

(2) Prima facie evidence of any such instrument as aforesaid may in any legal proceedings be given by the production of a document purporting to be certified to be a true copy of the instrument by, or on behalf of, the Minister.

34. Any person who—

Offences.

(a) contravenes or fails to comply with any provision of any regulation or order made under this Act; or

(b) obstructs or impedes any person in the exercise of his powers and duties under this Act or under any regulation or order made thereunder,

shall be guilty of an offence under this Act.

35. Every person who is guilty of an offence under this Act shall on conviction be liable to a fine not exceeding two thousand rupees or to imprisonment of either description for a term not exceeding one year, or to both such fine and imprisonment.

Penalties.

36. Where any person is convicted of an offence under this Act, the court by which he is convicted may, in addition to any other penalty that may be imposed for the offence, direct that the aircraft or article, if any, in respect of which the offence was committed, shall be forfeited to Her Majesty.

Power of court to order forfeiture.

37. All offences under this Act shall be cognizable offences for the purpose of the application of the provisions of the Criminal Procedure Code, notwithstanding anything contained in the First Schedule of that Code, and shall be triable summarily by a Magistrate.

Offences to be cognizable and to be triable by Magistrates.

38. (1) In this Act, unless the context otherwise requires—

Interpretation.

“aerodrome” means any definite or limited ground or water area intended to be used, either wholly or partly, for the landing or departure of aircraft and all buildings, sheds, vessels, piers, and other structures thereon or appertaining thereto;

“aircraft” means any machine that can derive support in the atmosphere from the reactions of the air;

“airship” means any power-driven lighter-than-air aircraft;

“balloon” means a non-power-driven lighter-than-air aircraft;

“Ceylon aircraft” means aircraft registered in Ceylon under this Act;

“Chicago Convention” means the Convention on International Civil Aviation which was signed at Chicago on the 7th day of December, 1944, as amended by any subsequent convention or agreement;

“citizen of Ceylon” means a citizen of Ceylon under any law for the time being in force;

“crew”, in relation to an aircraft, includes any person having duties on board in connexion with the

flying or the safety of the flight of the aircraft or employed on board in any way in the service of the aircraft, the passengers or the cargo;

"customs aerodrome" means an aerodrome for the time being appointed as a place of landing and departure of aircraft for the purposes of the law relating to customs;

"damage or loss" includes, in relation to persons, loss of life and personal injury;

"flying machine" includes all aeroplanes, seaplanes, flying boats, or other aircraft heavier than air and having means of propulsion;

"foreign aircraft" means aircraft not registered in Ceylon under this Act;

"glider" means a non-power-driven heavier-than-air aircraft deriving its lift in flight chiefly from aerodynamic reactions on surfaces which remain fixed under given conditions of flight;

"land" includes land covered with water and any right in or over land;

"licensed aerodrome" means an aerodrome licensed under regulations made under this Act;

"proprietor of the aerodrome" means, in relation to any premises used or appropriated for use as an aerodrome, the person carrying on or entitled to carry on the business of an aerodrome in those premises, or, in the case of an aerodrome which is established or maintained by or on behalf of the Government, the officer in charge of the aerodrome;

"Schedule" means a Schedule to this Act.

(2) Any reference in this Act to goods or articles shall be construed as including a reference to mails or animals, and any reference in this Act to any country or territory shall, unless the context otherwise requires, be construed as including a reference to the territorial waters, if any, adjacent to that country or territory.

(3) In this Act, the expression "purposes of civil aviation" includes all purposes connected with air navigation, except purposes of the defense of Ceylon by air.

(4) Any reference in the First Schedule to agents shall be construed as including a reference to servants.

39. (1) The Air Navigation Acts, 1920 to 1947, of the United Kingdom, and any Order in Council made thereunder, shall cease to have effect as part of the law of Ceylon.

(2) The Carriage by Air Act, 1932, of the United Kingdom, and any Order in Council made thereunder, shall cease to have effect as part of the law of Ceylon.

40. The Air Navigation Regulations, 1938, and the Air Navigation (Customs) Regulations, 1938, shall continue in force as though they were regulations made under this Act and may be amended or rescinded by regulations so made.

Air Navigation Acts, &c., to cease to have effect as part of the law of Ceylon.

Savings of certain regulations.

41. The provisions of this Act or of any orders or regulations made thereunder shall not apply to any aircraft or aerodrome exclusively employed or used in the service or for the purposes of Her Majesty's naval, military or air forces:

Nonapplication
of the Act
and the orders
and regula-
tions made
thereunder.

Provided that the Minister of Defense and External Affairs may, by Order published in the Gazette, apply, with or without modification, any such provisions to any such aircraft or aerodrome.

The First Schedule (Legislative Enactment XI, p. 400) reproduces the Convention for the Unification of Certain Rules Relating to International Carriage by Air; the Second Schedule (*ibid.* p. 410) deals with the carrier's liability for death of a passenger.

OTHER LEGISLATION IN FORCE IN CEYLON

Ordinance No. 18 of May 27, 1938, to authorize the exemption from customs duty of certain articles required for the use of aircraft entering or leaving Ceylon. Pub. in *Legislative Enactments of Ceylon* (1958), vol. VIII, p. 466.

Act No. 7 of March 15, 1951, to establish a corporation for the operation of air transport services, to provide for government investment in its capital and generally to prescribe and regulate the functions and powers of the corporation. Pub. in *Legislative Enactments of Ceylon* (1958), vol. X, p. 269.

CHAD

ORDINANCE No. 2476/PC-TP., OF AUGUST 17, 1962, DETERMINING CONDITIONS OF OVERFLIGHT OF THE REPUBLIC OF CHAD BY TOURIST AIRCRAFT AND AIRCRAFT FOR AERIAL WORK ¹

TITLE I

GENERAL PROVISIONS

Art. 1. This ordinance shall apply to tourist aircraft and aircraft for aerial work (paragraph T of the airworthiness certificate), whose maximum weight at take-off does not exceed 5,700 kilograms or whose number of passengers does not exceed ten and which fly over the territory of the Republic of Chad.

Art. 2. The territory of the Republic of Chad shall be classified as inaccessible territory of type 1 and 2, where accidental landing of aircraft endangers the occupants thereof for reasons of climatic conditions, lack of means of subsistence, or delays in providing assistance.

TITLE II

RADIO EQUIPMENT

Art. 3. Any aircraft flying over the Republic of Chad must be equipped with a radio permitting two-way communication at all times with the aviation authorities.

Such equipment must be of an approved or accepted type and must have a valid radio operating license.

It shall include:

- a very high frequency transmitter-receiver;
- a high frequency transmitter-receiver;
- a radio-compass or VOR receiver, capable of receiving the frequencies used in Chad.

Art. 4. The crew must include a person who holds licenses and qualifications to establish radio contact as required by the regulations.

Art. 5. Flights may be made under VFR. For VFR flights a VFR flight plan must be submitted to the aviation authorities prior to departure. The flight commander shall establish radio contact provided by the regulations.

Art. 6. Aircraft without radio equipment are authorized to fly over the Republic of Chad under the following conditions:

- a) Local flights. Within a radius of 20 kilometers from the center of the airdrome;
- b) Flights over an area defined in Annex I ² and subject to application of Article 7.

¹ Published in *Journal Officiel de la République du Tchad*, Sept. 15, 1962. For general legislation in force see Preliminary Note, France.

² Omitted here.

TITLE III

SPECIAL EQUIPMENT

Art. 7. Any aircraft flying over the Republic of Chad must possess equipment for signalling, first aid, and survival as required for flight over inaccessible areas. Such equipment is defined in Annex II ².

Art. 8. The agency established for this purpose by the Minister of Public Works and Communications may grant special authorization to aircraft which do not comply with the provisions of this ordinance.

For issuance of such authorizations, the performance and equipment of the aircraft, and the competence of the crew shall be taken into consideration.

Such authorizations shall be granted only when the operator undertakes in writing to reimburse the expenses, if any, of search and salvage.

Art. 9. The Minister of Public Works shall have jurisdiction in the enforcement of this ordinance which shall be made public and published wherever needed.

DECREE NO. 78 APRIL 11, 1963, CODE OF CIVIL AVIATION.³

BOOK I

AIRCRAFT

Art. 1. In the application of this Code, an aircraft shall be deemed to be any contrivance which can maintain itself, and move in the air.

Art. 2. Aircraft used for military, customs, or police services, are subject only to the rules concerning liability of the owner or operator.

However, the provisions of Article 53 shall apply to aircraft used for military, customs or police services provided they are not incompatible with the purpose of such aircraft.

TITLE I. OWNERSHIP, MORTGAGE, AND ATTACHMENT OF AIRCRAFT.

Chapter I. Registration, nationality, and ownership of aircraft.

Art. 3. Every civil aircraft must be registered in a register kept by the Ministry of Civil Aviation, under conditions fixed by decree. The registration identifies the aircraft. It shall be shown by a certificate of registration bearing a name, serial number and designation of category to which the aircraft belongs.

Art. 4. Any aircraft registered in the Chad register shall have Chad nationality and must bear the nationality and registration marks provided for in the regulations.

Art. 5. In the register defined in Article 3 above shall be registered aircraft owned by a natural or legal person or persons of Chad nationality.

In order for a legal person or persons to be deemed of Chad nationality, the following must be the case:

In membership associations, all members must have Chad nationality.

² Omitted here.

³ Published in *Journal Officiel de la République du Tchad*, No. 9, May 1, 1963, p. 234.

In corporations with limited liability, the owners of the majority of the capital and the management must have Chad nationality.

In stock corporations the president, the director general, and the majority of the board members must have Chad nationality.

Art. 6. Except for the provisions of Article 7 below any aircraft owned by a foreigner whose legal domicile is in Chad, or by a foreign corporation or association whose main office is in Chad, may be registered in Chad.

The same shall apply to aircraft whose foreign owner pursues any activity which is useful for the economic or social development of Chad.

However, registration of an aircraft owned by a foreigner shall be subject to an authorization granted by the Minister of Civil Aviation. The decision to authorize or refuse the registration shall be made by a simple ordinance published in the *Journal Officiel*.

Art. 7. An aircraft which is registered abroad may be registered in the Chad register only after showing that the foreign registration has been cancelled.

When any of the conditions specified in Articles 5 and 6 is no longer fulfilled, the owner of the aircraft must notify the official in charge of the register, who shall cancel the registration. In the absence of notification by the owner, cancellation in the register shall be effected (by an ordinance with reasons issued by the Minister of Civil Aviation and published in the *Journal Officiel*).

Art. 8. Legal relations between persons aboard an aircraft in flight shall be governed by the law of the country of origin of such aircraft.

However, when a [crime]⁴ or misdemeanor is committed aboard a foreign aircraft, the courts of Chad shall have jurisdiction when the person who commits the crime, or against whom it is committed, has Chad nationality, or when the aircraft lands in Chad subsequent to the commission of [crime]⁴ or misdemeanor.

The courts of jurisdiction shall be those at the place of landing or at the place where the arrest is made in the case where the person committing the violation is arrested at a place other than that of the landing.

When an accident occurs aboard a Chad aircraft, the flight commander may take all measures he deems necessary to ensure good order.

In the application of this article, an aircraft shall be deemed in flight from the time when power is applied for take-off until the time when landing is completed.

In the case of lighter-than-aircraft the term "in flight" shall apply to the period between the time when such aircraft is detached from the ground to that when it is again attached.

Art. 9. Registration in the register shall be proof of title. Such register shall be public and anyone may obtain a certified copy thereof.

Art. 10. Aircraft shall be personal property in regard to application of the rules of the Civil Code. However, transfer of ownership must be in writing and shall be without effect in regard to third persons unless there is a registration in the register.

⁴ The French text reads "la crise", i.e., crisis. The word "crime" appears in the equivalent provision of the air law of Niger. Ed.

Any change in ownership by reason of death and any judgment transferring, establishing, or declaratory of ownership must be recorded in the register at the request of the new owner.

Chapter II. Mortgage and attachment of aircraft.

Art. 11. Aircraft as defined in Article 1 of this Code may be mortgaged only by agreement between the parties.

Insofar as they belong to the owner of the aircraft, a mortgage shall affect the fuselage, the engines, propellers, board instruments and all parts permanently installed on the aircraft, whether they are fixed thereon or are temporarily detached.

Art. 12. A mortgage may by a single legal act, be imposed on all or part of an airfleet belonging to the same person provided that the various elements of the fleet are specified in such act.

Art. 13. A mortgage may be extended to cover also spare parts suitable for the type of aircraft mortgaged, provided such pieces are specified.

Such spare parts shall be kept in one or more places of which notice shall be given as provided for in Article [1]4.⁵ When they are used on aircraft to which they belong, they must be immediately replaced. The creditor must be notified of such use.

Art. 14. The spare parts mentioned in the preceding article include all parts constituting aircraft, engines, propellers, radio equipment, instruments, furnishings, parts of various component parts and, in general, all objects whatever which are kept for the replacement of parts constituting the aircraft, provided they are specified.

Appropriate notice, given at the place by way of posting, must duly notify third persons of the kind and extent of the mortgage on such parts and must mention the register where the mortgage is recorded, and the name and address of the mortgagee.

An inventory showing the kind and number of such pieces shall be attached to the document recorded.

Art. 15. A mortgage is void unless it is in writing. The act establishing it may be certified or under private seal, and shall be subject to the legislation on common law, particularly as to registration in application of Law No. 20-60, of December 16, 1960.

Any mention in the sales contract for an aircraft that all or part of the price remains to be paid to the seller, shall, without a contrary stipulation, constitute a mortgage for him as guarantee for the amount stated as remaining to be paid, provided the seller requests recordation of such mortgage in the form provided for by decree.

An aircraft under construction may be mortgaged only when prior notice has been given to the agency in charge of the register. Such notice shall include the principal characteristics of the aircraft under construction: a receipt therefor shall be issued.

Art. 16. In the case of loss or crash of an aircraft, the mortgagee may, unless there is a contrary stipulation, be subrogated for the insured for the amount due him as to the right to compensation payable by the insurer.

Prior to making any payment the insurer must request an official statement of recorded mortgages. No payment shall discharge him if it is made in disregard of the rights of creditors listed on such statement.

⁵ The French text reads "4". This is obviously in error. Ed.

Art. 17. All mortgages must be recorded in the register. They shall be without effect in regard to third persons until they are recorded.

Cancellation, and any modification of a mortgage by agreement between the parties or by a judgment, shall also be recorded in such register.

Art. 18. When there are two or more mortgages on the same aircraft, their precedence shall be determined by the order of their recordation dates.

Mortgages recorded on the same day shall be of equal rank regardless of the hour of their recordation.

Art. 19. Recordation shall keep a mortgage valid for ten years from the date of its recordation. It shall cease to be effective when the recordation is not renewed before the expiration of such period.

Art. 20. Recordation of a mortgage shall guarantee, in the same precedence as the mortgage itself, interest for three years in addition to the current year.

Art. 21. Recordation of mortgages shall be cancelled when there is a legal act stating the agreement of the parties or a final judgment on the matter.

Art. 22. Except in the case of judicial sale in accordance with the provisions specified in a decree, registration of an aircraft may not be stricken from the register when recorded rights have not been cancelled prior thereto.

Art. 23. Creditors whose mortgage on an aircraft has been recorded, shall follow their security in whatever hands it may pass, for the purpose of collection and payment in the order of their respective recordation and after privileged creditors, reserving the provisions of Articles 24 and 27 below.

Art. 24. Only the following debts shall be privileged in preference to mortgages:

- 1) Court costs incurred in the sale of an aircraft and in the distribution of the price received in the common interest of the creditors;

- 2) Payments due for salvage of an aircraft;

- 3) Necessary expenses for the preservation thereof;

- 4) Debts resulting from the employment contract of flight crew members and other flight personnel, but as regards any security, only for a maximum of six months;

- 5) Fees for use of devices and aids to navigation and landing fees.

Art. 25. The privileges specified in the preceding article shall affect the aircraft or the insurance mentioned in Article 16. They shall follow the aircraft in whatever hands it may pass.

They shall be extinguished three months after the event which gave rise to them unless the creditor makes prior recordation of the debt in the register of the aircraft, after having given friendly notice of the amount or, in the absence thereof, after having commenced a legal action therefor.

They shall further be extinguished, independently of the normal methods of extinction of privileges:

- 1) By judicial sale of the aircraft, executed in the form provided for by decree;

- 2) In case of voluntary transfer properly recorded in the register, at the latest, one month after publication of the transfer

in a journal of legal notices at the domicile of the vendor, unless, prior to expiration of such period, the creditor has given notice of such debt to the vendee, at the domicile stated by him in the pertinent publications.

Art. 26. Debts specified in Article 25 [24] shall be privileged in the order in which they appear in that article.

Debts of the same order of precedence shall be of equal rank and shall be paid at the same rate in case of insufficient funds.

However, debts mentioned in Article 24, 2), and 3) shall be paid in inverse order as regards the events which gave rise to them.

Art. 27. Privileges other than those enumerated in Article 24 shall come after mortgages whose recordation precedes the arising of such privileges. However, in the case of sale in Chad of an aircraft mortgaged in a State party to the international convention for the recognition of rights in aircraft signed at Geneva on June 19, 1948, the rights provided for in Article 1 of that convention which exist on the aircraft may be exercised only in recognition of the rights of the persons who suffered damages on the ground as provided for in Article 7 of that convention.

Art. 28. Except in the case of judicial sale in the manner provided for by decree, the registration of an aircraft may not be transferred to another State except by prior extinction of recorded rights or with the consent of the persons entitled thereto.

Until this condition has been fulfilled, the official in charge of the register must refuse any cancellation.

Art. 29. When there is attachment of an aircraft registered in a State party to the convention for the recognition of rights in aircraft signed at Geneva on June 19, 1948, no judicial sale may be had when the rights that have preference over those of the attaching creditor cannot be satisfied by the sale price or when they are not assumed by the vendee.

However, when a mortgaged aircraft causes damages to third persons on the ground within Chad, the provisions of the preceding paragraph may not be invoked against such persons or their representatives in attaching the aircraft which caused the damages or another aircraft of the same owner.

Art. 30. Without thereby affecting more serious penalties, if they are in order, any act of destruction or removal, or an attempt at destruction or removal of an aircraft or spare parts on which a mortgage has been properly recorded, shall be punished by the penalties provided for in Article 406 of the Criminal Code.

Any fraudulent act intended to deprive a creditor of his security shall be subject to the same penalties.

Art. 31. Chad aircraft and, when there is reciprocity, foreign aircraft shall be exempt from attachment under the conditions specified in the convention for the unification of certain rules on attachment of aircraft, signed in Rome on May 29, 1933, or in any convention amending it which is applicable in Chad.

Art. 32. In the case of attachment for infringement of a patent, design or model, the owner of a foreign aircraft or his representative may have the attachment lifted by deposit of a bond the amount of which, in the absence of a friendly agreement, shall be set within the

shortest possible time by the president of the trial court at the place of the attachment.

There shall be exempt from attachment the aircraft of public airlines and spare parts and accessories indispensable in their operation provided that, in the case of foreign aircraft, they lawfully entered Chad territory and that there is reciprocity.

Art. 33. When the owner of an aircraft is not domiciled in Chad, or when the aircraft has foreign nationality, any creditor shall have the right to attach the aircraft with the permission of the president of the trial court at the place where the aircraft has landed.

The respective judge shall lift the attachment when the owner offers to deposit a bond equal to the amount of the debt claimed and he may order such lifting by setting the amount of the bond to be furnished in cases where the extent of the debt is contested.

Art. 34. In the case of damages caused on the ground by the crash of a foreign aircraft or whose owner is domiciled aboard, and in the case of a violation of this code by a foreigner, all officials empowered by Article 83 to enforce Articles 1 to 86, and 115 to 126 of this Code, and particularly the administrative authorities at the place of landing may ask the public authorities to detain the aircraft for forty-eight hours in order to permit the judge to go to the place in question and to determine the amount of damage caused, but also, in the case of a violation, the amount of fines and costs.

Art. 35. The persons specified in Articles 83 and 84 shall have the right to attach any Chad or foreign aircraft which does not comply with the conditions provided for in this Book for air navigation or whose pilot has committed a violation.

TITLE II. FLIGHT OF AIRCRAFT.

Chapter I. The right of flight.

Art. 36. Aircraft may fly freely above Chad territory provided they observe the rules concerning air navigation and flight. However, aircraft of foreign nationality may fly above Chad territory only when they have been granted such right by an international or diplomatic agreement or when they have been granted an authorization which must be special and temporary.

Art. 37. Use of aircraft on maneuvering areas of airdromes and in flight must be in compliance with the flight rules.

Flight rules and powers and the role of the civil aviation services shall be established by decree.

Flight rules shall be applicable in the airspace under the control of the agency or agencies of the civil aviation services in the territory of the Republic of Chad.

Outside the airspace as defined above they shall apply to aircraft which bear Chad nationality marks to the extent that this is compatible with the rules of the State, or of the international organization which has authority over the airspace where aircraft is flying.

Art. 38. The right of an aircraft to fly over private property may not be exercised in such a manner as to infringe the right of the owner thereof.

Art. 39. Flight over certain areas or, in exceptional circumstances, the entire territory of Chad may be prohibited by decree for reasons

of a military nature or of public safety. The location and extent of prohibited areas must be specifically indicated in the decree.

Art. 40. Aircraft may not be flown in a negligent or careless manner which may endanger the safety of persons or property on the ground.

Aerial dives and acrobatics by civil aircraft must be executed in compliance with the rules issued in this regard.

Art. 41. Maneuvers of aircraft in public shows may take place only with authorization from the Prefect [chief of the respective department] after notification of the competent aeronautical authority.

When the test consists of a flight including successive landings, authorization shall be granted by the Ministry of the Interior after notification of the Minister of Civil Aviation.

Chapter II. Landing.

Art. 42. Except in case of *force majeure* or the cases provided for in the following paragraph, aircraft may only land on, and take off from properly established airdromes.

A decree issued on the report of the Minister of Civil Aviation and the Minister of the Interior, shall define the conditions under which certain types of aircraft may land or take off at places other than airdromes, with the agreement of the person who is entitled to the land or water area used.

However, such agreement shall not be required in the case of aid and salvage operations for which aircraft are used.

Art. 43. In case of landing or setting down on water on private property, the person entitled to the land or water area may not prevent departure or removal of the aircraft when no attachment has issued except as provided in Article 34.

Art. 44. Aircraft which make an international flight must land on customs airports.

They may have to follow a specific air route to cross the border.

However, because of the nature of their operation, certain categories of aircraft may be exempted by administrative authorization issued on request by the Minister of Civil Aviation, from landing on customs airports; in such case, the authorization shall designate the airdrome of arrival and departure and, if required, the air route to be followed and the signals to be given at crossing the border.

Chapter III. Regulation of Flight of Aircraft.

Art. 45. Any person who belongs to the flight personnel of an aircraft must have one or more valid aptitude licenses, corresponding to his duties and issued under conditions specified by decree.

Art. 46. An aircraft may make a flight only when it has an airworthiness certificate or when it has a flight permit by way of exception issued after inspection of the aircraft under conditions determined by decree.

Decrees shall further determine the marks which must be affixed to aircraft and the operational rules, particularly the documents which must be carried aboard and the technical operating conditions of aircraft.

Decrees shall also determine the operational rules applicable to foreigners.

The costs for inspection required by the regulations for the issuance or renewal of the airworthiness certificate of aircraft shall be borne

by the owners of the aircraft inspected under conditions specified by a decree issued on the report of the Minister of Civil Aviation and the Minister of Finance.

This decree shall specify, in particular, the rates of the costs to be reimbursed to the Treasury, when the inspection is made by officials of the State.

Art. 47. Without a special authorization it shall be prohibited to transport on aircraft any explosives, weapons, and ammunition, carrier pigeons, or mail included in the postal monopoly.

Transportation and use of photographic equipment may be prohibited by decree.

The conditions for transportation of dangerous substances, cultures of microbes, and small infected or dangerous animals shall be determined by decree.

Art. 48. No equipment for radio telegraph or radio telephone intended for the mobile aeronautical communications service may be installed or used aboard an aircraft without special authorization; the same shall apply to equipment for radio navigation or electro-magnetic detection.

Aircraft for public passenger transport must be equipped with radio communication apparatus necessary for flight safety under conditions determined by regulation.

In all cases, the crew members who use radio telegraphy or radio telephone equipment must have a radio operator's license or a qualification for radio telephone; the use of such equipment must be in accordance with the regulations.

Art. 49. Any aircraft landing on an airdrome or on private property shall be subject to the control and supervision of the administrative authorities.

Art. 50. Any aircraft in flight anywhere must submit to the orders of the police and customs stations and aircraft, in whatever form such order may be given.

Art. 51. Aircraft flying exclusively over airdromes and areas approved by the administrative authorities as training areas, shall not be subject to the provisions of Articles 45 to 52, provided such flights do not constitute a public show. However, they may not transport passengers unless they have a certificate of airworthiness.

Art. 52. Airworthiness certificates, aptitude patents and licenses issued or validated by the State whose nationality the aircraft has, shall be recognized as valid for flight above Chad territory when reciprocity exists under an international convention or a decree.

TITLE III. DAMAGES, LIABILITY, AND LOSS OF AIRCRAFT.

Art. 53. During flight, pilots must comply with the rules provided for in Title II of this Book and must take all precautions necessary to avoid damages.

Art. 54. In the case of damage caused by an aircraft in flight to another aircraft in flight, the liability of the pilot and of the operator of the aircraft shall be regulated by the provisions of the Civil Code.

Art. 55. The operator of an aircraft shall be fully liable for damages caused to third persons on the ground by the flight of aircraft or by persons or articles falling therefrom.

Such liability may be reduced or avoided only by proof of the negligence of the injured person.

Art. 56. Except with a special authorization, it shall be prohibited, other than in cases of *force majeure*, to throw from an aircraft in flight any goods or articles whatever, with the exception of regulation ballast.

In case of jettisoning by reason of *force majeure*, or jettisoning of regulation ballast, or of specially authorized jettisoning which causes damage to persons and property on the ground, the liability shall be determined in accordance with the provisions of the preceding article.

Art. 57. In the case of charter of an aircraft, the owner and the operator shall be jointly liable to third persons for any damage.

However, when the charter has been recorded in the register, the owner shall only be liable when the third person proves negligence on his part.

Art. 58. An action for damage liability shall be brought, at the choice of the plaintiff, in the court of the place where the damage was caused or in the court at the domicile of the defendant.

In the case of damage to an aircraft in flight, the court at the place where the aircraft had to land after the damage shall have jurisdiction.

Art. 59. The provisions of the Merchant Marine Code concerning aid and salvage at sea shall apply to aircraft in danger at sea and to pilots of aircraft who may render assistance to the persons in danger.

Art. 60. Any person who finds a wrecked aircraft must notify the nearest administrative authority within forty-eight hours after the discovery.

However, the rules concerning shipwrecks shall apply only to aircraft wrecked at sea or on the seashore.

Art. 61. In the case of disappearance of an aircraft without news, the aircraft shall be presumed lost three months after the date when the last news was sent.

The death of persons aboard an aircraft may, after expiration of such period, be declared by a judgment in accordance with the provisions of the Civil Code.

If necessary, the Minister of Civil Aviation may declare that there is a presumption of disappearance and he may send to the court of jurisdiction the requests necessary for a judicial declaration of the death of the persons who have disappeared.

The persons concerned may also proceed, in accordance with the provisions of the Civil Code, to obtain a judicial declaration of death. In that case, such request shall be transmitted by the Public Ministry to the Minister of Civil Aviation.

Art. 62. The manner of application of the preceding articles shall be determined by decree.

TITLE IV. ACCIDENT.

Art. 63. The flight commander shall submit a detailed report within forty-eight hours after any accident or event which may have serious consequences, whether it occurs on the ground, or in flight, or concerning any violation of flight rules.

Art. 64. The Minister of Civil Aviation shall initiate all investigations and inquiries in order to determine and state the causes of accidents or other events.

He may appoint a commission of investigation, whose membership, functioning, and jurisdiction shall be determined by regulation.

Art. 65. When the commission of investigation provided for in the preceding article finds negligence in performance of a professional duty, a copy of the file shall be sent directly to the disciplinary board of the Civil Aviation Board provided for in Article 147 below.

TITLE V. CRIMINAL PROVISIONS.

Art. 66. Any owner shall be punished by a fine of from 60,000 to 1,200,000 frs. and by imprisonment of from six days to one month, or by only one of these penalties, who:

1) puts, or retains in service any aircraft which does not have a registration certificate, an airworthiness certificate, or a flight permit by way of exception;

2) puts, or retains in service any aircraft without the identification marks provided for in Article 4;

3) causes or permits to fly, any aircraft whose airworthiness certificate or flight permit by way of exception has ceased to be valid;

4) causes or permits to fly any aircraft under conditions other than those specified in the airworthiness certificate and related documents or the flight permit by way of exception;

5) causes or permits to fly any aircraft under conditions that are contrary to the provisions of Articles 36 and 48 of this Code.

Art. 67. Any person shall be punished by a fine of from 60,000 to 1,200,000 frs. and by imprisonment of from six days to six months, or by only one of these penalties, who:

1) flies, or participates in flying an aircraft without valid documents required by the regulations;

2) destroys or removes a flight log or any other flight document required by air regulations or makes in such log or any other document inaccurate notations;

3) flies or participates in flying an aircraft under the conditions specified in Article 66;

4) violates Article 42.

Art. 68 The penalties provided for in Article 66 shall be doubled when the violations specified in paragraphs 1), 3), and 4) of Article 66, and paragraph 1) of Article 67 have been committed after denial or withdrawal of the registration certificate, the airworthiness certificate, or the flight permit by way of exception, or the licenses required for crew members under the regulations.

Art. 69. There shall be punished by a fine of from 12,000 to 200,000 frs. and by imprisonment of from six days to one month, or by only one of these penalties:

[1) any person who is found aboard an aircraft in flight without being able to justify his presence by a proper ticket or by permission of the operator or the flight commander;]⁶

⁶ This paragraph is missing in the French original. Presumably, it is the same as in the law of Niger. Ed.

2) any person who does not comply with, or refuses to comply with the instructions of the flight commander in view of the safety of the aircraft or that of the persons carried.

Art. 70. A pilot who does not comply with the provisions of Article 39 shall be punished by a fine of from 60,000 to 1,200,000 frs. and by imprisonment of from 15 days to 3 months.

Art. 71. Any person who affixes, or causes to be affixed to an aircraft, registration marks not in conformity with those on the registration certificate, or who removes or causes to be removed, or renders or causes to be rendered illegible properly affixed marks, shall be punished by a fine of from 120,000 to 2,400,000 frs. and by imprisonment of from 6 months to 3 years.

Art. 72. The violation of any provision of Article 47 by any person shall be punished by the penalties provided for in Article 66.

There shall be punished by the penalties provided for in Article 69:

1) Any person who uses on an aircraft any article or apparatus the transport of which is prohibited:

2) any person who, without special authorization, uses photographic or motion picture equipment above prohibited areas.

Art. 37. Any person who has been sentenced for a violation of the preceding articles and who commits a further violation of a provision of this Code or the same violation within a period of five years from the end of the imprisonment or from payment of the fine, or from prescription of these two penalties, shall be sentenced to the maximum imprisonment and fine and these penalties may be doubled.

Art. 74. There shall be punished by a fine of from 12,000 to 60,000 frs. and, according to the circumstances, also by imprisonment of from 6 days to one month:

1) any flight commander who does not keep or cause to be kept any of the flight documents required by Article 46, second paragraph, and any crew member specially ordered to keep them;

2) the owner or charterer recorded in the register who omits to preserve any of the flight documents for 3 years from the last entry;

3) any person who violates Article 40;

4) any person who violates the regulations concerning technical operating conditions of aircraft issued in application of Article 46.

In case of repetition, there shall always be imprisonment. There shall be repetition when, during the preceding year, a judgment has been rendered against the violator for one of these violations.

Art. 75. Any person who violates Article 41, or any decrees issued in application thereof, shall be punished by a fine of from 30,000 to 200,000 frs. and, according to the circumstances, also [by imprisonment].⁷

Art. 76. A prohibition to fly, or to participate in flying an aircraft may be imposed by judgment or ordinance for a period of from 3 months to 3 years, against a crew member sentenced under Articles 68, 70, and 71.

⁷ Missing in original text. Ed.

When a crew member is sentenced the second time for the same violation within the period provided for in Article 73, the prohibition to fly, or to participate in flying an aircraft shall be imposed and the duration thereof shall be the maximum period and may be doubled. The patents, licenses, and certificates held by the violators shall be deposited for the whole duration of the prohibition with the clerk of the court which imposed the prohibition.

The persons sentenced must deposit such patents, licenses, and certificates either with the above clerk or the clerk at their domicile, within 5 days after the date on which the sentence has become final, under penalty of 6 days to 1 month imprisonment and a fine of from 6.000 to 120.000 frs, without thereby affecting the penalties under Article 67 in the case that they fly or participate in flying an aircraft during the period of prohibition, and such penalties cannot be intermingled.

Art. 77. In accordance with Article 56 of this Code, any unauthorized jettisoning of articles from an aircraft in flight shall be punished by a fine of from 60.000 to 360.000 frs. and by imprisonment of from 6 days to 2 months, or by only one of these penalties, even if such jettisoning causes no damage, and without thereby affecting more severe penalties which may be imposed in case of other violations.

Art. 78. Any flight commander of an aircraft who, in the knowledge that the aircraft has caused or occasioned an accident on the ground, does not immediately notify the authorities of the nearest airport with which he can communicate, and thus attempts to avoid any criminal and civil liability he may have incurred, shall be punished by the penalties provided for by the law in cases of the offense of leaving the scene of an accident.

Art. 79. The provisions of the Criminal Code pertaining to mitigation and aggravation of penalties shall be applicable to all violations specified in this law.

Art. 80. All provisions of laws relating to the prevention of violations of customs regulations shall be applicable to goods imported or exported by aircraft under any customs system.

All unauthorized [un]⁸ loading and dropping of goods other than those necessary for the welfare of the aircraft shall be punished by the penalties provided for in the customs law in respect to contraband.

In case of a violation, the aircraft may only be used as surety for payment of the fine incurred, or may be subject to attachment which, however, shall be lifted when a bond is furnished or a deposit is paid to the extent of the fine.

Art. 81. In regard to goods exported in discharge of temporary admittance or bonding permits subject to internal taxes, the shippers shall justify their shipment abroad by producing, within the periods specified, a valid customs certificate of destination under penalty of payment of four times the value of the goods.

Art. 82. Article 79 shall not be applicable to violations specified in the customs laws.

Art. 83. Violation of the provisions of this Book and of the regulations issued for its application shall be prosecuted independently by the officers of the judicial police, the officials of the technical bureau of

⁸ Missing in original text. Ed.

the Civil Aviation Board, military or naval officers, and agents of the civil or military authorities appointed for such purpose, the gendarmes and the customs agents.

Art. 84. The State Attorney, the investigating courts, the justices of the peace, the police officers at the office of the State attorney designated by the Code of Criminal Investigation, the officials of the technical bureau of the Civil Aviation Board, military or naval officers, and agents of the civil or military authorities appointed for such purpose, the gendarmes and customs agents shall have the right to seize explosives, weapons and ammunition, carrier pigeons, photographic equipment, photographic negatives and mail, as well as all radio telegraph and telephone equipment which may be on board without the special authorization provided for in Articles 47 and 48.

Art. 85. Any aircraft whose airworthiness certificate and registration certificate cannot be produced or whose registration marks do not agree with those on the registration certificate may be detained at the expense of the owner or, in the case of a charter recorded in the register, at the expense of the recorded charter by the authorities in charge of enforcement of this Code until the [identity]⁹ of the owner can be established.

Art. 86. The file stating violations of this Code and the decree provided for therein, shall be transmitted without delay to the State attorney.

BOOK II. [AIRDROMES]¹⁰

[TITLE I. AIRDROME REGULATION.]

Chapter I. Establishment and Operation

Art. 87. An airdrome shall be deemed any land or water area specially equipped for the landing, take-off, and manoeuvring of aircraft, including the related installations which may be present for the needs of traffic and service of aircraft.

Art. 88. An airdrome shall be called "open to public air traffic" when all aircraft which have the appropriate technical characteristics are authorized to use it, subject to the provisions of Article 91.

Art. 89. A decree shall state the conditions of establishment and use of airdromes whether or not they are open to public air traffic.

Art. 90. Opening of an airdrome to public air traffic shall be pronounced by ordinance of the Minister of Civil Aviation after a technical investigation.

Closing of an airdrome to public air traffic shall occur in the same manner.

Art. 91. The use of an airdrome open to public air traffic may at any time be subject to certain restrictions or may be temporarily closed if flight conditions on the airdrome or in the adjoining airspace, or reasons of public order justify such action. Such decisions shall be the subject of notices to air navigators.

Art. 92. Air[dromes]¹¹ for public air traffic may be established by

⁹ The French text reads "indemnité." Ed.

¹⁰ The French text reads "*Du régime des aéroports*" which does not fit the subject matter of the following articles, and the sub-heading "Title I. Airdrome Regulation" is omitted. Presumably this heading is in error, and the law of Niger is correct on this point. Ed.

¹¹ The original text reads "*Les aéronefs*" (aircraft). Ed.

the State, by public organizations and public establishments, or by private natural or legal persons who fulfill the conditions specified by decree.

Art. 93. All airdromes may be subject to the technical and administrative control of the State.

Art. 94. Contracts granted by the State for the construction, maintenance, and operation of airdromes owned by it, shall be subject to the following conditions:

The cost accounts ¹² of the contracts shall be approved by decree issued on the report of the Minister of Civil Aviation and the Minister of Finance.

Contracts which do not involve a cost account shall be awarded by inter-ministerial ordinance.

Art. 95. The establishment of an airdrome for public air traffic that does not belong to the State shall be subject to the conclusion of an agreement between the Minister of Civil Aviation and the public or private natural or legal person who establishes the airport; such agreement must be approved by the Minister who supervises the public organization or establishment concerned. It shall also be subject to approval by the Minister of Finance if it involves financial obligations of the State.

Art. 96. For reasons of national defense a decree may prescribe that the State temporarily or permanently replace the operator of an airdrome.

Chapter II. Classification.

Art. 97. Airdromes for public air traffic shall be subject to a classification established by taking account of the character and the importance of the traffic thereon.

Such classification may be extended to airdromes not for public air traffic when the conditions of use of such airdromes justify it.

Art. 98. The technical and administrative conditions of the classification provided for in the preceding article, the categories into which airdromes are divided, the procedure preceding the classification and the effects of the classification shall be determined by decree issued on the report of the Minister of Civil Aviation, on the advice of the Minister of Justice, the Minister of Finance, the Minister of the Interior, and the Minister of National Defense.

Art. 99. The classification of airdromes shall be declared by decree issued on the report of the Minister of Civil Aviation, on the advice of the Minister of Finance, the Minister of the Interior, and other Ministers concerned.

Chapter III. Fees.

Art. 100. On all airdromes open to public air traffic the services rendered to users and to the public shall give rise to a remuneration in the form of fees levied for the benefit of the person rendering the service, and particularly for the following operations:

Landing of aircraft:

Use of devices of assistance to air navigation;

Use of aeronautical telecommunication facilities;

Parking and hangar space for aircraft:

¹² See Art. 86 of the French Code of Civil and Commercial Aviation for this term. Ed

Use of installations equipped for the reception of passengers and goods;

Occupation of land and buildings;

Use of various installations and workshops.

Art. 101. The fees and methods of levy of such fees shall be determined by special regulation.

Art. 102. The fees shall become due on use of the facilities, installations, buildings, and workshops for which they constitute the payment, and they must be commensurate with the services rendered.

In case of non-payment of fees due from the operator of air aircraft, the operator of the airdrome shall be entitled to request the authority responsible for air traffic on the airport that the aircraft be held until deposit has been made of the amounts in dispute.

TITLE II. AERONAUTICAL RESTRICTIONS.

Art. 103. In order to ensure the safety of navigation of aircraft, special restriction called "aeronautical restrictions" are imposed.

Such restrictions shall include:

1. Aeronautical restrictions for the purpose of clearance including the prohibition to create, or the obligation to remove, any obstacles that may constitute a danger to air traffic or impair the functioning of safety devices established in the interest of air traffic;

2. Aeronautical restrictions of marking, carrying an obligation to provide visual or radio-electric devices on certain obstacles and locations in order to notify their presense to air navigators or to permit their identification, or to prevent the installation of such devices.

Art. 104. The provisions of this Title shall be applicable:

- a) To airdromes intended for public air traffic or established by the State;

- b) to airdromes not intended for public air traffic and established by a natural or legal person other than the State;

- c) to installations of aid to air navigation, or aeronautical telecommunications, but the provisions concerning restrictions established in the interest of radio-electric transmission and reception shall apply;

- d) to certain locations which constitute preferred reference points for air navigation.

Art. 105. The restrictions provided for in Article 103 shall ensure to air navigation conditions of safety at least equivalent to those resulting from the standards and recommendations of the International Civil Aviation Organization, in accordance with annex 14 of the Convention on International Civil Aviation of December 7, 1944.

Art. 106. The Minister of Civil Aviation or, for airdromes or air routes concerning him, the Minister of National Defense, may prescribe day and night markings or markings for day or for night time for all obstacles which he considers dangerous to air navigation.

He may further order the installation of visual or radio-electric devices of aid to air navigation.

He may also order the removal or modification of any visual device which is such as to create confusion with visual aids to air navigation.

Art. 107. In order to install the markings mentioned in Article 106, the administration shall have the right to build supports, to pass, to cut or trim trees, and the right to install devices on outside walls and roofs.

The rights may be exercised by the private persons who may be in charge of the markings.

Art. 108. Outside of the areas subject to clearance restrictions in application of this Title, the establishment of certain installations which, due to their height, may constitute obstacles to air navigation, shall be subject to special authorization by the Minister of Civil Aviation or, insofar as it concerns him, the Minister of National Defense. Ministerial ordinances shall determine the installations subject to authorization.

Art. 109. When, for reasons of the requirements of air traffic, the competent authority decides on the expansion or establishment of airdromes or of installations intended to ensure the safety of air navigation, the necessary land, if not already reserved for that purpose in a building plan under consideration or approval, may be declared reserved by regulations after a public investigation in the form prescribed by the provisions applicable to expropriation.

Art. 110. Regulations shall prescribe the methods of application of this Title.

TITLE III. CRIMINAL PROVISIONS.

Art. 111. Any person who remains or enters on any land prohibited by the general regulations and ordinances concerning airdromes affected with a public service, or permits cattle, carriage, pack or riding animals to remain thereon, shall be subject to the penalties provided for on this matter in the Criminal Code and, in addition, may be deprived of any right to damages in the case of an accident.

The provisions of Articles 83 and 86 shall be applicable to this article.

Art. 112. Violations of the provisions concerning aeronautical restrictions of clearance and marking established in the interest of air navigation shall be punished by a fine of from 50,000 to 1,500,000 frs.

