform basis for evaluation of all benefits in respect of all services; and
- f) they simplify annual assessments by relating them to the latest available approved actual costs, thus eliminating a delay and a series of administration adjustments which used to be obscure in the old agreements."<sup>250</sup>

The new Danish and Icelandic agreements can be used as models for any future joint financing agreements of a similar nature.

The main responsibilities of the Council are those of a co-ordinator, similar to those which the Council has accepted on several occasions in the<sup>251</sup> past.

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250. See C-WP/2283, p. 2.

251. Articles IV, VII, VIII, IX, X, XII, XIII, XIV, XX, and XXVI of the new agreements specify the main responsibilities of the Council of the Organization.

Secretary General's role in these agreements:-

A Report was prepared by the Secretary General, concerning the development and administration of the Danish and Icelandic Joint Financing Arrangements.<sup>252</sup> This Report was submitted by the Secretary General at the 1956 Conference and it reviewed the facilities and services under joint financing.<sup>253</sup>

Normally, the Council collects statistics covering civil aviation crossings over the North Atlantic annually, in order to evaluate the benefits derived therefrom for annual assessments.<sup>254</sup> The Council has authorized the Secretary General to arrange for the annual audits of actual costs. Extraordinary expenses by the ICAO are to be covered from the 'margin funds'. The Council has also authorised the Secretary General to defray the costs from the interest yields of the invested 'margin funds'.<sup>255</sup>

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- 252. See JF/DEN/ICE-WP/10, dated 28 May, 1956.
  - 253. The review was for eight years, i.e. from 1948-1956, including the Provisional Arrangement for Vik Loran, which was incorporated in Icelandic Agreement of 1948.
  - 254. Under N.A.O.S. annual assessment is made for a calender year, whereas under Icelandic and Danish Agreements, fiscal year (i.e. 1 July to 30 June) is taken into consideration.
  - 255. See C-WP/1733.

There is also hesitation on the part of States to leave sufficient discretion to the Council and the Secretary General pertaining to the administration of the services, coupled with only limited reliance on planning by the financed State.<sup>256</sup> It has necessitated an extremely cumbersome system of annual assessments involving all the following steps:-

1. submission of annual estimates by the financed state;
2. approval by the Council of the annual estimates;
3. determination by the Council of any additional assessments.
4. approval by the Council of the annual assessments;
5. securing of consents from participating states in respect of any excess assessments;
6. audit and approval by the Council of the actual costs; and
7. final adjustments.

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256. For a detailed summary of the responsibilities of the Secretary General, see Appendix IV.

CHAPTER VIII'Interpretation of Danish and Icelandic Agreements:'

In September 1960, the Joint Support Committee discussed the manner of application of Articles V and VI of the Danish and Icelandic Joint Financing Agreements. This question was discussed as the 1960 estimates, submitted by Denmark for the jointly financed services in Greenland and the Faroe Islands, exceeded the original limit set forth in Article V of the 1956 Danish Agreement.<sup>257</sup>

However, the Council approved the estimates which were in accordance with Article III of the agreement and its annexes. The Council further pointed out that this action did not imply that 'the Government of Denmark can expect to receive reimbursement for any expenses incurred in excess of the original limit prescribed by Article V<sup>258</sup> of the Agreement.

The Government of Denmark notified the Secretary General<sup>259</sup> that it was impossible to perform the services within the limit determined pursuant to the provisions of Article V. Denmark explained that the 1960 estimates were considered realistic and the differences between<sup>260</sup> estimates and actual expenditures was insignificant.

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257. See C-WP/3073, para. 7.  
 258. See ICAO Doc. 8057-1, C/922-1, paras. 12-16.  
 259. Under Article XXII (1) (b) of the Agreement.  
 260. See C-WP/3073.

Under Article XXII (1)(b), the Secretary General was required to determine the amount needed in excess of the ceiling provided under Article V.<sup>261</sup> The Secretary General was also required to approach the contracting Governments with a view to obtaining their consent to an increase of the ceiling.

The Council made it clear that the new ceiling established in connection with the North Atlantic Submarine cable system cannot be applied for non-cable purposes, unless or until the cable leases have been signed.<sup>262</sup> Pursuant to recommendations of the Second Special NAT Fixed Services meeting, held in Paris in January 1959, the Council approved that certain services in addition to those set out in Annex I to the Agreement should be included under the Agreement, namely, those relating to the NAT submarine cable. The Council had the power to include those services under the Agreement by virtue of paragraph 2 of Article XIII thereof. As a result, Annex I to the Agreement was amended accordingly<sup>263</sup> by the Council.<sup>264</sup>

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- 261. This amount was to be determined on the basis of the information provided by Denmark.
  - 262. Ceiling provided under Article V was \$1,234,525 (U.S.), which has been increased to \$1,922,652 (U.S.).
  - 263. See C-WP/3073, paragraph 7, last sentence.
  - 264. Such action by the Council is authorized by paragraph 6 of Article XIII.

By letter dated 11 March, 1959, all contracting Governments were notified that "thus the cable project was incorporated in the 1956 Danish and Icelandic Agreements with the unanimous consents of all the participating States."<sup>265</sup> All participating Governments had by 2 March, 1959, consented to the action taken by the Council in accordance with the recommendations of the special meeting above-mentioned. The action of the Council also included the revision upward of the ceiling of \$1,234,525 specified in Article V.

At the Joint Support Committee's meeting, held on 30 May, 1960,<sup>266</sup> Mr. J. H. Riddoch (delegate of the United Kingdom), asked for certain explanations concerning the relationship of Articles IX, X and XII of the Agreement. The Secretary of the Joint Support Committee explained "that Article XX enabled the Secretary General to make advances up to the Article V ceiling, and those advances could be related to the estimates as long as the ceiling was not exceeded." The ceiling of course included the margin for contingencies, or the so-called 'Reserve Fund' mentioned in Article X. Article XII was a protection for the Organization as it indicated that the Organization was under no obligation to pay out amounts over and above what had actually been received from States.

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265. See JS-WP/430, Den/74.

266. See JS-Draft/MIN XL-2.



Para 2 of Article XII allowed the Secretary General to advance payments due to the Government of Denmark by drawing on the ICAO Working Capital Fund in cases where he considered such advances essential. Of course, except for interest, the actual margin available was always simply what was 'left in the bank account', as indicated in para 1 of Article X, and that varied constantly with receipts and payments.<sup>267</sup> He further stressed that "the term 'Reserve Fund' was a misnomer, the term 'margin for contingencies' should have been used instead in Article X."

Further, Mr. Riddoch pointed out that it would be improper if the funds allocated to the North Atlantic Cable System in the new ceiling adopted in 1959 were used for another purpose. Article VI of the Agreement stipulated in effect that the limit might be increased by a stated amount "for the purpose only of establishing, operating and maintaining services which have not otherwise been provided for pursuant to this Agreement."

The President of the Council considered that such an interpretation of Articles V and VI was far too restrictive, as the whole conception of the Agreement was to give Council a certain latitude.

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267. In the form of advances or final settlements.

The Secretary of the Joint Support Committee<sup>268</sup> expressed the view that this was academic question, and stressed the fact that the Joint Financing Conference in 1956 had held the view expressed by the President rather than that of Mr. Riddoch. He further pointed out that the Conference had gone to some lengths at the 'drafting Committee' stage to see that any new Article V ceiling was not permanently delimited to a particular purpose. He further pointed out that "since unanimous consent of the participating States had been obtained in 1959 to increase the ceiling for the purpose of including the Cable System in the Agreement, such inclusion now come under Article XIII, para 2(b) and the provisions of Article VI were no longer applicable to the Cable System."

Finally, a question was put to the Legal Bureau, in<sup>269</sup> September, 1960. The question reads as under:-

"Can the ceiling of US \$1,922,652 be considered as applicable for the purpose of approving for the 1959 Danish actual costs which amount to US \$1,382,620?"

The Legal Bureau after considering the facts gave<sup>270</sup> an opinion as under:

"The foregoing tends to indicate that the additional overexpenditure presently under consideration is covered by the revised ceiling of Article V. To the contrary, it could be argued that the approval of the contracting Governments was in respect of a specific service, namely, the submarine cable one

268. See JS-Draft/MIN XL-2, p. 8.

269. See JS-WP/430, DEN/74.

270. See C-WP/3195, Appendix 1, pp. 6-7.

and does not pertain to the common expenditure fund which is the subject matter of Article V of the Agreement; and further that actual expenditure for the cable service was not incurred at all in 1959. These considerations do not, however, offset in any way the position arising from the following facts-----

- "- unanimous consent of all contracting Governments was received by 2 March, 1959,
- such consent was to the amending of Annex I by inclusion of the cable service,
- such consent also referred to the specific recommendation for increasing the limit in Article V,
- the revision of Article V applies with effect from 2 March, 1959 irrespective of the fact that prior to that date, namely, Article VI, applied to the new cable service; as unanimous consent was received at a date prior to the close of the financial year 1959, that date of unanimous consent is the effective date of amendment of Annex I and amendment of Article V in respect of the ceiling and hence should govern the state of accounts in regard to expenditure incurred for Services<sup>271</sup> specifically included in the Agreement."

Further, the Legal Bureau replied that "the merits and justification of the two items of overexpenditure are not in question here. The sole question is whether if those overexpenditure are, in their particular circumstances, regarded as properly incurred, there is any legal obstacle to regarding them as within the 'total cost of the services' to which Article V refers and for which Article V provides the ceiling."

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271. The definition of "Services" in Article I (d) applies to that word as used in Article V.

The Legal Bureau was of the opinion that the question referred to it should be answered in affirmative.

