

ARGENTINA

PRELIMINARY

Prior to the enactment of the Aviation Code of July 15, 1954, air law in Argentina was regulated by a multitude of laws, decrees, and ordinances. The basic law was the decree of September 4, 1925, which, although passed "to bridge the gap until an Argentine law concerning air traffic is enacted" remained in effect until 1954. The regulation of July 30, 1926, concerning flight and landing rules on Argentine territory was amended more than 60 times—which made it almost impossible to get a clear view of the legal situation. These, and a number of other decrees and regulations have been superseded by the code of 1954.

This code (Law No. 14,307, entitled "Aeronautical Code of the Argentine Republic"), apparently has not been amended since its enactment. However, in 1957 a special commission for the study of possible modifications in the code held meetings (ending on October 25, 1957) and may eventually present proposals for amending the code.

The Argentine Government recently has promulgated several decrees in regard to policies concerning air traffic.

The code is largely based on a draft law prepared by a commission appointed by a resolution of June 26, 1935, of the Ministry of the Interior. Article 3 of this draft law enunciated Argentina's sovereignty over the airspace above the country, but the Argentine Institute of Air Law, in preparing this code, considered it better legislative technique not expressly to state the principle of air sovereignty; since both the Paris convention of 1919 (art. 1) and the Chicago convention of 1944 (art. 1) recognize that each state has complete and exclusive sovereignty over the airspace above its territory, and since Argentina adhered to both conventions, it was held unnecessary to reaffirm "a right which nobody denies." Article 3 of the Aviation Code permits free aerial navigation except as specifically limited by the code. It should be noted that the French Air Code of 1955 (art. 17) and the West German Air Law of 1959 (art. 1) also grant freedom of the air, subject to specific limitations and conditions and, insofar as foreign aircraft are concerned, subject to reciprocity under multilateral or bilateral agreements. The British Civil Aviation Act, 1949 (sec. 8) merely states that the act gives effect to the Chicago Convention subject to compliance with the conditions set forth in the act. Section 104 of the Federal Aviation Act of 1958 also recognizes a public right of freedom of transit through the navigable airspace of the United States.