In the case of repetition, violations shall be punished by a fine of from 100,000 to 3,000,000 frs and by imprisonment of from ten days to three months, or by only one of these penalties.

Art. 113. On request of the Public Ministry, acting at the request of the Minister concerned, the court that has cognizance of the case shall, under the penalty of 1,000 to 10,000 for each day of delay, impose on the persons who violate these provisions, a time limit to remove or modify the structures subject to restrictions or to provide markings thereon.

When such time period is not observed, the penalty imposed shall be due from the expiration of said time limit until the day when the situation has been effectively remedied.

When the matter has not been remedied within one year from the expiration of the time limit, the court may, on request of the Public Ministry acting under the same conditions, collect, once or several times, the amount of the penalty, even exceeding the maximum provided above.

The court may decree return of part of the penalties when the matter has been remedied and the person liable shows that he had been

prevented by circumstances beyond his control to observe the time limit imposed. When at the expiration of the time limit set in the judgment the matter has not been remedied, the administration may do the work at the expense and risk of the persons liable therefor.

The penalties shall be collected by the revenue agents of the Treasury.

BOOK III. AIR TRANSPORTATION.

Art. 114. Air transportation means the transportation by aircraft of passengers, mail and goods from one point to another.

TITLE I. TRANSPORTATION CONTRACT.

[*Chapter I. Transportation of Goods.*] ¹³

Art. 115. The rules of the Commercial Code concerning transportation on the ground and by water shall apply to transportation by air, except as provided in the following articles.

Art. 116. Contracts for air transportation of goods shall be governed by the provisions of the Warsaw Convention of October 12, 1929, or any Convention or protocol modifying it and applicable in Chad, even if the transportation is not international in the sense of that convention.

Art. 117. Liability of the carrier of goods or baggage shall be governed, in the case of transportation by air, by the provisions of the Warsaw Convention of October 12, 1929, under the conditions provided for in Article 116 above.

Art. 118. The fraud provided for in Article 26, paragraph 4 of said convention, is one by which the carrier hides or tries to hide a loss, shortage or delay, or by any other means prevents or tries to prevent the addressee from presenting his claims within the required time. The injured person shall also be relieved from the running of the statute of limitations as provided for in this law if he has been prevented from presenting his claim by *force majeure*.

Art. 119. An action for liability may be brought, at the choice of the plaintiff, either before the court of the domicile of the carrier, at his principal place of operation or at the place where he possesses an establishment by means of which the contract was concluded, or before the court of the place of destination.

An action for liability must be brought, under penalty of losing the right, within two years from the day when the aircraft has arrived or should have arrived at the place of destination.

Art. 120. The carrier shall make out a manifest containing the type and nature of the goods carried under the conditions specified by the regulations.

Art. 121. Jettisoning of goods necessary for the welfare of the aircraft shall not create liability on the part of the carrier to the shipper and the addressee on account of such loss of the goods.

Chapter II. Transportation of Persons.

Art. 122. Contracts for transportation of passengers must be made by delivery of a ticket.

The carrier must submit to the competent authorities a traffic form or, in the absence thereof, a passenger manifest.

¹³ This sub-heading (taken from the French Air Code) is missing in the original text. Ed.

However, this provision shall not apply to trips which provide for return to the airport of departure without an intermediate stop.

Art. 123. For international transportation, the operators shall take the precautions necessary to ensure that the passengers possess all documents required by the States for purposes of control.

Art. 124. Liability of a carrier of persons shall be governed by the provisions of the Convention of Warsaw of October 12, 1929, as provided for in Articles 117, 118, and 119 above. However, unless there are contrary provisions in the convention, a carrier who undertakes gratuitous transportation, shall not be liable, within the limits provided for in said convention except where it is established that the damage has been caused by a fault attributable to the carrier or his employees.

Liability of an air carrier may not be imposed except under the conditions and within the limits provided for above, whoever the persons bring the action, and whatever the right they pretend to claim, may be.

Chapter III. Charter and Rental.

Art. 125. In case of charter of an aircraft for a predetermined time, the crew members as defined by the regulations shall remain the agents of the aircraft owner, unless there is an agreement to the contrary.

Art. 126. The owner of an aircraft chartered to a third person shall remain liable for all legal obligations and shall be jointly liable with the charterer for any violation thereof.

However, when the charter contract is recorded in the register and when the charterer fulfills the conditions required for ownership in a Chad aircraft, such charterer shall be solely liable as operator for all legal obligations and shall be solely liable for violation thereof.

TITLE III. CARRIERS.

Chapter I. Chad carriers.

Art. 127. No one shall engage in air transportation on a commercial basis and for payment, unless he has been authorized by the Minister of Civil Aviation.

Art. 128. Carriers authorized under Article 127 above must submit for prior approval of the Minister of Civil Aviation:

- 1) Their general plans for the purchase and rental of flight equipment;
- 2) their plans of operation containing in particular an indication of the types of equipment normally used on each of the passenger services listed in such plans.

The rates shall be submitted for approval to the Minister of Civil Aviation.

Transportation of a maximum of six passengers by aircraft whose weight is less than a maximum fixed by the Minister of Civil Aviation shall not be subject to the obligations specified in this article.

Art. 129. Coordination between air transportation and transportation on the ground or by water shall be assured by the Ministers concerned after consultation of any competent advisory organizations.

Art. 130. Air carriers shall be subject to the technical control exercised by the Minister of Civil Aviation in order to insure air safety.

Expenses incurred by such control shall be borne by the carriers.

Art. 131. Control by the State of air carriers shall be exercised as regards technical operation and working conditions for the personnel, commercial operation and administrative regulation by the Minister of Civil Aviation.

Art. 132. The Minister of Civil Aviation may delegate certain functions of control to a technical organization set up for this purpose.

Art. 133. Authorized carriers must on request by the officials in charge of control open to them for inspection all documents which are necessary for the exercise of their functions.

Art. 134. The conditions of application of Articles 122 and 124, shall be fixed by decree.

Chapter II. The Company "Air Afrique."

Art. 135. The company "Air Afrique" established by the Treaty of Yaoundé signed on March 28, 1961, shall be deemed to have Chad nationality.

Chapter III. Foreign Carriers.

Art. 136. The establishment and operation of foreign scheduled international air carriers coming from, or going to Chad shall be subject to prior authorization by the Government.

Art. 137. The plans, timetables, rates and technical facilities for operation of foreign air carriers providing services from or to Chad must be submitted to the competent aviation authorities under the conditions fixed by the latter.

Art. 138. Commercial transportation of passengers and goods between two points in Chad shall be reserved to Chad carriers except for special and temporary exceptions.

Chapter IV. Penalties.

Art. 139. When an air carrier violates the provision of Articles 128, 130, 137, and 138, the Minister of Civil Aviation may decree, for all or some of the activities undertaken, the suspension or withdrawal of the permits or authorizations granted.

Art. 140. Any Chad or foreign air carrier who, without authorization or in violation of the conditions prescribed in the authorizations issued to him, undertakes in Chad any air transportation, shall be punishable by a fine.

¹⁴[Such fine shall be imposed by any agent empowered to pursue violations in air traffic matters, particularly by airdrome commanders, and shall be paid in cash to the qualified agents, particularly to collectors of fees attached to airdromes.

Such fine shall be in proportion to the weight of the aircraft and shall be established on the basis of 25,000 frs per ton, for each transportation.

The weight considered shall be the maximum take-off weight under the airworthiness certificate.

Any fraction of a ton shall count as a ton.

If payment of the fine is refused, or in case of repetition, the aircraft may be sequestered on the request of the competent aviation authorities.

¹⁴The text, beginning with this paragraph and ending with the next to last paragraph of Art. 142, is missing in the original. The bracketed portions are taken from the law of Niger. Ed.

BOOK IV. FLIGHT PERSONNEL

TITLE I. PATENTS, LICENSES, AND QUALIFICATIONS.

Art. 141. The titles designated "patents" denote general overall theoretical and practical knowledge. They are issued after an examination and are permanently acquired by the titleholders.

The titles designated "licenses" denote an aptitude and the right, for titleholders of patents, to execute the corresponding functions subject to the qualifications provided for in the following article. Licenses are valid only for a limited time; they may be renewed after periodic examination for the various aptitudes required.]

The list of patents and licenses, the conditions required to obtain them, the rules, plans, and regulations for pertinent examinations and the rules for exemption of candidates who possess certain [Chad] or foreign titles denoting knowledge at least equal to that required for such examinations, shall be fixed by regulations.

In no case shall the beneficiaries of the exemptions mentioned above be exempt from the practical examination.

Art. 142. The exercise of functions corresponding to the different licenses is subject to the titleholder's possession of special professional qualifications in view of the aircraft, the equipment, and the conditions of the flights contemplated.]

The definition of the special professional qualifications, the conditions to obtain and renew them, the plans and regulations for the respective examinations shall be fixed by regulations.

TITLE II. THE AIRCRAFT COMMANDER AND THE CREW.

Art. 143. The crew shall consist of all the persons aboard for the service of the aircraft in flight. It shall be subject to the orders of the aircraft commander.

The members of the crew shall be appointed by the operator and carried on a list as required by the regulations.

Art. 144. The functions of aircraft commander shall be exercised by a pilot.

The aircraft commander shall be named first on the crew list.

In the case of death or disability of the aircraft commander, the command of the aircraft to the place of landing shall be exercised as a matter of law in the order set by such list.

Art. 145. The aircraft commander shall be responsible for the execution of the mission and shall have authority over all persons aboard. He shall have the right to remove from the aircraft any person among the crew or the passengers or any part of the cargo that may present a danger for the safety, the welfare or good order aboard the aircraft. If he considers it necessary, he may, during the flight, discharge all or part of the cargo of merchandise or fuel, provided he renders an account thereof to the operator. If any choice is possible, he must jettison goods of low value.

Article 146. The aircraft commander shall be consignee of the aircraft and shall be responsible for the cargo. In the case of difficulties in the execution of his task, he must request instructions from the operator. If it is impossible for him to receive precise instructions, he shall have the right without special orders:

- (a) to incur expenses necessary for the accomplishment of the mission undertaken;

- (b) to have repairs made that are necessary to permit the aircraft to continue its mission within a reasonable time;
- (c) to take all measures and incur all expenses to assure the safety of the persons aboard and the safekeeping of the cargo;
- (d) to hire additional personnel for the completion of the mission and to discharge them.

TITLE III. DISCIPLINE.

Article 147. A disciplinary board of flight personnel of the Civil Aviation Board shall propose to the competent Minister the application of the penalties provided for in Article 149 in regard to members of civil aviation flight personnel found guilty of violations of this law, of amendments thereto, and of regulations issued thereunder.

Art. 148. The disciplinary board of the Civil Aviation Board shall be divided into two sections:

- Professional flight personnel;
- Private flight personnel.

It shall be presided over by the Minister of Civil Aviation.

Membership, functioning, and jurisdiction of the disciplinary board shall be fixed by decree.

Art. 149. Disciplinary punishment under the jurisdiction of the disciplinary board are:

Temporary withdrawal, with or without return of one or more licenses:

Permanent withdrawal of one or more licenses.

Art. 150. In case there is serious reason to presume that there is liability of the aircraft commander or a crew member, and while awaiting the conclusions of the disciplinary board, the competent Minister may suspend the person concerned from his duties for a period not to exceed two months.

If the person concerned is a member of the professional flight personnel, he shall receive his guaranteed minimum salary during the time of suspension.

Art. 151. The person concerned may challenge the board members in the manner provided for in the Code of Civil Procedure in the case of judges.

TITLE IV. CRIMINAL PROVISIONS

Art. 152. Any person who performs any of the duties requiring a patent, license and qualification of the professional flight personnel of civil aviation in violation of the provision of this Title, shall be punished by a fine of from 40,000 to 240,000 frs, and by imprisonment of from ten days to one month, or by only one of these penalties.

Any management official of a carrier who entrusts such duties to a person who does not fulfill the conditions required by this title, shall be subject to the same penalty.

Art. 153. The Minister of Public Works shall supervise the enforcement of this decree which shall have the force of law and which shall be recorded and published in the *Journal Officiel*.

CHILE

AIR NAVIGATION ¹

The final text of Decree-Law 675 of October 17, 1925, on air navigation with all additions and modifications now introduced, shall be the following:

TITLE I

AIRCRAFT

Article 1. For the application of the present Decree-Law, an aircraft shall be any contrivance capable of rising or circulating in the air.

Article 2. Aircraft, whether lighter or heavier than air, shall be divided into private and State aircraft.

State aircraft shall be:

a) Military aircraft, or aircraft whose crew consists of military personnel commissioned for the purpose.

b) Aircraft exclusively used in State service, such as postal, customs, police authorities, etc.

Other aircraft shall be civil aircraft and shall be divided into private and commercial aircraft.

Commercial aircraft shall be all aircraft used for carriage of passengers, goods or mail, either in scheduled or non-scheduled service.

Article 3. Aircraft shall be personal property. However, transfer of ownership therein must be made by written instrument, and it shall not be effective against third persons unless recorded in the Register.

Article 4. Aircraft shall preserve their identity even when the materials of which they are composed, are successively replaced. An aircraft which has been dismantled and rebuilt, even with the same materials shall be deemed new and different.

TITLE II

REGISTRATION AND NATIONALITY OF AIRCRAFT

Article 5. Every Chilean aircraft must be entered in the Register which shall be kept by the Aeronautics Board in Santiago. The Register shall be public and any person may obtain a certified copy of any entry therein.

In the Register shall be entered the name and address of the owner, the serial number distinctive markings, the category or type of aircraft, and other details specified in this Law.

Article 6. In order to record an aircraft in the Register of National Air Navigation, the owner or owners, or their legally appointed representatives, must present a certified copy of the contract, court judgment or other ownership title to the Aeronautics Board which may accept or refuse the application for registration.

¹ Promulgated as Decree with force of law No. 221 of May 15, 1931 (*Diario Oficial*, May 30, 1931.)

Article 7. To be owner of a Chilean aircraft, a person must be a native or naturalized citizen of the Republic. If the owner of an aircraft is a business organization, it shall be deemed Chilean when it proves that it is established under the laws of Chile and that two-thirds of its stock capital belongs permanently to Chilean citizens, and that its President and at least two-thirds of its Board of Directors are Chilean citizens. To prove these facts in the case of a company which is a limited or general partnership the respective documents shall be presented, and if the nationality of the partners does not appear therein, it shall be proved by legal procedure. In the case of a corporation, a list of the stockholders shall be presented, certified by all members of the Board and by the Manager of the Corporation as to the nationality of the stockholders.

Article 8. An aircraft registered in Chile shall lose its Chilean nationality when it fails to comply with the conditions specified in Article 7, or when the owner or owners register it in a foreign country.

Article 9. No aircraft registered in another country may be entered in the Register of National Air Navigation. In case it has been simultaneously registered in Chile and another country, its registration in the Chilean Register shall be considered void and without effect.

Article 10. Any transfer of ownership by death and all judgments which transfer, establish or declare ownership, shall be entered in the Register at the request of the new owner.

The transfer of ownership in an aircraft, in a foreign country shall be made in the presence of Chilean consular officials, who shall issue the proper documents, a certified copy of which shall be sent to the Aeronautics Board.

TITLE III

CERTIFICATE OF AIRWORTHINESS AND LICENSES

Certificate of Airworthiness

Article 11. Every aircraft which flies over Chilean territory must have a certificate of airworthiness issued or validated in the manner provided by the State whose nationality the aircraft bears. Chilean aircraft secure this certificate from the Aeronautics Bureau.

Licenses

Article 12. The commander, pilots, mechanics and other crew members on board an aircraft must hold aptitude certificates and licenses granted under conditions fixed by the regulations, or validated by the State which originally issued the license to be validated.

In case a license has been suspended by the Chilean Government, it may be validated only by this Government.

Article 13. No radio equipment may be carried on board without a special license issued by the Aeronautics Board. Such equipment may be used only by members of the crew holding special licenses therefor.

Any aircraft used in public service and capable of transporting at least ten persons shall carry radio equipment (sending and receiving).

However, the Aeronautics Board may require that aircraft of a capacity of less than ten passengers shall carry radio equipment when it deems it proper.

TITLE IV

PERMISSION TO NAVIGATE IN THE AIR OVER NATIONAL TERRITORY

Rules to be observed for take-off, enroute and for landing.

Article 14. Any private aircraft whose registration has been issued by a State party to C.I.N.A., C.I.A.N.A. and C.A.C.H. shall have the right to overfly the air space of the State without landing, following the routes which are fixed by the respective regulation. However, for reasons of public safety, they must land when they receive the order to do so by means of regulation signals.

Aircraft not specified in this article, and commercial aircraft must request from the respective Ministry, through diplomatic channels, the proper authorizations to fly over national territory.

Article 15. Any aircraft crossing the frontiers in order to land on Chilean territory, shall do so at the first airport on its route.

If by *force majeure*, any aircraft must land at a place not included among the scheduled stops, it must report immediately to the local authority, who shall communicate with the nearest airport in order that its authorities may decide whether the necessary inspections may be performed there, or whether the aircraft may take off to said airport for administrative and customs inspection.

Article 16. Any aircraft flying in, or through the air space of the State, including reasonable necessary landings and stops, may avoid attachment or embargo for infringement of a patent, design or model related to the aircraft, by posting bond, the amount of which shall be determined without delay by the competent authority of the place of attachment, in the absence of an amicable agreement as to the amount.

Article 17. Any aircraft flying over national territory must be provided with:

- a) A registration certificate.
- b) A certificate of airworthiness.
- c) Permits and licenses for the commander, the pilots and crew members.
- d) If transporting passengers, a passenger list.
- e) If transporting merchandise, invoices and manifests.
- f) Log books.
- g) If carrying radio equipment, the license provided for in Article 13.
- h) Upon entry into the country aircraft shall carry a bill of health viséed by the respective consul in accordance with the consular law in force or to be adopted; the crew and passengers should present the documents required in the Immigration Law and the the health regulations.

Article 18. Log books must be preserved for two years, computed from the date of the last entry verified therein. Commanders shall note in the ship's log all important events of the trip.

Article 19. Aircraft of States which are parties to C.I.N.A., C.I.A.N.A. and C.A.C.H. shall have a right to the same assistance available to national aircraft, in accordance with the regulations.

Article 20. Salvage of aircraft lost on land or at sea shall be governed by the corresponding principles of admiralty law, unless there is an agreement to the contrary.

Article 21. Private aircraft shall carry markings painted on the outside and in visible form, according to the regulations showing nationality, registration, as well as the name and address of the owner, in order to permit easy identification.

TITLE V

AIR TRAFFIC

Article 22. The State shall exercise full and exclusive sovereignty over the air space over its territory and territorial waters.

Article 23. Navigation of Chilean aircraft within the national territory shall be free, subject to the provisions of this Law. Navigation of foreign aircraft shall further be subject to the provisions of international agreements, and they shall be prohibited from sabotage service, either commercial or postal, which shall be reserved to Chilean aircraft.

Article 24. No aircraft of uncertain nationality may fly over the territory or territorial waters, nor may the following do so:

a) Aircraft which have not been registered in the manner provided in Title II of this Law.

b) Aircraft which do not have a certificate of airworthiness and have not been certified or declared to be in good condition for navigation by the Aeronautics Board in the manner specified in this Law.

c) When the crew members do not hold the licenses specified in Article 12.

Article 25. No foreign military aircraft may fly over the national territory or land thereon, unless it has received authorization to do so from the Government of Chile.

Except as provided otherwise, such military aircraft shall enjoy the customary privileges granted to foreign warships.

A military aircraft making a forced landing, or which is required or requested to land, shall not, by virtue of this fact, acquire any of the privileges provided in this article.

Article 26. For reasons of military order or public safety, the navigation over and take-off of aircraft from, specified areas of the national territory adjacent seas may be prohibited. The location and extent of prohibited areas shall be clearly indicated in the prohibition orders issued.

In case an aircraft penetrates a prohibited area, it shall be obliged to give the regulation signals for landing as soon as it becomes aware thereof and land at the nearest airdrome outside of such area.

The aviation authorities may order the landing of any aircraft in flight, in accordance with the signals prescribed in the regulations; the landing must be made at the nearest national airdrome.

Article 27. Aircraft which violate the prohibition to fly over any territory which has been declared in a state of siege, or over prohibited areas, shall be confiscated upon landing at any place on the national territory, and their crews considered spies, and they shall be held for the courts which have jurisdiction to take punitive action in such cases.

If an aircraft is perceived in flight, it shall proceed to land at the nearest airdrome, at the first notice given in accordance with the reg-

ulations and it must, from the moment of notice, cut the engines and descend to a lesser height; otherwise, it shall be forced to do so.

Article 28. Without special license from the Aeronautics Board, aircraft may not carry:

- a) Explosives, arms or munitions.
- b) Carrier pigeons, radio equipment, cinematographic or photographic equipment, articles prohibited by the customs regulations; and
- c) Mail items included in the postal service.

Article 29. Wherever an aircraft in flight may be, it shall obey the orders given to it by stations and aircraft of the police and customs service.

Article 30. Flights intended for public spectacles may not be made without proper administrative authorization and a permit granted by the Aeronautics Board.

Article 31. Acrobatic flights involving maneuvers which are dangerous and not necessary or good operation of the aircraft, shall be prohibited over populated places.

Article 32. No aircraft may fly over cities or towns except at such heights as will permit them, even with loss of power, to land outside of such populated places or at an airdrome.

Article 33. During flight, pilots shall obey the Regulations on Air Police, and the provisions on lights and signals and air traffic rules, and shall adopt all necessary precautions to avoid damages and accidents.

TITLE VI

AIRPORTS AND AIRDROMES, AND LANDING OF AIRCRAFT

Article 34.—An airdrome is defined as any area on land or water especially equipped for the parking, take-off or landing of aircraft.

Airdromes are divided into military, public and private:

Public airdromes are those constructed by the State, the Municipalities or individuals, and placed at the disposal of the public for air navigation, and private airdromes are those constructed by private individuals for their personal use.

Only public and private airdromes shall be subject to the provisions of this Law.

Article 35. Only in case of *force majeure* may aircraft land on, or take off from places which are not duly constituted public or private airdromes.

Article 36. It shall be prohibited to establish or operate airdromes without authorization of the Aeronautics Board, which shall determine the standards for their design and operation. Such authorization shall be revoked in case an airdrome fails to meet the necessary conditions, or when it fails to observe the regulations.

All State aircraft shall have the right of free access to private airdromes.

Article 37. No walls, houses or apartment buildings may exist, and their construction is prohibited, as is also the erection of electric transmission lines or other obstacles, at a distance less than ten times their height, computed from the boundaries of the area destined for the landing field of any public or private airdrome. The location of new constructions around an airport must be submitted for the approval of the aviation authorities. In the event that such works already

exist, they may be demolished or removed, with compensation by the airdrome owner for damages, in accordance with the procedures of the Expropriation Law.

Article 38. In time of war or great national crisis, the Government may prohibit or restrict navigation over the territory of the Republic or of its territorial waters by all or by some special type of aircraft.

It may order the seizure of all airdromes and landing fields, as well as of aircraft, materials or machinery thereon, whether they belong to nationals or foreigners: they may be utilized by naval, military or air forces of the nation, and the valuation and payment therefor shall be made in the manner established by the Expropriation Law.

Article 39. In cases of necessity, national tourist aircraft may land on uncultivated lands or on the surface of the water, outside of airdromes. The owner or owners of the land or of the water shall have the right to demand that they be given the names of the owner and the commander of the aircraft, and after such information has been obtained they may not prevent the taking-off or continuation of the trip.

Article 40. The aviation authorities may undertake all types of investigation before take-off, landing and during the stay at the airport concerning aircraft, their crews, goods and persons present or shipped.

TITLE VII

TRANSPORTATION OF PASSENGERS AND CARGO

Article 41. Air transportation shall be subject to the provisions of the Commercial Code relative to transportation by land, lake, canals, or navigable rivers, and of the special statutes in point, unless there is a conflict with the provisions of the Air Navigation Law.

Article 42. With respect to international travel, a carrier may not take on passengers who do not prove that they are duly authorized to disembark at the place of destination and at scheduled stops.

Article 43. By means of express stipulations in the transportation contract, the carrier may exclude liability imposed on him by reasons of risks of air travel whether in respect to passengers or cargo, and by misdemeanors committed by the crew, when the aircraft prior to departure is in good navigable condition and the commander and the crew hold the licenses mentioned in Article 12.

Article 44. The carrier shall draw up a manifest indicating the nature of the cargo, in order that the commander may present it to the authorities of the places where he lands, when they so require.

Article 45. During the flight the commander of an aircraft shall have the right to throw cargo overboard, provided that he deems it necessary for the safety of the craft.

The carrier may not be held liable for losses to the shipper or the consignee, but he shall be liable for damages caused on the ground.

Article 46. During a flight and while on board, the entire crew and the passengers of an aircraft shall be subject to the authority of the commander of the aircraft.

TITLE VIII

GENERAL PROVISIONS

Article 47. Legal acts which occur on board an aircraft during a trip shall be governed by Chilean law, provided the aircraft is flying

over the national territory and territorial waters. Births and deaths which occur during the voyage shall be registered in the ship log, and shall be communicated to the proper local authorities, and to the Chilean consul, depending upon whether the aircraft lands within the country or on foreign soil, and they shall be considered as having occurred on Chilean territory.

Article 48. The laws concerning shipwreck and saving of lives at sea and the duty to render assistance to ships in danger, shall be applicable to aircraft, whether they are over the sea or over land. Persons who render the assistance and services above indicated shall have a right to a reasonable compensation.

Article 49. In cases of charter of an aircraft the commander and the crew shall remain under the orders of the owner, unless there is an agreement to the contrary. The owner or owners of an aircraft chartered by third persons shall be subject to the legal obligations and shall be liable jointly with the lessee or lessees for any violation of the laws as well as for damages caused. However, if the charter contract is recorded in the Register, and the lessee fulfills the conditions required by Article 7, the owner or owners shall be liable only for the legal obligations and for a breach thereof.

Article 50. An aircraft shall be deemed lost when it fails to appear within three months from the date when the last notice concerning it was received.

After this time has elapsed, the Aeronautics Board may request a declaration of presumption of death by disappearance with respect to the persons on board the aircraft, and send to the competent tribunal the data on the case. The tribunal shall declare the presumption of death of such persons in accordance with the pertinent provisions of the Civil Code, except for the time period which is modified by this article.

Article 51. Within the shortest possible time from the discovery of the wreckage of an aircraft, the person making such discovery must report the fact to the municipal authority of the nearest place.

Article 52. The owner of an aircraft or the chartered, the commander and the person causing the damage shall be jointly liable for all damages and injuries caused by aircraft to persons or property.

Article 53. Actions for damages and injuries shall be barred three months from the date on which they arose.

Article 54. Aircraft which, for any reason, remain without flying for more than six months in the Customs or any other State-owned place, must be sold at public auction by a competent auctioneer at the request of the Aeronautics Board and the sum obtained, transmitted to the authority or to the person in whose custody the aircraft has been left.

TITLE IX

PENALTIES

Article 55. When an aircraft flies in such a manner as to cause unnecessary danger to persons or property, the commander or the owner, or both, shall be punished by a fine of 500 to 5,000 pesos, or the maximum imprisonment or both.²

² The types of prisons and of the lengths of sentences are defined in the Chilean Criminal Code.

When an aircraft has been chartered, the person chartering it shall be considered as its owner, for purposes of this article.

Article 56. The owner or the commander, or both, who operate an aircraft with registration marks not in accordance with those of the respective certificate, or who have concealed the marks specified in Article 21, or make them illegible, shall be punished by a fine of 500 to 5,000 *pesos* and minor imprisonment in its medium degree.

Article 57. The owner or the commander, or both, of a private aircraft which flies with markings reserved for public aircraft, shall be punishable by twice the penalties imposed in the preceding article.

Article 58. Any person who attempts to place or places a human life in danger, by crippling or making an aircraft unserviceable or unsafe, etc., or who with intent alters its course by means of false signals or in any other manner, shall be punishable by minor imprisonment in its minimum or medium degrees and a fine of 500 to 5,000 *pesos*. If, as a consequence of the act, serious bodily injury or death of any person results, the penalties shall be those defined in Article 391, 397 and 410 of the Criminal Code.

Article 59. The owner of an aircraft shall be punished by a fine of 500 to 10,000 *pesos* and imprisonment in the medium or maximum degrees, or by one of the two penalties:

- 1) When he places an aircraft in service without having obtained certificates of registration and of airworthiness or operates it without the marks specified in Article 21.

- 2) When he permits an aircraft to navigate with an expired certificate of airworthiness, or permits a take-off without having an authorization to carry the instruments prohibited by Article 28 of this Law. If the aircraft is caught in the act of transporting such instruments, it shall be confiscated.

Article 60. Any person who, without special authorization, uses photographic and cinematographic equipment in prohibited areas, shall be punished by confiscation of the equipment, imprisonment in its medium or maximum degrees, and a fine up to 20,000 *pesos*.

Article 61. The following shall be punishable by a fine from 300 to 5,000 *pesos* and imprisonment in its minimum degree, or by one of the two penalties:

- 1) Any commander who fails to carry any of the flight logs on board;

- 2) Any owner who fails to preserve any of the logs for the two years following the last entry;

- 3) Any person who violates any of the provisions of Articles 29, 30, 31 and 32 of the Law.

Article 62. Any person, who has been punished for any of the violations specified in the preceding articles, and who repeats or commits another offense within one year after serving a prison sentence or paying a fine shall be punished with the maximum of both penalties, which may also be increased twofold.

Article 63. Any person who stands or enters on the landing field of an airport used for public service, or who permits animals to enter thereon, shall suffer the penalties set forth in Article 492 of the Criminal Code and shall be deprived of any right of action for indemnity in case of accident.

Article 64. Any person who throws objects from an aircraft which may cause damage on the ground, shall be punished by a fine of 500 to 5,000 *pesos* and imprisonment in its medium degree, or by only one of the two penalties, when no actual damage is caused. The circumstances set forth in Article 45 are excluded.

Article 65. Unless *force majeure* has intervened, in case of accident caused to a person on the ground by an aircraft the guilty person shall be punishable by the penalties provided in Articles 490 and 492 of the Criminal Code, but in any case the damages must be compensated.

Article 66. Any person who violates the provisions of Article 15 regarding the landing and take-off of aircraft, shall be punished by minor imprisonment in its minimum degree and a fine up to 10,000 *pesos*, without prejudice to having his licenses suspended or cancelled.

Article 67. The owner or the commander, or both, of an aircraft flying over a prohibited area shall be punished by minor imprisonment in its medium degree, and a fine up to 10,000 *pesos*, or by one of these two penalties.

Article 68. Any commander who, finds himself over a prohibited area, fails to give the proper signal for landing and to land as soon as possible outside of the area as specified in Article 26, shall be punished by minor imprisonment in its minimum decree or a fine up to 5,000 *pesos*, or both.

Article 69. The owner or operator of a private airdrome who fails to comply with the specifications of the Regulation on Lights and Signals, and others which may be adopted later, shall be punished by a fine of up to 5,000 *pesos*.

Article 70. Foreign aircraft which violate the provisions which reserve to national aircraft the sabotage service within the national territory, shall pay a fine of 500 to 20,000 *pesos*, without prejudice to any measures which may be taken by the Aeronautics Board to suspend any licenses if it deems it proper, or to any customs penalties.

In case of repetition, the aircraft shall be confiscated. For the purposes of this article, any aircraft belonging to the same owner shall be considered as the same aircraft.

Article 71. The commanders and other crew members who, in performance of their duties, fly under the influence of alcohol or narcotics, shall be punished by minor imprisonment in its minimum degree, by a fine of 500 to 5,000 *pesos*, or both, without prejudice to criminal liability on their part in case of accident caused thereby or on the part of the owner of the aircraft.

Article 72. Any crew member and the passenger on an aircraft who, while in flight, disobeys the orders of the commander by acts which might endanger the safety of the aircraft, shall be punished by minor imprisonment in its minimum degree, by a fine of 500 to 5,000 *pesos*, or both, without prejudice to liability in case of accident, and suspension or cancellation of the licenses of the crew members.

Article 73. In the following cases, seizures shall be in order and confiscation may be made of:

a) Aircraft which carry persons whose intent to commit a crime against the sovereignty or security of the State has been proved.

b) Aircraft which are caught in transporting proclamations, books and other means to incite rebellion or resistance to the established Government.

c) Aircraft caught in committing offenses punishable by Article 83, Title XI, Section Three of the Customs Ordinances, or which are caught in the act of transporting materials prohibited by the Customs Ordinances.

Article 74. The public authority (police) shall have the power to hold, as a measure of prevention, any Chilean or foreign aircraft which does not comply with the requirements of the law, or whose commander has committed some violation.

Article 75. The amount of the fines shall be deposited in the Cashier's Office of the Aeronautics Board in an account for the protection of national civil aviation.

TITLE X

AERONAUTICAL COURTS

Article 76. National Aviation personnel shall be under the jurisdiction of the courts which the Code of Military Justice designates to hear all offenses covered in Article 5 of that Code.

Article 77. Without prejudice to the provisions of the preceding article, there shall be special courts charged with hearing cases related to the field of air services. These courts shall be called aeronautical tribunals and their jurisdiction shall extend to accidents and other acts deemed illegal and which arise out of air services, and to all other matters and violations defined or made punishable by the present Law.

Article 78. There shall be an aeronautical judge in each of the headquarters of the various air zones into which the country is divided, each in charge of the Chief of the Air Zone.

The President of the Republic shall fix the headquarters location for each of these zones and the jurisdictional territories which they shall embrace.

Article 79. The Chief of each zone shall have permanent jurisdiction over this respective territory including therein the airports and airdromes, in all matters referred to in the present Law.

In case he is disabled or disqualified to hear a certain case, he shall be replaced in office by the best qualified chief of aviation in the zone.

Article 80. A report on any act which should be punished in accordance with the Air Law shall be made within the briefest possible time to the chief of the respective zone.

All officials and employees of aviation, and all government employees shall have the duty to make such reports.

Article 81. The chief of the zone shall name a prosecutor to be charged with the trial of the case. He must be an aviation official of a rank not lower than a first lieutenant and his duties shall be those designated in the respective Code for Military prosecutors.

Article 82. The rules of procedure of the Code of Military Justice shall be applicable to the trial of aviation cases.

Article 83. The chief of the zone shall render judgments and execute sentences in all matters over which he is given jurisdiction.

The chief of the zone shall render judgment with the advice of the respective zone judge advocate, if any. In lieu of the judge advocate, or in his absence, involvement or challenge, he shall be replaced in these functions by the senior legally trained judge, in the city of the zone headquarters.

In addition, he shall render opinions on problems of jurisdiction brought before him; solve conflicts of involvement or challenge made with respect to prosecutors or court secretaries, and decree substitution when it is in order; order the execution of judgments and observance of letters rogatory which are sent by other authorities, and send out those which the prosecutors in his jurisdiction need to have sent.

The aeronautical prosecutors may send letters rogatory directly to each other if required in cases which they are preparing.

Article 84. The chief of the zone shall also exercise within his territory disciplinary jurisdiction over all chiefs of space, airports and airdromes. The later may decide complaints, as a trial court and punish all violations for which the fines do not exceed \$500; but they shall always communicate their decisions to the corresponding chief of the zone who, in such cases, shall serve as appellate tribunal. Disciplinary measures applied by the chiefs of zones shall be those which the laws confer on the legally-trained Judges and those of large claims courts.

Their decisions may be appealed to the aeronautical court for purposes of remand.

Article 85. In case the same act is submitted to another jurisdiction, or cognizance of acts come under the jurisdiction of several tribunals, the aeronautical tribunals shall in every case initiate independently the cases concerning matters within their competence, and shall hear and decide them separately.

Article 86. In those cases where, according to the customs or other laws it is proper for the respective tribunals to make declarations, these shall not include aircraft and their accessories, which shall become the property of the State and be delivered to the aviation services.

ADVOCATES

Article 87. There shall be an aviation advocate in each zone, whose role shall be to advise the chief in the special cases established by the laws.

AERONAUTICAL COURT

Article 88. The aeronautical court shall be composed of five members: two judges of the Appeals Court of Santiago, two aviation chiefs of a rank not lower than squadron leader, and the aviation advocate.

The aeronautical court may sit with three members, of whom at least two must be the aviation members.

Article 89. The two aviation chiefs on the bench of the aeronautical court shall be appointed by the President of the Republic and their term of office shall be one year, with re-election privileges as long as they are in active service.

If one is retired during the period of his office he shall continue to exercise his judicial functions to the end of such period, unless a replacement has been named.

Article 90. The members of the Appellate Court of Santiago who shall form part of the aeronautical court, shall be the same as those designated to form a part of the court martial in Santiago.

Article 91. The Chief Justice of the aeronautical court shall be the senior judge of the court.

TITLE XI

FINAL PROVISIONS

Article 92. The President of the Republic shall enact the necessary regulations for the application of the provisions of the present decree-law.

TRANSITIONAL ARTICLE

Article 93. The contracts in force at this time until their termination shall be adjusted to the provisions of this Law insofar as they are not in conflict with its provisions.

CIVIL AERONAUTICS BOARD RESOLUTION No. 902

August 17, 1961.

Pursuant to the provisions of Decree With Force of Law.

No. 241, of 1960, Article 6; and, Whereas:

1. The Board has considered it necessary to adopt a revision of its international air transport policies and formulate the principles by which such policies should be guided in the present stage of development of said means of transport, while such conditions continue;

2. On one hand, the geographic position of Chile at the extreme end of the American continent with a capital situated on the margin of the present continental trunk routes, thus not constituting an obligatory stop-over on such routes, and other reasons of general interest, make necessary the adoption and measures creating an attraction for foreign airlines;

3. On the other hand, the necessity of having its own means of air transport and the existence of the "Línea Aérea Nacional", an entity of proven prestige and experience in these activities, make advisable the adoption of protective measures for the Chilean (air) enterprises;

4. The national interest will be protected by the formulation of a just and reasonable equation which would obtain for the country a better linking with the outside world, especially assuring that Chile will continue to be included in the trunk routes and, at the same time, affording to the Chilean enterprises designated by our Government the protection compatible with the foregoing principle;

5. In the judgment of the Board, such a just equation will be achieved, for the present and for so long as the constantly changing circumstances of commercial aviation do not otherwise indicate, with the adoption of the following measures:

a) The reservation of an important part of the regional traffic with neighboring countries for the national enterprises of both parties and, consequently, the limitation of the right to participate in said regional traffic by the companies of third countries, by assigning to them together with a quota equal to the quotas assigned to the regional enterprises of each country;

b) Limited authority of the right to overfly the national territory without touching down in it to those companies also serving it, establishing a relationship between the number of overflights and the touchdowns in Santiago.

c) An opportunity to compete not only between regional carriers but also with those of third countries, authorizing to these

latter greater rights when they furnish greater service by their larger frequency over the route, by their greater speed and lower prices, taking into consideration for these purposes, the actual elapsed time for the trip from terminal to terminal and the price per passenger mile between said terminals; and

d) To limit the protection to the Chilean carriers designated by our Government to their regional services and to allow them to operate on their more extensive routes in competition with the other international airlines, without prejudice to the protection given to them by reason of bi-lateral air transport agreements with other countries, by the extension of reciprocal rights by other governments in the absence of an agreement and by an adequate distribution of the frequencies in relation to effective traffic demands.

In consideration of the foregoing, the Civil Aeronautics Board, pursuant to the powers conferred upon it by Decree Law No. 241 of 1960.

Resolves:

Article I.—To set forth the following principles in accordance with which new air traffic permits will be authorized as well as the revision of existing permits:

A) *Overflights of the national territory:*—The Board has been, and is, in principle, opposed to the authorization of rights to overfly the national territory in order to avoid the isolation of the country given its geographic position, and to assure the linking of the country with the rest of the world through air services making stops in Chile for commercial purposes.

Despite the foregoing, considering that air transport by its nature tends to ignore the boundaries of countries and to serve the most direct routes, overflights of the national territory will be authorized only to those companies which serve Santiago as a stop in both directions on a regular service. A minimum of three weekly stops in Santiago in each direction will be required of the companies in order for them to gain the right to one overflight and for excesses over this number the following table will apply:

<i>Weekly Stop</i>	<i>Over- flights</i>	<i>Weekly Stop</i>	<i>Over- flights</i>
3 -----	1	8 -----	3
4 -----	1	9 -----	3
5 -----	2	10 -----	3
6 -----	2	11 -----	4
7 -----	2		

B) *Third and Fourth Freedom Traffic:*—With the exception of regional traffic, third and fourth freedom traffics already authorized and those which may be authorized in the future, will be regulated by the necessities for air transport, by the reciprocity of the countries of the companies participating in this traffic may authorize the Chilean companies, and by the provisions of bi-lateral air transport agreements between Chile and other countries;

C) *Fifth Freedom Traffic:*—The Board, with respect to fifth freedom traffic, will apply the same principles set forth above for third and fourth freedom traffic, with the exception of regional traffic, that is to say, that traffic generated between Chile and adjoining countries.

Said regional traffic will be distributed in three equal parts, as follows:

- $\frac{1}{3}$ for Chilean companies,
- $\frac{1}{3}$ for companies of adjacent nations,
- $\frac{1}{3}$ for the foreign companies of third countries.

The total of the regional traffic will be calculated periodically on the basis of statistics.

In order to assure good service both Chilean companies and the companies of adjoining countries will be required to offer an adequate seating capacity for the regional traffic assigned to them.

In the event that the companies designated by Chile or by the adjacent countries do not offer the capacity required by the Board, they shall not have the right to their respective quota of one-third which will be reduced by an amount corresponding to their capacity.

In these circumstances, that part of the quota not utilized shall pass with priority to the companies designated by the adjoining countries, and if not taken by them, shall subsequently pass to the companies of third countries, by express disposition of the Board.

Notwithstanding the foregoing, there will be reserved in all cases, to the companies of Chile and of the adjoining country the right for each one to transport at least 20 percent of the total traffic.

The one-third corresponding to the companies of third countries is a maximum global quota which may not be exceeded without the express disposition of the Board but which may be reduced by an amount which the companies of neighboring countries may win in free competition, possibly being able to absorb it completely.

Those companies operating their services with a minimum frequency of two weekly trips in either direction over the route shall have the right to participate in this global quota.

In order to determine the theoretical quota of regional traffic corresponding to each of the companies of third countries meeting the requirement as to number of frequencies required, in conformity with the one-third which has been assigned to them, a co-efficient shall be calculated based upon the following characteristics of the service operated:

- a) Weekly frequency of flights on the route;
- b) Time of the flight, that is to say, the actual elapsed time for making the flight from terminal to terminal;
- c) The price per passenger kilometer between terminals.

When a plane is mixed first and economy class, the average price will be calculated as follows:

Average Price:

$$\frac{\text{No. of 1st Cl. seats} \times \text{fare} - \text{No. of Economy Class Seats} \times \text{fare}}{\text{Total No. of Seats}}$$

The sum of these theoretical quotas shall be equal to the one-third of the traffic assigned to companies of third countries.