Some doubts were expressed at the Joint Support Committee, held in September 1960, about the legal opinion given by the Legal Bureau of ICAO.

Mr. Roy, Director of Legal Bureau explained that as the consent was not received simultaneously from participating States, the matter should be governed by Article V and not by Article VI. Further, he explained that Article VI is not applicable, when new services are included in the Agreement.

The President of the Council expressed the view that we are duly bound to levy the costs and assess the costs for 1961 according to the terms of the Agreement.

On 21 October, 1960, the President of the Council sent a memorandum to members of the Joint Support Committee, <sup>272</sup> analysing some of the articles of the Agreement and asked for their comments.

In this memorandum, the President has analysed important provisions of the Agreement and suggested that the Council should state the manner in which it intends to act when new cases of increases in the ceiling under Article V arise. He indicated two main points

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272. See WB/33, dated 21 October, 1960

which the Council should incorporate in its statements."<sup>273</sup>

- " 1) that it intends to increase any increases obtained with 100% consents as available for covering the audited actual costs of all the services incorporated in Annex I of the Agreements; and
- ii) that, when an increase in the limit has been approved for a new service and, because of delayed implementation, the sum in question is still not being used, the Council will ensure that this sum remains available for the implementation of this new service and, therefore, will seek States' consent to an increase of the Article V ceiling for covering any other new services or new capital expenditures in the existing services or any estimates for existing services which would exceed the previous Article V limit."

From the replies received from the members of the Joint Support Committee, five members agreed to the suggestions mentioned above, one member State had two<sup>274</sup> new points.

- " a) that, before using Article VI for adding a new service, the Council should seriously consider whether it is desirable to contemplate financing with less than 100% consents, and
- b) that, when seeking an increase in the ceiling pursuant to Article V and VI, the Council should specifically ask States if they agree, in event that 100% consents are obtained, that the new ceiling may be applied to all the purposes of the Agreement."

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273. See JS-WP/444, GEN/142, p.1.

274. Ibid. pp. 1 - 2 .

The President agreed with point a) and stated that "it is precisely what the 1959 Paris meeting did; it was clear that the States present wanted to refer to both Articles V and VI, since there was a possibility that 100% consents might not be obtained and yet the cable was considered so necessary that Governments were ready to finance it with only 90% consents."

However with point b) the President said, "I believe the Council itself should take the responsibility of administering the Agreements as they are written and intended to be used."

In my opinion, some states are interpreting Articles V and VI in a very narrow sense. By following a narrow interpretation, as suggested by few member states, it is not possible to implement new services. The State responsible, in good faith, will implement the new service and incur expenditures higher than the ceiling limit and there is no justification, if the amount spent is not refunded by the Governments parties to the Agreement. Each year the expenditures are ascertained and approved by the Council pursuant to Article VIII.

Majority of the members of the Joint Support Committee are of the view that it is consistent with the general tenor of the Agreement that the Governments should be aware of the actual costs for a particular calendar year before they are asked to consent to an increase in the limit imposed by Article V.

The President suggested the Joint Support Committee<sup>275</sup>  
to recommend to the Council that:

" a) in any future case where a new service cannot be financed within the limit of Article V, the Council<sup>276</sup> will consider carefully whether Article VI should be used.

b) if the decision on a) is in affirmative, the Council will seek States' consents, pursuant to Articles V and VI, to increase the limit in Article V, at the same time indicating to States that, if 100% consents are obtained, the new limit will be available for covering the audited actual costs of all existing services, incurred after a specified date. (Note: If less than 100% consents are obtained, Article VI, Para. 2, of the Agreements will cover the situation.)

c) when the limit has been increased with 100% consents in order to incorporate a new service, and

i) because of delayed implementation of the new service, the amount of the agreed increase is not yet being used but from information available it is considered that this amount will be needed when implementation takes place, and

ii) other new services or new capital expenditures in the existing services are contemplated, or estimates and advances for existing services are considered, which would exceed the Article V limit after deduction of the amount mentioned in i) above,

the Council will ensure that the sum in i) above remains available for its original purpose and will, therefore, again seek States' consents to a further increase in the limit of Article V."

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275. Ibid, p.3.

276. If the recommendation for a new service originates with a meeting of the Contracting Governments, such meeting will presumably consider whether Article VI should be used.

This was the first time in the history of the administration of the Agreements, that a legal interpretation of different Articles had been requested. This difficulty should be solved by a practical and acceptable solution among the participating Governments. The main purpose of this Agreement, is to have better and efficient air transport by voluntary contributions by participating Governments.



CHAPTER IX'Present Joint Support activities of ICAO.

During the last fourteen years, ICAO Regional Meetings have outlined successive segments of the pattern of air navigation facilities, which is required to make possible safe, regular and efficient international air transportation to all parts of the world. On several occasions, the Assembly of ICAO has requested the Council to undertake a review of the world situation and to determine in particular to what extent contracting states will be able to meet the indispensable requirements for international civil aviation facilities in their respective territories, as contemplated in Article 28 of the Convention. This review has shown, in broad outline, the gap between the facilities found to be essential and those which can in fact be provided by the contracting states. The knowledge thus gained has given the Organization a key to the magnitude of the problem facing it in its attempt to secure the establishment of air routes throughout the world, and it will assist member states in determining the degree of priority to be assigned to each project, presented for Joint Support Assistance.

Upon the recommendation of the South East Asia Regional meeting, ICAO has assigned a three-man team of experts in aeronautical communications, air traffic services

and aeronautical meteorology to the South East Asia region, where they were required to provide on the spot help and advice to member states. This team was also required to report to the Organization on measures needed to produce long-term improvements in the existing regional network of air navigation services and facilities. The team visited key national aerodromes, communications centres, air traffic control centres and main meteorology offices along the most important air routes in order to observe the layout and use of equipment.

The Assembly of ICAO passed a resolution<sup>277</sup> appointing an adhoc Working Group to study the new project of providing Flight Testing Radio Navigation Aids in South East Asia.

The adhoc Working Group on Resolution A12-5, re-<sup>278</sup>ported to the Council that it recognized a great need for periodic flight checking of navigation aids in these areas and had therefore instructed the Secretariat on the requirements as well as on the possibilities of meeting these requirements.

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277. Resolution A12-5.

278. See ICAO Doc. C-WP/3286.

A preliminary report was also prepared by the Far East and Pacific Regional Office on this project, which concluded that there was a need for a coordinated programme, contained some suggestions on how such a programme might be established, and provided estimates of costs involved. This report was considered by the <sup>279</sup>adhoc Working Group. The adhoc Working Group confirmed that the lack of adequate flight testing facilities was a very serious problem and agreed generally that the possibility of entrusting the work to one or more States, which might be willing to undertake the task through an expansion of their facilities, should be fully investigated.

A draft coordinated programme was circulated by ICAO to those States located geographically within the <sup>280</sup>SEA Region, which would be concerned with the programme. This draft coordinated programme contained estimated costs, which were based on the use of existing flight <sup>281</sup>testing units operated by Australia and India. The States having flight testing facilities were invited to comment whether they would be prepared to participate in the scheme along the lines described in the draft programme.

279. At a meeting held on 22 June, 1960.

280. Australia, Burma, Cambodia, Ceylon, India, Indonesia, Malaya, Netherlands New Guinea (Netherlands), Philippines, Singapore, Thailand, Hong Kong, (U.K.) and Vietnam.

281. Further a Unit has been planned, which will be established by Hong Kong.

The States not having flight testing facilities were invited to indicate whether the proposed programme would be acceptable to them in principle and, if it were adopted, whether the financial obligations would be accepted.

The SEA Regional Office of ICAO, prepared a further report, based on the replies from member states in South East Asia. This report also included a revised flight testing programme, which was considered by the Standing Group on Implementation.

The revised draft programme, prepared by the  
Regional Office, covered the following points:

- " a) Requirements for flight testing suggested for inclusion in the programme, the area to be covered and a list of aids involved.
- b) Flight testing units to be utilized.
- c) Tentative itineraries, taking into account the plans of States for the establishment of the recommended aids, as known at this time.
- d) Estimate of funds to be reimbursed (to) the States providing the services.
- e) Determination of an average unit per type of facility and check, to be used as a basis for apportioning of costs and reimbursement."

In the light of the comments received from the  
member States, it is considered that:

- a) There is virtually unanimous agreement among the States in the Region on the desirability of establishing as soon as possible a coordinated programme, with standardised costing,

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282. See C-WP/3286, p.3.

283. Ibid, p.3.

for the flight testing of navigational aids in the SEA Region, and willingness to participate in such a scheme.

- b) A Coordinated programme is feasible using facilities which Australia, Hong Kong and India have indicated can be made available."

The Standing Group had recommended to the Council that a meeting should be convened of South East Asia States concerned, to consider the establishment of a coordinated programme for flight testing. The Standing Group also recommended that the meeting should be held in Bangkok during May 1961.

However, the Secretary General was required to submit proposals for convening this meeting to the Council. So far, no precise date has been fixed for the said meeting.

It is hoped that this new scheme will succeed in near future and an agreement similar to the Danish and Icelandic agreements will be adopted as a model at the Conference.

### CONCLUSIONS

It is difficult to assess the work of the Joint Support Committee, without due regard to the activities of the ICAO as a whole. This Committee works as an integral part of the larger machinery of ICAO and its work constitutes only a segment of a wider range of activities in international civil aviation.

After the detailed analyses of the N.A.O.S. Agreements and Joint Financing Arrangements of Iceland, Greenland and the Faroes, we can try to deduce the authority of the Council, which fluctuates from time to time.