Nevertheless, a company may exceed its theoretical quota without impairment of those assigned to the other companies, but without exceeding the global one-third.

In the event that the companies of third countries transport more than the global one-third, a reduction and an appropriate sanction will be applied, which will be applicable only to those companies

which are transporting a greater quota than the theoretical quota assigned.

Article II.—Non-regional traffic passengers making “stop-over” in Santiago, and/or Lima, and/or Buenos Aires, as the case may be, will not be counted in the regional traffic quotas providing that the companies so accredit them authentically, in a separate list which should accompany the monthly statistical data.

This list should specify the names of the passengers, the origin of the journey and the final destination, the number of their respective ticket and the place of its issuance.

In the event that the companies do not comply with the foregoing stipulated conditions, all of the passengers manifested between Santiago and Buenos Aires and vice versa as well as Santiago and Lima and vice versa will be considered within the quotas fixed for regional traffic.

Article III.—Within a period of 30 days counting from the date of this resolution, the Board will proceed to fix the theoretical quotas for regional traffic for passengers to and from adjacent countries to be applied beginning October 1, 1961 by the various air enterprises to which they correspond, in accordance with the principles established in Article I of this resolution and using as a base the traffic statistics corresponding to the first six months of the present year.

EXPLANATION OF RESOLUTION No. 902

Board Resolution 902 of August 17, 1961, Issued Pursuant to Article 6 of Decree with force of Law No. 241 of 1960.

I. Principles to be followed in issuing new and revising existing permits.

A. Overflights

One transit flight allowed for 3 or 4 stops in Chile.

Two transit flights allowed for 5, 6 or 7 stops in Chile.

Three transit flights allowed for 8, 9 or 10 stops in Chile.

Four transit flights allowed for 11 stops in Chile.

B. Third and Fourth Freedom Traffic

Non-regional Third and Fourth Freedom will be governed by bilateral agreements and reciprocity.

C. Fifth Freedom Traffic

1. Fifth Freedom traffic will be governed by bilateral agreements and reciprocity except for regional Fifth (i.e., between Chile and *adjoining* countries) which will be divided $\frac{1}{3}$ for Chilean airlines, $\frac{1}{3}$ for airlines of adjoining nations, and $\frac{1}{3}$ for non-regional airlines (called “airlines of third countries”). (Note: three countries adjoin Chile—Argentina, Bolivia and Peru).

2. The $\frac{1}{3}$ will be calculated periodically on the basis of statistics.

3. If an airline does not offer capacity to accommodate the allotted quota, the quota will be reduced to the capacity provided therefor, and the excess will be given to adjoining countries. If not taken by them, the excess will be allotted by the Junta to “third countries”.

4. Notwithstanding the foregoing, at least 20% of total traffic will be reserved at all times for the airlines for Chile and adjoining countries.

5. Adjoining countries are free to absorb the entire $\frac{1}{3}$ third country quota in free competition.

6. Those companies operating a minimum of two weekly trips over the route shall have the right to participate in this global quota.

7. The calculation of theoretical quotas will be based on:

(a) Weekly frequency.

(b) Terminal to terminal elapsed flight time.

(c) Price per passenger km. between terminals. In the case of mixed configuration aircraft, the average price will be determined as follows: number of first class seats times fares, minus number of economy class seats times fare, the result being divided by the total number of seats.

II. Non-regional passengers making a stopover in Santiago and/or Lima and or Buenos Aires will not be counted in the regional traffic quotas, provided the companies list them separately when submitting statistical data. The list should show the name of the passenger, origin and destination of the journey, number of ticket, and places of issuance.

III. The quotas will be fixed by the Junta in 30 days on the basis of traffic statistics for the first six months of 1961, and will be applicable October 1, 1961.

OTHER LEGISLATION IN FORCE

1. Decree 357 of June 14, 1948, incorporates in its text the provisions of Decree 42 of January 20, 1948, together with those of Decree 802 of November 17, 1947, which dealt with licenses and concessions to operate scheduled airline routes. (*Diario Oficial*, October 18, 1948)

2. Decree 132 of March 12, 1948, amends Article 5 of the Regulations on Licenses and Concessions to operate scheduled airline routes, originally approved by Decree 802 of November 17, 1947. Amended again by Decree 307 of May 19, 1948 (*Diario Oficial*, November 27, 1948).

3. Decree 645 of 1949 amends the rules dealing with permits and licenses to operate scheduled airline routes. (*Diario Oficial*, November 24, 1949)

4. Decree 507 of September 27, 1950, amends the Regulation on Permits and Licenses to operate scheduled airline routes, by adding that foreign corporations shall not be required to establish a branch in the nation, if they are corporations that have capital belonging to their respective governments, or if the enterprise has been established as an agency for a Chilean corporation. (*Diario Oficial*, October 16, 1950)

5. Decree 797 of November 29, 1952, amends Decree 42 of January 20, 1948, which established a Civil Aeronautics Board (*Junta de Aeronáutica Civil*). (*Diario Oficial*, January 20, 1953)

6. D.F.L. 36 of April 26, 1953, grants power and authority to the Aviation Office (*Dirección de Aeronáutica*) in connection with commercial and tourist aviation programs. Contains provisions to encour-

age and stimulate such activities, giving supervision and control over schools, clubs, factories and organizations having any relation to this type of air traffic, and treats of financial matters, safety measures, and others. (*Diario Oficial*, May 5, 1953)

7. Decree 101 of May 29, 1953, creates an aircraft factory (*Fábrica de Aeronaves de Chile, F.A.N.A.E.R.O.*) as a government agency under the Ministry of National Defense. D.F.L. 239 of July 23, 1953, amends Articles 2 through 7, on the establishment of the factory. See also Decree 1215 of July 13, 1955. (*Diario Oficial*, June 27 and July 30, 1953)

8. D.F.L. 129 of June 17, 1953, amends D.F.L. 36 of March 26, 1953, which related to certain powers assigned to the Aviation Office (*Dirección de Aeronáutica*). The amendments deal with airports and other authority over civil aviation. (*Diario Oficial*, June 30, 1953)

9. Decree 74 of February 3, 1954, approves a regulation to govern conditions for air transport contracts of freight, passengers, baggage, etc. and defines the liability of the national airlines. (*Diario Oficial*, March 16, 1954)

10. Decree 407 of May 28, 1954, approves the Organic Regulations on Aviation, repealing all former enactments. This sets up a Directorate of Aeronautics as a government agency in charge of civil aeronautics. (*Diario Oficial*, July 9, 1954)

11. Decrees 125 through 128, of January 28, 1955, deal with authorizations granted to various companies to operate airline services. (*Diario Oficial*, February 22, 1955)

12. Decree 871 of June 3, 1955, puts into effect the standards and methods recommended by the International Civil Aviation Organization on accidents and salvage (Annex 12 of the Convention). (*Diario Oficial*, July 18, 1955)

13. Decree 1215 of July 13, 1955, approves the Organic Regulation for Operation of the National Aircraft Factory (*F.A.N.A.E.R.O.*), repealing Decree 1063 of December 15, 1954. See also D.F.L. 239 of July 23, 1953, and Decree 101 of May 29, 1953. (*Diario Oficial*, September 26, 1955)

14. Decree 1141 of July 24, 1956, puts into effect the international standards and methods contained in Annex 14 and Supplement to the Convention on International Civil Aviation, which relate specifically to airports. (*Diario Oficial*, August 25, 1956)

15. Decree 381 of April 10, 1957, amends Article 7, Section 3 of Decree 1614 of September 2, 1955, which enacted the Regulation on Aviation Fees. The amendment raises the fee from 5.00 to 10.00 pesos. (*Diario Oficial*, May 4, 1957)

16. Decree 730 of June 28, 1957, amends Decree 1614 of September 2, 1955, which adopted the original Regulation on Aeronautical Fees. The amendment concerns increases in fees for use of landing lights and rescue services. (*Diario Oficial*, July 19, 1957)

17. Law 12,475 of July 29, 1957, amends Article 1 of Law 10,645 by extending the exemption from taxes referred to therein. The original law limited it to airlines whose capital was Chilean only, the amendment now makes it for airlines whose capital is at least 75 percent Chilean. (*Diario Oficial*, August 8, 1957)

18. Law 13.553 of September 29, 1959, provides that Chilean aircraft and aircraft of other nations belonging to signatories of the international civil aviation agreement, shall be exempt from the consular procedures provided in Article 5 of Law 11.729. (*Diario Oficial*, October 13, 1959)

19. D.F.L. 241 of March 29, 1960, reorganizes various agencies dealing with aeronautics and forms the *Junta de Aeronáutica Civil* and the *Dirección de Aeronáutica* (the latter dealing with military aeronautics). (*Diario Oficial*, April 6, 1960)

20. Decree 289 of May 17, 1961, promulgates the Convention on International Recognition of Rights over Aircraft, signed in Geneva on June 22, 1948. (*Diario Oficial*, June 13, 1961)

21. Decree 403 of June 7, 1961, amends Articles 130 and 131 of the Air Navigation Regulation, which was approved by Decree 756 of December 24, 1932. Amendments concern the definition of zones which are prohibited, restricted and dangerous. (*Diario Oficial*, June 23, 1961)

CHINESE PEOPLES' REPUBLIC

PRELIMINARY

Despite the most diligent search—which extended to personal investigation in Taiwan and Hong Kong—no basic air law of the Chinese Peoples' Republic could be found. Therefore, an attempt has been made to illustrate legal principles by applicable provisions of the customs law and the text of available bilateral treaties concluded by the Chinese Peoples' Republic.

PROVISIONAL CUSTOMS LAW OF THE PEOPLE'S REPUBLIC OF CHINA

The Provisional Customs Law of the People's Republic of China was passed at the 77th meeting of the Government Administration Council in Peking on March 23, 1951, and promulgated on April 18. This law has been in effect since May 1, 1951.

CHAPTER SEVEN

AIR TRANSPORT OF CARGO ACROSS THE NATIONAL BOUNDARIES

Article 81. Civil airplanes flying into and out of the country should, except when otherwise permitted by the Customs Administration, land or take off at an international airport where there is a customs house. The aviation company should inform, in advance, the customs house of the time of arrival and departure to enable it to place the airplane under watch. Measures for control and supervision of civil airplanes approved by the Customs Administration to take off or land at an airport with no customs house shall be formulated by the Customs Administration.

The civil airplanes denoted in this law include all non-military airplanes, airships, balloons or any other conveyance that can fly in the air. When a military plane is carrying civilians or common goods into and out of the country, the air commander of the locality should give advance notice to the customs house for inspection.

Article 82. Civil airplanes after entering the country and landing at the airport should report to the customs house through the pilot or the aviation company, submitting a passenger list and a cargo manifest duly filled out as required by the customs house for its examination. When necessary, the customs house may ask the captain to produce testimony for flying across the national borders, the log book, the tonnage report, and the nationality registration certificate.

Article 83. Civil airplanes after entering the country should unload the import goods under the supervision of the customs house and store them in a warehouse registered with or approved by the customs house.

Article 84. Export goods carried by civil airplanes leaving the country shall be limited to those released by the customs house and the loading shall be done under the supervision of the customs house.

Article 85. When civil airplanes leaving the country apply for customs clearance, a passenger list including luggage, together with a cargo manifest, duly filled out as prescribed by the customs house, should be submitted to the customs house by the captain or the aviation company. After they are examined by the customs house and all procedures completed, the plane shall be allowed to take off.

Article 86. The supplies and materials carried on board for the use of the plane entering the country should be listed and reported by the captain for placing under customs control.

Any additional supply of fuel and materials shall also be subject to examination by the customs house.

Article 87. Civil airplanes entering the country, when carrying cargo to another international airport in the country or to a foreign land via through traffic, shall submit, through the captain or the aviation company for the examination of the customs house, a manifest of import goods shipped to the points designated, or a manifest of goods sent by through traffic. The customs house shall place such goods under lock and key, to be released at the points designated or at the last international airport visited by the plane upon leaving the country.

Article 88. The customs house shall search civil airplanes entering or leaving the country. If, under special circumstances, it is necessary to open up a part of the plane where smuggled goods might be hidden, the captain of the plane or the aviation company should be notified first.

Article 89. If civil airplanes entering or leaving the country make forced landing in the country due to special circumstances, the captain or the aviation company should immediately communicate the detailed conditions to the customs house at the destination or the starting point. If there is a customs house at the place where forced landing is made, customs permission should first be obtained before the plane can be allowed to take off. If there is no customs house at the airport, a certificate from the local airport or the local people's government, testifying that no loading or unloading of cargo or embarking or disembarking of passengers has taken place, should be submitted to the customs house for record purposes.

If the aforementioned plane is unable to continue its journey or has to reduce its burden, the cargo left behind should be reported by the captain to the local airport or the people's government for custody. Permission must be obtained from the customs house before further shipment can be made.

Article 90. When mechanical disturbances or other causes necessitate air drop of goods from aboard civil airplanes leaving or entering the country, the conditions should be reported immediately by the captain or the aviation company to the customs house at the airport nearby for transmission to the port of arrival or the port of departure.

PRELIMINARY: TREATIES OF THE CHINESE PEOPLES' REPUBLIC

1. *The Sino-Soviet aviation treaty.*

The utilization of civil aviation as a means of combating the problems of a vast territory and poor land communication was an idea

long entertained by the Chinese Communists. As early as September 1949—the eve of the formal proclamation by Mao Tse-tung of the founding of the Communist regime—, Article 36 of the Common Program, adopted by the First Plenary Session of the Chinese People's Political Consultative Conference, stipulated that civil aviation in Communist China must be developed in a planned and systematic manner. In the same year, the Peking regime established the China Civil Aviation Administration.

Negotiations were carried out between Communist China and the Soviet Union, and, as a result, an "Agreement on the Establishment of a Joint Sino-Soviet Civil Aviation Company" was concluded on March 27, 1950. In accordance with this Agreement, the Sino-Soviet Joint Aviation Company was inaugurated. The company was formed on the principle of "equal rights and partnership", with the express purpose of fostering the development of civil aviation in Communist China and strengthening the economic cooperation and cultural exchange between Communist China and the Soviet Union. The following three air routes were opened and operated by the company:

- (1) Peking-Chita;
- (2) Peking-Irkutsk; and
- (3) Peking-Alma Ata.

Almost simultaneously the China Civil Aviation Administration, with technical assistance and material aid of the Soviet Union, began to open a network of domestic air routes, with Peking as the center.

On December 30, 1954, an "Agreement between the Government of the People's Republic of China and the Government of the Union of Soviet Socialist Republics Concerning the establishment of Scheduled Air Service Between China and the Soviet Union" was signed in Peking by Wu Fa-hsien, head of the Communist Chinese Delegation and S. F. Zhavoronkov who led the Delegation of the Soviet Union. The principal provisions of the Agreement are summarized as follows:

1. Three air routes:

- (1) Peking-Moscow,
- (2) Urumchi-Alma Ata, and
- (3) Peking-Chita

were to be opened for the transporting of passengers, baggage, goods and mail by civil aircraft of the Contracting Parties.

2. The civil aviation authorities of the Contracting Parties would negotiate and conclude a separate agreement concerning technical problems related to the operation of the routes.

3. While in the territory of the other Contracting Party, aircraft of one Contracting Party, its flight personnel and the passengers, goods and mail carried would be subject to the laws and regulations of the other Contracting Party.

4. All previous treaties on air transport between the Contracting Parties were repealed.

5. The Agreement was to enter into force on the day it was signed and would remain in force for five years. An extension of five years would be automatic unless notice had been given six months prior to the expiration date by either Contracting Party to the other Contracting Party of its desire to terminate the Agreement.

Business of the Sino-Soviet Joint Aviation Company was suspended on January 1, 1955, and its assets, securities, and administrative

authority were transferred to the China Civil Aviation Administration.

2. *The Sino-Burmese Air Transport Agreement of 1955.*

Negotiations relating to the establishment of civil air transport service between Communist China and the Union of Burma were held in Rangoon in 1955. As a result, the "Air Transport Agreement Between the Government of the People's Republic of China and the Government of the Union of Burma" was signed on November 8 of the same year by Wu Fa-hsien, head of the Communist Chinese Delegation and U Win Maung, Burmese Minister for Transportation and Communications.

On the basis of this agreement, scheduled civil air transport services were inaugurated on April 11, 1956.

These events were hailed in Communist China as an outcome of the adoption by the parties concerned of the "Five Principles of Peaceful Coexistence" and as a concrete evidence of their mutual trust, assistance and cooperation.

3. *The Sino-Vietnamese Air Transport Agreement of 1956.*

On April 5, 1956, the "Air Transport Agreement Between the Government of the People's Republic of China and the Government of the Democratic Republic of Vietnam" was signed in Peking by Kuang Jen-nung, head of the Communist Chinese Delegation and Dang Tinh, head of the Vietnamese Delegation.

Scheduled flights were inaugurated on April 22, 1956 on the 852-kilometer Canton-Nanning-Hanoi route.

AIR TRANSPORT AGREEMENT BETWEEN THE GOVERNMENT OF THE
PEOPLE'S REPUBLIC OF CHINA AND THE GOVERNMENT OF THE UNION
OF BURMA

(Signed and entered into force on Nov. 8, 1955)

The Government of the People's Republic of China and the Government of the Union of Burma, desiring to establish scheduled civil aviation services between their countries in order to promote their economic and cultural relations, have agreed upon the following:

Article I. (A) Each Contracting Party, pursuant to the provisions of this Agreement, agrees to grant the right to the designated air transport enterprise of the other Contracting Party to carry on flights, by its aircraft for civil transport purposes, on the following air route:

Course for aircraft of the People's Republic of China:

Kunming-Mandalay-Rangoon

Course for aircraft of the Union of Burma:

Rangoon-Mandalay-Kunming-Canton.

For civil aircraft of the People's Republic of China, the above-mentioned right to conduct transport flights shall mean the transporting of passengers, baggage, goods and mail (1) from Kunming to Mandalay and Rangoon, (2) from Rangoon and Mandalay to Kunming; for civil aircraft of the Union of Burma, the above-mentioned right to conduct civil transport flights shall mean the transporting of passengers, baggage, goods and mail (1) from Rangoon and Mandalay to Kunming and Canton, (2) from Canton and Kunming to Mandalay and Rangoon.

(B) In accordance with the principle of mutual respect for sovereignty over territorial air, each Contracting Party shall designate independently that part of the air route, which Section (A) of this Article prescribes, that passes through its own territory. Entrance and exit points on the common border of the Contracting Parties shall be designated jointly through consultation.

Article II. (A) The Government of the People's Republic of China shall designate the "China Civil Aviation Administration" as the air transport enterprise to manage the air route prescribed in Article I of this Agreement. The Government of the Union of Burma shall designate the "Union of Burma Airways Board" as the air transport enterprise to manage the air route prescribed in Article I of this Agreement. The frequency of scheduled flights of the air transport enterprise of each Contracting Party shall not exceed two a week in each direction. Each Contracting Party shall decide for itself as to the date of inauguration of such scheduled flights, provided the other Contracting Party has been notified sixty days prior to such inauguration. Either Contracting Party may request consultation, which shall be conducted on a fair and equal basis, with the other Contracting Party with a view to initiate any change in the schedule of flights.

(B) The right of principal ownership and the right to make final decisions in the management of the designated air transport enterprise shall belong to the government of each Contracting Party.

Article III. The designated air transport enterprises of the Contracting Parties, in accordance with the Protocol, which is based on joint needs and mutual benefit, of this Agreement, shall receive fair and equal opportunity and consideration regarding the distribution of business and utilization of service facilities including communication services, navigational aid, meteorological information, accommodations of airports, schedule of flights, rates charged for the carriage of passengers and goods, business agency, transshipment and fiscal matters.

Article IV. (A) Rates to be charged for the carriage of passengers, baggage and goods on the designated air route prescribed in Article I of this Agreement, shall be fixed at a reasonable level, with due consideration for all factors including presupposition of economy in operation and expectation of a reasonable amount of profit. The designated air transport enterprises of the Contracting Parties shall establish a uniform minimum standard for rates to be charged on either the whole common air route or on different but equal sections of it.

(B) Minimum rates to be charged on the air route prescribed in Article I of this Agreement or any section of it shall be resolved by the air transport enterprises of the Contracting Parties and ratified by the Contracting Parties. In the event an agreement cannot be reached by the air transport enterprises or in the event the minimum rates agreed upon fail to acquire the required ratification, the Contracting Parties shall devise ways and means through which mutual agreement may be secured. Unless a new decision on minimum rates is reached, the rates in force at that time shall continue to be effective.

Article V. Matters concerning the carriage of mail on the designated air route prescribed in Article I of this Agreement shall be dealt with by the postal authorities of the Contracting Parties through negotiation.

Article VI. (A) Every civil aircraft of the designated air transport enterprise of each Contracting Party, while in flight on the designated air route prescribed in Article I of this Agreement, shall carry domestically-designed markings for international flight, registration certificate, certificate of airworthiness, flight log book, permit for radio equipment, passenger list and manifest of goods and mail; flight personnel shall possess valid licenses and certificates of fitness.

(B) Each Contracting Party shall recognize as valid the above-mentioned documents issued or validated by the other Contracting Party. But the standard of minimum requirement set by one Contracting Party for the issuance or approval of such certificates and licenses shall equal or exceed that which is or may, at some future time, be set by the civil aviation authorities of the other Contracting Party.

Article VII. Pilots and other members of flight service who operate aircraft of the designated air transport enterprises of the Contracting Parties on the designated air route prescribed in Article I of this Agreement shall be citizens of the People's Republic of China and the Union of Burma, respectively.

Article VIII. Each Contracting Party shall permit the use by the other Contracting Party, of its airports necessary for the operation of the designated air route prescribed in Article I of this Agreement, and shall be responsible for providing the kind of radio service essential to aircraft in flight under normal conditions, meteorological service and other flight facilities, and shall adopt the approved standards as set forth in the Protocol of this Agreement.

Article IX. Neither Contracting Party shall under any circumstances, charge civil aircraft of the other Contracting Party for using its airports and other facilities rates higher than those paid by its own aircraft. Each Contracting Party shall publish these rates and notify the civil aviation authorities of the other Contracting Party.

Article X. (A) Aircraft of the designated air transport enterprise of each Contracting Party shall comply with laws and regulations of the other Contracting Party governing the entry into and departure from its territory in international flight, business transactions, flight within its borders and prohibited and restricted areas.

(B) Pertinent laws and regulations in force of each Contracting Party governing entering the country, leaving the country, release permit, customs, immigration and quarantine, etc. shall apply to flight personnel, passengers, baggage, goods and mail carried by civil aircraft of the other Contracting Party. The Contracting Parties shall avoid any unnecessary delay while applying the provisions of these laws and regulations.

(C) In order to ensure observance of the provisions of this Agreement, the proper authorities of each Contracting Party shall have the right to inspect, within its territory, grounded civil aviation aircraft of the other Contracting Party. In doing so, unreasonable delay shall be avoided.

Article XI. (A) Supplies of fuel, lubricating oils, spare parts, regular equipment and other aviation stores retained on board aircraft of the designated air transport enterprise of one Contracting Party shall be exempt in the territory of the other Contracting Party from customs duties, inspection fees or similar duties or charges, even though such supplies be used by such aircraft within that territory. When

permitted by the customs authorities of the other Contracting Party, such tax-exempt supplies may be unloaded and kept under the custody of the customs authorities until reloading is desired.

(B) Supplies of fuel, lubricating oils, spare parts, regular equipment and other aviation stores introduced into the territory of the other Contracting Party, to be used exclusively for aircraft of the air transport enterprise designated by, or on behalf of, one Contracting Party, shall, in accordance with the principle of equality and mutual benefit, be exempt from customs duties, inspection fees or similar duties or charges, provided pertinent regulations of the other Contracting Party, whose customs authorities may supervise such supplies, have been observed.

Article XII. (A) Each Contracting Party shall render every possible assistance and convenience, within its territory, to the other Contracting Party in its technical maintenance and repair activities necessary for the operation of the designated air route prescribed in Article I of this Agreement.

(B) The designated air transport enterprise of each Contracting Party shall make arrangements, and shall, when requested, make every effort to provide, within its territory, the designated air transport enterprise of the other Contracting Party with fuel and lubricating oils necessary for the operation of the designated air route prescribed in Article I of this Agreement. If one Contracting Party, for the purpose of operating that part of the designated air route that lies within the territory of the other Contracting Party, imports its own fuel and lubricating oils, the other Contracting Party shall permit such practice and render every possible assistance and convenience.

(C) Each Contracting Party shall adopt security measures in its airports for safeguarding aircraft, fuel, lubricating oils and equipment of the other Contracting Party.

Article XIII. The Contracting Parties, considering the needs in the operation of the designated air route prescribed in Article I of this Agreement, shall, respectively, accord to the designated air transport enterprise of the other Contracting Party the following: To the designated air transport enterprise of the People's Republic of China, the right to establish its own offices at Rangoon and Mandalay. To the designated air transport enterprise of the Union of Burma, the right to establish its own offices at Canton and Kunming.

With the exception of persons who are hired locally, each Contracting Party shall employ its own citizens to staff such offices. Each Contracting Party shall render such offices of the designated air transport enterprise of the other Contracting Party every assistance and convenience.

Article XIV. Each Contracting Party agrees to accord to the designated air transport enterprise of the other Contracting Party necessary convenience in matters concerning foreign exchange, in order that profit resulting from operating the designated air route prescribed in Article I of this Agreement may be converted into the desired currencies.

Article XV. Each Contracting Party shall direct its civil aviation authorities to conduct regular and routine consultations and to maintain close cooperation with the civil aviation authorities of the other Contracting Party, in order to uphold the principles of this Agreement and to ensure the application of its provisions.

Article XVI. The civil aviation authorities of each Contracting Party shall undertake, or direct its designated air transport enterprise to undertake, to make prompt exchange of current data on traffic between the Contracting Parties. These data include regulations concerning transportation, time tables, price lists, and papers pledging that the provisions of this Agreement will be fully adhered to. Each Contracting Party shall also direct its designated air transport enterprise to furnish the civil aviation authorities of the other Contracting Party with monthly statistics on traffic, including places of embarkation and destination, between the Contracting Parties.

Article XVII. Either Contracting Party may request consultation with the other Contracting Party with a view to initiate any amendments to this Agreement. Consultation shall take place within sixty days after the initial request. Resulting new or amended provisions shall immediately enter into force.

Article XVIII. In the event one Contracting Party or its designated air transport enterprise fails to act according to the provisions of this agreement, the other Contracting Party reserves the right to detain or terminate the operating licence granted. This action, however, shall not be taken until negotiation has taken place.

Article XIX. (A) Each Contracting Party shall deem it its responsibility to furnish suitable equipment and take practical steps to aid aircraft in distress of the other Contracting Party, and to permit, subject to control by local authorities, the other Contracting Party to provide measures of aid as may be necessitated by circumstances. The Contracting Parties, when searching for missing aircraft or aiding distressed aircraft, shall cooperate in concerted measures.

(B) In the event of an accident within the boundaries of the other Contracting Party to an aircraft of the designated air transport enterprise of one Contracting Party, involving death or serious injury, or indicating serious damage of the aircraft, the Contracting Party in whose territory the accident has occurred shall, according to its pertinent regulations, undertake to investigate the circumstances of the accident. The Contracting Party which owns the aircraft shall have the right to appoint observers to be present at the investigation and the Contracting Party conducting the investigation shall communicate the report and findings to that Contracting Party.

Article XX. The protocol and notes exchanged between the Contracting Parties in connection with this Agreement shall be regarded as component parts of this Agreement and shall be included in its application.

Article XXI. In the spirit of friendship and mutual understanding, the Contracting Parties shall settle any dispute arising from the interpretation or application of this Agreement and the protocol through consultation and negotiation.

Article XXII. This Agreement shall enter into force on the day it is signed. After this Agreement has been in force for one year, either Contracting Party may at any time give written notice to the other Contracting Party expressing its desire to terminate this Agreement. If such notice is given, this Agreement shall terminate one year after the date of receipt of the notice by the other Contracting Party, unless the notice is withdrawn by mutual agreement three months before the expiration date.

Done in duplicate at Rangoon on the Eighth day of November, 1955, in the Chinese and Burmese languages. Both texts shall have equal authority.

AIR TRANSPORT AGREEMENT BETWEEN THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA AND THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF VIET-NAM

(Signed and entered into force on April 5, 1956)

The Government of the People's Republic of China and the Government of the Democratic Republic of Viet-nam, recognizing the necessity of establishing civil air transport services between their countries in order to facilitate the mutually desired strengthening of their economic and cultural ties, have agreed upon the following:

Article I. (A) Each Contracting Party agrees to grant the other Contracting Party the right to carry out round-trip flights, by its civil aircraft, for the purpose of transporting passengers, baggage, goods and mail on the following air route:

Canton-Nanning Hanoi. (Hereinafter referred to as the designated air route)

(B) Each Contracting Party shall designate independently that part of the designated air route that passes through its territory. Entrance and exit points on the common border of the Contracting Parties shall be designated jointly through consultation.

Article II. The Government of the People's Republic of China shall designate the China Civil Aviation Administration as the air transport organization to manage the designated air route; the Government of the Democratic Republic of Viet-Nam shall designate its Department of Civil Aviation as the air transport organization to manage the designated air route.

Technical and business matters pertaining to the operation of the designated air route are to be resolved, through negotiation, by the above-mentioned air transport organizations of the Contracting Parties. These matters include: frequency of flights, time table for flights, rates to be charged, freight regulations, fiscal matters, measures on flight safety, technical maintenance, etc.

Article III. Civil aircraft of each Contracting Party, while conducting flights on the designated air route, shall carry domestically-designed markings for international flight, registration certificate, certificate of airworthiness, flight log book, permit for radio equipment, passenger list and manifest of goods and mail carried. Flight personnel shall possess certificates of fitness. Each Contracting Party shall recognize as valid the above-mentioned documents issued by the other Contracting Party.

Article IV. Laws and regulations in force of one Contracting Party governing leaving the country, entering the country, customs, passport, quarantine, etc. shall apply, within the territory of that Contracting Party, to civil aircraft and flight personnel of the other Contracting Party and to passengers, baggage, goods and mail carried by such aircraft.

Article V. Each Contracting Party, in the interest of flight safety, agrees to supply civil aircraft of the other Contracting Party, while

conducting flights on the designated air route, with the following essentials: navigational aid by radio, communications, proper lighting, meteorological information and technical facilities and services in airports.

Article VI. Each Contracting Party shall accord to the designated air transport organization of the other Contracting Party the right to establish an office or offices at a suitable locality or localities situated on that section of the designated air route that passes through its territory. Each Contracting Party shall render necessary assistance to such office or offices of the designated air transport organization of the other Contracting Party.

Article VII. Supplies of necessary equipment, spare parts, fuel, lubricating oils and other aviation stores of the air transport organization of each Contracting Party, to be used for operating the designated air route, shall be exempt from any duty or charge when entering or leaving the territory of the other Contracting Party. Selling of such supplies in the territory of the other Contracting Party is prohibited.

Article VIII. Each Contracting Party shall offer every convenience to the air transport organization of the other Contracting Party in exchanging its net earnings within the territory of one Contracting Party into national currency of the other Contracting Party.

Article IX. Either Contracting Party may at any time request in writing consultation with the other Contracting Party, with a view to initiate any amendments to this Agreement.

Article X. This Agreement shall enter into force on the day it is signed and shall remain in force for a period of five years. Unless either Contracting Party has communicated its intention to terminate this Agreement to the other Contracting Party six months before the expiration date, a five-year extension of this Agreement shall be automatic.

Done in duplicate at Peking on the fifth day of April, 1956, in the Chinese and Vietnamese languages. Both texts shall have equal authority.

Other bilateral agreement:

Agreement Between the Government of the USSR and the Government of the Chinese People's Republic Concerning Establishment of Regular Air Communications Between the USSR and the Chinese People's Republic.

Signed December 30, 1954 in Peking.

Russian text in: *Ministerstro Inostrannykh Del SSSR. Sbornik deistvuyushchikh dogovorov, soglashenii i konventsii, zakliuchennykh SSSR s inostrannymi gosudarstvami. Vypusk XVI. 1957:396-398.*

[Ministry of Foreign Affairs of the USSR. Collection of treaties, agreements, and conventions of the USSR with foreign States, [which are] in force. Issue XVI, 1957, pages 396-398].

The agreement provides for transportation of passengers, luggage, cargo and mail by civil aircraft of both contracting parties on three

air routes: 1) Moscow-Novosibirsk-Irkutsk-Ulan-Bator-Pekin; 2) Alma-Ata-Kul'dzha-Urumchi; 3) Chita-Shen'ian-Pekin (Article 1). The Main Administration of the Civil Air Fleet Attached to the USSR Council of Ministers ("AEROFLOT") and the Administration of the Civil Air Fleet Attached to the State Council of the Chinese People's Republic (UGVF) shall conclude a separate agreement regarding all questions of technical and commercial exploitation of above mentioned air routes (Article 2). Aircraft, their crew, passengers, luggage, cargo and mail shall be subject to the laws of the contracting party on whose territory they shall occur to be. (Art. 4). All earlier treaties re-air communications between parties are repealed (Art. 8). The agreement shall be in force 5 yrs from the date of signing and shall be considered extended for further 5 years unless denounced 6 months prior to the expiration of the current period of time. (Art. 9, par. 1)

COLOMBIA

LAW ON CIVIL AVIATION ¹

I. NATIONAL AIR SPACE

Article 1. "National air space" is the air space covering the territory and the territorial waters of the Republic.

Article 2. The National air space, as integral part of the territory of the Republic, and by its nature as public property, is included in Article 4 of the Constitution.

II. AIRCRAFT

Article 3. "Aircraft" shall be deemed any machine capable of deriving support in the atmosphere from the reaction of the air.

Article 4. "State aircraft" shall be deemed military aircraft and others exclusively used in the service of the State; all other shall be deemed "private aircraft".

Any aircraft commanded by a military person on active service, commissioned for this purpose, shall be deemed military.

Article 5. All State aircraft which are not military, customs or police, shall be deemed private aircraft and shall be subject to the provisions of this Law.

Article 6. Aircraft subject to [this present] Law shall be classified in three categories as follows:

1) "Aircraft for public transportation" shall be those used to transport persons or goods for remuneration or gratuitously, provided the carriage is undertaken by an airline company.

2) "Aircraft for aerial work" shall be those used for industrial or commercial purposes, or otherwise for profit, not included in [such] transportation as specified in the preceding paragraph.

3) "Tourist aircraft" shall be those used for purposes other than those contemplated in the two preceding paragraphs.

Article 7. The nationality of an aircraft shall be determined in the following manner:

1) The nationality of an aircraft shall be that of the last country in which it has been registered.

2) Aircraft registered in another country may acquire Colombian registration.

3) Two or more simultaneous registrations on the same aircraft shall not be permitted.

4) Any aircraft registered in the National Aircraft Register shall be Colombian.

Article 8. All aircraft registered in Colombia shall bear as nationality marks such symbols as established by the Government.

¹ Law 89 of May 26, 1938, published in *Diario Oficial*, May 30, 1938, as amended.

Article 9. The registration of a Colombian aircraft shall be cancelled in the following cases:

1) When it acquires registration in another country by a transfer authorized in advance by the Government. This authorization shall also be necessary for any acts which burden or restrict the ownership in an aircraft and which may involve its removal from the country;

2) When an aircraft is permanently withdrawn from service, if the Government so decides; and

3) When cancellation is requested by the owner.

Article 10. The National Aircraft Register shall include:

1) A complete description of the aircraft, in a manner which will permit its identification;

2) An indication of the category of the aircraft;

3) The name of, and other personal information concerning its owner.

Marginal notes shall be made in the register concerning any subsequent change in the information specified in this article.

Article 11. In order to be valid, acts which transfer ownership in an aircraft shall require a written instrument, and to make the transfer effective its registration in the National Aircraft Register and physical delivery of the aircraft shall be necessary. Acts which burden or limit the ownership in an aircraft likewise shall be subject to the formality of a written instrument and of registration in the National Aircraft Register.

The loss of an aircraft shall be recorded in the National Aircraft Register if its destruction has been proved.

Article 12. In the case of an unexplained disappearance of an aircraft, its owner shall be under a duty to return to the Treasury the amount corresponding to the tax exemption which had been granted to the aircraft under this Law; but if its disappearance can be proved to be due to fraudulent operations of the owner, a fine shall be imposed, equivalent to 50 percent of the value of the aircraft as listed in the National Aircraft Register.

Article 13. In cases of judicial attachment or litigation involving an aircraft, the judge or magistrate hearing the case shall advise the Office of Registration in the Civil Aeronautics Bureau with the effect established by the law in regard to articles outside commerce.

Article 14. Only such aircraft may be registered in the National Aircraft Register as public transport or air service aircraft which possesses the technical requirements specified by the Government and when at least 51 percent of their value is owned by Colombian nationals or by corporations recognized as such in Colombia in accordance with the provisions of Article 15. Such aircraft shall lose this status if they pass by any manner of conveyance into possession of persons not fulfilling the conditions required in [this] article.

Article 15.² Recognition of a corporate entity referred to in the preceding article shall be subject to the following conditions:

1) That the entity be domiciled in Colombia.

2) That its corporate capital be represented by a proportion of not less than fifty-one percent (51%) of its nominative shares

² Amended by Law 68 of Dec. 20, 1939 (*Diario Oficial*, Dec. 21, 1939).

belonging to Colombian nationals or to Colombian companies, the majority of the stock capital of the latter in turn being owned by Colombian nationals.

3) That its president manager or legal representatives, and at least two-thirds of the other administrators be of Colombian nationality.

Paragraph 1. The legal [entity] considered in this article shall be forfeited if any of the required conditions for its recognition are no longer fulfilled.

Paragraph 2. The conditions required by this article must also be fulfilled by airline companies presently operating, over a period of four years which may not be extended and which shall be computed from the effective date of this Law.

Article 16. Tourist aircraft may only be registered in the National Aircraft Register if they fulfill the technical conditions specified by the Government and when they are owned by persons domiciled in Colombia.

Article 17. Colombian aircraft whose owners fulfill the conditions specified in Articles 14, 15, and 16, and engines intended exclusively for use on such aircraft, shall be exempt from the following national taxes:

1) Customs duties defined in Section 21, Article 2 of Law 79 of 1931.

2) All ordinary or extraordinary excise taxes which would burden the capital, for a period of fifteen years computed from the effective date of this Law.

3) Taxes which burden or might burden in an ordinary or extraordinary way any drafts sent abroad exclusively to pay for such aircraft and for engines and repair parts intended for use thereon.

In case any aircraft considered in this article changes nationality or is transferred to ownership of a person who fails to fulfill the specified conditions, the benefit of the exemptions granted herein shall cease, and the transferor shall pay the total amount of taxes from which his aircraft had been exempted.

III. TRANSIENT AIRCRAFT

Article 18. Transient aircraft shall be those not registered in Colombia but temporarily authorized to fly over its territory.

Article 19. The Government may grant authorization to transient aircraft owned by foreign airline companies, when they render international air transport services, to schedule stops on the territory of the Republic in order to make international connections for domestic transport services, but such connections shall be permitted only at airports designated by the Government.

In no case may these authorizations be granted for domestic service, which shall be prohibited to foreign aircraft.

Article 20. Authorizations granted to transient aircraft in accordance with the provisions of this chapter, shall be revocable by the Government at any time, with no need to justify the decision.

Article 21. Transient aircraft shall be subject to the national law.

IV. AIR NAVIGATION

Article 22. "Air navigation" shall be deemed to mean the use of the air space by aircraft.

Article 23. Air navigation and any service directly related thereto shall be deemed for all legal purposes to be of the public interest, and subject to final inspection and regulation by the Government.

Article 24. In peacetime air navigation in the national air space shall be authorized provided that in each case all requirements and legal provisions are observed.

Article 25. On the grounds of public order and either generally or temporarily, the Government may prohibit air navigation over specified regions of the national territory, or the use of certain aircraft, or the transportation of specified persons or articles.

Article 26. The Government may prohibit the establishment of installations, such as aerial cables, electric power lines and similar installations when they are constructed in such a manner as to constitute obstructions to the safety of air navigation.

Article 27. Signals or installations of any category, intended to insure the safety of air navigation, shall be considered as a service directly related thereto and, therefore, their establishment shall be deemed an important reason for the exercise of eminent domain [public use].

All persons shall be obliged to facilitate the installation and operation of such service.

Article 28. Except in cases of *force majeure* or with advance authorization from the Government based on knowledge of the reason therefor, it shall be prohibited to throw from any aircraft objects, bundles, or materials except for regulation ballast, which may be jettisoned in case of need.

Article 29. All persons shall render emergency assistance to any aircraft at the expense of the aircraft operator.

V. LEGAL STATUS OF AIRCRAFT

Article 30. Aircraft on national territory or in the national airspace and its occupants shall thereby become subject to the laws of the Republic.

Article 31. Commander of an aircraft shall be the senior officer on board; he will be responsible for the preservation of order and discipline on board the aircraft; he shall obey the laws, regulations and other official orders and enforce their observance by others and he shall be vested with the authority granted to captains of vessels.

Article 32. The operator of an aircraft shall be liable to the Government or to third persons for any violation of the law or of official orders, without prejudice to a right of action against the person committing such violation.

Article 33. Persons damaged by aircraft or by acts occurring on board thereof may bring an action against the operator of the aircraft or against the person causing the damage.

Article 34. Any person possessing an aircraft and using it on his own account shall be considered its operator. No person other than the owner may possess a public transport aircraft, or one for aerial serv-

ices and use it for his own account, unless he is certified as the operator thereof.

The owner shall be considered the actual operator, when the status as such is not certified to another person in the form of a public document and recordation in the National Aircraft Register. Such certification shall constitute a rating that may alter the category of an aircraft, according to the provisions of Article 14.

The owner shall be considered the operator of an aircraft which is not registered in the National Aircraft Register, except when another person is certified as the operator in the Aircraft Register of the country of the nationality of the aircraft, or in any other official document of such country or of Colombia.

Article 35. When a crime is committed aboard an aircraft, or acts take place which require investigation by the authorities, such aircraft must land at the nearest Colombian public airport, and the commander shall immediately report to those local authorities who have jurisdiction to take charge of the investigation and trial in accordance with the general laws concerning jurisdiction and procedure.

Article 36. Damages caused by an aircraft or from it, shall be subject to the jurisdiction of the authorities of the place where the damage was caused in accordance with the general law concerning jurisdiction and procedure.

Article 37. In the investigation of any acts mentioned in Article 35 and 36, the competent authority shall obtain the advice of a commission of experts composed of aircraft pilots, engineers specializing in aviation and physicians specializing in aviation medicine, as [these] may be appropriate.

VI. COMMERCIAL USE OF THE AIR SPACE

Article 38. "Commercial use of the air space" shall be deemed to mean its use by public transport aircraft and aircraft used for aerial service.

Article 39. Commercial use of the national air space may be made only by Colombian aircraft.

Article 40. In order to [operate] any public transport aircraft or aerial service craft, the [operators] shall prove to the Government their administrative, technical and financial ability with respect to the activities which they intend to undertake and that they had obtained the required authorization.