The Council is an independent body of the ICAO and by the delegated authority of states, it has created a new administrative life for itself. The role which the Council plays in these arrangements is unique in the history. This can be considered as a new trend in International administration.

These new arrangements can be used as models for future Joint Financing projects, of a similar nature. It will also be advisable to follow these arrangements for the exploration of other planets and other scientific activities for the betterment of mankind. Even the future production of Supersonic aircraft can be undertaken under this scheme, as the number of Supersonic aircraft required will be less, as compared with the present day demand for Jet aircraft.

Joint financing arrangements are a fair and equitable way of providing air navigation facilities and services, the cost of which would be disproportionate to the benefits to be derived by the responsible government. Secondly, this would also be an additional burden on the resources of that Government. Whenever these circumstances appear, governments have always shown their willingness to participate in this type of arrangement.

Further, it seems that Joint financing is the most reasonable way of meeting the capital and operating costs of the internationally operated meteorological and air traffic services installations. It also offers a convenient means whereby additional technical assistance may be provided to certain states requiring such aid, in order to assist them in meeting their obligations under an international or regional plan.

The extent to which this scheme may be applied as a remedy for financial difficulties will largely depend on the positions of the potential contributor governments. It is easy to understand that a government already bearing heavy expenses for the maintenance of air navigation facilities in its own territory, may be reluctant to contribute to the support of such international air navigation facilities, on the high seas or in the territory of another government, unless the circumstances are exceptional.

These Joint financing arrangements benefit contributing governments by providing facilities and services necessary for the more efficient operation of their international air services. As these facilities are financed through ICAO, it is a very effective way of ensuring that the financial contributions to another state are well employed.

The provision of air navigation facilities, whether financed nationally or internationally, is a public aid to air transport. Most of the governments feel that the provision of such aid should be apportioned so that the users of the services pay for at least a part of the costs. ICAO has had this matter under consideration for several years. One of the important questions, which arises, is the extent to which the burden can be shifted from the providers to the users. This might lead to the crippling of international air transport and only time and experience will solve the problem.

Although arrangements of this kind have been used in very few cases in the past, it is hoped that in future, it will be applied as a means of providing essential air navigation facilities and services, in areas, where implementation of such services is lagging. Further, states should be encouraged by the ICAO, to request joint financing, when they are not in a position to meet the international requirements.



While recognizing the responsibilities of member states, under Article 28 of the Chicago Convention, to provide ground facilities and other air navigation services, it must also be remembered that the use of Joint financing schemes is contemplated in Chapter XV of the Convention. There is nothing detrimental to the prestige of a government in making use of the provisions of Chapter XV. Some joint financing requests in the past, have failed to win support (e.g. Greek) because they were not stated with full force. Further, it is possible to finance some projects, through bank loans to be repaid through the present scheme of contributions.

Reference should be made to the conclusions of the  
\*  
Implementation Panel:

"We note that ICAO has recently acted to facilitate the establishment of joint financing agreements by producing a simpler form of agreement, which it is hoped will serve as a pattern for future agreements. It has also been agreed that to meet emergency situations an amount of upto \$100,000 may be borrowed from the Working Capital Fund for temporary financing, on the basis of pledges from the states concerned that they will participate in the project in question and will reimburse the Capital Fund. Such measures are, we believe, a worthwhile contribution to the further application of joint financing in appropriate circumstances."

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\* See ICAO Doc. 7966, A12-EX (July, 1959)

This new Joint Support Scheme has demonstrated a remarkable spirit of international co-operation and understanding between its members, serving as a unique example of what states can achieve and what progress mankind can make, when guided by a sense of mutual respect and sincere collaboration.

May these arrangements be an example to the World, of what nations can do by joint endeavor to contribute to the economic welfare of international civil aviation and of mankind at large!

APPENDIX I

RESOLUTION A1-65: JOINT SUPPORT POLICY

RESOLVED:

- (1) That financial and technical aid through ICAO for furthering the provision of air navigation facilities and services adequate for the safe, regular, efficient and economical operation of international air services will be rendered, under the terms of Chapter XV of the Convention, in accordance with the basic principles and general policy laid down in Annex I to this Resolution;
- (2) That the Council will draft appropriate amendments to the Convention, for the consideration of the next Assembly, to extend explicitly the provisions of Chapter XV to include areas of undetermined sovereignty, the high seas and the territories of Non-Contracting States.

ANNEX I

ESTABLISHMENT OF THE GENERAL POLICY OF ICAO RELATING TO THE  
JOINT SUPPORT OF AIR NAVIGATION SERVICES UNDER CHAPTER XV  
OF THE CONVENTION

1. OBJECTIVE OF FINANCIAL AND TECHNICAL AID

Financial and technical aid through ICAO under terms of Chapter XV of the Convention on International Civil Aviation will have the aim of furthering the provision of air navigation facilities and services adequate for the safe, regular, efficient and economical operation of international air services in areas of undetermined sovereignty, on the high seas, and in the territories of such States as are not undertaking the provision of the required facilities.

The air navigation facilities and services for which provision may be made will include, inter alia:

- (1) Aerodromes and Ground Aids to Navigation
- (2) Air Traffic Control Service
- (3) Meteorological Service

(4) Search and Rescue Service

(5) Telecommunications and Radio Aids to  
Air Navigation.

Financial and technical aid through ICAO in no way precludes joint action by Contracting States for the provision, operation and maintenance of air navigation facilities without recourse to ICAO.

## 2. TERMINOLOGY

For the purposes of this document:

"Applicant" State is a State which has requested financial or technical aid either on its own initiative or as a result of Council action under Article 69 of the Convention.

"Supported" State is a State in receipt of financial or technical aid through ICAO.

"Interested" State is a State which, in response to a query by ICAO, has stated that it is prepared to consider participation in a scheme of joint support of an air navigation facility or service.

"Contributing" State is a State which has consented to contribute to a scheme of joint support.

## 3. BASIC PRINCIPLES

Financial and technical aid will be rendered in accordance with the following basic principles:

3.1 The provision of financial and technical aid through ICAO will always be based on voluntary actions on the part of the Contracting States.

3.2 The International Civil Aviation Organization, through its Council, is the responsible international body to evaluate the adequacy of existing air navigation facilities and services, to ascertain the additional requirements for the operation of international air services, and to initiate expeditious action towards meeting these requirements.

- 3.3 Financial and technical aid through ICAO will aim to provide air navigation facilities and services adequate, but no more than adequate, to meet the requirements of international air services in accordance with the standards established and taking into account practices recommended from time to time, pursuant to the Convention.
- 3.4 Pursuant to Article 28 of the Convention, a Contracting State is responsible for establishing within its own territory air navigation facilities and services. A Contracting State will exhaust all possibilities of arranging directly for the provision of adequate air navigation facilities and services before applying to ICAO for aid.
- 3.5 ICAO, will, when required, initiate collective action towards the provision of necessary facilities and services on the high seas, in areas of undetermined sovereignty, and, exceptionally, in the territory of Non-Contracting States.
- 3.6 ICAO will satisfy itself in every case that circumstances actually require financial and technical aid through the Organization.
- 3.7 The rendering of financial and technical aid through ICAO will depend upon the willingness of the applicant State to participate and cooperate in the economical provision of required facilities and services.
- 3.8 ICAO will assure contributing States that their funds will be expended under its supervision to ensure that the objective will be attained in the most economical manner.
- 3.9 Any agreement relating to financial and technical aid through ICAO, may, in principle, provide for the payment of a reasonable charge by the user of the facilities or services in question, such charge to be determined in accordance with the general practice of the Contracting States. If the benefit derived from the facilities or services in question is, in normal practice, granted to the user

free of charge, this practice may provisionally be adopted for projects of financial and technical aid by agreement between the contributing States for a certain period of time to be determined by the agreement.

- 3.10 ICAO will exert every effort to assist a supported State to exercise its rights under Article 75 of the Convention.

#### 4. GENERAL POLICY

The actions of the Council pursuant to the terms of Chapter XV of the Convention will be guided by the following policy:

##### 4.1 Policy relating to Finance

- 4.1.1 In each case of financial and technical aid the Council will consider appropriate methods for the financing of the required air navigation facilities or services, but in general, such financing will be furnished collectively by those States which will benefit from the provided facilities or services.
- 4.1.2 The assessment of contributions in cash or kind will be agreed upon between the contributing States, the supported State and ICAO. In assessing the amount of the contribution of each State, account will be taken of the benefit to be derived by such State.
- 4.1.3 Land necessary for the establishment or improvement of a facility or service which is provided by the supported State, pursuant to Article 72 of the Convention, will be considered as a part of its share of the contribution towards the provision of the facility or service.
- 4.1.4 Any arrangement made for the grant of aid may include provision, compatible with Article 75 of the Convention, for the eventual disposition of land, buildings and equipment covered by the arrangement.

- 4.1.5 In any arrangement made for the grant of aid, provision will be included for the reimbursement, by contributing States, of ICAO for extraordinary expenditures incurred in respect of investigations, negotiations, conferences and other actions incidental to the implementation of the project.
  - 4.1.6 The Council will have at its disposal an emergency revolving fund for the purpose of temporary finance in cases when the breakdown of an essential facility or service is imminent. Expenditures from this fund will be reimbursed by the contributing States.
  - 4.1.7 The cost of operation and maintenance of a facility or service provided through ICAO in the territory of a supported State will, insofar as possible, be borne by that State. Any user charges imposed by the supported State will be levied and employed in compliance with the terms of the agreement under which the facility or service was provided (see para. 3.9) or, in default of this, in compliance with recommendations to be made by the Council.
  - 4.1.8 No customs duties or other levies will be imposed by the supported State on equipment and materials required for the construction, operation or maintenance of a facility or service provided through ICAO.
- 4.2 Policy relating to the construction, operation and maintenance of air navigation facilities or services.
- 4.2.1 Construction, operation and maintenance of facilities or services by persons in the direct employ of ICAO will only be undertaken in a most exceptional case when considerations of efficiency or other material factors dictate such a course of action.
  - 4.2.2 ICAO will maintain a list of technical consultants selected from nominations submitted to ICAO by Contracting States to ensure that when the need arises there may be expeditious provision of technical advice and assistance.