Article 41. The Government may verify at any time whether an established operator is maintaining the required conditions as provided in the preceding article, and may suspend his activities in case of insufficient compliance with any of these conditions.

Article 42. Every operator must maintain a reserve fund, the amount of which shall be fixed or modified by the Government according to circumstances.

Article 43. "Scheduled air service" shall be deemed to mean all operations in the national air space in accordance with rates and schedules fixed for the public.

Article 44. Before an operator who has observed all the requirements stipulated in Article 40, may establish a scheduled airline service in Colombia, to it, or in transit to another country the plan therefor

shall first be submitted for study to the Government, which shall examine the possibilities and advantages thereof with respect to public safety and economic interest of the national air transport industry. Pursuant to the results of this study, the required authorization shall be either granted or denied. These permits must be submitted for periodic renewal.

*Article 45.*³ When required by the needs of domestic air commerce and when the financial income of the airlines prevents the establishment of civil air services by private operators alone, the Government may:

- a) participate as a shareholder in private air transport lines by way of subsidy;
- b) in such case, the revenue from the stock may be requested by the Government in the form of shares in such enterprise; and
- c) create its own air transport service.

In the last mentioned case, the services shall be under the direct supervision of the Civil Aeronautics Board.⁴

Article 46. The Government may also participate as a shareholder in international air transport enterprises.

Article 47. Operators maintaining scheduled airline services between two or more locations within the Republic shall be exempt from the following national ordinary or extraordinary taxes:

- 1) Taxes which burden, or may burden in the future, the payments to be made for air transportation of persons, baggage or cargo.

- 2) Taxes which burden, or may burden in the future, the capital of such airlines in matters directly related to their services.

Such exemptions shall be granted for a period of fifteen years, commencing from the date when the present Law enters into force.

VII. AIRDROMES AND AIRPORTS

Article 48. An airdrome shall be deemed any location on land or water, suitable for the landing and take-off of aircraft.

The periphery of the airdrome shall be deemed to be the boundary of areas intended exclusively for this purpose.

Article 49. An airport shall be deemed any airdrome equipped with special services for the landing, take-off, parking and supplying of aircraft, for the embarkation and discharge of passengers and for the loading and unloading of goods.

Article 50. The Government shall establish a National Register of Airdromes in which all airdromes or airports authorized to function as such, shall be recorded.

A transfer of ownership in an airdrome or airport, or an act which burdens or restricts such ownership, shall be void unless duly recorded in the National Register of Airdromes.

Article 51. On the basis of their use, airdromes and airports shall be divided into public and private and on the basis of their ownership, into national and private.

³ Amended by Law 68 of Dec. 20, 1939 (*Diario Oficial*, Dec. 21, 1939). *Direccion General de Aeronautica Civil*.

⁴ Changed to *Departamento Administrativo de Aeronautica Civil* by Decree 1721 of July 18, 1960. (*Diario Oficial*, August 20, 1960).

Public airdromes shall be those made available by their operators to general air traffic. Private airdromes are those intended by the owner for his own activities. National airdromes shall be those owned by the National Government. All other airdromes shall be private.

Article 52. Every public airdrome or airport may be used by any private aircraft against payment of scheduled fees approved in advance by the Government.

No private aircraft may use a private airdrome or airport without permission from the operator, except in case of *force majeure*.

State aircraft may gratuitously use any national or private, public or private airdrome or airport.

Article 53. Only in case of *force majeure* or accident may aircraft use places which are not authorized airdromes.

Article 54. For the construction of airdromes and installations for air navigation the following requirements must be fulfilled:

a) Prior Government authorization for the study and location of the airdrome and installations.

b) Presentation of plans and drafts for approval and review of the Government.

Article 55. The construction of public airdromes and airports shall be within the exclusive jurisdiction of the Civil Aeronautics Board.

Article 56. Every airdrome or airport shall have a manager, with duties assigned by the operator which must be submitted for approval of the Government.

Article 57. Every airdrome or airport shall have an airdrome or airport captain,⁵ who alone shall perform the duties of the national air police, and whose jurisdiction shall include the land area comprising the airdrome or airport and its facilities and, as to the air over the area all of the corresponding air space up to five kilometers surrounding the airdrome. The airdrome or airport captain shall maintain order and discipline thereon; he shall obey the laws, regulations and other official orders, and enforce them against others; he shall be authorized to delay or refuse the landing or take-off of any aircraft, and shall be invested with disciplinary authority in accordance with the regulations implementing this matter.

Article 58. The Government may designate the manager of a private airdrome or airport as airdrome or airport captain, when the limited importance of the airport makes separate offices unnecessary.

Article 59. The national air police shall be directly under the supervision of the Civil Aeronautics Board.

The Government shall regulate the mutual relations between the air police and the regular police of the country, for the purpose of maintaining unity of the authority and responsibility of the airdrome or airport captain.

Article 60. The regulation, organization and control of all airdromes and airports is hereby declared an exclusive function of the State.

Article 61. To operate an airdrome or airport, the operator shall be required to prove to the Government his administrative, technical and financial capacity with respect to the activities which he intends to undertake, and he must obtain the respective authorization. Such authorizations must be submitted for periodic renewal.

⁵ General supervisor with police and disciplinary powers, who also has authority to delay or prohibit take-off or landing of planes. Ed.

Article 62. The owner shall be considered the operator of an airdrome or airport, except when another person has been certified as operator in a public document or when due recordation thereof has been made in the National Register of Airdromes.

Article 63. The operator shall be liable for damages and injuries occurring on or outside of an airdrome or airport, as the result of acts of air services performed therein, provided negligence on his part can be shown or on that of his employees, and such negligence shall be presumed except when the contrary is proved. Operators may recover from those directly responsible for the damage.

Article 64. Airdrome or airport operators shall be liable to the Government or to third persons for any violation of laws or official orders, without prejudice to any right of recovery on their part against the persons committing such violation.

Article 65. At every airdrome or airport of entry there shall be national customs and health services, for which the airport operator must provide space and to which the captain must render the necessary assistance.

Article 66. Airdromes and airports shall be included in the services directly related to air navigation, and their establishment shall constitute an important reason for the exercise of eminent domain.

The National Government may expropriate airdromes and airports for purposes of national defense, or in order to prevent a monopoly of air transportation. Such purposes shall constitute important reasons for the exercise of eminent domain.

Article 67. Any Department [territorial division] or Municipality may transfer ownership of its airdromes or airports to the National Government.

Article 68. Servitudes for airdromes or airports shall be imposed on surrounding land in accordance with the following rules:

1) Within the area surrounding an airdrome, no planting, building or other permanent or temporary work may be undertaken without securing prior authorization from the Government, when the area around such works would at any point touch at the minimum distance "D" of the area surrounding the airport, equal in meters to the result calculated according to the following formula, in which "H" represents the height of the airdrome above sea level, expressed in meters:

$$D=800-\frac{H}{6}$$

2) The Government may refuse authorization when such plantings, buildings or other permanent or temporary work, whose height is expressed in meters as "h" exceed the results calculated according to the following formula where "d" represents the minimum distance separating the buildings or works in question from the nearest point of the airport area, and "H" the height of the airdrome above the sea level, expressed in meters:

$$h=\frac{d}{20}-\frac{H}{125}-10$$

When the result of the formula is negative all authorization will be refused.

3) If it is desired to plant, build or undertake other permanent or temporary works exceeding the maximum permissible height within the zone to which such servitudes extend, the Government may refuse the authorization only when there is a danger to the aircraft using the airdrome. These authorizations may not be granted before twelve (12) months have elapsed from the opening of the airdrome to service and they may not be subject to any type of lien.

4) Within a period of not more than eighteen (18) months after an airdrome has been opened to service, the Government, for reasons of safety of the aircraft using it or of the inhabitants of nearby property, in certain circumstances, may impose more severe conditions for the property located within the above area. Such changes shall be justified by a report in each case.

No airdrome or airport may be constructed at a distance less than 3D between it and the nearest periphery, computed according to the formula is the first rule of this article.

Article 69. The removal of any obstruction to air navigation shall be considered an important reason for the exercise of eminent domain, if it consists of a planting, building, or any other permanent or temporary work located within the area defined in the preceding article.

Article 70. The Government may acquire and equip land intended for airdromes or other services of air navigation, it may construct airports or installation thereof, or it may participate in such acquisition and construction. It may also take over the administration and operation of airdromes or airports.

Contracts necessary to implement this article shall not require final approval of the Congress.

Article 71. Airdromes and airports belonging to persons who fulfill the conditions specified in Article 14 shall be exempt from all ordinary or extraordinary national taxes which burden or may burden their capital.

When an airdrome or airport is intended for other services, or its ownership is transferred to another person who does not fulfill the conditions of this article, the benefit of the tax exemptions granted shall cease, and the transferor shall pay the total amount of taxes from which his airdrome or airport has been exempted.

Article 72. Metal hangars, installations of fire protection and other equipment intended exclusively for lighting and signals on the runways of airdromes or airports, belonging to persons who fulfill the conditions specified in Article 14, and beacons for aviation, shall be exempt from the following ordinary and extraordinary taxes, provided they belong to persons who fulfill the conditions specified in said article:

1. Customs duties defined in Article 2, section 21 of Law 79 of 1931.

2. All excise, ordinary or extraordinary taxes which may burden the capital, for a period of fifteen years computed from the date of enforcement of this Law.

3. Taxes which burden or may burden payments sent abroad exclusively intended for payment of such equipment.

In case any of the equipment mentioned in this article becomes the property of persons who do not fulfill the specified conditions, or when such equipment is used for other services, the benefit of the exemption shall cease, and the transferror shall pay the total amount of taxes from which such equipment had been exempted.

VIII. PERSONNEL AND TRAINING

Article 73. Commencing with the entering into force of the present Law, every airline shall constantly maintain in its services not less than 25 percent of Colombian Personnel for the first five years of operation, 50 percent for the following five years, and 75 percent for the eleventh and following years.

Article 74. The training and the exercise of the professions of commander, pilot, navigator, mechanic, radio-operator and other technical personnel, directly or indirectly connected with the operation of aircraft as well as that of airdrome or airport captain shall be subject to final inspection and regulation by the Government.

Article 75. The Government shall develop training facilities for the professions mentioned in the preceding article in a manner appropriate to the circumstances.

Article 76. The Government may grant exemptions from national taxes on capital and fuel when it deems it advisable in favor of those [corporate] persons which fulfill the conditions specified in Article 15, if they provide training in the professions enumerated in Article 74, to the degree to which such training contributes to the technical requirements and the needs of the country.

Article 77. Payments made to residents abroad and payments made to Colombian nationals who study aviation or subjects directly related thereto, shall be exempt from national taxes imposed or to be imposed, provided such studies are made under the supervision of, and the payments are made by the Government.

The Government shall fix in each case the maximum amount which may be paid monthly and the period of time for which the exemption is granted.

IX. FINAL PROVISIONS

Article 78. Materiel and installations for civil aviation shall be considered reserves for military aviation in case of an internal disturbance or a foreign war.

Article 79. In the cases specified in the preceding article, all services of civil aviation referred to in such article shall be without move at the disposal of the Government which will determine its use according to the needs.

Article 80. In expropriation cases which may be initiated for construction of public airports and for the installation of services related to air navigation, the provisions of Law 83 of 1935 shall apply provided that such services are installed by government agencies. For this purpose, the officials of the Public Ministry (Government Attorney) and representatives especially authorized for this purpose, shall file an expropriation claim at the request of the service in charge of civil aeronautics.

Article 81. When the value involved does not exceed \$3,000 (pesos) contracts for acquisition of land for airdromes or installations in the

service of air routes require only the approval of the Ministry of War. In all other cases the provisions of Law 13 of 1935 shall apply.

*Article 82.*⁶ Violations of this law and the regulations and orders enacted for its implementation, shall be punishable by fines, which may be converted into arrest and temporary or permanent suspension of licenses, permits and other authorizations. The Government shall regulate the amounts of the penalties and the applicable procedure.

Article 83. Without special Government license, it shall be prohibited to transport by air any arms, munitions, explosives, narcotics and other articles which are not in commerce or whose importation or exportation has been prohibited by law.

Violations of this provision shall be punishable by confiscation of the articles unlawfully transported, and by fines which may be as high as the value of the aircraft by means of which the violation is committed.

Article 84. The enforcement and application of this law shall be under the sole jurisdiction of a special organization with technical personnel, which shall be known as the Civil Aeronautics Board with jurisdiction over all matters related to the services on airdromes and air routes, radio communications, meteorology, national air police, supervision of personnel, materiel and installation intended for civil aviation, as well as air navigation, air services, health and administration of civil aviation. The Bureau shall first adopt all necessary regulations to implement this Law, and draft codes and legislation which may be necessary to regulate all activities in the domestic and international aspects of this field as well as the work of the Permanent American Aeronautical Commission (C.A.P.A.) referred to in the next article.

Article 85. The resolutions approved at the First Inter-American Technical Conference on Aviation, held in Lima in 1937 concerning creation of the Permanent American Aeronautical Commission (C.A.P.A.) are herewith adopted. Therefore, the duties which were to be undertaken by the National Aeronautics Commission of Colombia shall be transferred to the General Civil Aeronautics Bureau, established under the preceding Article.

Article 86. The Government shall have power to organize the Civil Aeronautics Board to determine its personnel and duties, considering the functions which it must perform in relation to Colombian civil aviation as well as in relation to the C.A.P.A., to determine the appropriations needed for materiel for the Bureau, and to enact regulations which may be necessary to define the powers of the organization established under Article 84. Such powers insofar as they are extraordinary, shall subsist, up to 120 days after approval of this Law.

Article 87. For the installation and organization of the Civil aeronautical services, with the functions designated in Article 84 and 85 of this Law and others which may be added later by the Government in accordance with Article 86, an additional credit shall be included in the appropriations presently in force for national defense (chapter 32, Article 193 of the budget on present appropriations) and shall be charged to the surplus left on December 31, 1937 to the amount of one hundred thirty-three thousand one hundred and fifty pesos (\$133,150).

Article 88. The following provisions are hereby expressly repealed:

⁶ Amended by Decree No. 2452 of 1942.

Article 11, 12, 13, 14, 15 and 16 of Law 126 of 1919; Law 8 of 1929; Law 5 of 1932; Decree 66 of 1934 and Decree 1254 of 1936.

Article 89. This Law shall come into force upon its approval. Bogota, May 4, 1938.

OTHER LEGISLATION IN FORCE

1. Decree 1430 of April 25, 1947, approves the Regulations to implement Air Traffic and Transportation. (*Diario Oficial*, May 5, 1947)

2. Decree 824 of March 29, 1949, approves Regulations for civil aeronautics. Includes full text of the decree on all aspects of civil aviation. (*Diario Oficial*, July 13, 1949)

3. Decree 3931 of December 13, 1949, provides that all airlines organized in Colombia carrying airmail must be scheduled lines subject to the general supervision and control of the Civil Aeronautics Board. (*Diario Oficial*, January 9, 1950)

4. Resolution 185 of August 13, 1951, fixes the requirements for the building of new airports and airdromes. (*Diario Oficial*, August 23, 1951)

5. Decree 2058 of October 3, 1951, regulates the hours of work for civil aviation personnel. Flight time for pilots and co-pilots in commercial or civil aviation cannot exceed 90 hours in any 30 day period; variations for other undertakings are covered, compensation, rest periods and annual leave. (*Diario Oficial*, November 7, 1951)

6. Decree 302 of February 11, 1952, amends Decree 2670 of 1947, in the sense that no payments or charges may be made for landing rights, use of airports of national ownership, by aircraft in public transportation and special air services, whose maximum weight is not over those indicated herein. (*Diario Oficial*, March 15, 1952)

7. Decree 337 of February 17, 1953, reorganizes the Civil Aeronautics Board under the Ministry of Public Works. (*Diario Oficial*, March 10, 1953)

8. Decree 2033 of August 4, 1953, extends for another five years the exemptions provided in Articles 17, 47 and 72 of Law 89 of 1938, the basic law on civil aviation. These exemptions related to capital tax and were granted to aviation companies. (*Diario Oficial*, August 14, 1953)

9. Decree 1414 of May 26, 1955, creates a "transient ticket", and adopts other measures on lengths of visits by alien passengers, transferring in Colombia to other airlines, requirements of other types, etc. (*Diario Oficial*, June 11, 1955)

10. Resolution 292 of September 17, 1957, amends Resolution 114 of April 26, 1956, and authorizes an increase of 30 percent on the price of passage on the air-routes designated in this resolution, and establishes some discounts to be granted to certain categories of persons, such as newspapermen and students. (*Diario Oficial*, October 8, 1957)

11. Decree 1721 of July 18, 1960, creates the *Departamento Administrativo de Aeronautica Civil*. Its purpose is to orient, advance, regulate and inspect air commerce and civil aeronautics. (*Diario Oficial*, August 20, 1960)

12. Resolution 45 of October 2, 1961, amends Section 12.4 of the Regulations Manual on licenses for flight attendants and pursers in domestic and international flights. (*Diario Oficial*, October 4, 1961)

CONGO

ORDINANCE No. 62/321 OF OCTOBER 8, 1955 on

Air Navigation, as amended by Ordinance No. 68/154 of April 16, 1958, applicable to Ruanda and Burundi by Ordinance 62/107 of August 2, 1956.¹

CHAPTER I. CIRCULATION OF AIRCRAFT ABOVE THE TERRITORY OF THE COLONY

SECTION 1. AIRCRAFT BASED IN THE COLONY

Art. 1. Aircraft registered in the colony under Articles 6 and 7 below may fly freely over the territory of the colony and its territorial waters provided they comply with the conditions specified in this ordinance.

SECTION 2. AIRCRAFT NOT BASED IN THE COLONY

Art. 2. Aircraft registered in Belgium which are not based in the colony, may fly over the territory of the colony and its territorial waters and land thereon provided they carry the documents required by the Belgian laws.

They must comply with the provisions of this ordinance other than those dealing with registration, airworthiness certificates, licenses of the personnel, and flight documents, which matters shall be governed by the Belgian law.

The same shall apply to foreign aircraft registered in countries with whom Belgium has a treaty of reciprocity and which, in regard to said documents and matters, comply with the laws of the country of origin.

Art. 3. Aircraft registered in a country with whom Belgium has no treaty of reciprocity may fly over the territory of the colony or land thereon only after obtaining an authorization in conformity with paragraph 2 of Article 123 of this ordinance.

SECTION 3. BORDER CROSSINGS AND AIR ROUTES

Art. 4. The Governor General or his delegate may impose on aircraft coming from, or going abroad, the duty to cross the border at places determined by him. The points of border clearance shall be notified to air navigators by N.O.T.A.M.S.

The Governor General or his delegate may impose on aircraft flying over the territory of the Belgian Congo or Ruanda-Urundi, the duty

¹Published in *Bulletin Administratif du Congo Belge*, 1956, No. 26, June 30, 1956.—Applicable to the Kingdom of Burundi according to Airgram A-135, April 16, 1963, from the U.S. Legation at Usumbura.

to follow the air routes a list of which shall be notified to air navigators by N.O.T.A.M.S.

The Governor General or his delegate may impose on any aircraft flying between two airdromes linked by properly maintained level areas for landing, the duty to follow the route marked by said areas.

The Governor General or his delegate may impose on any aircraft making a local flight, the duty to remain within an area of 30 km from the airdrome.

CHAPTER II. REGISTRATION OF AIRCRAFT

SECTION 1. REGISTRATION

Art. 5. A register of aircraft is hereby established.

Such register, designated "Aeronautical Register of the Colony" shall be established at the seat of the Government General and shall be kept by the Aeronautical service.

It shall contain, in numerical sequence, the identification of aircraft based in the colony.

Art. 6. Only aircraft which are based in the colony, may and must be registered in the aeronautical register of the colony.

Registration in the aeronautical register and the issuance of certificates and duplicates provided for in Articles 14, 15, and 19 of this ordinance, shall give rise to payment of a fee the amount of which is specified in Annex 3, below.²

Art. 7. An aircraft registered in Belgium which becomes based in the colony, must be registered in the Congolese register which shall mention the registration in Belgium and the aircraft shall retain its original registration marks.

Art. 8. Any aircraft which must be registered in the Congolese register under Article 6, shall be subject to a declaration and application for registration at the Aeronautical Service of the Government General.

Art. 9. The application for registration shall specify :

- a) the characteristics of the aircraft, the year of manufacture, serial number, number of engines and their rated power ;
- b) the names and domicile of the manufacturer of the aircraft ;
- c) the operations or the service for which the aircraft is used as intended ;
- d) the home port of the aircraft ;
- e) when the owner is a natural person, his name, first name, nationality, profession, domicile and residence and, if applicable, his chosen domicile.

When the owner is a corporation, the style, main office, the name, first names, nationality, domiciles and residence of the person empowered to sign on its behalf.

The application shall be accompanied by :

- a) titles establishing ownership ;
- b) if applicable, proof of cancellation in a foreign register ;
- c) proof, issued by the Service of Finance certifying that the customs regulations have been complied with.

² Omitted here.

Art. 10. The owners and co-owners of an aircraft shall be responsible for the declaration and the application for registration.

When the owner or co-owner is a corporation, the natural persons who have power to act for such corporation shall be responsible for the declaration and the application for registration.

In the case of a partnership, each partner shall be responsible.

Art. 11. Aircraft registered in the register of a foreign country may not be based in the colony except after prior cancellation of the foreign registration.

Art. 12. Registration abroad of an aircraft previously registered in the Congolese aeronautical register, shall have effect in the colony only when the registration in such register has been previously cancelled.

Art. 13. Any fact calling for a change in the entries which the application and the documents required for registration must contain under Article [9], must be notified within thirty days to the Aeronautical Service of the Government General.

SECTION 2. THE CERTIFICATE OF REGISTRATION

Art 14. A registration certificate the form of which is determined by the Aeronautical Service, shall be issued to the owner of an aircraft properly registered in the aeronautical register.

Art 15. In case of involuntary loss of the certificate, the issuance of a duplicate may be subject to guarantees considered necessary by the Aeronautical Service of the Government General.

Art 16. The certificate shall cease to be valid:

1) in case ownership in the aircraft is transferred;

2) in case there is a reason for *ex officio* cancellation of the registration.

When the certificate ceases to be valid, the owner of the aircraft must return it immediately to the Aeronautical Service of the Government General.

SECTION 3. CANCELLATION OF REGISTRATION

Art. 17. A registration in the aeronautical register is cancelled *ex officio*:

1) when the aircraft is or must be deemed permanently out of service;

The fact that it is permanently out of service may be determined by the Aeronautical Service of the Government General on the proposal of an aeronautical expert designated in accordance with Article 44 of this ordinance;

2) in case of destruction or loss of the aircraft;

3) when the aircraft ceases to comply with the conditions of registration specified in Article 6 above.

Art 18. Notification of the cancellation shall be given to the owner of the aircraft by the Aeronautical Service of the Government General.

Art 19. A certificate of cancellation shall be issued to any person upon request.

SECTION 4. MARKS OF NATIONALITY AND REGISTRATION

Art. 20. Any aircraft registered in the aeronautical register shall bear:

- 1) the Belgian mark of nationality consisting of the two capital letters OO;
- 2) the Congolese mark of registration consisting of a group of three capital letters beginning with the letter C.

The nationality mark shall precede the registration mark and be separated from it by a hyphen.

Aircraft registered in Belgium and carried on the aeronautical register of the colony under Article 7 of this ordinance shall retain their original registration marks.

Art. 21. The placement, size, and type of letters of the nationality and registration marks shall comply with the regulations contained in Annex 1 of this ordinance.

Art. 22. Only aircraft belonging to the State shall be authorized to bear the national insignia or colors.

Art. 23. Every aircraft must bear in a visible manner, at the bow or the fuselage near the main door, an identity plaque of fireproof material on which the owner and the nationality and registration marks must be engraved.

CHAPTER III. AIRWORTHINESS CERTIFICATES AND NAVIGATION PERMITS

SECTION 1. GENERAL PROVISIONS

Art. 24. In order to make any flight, every aircraft must have an airworthiness certificate.

Art. 25. The Aeronautical Service of the Government General may grant any aircraft a temporary authorization called "navigation permit" (*Laissez-passer de navigation*). It determines the limitations and conditions of use of the aircraft.

Art. 26. Airworthiness certificates granted abroad to aircraft of Belgian nationality or registered in the Belgian Congo, shall not be valid in the colony.

However, the Aeronautical Service of the Government General may authorize aircraft to make one or several flights by virtue of the airworthiness certificate of origin.

Airworthiness certificates granted in Belgium shall be valid in the colony for the term specified therein. However, they must be validated by an aeronautical expert appointed in accordance with Article 44 of this ordinance after the aircraft becomes based in the colony.

Art. 27. The airworthiness certificate or navigation permit shall be part of the documents which all aircraft must have aboard when flying over the territory or the territorial waters of the colony.

Art. 28. The airworthiness certificate or navigation permit must be presented whenever requested by the qualified authorities.

Aeronautical experts shall, at all times, have access to aircraft in the presence of the owner, the operator, or the flight commander.

No restriction may be imposed on their right of control.

SECTION 2. ISSUANCE OF AIRWORTHINESS CERTIFICATES

Art. 29. Airworthiness certificates shall be issued by the Aeronautical Service of the Government General at the place where it is

located and on the report of one or more experts chosen from aeronautical experts appointed by the Government General.

Art. 30. The Aeronautical Service of the Government General shall determine the form of the airworthiness certificate issued in accordance with this ordinance.

Art. 31. Navigation permits issued under Article 25 shall be in the form determined by the Aeronautical Service of the Government General.

Art. 32. When an airworthiness certificate is lost, the issuance of a new copy may be subject to a new inspection.

Art. 33. The owner of an aircraft for which an airworthiness certificate has been denied, may not request a new inspection of the aircraft until fifteen days have elapsed from the time when he was notified of the preceding inspection.

SECTION 3. EXPERTS' INSPECTION

Art. 34. At the request of the owner of an aircraft, one or more experts chosen from the experts appointed by the Government General shall inspect the aircraft from the point of view of airworthiness.

Art. 35. The inspection shall cover points which the expert or experts consider useful for a demonstration of the airworthiness of the aircraft.

Art. 36. The experts may demand all documents and information useful in forming their opinion.

Art. 37. The experts may subject an aircraft to any flight, navigation, or landing tests which they consider useful in demonstrating the airworthiness and safety of the aircraft up to the limits of capacity as rated by the manufacturer.

Art. 38. The inspection reports shall be made in the form prescribed by the Aeronautical Service of the Government General.

Such reports shall be preserved in the archives of the Aeronautical Service.

SECTION 4. MAINTENANCE OF AIRWORTHINESS

Art. 39. Airworthiness certificates must be submitted for revalidation at least once every six months.

However, the Aeronautical Service of the Government General may extend the duration of validity of certificates for a further maximum period of three months.

Art. 40. Revalidation shall consist in an inspection of the aircraft by one or more aeronautical experts who shall sign the airworthiness certificate if they find that the aircraft is still airworthy.

Revalidation shall be effective for a period of six months from the date of inspection.

If the experts find that the aircraft is no longer airworthy, they shall withdraw the airworthiness certificate.

Art. 41. The inspection report shall be sent by the experts to the Aeronautical Service of the Government General for recordation in the file of the aircraft and for preservation in the archives.

Art. 42. During the period between two revalidations of the airworthiness certificate, airworthiness and safety of the aircraft must be maintained by proper maintenance.

Aircraft shall at all times be subject to the control of the aeronautical experts; the latter shall withdraw the airworthiness certificate when they find that the aircraft is not in sufficiently good condition.

Article 43. Serious damage, repairs, or major modifications shall automatically suspend the airworthiness certificate. In such case, the Aeronautical Service of the Government General must be notified either by telegram or by registered letter, and the nature of repairs or modifications to be made must be accurately specified.

The Aeronautical Service may require that, prior to returning the aircraft to service, its airworthiness be again checked.

SECTION 5. SELECTION OF EXPERTS

Article 44. Experts are appointed by the Government General on the proposal of the Aeronautical Service of the Government General. They shall be selected from specialists competent in aviation.

SECTION 6. COSTS OF INSPECTION AND ISSUANCE OF CERTIFICATES AND DOCUMENTS

Article 45. Inspection with a view to issuance, validation, and revalidation of airworthiness certificates, extension of the period of validity of airworthiness certificates, issuance of a navigation permit, a flight log, engine or fuselage book, shall give rise to payment of a fee the amount of which is determined in Annex 3 below.³

CHAPTER IV. LICENSES OF THE FLIGHT PERSONNEL

SECTION 1. LICENSES OF MEMBERS OF THE FLIGHT CREW

Article 46. No one may be a member of a flight crew unless he holds the license corresponding to his functions.

Article 47. Licenses of the members of a flight crew are the following:

1. Training license (student pilot);
2. Private airplane pilot license;
3. Professional airplane pilot licenses;
4. First class professional airplane pilot license;
5. Airline pilot license;
6. Private helicopter pilot license;
7. Professional helicopter pilot license;
8. Helicopter airline pilot license;
9. Glider pilot license;
10. Free balloon pilot license;
11. Flight navigator license;
12. Flight mechanic license;
13. Flight radio navigator license;
14. Flight radio telephone operator license.

SECTION 2. LICENSES OF PERSONNEL OTHER THAN MEMBERS OF THE FLIGHT CREW

(Flight controller and maintenance mechanic)

Article 48. No one may be a flight controller unless he holds the license corresponding to his functions.

³ Omitted here.

However, the Governor General or his delegate may entrust the duties of flight controller to agents of the administration who do not hold the license but who fulfill the conditions of age, knowledge and experience desirable for such duties.

Article 49. (Subject to the provisions of Article 140 of Annex 2⁴ to this ordinance as it results from ordinance No. 62/274 of September 1, 1957, no one may certify as flightworthy, any aircraft used in scheduled or non-scheduled air services unless he holds a license of aircraft maintenance mechanic first or second class issued in conformity with the provisions of annex 2 to this ordinance.)

Art. 50. (No one may certify as flightworthy any aircraft used in an operation other than scheduled or non-scheduled air service unless he has obtained authorization from the Governor General or his delegate.

Such authorization shall be issued in the form of a limited license of aircraft maintenance mechanic issued in conformity with Article 140 of annex 2 to this ordinance or a certification stating the qualification of the holder of the license to perform regular inspections as provided for by the manufacturer.)

Art. 51. (The Governor General or his delegate may approve specialized organizations for modification, maintenance and repair of flight equipment and it shall not be necessary for the employees of such organizations to hold licenses as aircraft maintenance mechanics.

Operators may be approved as specialized organizations.

Such organizations may be authorized to exercise the privileges specified for holders of the license of maintenance mechanic first or second class.

However, the Governor General or his delegate may require that the technicians or supervisors permitted to issue a maintenance ticket after a repair over overhaul, hold the license of aircraft maintenance mechanic corresponding to their duties.

Approval shall be subject to an annual fee specified in Annex 3 below.)

SECTION 3. GENERAL PROVISIONS FOR ALL LICENSES

Art. 52. The regulations relating to licenses of personnel contained in annex 2 to this Ordinance, shall determine the specific qualifications for the licenses enumerated in Articles 46 to 50 above and shall state:

1. The requirements of age, physical and mental health;
2. Knowledge, experience and qualifications required in order to obtain the licenses and permits;
3. Privileges attached to a license and conditions for the exercise of such privileges.

Art. 53. Theoretical and practical examinations to obtain one of the licenses provided for in 2) to 12) of Article 47, and in Articles 48 and 50 above, shall take place at the seat of the Government General at Leopoldville.

However, examinations to obtain a license of private pilot or of aircraft maintenance mechanic second class, or a limited license of aircraft maintenance mechanic may be taken at such places as may be determined by the delegate of the Governor General.

⁴ Omitted here.

Candidates for one of the licenses provided for above may be exempt from all or part of the examinations held by the Aeronautical Service of R.U. to obtain licenses and qualifications when they have satisfactorily taken and completed an approved instruction course or when they hold a license issued by a member State of the International Civil Aviation Organization.

Examination fees and fees for issuance of licenses or for medical examinations for the purpose of determining the physical and mental health of the candidates for the obtaining or renewal of licenses shall be specified in annex 3 below.

Art. 54. Licenses are issued by the Governor General or his delegate.

Art. 55. The Governor General or his delegate may refuse or withdraw the license of a Belgian national:

- 1) When he is habitually addicted to drink or narcotics;
- 2) When he has been sentenced to any punishment for violating the internal or external security of the State;
- 3) When he has been sentenced twice for violations of the regulations on air navigation.

However, issuance of a license may not be refused when five years have passed since the second sentence without any further sentence;

- 4) When he has been stricken from the roster of the flight personnel of the Air Force for a breach of discipline in regard to air safety.

However, the issuance of a license may not be refused when five years have passed since the date he was stricken.

The Governor General or his delegate may at any time refuse or withdraw the license of a foreigner.

Art. 56. The Governor General or his delegate may subject the holder of a license to a medical examination or to a test of his knowledge or aptitude in order to determine whether the person concerned retains the physical or mental health, and the knowledge and aptitude required to obtain a license or permit.

The call to an examination or test, which are gratuitous, must be supported by a report.

Art. 57. 1. The Governor General or his delegate may suspend a license or restrict the extent thereof:

- 1) until the date of the final result of the examination or test provided for in Article 56: however, the period of suspension or restriction of a license may not exceed ninety days, except when the person concerned does not appear for the examination or tests for which he has been called;

- 2) during the time a criminal action is pending which may lead to a sentence specified in 2) and 3) of Article 55.

2. The Governor General or his delegate may withdraw a license or restrict the extent thereof:

- 1) in case of physical or mental disability, lack of aptitude or of knowledge as stated in consequence of the examination or tests provided for in Article 55;

- 2) in case of negligence or imprudence in the exercise of duties under the license;

- 3) in case of violation of the air laws.

Art. 58. Except when validated, licenses issued abroad do not enable the holder to be a member of the flight crew of an aircraft registered in the Congolese register or to fulfill, in the colony, any of the duties specified in Articles 48, 49, and 50.

Licenses issued abroad are validated by the Governor General or his delegate.

He may terminate the validation of such licenses at any time.

Art. 59. The validation provided for in Article 58 shall be made in form of an authorization which is joined to the license and which confers upon the latter the same value as a license issued by the colony.

The validity of such authorization shall in no case exceed the time of the medical clearance stated in the license itself.

Art. 60. Licenses issued in Belgium are valid in the colony under the conditions specified in Articles 58 and 59 above.

CHAPTER V. DOCUMENTS

Art. 61. No aircraft is admitted to flight unless it is registered and carries aboard:

- 1) The registration certificate;
- 2) The airworthiness certificate or navigation permit;
- 3) The licenses of the members of the flight crew;
- 4) The flight log (board book);
- 5) The license for the radio station if so equipped;
- 6) A general cargo manifest;
- 7) A list of names of the passengers carried, indicating the points of their departure and destination;
- 8) A cargo manifest with detailed statements if goods are carried.

However, aircraft registered in a member State of the International Civil Aviation Organization may be exempted from presenting the flight log, in conformity with their national regulations.

Art. 62. The operator of any aircraft registered in the Belgian Congo shall keep up to date, in conformity with the instructions of the Aeronautical Service of the Government General:

A flight log (board book)

A fuselage log

An engine log for each engine on the aircraft.

Art. 63. The flight logs, fuselage and engine logs must be preserved for two years following the last entry.

They shall be kept without blank spaces or erasures. The leaves shall be numbered and initialed.

Entries shall be made in ink or indelible pencil.

CHAPTER VI. CIVIL AIRDROMES

Art. 64. Establishment and operation of any airdrome shall be subject to authorization from the Governor General or his delegate.

Authorization for establishment shall specify the standards of construction and equipment of the airdrome.

Authorization for operation shall specify the technical conditions of use of this airdrome.

Art. 65. No modification may be made in an airdrome without prior authorization from the Governor General or his delegate. At that time, the technical conditions of use may be modified.

Art. 66. Airdromes are divided into two categories:

- 1) Public airdromes established by the colony, an organization, or a private person, on which all aircraft may land;
- 2) Private airdromes established by an organization or a private person for personal use.

Art. 67. Unless exempted by the Governor General or his delegate, there must be kept on each public airdrome a register numbered and initialed by the Aeronautical Service of the Government General which contains, in order of date and without blank spaces or erasures, the time of departure or landing of all aircraft, the place from which they come and where they are going and their nationality and registration marks.

This provision shall be applicable to round-trip flights.

Art. 68. Except in the case of *force majeure* or when there is authorization from the Governor General or his delegate, aircraft coming from abroad or going there, must land on a customs airdrome or depart from a customs airdrome. They may not make intermediate landings either coming or going between the customs airdrome and the border.

Except in the case of *force majeure*, aircraft which is not officially based on a private airdrome may not land thereon without prior consent of the owner of such airdrome.

Except in the case of *force majeure* or when there is authorization from the Governor General or his delegates, the take-off or landing of an aircraft may not take place outside an airdrome.

Art. 69. Customs airdromes shall be designated by the Governor General.

On all customs airdromes offices must be reserved without charge for the use of the Customs.

Art. 70. Taxes and fees imposed at public airdromes of the colony for operation of air navigation shall be specified in annex 3 below.

CHAPTER VII. RULES FOR TAKE-OFF AND LANDING

Art. 71. The commander of any aircraft must make the declarations necessary to keep up the airdrome register provided for in Article 67, when he lands or takes off.

Art. 72. Any commander of an aircraft who, because of *force majeure*, must land outside an airdrome, shall immediately advise the colonial authorities or, if there are none, any officer of the judiciary police of general jurisdiction in order to make a report of the landing and, if applicable, the damage done. He may take off only after receiving authorization from the Aeronautical Service of the Government General.

Art. 73. When, because of *force majeure*, which must be justified, an aircraft coming from abroad or going there must land outside a customs airdrome, the commander of the aircraft must comply with the instructions given him by the authorities.

Art. 74. Aircraft which do not land in the colony, are not subject to any customs formality. They must simply follow the route that may be assigned to them.

Art. 75. Aircraft which stay only temporarily in the colony, may be admitted on a temporary entry permit subject to conditions determined by the Governor General.

Aircraft registered in the Belgian Congo which make flights abroad may be reimported without entry fees under conditions determined by the Governor General.

CHAPTER VIII. FLIGHT RULES

SECTION 1. AIRSPACE

Art. 76. The airspace above the territory of the colony includes:

- 1) Controlled airspace, including control regions and areas as defined and delineated in Annexes 2 and 4⁵ to this ordinance.
- 2) Uncontrolled airspace.

SECTION 2. MINIMUM SAFE ALTITUDE

Art. 77. Except for purposes of take-off or landing or when there is authorization from the Governor General or his delegate, it shall be prohibited to fly an aircraft:

- 1) over towns or villages or open air meeting at an altitude which does not permit, in an emergency, to land without danger to persons and property on the ground. Such altitude shall never be less than 300 metres above the highest obstacle located within a radius of 600 metres around the aircraft;

- 2) elsewhere, at an altitude of less than 150 metres above the ground or water.

SECTION 3. CONTRIVANCES CAPABLE OF INTERFERING WITH FLIGHT OF AIRCRAFT

Art. 78. There shall be subject to authorization from the Governor General or his delegate:

- 1) The rise of free or captive balloons;
- 2) The flight of contrivances capable of endangering an aircraft in flight, such as uncontrolled and teleguided contrivances. The authorization shall specify the conditions for such rise or flight.

SECTION 4. PREVENTION OF COLLISIONS AND PRIORITY TO PASS

Art. 79. It shall be prohibited to fly an aircraft at such distance from another aircraft that there is danger of a collision.

Formation flights are permitted only under conditions specified for the intended flight and subject to a prior understanding by the flight commanders.

Art. 80. Practice and test flights under simulated instrument flight conditions may take place only when:

- 1) the aircraft is equipped with dual controls in perfect working order;

- 2) a safety pilot handles the second controls so that he may intervene as auxiliary pilot;

- 3) when such pilot does not have a satisfactory forward field of vision and to each side of the aircraft, an observer in communication with him shall sit where he has a complete field of vision.

⁵ Omitted here.

Art. 81. When two aircraft approach each other head on or nearly head on and there is danger of collision, each aircraft must deviate to the right.

Art. 82. 1. When two aircraft fly at approximately the same altitude and converging courses, the one which has the other on its right shall give the right of way.

2. However, there shall give the right of way:

- 1) Power driven aircraft to dirigibles, gliders, and balloons;
- 2) Dirigibles to gliders and balloons;
- 3) Gliders to balloons;
- 4) Power driven aircraft to aircraft towing other aircraft.

Art. 83. When one aircraft passes another, the latter shall have the right of way, and the passing aircraft, whether it is climbing, in level flight, or descending, shall avoid the flight path of the other aircraft by deviating to the right.

No later change in the relative positions of the two aircraft shall exempt the passing aircraft from such duty until it has completely passed and left the other aircraft behind.

A passing aircraft is an aircraft which approaches another aircraft from behind at an angle of less than 70 degrees in relation to the axis of the latter.

Art. 84. Any aircraft in flight or maneuvering on the ground or on water shall give the right of way to aircraft which are landing or on final approach.

Art. 85. When two or more aircraft approach an airdrome in order to land, the aircraft at the higher altitude shall give the right of way to the one whose altitude is lower, but the latter may not use this rule to get ahead of another aircraft making a final approach, or to pass it.

However, powerdriven aircraft shall give the right of way to gliders.

Art. 86. Any aircraft which has to make an emergency landing shall have the right of way.

Art. 87. An aircraft which has the right of way, shall keep its course and speed. An aircraft which gives the right of way to another aircraft, shall not fly above or below the aircraft which has priority or fly across its course except at a safe distance.

Art. 88. It shall be prohibited to take off when there is danger of collision.

Art. 89. Acrobatic or aerial towing flights may be made only in conformity with the rules issued by the Governor General or his delegate.

Art. 90. Between sundown and sunrise, or at the hours and during periods specified by the Governor General or his delegate, aircraft in flight or taxiing on the runway of an airdrome, or parked on, or near a runway of an airdrome used or usable for night flights, shall show the lights prescribed in Annex 5^a to this ordinance.

However, parked aircraft mentioned in the preceding paragraph, shall be exempt from showing lights when they are brightly illuminated or when the area where they are is marked by obstacle beacons.

Aircraft may not show any other light which may be confused with the lights prescribed in annex 5.

^a Omitted here.

Art. 91. Any aircraft moving on an airdrome, or above an airdrome or within the limits thereof, must:

- 1) watch traffic on the airdrome in order to avoid collisions;
- 2) participate in the traffic pattern of the other aircraft in flight or keep away from them;
- 3) without instructions to the contrary, make all turns to the left, when it makes an approach or after take-off;
- 4) land and take off into the wind, insofar as possible, except when safety or the necessities of traffic impose a different direction.

SECTION 5. MANEUVERS ON WATER

Art. 92. When two aircraft or an aircraft and another vessel approach each other and there is danger of collision, the aircraft shall move with caution, in view of the circumstances and particularly the maneuverability of the aircraft and the vessel.

Art. 93. An aircraft which has an aircraft or another vessel on its right, shall give the right of way to it and keep at a distance.

Art. 94. An aircraft which approaches head on, or nearly head on, an aircraft or another vessel, shall change course to the right and keep at a distance.

Art. 95. The aircraft or vessel which has been passed, has the right of way.

The passing aircraft shall change course to the right and keep at a distance.

Art. 96. An aircraft landing on, or taking off from a water surface shall, as much as possible, keep at a distance from all vessels and shall avoid interference with their navigation.

Art. 97. Between sundown and sunrise, or at the hours or during the periods specified by the Governor General or his delegate, all aircraft afloat must show the lights prescribed in Section 2 of annex 5 of this ordinance, except when they are in an area under a special exemption.

They may not show any other light which may be confused with one of the lights prescribed in annex 5.

Art. 98. In the areas where the Convention on International Rules for the Prevention of Collisions at Sea are in force, aircraft maneuvering on water shall comply with Articles 92 and 97 above, and with other applicable provisions of the convention.

SECTION 6. PREPARATION FOR FLIGHT, FLIGHT PLAN AND FLIGHT NOTICE

Art. 99. No flight may be undertaken without preparation, taking into consideration all useful information and particularly the most recent weather information and predictions and information concerning facilities and aids to air navigation.

Art. 100. With the exception of local flights, no flight may be undertaken unless a flight plan or flight notice has been submitted to the airport or airdrome commander.

A local flight shall be deemed a flight in the surroundings of the airport.

Art. 101. Submittal of a flight plan is compulsory at airdromes with flight control.

The flight plan must be approved by the traffic controller; it shall be established in conformity with the instructions published by the Aeronautical Service of the Government General by notices to air navigators.

Art. 102. Submittal of a flight notice is compulsory at airdromes other than those specified in Article 101.

The flight notice shall be submitted to the airdrome commander; it shall be established in conformity with the instructions published by the Aeronautics Service of the Government General by notices to air navigators.

Art. 103. Any change in a flight plan or flight notice must be brought as soon as possible to the attention of the traffic control service or the airdrome commander, as the case may be.

Art. 104. At the end of a flight for which a flight plan or flight notice has been submitted, the flight commander of the aircraft must advise the traffic control service or the airdrome commander of his arrival.

SECTION 7. SIGNALS AND TELECOMMUNICATIONS

Art. 105. Only the signals specified in Annex 6² to this ordinance may be used.

Any aircraft commander who notices any of these signals shall comply immediately.

Art. 106. The Governor General or his delegate shall determine the telecommunications, codes, abbreviations, and conventional signs and expressions used.

SECTION 8. TRAFFIC CONTROL

Art. 107. Any aircraft commander shall strictly comply with the rules and instructions of the traffic control service.

Art. 108. In a control zone, any aircraft commander:

—shall establish and maintain uninterrupted radio communications with the traffic control service or, if it is impossible, watch for visual signals;

—shall request unless exempted, by radio or visual signal, authorization from the traffic control service to make any maneuver before and during taxiing, landing or take-off.

SECTION 9. VISUAL FLIGHT

Art. 109. 1. An aircraft shall be under visual flight rules in the controlled airspace:

When it is distant from any cloud formation at a minimum of 600 metres horizontally and 150 metres vertically, and visibility is not less than 5 km.

However for certain control zones, the Aeronautical Service of the Government General may establish visual flight rules different from those specified above. Such rules shall be notified by aeronautical information bulletins.

2. An aircraft shall be under visual flight rules in uncontrolled airspace:

a) when, while flying at an altitude of less than 200 metres above the ground, it is outside the clouds and flight visibility is not less than 5 km.

² Ibid.

For motor aircraft, the conditions of visibility shall be specified by the Aeronautical Service of the Government General and shall be notified by aeronautical information bulletins.

b) at more than 200 metres above the ground, and at a distance of at least 600 metres horizontally and at least 750 metres vertically, when flight visibility is not less than 5 km.

Art. 110. Any aircraft commander who flies under visual flight rules shall take all measures to keep his aircraft in the condition specified in Article 109.

Art. 111. In a control zone, the traffic control service may authorize flights under conditions less favorable than those specified in Article 109, paragraph 1, letter b), and such flights shall not be subject to the provisions of Section 10 of this chapter, concerning instrument flights.

Art. 112. Without the authorization of the traffic control service provided for in Article 111, any aircraft commander who cannot keep his aircraft under visual flight rules, shall refrain from making the flight, interrupt it, or comply with the provisions of Section 10 of this chapter concerning instrument flight.

Art. 113. Without special authorization from the Governor General or his delegate, no flight under visual flight rules may be made between sundown and sunrise.

SECTION 10. INSTRUMENT FLIGHT

Art. 114. An aircraft shall be under instrument flight rules when weather conditions are less than the minima required by Article 109 for visual flight.

Instrument flights may be made only when :

- a) the aircraft pilot holds a certification for instrument flight;
- b) the aircraft has all instruments needed to fly without visibility and all equipment for radio navigation appropriate to the route to be followed.

Art. 115. Except for take-off and landing when there is authorization from the traffic control service, instrument flights may not be made at an altitude of less than 450 metres above the highest obstacle located within a radius of 8 km. from the estimated position of the aircraft.

Art. 116. Except when climbing or descending, an aircraft making an instrument flight outside controlled airspace shall fly at one of the quadrant cruising altitudes corresponding to its magnetic course and indicated in Annex 7 to this ordinance.²

Art. 117. An aircraft making an instrument flight in controlled airspace shall comply with the flight plan approved by the traffic control service.

The flight plan may not be changed except in case of *force majeure* necessitating immediate action. In such case, the aircraft commander shall advise the traffic control service as soon as possible and request a new authorization from that service.

Art. 118. Any aircraft commander who makes an instrument flight in controlled airspace must :

- 1) provide for constant monitoring on the appropriate radio frequency and must be able to establish two way communication with the traffic control service ;

² Ibid

2) transmit to the traffic control service an account of his position at specified times or when passing the points designated by that service;

3) advise the traffic control service when he leaves controlled airspace;

4) inform the traffic control service when he decides to pass from instrument flight rules to visual flight rules.

Art. 119. If a failure of the radio equipment prevents the aircraft commander from complying with Article 118 and if weather conditions impose instrument flight, he must:

1) continue the flight in accordance with the flight plan, remain at the last assigned and acknowledged cruising altitude for the part of the route for which he has received authorization and, thereafter, at the cruising altitude indicated in the flight plan;

2) pursue the flight so as to arrive at the airdrome of landing at a time as close as possible to the estimated arrival time;

3) begin the descent at a time as close as possible to the most recent estimated approach time which he has acknowledged; if he has not received any communication of estimated approach time, or if he has not acknowledged it, he shall begin the descent at a time as close as possible to the arrival time specified in the flight plan.

CHAPTER IX. UNITS OF MEASUREMENT USED IN CIVIL AVIATION

Art. 120. In air-ground communications, the units of measurement shall conform to those of the table of units adopted by the International Civil Aviation Organization.

This table is reproduced in Annex 8 ⁷ to this ordinance.

Art. 121. If an aircraft is temporarily unable to use the table provided for in Article 120, it may use the units of measurement in the blue table approved by the International Civil Aviation Organization, and the aviation station with which such aircraft communicates, shall transmit the measurements in the units provided for in the blue table.

This table is reproduced in Annex 8 to this ordinance.

CHAPTER X. AUTHORIZATIONS TO MAKE OVERFLIGHTS AND TECHNICAL STOPS FOR COMMERCIAL CARRIERS AND ENTERPRISES OF AERIAL WORK

SECTION 1. GENERAL PROVISIONS

Art. 122. Issuance of authorizations to aircraft to fly over the territory of the colony shall be governed by the provisions of the Convention on International Civil Aviation signed at Chicago on December 7, 1944, and ratified by the Law of April 30, 1947, subject to the provisions below.

SECTION 2. FLIGHT OVER THE TERRITORY AND TECHNICAL STOPS

Art. 123. Overflight and technical stops of aircraft registered in a member State of the International Civil Aviation Organization shall be free, provided prior notice is given to the Aeronautical Service of the Government General.

⁷ Omitted here.

Overflight and technical stops of aircraft registered in a non-member State of the International Civil Aviation Organization shall be subject to a request made through diplomatic channels.

SECTION 3. AIR TRANSPORT

Art. 124. There shall be subject to an operating license issued by the Governor General:

- a) Operation of a scheduled or non-scheduled air service within the territory of the colony;
- b) Operation of a non-scheduled international air service by aircraft registered in a member State of the International Civil Aviation Organization.

Issuance or renewal of an operating license shall give rise to payment of a fee, the amount of which shall be specified in annex 3 below.

Art. 125. Any application for authorization to operate an air service provided for in the preceding article, must include, in addition to other information:

- a) the name, first name, nationality and domicile of the operator;
- b) Main office of the enterprise;
- c) Routes to be flown;
- d) Frequency of service;
- e) Monthly number of flight hours;
- f) Type of aircraft used;
- g) Number of aircraft used;
- h) Number and qualifications of flight personnel of the aircraft;
- i) Number and qualifications of the maintenance mechanics provided for;
- j) Periodic overhauls specified by the manufacturer;
- k) Number of man-hours necessary to perform the overhauls under operating conditions;
- l) Nature and amount of maintenance equipment provided for;
- m) Nature and amount of control equipment provided for;
- n) Layout of installations on the ground, and particularly shops and stores.

Art. 126. There shall be subject to a request made through diplomatic channels:

The operation of a scheduled international air service;

The operation of a non-scheduled international air service for aircraft registered in a non-member State of the International Civil Aviation Organization.

Art. 126 bis Issuance and renewal of a license to operate a non-scheduled international air service by aircraft registered in a non-member State of the International Civil Aviation Organization shall give rise to payment of a fee the amount of which shall be specified in Annex 3 below.

SECTION 4. AERIAL WORK

Art. 127. 1. There shall be subject to a license issued by the Governor General or his delegate:

- a) Operation of an enterprise for aerial work;

b) Operation of a pilot school.

Issuance or renewal of a license to operate an enterprise for aerial work shall give rise to payment of a fee, the amount of which shall be specified in Annex 3 below.

2. There shall be subject to authorization from the Governor General:

a) Any occasional aerial work made by means of an aircraft which does not belong to, or is not chartered by an enterprise covered by an operating license;

b) The organization of air meetings or rallies;

c) The organization of any show involving maneuvers of aircraft.

Art. 128. 1. Any application for authorization to operate an enterprise for aerial work provided in the preceding article shall include the information required in Article 125.

2. Any application for authorization for occasional aerial work, for the organization of air meetings or rallies or shows involving maneuvers of aircraft, shall include, in addition to other information:

a) Name, first name, nationality and domicile of the person for whom the aerial work is performed;

b) Nature of the aerial work: publicity or advertising, aerial photography, public shows, meetings, rallies, air baptisms, etc.;

c) Types of aircraft used;

d) Number of aircraft used;

e) Name, first name, domicile, nationality and qualifications of the flight personnel;

f) Safety measures including insurance for risk inherent in the planned aerial work.

Art. 129. Applications for authorizations for a pilot school shall include, in addition to the information required in Article 125, letters a), b), c), f), g), h), i), j), k), l), m), n), all details concerning the program covering theoretical and practical subjects covered, the number of flight hours devoted thereto, and the number and qualifications of the teaching staff.

Art. 130. Non-observance of the conditions which may be imposed in application of the preceding provisions, may cause withdrawal of the authorizations independent from the penalties provided for in Chapter XVIII of this ordinance.

CHAPTER XI. TECHNICAL OPERATION OF AIRCRAFT

Art. 131. The operator must comply with all technical requirements imposed on him by the Aeronautical Service in regard to operation of aircraft, and in particular in regard to:

a) Execution of flights;

b) Restrictions on use of aircraft;

c) Flight equipment and instruments;

d) Flight radio equipment;

e) Maintenance of aircraft;

f) Flight crews;

g) Manuals, flight logs, and condition of safety and emergency equipment carried abroad;

h) Performance.

Art. 132. The aeronautical experts appointed in conformity with Article 44, Section 5, Chapter III, of this ordinance shall supervise the application of the measures provided for in Article 131.

Art. 133. The operator of an aircraft must submit a report on each event related to the measures provided for in Article 131 and transmit it as soon as possible to the Aeronautical Service of the Government General.

CHAPTER XII. TRANSPORTATION OF DANGEROUS ARTICLES

Art. 134. Without authorization from the Governor General or his delegate there may be no transportation by aircraft of inflammable substances, powder, explosives, munitions, pyrotechnical materials, products of unstable chemical composition, corrosive products, or inflammable film not enclosed in a metal container.

CHAPTER XIII. AIR POLICE

Art. 135. When invited to do so by signals given either from the ground or the air by the officials empowered to do so, every aircraft must land at the nearest airdrome. It must remain there with its full load, at the disposal of the competent authorities.

Art. 136. Aircraft in charge of air police and supervision shall bear the marks specified by the Governor General or his delegate.

CHAPTER XIV. FUNCTION OF THE AIRPORT COMMANDER AND THE CHIEF OF THE AIRDROME

Art. 137. On each airdrome there shall be an airdrome command.

Art. 138. The airdrome command shall be exercised:

a) by the officials of the staff of airport commanders specially appointed therefor by the Aeronautical Service of the Governor General. Such officials shall bear the title of airport commander.

b) in the absence of any appointment in conformity with the preceding paragraph, the airport command shall be exercised by officials specially appointed therefor by the Governor of the province or his delegates.

In the exercise of such function, the officials shall bear the title of chief of airdrome.

Art. 139. Airport commanders and airdrome chiefs shall be officers of the judicial police with general jurisdiction.

Art. 140. The airport commander or airdrome chief shall be in charge of application of the rules of air navigation and the airdrome police.

In particular, he shall supervise landing, maneuvering, take-off, parking and hangaring of aircraft in hangars belonging to the colony.

He shall take any urgent measure necessary to ensure safety of air navigation.

The airport commander or airdrome chief shall, at all times, have access to any aircraft and may, at any time, request presentation of the documents specified in Articles 61 and 62.

CHAPTER XV. AIRDROME POLICE

SECTION 1. ACCESS TO AIRDROMES BY THE PUBLIC

Art. 141. Except with special authorization from the Governor General or his delegate, access to public airdromes of the colony is prohibited, particularly in the following areas:

- a) On a strip 75 metres on both sides from the middle of the landing runways, and extending 60 metres beyond each limit thereof;
- b) on the taxi runways;
- c) in the parking areas for aircraft;
- d) in the signal area;
- e) in the embarkation area, except for passengers during the time needed for embarkation or disembarkation;
- f) in the installation of airdromes not intended for the public, particularly, hangars, shops, stores, garages, gasoline and oil storage spaces, control buildings, head offices, transformer sheds, etc.
- g) any other area specified by the airport commander or airdrome chief.

Art. 142. The prohibition of Article 141 shall not apply:

- 1) to personnel whose duty requires their presence in the prohibited areas;
- 2) to personnel of the Customs and Internal Revenue, and health and quarantine officials. They shall have access to any airdrome in order to perform their supervisory duty; they may inspect any aircraft and its load and request presentation of the flight log and any document relating to the cargo;
- 3) to officials of the police (*Sûreté*).

The personnel and the officials specified above may never endanger flight safety.

SECTION 2. DANGER OF FIRE

Art. 143. It is prohibited to smoke or, more generally, to make a fire or carry a lighted article on public airdromes of the colony, in the following areas:

In hangars.

In all installations where inflammable liquids are stored or handled,

At least 20 metres from any fixed or mobile installation serving the refueling of aircraft,

In parking and embarkation areas.

At least 20 metres from any aircraft,

In all other places specified by the airport commander or airdrome chief.

SECTION 3. STRAYING OF ANIMALS ON AIRDROMES

Art. 144. It is prohibited on the whole area of public airdromes to let stray any cattle, draught animals, domestic animals, or domesticated wild animals not deemed dangerous or harmful.

Art. 145. Any animal whose straying falls under the application of Article 144, will be captured on the order of the airport commander

or airdrome chief and put at the disposal of the local authority to be put in the pound.

However, an animal whose capture is difficult or dangerous, or whose presence on the airdrome constitutes an immediate danger, may be killed. No indemnity may be claimed from the Administration for the death of such animals.

CHAPTER XVI. RISK INSURANCE

Art. 146. Any operator of an aircraft flying above the territory of the colony must be insured against liability for all damages which may be caused by his aircraft to third persons on the ground.

Art. 147. The insurance provided for in Article 146 above must cover the liability of the operator within the limits specified in Article 3 of the Law of September 11, 1936, which ratified the International Convention on the Unification of Certain Rules relating to Damages caused by Aircraft to Third Parties on the Ground, signed at Rome on May 29, 1933.

Art. 148. The operator may substitute, in whole or in part, for the insurance specified in Article 147, a guarantee which is sufficient to cover his liability within the limits specified in the Law of September 11, 1936.

Such guarantee shall be provided:

a) for aircraft registered in the Belgian Congo: either in form of a deposit in cash in the public treasury or a bank authorized therefor by the Governor General or his delegate; or in form of a guarantee by a bank authorized therefor by the Governor General or his delegate.

b) for aircraft not registered in the Belgian Congo: either in form of a deposit in cash in the public treasury or a bank authorized therefor by the competent authority of the country where the aircraft is registered; or in form of a guarantee by a bank authorized therefor by the competent authority of the country where the aircraft is registered.

Art. 149. The nature, extent and duration of the sureties provided for in Articles 146 and 148 shall be specified either by an official certificate or by an official notation on the flight documents.

Such certificate or notation must be presented at any request by the public authority.

Art. 150. Any aircraft which flies in violation of the preceding provisions may be detained on the ground until full coverage as provided for in this Chapter is shown.

Any aircraft commander who pilots an aircraft which is not, or is insufficiently covered against the risks specified in the provisions of this Chapter, shall be subject to the penalties provided for in Article 158 of this ordinance.

CHAPTER XVII. GENERAL PROVISIONS

Art. 151. Except with special authorization from the Governor General or his delegate, the use of photographic or motion picture equipment aboard an aircraft is prohibited.

Art. 152. It is prohibited to throw from an aircraft in flight any article, whether or not attached to a parachute, which may constitute a danger to persons or property on the ground.

Such prohibition shall not apply to ballast consisting of fine sand and water.

The release of fuel in emergencies may not take place above towns or villages or open air assemblies of persons.

Art. 153. Except in case of emergency, parachute jumps are prohibited without authorization from the Governor General or his delegate.

Art. 154. Except in case of emergency, it is prohibited to move an aircraft which has suffered or caused a serious accident, to remove, detach or displace any article, debris or pieces of any kind from such aircraft without having obtained authorization from the Governor General or his delegate.

Art. 155. The pilot-in-command of an aircraft shall be personally responsible for the piloting of the aircraft and shall decide, as the highest authority, on its use while he is in command thereof.

No person may pilot an aircraft or be a member of the flight crew of an aircraft if he is under the influence of alcoholic beverages, narcotics or drugs of any kind which may reduce his capacity as crew member.

No person may pilot an aircraft in a negligent or imprudent manner if danger for the life or property of others results therefrom.

Art. 156. The Governor General or his delegate may make it compulsory to install radio communications equipment on all aircraft.

The Governor General or his delegate may make it compulsory to provide on all aircraft emergency equipment, which shall be listed and the parts of which shall be enumerated in N.O.T.A.M.S.

Art. 157. The Director General of the Aeronautical Service of the Government General shall be the delegate of the Governor General in any matter concerning the application of this ordinance and the annexes thereto.

CHAPTER XVIII. CRIMINAL PROVISIONS

Art. 158. Violations of the provisions of this ordinance and the annexes thereto shall be punished by a maximum of two months imprisonment and by a fine not exceeding two thousands francs or by only one of these penalties.

Refusal to obey the instructions given by an airport commander or airdrome chief in the exercise of their duties shall be punished by the same penalties.

Any operator who imposes on members of a flight crew of an aircraft any heavier duties than those specified in Articles 170 and 171 of annex 2 to this ordinance, or who authorizes such crew members to go beyond the prescribed limits, shall be punished by a maximum of two months imprisonment and a fine not exceeding two thousand francs or by only one of these penalties.

CHAPTER XIX. FINAL PROVISIONS

Art. 159. The following laws are hereby abrogated :

Ordinance No. 15 bis/T.P., January 27, 1934;
Ordinance No. 66 bis/T.P., April 13, 1935;
Ordinance No. 84/T.P., August 3, 1937;
Ordinance No. 65/T.P., June 3, 1939;
Ordinance No. 100/T.P., October 3, 1939;
Ordinance No. 503/T.P., November 20, 1941;
Ordinance No. 191/T.P., July 5, 1946;
Ordinance No. 230/T.P., July 30, 1946;
Ordinance No. 11/T.P., January 8, 1947;
Ordinance No. 239/T.P., July 31, 1947;
Ordinance No. 66/434, December 11, 1948;
Ordinance No. 66/16, January 11, 1949;
Ordinance No. 66/76, February 26, 1949;
Ordinance No. 66/93, March 10, 1949;
Ordinance No. 66/159, May 10, 1949;
Ordinance No. 66/188, June 12, 1949;
Ordinance No. 66/46, February 13, 1950;
Ordinance No. 66/64, February 24, 1950;
Ordinance No. 66/96, March 10, 1950;
Ordinance No. 66/180, May 28, 1950;
Ordinance No. 66/55, February 28, 1951;
Ordinance No. 66/309, October 15, 1951;
Ordinance No. 62/146, May 9, 1952;
Ordinance No. 62/383, November 6, 1953;
Ordinance No. 62/206, June 19, 1954;
Ordinance No. 62/210, June 22, 1954;
Ordinance No. 62/5, January 4, 1955.

COSTA RICA

LAW ON CIVIL AVIATION¹

PART I. PRINCIPLES OF AIR NAVIGATION

TITLE I. AIRSPACE AND LAND SURFACE

CHAPTER I. SOVEREIGNTY OVER AIRSPACE AND ITS EFFECTS

Article 1. Costa Rica owns and exercises full and exclusive sovereignty over the airspace above the continental and island territory of the Republic and its territorial waters, permitting in peacetime freedom of innocent passage to civil aviation in accordance with the law and international conventions. Military aircraft of foreign nations may not operate in this airspace without permission of the Ministry of Public Security.

Article 2. Foreign non-military aircraft may operate in the national airspace only in accordance with the provisions of this law and the regulations issued thereunder. No foreign aircraft may operate on air transport service between two points of the national territory.

Article 3. Costa Rican authorities and laws have absolute jurisdiction over aircraft on the national territory or in its airspace. Sole exception is made of foreign military aircraft, duly authorized to operate, or which are operating on diplomatic missions of foreign nations, in accordance with international standards governing in this respect in Costa Rica.

Article 4. The Executive Power may, by decree, establish restricted or prohibited zones for air navigation for reasons of defense or public security.

Article 5. The designation of airports for international services shall be made by the Executive Power. All foreign aircraft or aircraft on international flights entering the Republic, except in cases of emergency shall make their first landing at one of said airports, subject to the provisions of Article 147 *et seq.* of the Sanitary Code.

CHAPTER II. USE OF THE AIRSPACE

SECTION I. AIR ROUTES

Article 6. The Civil Aviation Board may designate and establish air routes, and within its available financial resources, for the same purpose may:

a) Acquire, establish, operate and maintain all existing facilities for air navigation over the air routes.

b) Publish maps and charts of such air routes, and make use of the facilities and assistance of other government departments.

¹ Decree-law 762 of October 18, 1949. Published in *La Gaceta*, October 26, 1950.

c) Acquire, establish, operate and maintain, wholly or partially, facilities for air navigation on national or municipal airports, or on other airports which may be indicated by the Board for such installation, operation or maintenance.

d) Provide the necessary facilities and personnel for the regulation and protection of air traffic, including meteorological services.

Article 7. Air routes shall be designated and established, as far as feasible, in relation to visual, mechanical, electrical, radio or other aids throughout the terrain covered by them. In no case may the same air space be used for more than one air route. Any exceptions imposed in the interest of security or efficiency of operation of aircraft shall be justified in regard to those air routes in which the operation of aircraft over one air route does not interfere with the operation of aircraft over another air route occupying the same space. Intersections do not imply a joint air route.

Article 8. The provisions of the preceding article shall not prevent the promulgation of regulations enacted in accordance with this law and to public convenience for better control of air traffic.

Article 9. It is absolutely prohibited to grant exclusive rights for the use of any air routes, airport or other facilities for air navigation.

Article 10. Considering the advantages of lower costs of operation of air transport enterprises, the Board may operate a radiocommunications system for their free use, through an agreement to be made with these enterprises. The charging of a fee for services rendered may be fixed in the agreement, provided no special tax is substituted therefor.

Article 11. For the designation of air routes and, generally, for the better coordination of technical functions, the Board may avail itself, if it deems it proper, of advice by a commission comprised of technical personnel from the various airline companies operating in the country.

SECTION II. AIR TRANSPORT LINES AND THEIR PERSONNEL

Article 12. National airline companies must be domiciled in Costa Rica, be duly registered in the Public Register and be organized in accordance with the laws of the Republic.

Article 13. Foreign companies for international air transportation shall have their representative branch or agency duly registered in Costa Rica and their legal agents duly empowered to represent these companies. The fact that these companies are operating in Costa Rica implies, as a matter of law, that they submit to the laws of the country and consequently renounce diplomatic intervention.

Article 14. Ninety percent of the personnel of national airline companies and of the ground crews of foreign international airlines stationed in the country must be Costa Ricans. No prerogatives or positions denied to equally qualified nationals may be given to foreign employees of these companies; therefore, any financial or other benefit which may be granted to foreign employees in their work contracts, shall automatically be granted to national employees who hold or are capable of holding the same positions.

SECTION III. OPERATION CERTIFICATES

National Air Transport

Article 15. No airline company may undertake to render services without a valid operating certificate, by means of which the Board of Civil Aviation authorizes it to render such services. Nevertheless, companies presently operating in the country may continue to render the same services they are giving over air routes approved by the Board during the four months commencing from the date of publication of the respective regulations; within this period they must apply to the Board for the corresponding certificate.

Article 16. Application for operating certificates shall contain the information and proof of service and safety required by the air regulations.

Article 17. The Board shall order published in the *Diario Oficial* the applications for operating certificates which it receives. Within twenty days following said publication, any person may support or oppose in writing the issuance of the certificate requested, and may also be present at the public hearing which must be given with respect to each application, on the date indicated in the *Diario Oficial*.

Article 18. Within fifteen days following the public hearing, the Board shall decide on each application and, as the case may be, issue the requested certificate, wholly or partially. It shall grant it if it finds the applicant capable and competent, and in a position to render the transport services in an adequate measure of efficiency and safety as well as in compliance with the provisions of this law and regulations issued thereunder. Transport service may be authorized if the certificate is required on the basis of public convenience and necessity. Otherwise, the application shall be refused. Operating certificates may be issued for temporary services.

Article 19. Where an operating certificate has been requested within four months following publication of the respective regulation by a company which has been rendering satisfactory services of air transport under a contract or authorization still in force, the Board, without further evidentiary proceedings, shall issue such certificate in accordance with the routes over which the company is operating.

Article 20. Regardless of the provisions of the preceding article, any of the companies referred to therein which are rendering services within the country may request, within four months following publication of the respective regulations, that the routes of all companies rendering local services be revised, including its own, based on reasons of public interest. When an application of this type has been filed, the Board shall proceed as indicated in Article 17 of this law, and decide to agree thereto if public necessity and convenience so require. In the absence of such conditions the application shall be denied. The Board, on its own volition, may generally revise all routes, if the possible interest requires such action.

Article 21. Certificates authorizing air transport services shall specify: the terminal points, as well as the intermediate ones, if any, between which the airline may render services, and the type and frequency of service which it will render. There shall be stipulated therein, in addition to the rights granted by the certificate, any condi-

tions and limitations which public interest may dictate prior to, or during the rendering of services. The certificates shall specify, in addition, the terms, conditions and limitations which adequately guarantee the safety of transportation at airports and on the routes fixed in the authorization.

Article 22. Landings or take-offs during an emergency, in non-specified places, in accordance with air regulations do not constitute violations of the terms, conditions or limitations of the certificate. The certificate shall, in addition, empower the airline company to undertake express or special flights, with advance authorization which it should seek in each case, from the Director, according to the regulations issued under this law.

Article 23. Ordinary certificates shall be in force for a period of ten years, renewable for equal periods of time, computed from the date on which they are issued, and provided they have not been suspended or revoked: temporary certificates shall expire on the date of expiration. Air transport services which are authorized by operating certificates must be commenced within a period of three months from the date of issue, unless otherwise specified therein. If such services are not initiated during the time fixed, the Board may revoke it, with notice in advance to the interested parties.

Article 24. A certificate of operation may not validly be transferred without the approval of the Board, which may be granted with due consideration of the public interest.

Article 25. The Board may, by application, complaint, recommendation of the Director, or by its own initiative, with advance notice to, and a hearing of the interested parties, alter, change, modify or suspend any certificate, wholly or partially, if public necessity and convenience so requires. It may also revoke any certificate, wholly or partially, for international violation of the provisions of this part of the law, or of any order or regulation based thereon, or of any of the terms, conditions or limitations expressed in the certificate. Nevertheless, no certificate shall be revoked without giving a reasonable time, to be fixed by the Board, in which the interested parties may comply with the order, regulation, term, condition or limitation which has been violated. Any interested party may address the Board in writing, in favor of, or against the alteration, change, amendment, suspension or revocation of the certificate.

Article 26. No certificate shall confer ownership or exclusive rights in the use of any airspace, air routes, airports or navigation facilities. The certificates shall be in the nature of a franchise for the operation of public services, under the conditions established by this law.

Article 27. The Government shall grant contracts for airmail services by means of bids incorporated in the form of law by the General Post Office Department, and in which only those airlines may participate which hold operating certificates.

Article 28. No air transport company may change or abandon all or any part of a route, for which it holds a certificate of operation, unless so requested by the Board, and when permitted by the latter following notice in advance and a hearing by the interested parties. Any interested person may address the Board in writing in support of, or opposition to such abandonment or change. The Board may authorize suspensions or temporary changes of certified air services if the public interest so requires.

Article 29. All airline companies have a duty to render the services authorized in the certificate of operation in a safe and adequate manner, and to have available for such purposes the equipment and facilities required for such services. No airline company may grant unjust advantages or preferences to any person, locality, or airport, nor subject any of them to undeserved, unreasonable or unjust discriminations, partiality, or disadvantages.

Article 30. Notwithstanding the provisions of the two preceding articles, the companies may refuse their services of air transport, in accordance with the regulations, even though the respective aircraft has sufficient space to accommodate them:

a) When this service has been suspended or limited by order of the competent authorities;

b) Because of bad weather conditions or unforeseen damage to the equipment;

c) To a person who intends to travel in a state of intoxication, who presents visible symptoms of an abnormal condition, or of a contagious disease, or who violates or refuses to obey the company regulations or those prescribed by this law and the regulations issued hereunder; and

d) the case of articles or materials whose trade is prohibited, or of explosive or inflammable materials.

SECTION IV. INTERNATIONAL AIR TRANSPORT

Article 31. Certificates of operation for international air services shall be subject to the same procedures and conditions, and confer the same advantages which govern those authorizing domestic air services, except as to express or special flights within the country. It may be specified therein more stops than those prior and subsequent to the Costa Rican airport of entry, except that, for certain cases, the Board may require more information.

Article 32. The operation of international air services shall be governed by the provisions of this law, the regulations issued thereunder, and international treaties in this field.

Article 33. The extension, denial, transfer, amendment, concellation, suspension or revocation of a certificate of operation which authorizes international air services, or sets forth the terms, conditions and limitations thereof, shall be subject to approval of the Executive Power, with exception of the case specified in Article 19 of this law.

SECTION V. RATES

Article 34.² The rates for air transportation of persons or merchandise within or outside of the country, of companies holding operating certificates for air services granted pursuant to this law must be notified to and approved by the Board. No company operating in Costa Rica may charge sums or amounts different from those approved as the official rates, except as provided elsewhere in this law.

Article 35. The airlines must print, publish and maintain for information of the public, together with their rates, data and conditions

² Amended by Decree 2918 of November 28, 1961. Published in *La Gaceta*, December 2, 1961.

as required by the Board concerning application thereof. The rates shall be stipulated in national currency but, with respect to international air transport, they may also be stated in currency of the countries in which the airlines operate, in which case additional information must be given which is required by the respective foreign law.

*Article 36.*³ When the Board exercises its authority with respect to the fixing and application of rates for transportation, it shall take into consideration, among others, the following factors:

- a) Public interest in guaranteeing efficient and adequate performance and safety protection possible in transportation of persons and merchandise;
- b) The obtaining of the lowest cost of service compatible with the advantages and conditions inherent therein;
- c) The effect on the volume of traffic;
- d) The nature and quality of the service rendered;
- e) The margin of profits which should be recognized in favor of the companies, taking into consideration an honest, economic and efficient administration; and
- f) The differences in economic capacity of the companies rendering international service, with the possibility of approving rate differentials up to 20 percent less for financially underdeveloped companies in comparison with 20 percent higher rates for all transportation in jet aircraft.

*Article 37.*⁴ No airline operating in this country may violate the application of its rates by granting directly or indirectly any discounts, privileges, facilities or changes outside of those contemplated and permitted by law.

Article 38. Airlines are permitted to establish discounts in favor of their directors, agents, employees and their relatives who are financially dependent on them, but the Board must be notified as to the respective program, as well as any changes thereto. It is compulsory for the airlines to grant exemptions and discounts in the cost of transporting persons who, by reason of their official prerogatives, merit courtesy treatment with respect to the contractual stipulations of air transport, taking as a basis of reference Article 4 of Law No. 12 of October 2, 1942.

SECTION VI. VARIOUS PROVISIONS CONCERNING AIR TRANSPORT

Article 39. Inspection of all matters concerning regulatory aspects of public service of air transport referred to in this law is compulsory and a matter of public order. Consequently, the documents which are necessary for the exercise of supervisory functions of this nature are considered public documents, and shall be at all times at the disposal and examination of the competent public officials.

Article 40. By virtue of the authority and duties entrusted to it, the Board may require periodical, monthly, annual or special reports from any civil aviation company, and with respect to international companies, force them to abide by the measures of the International Civil Aviation Organization. The Board is empowered to request from the companies true copies of contracts, agreements or arrange-

³ *Ibid.*

⁴ *Ibid.*

ments between two or more companies, or between them and private individuals, on traffic or any civil aviation matter, for the purpose of approving or opposing them in accordance with the provisions of law.

Article 41. It is absolutely prohibited that a single person, directly or indirectly, control the stock or operations of more than one airline company. Two of these companies, however, may unite or combine their operations if the Board so authorizes, pursuant to the requirements of public interest.

Article 42. In all contracts for public air transport service, the opinion of the Civil Aviation Board should be considered in advance; all the provisions of this law and the regulations issued thereunder shall be considered as tacitly incorporated in all contracts.

SECTION VII. PRIVATE AVIATION

Article 43. In this law, private aviation is deemed to have as its exclusive objective the undertaking of flights for pleasure or transportation, by the owner of the aircraft, colleagues, employees and relatives without intention to make a profit.

Article 44. Aircraft and pilots engaged in private aviation must possess all requirements imposed by this law, the regulations issued thereunder, and certificates and licenses.

SECTION VIII. ACCIDENTS

Article 45. The Regulations and the Board shall establish the conditions which govern procedures of notice and reports of accidents which occur to aircraft in the Republic. All persons competent to do so shall advise the Board or the Director when they have knowledge of the occurrence of an air accident, and render assistance requested of them for this purpose.

Article 46. The Board shall record information on each accident, being empowered for this purpose to request any assistance it may need from persons in the field of civil aviation.

Article 47. Police authorities and the judicial officials of jurisdiction shall preserve, unmoved and untouched, the state and condition of all aircraft, aircraft engines, propellers or equipment affected by, or involved in a civil air accident, until the aviation authorities have concluded their investigations in the case.

CHAPTER III. INSTALLATIONS

SECTION I. AIRPORTS

Article 48. Airports whether national, municipal or private, are subject to official inspection; their use may be restricted during war-time or national emergency, and control thereof will be assumed at that time by the Ministry of Public Security; their operation shall also be restricted by means of regulations or orders of the Board on grounds of inadequate conditions which they may offer for different flight units.

Article 49. National and municipal airports shall be open to public service in accordance with the respective regulations, except when they are declared to be in temporary and exclusive use for military

service. Likewise, private airports shall be placed at the disposal of public service if the general interest so requires, and their construction and operation shall then be subject to the same regulations, inspection and management as national or municipal airports.

Article 50. Airports which, on the basis of the public interest are decreed to be of public use, shall be subject to eminent domain.

Article 51. Only Costa Ricans may be granted franchises for the establishment of private airports, and a servitude on its use shall be gratuitously established in favor of State aircraft.

Article 52. All landing fields may be used gratuitously by any aircraft in case of emergency.

Article 53. The Director is entrusted with the administration of all airports, with the exception of military and privately owned ones for private service. Improvements, buildings and installations thereon with funds authorized by the Board in each case, shall of necessity be owned by the State, even when on land under private ownership.

Article 54. Within the perimeter of airports or surrounding land, whether under public or private ownership, all kinds of official or private air services may be established, based on proper franchises which shall be granted provided each licensee operates with due independence. No exclusive franchise shall be granted for the use of landing runways. Licenses shall be granted, with a report in advance by the Board, by the Ministry of Government (Interior) or the respective municipality, for a period not to exceed ten years, which is renewable. Public lands or those belonging to the State or the municipalities granted for installation of aeronautical services, may not be alienated in any case. Plans for aeronautical services must be approved by the Board before they are executed.

Article 55. Construction, use and operation of landing fields, public or private, is subject to prior authorization by the Civil Aviation Board which shall keep a register thereof.

Article 56. Landing fields used in public service shall have a protective zone whose extension shall be fixed in the regulations, and within which no obstructions may be constructed or maintained which constitute a danger to the operation of aircraft.

TITLE II. AIRCRAFT AND FLIGHT PERSONNEL

CHAPTER I. GENERAL PROVISIONS ON POWERS OF THE BOARD AS TO SAFETY OF AIR TRANSPORTATION

Article 57. The Board is under duty to promote the safety of air transport, for which purpose it shall prescribe and periodically review the following:

a) The regulations and minimum standards which govern with respect to use of materials, use of labor, inspection, repair, and servicing and operation of aircraft, aircraft engines, propellers and appurtenances: to equipment and facilities needed for such inspections, services and repairs; and to the opportunity and manner of undertaking said tasks of inspection, service and repair;

b) Provisions governing reserves, as well as available equipment, aircraft, engines, propellers, appurtenances, fuel and lubricants, as well as gasoline and oil to be carried in flight;

c) The regulations with respect to maximum hours or periods of service of air crews;

d) Air traffic rules which govern navigation, protection, and identification of aircraft, flight regulations, including safe altitudes for same and measures to prevent collisions between aircraft, or between them and land or maritime vehicles;

e) Regulations and minimum standards which establish other uses, methods and procedures necessary to provide adequately for the safety of civil aviation.

Article 58. In providing for safety of civil aviation, provision shall be made in consideration of the difference existing between air transportation and other forms of civil aviation. Nevertheless, it may be permitted that aircraft, aircraft engines, propellers and appurtenances licensed for use in civil aviation be employed in air transportation.

CHAPTER II. AIRCRAFT SECTION I.

REGISTRATION, NATIONALITY, AND OWNERSHIP OF AIRCRAFT

Article 59. No aircraft may be operated or flown in Costa Rica which is not properly registered according to this law and the regulations issued thereunder. Exceptions are made in the following cases:

a) Aircraft of the National Air Force;

b) Aircraft of friendly nations on authorized flights;

c) Aircraft of foreign international airlines rendering authorized services, when they hold certificates of airworthiness pursuant to the laws of their own countries; and

d) Aircraft which are in transit in the Republic, or are passing through on express or special flights, provided they observe the applicable requirements of this law and the regulations issued thereunder.

Article 60. Registration may only be granted to an aircraft not registered in another country, and always provided it is owned by a Costa Rican individual or corporation. The application for registration shall be addressed to the Director, and if it fulfills the regulatory requirements, he shall grant it, issuing the corresponding certificate.

Article 61. Registration certificates may be suspended or revoked by the Director for any of the reasons determined in the Regulations.

Article 62. Registration certificates shall determine the nationality of the aircraft. An aircraft registered in Costa Rica may not simultaneously be so registered in another country.

Article 63. The Board may establish adequate standards for registration, identification and use of aircraft engines, propellers and appurtenances.

Article 64. In the Register, the Director shall enter also all alienations concerning aircraft registered in Costa Rica. Such annotations shall be founded on the corresponding public instrument, judicial decree or communication in the Register of Liens.

Article 65. Costa Rican licenses which are presently held by aircraft, shall be valid for a term of four months commencing with the publication of the respective regulation.

SECTION II. CERTIFICATE OF TYPE

Article 66. The Board may issue certificates of type when there exist in the country, factories of types of aircraft, aircraft engines,

propellers or appurtenances, which possess the regulation requirements for operation; but for effects thereof, there shall be recognized as such certificates those issued by foreign factories or aeronautical authorities.

Article 67. Engines and propellers with recognized certificates of type may not be installed except on aircraft and engines for which they were designed; but they may be used in others if the aviation authorities of the country of origin or the manufacturers of the respective aircraft and engines approve thereof.

SECTION II. CERTIFICATE OF AIRWORTHINESS

Article 68. Application for a certificate of airworthiness must be presented to the Director, who shall issue it if he finds that the aircraft for which it is requested is in compliance with the corresponding certificate of type and in condition to operate with safety, according to the report of an inspector appointed or authorized by the Board. Such certificate shall be posted and exhibited in the cabin of every aircraft and shall specify the time of its validity; category of service for which the aircraft may be used; and the terms, conditions and limitations required in the interest of safety.

SECTION IV. MAINTENANCE OF AIRCRAFT

Article 69. Air transport companies and other entities and persons operating aviation equipment in civil activities must have inspection, maintenance and repair service for their equipment in accordance with the air regulations and the provisions of the Board issued pursuant to this law. Persons engaged in operating, maintaining and repairing equipment in civil aviation must observe the pertinent requirements of the regulations and other rules issued under this law.

Article 70. It is the duty of licensed inspectors and mechanics to inform the owner of an aircraft of any defect found therein, or in its engines or appurtenances, when this constitutes a potential danger to safety. The aircraft which is the object of such report may not fly until the damage has been satisfactorily repaired.

CHAPTER III. AERONAUTICAL PERSONNEL

SECTION I. LICENSES

Article 71. In order to issue a license to an airman the Director shall ascertain the aptitude of the applicant, in accordance with the report of an inspector appointed or authorized by the Board, and his physical capacity for engaging in the pertinent duties. The license shall be subject to the terms and conditions designated by the regulations.