- 4.2.3 A contract for the execution of constructional work or for the operation or maintenance of a facility or service with funds supplied collectively by contributing States through ICAO will preferably be let in the name of the supported State. When, in the opinion of the Council, this is not practicable, ICAO may employ agents which will, under ICAO supervision, make all necessary arrangements, conduct surveys, negotiate contracts, and otherwise provide for the construction, operation or maintenance of the facility or service in question. Such agents may be governments, appropriate organizations or individuals acceptable to the governments of the contributing States and supported State. ICAO, may in exceptional circumstances, let contracts directly.
- 4.2.4 Contracts will usually be let by competitive tender but the letting authority will retain freedom to choose that competitor most appropriate to execute the task in view and will not be bound to accept the lowest tender.
- 4.2.5 When a contract is let in the name of the government of a supported State, the contributing States may require that ICAO approval be given prior to the letting of the contract.
- 4.2.6 Subject to considerations of efficiency and economy, personnel, contractors, labour and materials of the supported State will, as far as possible, be employed or utilized.

#### 4.3 Policy relating to training of personnel

- 4.3.1 ICAO will, if necessary, assist a requesting State in the training of its nationals in the operation and maintenance of air navigation facilities and services either by arrangements with an agent or, in an exceptional case, by its own instructors. Contracts relating to training will be let in accordance with the general policy laid down in paragraphs 4.2.3 and 4.2.6.
- 4.3.2. Such aid may include:
  - 4.3.2.1 training as an integral part of any project involving the construction or the operation and maintenance of facilities or services supported by aid rendered through ICAO, or



4.3.2.2 the assignment through ICAO of instructors to provide training in the territory of a State requesting such assistance, or

4.3.2.3 training outside of the territory of the State requesting such assistance.

4.3.3 Any assistance in training provided under the terms of Chapter XV of the Convention by the government of a State or by a private organization will be conducted in the name of ICAO and in accordance with standards prescribed by ICAO.

#### 4.4 Policy relating to questions of procedure

4.4.1 Before consideration by the Council of a request for financial and technical aid through ICAO, such request will be supported by documentation in justification, reciting in particular such action as has been taken by the applicant State pursuant to paragraph 3.4.

4.4.2 When a request for aid has been submitted by an applicant State and the Council considers that aid through ICAO may be necessary, or when ICAO is taking the initiative in accordance with Article 69 of the Convention, the Council will forthwith bring the case to the notice of potentially interested Contracting States and invite their comments, to be submitted within a specified period. Such comments will refer particularly to the question of whether or not the State is prepared to participate in a scheme of joint support of the facilities or services in question.

4.4.3 The Council, after investigations including, if necessary, expert examination of all the factors pertinent to the application for aid, will pursue the consultation with interested States, and, if desirable, will call a conference of those States with the object of reaching an early decision as to the action to be taken.

- 4.4.4 ICAO will ensure that all interested States, including the applicant State, will be kept continuously and thoroughly informed of all matters pertinent to the project and in particular the applicant State will be given an opportunity to associate itself with and partake in any investigation within its territory to be made in the course of the proceedings.

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APPENDIX IIFINAL ACTFourth ICAO Conference on North Atlantic Ocean Stations,  
Paris, February 1954.

The Governments of BELGIUM, CANADA, DENMARK, FRANCE, ICELAND, IRELAND, ISRAEL, ITALY, the NETHERLANDS, NORWAY, SPAIN, SWEDEN, SWITZERLAND, the UNITED KINGDOM OF GREAT BRITAIN, and NORTHERN IRELAND, the UNITED STATES OF AMERICA and VENEZUELA,

Having accepted the invitation extended to them by the Council of the International Civil Aviation Organization to be represented at a Conference, held in Paris, for the purpose of considering the revision and renewal of the International Agreement on North Atlantic Ocean Weather Stations signed in London on 12th May, 1949 and extended in the Protocol thereto signed in Montreal on 28th May, 1952.

## I

The Conference approved the text of an Agreement on North Atlantic Ocean Stations (hereinafter referred to as the Agreement), which was opened for signature in Paris on 25th February, 1954.

## II

The Conference recommended:

- a) that each Government signatory of the Agreement should implement it as far as practicable on or about 1st July, 1954, and should appropriately co-ordinate with the other signatory Governments any measures taken for this purpose;
- b) that each Government signatory of the Agreement should inform the Council of the International Civil Aviation Organization of any action taken by it pursuant to (a) and that the Council should notify all other signatory Governments of any such information received by it;
- c) that the Council take note that the assessment by this Conference of the theoretical responsibilities of Spain amounting to £23,467 annually, and of Iceland, amounting to £6,474 annually, has not proved immediately acceptable to these Governments, which propose to examine their positions further,

d) that the Council take note of the hope and belief of this Conference that these Governments will accede to this Agreement in accordance with Article XVII thereof as soon as possible after 30th April, 1954, and that the Council negotiate with these Governments with this object in view;

e) that the Council should endeavour to obtain the accession to the Agreement, in accordance with Article XVII thereof, of the Governments of Colombia, Cuba, and any other country which benefits from the operation of the network of ocean stations.

### III

The Conference further recommended:

that the Council of ICAO be requested, in consultation with the States concerned and with international agencies as appropriate, to explore all possibilities of further improvements in the efficiency and economy of the ocean stations network, and of less expensive ways and means of obtaining a sufficiently high standard of meteorological information in the North Atlantic.

### IV

The Conference also adopted:

-the Report of the Technical Committee  
(NAOS-IV-WP/52, GEN/15);

-the Report of the Financial Committee  
(NAOS-IV-WP/57, GEN/20);

and decided that the recommendations contained in the Report of the Technical Committee be brought to the attention of the Governments concerned and of the Council.

### V

The Conference took note of the statements made by the Representatives of the Governments of the United Kingdom, Norway and Sweden, and the United States, as set out in Annexes A, B and C, respectively, to this Final Act.

IN WITNESS WHEREOF the following Representatives, duly accredited, affixed their signatures to this Final Act.

DONE in Paris, the twenty-fifth day of February in the year nineteen hundred and fifty-four, in the English, French and Spanish languages (all three texts being equally authoritative), in a single copy which shall be deposited in the Archives of the International Civil Aviation Organization. It shall be the responsibility of the Council of the Organization to resolve any difference of interpretation arising between the English, French and Spanish texts. Certified copies of this Final Act shall be transmitted by the Secretary General of the Organization to each of the Governments represented at the Conference.

(Signed by the Representatives of the  
Member States.)

AGREEMENT ON NORTH ATLANTIC OCEAN STATIONS,  
PARIS, FEBRUARY 1954

The Governments of BELGIUM, CANADA, DENMARK, FRANCE, IRELAND, ISRAEL, ITALY, the NETHERLANDS, NORWAY, SWEDEN, SWITZERLAND, the UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND and the UNITED STATES OF AMERICA, being Member States of the International Civil Aviation Organization (hereinafter called "the Organization"),

HAVING, at a Conference convened in Paris by the Council of the Organization (hereinafter called "the Council") pursuant to Article XVII of the International Agreement on North Atlantic Ocean Weather Stations signed in London on 12th May, 1949, and the Protocol thereto signed in Montreal on 28th May, 1952, considered the revision and renewal of that Agreement, and

HAVING, resolved to conclude a new Agreement to secure the continued provision, financing, maintenance and operation of ocean station vessels at stations in the North Atlantic and thereby to contribute to the safety, regularity, efficiency and economy of air navigation in that region in accordance with the general aims and objectives of the Organization,

HAVE APPOINTED for this purpose the undersigned Representatives who HAVE AGREED AS FOLLOWS:

ARTICLE I

1. The Contracting Governments named in this Article shall provide, maintain and operate, subject to the conditions prescribed in this Agreement, suitable ocean station vessels (hereinafter referred to as "vessels"), at stations in the North Atlantic (hereinafter referred to as "the Stations"), as specified in the following table and in paragraph 2 of this Article:

| Station | Location               | Governments Responsible | Number of Vessels to be operated |
|---------|------------------------|-------------------------|----------------------------------|
| "B"     | ( 56°30'N              | Canada                  | 1                                |
|         | ( 51°00'W              | United States           | 2                                |
| "C"     | ( 52°45'N              | United States           | 3                                |
|         | ( 35°30'W              |                         |                                  |
| "D"     | ( 44°00'N<br>( 41°00'W | United States           | 2½                               |

| Station | Location               | Governments Responsible | Number of Vessels to be operated |
|---------|------------------------|-------------------------|----------------------------------|
| "E"     | ( 35°00'N<br>( 48°00'W | United States           | 2 $\frac{1}{2}$                  |
| "A"     | ( 62°00'N<br>( 33°00'W | (Norway<br>(Sweden      | 2                                |
| "I"     | ( 59°00'N<br>( 19°00'W | (<br>(                  |                                  |
| "J"     | ( 52°30'N<br>( 20°00'W | (United Kingdom<br>(    | 4                                |
| "K"     | ( 45°00'N<br>( 16°00'W | (France<br>(            | 2                                |
| "M"     | ( 66°00'N<br>( 02°00'E | (Netherlands<br>(       | 2                                |

The locations of the Stations are indicated on the map in Annex I to this Agreement.