Article 72. When the extension or renewal of a license has been refused, the interested party may request that his capacity and suitability be re-examined within a period fixed in advance by the Board.

Article 73. A license may be issued to an alien who has satisfactorily passed the aptitude examinations, if an equal opportunity is granted to Costa Ricans in his country.

Article 74. The airmen's licenses' register, in charge of the Director, shall be kept in the order and form prescribed in the regulations, and distinctions made with regard to the field of specialization of each airman.

CHAPTER IV. FLIGHT FACILITIES

SECTION I. INSPECTION AND CLASSIFICATION

Article 75. The Board is authorized to inspect and classify any air navigation facilities for use of civil aircraft in Costa Rica, to determine their need and to issue the corresponding certificates.

CHAPTER V. SCHOOLS, WORKSHOPS, AND OTHER ENTITIES

SECTION I. EXAMINATION AND CLASSIFICATION

Article 76. For the purpose of authorizing the operation and for the issuance of the proper certificate, the Board shall examine and classify:

a) Civil aviation schools to give flight instruction, or instruction on repair and maintenance of aircraft, aircraft engines, propellers and appurtenances, their courses of instruction, the need and airworthiness of their equipment, and the competence of their instructors;

b) Service shops or those for modification, maintenance and repair of aircraft, aircraft engines, propellers and appurtenances; the appropriate and necessary form of their equipment; their work facilities and methods; and the competence of those who are employed, not only in such work, but also who serve as instructors; and

c) Private aviation and any other form of civil aviation.

CHAPTER VI. COMMON PROVISIONS FOR LICENSES AND CERTIFICATES

Article 77. Whenever it deems it proper, the Board may examine airmen, inspect any aircraft, aircraft engine, propeller, appurtenance, flight facility, or civil aviation entity. In accordance with the results of such examination or inspection, and if required by the interest of the service, it may alter, amend, modify or suspend, wholly or partially, the certificates or licenses.

Article 78. The revocation of a certificate or license is in order in all cases in which the original extension should be refused, according to this law and the regulations issued thereunder.

Article 79. In cases of emergency, it is in order to suspend totally or partially any license or certificate, without proceedings and without right of compensation. The prolongation of such a condition for more than thirty days should justify the procedure of a hearing and is founded on reasons of public interest.

PART II. CONVENTION ON INTERNATIONAL CIVIL AVIATION

Article 80. From the day on which the Chicago Convention becomes enforceable with respect to Costa Rica, the provisions of that Convention shall have force of law in the Republic and shall be considered as incorporated in this Part.

Article 81. The Executive Power is authorized to adopt measures to make Costa Rica a member of the International Civil Aviation Organization and to participate in its work.

PART III. REGULATORY AGENCIES

SECTION I. CIVIL AVIATION BOARD

Article 83. A Civil Aviation Board shall be established, composed of members designated by the Ministry of the Interior (Government), who may be removed from office only for inefficiency, negligence in their duties, physical or legal incapacity, or for offenses committed in the performance of their duties, through evidence presented and judged in accordance with the civil service rules applicable to this point. They shall hold office for four years, and may be appointed for successive periods. The substitution of its members shall be made in relation to slates of candidates presented for this purpose by the Board itself and the aeronautical associations which have been duly registered in the country.

Article 84. The designation of Board members shall be made based on their capability and preparation for the effective performance of the authority and duties imposed on them by this law. They must be Costa Ricans by birth, or by naturalization, with residence in the country for a period of not less than ten consecutive years, and not have any ties, interest or connections with any air transport company, or relationship with each other up to the third degree of consanguinity or affinity; persons who have been previously condemned for crimes against the life, safety or property of other persons, shall be prevented from holding office, as well as those who hold other offices, except honorary posts or government positions which the Ministry of Interior has authorized them to accept. At least two of the members must be experts in aeronautical matters. Because of the eminently civil character of their activities, they shall not owe any military service or obedience, except for conscription declared in accordance with law.

Article 85. The sessions of the Board shall be held in the city of San José as its headquarters. Nevertheless, they may be held in other locations in the country, occasionally or accidentally, in accord with improved public service when so required by special reasons. The quorum for sessions shall be constituted by three members, but if one is prevented from attending on grounds of *force majeure*, two members may constitute a quorum. In any case, resolutions must be adopted by a majority, constituted by the vote of two of the members. Its internal administration shall be ordered by the Board by means of a regulation which, as is also applicable to its amendments, must be approved by the Ministry of Interior (Government).

Article 86. The Board shall exercise the functions conferred on it by this law independently of the Ministry of Interior, with the specified exceptions.

Article 87. For the best results of its own functions, the Board shall act with special consideration of the public interest in air transportation, and shall decide in accordance with the following requirements:

- a) Encouragement and development of an air transport system adapted to present and future needs of domestic and foreign com-

merce, of airmail service, and to standards which respect national sovereignty;

b) Establishment of a communications network which shall serve principally the economic development of the nation, offering facilities of access to the most remote areas of the country;

c) Regulation of domestic air transportation in such a manner as to recognize and preserve its proper advantages, to guarantee the highest degree of safety, and to stimulate a stable financial condition for itself and at the same time to improve relations with, and coordinate the services of airline companies;

d) Promotion of an efficient, adequate and economic service by national airline companies, at reasonable rates, without unjust discriminations or undue privileges or advantages, and excluding all practices of unfair or destructive competition;

e) Competence in air services in such a manner as to assure the development of an air transport system adaptable to the needs of domestic and foreign commerce, postal services, and defense of our sovereignty;

f) Regulation of civil aeronautics to the degree which will promote its development and safety;

g) Progress of civil aeronautics and necessary incentives for same; and

h) Investigation of air accidents to establish the causes, and to reduce or eliminate the possibilities of their occurrence by means of adequate regulation.

Article 88. In the exercise and performance of its authority and duties, the Board shall observe all obligations contracted by the Republic by means of treaties, conventions, agreements and contracts; it shall also take into consideration the obligations, duties and liabilities of international air transport companies toward the countries in which they operate in order not to restrict them, and shall reject those which it judges to be contrary to the national public interest.

Article 89. The Board may exercise its functions with respect to its personnel, supplies and other routine administrative functions, through the Ministry of Interior, in the manner prescribed by the respective laws. Nevertheless, the selection of technical employees shall be made from among candidates presented by the office of personnel selection.

Article 90. In the Budget of Expenses of the Public Administration the necessary entries shall be inserted to provide for the expenses of the work of the Board, the total of which shall be the equivalent, insofar as possible in the fiscal order, of the estimates of income to be derived from present taxes or which may be imposed on air transportation of passengers and cargo, from fees charged for landing, from rentals of buildings on national airports, concessions in said buildings, from fines for violations of the provisions of the present law and regulations issued thereunder, taxes for the establishment, operation and maintenance of air navigation facilities, and other similar funds, such as fees charged for certificates and licenses.

Article 91. The Board has the duty to prepare and amend the air regulations, and for this purpose, when it deems it proper, it may consult with the airline companies, and later forward such regulations for promulgation to the Ministry of Interior. The annexes to the Chicago

Convention, for their adoption as regulations, shall not need the above mentioned procedure of consultation.

Article 92. The Board shall order the publication in the *Diario Oficial* or by means of other periodical publications, of the important or noteworthy investigations it undertakes in accord with the provisions of this law, as well as of all reports which it issues, and resolutions which it adopts, in the manner best adapted and useful for the information and use of the public, provided they have the above mentioned characteristics of importance or noteworthiness. Such publications shall have an official character, and shall be legally valid in judicial and administrative agencies of the Republic.

Article 93. The Board shall submit annually a report of its activities to the Ministry of Interior to be transmitted to the Legislative Assembly. This report must also contain all information and data compiled by the Board which it might consider of value to the solution of problems related to the development and regulation of civil aeronautics, together with recommendations for amendments and additions to the laws in force.

Article 94. The Board members and the Director shall enjoy free passage on all local airlines when they are travelling in the performance of their duties. Technical employees of the Board shall also have the right to travel gratuitously when they are on trips to inspect aircraft, airmen, routes or facilities for air navigation, in accordance with written orders of the Board. Other Board employees travelling on official duties, as well as shipments of equipment and materials for the Board, shall have a right to a 25 percent discount from the regular rates.

SECTION II. DIRECTOR GENERAL OF AVIATION

Article 95. The Director General of Aviation shall be designated by the Ministry of Interior (Government) from a slate of candidates presented to the Board for this purpose. He must be an airman, and possess all other requirements established in Articles 83 and 84 above, and any other provisions which may be applicable. He shall be under the jurisdiction of the Board and be entrusted with supervising the observance of the provisions of this law and regulations issued thereunder.

Article 96. The Director may take part in the sessions and deliberations of the Board, but without the right to vote. He shall have his office at the International Airport, and be in charge of administering and supervising the functions of the aeronautical offices established in the country.

Article 97. The Director shall exercise the authority and perform the duties assigned to him in this law, the regulations issued thereunder and by the Board, and shall enforce compliance with the principles established in Articles 87 and 88 of this law: he shall be charged with execution of all resolutions adopted by the Board.

Article 98. The Director shall present an annual report of his activities to the Board which shall constitute an appendix to the one the Board has a duty to send to the Ministry of Interior in accordance with Article 93. The Director shall recommend to the Board, as the opportunity or needs justify, such rules and standards as may become necessary.

PART IV. LEGAL REGULATIONS DERIVED FROM AIR
NAVIGATION

TITLE I. LIABILITY

Article 99. All companies and other entities and persons who, for profit, operate any aviation equipment in civil transportation, shall be liable up to the amount of twenty thousand *colonos* on the life of each passenger or crew member who suffers an accident caused fortuitously or through *force majeure*, from which injury or death results caused by the transportation. Such liability must be covered by insurance against all risks which cause bodily injury, organic or functional, total or partial disability, permanent or temporary; death caused by external and accidental causes, or as result of suppurative infections in wounds directly received during the transport service.

Article 100. In all air accidents which cause death or injury to passengers or crew members, the insurer shall pay immediately the respective indemnities, as soon as these have been determined to be a consequence of the disaster. In case of death, the principal sum shall be delivered to the competent civil authority in order that he may distribute it to the legal heirs in accordance with the provisions on succession. In the absence of insurance, the carrier shall pay the indemnities which are in order, in the manner above prescribed.

Article 101. Without prejudice to the provisions of Article 99, the victim of an accident or his successors may claim legally the compensation which other laws establish, when the competent judicial authority has declared in the respective case that there has been fraud or negligence in the observance of this law or the regulations issued thereunder on report of the airline company, person, entity, or by members of the crew and employees.

Article 102. The carrier incurs no liability for accidents intentionally caused by the victim or occurring on entering or leaving the aircraft when it is stationary or in motion, if there is gross carelessness or negligence on the part of the injured person, or if it is caused by his own violations of safety measures.

Article 103. Every civil aviation company shall be liable for damages and injuries caused to persons or private property as a result of a forced landing, or the crash of an aircraft or of objects falling or thrown therefrom. This liability, as well as that arising from accidents caused by an aircraft on the ground to persons or property unrelated to its operations or arising from negligence in the handling of flight equipment or land transportation, or from gross negligence of the companies' employees or agents, shall be governed by the general laws of the Republic. In cases of loss of, or damage to merchandise and baggage, the provisions of the Transportation Law shall govern and the carrier's liability shall be limited to the declared value.

Article 104. Civil liability of foreign or national companies in international transportation shall be governed primarily by the international conventions in force in the Republic.

Article 105. For purposes of compensation it shall be presumed, unless proved to the contrary, that death has occurred in the case of passengers and crew members of any aircraft whose disappearance has occurred three months previously and whose location remains unknown.

Article 106. Any documents and statements in which a company rejects or limits its obligation to pay damages and losses shall be void, and without validity or effect, even when the interested party has signed them or consented thereto. Nevertheless, a stipulation is valid in which a company refuses liability for losses or damages to live animals or to perishable merchandise either because of its nature or by the mere act of transportation, unless there is proof of negligence. Contractual discharge is also permissible with relation to transportation of credit documents, money, jewels and other precious objects contained in packages, baggage, and other closed containers, when the interested party fails to declare the value of the contents and to send it by registered mail.

Article 107. Credits which can be held against civil air carriers, in the form of compensations permitted in accordance with this law and the regulations issued thereunder, shall enjoy preference in payment following those (credits) arising from the labor laws, and for such purpose shall constitute a legal lien on the value of aircraft and of the establishments and chattels of their owners.

Article 108. Failure to observe any provision of this law and the regulations issued thereunder dealing with the safety of air services, gives rise to a presumption of guilt on the part of the respective company.

TITLE II. AERONAUTICAL LIENS

Article 109. Operations of secured liens on aircraft shall be governed by the legal provisions dealing with ordinary liens after first considering the special provisions contained in this Title.

Article 110. A chattel mortgage may be constituted on the entire property of an aircraft registered in the country; consequently, a partial lien with respect to rights which are not to the bare title is not in order.

Article 111. In any case, an aeronautical lien or mortgage must be constituted, modified or cancelled by means of a public written instrument, and be registered as endorsement of credits on liens in the General Pledge Register of San José.

Article 112. The Director General of the Pledge Register shall immediately communicate with the General Directorate of Aviation as to all operations which he enters in the books, and which refer to the constitution, modification or cancellation of liens on aircraft.

Article 113. A mortgage credit enjoys priority of payment as provided by law, but shall respect preference of the other credits defined in Article 63 of the Law on Liens (Mortgage Law), including:

- a) Court costs or expenses intended for preservation of the aircraft or for payment of liability claims;
- b) Compensation for assistance or salvage;
- c) Fees, assessments or taxes owed by the aircraft;
- d) Expenses incurred by the pilot of the aircraft by virtue of his authority, and which were necessary for the continuance of the flight; and
- e) Salaries owed to employees on board the aircraft.

If the aircraft is destroyed or expropriated, the mortgage creditor may file his claim for preference on the insurance and on the compensation which is owed to the owner as tort liability or expropriation payment.

Article 114. Mortgaged aircraft in the country may not be transferred abroad without the express consent of the creditor, who must give it in the form of a public written document, or a certified private document in the office of the Director.

Article 115. Without the express consent of the mortgage creditor, no changes may be made in the construction or propulsion characteristics of the aircraft.

Article 116. Aeronautical liens are extinguished for the same reasons as ordinary pledges, and particularly by judicial sales, total loss or destruction of the aircraft.

PART V. DEVELOPMENT OF AIR NAVIGATION

CHAPTER I. AVIATION SCHOOLS

Article 117. In order to establish an Aviation School it shall be necessary for the interested party to be duly registered and to submit himself to the pertinent stipulations of the respective regulation.

Article 118. Aviation schools may make flights other than within the field of their activities, but when doing so they must observe the provisions of the regulations and rules of the Board with respect to non-scheduled airlines and, on this matter, they shall be subject to the liabilities defined in this law.

Article 119. When accidents and damages occur caused by operation of instruction flights, the general provisions of the law on tort and criminal liability shall govern whenever there is a judicial declaration to the effect that there is intent or negligence in the violation of this law and the regulations issued thereunder on the part of the enterprise, person, or entity, or of employees thereof.

CHAPTER II. EXEMPTIONS

Article 120. The Executive Power is authorized to decree exemptions in favor of companies and persons lawfully operating in any field of civil aviation from payment of all importation duties, except docking fees, with relation to all equipment, materials and other articles necessary for their service, which are not produced in the country. Such exemption is deemed in the public interest in promoting facilities in air transport services.

Article 121. The articles which these companies or persons import free of duty may not be resold or transferred to persons who do not enjoy the same exemption, even when they have been used, unless the latter pay the duties for which exemption was granted, in agreement with the Ministry of Economy.

Article 122. Civil aviation companies not devoted to public transportation may, in exchange for exemptions, render transport or inspection services to the Government upon request for assistance needed in cases of catastrophe, floods, pestilence, or other serious emergencies.

PART VI. CRIMES, PENALTIES, AND PROCEDURE

CHAPTER I. CRIMES AND VIOLATIONS

Article 123. It is absolutely prohibited:

- a) To fly a civil aircraft without a certificate of airworthiness or in violation of the terms of a certificate;

b) To work in the field of civil aviation, doing work of an airman without holding the corresponding license, or in violation of the terms thereof;

c) To employ in civil aviation persons not holding the licenses required by this law and its regulations;

d) To operate as an air transport company without authorization conferred by a certificate of operation, or in violation of the terms thereof; and

e) To operate aircraft in violation of the provisions of this law or the regulations issued thereunder.

Article 124. It shall be a crime against the Public Treasury, according to Article 712 of the Fiscal Code, to trade gasoline and other articles which, in accordance with this law, have been imported free of duty.

CHAPTER II. PENALTIES

Article 125. A fine of one hundred to one thousand *colones*, or its equivalent in imprisonment, shall be imposed on any person who forges or alters any aviation certificate or license, or who uses fraudulent certificates or licenses.

Article 126. The following shall be punished in accordance with Article 319 of the Penal Code:

1) Any person who places a light or signal in a place or in such manner as to produce confusion endangering the safety of air navigation;

2) Any person who operates a light or signal which induces error and persists in maintaining it despite an order to desist by the Board or the Director.

3) Any person who extinguishes or interferes with the operation of lights or signals used for air navigation; and

4) Any person who persists in disobedience after receiving a formal order from the Board or Director not to create obstructions or to destroy them, within the safety zones of landing fields.

Article 127. A fine of two hundred fifty to five thousand *colones*, or the equivalent in imprisonment, shall be imposed on any person who:

1) Violates the prohibitions referring to rates for air services established in this law and the regulations issued thereunder;

2) Omits, or refuses to make or present the reports which the Board requires in accordance with this law;

3) Fails to maintain or refuses to present accounts, registers and documents in violation of the requirements of this law;

4) Falsifies, mutilates or alters such reports, accounts, registers, and documents;

5) Neglects or refuses to attend, testify, or answer during any legal investigation on safety measures in navigation, thus disobeying the summons or request of the Board; and

6) Unnecessarily divulges, and with prejudice, any confidential fact or information which he may learn during an examination of accounts, registers and documents of an air transport company or an entity of civil aviation.

An equal penalty shall be imposed on any civil aviation entity or its responsible directors in Costa Rica, when it lacks representation or

an agent with adequate legal authority, if, after being requested by the Board, such an omission is not cured within the following fifteen days.

Article 128. A fine of one hundred to one thousand *colones*, or its equivalent in imprisonment, shall be imposed on any person who, in any other manner not contemplated in the preceding articles, violates the provisions of this law or the regulations issued thereunder.

Article 129. The application of the above penalties shall not prejudice the prosecution of criminal actions which may be in order for offenses covered in Chapter II, Title VI of the Penal Code, or any other provisions of that Code or of the Police Code.

CHAPTER III. PROCEDURE

Article 130. The members of the Board may not intervene in the decision of any matter in which they themselves or any near relatives up to the second degree of consanguinity or affinity have any direct interest. In order for all orders and provisions of the Board to have validity, they must be incorporated in the respective documents, and their proceedings shall be in the public domain and open for access except when, in cases of national defense, it is agreed that there shall be secrecy for the necessary time.

Article 131. When there is sufficient justification to consider that some violation of this law or the regulation issued thereunder has been committed, the Board shall draw up the corresponding administrative memorandum either *ex officio*, or upon request or written accusation by any interested party who possesses legal capacity to bind himself or make himself liable in accordance with the law. If a violation is proved, the procedure shall correspond to that in administrative matters without prejudice to transferring to the judicial authorities the grounds for action in the provisional proceedings for the corresponding effects, and a formal complaint or accusation shall be filed, as the case may be, either directly or through the Office of the Attorney General of the Republic.

Article 132. The Board may delegate to one of its members, to the Director, or to an *ad hoc* inspector the procedure of collecting evidence in connection with the information mentioned in the preceding article and in Article 46 of this law.

Article 133. The resolutions of the Board must state the reasons on which they are based and all interested parties must be notified, especially those who are clearly affected. The Air regulations and the Board resolutions shall become enforceable as specified therein, and in the absence of such indication, on the day following their publication in the *Diario Oficial*, or of their notice to interested parties.

Article 134. A review or revocation of a resolution of the Board may be requested within five days following notice thereof, and in all cases a decision must be rendered within the following five days from this presentation.

Article 135. Within ten days following a notice of rejection of the request for review or revocation, the affected party may appeal to the Tribunal of Administrative Litigation (*Tribunal Contencioso-Administrativo*). This Court shall pass on technical matters with counsel from three experts, one named by the complainant and by the

Board and the third by mutual agreement between the parties. Nevertheless, in any matter which relates to the performance of administrative functions, the appellant, if he prefers, may address his appeal to the Minister of Interior, who shall render a decision within thirty days following presentation of the appeal.

Article 136. The resolutions of the Board in the form of technical opinions on matters within their own discipline, shall be endowed with the highest probative value in both administrative and judicial jurisdictions.

Article 137. The civil aviation companies shall designate a person of Costa Rican nationality to represent them in the temporary absence of a manager or assistant manager, with adequate powers and in the role of a special delegate in any proceedings and business with which these companies are concerned.

PART VII. TRANSITIONAL AND REPEAL PROVISIONS

CHAPTER I. TRANSITIONAL PROVISIONS

Article 138. The present members of the Civil Aviation Board and the Director General of Aviation shall commence to perform the first period of their functions on this date.

Article 139. Until such time as regulations are promulgated, the Board may decree, provisionally and with binding power and in accordance with provisions of Article 57 of this law, observation of the regulations and standards in the air regulations of the United States of America, adapting these to the circumstances and needs of the domestic air transport.

CHAPTER II. REPEALS

Article 141. This law repeals or modifies the relevant portions of any conflicting law or decree.

PART VIII. DEFINITIONS

Article 142. For the proper application of this law, the significance of technical terms employed therein are defined in the following sections:

a) *Airport*: a defined area of land or water, including its buildings, installations and equipment, intended wholly or partially for the landing, take-off, movement, and service of aircraft;

b) *Airman*: a person who is engaged in navigation of aircraft such as a pilot or crew member. An individual who is charged with inspection, maintenance, repair of aircraft, aircraft engines, propellers or appurtenances, and one who serves as aircraft dispatcher or in charge of controlling air traffic shall also be so designated;

c) *Aeronautics*: the science and art of flying;

d) *Aircraft* or *Airship*: devices known or which may be invented in the future, lighter or heavier than air, used in navigation or intended for flight in the atmosphere;

e) *Civil Aircraft*: aircraft which is not military or State aircraft;

f) *Costa Rican Aircraft*: aircraft registered in Costa Rica in accordance with this law and the regulations issued thereunder. An aircraft which does not possess these requirements is foreign;

g) *Military Aircraft*: an aircraft used by the armed forces of the country, or placed at their service;

h) *State Aircraft*: an aircraft used in the service of a State;

i) *Air transport*: transportation of passengers, freight, mail, baggage, etc., carried out by an aircraft, whether for profit or not;

j) *Air route*: a route through the navigable airspace of Costa Rica, identified over an area of land surface, designated or approved because of its fitness for civil aviation;

k) *Civil Aviation*: the use of aircraft in air transport; for scientific, exhibition or propaganda purposes; in industrial, agricultural or health work; in sport, instruction or tourism; with relation to aviation schools; service shops; repair, reconstruction, manufacture, etc. of aircraft, aircraft engines, propellers and appurtenances;

l) *Landing field*: a maritime, river or terrestrial area suitable for landing of aircraft;

ll [Letter in Spanish alphabet] *Air Transport Company or Enterprise*: A natural or corporate person engaged in air transportation; *Domestic*, if operating only within the country, or *International*, if operating between points in the country and locations abroad;

m) *Chicago Convention*: the Convention on International Civil Aviation, signed in Chicago on December 7, 1944, which became enforceable on April 4, 1944, and which has not as yet been ratified in Costa Rica;

n) *Regulations issued under this law*: air regulations; the regulations, standards and orders enacted pursuant to this law; the terms, conditions and limitations in the certificates and licenses granted in accordance with this law;

ñ [Spanish alphabet] *Director*: The Director General of Aviation;

o) *Alienation of Aircraft*: the sale or any condition or servitude imposed by means of a mortgage, attachment, etc., which affects ownership and other rights in an aircraft;

p) *Air Navigation Facility*: any facility used, or which may be used or is designated to be used as aid to air navigation, including landing fields, lights, apparatus or equipment to receive and give weather information, signals, radio orientation, radio or electric communications and any other structure or mechanism for similar purposes to guide or control flight, take-offs or landings of aircraft;

q) *Navigable Airspace*: the airspace above the minimum heights prescribed by regulation in accordance with this law;

r) *Propellers*: aircraft propellers, including all their parts, attachments and accessories;

s) *Board*: Board of Civil Aviation;

t) *Aircraft Engine*: engine intended for propulsion of aircraft, including all of its parts, attachments and accessories with exception of the propeller;

u) *Navigation of Aircraft. Air Navigation or Navigation in the Air*: Navigation of aircraft including the piloting of same;

v) *Operation of Aircraft*: use of aircraft for purpose of navigation. Any person who orders or authorizes the operation of aircraft with or without right or legal control thereof, shall be deemed to be engaged in the operation of aircraft for the interpretation and application of this law;

x) [No "w" in Spanish alphabet] *Costa Rican National*: A Costa Rican citizen or corporation, duly registered and subject to the laws of the Republic, whose manager and president are Costa Rican citizens duly accredited with legal power to represent them.

y) *Appurtenances*: instruments, equipment, apparatus, parts, attachments or accessories of any description, provided they are not part of the aircraft, aircraft engine or propellers, and which are used or may be used, or are capable of being used in the navigation, operation or control of aircraft flights, including parachutes and communication equipment.

OTHER LEGISLATION IN FORCE

1. Decree 47 of November 27, 1957, approves regulations for air travel in Costa Rica. (*La Gaceta*, December 12, 1957)

2. Decree 4 of May 20, 1958, issues rules for non-scheduled flights of aircraft. (*La Gaceta*, May 21, 1958)

3. Decree 56 of May 21, 1959, issues regulations to implement non-scheduled flights of aircraft. (*La Gaceta*, May 24, 1959)

4. Decree 6 of January 21, 1960, issues regulations of Article 69 of the civil aviation law regarding applications for registration of aircraft. (*La Gaceta*, January 23, 1960)

5. Decree 48 of May 10, 1960, approves the regulation on pilot instruction. (*La Gaceta*, May 20, 1960)

6. Decree 79 of November 28, 1960, adopts a regulation on private aviation, which includes pleasure and non-profit flying. (*La Gaceta*, December 10, 1960)

7. Decree 15 of February 14, 1961, approves the Regulation of Private Aviation and repeals the one in Decree 70 of November 28, 1960. (*La Gaceta*, February 18, 1961)

8. Decree 19 of March 22, 1961, approves the Regulation for Air Line Pilots in Costa Rica. (*La Gaceta*, March 30, 1961)

9. Decree 1 of January 5, 1962, approves the *Reglamento de Aviación Agrícola* or Regulation on Agricultural Aviation. (*La Gaceta*, January 9, 1962)

CUBA

REGULATION ON CIVIL AVIATION

DECREE 548 OF APRIL 21, 1928¹

GENERAL PROVISIONS

First: This Regulation purports to govern all matters concerning civil aviation, private or commercial, national or foreign, over the territory of the Republic of Cuba and its territorial waters in time of peace, and to establish the conditions and requirements under which such aviation may take place.

Except where expressly provided, these provisions shall not be applicable to military aviation, whether national or foreign.

This Regulation, as well as the provisions which may be added to it or issued in implementation thereof, shall only apply during time of peace. Whenever a state of war or serious disturbance of public order has been declared or when constitutional guarantees are wholly or partially suspended throughout the national territory, the application [of this Regulation] within said territory shall be suspended, as shall the rights granted to or acquired by private individuals under it, and only the rights reserved to the State shall subsist for purposes of national defense or military needs and its authority to exercise such rights shall be that pertaining to the state of war or of serious disturbance of public order, when officially declared, shall lift the suspension and *ipso facto* restore all provisions and acquired rights.

During the state of war or serious disturbance of public order air navigation shall be absolutely prohibited to nationals and aliens, except by special authorization of the Ministry of National Defense for special flights which shall be granted only in exceptional cases and in the public interest. Any person who violates this prohibition shall be considered to be a spy and the aircraft shall be brought down without prior notice.

Second: The word "military" and the term "military service" as used in this Regulation, and always provided they are used in provisions regarding aviation, shall include all persons employed in any manner in any of the branches or auxiliary services of the armed, land, sea or air forces, and to all categories of acts, facts, works, efforts, etc. which affect or originate from or result from the functions, duties or inherent rights of the Armed Forces.

CHAPTER I. GENERAL PRINCIPLES AND PROVISIONS

Article 1. The Sovereignty exercised by the Republic of Cuba over its territory, defined in Article 2 of the Constitution, shall include, its territorial waters.

¹ Published in *Gaceta Oficial*, May 2, 1928.

*Article 2.*² The President of the Republic, through the General Headquarters of the Army may grant or deny authorization to private airplanes, to fly over the territory, to alight on land or on water within its limits whether Cuban or foreign.

Subject to the provisions of the present Regulation, such authorization shall be granted either generally to aircraft of a particular nation, or individually to one or more aircraft.

Any flight over national territory or any landing thereon without prior authorization shall be considered unlawful and shall subject the aircraft and their crews to the penalties imposed by the laws and regulations and to the jurisdiction of the national courts, except in duly proven cases of emergency or forced landing.

However, Cuban consuls abroad, shall be empowered during peace time to authorize flights to Cuba by foreign sport or tourist aircraft [and they must] communicate to the General Headquarters of the Army the date of arrival, identification mark of the aircraft, the list of passengers and crew, and the airport of landing.

Article 3. For all legal and international effects, the Republic of Cuba shall consider as "war materiel" all aircraft, accessories, instruments and equipment thereof, and tools and documents they contain, regardless of their form, origin or use, and therefore, they shall be subject to expropriation, seizure, utilization, confiscation, internment or destruction in the cases and in accordance with the rules and principles of international law and of the domestic laws.

*Article 4.*³ For the purposes of this Regulation "aircraft" shall mean any contrivance of locomotion used for the transport of persons, mail, merchandise and goods of any kind, capable of rising and circulating in the air.

Article 5. "Airdrome" shall mean an area or space on land previously marked out, identified and intended for the take-off and landing of terrestrial aircraft.

The State as well as private persons may construct and own airdromes for public or private use but private persons must first obtain special authorization and submit to the rules and conditions established for their use in this Regulation and those issued in the future.

National or foreign persons or companies, who, after being duly authorized, establish and maintain public air transport services, may obtain from the Government in time of peace, free use of the airports of the State in the cases, manner and conditions established by the Ministry of National Defense; [they may also receive] the necessary aid from public, civilian or military officials and employees attached thereto or the necessary facilities to repair damage or to aid persons. The owner of the aircraft shall only reimburse the State for the value of the materials.

Public officials or employees who are requested to do so, and refuse to lend the necessary aid in accordance with the provisions of the preceding paragraph, shall be subject to administrative punishment and penalties established by law if they are civilians, and if military personnel, they shall be court martialed for insubordination.

The President of the Republic may grant for a limited time and predetermined conditions the exclusive use of State territory for purposes

² Amended by Decree No. 695 of May 28, 1930.

³ Amended by Decree No. 1402 of August 22, 1928.

of air transportation to any Cuban or foreign person or company who establishes and maintains public services of that type.

Article 6. "Airports" shall be deemed seadromes and mouths of rivers which, because of their location, conditions, capacity and because of the organization within them of customs police and sanitary and immigration services, may be utilized for the landing and take-off of hydroplanes.

"Airports" as well as the location or place therefor particularly designated for the use of aircraft shall be specified in this Regulation or by Presidential Decree.

The President of the Republic may grant the right of exclusive use or use for a limited time and under predetermined conditions, for a specific space or place or an "airport" to individuals or companies national or foreign, which establish and maintain scheduled public air transport services within the national territory or between such territory and other countries.

The provisions of the third and fourth paragraphs of the preceding article on the use of State airdromes and installations for aircraft or persons travelling thereon shall be applicable to State "airports" and to officials and employees of the port services and to those of the Navy located thereon.

Article 7. All civilian, military or naval, public officials or employees whatever their rank, condition or category, and especially those of the customs, maritime or land health services, immigration services and the police, who by reason of their duties must participate in the dispatch or inspection of national or foreign aircraft that are duly authorized to fly over or across national territory while performing some public service, or who fulfill some necessary formality or requirement for their legal functioning or who give the aid necessary to effect repairs or to assist or help some person carried or abandoned by [the aircraft], or supports the authorities or protects the commander of the aircraft, shall do so gratuitously and with priority to all other services, without any pretext or excuse and without the slightest delay, whatever may be the hour and day of the occurrence and of the arrival or departure of said aircraft, always provided that [these services] are requested, even though verbally, by the commander of the aircraft or his legal representative in any of the above mentioned cases.

An official or employee ⁴ who, without clearly justified cause, in the judgment of the President of the Republic and after hearing the Aeronautics Commission and the interested party, by negligence or carelessness interrupts, damages or endangers in any manner the public service performed by an aircraft or the security thereof, shall be dismissed in accordance with the law if he is a civilian and judged in accordance with the provisions of the Military Penal Code if he is a military or naval person, without prejudice to other liabilities he may incur for the damage caused.

Article 8. The processing, examination and dispatch of the documentation of aircraft used for public services, of their crews and passengers and of the cargo, shall be handled in the appropriate offices and by the respective officials with the greatest dispatch, and shall be facilitated as much as is permitted in compliance with laws and regulations, without payment of fees, taxes or honorariums other

⁴ Amended by Decree No. 695, May 28, 1930.

than those necessarily imposed according to existing laws, whose payment cannot be forgiven, suspended or exempted by the Executive Power.

With the same facilities, speed and exactness there shall be supplied freely to the pilots⁵ or commanders of aircraft any reports they request from the appropriate centers, establishments or offices of the State concerning time or weather or sea conditions over the whole national territory, as well as the existence of fuel, water, repair shops, mechanical parts and other supplies whose use could be required, routes, means of communications, topographical and hydrographic charts, signals, etc. and medical assistance and whatever else, may be necessary or convenient in any form for the greater safety and efficiency of aerial navigation. Any dispatches which for better information public officials or employees must transmit by telegraph, telephone or radio of the State shall be deemed official and urgent.

CHAPTER II. BUREAU OF AVIATION AND CIVIL AERONAUTICS

Articles 9 and 10. (Repealed by Decree no. 752 of March 13, 1953)

Article 11. The Chief of Staff of the Army may, in regard to matters relating to the Aviation Section and for purposes of information in general, communicate directly with any public official or employee, or public civil organization, office, establishment, observatory or institution, national, provincial or municipal, with merchant ships of Cuban nationality and with stations or installations of public railroads: and such officials or employees and chiefs or persons in charge of said offices, or establishments, captains of ships and chiefs of railroad stations shall be obliged to reply or report to the Chief of Staff of the Army by the most rapid means, fully and in detail with all exactness. They are also required to issue documents, affidavits or copies without any fee and under the liability imposed in Article Seven.

Article 12. When the Chief of Staff of the Army deems it necessary or convenient for the greater speed and efficiency in the preparation, study, processing of solution of some matter under his jurisdiction, he may request through the Ministry of National Defense, that some technical public official or one especially competent in matters of customs, immigration, health, communications or a professor of the University or institutes or an official of the Corps of Engineers, Signal Corps or Bureau of Ships, appear personally before the Bureau [of Civil Aeronautics] at one or more of its meetings for the purpose of informing, counseling or advising orally or in writing.⁶

The Ministers or Chiefs of Departments or independent officials who have jurisdiction over the respective branch of service or to which the official is attached whose counsel or opinion is desired, shall order him to appear before the Chief of State of the Army on the day and at the hour determined by the latter for the specified purpose.

In the same manner the Chief of Staff of the Army may apply for the assistance or temporary use of any laboratory, shop, museum, field or experimental station or of apparatus, artifacts, instruments, tools, materials of private property, or belonging to the State, when he needs them for investigations, studies, tests, experiments, etc. relating to the

⁵ Ibid.

⁶ This paragraph was modified by Decree No. 695, May 28, 1930.

matters under his jurisdiction or in the interest of the development, progress and safety of air navigation.

Article 13. The Aviation Commission shall report to the Bureau of Aeronautics on the matters occurring here in order to:

1. Promote, develop and facilitate the development of civil, commercial or sport air navigation, whether official or private, national or foreign, in the Republic of Cuba, and between it and other nations.

2. Prepare or execute studies, plans and projects concerning air routes, prohibited zones, airdromes, airports service installations and signal stations, store deposits of parts, fuel, repair shops, medical assistance service, communications, salvage, factories, aviation schools and anything necessary or useful for the development and aid to air navigation in the Republic.

3. Obtain, collect, facilitate and publish national or international information on matters of interest to air navigation, especially with regard to mechanical improvements, designs, construction, discoveries, inventions, experiments, tests, and competitions, applicable or useful to air navigation; radiotelegraphy, telephone, signals, meteorology, radio, and medicine applicable to the art of flight, topographic and hydrographic maps, routes, photography and air legislation, statistics on and history of aviation.

4. Cooperate by all available means and resources toward greater efficiency of military and naval aviation of the Republic.

5. Examine and evaluate the documentation and provide for the inspection and testing of aircraft, their engines, instruments and accessories when the licensing of these for air navigation over national territory is sought, and to report on the issuance or denial of such license and the conditions thereof.

6. Examine and evaluate the personal and technical documents of persons who wish to navigate in the air over national territory as pilots, mechanics, telegraphers or crewmen who in any manner participate in the operation, direction, management or handling of aircraft, and report whether they should be so authorized without prior examination and other tests established in this Regulation.

7. Provide and regulate all matters concerning the form and manner of inspection, classification and tests of aircraft and physical and technical examination of persons who may be authorized for air navigation over the national territory and for the operation of such aircraft.

8. Establish in the proper manner systems of signals and rules of air transit to be uniformly observed in the Republic.

9. Report on applications for permission to take aerial photographs or motion pictures over the national territory, or to make charts or maps thereof.

10. Report on private individuals who apply for permission to establish within the national territory aircraft factories or factories for replacement parts and accessories and warehouses or establishments to be used for their sale to the public; to construct or establish airdromes or airports and service supply stations for public use.

11. Report on the approval of rates, prices, insurance, bonds, fees, taxes, etc. regarding public services of air transport, and on

subsidies, gift or financial aid from the State, provinces or municipalities to individuals for the establishment and maintenance of such services.

12. Keep the Registers and books of registration of aircraft of all categories constructed in the national territory, of those imported and admitted or authorized for air navigation over said territory and between such territory and foreign countries, duly classified according to power, capacity, form and purpose; showing nationality, ownership, crew, means of communications, use for which they are intended, place where they are kept and normally land, airdromes they utilize and routes they follow, accidents they have had, important repairs or changes made to them and a complete history of the aircraft until their final grounding.

13. Keep the Registers and log books of pilots, mechanics, radio operators and their aides officially authorized for air navigation over national territory, of teachers and instructors of aviation so authorized, of chiefs or persons in charge of airdromes, repair shops and service stations useful for aviation, of aviation schools or academies, their personnel, teaching staff and students, keeping the appropriate personal and technical data.

14. Report on the permissions sought for the establishment of aviation academies or schools in the Republic and, once they are established, to inspect said schools, especially with regard to the plans or methods of teaching, qualification of the teaching staff and utilization of equipment.

15. Submit to Governmental, provincial or municipal centers, when so ordered by the Ministry of National Defense, the background data deemed appropriate on resolutions of the Minister, with the object of obtaining better coordination in air services.

CHAPTER III. AIRCRAFT—THEIR CLASSIFICATION OR NATIONALITY

Requirements for admission to air navigation over the national territory.

Article 14. For the purposes of classification, aircraft shall be divided into official and private.

Official aircraft shall be those which belong to the State, to the provinces or to the municipalities or which are in the exclusive service of these entities; they shall be classified as:

a) Military—when they belong to the Army or Navy, or when they are commanded by an officer of said forces in military or naval service.

b) Administrative—when they are used in any public or official service.

Private airplanes shall be those which belong to any person, company or any private civil or commercial institution or company, and they shall be classified as:

a) Commercial: when they are used for the commercial transportation of persons or cargo.

b) Training: when they are used for the teaching, preparation or training of pilots, mechanics, etc.

c) Recreation or Sport: when they are used solely for such purposes.

d) Experimental: when they are used for studies, observations, tests or trials for the purpose of learning, testing or proving the efficiency, utility or functioning of any contrivance or constructed for air navigation.

Article 15. Aircraft shall have the nationality of the country in which they are registered for the purposes of air navigation.

Article 16. All aircraft in existence, constructed in, or imported into the Republic of Cuba, shall be registered by their owner with the Ministry of National Defense, whatever the purpose for which they are used, and their class and type, capacity, class of engine, horsepower, and speed, as well as their homeport shall be noted.

Article 17. In order to circulate in the air over the national territory and the jurisdictional waters, all private aircraft must be registered with the Ministry of National Defense and possess the authorization issued by that Ministry as well as a certificate of air worthiness for the aircraft, for the airdromes or airports used for landing and one of qualification of the pilots and other crew members. These documents must be countersigned by the commander of the aircraft.

For the same purpose, foreign aircraft, registered in their country of origin, must be registered with the Ministry of National Defense and must possess the documents listed in the preceding paragraph.

Article 18. In order to be registered or listed as specified in the preceding article, the operator of any aircraft shall declare the names of, and other general information regarding the persons composing the crew.

Any change or substitution, however temporary, of the personnel comprising the crew must be reported to the Ministry of National Defense on the same day or the next working day by the operator or owner of the aircraft or by his legal representative.

Article 19. Official aircraft shall bear emblems or distinguishing marks which will be determined by the competent authority, the use of which shall be Defense.

Private aircraft shall be distinguished by the mark of their nationality and registration which shall be prescribed by the Commission taking care that they are not susceptible of being confused with the official marks.⁷

It shall be obligatory for private aircraft to display visibly and in the manner and place determined by the Ministry of National Defense the marks of nationality and registration.

Foreign civilian aircraft shall carry the documents and display the marks and distinguishing characteristics provided for in the laws of the country to which they belong.

Article 20. In order to be registered in the Republic of Cuba, aircraft must belong to persons, companies, societies or institutions located in the national territory in conformity with, and subject to its laws.

Article 21. An aircraft which is registered in a foreign country may not be registered in the Republic of Cuba until it is duly proven that the former registration has been cancelled.

Nevertheless, the laws and provisions regarding the registration of vessels before consuls of the Republic abroad shall be applied to aircraft that are the property of Cuban citizens or companies. In such cases the owner must comply with all the requirements established in

⁷ Paragraph 2 was modified by Decree No. 695, May 28, 1930.

this Regulation as soon as the aircraft is brought to national territory.

Consuls shall immediately make a detailed report to the Ministry of National Defense of all national registrations of aircraft taking place in their presence and with their participation.