2. The operation of Stations "A", "I", "J", "K" and "M" shall be shared among the vessels of France, the Netherlands, Norway and Sweden, and the United Kingdom, as the authorities of the Governments of these countries shall arrange, on the following bases:

a) In respect of the period ending 31 December, 1954:

| Station | Governments Responsible |
|---------|-------------------------|
| "A"     | Norway/Sweden           |
| "I"     | United Kingdom          |
| "J"     | United Kingdom          |
| "K"     | France                  |
| "M"     | Netherlands             |

b) In respect of the period 1 January, 1955 to 30 June, 1956:

i) In principle, Stations "A", "I", "J" and "K" shall be manned in rotation by the vessels of the following countries, in such manner that each shall furnish at the Stations indicated the number of patrols set opposite its name:

|                | "A" | "I" | "J" | "K" |
|----------------|-----|-----|-----|-----|
| France         | 6   | -   | 6   | 11  |
| Netherlands    | 5   | 6   | 6   | 6   |
| United Kingdom | 12  | 17  | 11  | 6   |

For the foregoing purpose, a patrol shall consist of 24 days on station.

ii) Station "M" shall be manned by Norway and Sweden.

3 If the operation of this Agreement is extended pursuant to Article XIX, the provisions of paragraph 2 of this Article shall continue to apply with appropriate revision of dates.

#### ARTICLE II

1 The location of any of the Stations may be changed:

a) by the Contracting Government or Governments responsible for operating vessels thereat, provided that the consent of a majority of the other Contracting Governments is first obtained by or through the Council, or

b) by the Council, provided that the consent of a majority of the Contracting Governments, including the consent of the Contracting Government or Governments responsible for operating vessels at the Station concerned, is first obtained.

#### ARTICLE III

1 In respect of the period commencing 1 July, 1954 and ending 30 June, 1956, the following Contracting Governments shall pay annually to the Organization, in half-yearly instalments on 1 October and 1 April, the amounts set opposite their respective names:

|             |          |
|-------------|----------|
| Belgium     | £ 64,469 |
| Denmark     | 41,565   |
| Israel      | 11,000   |
| Italy       | 30,537   |
| Switzerland | 45,807   |



2 The following Contracting Governments shall be entitled to receive, from the amounts paid pursuant to paragraph 1 of this Article, the amounts set opposite their respective names:

|                |          |
|----------------|----------|
| France         | £ 69,168 |
| Netherlands    | 5,510    |
| Norway)        |          |
| Sweden)        | 46,467   |
| United Kingdom | 72,233   |

3 Any amounts received by the Organization from the Governments of Spain and Iceland as a contribution to the cost of operation of the Stations shall be shared by the following Contracting Governments in proportions set opposite their respective names:

|                |       |
|----------------|-------|
| Belgium        | 8.08% |
| Denmark        | 5.21  |
| France         | 15.20 |
| Italy          | 3.82  |
| Netherlands    | 19.02 |
| Norway)        |       |
| Sweden)        | 13.92 |
| Switzerland    | 5.74  |
| United Kingdom | 29.01 |

4 a) Amounts received by the Organization pursuant to paragraph 1 of this Article shall be paid by the Organization as soon as practicable to the Governments listed in paragraph 2 of this Article in proportion to the amounts set out opposite their respective names.

b) Any amounts received by the Organization pursuant to paragraph 3 of this Article shall be allotted and in due course paid by the Organization to the Contracting Governments listed in paragraph 3 of this Article in the proportions therein indicated.

#### ARTICLE IV

1 a) On or before 1 March, 1955, each of the Contracting Governments shall furnish to the Council, in such form as the Council may prescribe, full particulars of actual flights across the North Atlantic by its civil aircraft during the year 1954.

b) On or before 1 March, 1955, each of the Contracting Governments responsible for the operation of one or more

vessels shall furnish to the Council, in such form as the Council may prescribe, full particulars of the costs of operation of such vessel or vessels, for the year 1954.

c) Upon receipt of the foregoing information, the Council shall review the relationship between the costs of operation of the vessels used to man Stations "A", "I", "J", "K", and "M", and the amount of cash which should be available from cash contributions in respect of the operation of such vessels and, if it considers it necessary to establish an equitable distribution of responsibilities among the States concerned, it shall calculate a revision of the obligations to pay and rights to receive cash, pursuant to Article III, in accordance with the principles on which this Agreement has been based. The results of this calculation shall be transmitted to the Contracting Governments not later than 1 May, 1955.

2 Unless this Agreement is terminated on 30 June, 1956, pursuant to Article XIX, the obligations of Contracting Governments to pay, and their rights to receive payments, under the provisions of paragraphs 1, 2, and 3 respectively of Article III, shall for the year commencing 1 July, 1956, be as revised in accordance with the Council's calculations.

3 The provisions of paragraphs 1 and 2 of this Article, with appropriate revision of the dates mentioned therein, shall govern the rights and obligations of Contracting Governments to furnish information, to receive the results of the Council's Calculations based thereon, and to receive and make payments, in respect of subsequent years, so long as this Agreement is not terminated.

#### ARTICLE V

The Government of Ireland shall pay to the Organization an annual contribution in cash of £1,000, which shall not be subject to increase under the terms of this Agreement, so long as aircraft of that country do not operate across the North Atlantic.

## ARTICLE VI

1 The Contracting Governments undertake that the vessels operated by them at the Stations shall perform the services specified in Annex II to this Agreement.

2 Annex II to this Agreement may be amended by the Council with the consent of a majority of the Contracting Governments, including the consent of the Governments responsible for operating at least fifteen vessels under this Agreement.

## ARTICLE VII

The Council shall co-ordinate the general programme of operation of the Stations in consultation with such other international organizations as it considers appropriate. It shall keep the World Meteorological Organization advised of the meteorological aspects of any action which it proposes to take in connection with such co-ordination and shall invite the World Meteorological Organization to send representatives to any meeting called for the purpose of accomplishing such co-ordination.

## ARTICLE VIII

Subject to the provisions of Annex II to this Agreement:

a) the Stations shall be operated in accordance with the applicable Standards, Recommended Practices, Procedures and Specifications of services approved by the Council in so far as they affect the safety of air navigation;

b) the manner of making meteorological observations and of collecting reports at the Stations and transmitting them to main meteorological offices or forecasting centres shall be in accordance with the appropriate Procedures and Specifications prescribed by the World Meteorological Organization.

## ARTICLE IX

No charges shall be imposed by any Contracting Government for any of the services, required under this Agreement, rendered by the vessels operated by them at the Stations, except as agreed by all the Contracting Governments.

## ARTICLE X

1 Each Contracting Government shall furnish to the Council such reports as may reasonably be required by the Council concerning the utilization of the services provided by the vessels operated at the Stations.

2 Each Contracting Government operating any of the vessels shall furnish to the Council such reports as may reasonably be required by the Council concerning the operation of the vessel or vessels so operated by it.

3 The Council shall furnish to the Contracting Governments each year a report on the operation and utilization of the Stations based on the reports furnished by Contracting Governments.

## ARTICLE XI

Any Contracting Government may agree with any other Contracting Government to take over all or any of its obligations under this Agreement. Any such agreement shall be notified by the Contracting Governments concerned to the Secretary General of the Organization who shall notify the other Contracting Governments.

## ARTICLE XII

The Organization shall be reimbursed for its extraordinary expenses incidental to this Agreement, so far as possible from the contributions provided for in Article V, and, subject to the provisions of paragraph 3 of Article III, from any contributions in cash received by it under the provisions of Article XVII. Any balance remaining from such contributions after the extraordinary expenses of the Organization have been met shall be allocated by the Council to the Contracting Governments on an equitable basis in accordance with the principles on which this Agreement has been based. If the Contributions are insufficient to reimburse the Organization, the balance remaining due shall be met by the Contracting Governments in equal shares.

## ARTICLE XIII

In the event that a Contracting Government, without the consent of the other Contracting Governments, fails to discharge in whole or in part its obligations under this Agreement in cash or otherwise, the Council shall consult with the other Contracting Governments as to appropriate action and shall convene a conference if an arrangement acceptable to a majority of those Governments, including all those whose financial responsibilities are affected, cannot be concluded through such consultation.

## ARTICLE XIV

The Council may at any time convene a conference of interested Governments to consider any matter connected with this Agreement if it is requested to do so by one or more Contracting Governments and is satisfied that a Conference is necessary.

## ARTICLE XV

Any dispute relating to the interpretation or application of this Agreement or Annex II, which is not settled by negotiation, shall, upon the request of any Contracting Government party to the dispute, be referred to the Council for its recommendation.

## ARTICLE XVI

1 This Agreement shall remain open until 30 April, 1954, for signature by the Governments named in the preamble thereof.

2 This Agreement shall be subject to acceptance by signatory Governments. Instruments of acceptance shall be deposited as soon as possible with the Secretary General of the Organization.

## ARTICLE XVII

1 Any non-signatory Government may accede to this Agreement by depositing with the Secretary General of the Organization an instrument of accession, together with an undertaking to make, on the terms and subject

to the conditions of this Agreement, such contributions, in cash or otherwise, as the Council may consider reasonable having regard to the benefits derived by that Government from the operation of the Stations.

2 The Council may also make arrangements, on a similar basis, with any Government which is not a party to this Agreement.

#### ARTICLE XVIII

This Agreement shall come into force, as between the signatory Governments which have notified their acceptance, not earlier than 1 July, 1954, when instruments of acceptance have been deposited by Governments responsible for the operation of not less than fifteen of the vessels referred to in Article I of this Agreement. As regards any Government notifying its acceptance thereafter, the Agreement shall come into force as from the date on which that Government deposits its instrument of acceptance.