Article 22. Any person, society, company or institution which requests registration of one or more aircraft to be used for the transport of passengers or cargo, must accompany the application with a certified copy of the specifications of such aircraft in order to justify their capacity to perform the corresponding service. There should likewise be attached copies of the flight plan or route to be followed, a statement of the personnel composing the crew of each ship and the certificates referred to in the following article.

Article 23. In order that an aircraft may be registered or recorded it must first be provided with a certificate of air worthiness, one of the place where it lands and one of competence of its crew. Without fulfilling these requirements a certificate of registration or listing may not be issued to any aircraft.

Article 24. All aircraft must be provided with the instruments and the safety equipment necessary for air navigation; these shall be determined by the Ministry of National Defense; without fulfilling this requirement they shall not be permitted to fly.

Article 25. Certificates of registration shall only be valid for one year, and may be renewed on the dates and under the conditions fixed by the Ministry of National Defense.

Article 26. In the case of transfer of title to an aircraft, the former as well as the new owner shall be obliged within five days to notify the Ministry of National Defense, requesting that the registration issued be cancelled as of the date of notification and proposing that the new owner of the aircraft be issued a new registration.

Article 27. In the case of loss, destruction or disuse of an aircraft, its owner shall notify the Ministry of National Defense within the shortest possible time so that it may be taken off the respective registers.

If it deems it convenient the Ministry of National Defense may investigate and prove the fact that the cause of the loss or disuse in order to proceed accordingly.

*Article 28.*⁸ No aircraft may have radio or telephone equipment without legal authorization and such authorization shall state the use to be made of such equipment.

The person who operates the above equipment shall also be in possession of a special license.

Aircraft authorized to transport passengers which must have radio receiving and transmitting equipment may be exempted from such prohibition.

*Article 29.*⁹ When foreign aircraft fly over the national territory and have radio equipment aboard, they may use such equipment only in the situations authorized by the laws of international conventions ratified by the Republic and always only with prior authorization issued by the Ministry of National Defense.

Article 30. No aircraft of any nationality, may carry photographic or topographic apparatus or instruments for its use without special permission from the Ministry of National Defense.

⁸ Modified by Decree No. 695, May 28, 1930.

⁹ Ibid.

Article 31. Any aircraft used for the transportation of passengers and merchandise which intends to fly over the national territory must carry the following documents:

First: Certificate of registration or listing

Second: Certificate of airworthiness

Third: Certificate of competence of the personnel

Fourth: List of passengers

Fifth: Report of personal baggage

Sixth: Cargo manifest

Seventh: Authorization referred to in Article 28 if it has radio equipment

Eighth: Log books determined by the Commission ¹⁰

Foreign aircraft must also carry the authorization referred to in Article 2 when they are flying in transit.

Article 32. Periodically and by the agency or official designated by the Ministry of National Defense, all registered or recorded aircraft shall be inspected, and the airworthiness certificates shall be either renewed or cancelled. The cancellation of this certificate shall entail that of the registration or listing.

Article 33. The Commander of any aircraft or member of the crew in charge thereof, and the chiefs or managers of airdromes, airports or hangars where aircraft are located, shall admit any naval, military, police, customs, health and immigration official and permit their inspection of the premises.

Article 34. The Government of the Republic may at any time cancel the authorization to fly over national territory of any foreign aircraft for reasons of a military nature, of safety, public order or convenience, or for any other cause which may be freely evaluated, without being obliged to express it.

Article 35. The registration of any aircraft registered in the Republic may be cancelled and the flight permit revoked without prior notice when the Government deems it necessary.

CHAPTER IV. RESTRICTIONS AND LIMITATIONS ON AIR TRANSPORT AND PROVISIONS; ON PUBLIC SAFETY

Article 36. It shall be absolutely prohibited in the Republic of Cuba to transport or carry on aircraft any arms, munitions, explosives, drugs whose use or sale is prohibited or any other goods or merchandise whose sale or importation into the Republic is prohibited by law.

Violations of the provisions of this article shall result in the confiscation of the aircraft without thereby affecting other liabilities for which they must answer under national laws.

Article 37. Aircraft authorized for the regular transportation of passengers or cargo may only fly over the route determined in the authorization and land in the places similarly designated, and shall be subject to the provisions of National Defense. Only in the case of emergency, accident or bad weather may noncompliance with this provision be excused.

Article 38. It shall be prohibited for any aircraft in flight over the national territory to throw out packages or any other object. Any person who violates this provision shall be liable for the injuries or

¹⁰ Ibid.

damages they cause and shall incur in addition the penalties established by the national laws.

Excepted from this provision shall be balloons which do not use mechanical means of propulsion and which do so [throw out objects] to reduce the ballast, as are aircrafts used for the transportation of mail or parcel post in the cases where they are authorized to drop the pouches, in places agreed upon in advance.

Article 39. It shall be prohibited for any aircraft, whatever its nationality and destination, to fly over prohibited air zones which shall be determined, marked and made known by the Ministry of National Defense.

Article 40. It shall be prohibited to do acrobatics or dangerous maneuvers over cities, villages or towns or over crowds or meetings of persons.

Such maneuvers may be undertaken only over airdromes and with prior authorization.

Nevertheless, acrobatic or maneuvering flights may be authorized as public spectacles or exhibitions over determined places, which must be stated in the authorization.

Article 41. Any aircraft, whatever its nationality or destination, shall alight on land or water when such an order is transmitted or conveyed by signals from any military post, warship of the Republic or Airdrome.

Article 42. Any airship, whatever its nationality, shall be subject to provisions of the laws, concerning land or maritime public service transportation in all cases not provided for in this Regulation.

Article 43. In regard to passage or merchandise the liability of companies societies or individuals who operate air lines, shall be governed by the provisions of the laws of the Republic concerning land and sea transportation.

Article 44. Foreign aircraft which enter national territory may not take on passengers if they are not previously authorized for this purpose. They may only be authorized when there is no transport line already established and in active service which uses the same route to be used by said aircraft.

Article 45. The provisions on police, health, immigration and customs shall be applicable to air navigation unless expressly excepted, modified or provided for in this Regulation and they shall be applied so as to take into account the special character of such navigation.

Article 46. Companies, societies or individuals operating air lines for transportation of passengers or merchandise must establish and maintain airdromes or airports in each place assigned on the route they use and which has been authorized for them, and which must be duly equipped and provisioned for the comfort and safety of the persons utilizing said means of transportation, as well as emergency landing fields between these stations.

Article 47. Airships used for the transportation of passengers or merchandise may use the airdromes and airports of the State provided they have authorization to do so.

Article 48. In the case of night flights the companies, societies or individuals who operate transport lines, shall illuminate the landing fields and airports and establish light signal and the required beacons in the manner and number ordered by the Ministry of National Defense.

Article 49. No aircraft may alight on land or water except on the airdromes and airports lawfully established, except in the case of

forced landings because of emergency, bad weather, accidents to persons, or lack of fuel or oil.

Article 50. Companies, societies or individuals who own aircraft shall be financially liable for the damages, defects or emergencies caused by said craft as well as for the consequences of forced landings that they may have to make.

Article 51. All airdromes, emergency landing fields and airports shall be under the supervision of the Ministry of National Defense, and they shall not be open to public service without prior authorization.

Article 52. Whenever it deems it necessary the Government may order that the roofs of railroad stations, mills, barracks or other public or private buildings be painted in a particular color or manner or display the name or location of the same, so that they may serve as points of reference for aircraft to determine directions.

Article 53. The Government may order any individual or company to extinguish, cover or protect in a special manner any light, beacon or lantern so that it may not be confused with the light signals that serve as nocturnal navigational guides.

Article 54. In cases where it is necessary to establish beacons for air navigation and where they may project light over the sea, the Ministry of National Defense in agreement with the Ministry of Public Works may issue the necessary orders to avoid confusion with maritime beacons and may give due publicity for the information of the maritime interests.

Article 55. Common and special laws of the Republic shall be applicable to all crimes and misdemeanors committed by owners, pilots, crewmen or passengers of any aircraft, national or foreign, encountered within the national territory.

Article 56. The President of the Republic may provide, when he believes it necessary to public order or service, that an officer of the army or of the navy, as a delegate of the Ministry of National Defense, inspect, supervise and direct the companies, societies and individuals who own airships which are subject to the provisions of this Regulation.

CHAPTER V. CREWMEN OF AIRCRAFT

Article 57. For purposes of this Regulation pilots shall be deemed persons in possession of license to operate, command and direct aircraft whether issued by a national or a foreign school.

Article 58. No pilot may operate an aircraft for a flight over the national territory if he is not previously and duly authorized to do so.

Article 59. Pilots possessing a license from a foreign school must also have a certificate of competency issued by the Ministry of National Defense in order to fly over national territory for commercial purposes.

Notwithstanding the possession of a license as pilot, the Ministry of National Defense may refuse authorization to fly over the national territory when it deems it convenient.

Article 60. Periodically, and on the dates to be determined by the Ministry of National Defense, pilots operating aircraft used for the transportation of passengers or merchandise must submit to a physical examination. Those who do not comply with this requirement shall lose their authorization to fly, and the certificate of competency referred to in the preceding article shall be revoked or cancelled.

Article 61. Pilots possessing a license issued by an official school or one authorized in the Republic shall be excepted from complying with the provisions of Article 59, they are only required to submit periodically to a physical examination.

Article 62. The Government may revoke without expressing the reason the authorization issued to any pilot referred to in Article 58, when it deems it convenient, whenever it is proven that he habitually imbibes alcoholic beverages, drugs or intoxicating substances.

Article 63. Pilots in command of aircraft shall be responsible for seeing that the rest of the crew as well as the passengers comply strictly with the provisions of the present Regulation and the rules that may be established by the Ministry of National Defense.

The rights and obligations of pilots and other crew members among themselves and in relation to the owners of consignees of the aircraft who employ their services shall be regulated by the laws and provisions of the Republic regarding crews of land or maritime carriers, according to the classification of the aircraft.

Article 64. Appropriate rules and instructions in regard to licenses for flying, examinations for pilots, mechanics, etc. and physical examination of the crews shall be issued by the Ministry of National Defense.

Final provision. All laws and regulations in conflict with the provisions of this Regulation shall be repealed insofar as they are incompatible with the purpose thereof.

This Regulation shall take effect upon publication in the *Gaceta Oficial*.

OTHER LEGISLATION IN FORCE

1. Decree 2949 of July 10, 1951, adopts the Regulation governing the Civil Aeronautics Board (Junta de Aeronautica Civil). (*Gaceta Oficial*, July 28, 1951)

2. Law-Decree 59 of May 9, 1952, provides for documents and requirements for entry and departure of aircraft, as well as covering passengers, baggage and freight which they carry. (*Gaceta Oficial*, May 13, 1952 (estr.))

3. Law-Decree 633 of January 16, 1953, adopts provisions on pleasure flights between Cuba and the United States. (*Gaceta Oficial*, January 19, 1953 (extr.))

4. Resolution of January 6, 1953, approves the fulfillment by the national airlines of all requirements fixed for the commencement of scheduled public passenger, freight and airmail services between New York and Havana, with optional stopover in Washington. (*Gaceta Oficial*, April 1, 1953)

5. Law-Decree 801 of March 27, 1953, provides that new or used aircraft imported into Cuba for private use exclusively, or for pleasure flights, or for aviation schools, shall be exempt from payment of customs duties. (*Gaceta Oficial*, April 13, 1953)

6. Law-Decree 877 of May 27, 1953, provides that the identification marks required on places listed, including public buildings, railway stations, industrial plants, etc., shall be clearly shown on the roof as a guide to aircraft. The name of the city shall be used. (*Gaceta Oficial*, May 30, 1953)

7. Decree 1104 of September 30, 1953, reorganizes the Civil Aeronautics Board of Cuba. The composition of the Board, functions of other officials, such as inspectors of airports, technical and policy ad-

visers, legal adviser, chiefs of other offices, are covered in this decree. (*Gaceta Oficial*, October 6, 1953)

8. Law-Decree 1129 of October 20, 1953, authorizes the National Transportation Corporation to engage doctors to give medical examinations to civilian pilots. Decree 202 of February 1954, approves the regulations to implement the above law-decree on periodical examinations to all pilots. (*Gaceta Oficial*, October 21, 1953 and February 16, 1954)

9. Law-Decree 1501 of June 30, 1954, repeals part of the final provisions of Law-Decree 1486 of June 10, 1954, on membership of the Civil Aeronautics Board and of its Technical Advisory Commission. (*Gaceta Oficial*, July 5, 1954)

10. Law-Decree 1863 of December 22, 1954, creates the Civil Aeronautics Commission, as a government organ, under control of the National Transportation Corporation, with its own corporate personality. (*Gaceta Oficial*, December 27, 1954)

11. Law-Decree 1960 of January 25, 1955, nationalizes all telecommunication systems used in aviation, and for control of flights. These shall be operated exclusively by the national government under the conditions expressed. Also provides for cancellation of certain permits, provides procedures for transfer of equipment to the government, and other measures. (*Gaceta Oficial*, January 27, 1955 (extr.))

12. Law-Decree 2058 of January 27, 1955, proclaims the continued enforcement of Decree 249 of 1935 and its regulation in Decree 2056 of 1940, as well as of other decrees of 1947 and 1950 which granted tax exemptions to airlines, foreign and national, on gasoline, oil and lubricants which they used. These early decrees had been unenforced for some time between the promulgation of Law-Decree 1531 of 1954 and the present enactment. (*Gaceta Oficial*, February 7, 1955 (extr.)).

13. Law-Decree 2137 of January 27, 1955, grants an indirect subsidy to national airlines, while under contract with the Nation, consisting of an exemption of excise taxes, consular fees and other charges collected by customs, as well as on real property rights and transfer of property. (*Gaceta Oficial*, February 9, 1955 (extr.))

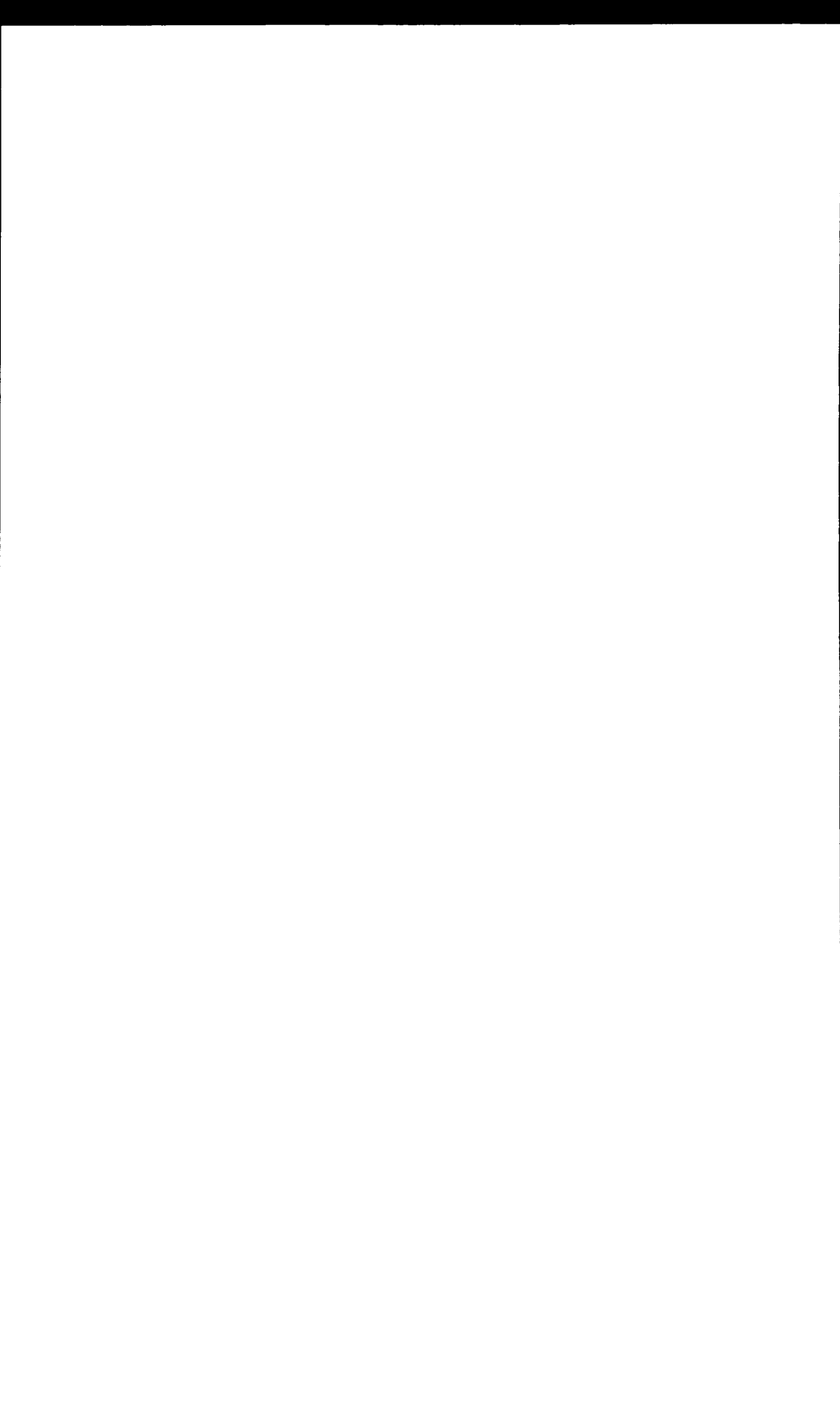
14. Decree 823 of April 4, 1956, grants foreign and national airlines exemption from duties and other import taxes on the importation of engines, spare parts, accessories and other equipment for aircraft. (*Gaceta Oficial*, April 23, 1956)

15. Decree 1011 of April 19, 1956, adopts the Regulation on Public Air Transport Services. Its provisions cover licenses, operation of airlines, contracts with and between airlines, or airlines with foreign governments, suspension of licenses, fees for passenger and freight carriage, charter flights, etc. (*Gaceta Oficial*, May 25, 1956)

16. Resolution of October 4, 1956, of the Civil Aeronautics Commission, amends Article 10 of its General Order 15 on rules to obtain registration and navigation certificates. The amendment concerns requirements in applying for temporary licenses for aircraft. (*Gaceta Oficial*, December 19, 1956)

17. Resolution-Law 69 of November 29, 1958, provides that the Civil Aeronautics Commission shall be in charge of all matters concerning air navigation, transportation, air rescue and salvage matters, information, etc. (*Gaceta Oficial*, December 3, 1958)

18. Circular 63 of March 21, 1960 issues new regulations for supplying and outfitting of ships and airplanes. (*Gaceta Oficial*, April 22, 1960)



CZECHOSLOVAKIA

*Law of July 11, 1951 No. 63/1951 Coll. on Liability for Injuries Caused by Transport Conveyances as amended by Law no. 58/1956 Coll.*¹

SECTION 1

(1) An operator of a railroad, motor vehicle, airplane, motor driven vessel and an operator of transport carried out with other vessels [hereinafter: "operator" and "vehicle"] shall also be liable under this law for injury caused by the special nature inherent in the operation.²

(2) In doubtful cases the owner, or each joint owner of the vehicle shall be presumed to be its operator and, if a vehicle which is in the charge of a socialist legal entity is involved, that entity shall be presumed to be the operator.

SECTION 2

(1) If a vehicle is delivered for repair, the repairman shall be presumed to be the operator until the return of the vehicle.

(2) In the event that somebody uses a vehicle without the knowledge or against the wishes of the operator at the time of injury, the user instead of the operator shall be liable for the injury. In addition to the user, the operator shall continue to be liable provided he negligently made, such use of the vehicle possible; if a person close to the operator makes use of the vehicle in this way, it shall be presumed that the operator by his negligence made the use possible.

SECTION 3

If several persons are liable for the injury they shall be jointly and severally liable, unless hereinafter provided otherwise.

SECTION 4

(1) The operator and the person who in his stead or in addition to him, is liable for the injury, shall be relieved of the liability only in the event the injury:

1. was caused by the negligence of the aggrieved party; or
2. was caused by an act of a third party that could not be prevented; or
3. could not be prevented and was due neither to the condition of the vehicle or other operational facilities, not to the failure or deficiency of the operational facilities or organization of persons employed in the operation.

¹ The 1950 Civil Code (Law No. 141/1950 Coll.) hereinafter referred to as "Civil Code" has been replaced by the 1964 Civil Code, sec. 509(11) (Law 40/1964 Coll.), effective April 1, 1964. As of that date Law No. 63/1951 Coll. was abrogated.

² Damages, in general, are governed by Chapter XVI of the 1950 Civil Code, Law of October 25, 1950, No. 141/1950 Coll.

(2) The act of the aggrieved party for which he is not responsible because of his minority, or health, or mental derangement, or physical disability, shall be deemed his fault.

(3) A person employed in the operation shall not be considered a third party.

(4) The act of a third party and an injury shall be deemed unavoidable when they could not be prevented by the use of care required by the conditions.

SECTION 5

Compensation shall be paid for injury caused:

1. by death or bodily harm whether the injured party is or is not a passenger;

2. by destruction of, or injury to property of the injured party, or theft or loss thereof, provided the injured party has been deprived of the custody thereof;

3. by destruction or injury of other things other than by injury caused by damage, shortage, or loss of things being transported is concerned and as far as the liability for such injuries is not covered by other legal provisions or by agreement of the parties.

SECTION 6

When the injury or the extent thereof is partly due to the fault of the injured party or to the act of a third party, the party liable under this law shall pay compensation for it in proportion.

SECTION 7

(1) The substance and the extent of damages shall be governed by the Civil Code.

(2) The maximum of the compensation may be fixed by the Cabinet by decree.

SECTION 8

(1) If the injured party, for death or injury to health, collects benefits from the national insurance, military medical care or receives subsistence allowances of the members of the armed forces, the damages shall be reduced by the amount of these benefits.

(2) [Subsection 2 was abrogated by Law No. 58/1956 Coll.]

SECTION 9

If the conditions which are decisive for the determination of an annuity change substantially, the annuity may be decreased or increased, or its payment stopped, or the payment of the stopped annuity may be renewed.

SECTION 10. STATUTE OF LIMITATIONS AND OBLIGATION OF NOTIFICATION

(1) Claims for damages under this law shall be barred by the lapse of six months from the day when the injured party discovers the extent of the injury and the person liable therefor. If the injured party does not learn about the damage and the person liable, prosecution of

the claim shall be barred by the lapse of three years from the day when the injury was caused.

(2) Under this law, the injured party may claim damages only if he, within one month from the day he found out the person liable, notifies such person of the accident. If he does not take such action, the claim shall terminate unless the injured party is not responsible for expiration of the term or unless the person liable learned of the accident in another way within that time.

SECTION 11. EXCLUSION OF LIABILITY

Liability for injury caused by death or injury to health may not be excluded or limited under this law when it concerns passengers or persons who, are in a relationship of employer and employee and are regularly or for performance of specific work employed in the area of the operational facilities of the vehicle involved. Otherwise, liability may be excluded or limited only by an agreement in writing.

SECTION 12. EFFECT OF OTHER PROVISIONS

Unless the cases specified in Section 8, subsection 2 are involved, liability under the Civil Code shall not be excluded by this law except for liability for injury caused in the course of an operation which is especially dangerous. However, the party liable under this law shall always be liable for acts of the person employed in the operation.

SECTION 13. LIABILITY FOR INJURIES ARISING FROM COLLISION

Claims for damages accruing from a certain event to a party who would be liable under this law, against another party who would be liable under this law because of the same event, shall be adjudged according to the Civil Code; it shall not matter whether this event arose from the operation of the vehicle itself or from the fact that the operation of vehicles interfered with each other. Also persons employed in the operation shall be deemed liable under this law.

SECTION 14

(1) Third parties suffering injuries from the event arising from the interference of the above operations may assert their claims to damages under this law against any person who is liable for one of the operations. However, such party may request limitation of his liability for damages to that proportionate part of the injury which is commensurate with the share of its operation in causing the injury with respect to the share of the others; such limitation shall not affect the determination of the cost of the suit.

(2) During the time from bringing the action against the party liable for one operation until the conclusion of the proceedings, there shall run neither the period of limitation with respect to claims against the parties liable for the other operations nor any other term the expiration of which would entail legal prejudice.

SECTION 15

If liability for injury arising from the event specified in Section 13 is involved, claims of the survivors shall be adjudged under the same law (this law or the Civil Code) under which the claims of the decedent would be judged.

SECTION 16. JURISDICTION OF COURTS

(1) Claims for damages caused by the operation of a vehicle may also be brought before the court in whose area the injury was caused whether the proceedings are under this law or under the Civil Code.

(2) Claims for damages caused by interference of the operations may be brought against any of the liable parties (Section 14, subsections 1) before any court which has jurisdiction with respect to some of them.

CONCLUDING PROVISIONS

SECTION 17

All provisions now in force of the Law on Railroads, No. 86/1937 Coll., and on Motor Transport, No. 91/1935 Coll., as well as Sections 29 to 36, and 39 and 40 of Law on Aviation, No. 172/1925 Coll. shall be abrogated.

SECTION 18

This Law shall take effect on November 1, 1951; it shall be carried out by all the Members of the Cabinet.

*Law of September 24, 1956, No. 47, 1956 Coll. on Civil Aviation
(Aviation Law)*

CHAPTER I. INTRODUCTORY PROVISIONS

SECTION 1. PURPOSE OF CIVIL AVIATION

(1) The purpose of the Czechoslovak civil aviation is to provide transportation by air, ensure safety in civil aviation operations over the territory of the Czechoslovak Republic, and to satisfy other significant social needs.

(2) Czechoslovak civil aviation shall serve in particular:

- a) transportation by air, whether domestic or international, scheduled or nonscheduled, of passengers, baggage, goods, and mail,
- b) agriculture and forestry,
- c) scientific research work,
- d) cultural and popular educational purposes,
- e) public health,
- f) air sports.

SECTION 2. CONTROL OF CIVIL AVIATION

(1) The Ministry of Transport shall be charged with the promotion of civil aviation. It shall supervise and direct its activities and see to it that such activities conform with the provisions of the present law and regulations issued on the basis thereof, and in conformity with the state plan of development of the national economy.

(2) The Ministry of Transport also shall engage in scheduled and nonscheduled air service and provide air services for the agricultural and forest economy, and/or other air services.

SECTION 3. SOVEREIGNTY OVER THE AIRSPACE

The Czechoslovak state shall have complete and exclusive sovereignty over the airspace above its state territory.

CHAPTER II. AIRCRAFT

SECTION 4. DEFINITION OF AIRCRAFT

Under the present law, contrivances designed for flight, whether they are lighter or heavier than air, in particular airplanes, hydroplanes, helicopters, sailplanes, gliders, free or captive balloons and airships shall be deemed aircraft. Under the present law, models of aircraft for sport and model activities shall not be deemed aircraft.

SECTION 5. NATIONALITY AND REGISTRATION OF CIVIL AIRCRAFT

(1) A civil aircraft of Czechoslovak nationality shall be considered under this law as Czechoslovak civil aircraft. Civil aircraft registered in the Czechoslovak aircraft register shall have Czechoslovak nationality (Section 62).

(2) In the Czechoslovak aircraft register must be registered those civil aircraft which are under the management (are held in ownership) of Czechoslovak organizations in the socialist field or of Czechoslovak nationals.

(3) Registration in the Czechlovak aircraft register of a civil aircraft shall render ineffective its prior registration in the aircraft register of another State. The registration of Czechoslovak civil aircraft in the aircraft register of another State shall be deemed ineffective provided the registration of such aircraft has not been properly removed from the Czechoslovak aircraft register. The change of registration of civil aircraft from the Czechoslovak aircraft register of another State may take place only with the approval of the Ministry of Transport.

(4) A certificate of registration of civil aircraft in the Czechoslovak aircraft register shall be issued by the Ministry of Transport.

SECTION 6. OWNERSHIP OF CIVIL AIRCRAFT

(1) Civil aircraft may be held in socialist as well as in personal ownership.

(2) Civil aircraft which are national property shall be managed by the "Československé aerolinie" [Czechoslovak Airlines] set up within the Ministry of Transport for operation of air transport. With the consent of the Ministry of Transport, other socialist organizations may have civil aircraft under their management (in their ownership), but only for the fulfillment of their own tasks.

(3) Individual Czechoslovak nationals may hold civil aircraft in personal ownership only with the approval of the Ministry of Transport given in agreement with the Ministry of the Interior.

SECTION 7. MARKINGS

At the time of its registration in the Czechoslovak aircraft register, each civil aircraft shall be assigned a registration which the owner of the aircraft shall mark thereon next to the nationality marking.

SECTION 8. OPERATION OF CIVIL AIRCRAFT

Operation of civil aircraft in the territory of the Czechoslovak Republic shall require approval of the Ministry of Transport given in agreement with the Ministry of the Interior, except for aircraft which are managed by the Czechoslovak Airlines, and further except as specified in Section 47.

SECTION 9. CONSTRUCTION AND MANUFACTURE OF CIVIL AIRCRAFT

(1) Designs of aircraft designed for purposes of civil aviation, as to their construction and material, shall comply with technical conditions assuring the safety of flight operation.

(2) Special rules shall specify standards for the introduction of serial production of designs of aircraft designed for the purpose of civil aviation; the approval, required under these provisions, may be given only after the Ministry of Transport has given approval for the record in regard to technical compliance and economy of operation.

SECTION 10. EQUIPMENT FOR TELECOMMUNICATION AND ITS OPERATION

(1) The installation and operation of radio transmitting apparatus and other equipment for telecommunication and radio location aboard civil aircraft and for air-services in general shall be governed by specific provisions and agreements.

(2) Radio transmitting apparatus aboard Czechoslovak civil aircraft may be operated only by persons possessing the required certificate as radio telegraph and radio telephone operators.

SECTION 11. AIRWORTHINESS OF AIRCRAFT

(1) Civil aircraft may be used in air navigation provided it has a valid certificate of airworthiness, issued by the Ministry of Transport, or a valid certificate of airworthiness, issued by a foreign State and recognized in Czechoslovakia. This rule shall not apply to flights undertaken for the purpose of acquiring or extending the validity of a certificate of airworthiness.

(2) The Ministry of Transport shall issue a certificate of airworthiness of a civil aircraft only following verification that the civil aircraft concerned meets the requirements of safe[ty of] operation and following a test of its airworthiness, or on the basis of a certificate of operational safety and of a test of its airworthiness made abroad.

(3) Civil aircraft which was tested shall be subject to retesting following every substantial change of construction of its frame or equipment which may change the flight properties of the aircraft or its safety.

SECTION 12. DOCUMENTS CARRIED ON AIRCRAFT

Civil aircraft admitted to navigation shall carry during flight the following documents:

- a) a certificate of its registration in the aircraft register,
- b) its certificate of airworthiness,
- c) its log book or a document substituting for it,
- d) a license to install and operate such radio transmitting apparatus as may be aboard the aircraft,

- e) a list of passengers and of the places of departure and destination,
- f) a declaration of the cargo and/or other documents specified by the customs rules,
- g) other documents prescribed by the Ministry of Transport.

SECTION 13. PROHIBITION AGAINST TAKING CERTAIN ARTICLES ABOARD AN AIRCRAFT

For reasons of public safety, the Ministry of Transport in agreement with the Ministry of the Interior may specify the articles that may not be taken aboard a civil aircraft and/or specify conditions under which it is permissible to do so.

CHAPTER III. FLIGHT PERSONNEL OF CIVIL AIRCRAFT

SECTION 14

(1) The flight personnel of civil aircraft shall consist of the captain and the crew. A crew shall be assigned to such civil aircraft which, besides the captain, require service by special personnel during flight.

(2) Only a person who has a pilot's license may be captain of a civil aircraft. However, the Ministry of Transport or another authority designated by the same may, in individual cases, license a person who does not have such qualification as captain of an aircraft with several seats.

(3) The crew of a civil aircraft shall consist of a copilot (pilot not commanding the aircraft), a flight mechanic, a navigator, a flight radio operator, etc., and of further service personnel.

(4) Only a person who has a pilot's license may be charged with the flying of an aircraft.

(5) In the course of pilot training a pilot trainee may be the captain of a civil aircraft and fly it.

(6) Only Czechoslovak nationals may be members of the crew of Czechoslovak civil aircraft: in individual cases exceptions may be granted by the Ministry of Transport in agreement with the Ministry of the Interior.

SECTION 15. COMPETENCY OF FLIGHT PERSONNEL

(1) The members of the flight personnel of Czechoslovak civil aircraft shall be in good health and shall be prepared generally and technically for service in civil aviation. In addition, flight personnel shall obtain a certificate of competency for the assignment they have to perform; certificates of competency shall be issued by the Ministry of Transport.

(2) Pilots shall carry the competency certificate with them whenever they are on duty and shall present it to the authorities designated by the Ministry of Transport.

(3) Pilots of Czechoslovak civil aircraft shall be registered in the Czechoslovak aircraft register.

SECTION 16. COMPETENCY CERTIFICATES OF PILOTS FOR INTERNATIONAL NAVIGATION

(1) Pilots of civil aircraft engaged in international air navigation shall possess competency certificates (diplomas and airmen identity

cards) issued or validated by the State in which the aircraft is registered.

(2) The Ministry of Transport shall validate competency certificates granted, or recognized as valid by the State in which the aircraft is registered provided reciprocity is offered or the conditions under which such certificates were granted or validated equal or exceed the minimum conditions internationally prescribed.

(3) For the purpose of air navigation over the Czechoslovak state territory the Ministry of Transport may refuse to recognize a competency certificate granted to Czechoslovak citizens by another State.

(4) If, instead of diplomas and identity cards, a uniform certificate is introduced in some State, the provisions contained in Subsections 1 to 3 hereof, shall apply to such certificate.

SECTION 17. RESPONSIBILITY OF THE CAPTAIN

The captain of a civil aircraft shall bear full responsibility for the aircraft and its crew, for the preparation of each flight (Sec. 33) and for the completion of such flight.

SECTION 18. AUTHORITY OF THE CAPTAIN

(1) Orders of the captain of a civil aircraft issued within his authority shall be carried out by the crew and passengers.

(2) In the course of a flight, the captain of a civil crew shall have the power to take any necessary measures against persons, who, by their conduct, endanger the safety of the flight and fail to submit to his orders.

(3) If an offense has been committed aboard a Czechoslovak aircraft, the captain of the aircraft shall initiate the necessary investigation.

(4) Before the authority of jurisdiction takes over, the captain of a Czechoslovak civil aircraft shall perform all acts which cannot suffer delay. If necessary, he shall have any suspect temporarily detained, the passengers and crew searched, and the articles which may serve as evidence secured.

SECTION 19. MEASURES IN CASE OF DANGER AND ACCIDENT

(1) If a danger to a civil aircraft is imminent, the captain of the aircraft and the crew shall take any and every measure to save the passengers and the crew; the captain shall abandon the ship last.

(2) If an accident or emergency landing takes place, the captain of a civil aircraft shall protect the interests of the owner of the aircraft as well as the interests of the owners of the cargo; he shall have the right to act in their behalf and assume for them rights and obligations as far as it is necessary for the protection of their interests.

SECTION 20. ASSISTANCE IN DISTRESS

The captain of a civil aircraft who has received a distress signal of other aircraft or vessel or has found them in distress, shall render assistance, provided he is able to do so without danger to the aircraft entrusted to him and to the persons aboard the aircraft.

SECTION 21. DUTIES DURING THE WAR

During war aimed against the Czechoslovak Republic, the captain of a Czechoslovak civil aircraft shall take all measures to prevent an enemy from seizing the aircraft, its documents and cargo.

CHAPTER IV. AIR NAVIGATION FACILITIES ON THE GROUND

SECTION 22. LICENSING PROCEDURE

(1) Establishment of, or substantial changes in ground air navigation facilities (airports of every kind, buildings and related technical facilities, ground signals, etc.) requires prior approval by the Ministry of Transport which shall make decisions in agreement with the central authorities concerned. The Ministry of Transport, whenever feasible, shall see to it that proceedings required by other regulations are combined with the proceeding concerning approval. The approval may provide for conditions and limitations.

(2) All approved ground air navigation facilities shall be registered in the Czechoslovak aircraft register.

SECTION 23. EXPROPRIATION

Regulations concerning expropriation for the purposes of railroads shall apply by analogy to the expropriation of land and rights necessary for the purposes of ground air navigation facilities; in particular, to expropriation proceedings, to the manner and time of payment of compensation for the expropriation, to entry on the expropriated land and its use before the institution of appropriation proceedings.

SECTION 24. RESTRICTED AREAS

To assure the safety of air navigation and the reliability of operation of radio and other safety installations, restricted areas in which it is prohibited to erect buildings or other facilities or plantings, or to let them grow above a prescribed height, and to place lights which may obstruct air navigation, may be designated at airports, near radio or other navigation facilities and along runways (Sec. 31, Subsection 2).

SECTION 25. PUBLIC AIRPORTS

(1) A civil airport, which within its technical and operational capacity, is open to all civil aircraft authorized to make flights in the Czechoslovak Republic shall be deemed a public airport. Public airports designated for scheduled air service, shall be established by the Ministry of Transport and operated by its organs.

(2) The use of a public airport operated by the Ministry of Transport through its organs for training purposes, experimental and test flights, shall be permitted only with the approval of the Ministry of Transport.

SECTION 26. AIRPORT ADMINISTRATION AND AIRPORT REGULATIONS

(1) The airport administration headed by the airport manager shall direct the operation of civil airports, maintain the same and take

all measures in accordance with their customary use. The airport administration shall be set up by the operator of an airport.

(2) Airport regulations shall govern, in detail, the airport operation and discipline of civil airports. For public airports operated by the Ministry of Transport through its organs, airport regulations shall be issued by that Ministry. For other civil airports, airport regulations shall be issued by their operators upon approval by the Ministry of Transport; if the airports are also used periodically by military aircraft, airport regulations also require approval by the Ministry of Defense.

SECTION 27. ESTABLISHMENT OF DAY, LIGHT, AND RADIO SIGNALS

(1) Owners (users) of land and property on which day, light, or radio signals are to be set up for assuring the safety of navigation shall permit, for a reasonable consideration, the setting up, placing and service thereof; however, state socialist organizations are not entitled to a consideration if the same is ruled out by special regulations.

(2) On land and property held in national ownership and which serve public purposes, day, light, and radio signals may be set up only in agreement with the organizations managing such property.

SECTION 28. DISPOSAL OF AIR NAVIGATION FACILITIES ON THE GROUND

Air navigation facilities on the ground which are not operated by the Ministry of Transport may be disposed of only with the approval of the Ministry of Transport in agreement with the Ministry of National Defense. This shall apply, in particular, to the change of the purpose of such facility and to its discontinuation.

SECTION 29. AIRPORT AND LIMITED CHARGES

(1) Charges prescribed on the basis of regulations concerning planning and prices shall be imposed for the use of public airports and air navigation facilities.

(2) The Ministry of Transport, in agreement with the Ministry of Finance, may grant exemption from payment of charges or reduce the same.

(3) The duty to pay charges shall not apply to aircraft of the armed forces.

CHAPTER V. FLIGHTS

SECTION 30. ASSURING THE SAFETY OF THE OPERATION OF CIVIL AIR NAVIGATION

(1) The operation of civil air navigation within the Czechoslovak Republic shall be organized, controlled, and assured by the Ministry of Transport by way of a dispatcher service.

(2) Regulations for flights (flight regulations) applied to civil aircraft shall be obligatory also for other aircraft moving along air routes, in the vicinity of airports, or areas adjacent thereto (Sec. 31, Subsecs. 1 and 2).

SECTION 31. KINDS OF FLIGHTS, FLIGHT LINES AND FLIGHT ROUTES

(1) In the airspace of the Czechoslovak Republic civil aircraft may undertake:

- (a) flights within the airspace, i.e., above an airport and above the prescribed adjacent space,
- (b) scheduled transport (service) flights,
- (c) non-scheduled flights.

(2) Scheduled transport service flights shall be made along flight lines prescribed by the Ministry of Transport in agreement with the Ministry of National Defense. A flight line is an approved permanent air route for scheduled flights of transport aircraft between two or several points. For the sake of safety of flight, the flight route, i.e., the territory along the flight line and the airspace above the same within which the flight is made, as a rule, shall be delineated.

(3) The air route or, as the case may be, the airspace for non-scheduled flights shall be approved by the organs of the Ministry of Transport for each individual flight.

SECTION 32. ADMITTANCE TO FLIGHT

Civil aircraft may be admitted to flight provided the crew which has been assigned [to the aircraft] is competent for the kind of civil aircraft and for the conditions of the flight made by the aircraft and provided further, that there are aboard the aircraft

- a) the documents to be carried by the aircraft (Sec. 12),
- b) a certificate of inspection of the aircraft made before the flight (Sec. 33, Subsec. 1),
- c) the navigation charts and other navigation documents prescribed by the Ministry of Transport,
- d) the necessary instruments and other equipment.

SECTION 33. PREPARATION OF FLIGHT

(1) Any flight of a civil aircraft may be made only upon preceding preparation and technical inspection of the aircraft, checking of the condition of its crew and ground air navigation facilities at the place of departure, at the place of destination, as well as along the route, and upon ascertaining the weather conditions.

(2) The captain of a civil aircraft shall be responsible [for seeing] that

- a) the aircraft and its appurtenances are in proper technical condition,
- b) the aircraft carries navigation documents (Sec. 32, Clause c)) and that he is acquainted with their contents.
- c) there is aboard the aircraft sufficient fuel and lubricants for the flight,
- d) the maximum permissible load of the aircraft for takeoff or landing has not been exceeded and the load is properly distributed and safe from shifting,
- e) the crew of the aircraft is competent to fly,
- f) proper pre-flight arrangements have been made.

(3) The manager of a public airport shall be responsible for

- a) the proper condition of the airport and its technical facilities,
- b) the organization of flights and assuring the safety, regularity and control of flights in the prescribed space,
- c) checking of the condition of the crew of aircraft and the prescribed certificates of the pilots (Sec. 15, Subsec. 2),
- d) checking of the markings (Sec. 7), signaling and communications equipment of the aircraft as well as the prescribed documents to be carried on the aircraft,
- e) checking of the certificate concerning the technical inspection of the aircraft made before the flight,
- f) checking of the documents concerning the proper loading of the aircraft,
- g) procurement of information on weather conditions.

SECTION 34. FLIGHT

(a) A flight may be made only on the basis of a flight schedule or flight plan and provided the manager of the airport permits the take-off.

(b) The take-off of a civil aircraft from a place other than an airport shall be made in accordance with flight regulations and on the order of the captain of the aircraft; in that case he shall be fully responsible for the take-off.

SECTION 35. FLIGHT WITH PASSENGERS ABOARD

Flight with passengers aboard shall be permissible only from approved airports and in aircraft approved for such purpose and flown by pilots whose competency is in accordance with the conditions prescribed for flying such aircraft.

SECTION 36. FLIGHT ABOVE BUILT-UP AREAS, EXPERIMENTAL AND ACROBATIC FLIGHTS

(1) In case of flights above areas continuously built-up or open areas with big crowds of people, civil aircraft, except for the start and landing, must maintain an altitude making safe landing possible at any time either on an airport or outside a continuously built-up or [densely] populated area, even without engine power.