#### ARTICLE XIX

1 This Agreement shall terminate on 30 June, 1956, unless its operation is extended pursuant to paragraph 2 of this Article.

2 a) Unless notice in writing is given, prior to 1 July, 1955, to the Secretary General of the Organization by one or more of the Contracting Governments responsible in the aggregate for the operation or financing of not less than two vessels under this Agreement, of the desire of such Government or Governments that this Agreement shall terminate on 30 June, 1956, its operation shall be extended until 30 June, 1957.

For the purpose of this sub-paragraph the cost of financing the annual operation of a vessel shall be deemed to be £80,922.

b) The operation of this Agreement shall be further extended, from year to year, unless notice in writing to the Secretary General, as provided in subparagraph a) of this paragraph, is given at least one year prior to the date of termination of the last previous extension.

3 a) Upon receipt of a notice of desire to terminate this Agreement in accordance with paragraph 2 of this Article, the Secretary General shall notify the Contracting Governments accordingly; and

b) the Council shall convene a conference as soon as practicable to consider the situation and the possibility of concluding a new Agreement.

#### ARTICLE XX

1 Any Contracting Government may withdraw from this Agreement on 30 June, 1956 or, if this Agreement is extended in accordance with Article XIX, on the termination date of any period of extension, by giving at least 12 months' prior notice to the Secretary General of the Organization, of the intention of such Government to terminate its participation.

2 Following receipt by the Secretary General of notice of withdrawal from any Contracting Government, the Council shall consult with the other Contracting Governments as to appropriate action and shall convene a conference if an arrangement acceptable to a majority of the Governments, including all those whose financial responsibilities are affected, cannot be concluded through such consultation.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have affixed their signatures on behalf of their respective Governments.

DONE in Paris, the twenty-fifth day of February of the year nineteen hundred and fifty-four, in the English, French and Spanish languages (all three texts being equally authoritative), in a single copy which shall be deposited in the Archives of the International Civil Aviation Organization. Certified copies thereof shall be transmitted by the Secretary General of the Organization to all signatory and acceding Governments.

BELGIUM

(s) P. VAN ZEELAND

NETHERLANDS

(s) A. P. DEKKER

CANADA

(s) A. T. COWLEY

NORWAY

(s) CARL C. LOUS

DENMARK

(s) G. CRONE-LEVIN

SWEDEN

(s) HENRIK WINBERG

FRANCE

(s) D. HAGUENAU

SWITZERLAND

(s) P. G. SENN

IRELAND

(s) A. KENNAN

UNITED KINGDOM

(s) O. G. SUTTON

ISRAEL

(s) DAN AVNY

UNITED STATES

Subject to availability  
of funds and facilities

ITALY

(s) A. AMBROSINI

(s) ERNEST A LISTER

(s) WILLIAM E. OBERHOLTZER, JR.



APPENDIX IIIAGREEMENT ON THE JOINT FINANCING OF CERTAIN AIR NAVIGATION  
SERVICES IN GREENLAND AND THE FAROE ISLANDS

(ICAO Doc. 7726-JS/563.)

(Opened for signature at Geneva, on 25 September 1956.)

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The Governments of BELGIUM, CANADA, DENMARK, FRANCE, THE FEDERAL REPUBLIC OF GERMANY, ICELAND, ISRAEL, ITALY, THE NETHERLANDS, NORWAY, SWEDEN, SWITZERLAND, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND and THE UNITED STATES OF AMERICA, being members of the International Civil Aviation Organization,

DESIRING to conclude an agreement for the joint financing, in accordance with the terms and subject to the provisions of Chapter XV of the Convention on International Civil Aviation, of certain Air Navigation Services to be provided by the Government of Denmark,

HAVE AGREED as follows:

Article I

For the purposes of this Agreement:

- (a) "Organization" means the International Civil Aviation Organization;
- (b) "Council" means the Council of the Organization;
- (c) "Secretary General" means the Secretary General of the Organization;
- (d) "Services" means the services specified in Annex I to this Agreement and any additional services which may from time to time be provided pursuant to this Agreement.

Article II

The Government of Denmark shall provide, operate and maintain the Services and, in consideration of special benefits derived from the Services, shall bear five per cent of the approved actual costs thereof.

### Article III

1. The Government of Denmark shall operate and maintain the Services without interruption, in an efficient manner and with the greatest degree of economy consistent therewith and, so far as practicable, in accordance with the applicable Standards, Recommended Practices, Procedures and Specifications of the Organization.
2. Subject to the provisions of Annex I to this Agreement, the manner of taking meteorological observations and of making and disseminating meteorological reports shall be in accordance with the appropriate procedures and specifications promulgated by the World Meteorological Organization.
3. The Government of Denmark shall notify the Secretary General immediately of any emergency necessitating any temporary change or curtailment of the Services and that Government and the Secretary General shall thereupon consult on the measures to be taken to minimize any adverse effect of such change or curtailment.

### Article IV

1. The Secretary General shall generally supervise the operation of the services and may at any time arrange for the inspection of the Services, including any equipment used in connection therewith.
2. The Government of Denmark shall, at the request of the Secretary General, and to the extent practicable, furnish such reports on the operation of the Services as the Secretary General considers desirable.
3. The Secretary General shall, at the request of the Government of Denmark, provide, to the extent practicable, such advice as that Government may reasonably require in regard to the discharge of its obligations under this Agreement.
4. In the event of any failure by the Government of Denmark efficiently to operate and maintain any of the Services, there shall be consultation between that Government and the Secretary General for the purpose of agreeing upon remedial measures.

### Article V

The total costs of the Services computed in accordance with Annexes II and III to this Agreement shall not, for any one calendar year, exceed 1,234,525 United States dollars. This limit may be increased by the Council either with the consent of all the Contracting Governments or as a result of the application of the provisions of Article VI.

## Article VI

1. For the purpose only of establishing, operating and maintaining services which have not otherwise been provided for pursuant to this Agreement, the limit determined pursuant to the provisions of Article V may be increased by a stated amount with the consent of Contracting Governments responsible in the aggregate for not less than ninety per cent of the total assessments made under the provisions of paragraphs 2, 3, 4, and 5 of Article VII in respect of the last calendar year for which assessments have been made.

2. Subject to the provisions of Article II, any expenditure attributable to the services referred to in paragraph 1 of this Article, or any expenditure made possible under the provisions of paragraph 2 (a) of Article XIII as a result of the inclusion of the said services within this Agreement, shall be borne solely by the Contracting Governments so consenting, in shares having the same relative proportion to each other as the shares of those Governments in the total assessments for the relevant year, and no part of the Reserve Fund referred to in Article X not attributable to those services shall be used for purposes to which those Governments alone have consented.

## Article VII

1. Subject to the provisions of Article V and paragraph 2 of Article VI, the Contracting Governments agree to share ninety-five per cent of the approved actual costs of the Services as determined pursuant to the provisions of Article VIII, in proportion to the aeronautical benefit derived therefrom by each Contracting Government. Such proportion shall be determined for each Contracting Government in respect of each calendar year by the number of complete crossings performed in such year by its civil aircraft on routes between North America and Europe north of the 40th parallel North; provided that, for the purpose of computing the number of such crossings, flights between the following areas shall be taken into account as follows: Greenland and Canada, Greenland and the United States of America, Greenland and Iceland, and Iceland and Europe - one-third of a crossing; Greenland and Europe, Iceland and Canada, and Iceland and the United States of America - two-thirds of a crossing.

2. For the purpose of providing advances for the period commencing 1 January 1957 and ending 31 December 1958, the following Contracting Governments shall pay to the Organization, in half-yearly instalments on 1 January and 1 July in each of those years, the amounts set opposite their respective names:

|  | Danish kroner    |                  |
|--|------------------|------------------|
|  | For 1957         | For 1958         |
| Belgium  | 302,710          | 275,191          |
| Canada   | 320,616          | 291,470          |
| Denmark  | 195,269          | 177,517          |
| France   | 464,723          | 422,476          |
| Federal Republic of Germany                          | 130,464          | 118,603          |
| Iceland  | 202,943          | 184,494          |
| Israel   | 87,828           | 79,844           |
| Italy  | 174,804          | 158,913          |
| Netherlands  | 914,098          | 830,998          |
| Norway   | 195,269          | 177,517          |
| Sweden   | 294,183          | 267,439          |
| Switzerland  | 279,687          | 254,261          |
| United Kingdom of Great Britain and Northern Ireland |                  |                  |
| Ireland  | 946,501          | 860,455          |
| United States of America                             | 3,591,587        | 3,265,079        |
| Total Danish kroner                                  | <u>8,100,682</u> | <u>7,364,257</u> |

3. On or before 1 October 1958, the Council shall assess the Contracting Governments for the purpose of providing advances for the year 1959 on the basis of the number of crossings for 1957, and ninety-five per cent of the approved actual costs of the Services for that year with the addition of ten per cent of that amount.

4. On 1 January 1959 and 1 July 1959, in half-yearly instalments, each Contracting Government shall pay to the Organization the amount assessed to it in respect of advances for the calendar year 1959, plus or minus any difference between the amounts paid by it to the Organization as advances in respect of 1957 and its adjusted share, as determined by its crossings and the approved actual costs of the Services for 1957.

5. The provisions of paragraphs 3 and 4 of this Article, with appropriate revision of the dates mentioned therein, shall govern the assessment of and payments by the Contracting Governments in respect of subsequent years so long as this Agreement is not terminated.

6. Subsequent to the termination of this Agreement, the Council shall undertake an adjustment so as to accomplish the objectives of paragraph 1 of this Article in respect of any period for which payments at the termination of the Agreement have not yet been adjusted pursuant to paragraphs 4 and 5 of this Article.

7. Commencing with the year 1957, each Contracting Government shall furnish to the Secretary General, on or before 1 March of each year, in such form as the Secretary General may prescribe, full particulars of crossings performed during the preceding calendar year by its civil aircraft on routes between North America and Europe north of the 40th parallel North.

#### Article VIII

1. Commencing with the year 1956, the Government of Denmark shall furnish to the Secretary General, on or before 31 October of each year, estimates of the costs of the Services for the following calendar year. The estimates shall be drawn up in accordance with Article III and with Annexes II and III to this Agreement.

2. The Government of Denmark shall furnish to the Secretary General, not later than six months after the end of each calendar year, a statement of the actual costs of the Services during that year. The Secretary General shall subject the statement to such audit and other examination as he deems appropriate and shall furnish to the Government of Denmark a report of the audit.

3. The Government of Denmark shall furnish to the Secretary General such additional information relating to any estimates of costs or statement of actual costs as the Secretary General may require, as well as any available information as to the extent to which the Services are being used by aircraft of any nationality.

4. The statement of actual costs for each year, beginning with the statement for the year 1957, shall be subject to approval by the Council.

5. The statement of actual costs approved by the Council pursuant to the provisions of paragraph 4 of this Article shall be circulated to the Contracting Governments.

### Article IX

1. The Government of Denmark shall be reimbursed for ninety-five per cent of the actual costs, as approved by the Council, of providing, operating and maintaining the Services.
2. Commencing with the year 1957, the Council shall, after having satisfied itself that the estimates submitted by the Government of Denmark in accordance with paragraph 1 of Article VIII have been drawn up in accordance with Article III and with Annexes II and III to this Agreement, authorize the Secretary General to make payments to that Government in respect of each quarter, not later than the first day of the second month in that quarter. The payments shall be based on the estimates referred to and shall constitute advances, subject to adjustment as provided under paragraph 3 of this Article. The total amount of such payments shall not exceed, in respect of any one year, the limit determined pursuant to the provisions of Article V.
3. After the approval by the Council of the statement of actual costs, beginning with the statement for the year 1957, the Secretary General shall make adjustments in any subsequent quarterly payments to the Government of Denmark to take account of any differences between the payments made under paragraph 2 of this Article in respect of any year and the approved actual costs for that year.
4. Contracting Governments not represented on the Council shall be invited to participate in the consideration by the Council or any of its bodies of the estimates furnished by the Government of Denmark pursuant to the provisions of paragraph 1 of Article VIII.
5. The estimates of costs as approved by the Council pursuant to the provisions of paragraph 2 of this Article, shall be circulated to the Contracting Governments.

### Article X

1. The payments received by the Organization from the Contracting Governments pursuant to the provisions of Article VII shall, to the extent that they are not from time to time needed for making current payments to the Government of Denmark pursuant to this Agreement, constitute a Reserve Fund to be used by the Organization for the purposes of this Agreement.

2. The Secretary General may arrange for short-term investment of the Reserve Fund. The Organization shall apply the interest derived therefrom to cover the extraordinary expenses of the Organization incidental to this Agreement. If such interest is insufficient to cover such expenses, the difference remaining shall be considered as an additional part of the actual costs of the Services and shall be reimbursed to the Organization from payments made by the Contracting Governments.

#### Article XI

1. The annual assessments of Contracting Government shall be expressed in Danish kroner.

2. Each of the Contracting Governments may, at its discretion, make payments to the Organization pursuant to the provisions of Article VII either in United States dollars or in sterling or, provided the Government of Denmark consents thereto, in Danish kroner.

3. The Secretary General shall, subject to the Organization being reimbursed in United States dollars for its extraordinary expenses, make payments to the Government of Denmark pursuant to the provisions of Articles IX and XII in the currencies in which Contracting Governments have made their payments to the Organization and which remain available.

4. All payments made in United States dollars or sterling pursuant to paragraphs 2 and 3 of this Article shall be effected at the par value of exchange with Danish kroner accepted by the International Monetary Fund and prevailing on the dates on which such payments are respectively due; provided that, if no such par value exists or if there are legal exchange rates for the currency of payment differing by more than one per cent from the par value of exchange, the rate of exchange at which that currency will be accepted for payments pursuant to the provisions of Articles VII, IX and XII shall be fixed by agreement between the Government of Denmark and the Government making the payment or the Organization, as the case may be.

#### Article XII

1. The obligation of the Secretary General to make payments to the Government of Denmark under this Agreement shall be limited to amounts actually received by the Organization and available in accordance with the terms of this Agreement.

2. The Secretary General may, nevertheless, pending receipt of payments from Contracting Governments and in accordance with the Financial Regulations of the Organization, advance payments which are due to the Government of Denmark in cases where he considers such advances essential for the inauguration or uninterrupted continuance of the Services.

3. No Contracting Government shall have a claim against the Organization because of failure of any other Contracting Government to make any payment under this Agreement.

#### Article XIII

1. The Council may, subject to the provisions of Article V and paragraph 2 of Article VI and in agreement with the Government of Denmark, include under this Agreement new capital expenditure necessary for the proper operation of the Services.

2. The Council may, subject to the provisions of Articles V and VI and in agreement with the Government of Denmark, include under this Agreement services in addition to those set out in Annex I hereto and new capital expenditure in respect of such services; provided that any one of the following conditions is fulfilled;

(a) the total amount of such expenditure in any one year is limited to 280,000 Danish kroner;

(b) such services are those to which all Contracting Governments have consented;

(c) such services are those to which Contracting Governments responsible in the aggregate for not less than ninety per cent of the total assessments made under the provisions of paragraphs 2, 3, 4, and 5 of Article VII have consented and in respect of which the provisions of Article VI have been applied.

3. For the purposes of paragraphs 1 and 2 of this Article, renewal of buildings and equipment from payments received on account of depreciation shall not be regarded as new capital expenditure.



4. If new capital expenditure or additional services are proposed by the Government of Denmark or by the Council, that Government shall furnish to the Secretary General an estimate of the costs thereof, together with such specifications, plans and other information as may be required in regard thereto, and shall consult with the Secretary General concerning the methods of supply, design or construction to be adopted.

5. The Council may, in agreement with the Government of Denmark, exclude from this Agreement any part of the Services.

6. When action has been taken pursuant to paragraphs 1, 2, or 5 of this Article, the Council shall amend the Annexes to this Agreement accordingly.

#### Article XIV

1. Except with the consent of the Council, the Government of Denmark shall not impose any charges for the use by other than its own nationals of any of the services.

2. The Government of Denmark shall, if and when requested by the Council, institute so far as practicable, a system of charges for the use of the whole or any part of the Services.

3. Any revenues collected by the Government of Denmark with the consent or at the request of the Council in respect of the use of the Services, shall be offset against payments due to that Government pursuant to the provisions of this Agreement.

#### Article XV

The Government of Denmark shall not make any international arrangement for the provision, operation, maintenance, development or financing of any or all of the Services without the approval of the Council.

#### Article XVI

The Government of Denmark shall, to the fullest possible extent, cooperate with the representatives of the Organization in respect of the purposes of this Agreement and shall accord to such representatives the privileges and immunities to which they are entitled under the General Convention on the Privileges and Immunities of the Specialized Agencies, including Annex III (2) thereto.

### Article XVII

The Council shall convene a conference of all the Governments concerned:

- (a) when requested by two or more of the Contracting Governments or by the Government of Denmark, or by any one of the Contracting Governments if such a conference has not been held during the previous five years;
- (b) when failure of any Contracting Government to make payments under this Agreement necessitates a revision of the assessments which cannot otherwise be satisfactorily settled; or
- (c) when, for any other reason, the Council considers such a conference necessary.

### Article XVIII

Any dispute relating to the interpretation or application of this Agreement or the Annexes thereto which is not settled by negotiation shall, upon the request of any Contracting Government party to the dispute, be referred to the Council for its recommendation.

### Article XIX

1. This Agreement shall remain open until 1 December 1956 for signature by the Governments named in the Preamble.
2. This Agreement shall be subject to acceptance by the signatory Governments. Instruments of acceptance shall be deposited as soon as possible with the Secretary General, who shall inform all signatory and acceding Governments of the date of deposit of each such instrument.

### Article XX

1. This Agreement shall be open for accession by the Government of any State member of the United Nations or of a Specialized Agency in relationship therewith. Accessions shall be effected by the deposit of a formal instrument with the Secretary General.
2. The Council may initiate consultations with any Government, not a party to this Agreement, whose civil aircraft benefit from the Services, for the purpose of obtaining its accession to the Agreement.

3. Notwithstanding the provisions of paragraph 2 of this Article, the Council may conclude arrangements for contributions from any Government which does not become a party to this Agreement. Any such contributions received shall be applied to the purposes of this Agreement as determined by the Council.

#### Article XXI

1. This Agreement shall come into force not earlier than 1 January 1957, when instruments of acceptance or of accession have been deposited by Governments responsible in the aggregate for initial assessments of not less than ninety per cent of the initial maximum cost figure laid down in Article V. As regards those Governments, deposit of an instrument of acceptance or of accession shall be deemed to constitute consent to the system of assessments, payments and adjustments under this Agreement for the period between 1 January 1957 and the entry into force of this Agreement.

2. As regards any Government whose instrument of acceptance or of accession is deposited after the entry into force of this Agreement, the Agreement shall come into force on the date of such deposit. Each such Government shall consent to the system of assessments, payments and adjustments under this Agreement with effect at least from the beginning of the calendar year during which the instrument of acceptance or of accession is deposited. Each such Government may elect to be assessed for its appropriate share of the actual approved costs of any Services in respect of which the provisions of Article VI have been applied and as to which, at the date of accession of such Government, the consents of all Contracting Governments have not been given.

#### Article XXII

1. (a) This Agreement may be terminated by the Government of Denmark on 31 December in any year by notice in writing given to the Secretary General not later than 1 January of that year.

(b) If at any time it proves impossible for the Government of Denmark to perform the Services within the limit determined pursuant to the provisions of Article V, that Government shall immediately notify the Secretary General in writing of such fact and shall furnish to the

to the Secretary General a detailed estimate of the additional amount required. The Secretary General shall promptly examine such estimate and, after any necessary consultation with that Government, determine the amount needed in excess of the aforesaid limit. The Secretary General shall then approach the Contracting Governments with a view to obtaining their consent as required pursuant to the provisions of Article V. Unless, within three months after the Secretary General has determined the additional amount required, he notifies the Government of Denmark that the Contracting Governments have given their consent, the Government of Denmark may thereafter terminate this Agreement on three months' notice in writing given to the Secretary General.

(c) This Agreement may be terminated on 31 December in any year by Contracting Governments other than the Government of Denmark responsible for current assessments in the aggregate of not less than ten per cent of the limit determined pursuant to the provisions of Article V by notice in writing given to the Secretary General not later than 1 January of that year.

2. Upon receipt of a notice or notices of desire to terminate this Agreement in accordance with paragraph 1 of this Article, the Secretary General shall notify the Contracting Governments.

#### Article XXIII

1. Notwithstanding the provisions of Article XXII, any Contracting Government other than the Government of Denmark, whose current assessment is less than ten per cent of the limit determined pursuant to the provisions of Article V, may withdraw from participation in this Agreement on 31 December in any year by notice in writing given to the Secretary General not later than 1 January of that year of its intention to terminate its participation. Any such notice shall, for the purpose of paragraph 1 (c) of Article XXII, be deemed also to constitute a notice of desire to terminate this Agreement.

2. Following receipt of notice of withdrawal from any Contracting Government, the Secretary General shall notify the other Contracting Governments.

#### Article XXIV

1. In the event of termination of this Agreement by the Government of Denmark pursuant to the provisions of paragraph 1 of Article XXII, that Government shall pay to the Organization, or the Organization may offset against payments due to that Government hereunder, a sum representing equitable compensation for benefits to it from its acquisition, for its own purposes, of moveable or immoveable property, the cost of which has been partially or wholly reimbursed to that Government under the provisions of this Agreement.
2. In the event of termination of this Agreement by Contracting Governments other than the Government of Denmark, the Government of Denmark shall be paid out of the Reserve Fund or, if the Fund is insufficient, by all the Contracting Governments through the Organization, an equitable amount by way of compensation for capital expenditures undertaken by that Government and not wholly reimbursed pursuant to this Agreement. Any payments required from Contracting Governments for this purpose shall be computed on the basis of the most recent assessment figures and shall be due as of the time of termination. The Organization shall have the right to take over any moveable property for which compensation is paid pursuant to this paragraph. Any waiver of such right shall be taken into account in determining the compensation.
3. The provisions of paragraph 2 of this Article shall apply correspondingly in respect of any part of the Services which may be excluded from the Agreement pursuant to the provisions of paragraph 5 of Article XIII.
4. The amount of any payments under this Article shall be determined by agreement between the Council and the Government of Denmark.

#### Article XXV

1. Subject to the provisions of paragraph 2 of Article X, any balance of the Reserve Fund and of interest thereon held by the Organization on the date when this Agreement ceases to be in force shall be apportioned among and refunded to those Governments which were still parties to this Agreement immediately before that date on the basis of their most recent annual assessments.

2. (a) Any Government which has withdrawn from participation in this Agreement in accordance with the provisions of Article XXIII shall pay to or receive from the Organization any difference between the amount it has paid to the Organization in accordance with Article VII and its appropriate share of the approved actual costs in respect of the period of its participation.

(b) Any Government which has so withdrawn shall pay to the Organization its share of capital expenditures which have been undertaken by the Government of Denmark and which have not been wholly reimbursed pursuant to this Agreement. The amount payable shall be computed on the basis of the most recent assessment figure in respect of the Government which has withdrawn. Payment shall be due as of the time of withdrawal.

#### Article XXVI

1. This Agreement may be amended by mutual agreement between the Contracting Governments.

2. The Council shall, subject to the provisions of Article V and paragraph 2 of Article VI, revise the list of Contracting Governments and the amounts set opposite their names in paragraph 2 of Article VII to the extent necessary in order to:

(a) accommodate any non-signatory Government acceding to this Agreement in accordance with paragraph 1 of Article XX;

(b) counterbalance any shortcomings in payments resulting from the failure of any Government named in the Preamble to become a party to this Agreement; or

(c) take into account services brought within this Agreement pursuant to the provisions of Article XIII.

3. The Council may, in cases additional to those specified in paragraph 6 of Article XIII, amend the Annexes to this Agreement, subject always to the terms and conditions of the Agreement and the consent of the Government of Denmark.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have, on behalf of their respective Governments, signed this Agreement on the dates appearing opposite their signatures.

DONE in Geneva on the twenty-fifth day of September of the year nineteen hundred and fifty-six in the English, French and Spanish languages, all three texts being equally authoritative, in a single copy which shall be deposited with the International Civil Aviation Organization with which, in accordance with Article XIX hereof, it shall remain open for signature, and the Secretary General of the Organization shall send certified copies thereof to all signatory and acceding Governments.

BELGIUM

(s) A. X. Pirson 28 November 1956

CANADA

(s) J. A. Irwin 28 November 1956

DENMARK

(s) J. H. G. Crone-Levin 25 September 1956

FRANCE

(s) D. Haguenau 25 September 1956

GERMANY

(s) Georg Krauss 28 November 1956

ICELAND

(s) Agnar Kofoed-Hansen 25 September 1956

## ISRAEL

(s) Yehuda Gaulan 28 November 1956

## ITALY

(s) Salvatore Cacopardo 28 November 1956

## NETHERLANDS

(s) A. P. Dekker 25 September 1956

## NORWAY

(s) Johan Cappelen 25 September 1956

## SWEDEN

(s) Sven Sorenson 15 November 1956

## SWITZERLAND

(s) P. Senn 25 September 1956

## UNITED KINGDOM

(s) E. C. V. Goad 25 September 1956

(s) G. McD. Wilson 25 September 1956

## UNITED STATES

Subject to the availability of funds

(s) Harold A. Jones 31 October 1956



# APPENDIX IV

## SUMMARY OF MAIN RESPONSIBILITIES OF THE ORGANISATION UNDER THE NEW AGREEMENTS:

- Art. IV. The Secretary General is to generally supervise the administration of the services, arrange inspection, offer advice, and arrange consultations. Same responsibilities in substance as those in the existing Agreements, except that the Council has this assignment in the existing agreement. (Art. 4 of the Old Danish & Icelandic Agreements.)
- Art. VII. The Council is to make assessments and adjustments of payments on the basis of approved actual costs. Although the basis for assessment and adjustment is different, the responsibilities in substance are the same as those in the existing Agreements. (See Danish and Icelandic Final Acts; Paras 2 (a), 3 (a) and 4 (a) ) except that the Secretary General has the administrative assignment to receive information and payments.
- Art. VIII. The Council is to satisfy itself concerning annual estimates and approve audited actual costs, while the Secretary General is to examine the estimates and to audit the actual costs. Same responsibilities as those in the existing Agreements (Danish-Art. 6.; Icelandic-Art. 6), except that the Secretary General has the assignment of arranging for audit of the actual costs.
- Art. IX. The Council to authorize the Secretary General to make payments and adjustments and to invite other contracting states not represented on the Council to participate in the consideration of estimates. The responsibilities in substance are the same in existing Agreements (Danish Arts. 5 & 6 (g); Icelandic Arts. 5 & 6 (g), except that the invitation to other contracting states to participate in the consideration of estimates is new.

- Art. X. The Organization to maintain, and the Secretary General to arrange for short term investment of a Reserve Fund. This is a new responsibility.
- Art. XII. The Secretary General to advance money to the operating States from ICAO Working Capital Fund, pending receipt of payments and in accordance with the Financial Regulations, if he considers such advances essential for the inauguration of or uninterrupted continuance of the services. This is a new responsibility.
- Art. XIII. The Council to approve new capital expenditures and additional services under certain specified conditions and to exclude any part of the services from the Agreements. Although the specified conditions relating to approval of new capital expenditures and additional Services are different, the responsibilities are essentially the same as in the existing Agreements and Arrangements (Danish-Art. 7; Icelandic Art. 7 and Danish and Icelandic Final Acts, Para. 1.) except that the responsibility to exclude services is new.
- Art. XIV. The Council to consult with the operating States regarding charges for the use of the Services. Same responsibilities as those in the existing Agreements. (Danish-Art. 10; Icelandic-Art. 10)
- Art. XX. The Council to negotiate with additional participants and to allocate additional contributions received. Same responsibilities in substance as those in the existing Arrangements. (Danish Final Act, para. 12; Icelandic-Final Act, para. 8), except that the responsibility to allocate additional contributions received is now made explicit.
- Art. XXVI. The Council to revise and amend certain parts of the Agreement (assessments, list of States, Annexes, maximum project costs etc.) under certain conditions. The same responsibilities as in the existing Agreements (Danish & Icelandic-Arts. 7.) except that the revision of the maximum project costs under Arts. V & VI is new.

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4th of July  
the day of the  
the day of the