(2) Experimental and acrobatic flights as well as parachuting above continuously built-up areas and above areas where admittance is freely possible, shall be prohibited; exceptions may be granted by the Ministry of Transport.

(3) Experimental and acrobatic flights and parachuting above prohibited parts of the airport area and in the area of flight routes shall be permitted, except in an emergency, only with the approval of the organs of the Ministry of Transport and in other parts of the airspace only with the approval of the Ministry of National Defense.

(4) Air shows and airmen's contests open to the public may be held with the permission of the Ministry of the Interior issued in agreement with the Ministry of Transport.

SECTION 37. ACTIVITIES PROHIBITED DURING FLIGHT

Generally, during a flight it shall be prohibited for civil aircraft

- a) to drop any objects except in case of necessity or during

permitted bailing out; exceptions may be granted by the Ministry of Transport in agreement with other ministries concerned;

b) to take photographs or motion pictures; exceptions may be granted by the Ministry of National Defense in agreement with the Ministries of the Interior and Transport;

c) to use telecommunications equipment, especially radio transmitting apparatus, for purposes not connected with the needs of the flight; exceptions may be granted by the Ministry of Communications in agreement with the Ministries of the Interior and Transport.

SECTION 38. PARTICIPATION IN TEST FLIGHTS

In flights of civil aircraft for which no certificate of airworthiness has been issued, only those persons may participate who are charged to flight test the aircraft, engines, instruments or other equipment of the aircraft.

SECTION 39. PILOTLESS FLIGHTS OF AIRCRAFT

No aircraft capable of being flown without a pilot shall be flown above the territory of the Czechoslovak Republic except with the permission of the Ministry of Transport which may prescribe special terms for such flight, in particular, to assure the safety of air navigation.

SECTION 40. METEOROLOGICAL SERVICE

Meteorological service for civil aircraft shall be provided by the organs of the state meteorological service in accord with the requirements of the Ministry of Transport.

SECTION 41. TELEPHONE AND TELEGRAPH COMMUNICATIONS

To the extent prescribed by the regulations of telecommunication, telephone calls and telegrams between airports concerning the safety and control of flights shall have priority over other telephone calls and telegrams.

SECTION 42. PROHIBITED AREAS

(1) Flights above certain territorial areas may be temporarily or permanently prohibited or limited for reasons of national defense or security and for other reasons of public interest (prohibited areas). The necessary steps shall be taken by the Ministry of Transport in agreement with the central authorities concerned.

(2) In extraordinary circumstances the Cabinet may prohibit with immediate effect flights above the entire territory of the State for all civil aircraft.

SECTION 43. OBLIGATORY CHANGE OF THE FLIGHT ROUTE, OBLIGATORY LANDING

(1) Civil aircraft which finds itself outside a demarcated flight route, outside an approved flight line (Sec. 31), or above a forbidden area (Sec. 42) shall, as soon as it ascertains it, change its route and im-

mediately return as quickly as possible to the delineated air route or approved line, and/or leave the forbidden area.

(2) If a civil aircraft is signaled to land, it shall land at the place designated to it; if the place has not been designated, [it shall land] at the nearest place suitable for safe landing. The landing must be reported without delay to the nearest security agency. If the aircraft does not obey the signal to land, after a second signal it may be forced to land.

(3) If a civil aircraft gets a signal that landing is not permitted, it shall change its flight route and continue the flight along the delineated air route or approved flight line to the nearest suitable airport and land there.

SECTION 44. LOCAL ASSISTANCE IN CASE OF ACCIDENT OF A CIVIL AIRCRAFT

If an accident or an emergency landing of a civil aircraft takes place, or if the aircraft cannot continue the flight because of a death, injury or illness of members of the crew, the executive authority of the nearest people's committee [local governmental units] acting in agreement with security agencies shall render the necessary assistance, take care of the aircraft, its crew, passengers and cargo, and inform the Ministry of Transport of [the occurrence] as quickly as possible.

SECTION 45. ADMINISTRATIVE INVESTIGATION OF FLIGHT ACCIDENTS

(1) Administrative investigation of the causes of flight accidents shall be conducted by the Ministry of Transport in cooperation with the authorities concerned.

(2) The organs of the Ministry of Transport conducting such examination shall have the right to take all measures that may lead to ascertaining the cause of the accident: especially, they may require the persons involved in the accident and other persons who may be expected to give information on important circumstances to testify. If the organs of the Ministry of Transport ascertain that there is probable cause to believe that a felony or misdemeanor has been committed, they shall inform the organs having jurisdiction to conduct the examination.

CHAPTER VI. INTERNATIONAL FLIGHTS

SECTION 46. INTERNATIONAL FLIGHTS

(1) Every flight of a civil aircraft in which the designated air route or the approved flight line crosses the national borders of the Czechoslovak Republic shall be deemed an international flight.

(2) Apart from general flight regulations (Chapter V), the provisions contained in Sections 47 to 52 shall apply to international flights.

SECTION 47. SCHEDULED INTERNATIONAL SERVICE BY FOREIGN CIVIL AIRCRAFT

(1) Civil aircraft not registered in the Czechoslovak Aircraft Register (hereinafter called "foreign aircraft") which are engaged in scheduled international air service may make flights over the national borders of the Czechoslovak Republic only if the operation of the scheduled foreign international air service in which the foreign air-

craft are engaged has been specifically authorized under the international aviation agreement concerned.

(2) A license under Subsection 1 shall be granted by the Ministry of Transport in agreement with the Ministry of Foreign Affairs.

(3) The license shall also specify—

a) The crossing point, i.e., the sector within which foreign aircraft shall cross the national borders of the Czechoslovak Republic when entering and departing as well as the altitude during the crossing of the national border,

b) the air route (Sec. 31, Subsec. 2) and the place of obligatory and permissible landing,

c) the time of validity of the license.

(4) If no aviation agreement has been entered into, temporary scheduled international air service may be licensed by the Ministry of Transport in agreement with the Ministry of Foreign Affairs.

(5) Any license granted shall be recorded in the Czechoslovak Aircraft Register.

SECTION 48. INTERNATIONAL FLIGHTS OF CZECHOSLOVAK CIVIL AIRCRAFT

Civil aircraft registered in the Czechoslovak Aircraft Register may fly beyond the national borders of the Czechoslovak Republic only with prior authorization by the Ministry of Transport. This provision shall not apply to flights operated by the Czechoslovak Air Lines in scheduled international service.

SECTION 49. OBLIGATORY LANDING OF CIVIL AIRCRAFT DURING INTERNATIONAL FLIGHT UNDER EXTRAORDINARY CIRCUMSTANCES

(1) A civil aircraft which, in distress or for any other reason, crosses the national borders of the Czechoslovak Republic outside the designated crossing sector or deviates from the prescribed air route or approved flight line shall, as soon as it ascertains such fact or as soon as it is signalled to land, immediately land at the place designated or, if there has been no designation, at the nearest airport within the territory of the Czechoslovak Republic. The landing of an aircraft shall be reported immediately to the nearest security agency.

(2) If the aircraft does not obey the signal to land, after a second signal it may be forced to land.

(3) Civil aircraft which has landed under circumstances specified in the preceding subsections may continue the flight only if authorized by the Ministry of Transport in agreement with the Ministry of the Interior.

SECTION 50. BORDER CONTROL, CUSTOMS AND FOREIGN EXCHANGE REGULATIONS

In engaging in international air navigation civil aircraft shall also observe border control, customs and foreign exchange regulations.

SECTION 51. EXAMINATION OF THE AIRWORTHINESS OF FOREIGN AIRCRAFT

Foreign aircraft may be subject to examination to ascertain their airworthiness provided

a) the statutory conditions prescribed in Section 11, Subsection 1 have not been fulfilled,

b) an accident takes place,

c) technical defects of the aircraft appear.

SECTION 52. UNSCHEDULED INTERNATIONAL FLIGHTS OF FOREIGN AIRCRAFT

Unscheduled international flights of foreign aircraft across the borders of the Czechoslovak Republic may be made only with permission issued by the Ministry of Transport in agreement with the Ministry of Foreign Affairs. In issuing such permission the Ministry may require that the foreign aircraft land within the territory of the Czechoslovak Republic and/or may subject the foreign aircraft to additional restrictions.

CHAPTER VII. AIR SERVICE

SECTION 53. DOMESTIC AIR SERVICE

Scheduled domestic air transportation of passengers, baggage, goods and mail, as well as unscheduled air services for remuneration may be operated only by the Czechoslovak airlines.

SECTION 54. INTERNATIONAL AIR SERVICE

Unless international agreements provide otherwise, the provisions of this Chapter shall apply to international air transportation of passengers, baggage, and goods.

SECTION 55. AIR SERVICE REGULATIONS

(1) The general conditions under which the Czechoslovak airlines operate transportation services for passengers, baggage, and goods shall be prescribed by the Air Service Regulations to be issued by the Ministry of Transport.

(2) The Air Service Regulations may

a) [Abrogated by sec. 509(11) of Law No. 401 1964.]

b) exclude some articles from air transportation and/or impose special terms for their air transportation,

c) provide that whoever, by the violation of this Regulation, causes damage to the Czechoslovak airlines shall be liable for payment of compensation to an extent prescribed by the schedule of rates (Sec. 56).

(3) With the consent of the Ministry of Transport, the Czechoslovak airlines may prescribe detailed terms for transportation.

SECTION 56. SCHEDULE OF RATES

The Czechoslovak airlines shall compile schedules of rates in accordance with the State Plan for the Development of the National Economy, regulations concerning planning, prices, and principles of *choz-razčot* [principles governing husbandry according to budget]. The schedule of rates must show the basis for determining the amount of the fares and freight and/or the price of passenger tickets and the amount of freight on particular lines.

SECTION 57. AIR MAIL SERVICE

The air mail service operated by the Czechoslovak airlines shall be governed by an agreement between the Ministries of Communications and Transport.

CHAPTER VIII. LIABILITY FOR DAMAGE CAUSED BY THE OPERATION OF CIVIL AIRCRAFT LIABILITY OF AIR CARRIERS

SECTION 58. LIABILITY OF THE OPERATOR OF CIVIL AIRCRAFT

[Abrogated. See section 55(2)a), *supra*.]

SECTION 59. LIABILITY IN AIR TRANSPORTATION OF GOODS AND MAIL

[Abrogated. See section 55(2)a), *supra*.]

(2) In regard to air transportation of mail the Czechoslovak airlines shall be liable to the administration of communications to such an extent as the latter is liable to persons who avail themselves of postal services and foreign postal administrations.

SECTION 60. LIMITATION OF LIABILITY

[Abrogated. See section 55(2)a), *supra*.]

SECTION 61. INSURANCE AGAINST CONSEQUENCES OF LIABILITY

(1) Czechoslovak aircraft operators shall enter into contracts with the Government Insurance Company concerning insurance against the consequences of liability to secure the claims for which they are liable according to the provisions specified in Sections 56 to 60 and according to international agreements, and shall have to show to the Ministry of Transport before starting operation that such contracts were concluded.

(2) Policyholders shall always show to the Ministry of Transport that the premium was paid in time.

CHAPTER IX. CZECHOSLOVAK AIRCRAFT REGISTER

SECTION 62

(1) The Czechoslovak Aircraft Register shall be kept by the Ministry of Transport. The following shall be registered

- a) Czechoslovak civil aircraft (Sec. 5),
- b) flight personnel (Sec. 15, Subsec. 3),
- c) ground air navigation facilities (Sec. 22), and
- d) licenses of operation of scheduled foreign international air carriers (Sec. 47).

(2) The documents containing the originals or certified copies of instruments, administrative decrees and other documents, on the basis of which entries in the register were made, shall be a constituent part of the Register.

(3) The Czechoslovak Aircraft Register shall not be open to the public. Persons proving a lawful interest shall be permitted to inspect the register entry or document in the Collection of Documents concerned and may request their full or partial copying.

CHAPTER X. SPECIAL PROVISIONS CONCERNING THE AIR NAVIGATION
ACTIVITIES OF THE VOLUNTARY ORGANIZATION TO PROMOTE DEFENSE,
EDUCATION, AND AVIATION SPORTS

SECTION 63. DEVIATIONS FROM THE PROVISIONS OF THE PRESENT LAW

(1) The provisions of the present law shall apply to the air activities carried on for the purposes of defense, education, and aviation sports by the voluntary organization designated by the Cabinet (hereinafter called "organization") with the following deviations:

a) Flight personnel aboard an aircraft operated by the organization, during a flight over the national borders of the Czechoslovak Republic, as well as flight personnel aboard aircraft with more than one engine and aircraft of a weight of over 4,000 kilograms, shall have the competency certificate of flight personnel (Sec. 15, Subsec. 1). Other flight personnel shall have a competency certificate issued by the organization according to the provisions of the same.

b) Exception to the provisions of Section 14, Subsection 6 may be granted in individual cases by the organization in agreement with the Ministry of the Interior.

c) The organization shall have the right to dispose of its own ground air navigation facilities, except for fixed air navigation safety facilities, without an agreement with the Ministry of Transport (Sec. 28); however, it shall report to the Ministry of Transport any removal, change in designation, or termination within such time as to enable the Ministry of Transport to take measures to secure the interests of civil aviation.

d) Administrative inquiry into the causes of air accidents of aircraft operated by the organization shall be conducted by the organization. However, the organization shall report air accidents to the organs of the Ministry of Transport concerned. The Ministry of Transport may take part in the inquiry. If the organs of the organization ascertain that a probable cause of a crime or misdemeanor is involved, they shall notify the authorities charged with the inquiry.

(2) The Ministry of Transport may grant to the organization exceptions to the provisions of Chapter V of the present law insofar as it is justified by the special character of its air activities and insofar as this may be done without prejudice to the safety of air operations.

(3) In regulating the air activities of the organization, the Cabinet shall have the right to deviate from the provisions of the present law and, if the interest of defense education so requires, it may exempt the organization entirely from the application of the present law.

SECTION 64. AIR ACTIVITIES OF THE ORGANIZATION

(1) The organization shall conduct air defense education under special provisions. For this purpose it shall have the right to direct and regulate its air activities by its own particular directives.

(2) Issuance of particular directives under Subsection 1 shall require prior approval by the Ministries of Transport and National Defense insofar as these directives

a) regulate conditions for obtaining competency certificates of flight personnel and management of air operations,

b) deviate from the regulations of the Ministries of Transport and National Defense which govern air operations within the territory of the Czechoslovak Republic.

(3) The provisions of Section 2, Subsection 1, on inspection by the Ministry of Transport shall not apply to matters of defense education proper.

CHAPTER XI. FINAL PROVISIONS

SECTION 65. INTERNATIONAL AGREEMENTS

(1) International Agreements, in particular agreements on telecommunication facilities and their operation, inquiries into accidents of aircraft, international flights and liability in international air service shall not be affected by the present law.

(2) International mail service which is not performed by the Czechoslovak airlines shall be governed by international mail agreements.

SECTION 66. WITHDRAWAL OF AIR NAVIGATION LICENSES

The Ministry of Transport may temporarily or permanently withdraw authorizations, competency certificates, or licenses issued under the present law or under regulations issued thereunder if the non-withdrawal of such authorization, certificate, or license would prejudice the safety of air operations or other public interests.

SECTION 67. AUTHORITY OF THE MINISTRY OF TRANSPORT

(1) To implement the present law, the Ministry of Transport shall issue, in agreement with the central authorities concerned, regulations regarding—

1. the division of the airspace above the territory of the Czechoslovak Republic for the purpose of direction of air navigation operation (Sec. 3),

2. classification of aircraft (Sec. 4),

3. terms for the granting and withdrawal of approval of management (ownership) and operation of civil aircraft (Sec. 6, Subsecs. 2 and 3, and Sec. 8),

4. identification markings and other data on civil aircraft and the manner of marking them (Sec. 7),

5. technical terms for construction and manufacture of civil aircraft (Sec. 9),

6. the manner of proving the safety of operation and conducting tests of civil aircraft, their engines, the contents of certificates of airworthiness and the period of validity of such certificates as well as the duty of operators of civil aircraft to keep special records on the condition of aircraft and their engines (aircraft and engine logbooks (Secs. 11 and 51)),

7. blank forms of documents to be carried aboard aircraft and rules for making entries in these documents (Sec. 12),

8. the composition of the crews of civil aircraft as well as the conditions under which a student pilot may be permitted to fly an aircraft (Sec. 14),

9. the terms of employment in civil air navigation, holding professional examinations (regulations for examinations) and terms for obtaining certificates of competency of flight personnel, kinds of certificates, their contents, the period of their validity and other requirements (Sec. 15),

10. contents and supporting documents of applications for establishment of, or substantial changes in ground air navigation facilities, licensing procedure and making decisions (Sec. 22), prescribing in particular which facilities shall be subject to licensing procedure,

11. the designation of restricted areas (Sec. 24),

12. the manner and terms for building and equipping civil airports and for fixing flight routes as well as for management of public airports (Secs. 25 and 26),

13. erecting signs and [establishing the] compensation for the use of the land and property [upon which they are erected] (Sec. 27),

14. particulars concerning the manner, terms and procedure of flights within the airspace above the territory of the Czechoslovak Republic and the operation of traffic dispatchers, communications, radio navigation, radio location and light signal service (Sec. 30),

15. particulars on kinds of flight, flight lines, flight routes, zones of border crossings and areas adjacent to airports (Secs. 31 and 47 (Clause a)),

16. aircraft equipment, in particular the kind of instruments and other facilities aboard aircraft that are required for various kinds of flights (Sec. 32),

17. cooperation between the organs of the navigation dispatcher services and the organs of state meteorological services in matters concerning the performance of navigation meteorological services (Sec. 40),

18. administrative inquiry into aircraft accidents (Sec. 45),

19. particulars of insurance against the consequences of liability (Sec. 61),

20. procedure in the case of registration in the Czechoslovak aircraft register, the contents of registration, procedure in case of change in registration, cancellation or transfer of registration to the register of a foreign country as well as the terms of issuance and withdrawal of certificates concerning the registration of aircraft in the Czechoslovak aircraft register (Sec. 62).

(2) The Ministry of Transport may prescribe exceptions for civil aircraft assigned exclusively for test flights, training flights or sports flights. The Ministry of Transport may also regulate the licensing of temporary areas for take-off and landing and dispose in regard to them at variance with the provisions contained in Sections 22 and 28, and in agreement with the Ministry of National Defense [may regulate] the approval of [air] routes and/or airspace for unscheduled flights at variance with the provisions [contained] in Section 31, Subsection 3.

SECTION 68. JURISDICTION UNDER THE PRESENT LAW [ENFORCEMENT OF THE PRESENT LAW]

Jurisdiction under the present law shall be exercised by the Ministry of Transport and other ministries concerned as well as by the central authorities either directly or through subordinate organizational units.

SECTION 69. PROVISIONS OF REPEAL

All enactments dealing with matters governed by the present law shall be repealed; in particular, the following shall be repealed:

1. Law No. 172/1925 on Aviation as amended by Law No. 48/1930,
2. Cabinet Decree No. 148/1937 containing rules on foreign aircraft,
3. Cabinet Decree No. 202/1937 Prescribing Zones for Aircraft Crossing the State and/or Customs Borders Common with Germany and Austria and Rules for such Crossing,
4. Cabinet Decree No. 107/1938 Prohibiting and/or Limiting Flights over Certain Territorial Areas (Prohibited Areas).

SECTION 70. EFFECTIVE DATE

The present law shall become effective on January 1, 1956; it shall be implemented by the Minister of Transport in agreement with other Cabinet members concerned.

NO. 31

PROCLAMATION OF THE MINISTRY OF TRANSPORT OF MARCH 15, 1960 ON AIR SERVICE REGULATION

Under Section 55, Subsection 1 of Law No. 47/1956 on Civil Aviation (Aviation Law), the Ministry of Transport hereby issues the following

AIR SERVICE REGULATIONS

SECTION 1. SCOPE OF APPLICABILITY

The Air Service Regulations shall apply to all domestic and international transportation by air of passengers, baggage, and goods, including services connected therewith, operated by the Czechoslovak airlines (hereinafter called "carrier").

SECTION 2. CARRIERS' ACTIVITIES

(1) In agreement with the State Plan of Development of the National Economy, carriers shall engage in scheduled transportation by air under flight timetables, and in non-scheduled transportation by air under [special] arrangement.

(2) Carriers shall have the right to provide transportation by land of passengers, baggage and goods to and from airports or from other landing areas and organize the delivery of baggage and goods to the consignee.

(3) Carriers shall engage in activities resulting from being general agents of foreign air carriers in the C[zecho]S[lovak]R[epublic] and shall receive passengers, baggage, and goods for transportation on their own lines.

(4) In international air service a carrier may substitute other air carriers.

SECTION 3. ACCEPTANCE FOR TRANSPORTATION

The carrier shall accept passengers, baggage, and goods for transportation at his place of business at airports and transportation offices.

SECTION 4. TRANSPORT CONDITIONS

Detailed provisions on transportation by air of passengers, baggage and goods shall be included in detailed transportation conditions issued by the carrier in agreement with the Ministry of Transport. (Fares and freight charges shall be specified by rate schedules issued by the Czechoslovak airlines.)

PART II. TRANSPORTATION BY AIR OF PASSENGERS AND BAGGAGE

SECTION 5. ARRANGEMENT OF TRANSPORTATION

The transportation of passengers and baggage shall be carried out according to published flight timetables (scheduled air service) or by agreement (non-scheduled air service).

SECTION 6. AIR TICKETS

(1) All passengers shall obtain a flight ticket before departure; the carrier shall deliver a flight ticket to every passenger after payment in full of the fare. The carrier shall have the right to refuse the transportation of a person who does not have a valid air ticket.

(2) If the flight ticket is nominative, it shall not be transferable.

SECTION 7. THE RIGHT TO TRANSPORTATION BY AIR

(1) A passenger's right to a seat on an aircraft for a certain flight shall be assured provided he has obtained an air ticket for such flight and the reservation of the seat was acknowledged.

(2) If the passenger does not use the seat reserved for him aboard the aircraft, the carrier shall return the fare to him or such part thereof as specified in the conditions of the transport regulations.

(3) Special terms may be specified for transportation by air of children as far as the adult accompanying the children, fare and the right to the transportation of baggage are concerned.

(4) Persons afflicted with contagious diseases subject to report shall be excluded from transportation by air.

(5) The carrier may refuse the transportation of a passenger or exclude a passenger from transportation

a) if the rules on air navigation so require,

b) [if it is] in the interest of the safety of transportation or public order, or for other reasons which might lead to the annoyance of other passengers or which might endanger their safety.

The carrier shall have the right to prescribe special terms in this respect.

SECTION 8. DUTIES OF PASSENGERS

(1) Upon request by the carrier's employees in charge, a passenger shall identify himself.

(2) Aboard an aircraft, and in boarding and alighting from an aircraft or during ground transportation, a passenger must [conduct himself] in such a manner as not to annoy other passengers and he shall observe the instructions of the carrier or of his personnel.

SECTION 9. BAGGAGE

(1) All passengers shall be entitled to the transportation of their baggage without charge up to a weight specified in the transportation rules (free baggage). For the transportation of baggage exceeding this weight, the passenger shall pay, at the time of the booking of the flight, the freight according to the table of rates (excess baggage).

(2) The wrapping, size, and contents of the baggage must satisfy the specifications in the transportation rules of the carrier.

(3) Baggage shall be transported either unregistered or registered.

SECTION 10. UNREGISTERED BAGGAGE

(1) Articles which a passenger carries during a flight with the approval of the carrier and which he takes care of himself shall be transported as unregistered.

(2) Detailed transportation rules shall specify which articles a passenger may carry during the flight and which shall not be included in the weight of the baggage.

(3) At the same time the transportation rules shall specify the articles which a passenger may not carry during the flight.

SECTION 11. REGISTERED BAGGAGE

Registered baggage shall be carried in scheduled air service in the baggage compartment [and] as far as possible aboard the same aircraft as the passenger; if transportation aboard the same aircraft is not possible, aboard the next aircraft (earlier or later).

SECTION 12. CONTENTS OF BAGGAGE

The following articles may be transported only with the prior approval of the carrier and under the conditions specified by him:

a) dangerous articles (explosives, poisons, caustics, radioactive substances, substances liable to spontaneous combustion, firearms, etc.),

b) articles which, due to their nature, may cause harm, endanger flight safety, or annoy passengers.

SECTION 13. EXAMINATION OF CONTENTS OF BAGGAGE

(1) Upon request by the carrier, a passenger shall declare the contents of his baggage. The carrier shall have the right to examine the contents of the baggage in the passenger's presence; if the passenger is not present the examination must be conducted in the presence of at least one witness who is not in the carrier's employ.

(2) In case the baggage contains articles whose transportation in baggage is not permitted or which, due to their nature or their wrapping, do not conform to the practices of the carrier, may be excluded from transportation before the flight or in the course of transportation; the carrier shall have the right to compensation according to the schedule of rates.

SECTION 14. BOOKING OF REGISTERED BAGGAGE

(1) In booking [registered] baggage the carrier shall enter the weight and number of pieces on the flight ticket of the passenger. A baggage tag shall be attached to each piece [of the baggage] and the stub shall be handed to the passenger.

(2) In case the article being booked as baggage is damaged, the carrier shall have the right to make a note of it in the transportation document or to make a record thereof and to ask the passenger to acknowledge the accuracy of the note or the record. Otherwise, the carrier shall have the right to refuse to accept the damaged baggage for transportation.

SECTION 15. RETURN OF REGISTERED BAGGAGE

(1) The carrier shall return the baggage upon presentation of the flight ticket and surrender of the stubs for the individual pieces.

(2) The passenger and/or the person in possession of the flight ticket shall have the right to request the acknowledgement of

a) reservation with respect to the condition of the baggage when issued,

b) the day and hour when he asked for the baggage, provided it has not been issued for him.

(3) If the passenger or person possessing the air ticket accepts the baggage without reservation when issued, it shall be assumed that it was issued in good condition.

SECTION 16. PETS

(1) Dogs for the blind shall be transported free of charge provided they accompany the blind [persons] depending on them and are muzzled, equipped, and trained by an organization officially authorized to do so.

(2) Other pets shall be carried as baggage in receptacles in the baggage space for freight according to the table of rates, and their weight, including the weight of the receptacle, shall not be included in the weight of the baggage free of charge.

SECTION 17. FLIGHT SCHEDULES—CANCELLATION OF FLIGHTS

(1) Flight schedules for domestic air service shall be prescribed by the carrier in agreement with the State air navigation administration, taking into consideration the views of the executive agencies of the people's committees [administrative bodies] concerned, and flight schedules in international air service, in agreement with the air navigation administrations and international air carriers concerned.

(2) The carrier shall not be liable for the beginning and completion of the transportation within a certain period of time so far as the delay takes place for reasons for which he is not responsible.

(3) The carrier shall have the right to change flight schedules because of emergencies.

(4) For meteorological, technical, and other reasons for which he is not responsible, the carrier shall have the right to cancel flights and provide substitute transportation by another aircraft or by different (means of) transportation, and/or return to the passenger the fare or portion thereof for the unused part of the route; in case of transportation by a different means, the carrier shall repay the fare difference to the passenger.

SECTION 18. OVERPAYMENTS AND ARREARS [OF PAYMENT]

(1) Overpayments originating in faulty computation of the fare and/or other compensation according to the table of rates shall be repaid and arrears originating in the same way shall be paid.

(2) Transport regulations may prescribe that the provision in Subsection 1 shall not apply to overpayments and/or arrears not exceeding certain amounts.

(3) If the address of the passenger is known to the carrier, he shall repay the overpayment to his address on his own initiative.

SECTION 19. NON-SCHEDULED AIR SERVICE

(1) Non-scheduled air service shall be arranged by acceptance and acknowledgement of the offer thereof.

(2) The customer may cancel the flight order, at the latest, within the time prescribed by the carrier in the notification of acceptance and acknowledgement of the order and/or in the transportation regulations. If he does not do so within such period of time, he shall, in cancelling the flight, compensate the carrier for expenditures caused by the fact that he made preparations for the flight in vain, or pay a compensation agreed upon in advance.

(3) The provisions in Sections 7 to 16 (except for the provision in Section 7, Subsection 2) and Section 18 shall reasonably apply in non-scheduled transportation.

PART III. TRANSPORTATION OF GOODS

SECTION 20. ARRANGEMENT OF TRANSPORTATION

Scheduled and non-scheduled air transportation may be used for the transportation of goods.

SECTION 21. ARTICLES EXCLUDED FROM TRANSPORTATION BY AIR OR ACCEPTED FOR TRANSPORTATION BY AIR ONLY UNDER SPECIAL CONDITIONS

(1) Articles whose transportation is prohibited shall be excluded from transportation by air.

(2) Dangerous articles, in particular caustic substances, explosives, combustibles, compressed gas, poisonous and radioactive substances, may be transported only if the terms prescribed by the carrier have been met.

(3) Foodstuffs, living animals, and plants for the transportation of which special conditions, particularly sanitary, are prescribed, may be accepted for transportation by air if such conditions have been met.

(4) Concerning articles whose loading, transportation or discharge may cause difficulty or which, due to their nature, size, form, weight or wrapping are not suitable for transportation with respect to the aircraft available to the carrier, booking for shipment may be refused or made dependent upon the fulfillment of special conditions.

(5) As a rule corpses in coffins shall be transported aboard chartered aircraft. All prescriptions, especially in regard to receptacles and sanitary measures, must be observed.

(6) The shipper shall be liable for all damages which may occur as a consequence of not having observed all conditions prescribed by the carrier.

SECTION 22. ORDER OF TRANSPORTATION BY AIR OF GOODS

Both in scheduled and non-scheduled transportation by air of goods, the carrier may demand a prior order so that he may plan and organize the transportation. Particulars of the order, especially the terms under which it is to be submitted and when the carrier has the right to refuse the order shall be prescribed by the transport rules.

SECTION 23. RIGHT TO TRANSPORTATION OF GOODS BY AIR

(1) In scheduled transportation by air, goods shall be accepted for transportation so far as the transport facilities, permissible load of the aircraft and space are available after boarding the aircraft by passengers and loading the mail and free baggage.

(2) The carrier shall have the right to use as substitute carrier an aircraft different from the one that has been agreed upon and, with the consent of the shipper, a different means of transportation.

SECTION 24. CONCLUDING OF TRANSPORTATION CONTRACT

A transportation contract between carrier and shipper shall be considered concluded:

a) in non-scheduled air service by acknowledgment of the order by the carrier.

b) in scheduled air service by receipt of the goods by the carrier for transportation.

By concluding the transportation contract the carrier undertakes to perform the transport by air.

SECTION 25. AIR CONSIGNMENT BILL

(1) The air consignment bill shall document a valid transportation contract.

(2) The shipper shall draw up the air consignment bill in as many copies and in such form as prescribed, and deliver the same to the carrier together with the goods intended for transportation. The carrier shall acknowledge the receipt for transportation of the goods by returning a signed copy of the air consignment bill.

(3) The shipper shall be responsible for the correctness and completeness of the data in the air consignment bill and shall be liable for any damage which the carrier may sustain because his data and statements were incorrect, inaccurate, or incomplete.

SECTION 26. PROCEDURE UNDER CUSTOMS AND OTHER REGULATIONS

The carrier may follow the procedure required by customs or other regulations unless it is at variance with the laws in force. The carrier shall have the right to claim compensation according to a schedule of fees for compliance with the procedure.

SECTION 27. EXAMINATION OF CONTENTS

(1) The carrier shall have the right to ascertain whether the real contents agree with the contents [stated] in the consignment bill. [The carrier] may also make sure whether the special terms under which the goods were accepted for transportation have been met.

(2) In ascertaining the contents the shipper must be present. If this is not possible, at least one witness who is not in the employ of the carrier must be present.

(3) If, in examining the contents, any defects were ascertained which, in the transportation, may cause harm to the health of persons or damage to the means of transportation or other goods shipped, the carrier may exclude the shipment from transportation, store it at the shipper's expense, and collect compensation according to the schedule of fees. The carrier shall notify the shipper of the measures taken.

SECTION 28. PACKING, CONDITION AND MARKING OF GOODS

(1) Goods must be packed in such a manner as to protect them against loss and damage and prevent them from causing damage or endangering the safety of persons and other goods. The shipment must be duly marked. Particulars relating to the shipper's liability concerning packing and marking individual pieces shall be prescribed by the transportation rules.

(2) If there is no packing and if the goods are defective or do not comply with regulations, or if the contents of the shipment are visibly damaged, the carrier may refuse the transportation of the shipment, or make its acceptance for transportation conditional upon the defect being acknowledged by the shipper in writing in the consignment bill.

SECTION 29. WEIGHT AND NUMBER OF PIECES ASCERTAINED

In accepting a shipment for transportation, the carrier shall ascertain its weight and the number of pieces and collate the ascertained data and the data [contained] in the air consignment bill.

SECTION 30. LOADING AND UNLOADING GOODS

(1) A shipment shall be loaded aboard aircraft and unloaded from aircraft by the carrier's own employees, unless otherwise arranged, for compensation determined by the schedule of fees.

(2) If the loading (unloading) is carried out by the shipper, he shall do so according to the carrier's instructions.

SECTION 31. GOODS OF DECLARED VALUE

(1) A carrier may accept for transportation by air goods of declared value.

(2) The declared value shall be the amount at which the shipper, at his own discretion, estimates the value of the goods delivered for transportation.

(3) The maximum declared value of a shipment which may be transported by air may be determined by transport regulations. A shipment exceeding such value may be transported by air only on the basis of special arrangement.

(4) For accepting goods of declared value for transportation by air, the carrier shall have the right to collect a fee according to schedule.

SECTION 32. AMENDMENT OF TRANSPORTATION CONTRACT

(1) So far as the shipment has not been delivered to the consignee, the shipper may request that the shipment be returned to him at his expense or that it be delivered to another consignee, or he may give different instructions.

(2) A consignee may give instructions that the shipment be delivered to him at his expense in a different place.

(3) The instructions under Subsections 1 and 2 shall be given in writing. The carrier shall comply with such instructions as far as feasible under customs, sanitary and other regulations and insofar as he does not prove that he is prevented [from doing so] by conditions of operation.

SECTION 33. DELIVERY OF GOODS

(1) Upon the arrival of the shipment at the place of destination and upon its clearance, the carrier shall deliver the shipment with all documents accompanying the goods to the consignee. The consignee shall acknowledge by his signature the date and the hour of receipt of the shipment.

(2) In scheduled air service the shipment may be delivered to the consignee

- a) at the airport of destination,
- b) at the carrier's office,
- c) at his address provided it has been specified.

SECTION 34. OBSTACLES IN TRANSPORTATION AND DELIVERY

(1) If the transportation cannot be carried out, if the consignee cannot be discovered or if he refuses to accept the shipment, the carrier shall proceed according to the instructions of the consignor which he shall immediately request. If he cannot obtain such instructions, the carrier may store the shipment at the expense and risk of the consignor; he shall immediately notify the shipper thereof.

(2) If, in the cases specified in Subsection 1, the shipper cannot be notified in time or if the shipper does not give instructions which can be carried out, the carrier may sell the shipment at public auction or take other measures within a period of time and under terms specified by the transport regulations. If perishable goods are involved, the carrier may sell them promptly to prevent spoilage. However, he must exercise care. The carrier shall use the proceeds to cover his claims and the rest shall be turned over to the shipper.

SECTION 35. TRANSPORTATION CHARGES

(1) For the transportation of goods and other services connected with the transportation charge and reimbursement specified by the schedule of rates shall be due to the carrier.

(2) To secure his claims arising from the transportation contract a lien on the shipment shall exist in favor of the carrier so far as he has the goods in his possession.

SECTION 36. "COLLECT ON DELIVERY" TRANSPORTATION OF GOODS

A shipper may send goods "collect on delivery" as far as is permitted by the transportation regulations. For accepting the goods for transportation "collect on delivery" the carrier may collect the reimbursement as specified by the schedule of rates.

SECTION 37. OVERPAYMENTS AND ARREARS (OF PAYMENT)

(1) Overpayments originating in faulty computation of transportation charges and/or other compensation under the schedules of rates shall be repaid and arrears originating in the same manner shall be paid.

(2) The transportation regulations may prescribe that Subsection 1 shall not apply to overpayments and/or arrears not exceeding certain amounts.

(3) If the address of the shipper (consignee) is known to the carrier, he shall repay the overpayment to his address on his own initiative.

PART IV. LIABILITY IN AIR SERVICE

SECTION 38

(1) The liability of the carrier shall be governed in domestic transportation by air

a) of passengers and articles taken care of during the flight by the passengers themselves, by general provisions (Civil Code No. 141/1950 Coll. of Laws and Law No. 63/1951 Coll. Concerning Liability for Damages Caused by Means of Transportation),

b) of registered baggage and goods, by the (Warsaw) Convention [of October 12, 1929] Concerning the Unification of Certain Rules Relating to International Transportation by Air No. 15/1935 Coll. and supplementing regulations (hereinafter called "Convention").

(2) The carrier's liability in international transportation by air of passengers, baggage, and goods shall be governed by the Convention.

(3) The limitation of liability prescribed by the Convention shall be applicable to such international transportation to which the Convention otherwise does not apply and to domestic transportation; the limitation, however, shall not apply to the transportation by air of goods of declared value in which case the carrier shall be liable to the extent of the amount declared.

SECTION 39. PERIODS OF TIME TO ASSERT CLAIMS ARISING FROM LIABILITY

Transportation rules shall determine, in agreement with general provisions and international conventions, the periods of time for asserting claims originating in liability in transportation by air of passengers, baggage, and goods.

PART V. [DATE OF] EFFECTIVENESS

SECTION 40

This Proclamation shall go into force as of the date of its promulgation [April 5, 1960].

DAHOMEY

Ordinance No. 26/GPRD/MTP, December 27, 1963. Code of Civil Aviation.¹

BOOK I. AIRCRAFT

Art. 1. In the application of this Code, an aircraft shall be deemed to be any contrivance which can maintain itself, and move in the air.

Art. 2. Aircraft used for military, customs, or police services, are subject only to the rules concerning liability of the owner or operator.

However, the provisions of Article 53 shall apply to aircraft used for military, customs or police services provided they are not incompatible with the purpose of such aircraft.

TITLE I. OWNERSHIP, MORTGAGE, AND ATTACHMENT OF AIRCRAFT

CHAPTER I. REGISTRATION, NATIONALITY, AND OWNERSHIP OF AIRCRAFT

Art. 3. Every civil aircraft must be registered in a register kept by the Ministry of Civil Aviation, under conditions fixed by decree. The registration identifies the aircraft. It shall be shown by a certificate of registration.

Art. 4. Any aircraft registered in the register specified in Article 3 shall have Dahomey nationality and must bear the nationality and registration marks provided for in the regulations.

Art. 5. Aircraft may be registered in Dahomey only if it is owned by a natural or legal person or persons of Dahomey nationality.

There may also be registered in Dahomey, when authorized by decree of the Council of Ministers, aircraft belonging to natural or legal persons of foreign nationality which have an establishment in Dahomey.

Art. 6. An aircraft registered in Dahomey shall use Dahomey nationality when the conditions specified in the preceding article are not complied with, or when the owner registers it in a foreign country.

Art. 7. An aircraft which is registered abroad may be registered in the Dahomey register only after showing that the foreign registration has been cancelled.

Art. 8. Legal relations between persons aboard an aircraft in flight shall be governed by the law of the country of origin of such aircraft.

However, when a crime or misdemeanor is committed aboard a foreign aircraft, the courts of Dahomey shall have jurisdiction when the person who commits the crime, or against whom it is committed, has Dahomey nationality, or when the aircraft lands in Dahomey subsequent to the commission of the crime or misdemeanor.

¹ Published in *Journal Officiel*, January 1, 1964. p. 2.

In the application of this article, an aircraft shall be deemed in flight from the time when power is applied for take-off until the time when landing is completed.

In the case of lighter-than-aircraft the term "in flight" shall apply to the period between the time when such aircraft is detached from the ground to that when it is again attached.

Art. 9. The register shall include the name and domicile of the owner of the aircraft, the type of aircraft, its designation or serial number. Registration shall be proof of title. Such register shall be public and anyone may obtain a certified copy thereof.

Art. 10. Aircraft shall be personal property in regard to application of the rules of the Civil Code. However, transfer of ownership must be in writing and shall be without effect in regard to third persons unless there is a registration in the register.

Any change in ownership by reason of death and any judgment transferring, establishing, or declaratory of ownership must be recorded in the register at the request of the new owner.

CHAPTER II. MORTGAGE AND ATTACHMENT OF AIRCRAFT

Art. 11. Aircraft as defined in Article 1 of this Code may be mortgaged only by agreement between the parties.

Insofar as they belong to the owner of the aircraft, a mortgage shall affect the fuselage, the engines, propellers, board instruments and all parts permanently installed on the aircraft, whether they are fixed thereon or are temporarily detached.

Art. 12. A mortgage may, by a single legal act, be imposed on all or part of an airfleet belonging to the same owner provided that the various elements of the fleet are specified in such act.

Art. 13. A mortgage may be extended to cover also spare parts suitable for the type of aircraft mortgaged, provided such pieces are specified.

Such spare parts shall be kept in one or more places of which notice shall be given as provided for in Article 14. When they are used on aircraft to which they belong, they must be immediately replaced. The creditor must be notified of such use.

Art. 14. The spare parts mentioned in the preceding article include all parts constituting aircraft, engines, propellers, radio equipment, instruments, furnishings, parts of various component parts and, in general, all objects whatever which are kept for the replacement of parts constituting the aircraft, provided they are specified.

Appropriate notice, given at the place by way of posting, must duly notify third persons of the kind and extent of the mortgage on such parts and must mention the register where the mortgage is recorded, and the name and address of the mortgagee.

An inventory showing the kind and number of such pieces shall be attached to the document recorded.

Art. 15. A mortgage is void unless it is in writing. The act establishing it may be certified or under private seal. It shall specify each part which is mortgaged. In such case it may be to bearer, and endorsement shall transfer the mortgage.

Any mention in the sales contract for an aircraft that all or part of the price remains to be paid to the seller, shall, without a contrary stipulation, constitute a mortgage for him as guarantee for the amount

stated as remaining to be paid, provided the seller requests recordation of such mortgage in the form provided for by decree.

An aircraft under construction may be mortgaged only when prior notice has been given to the agency in charge of the register. Such notice shall include the principal characteristics of the aircraft under construction; a receipt therefor shall be issued.

Art. 16. In the case of loss or crash of an aircraft, the mortgagee may, unless there is a contrary stipulation, be subrogated for the insured for the amount due him as to the right to compensation payable by the insurer.

Prior to making any payment the insurer must request an official statement of recorded mortgages. No payment shall discharge him if it is made in disregard of the rights of creditors listed on such statement.

Art. 17. All mortgages must be recorded in the register. They shall be without effect in regard to third persons until they are recorded.

Cancellation, and any modification of a mortgage by agreement between the parties or by a judgment, shall also be recorded in such register.

Art. 18. When there are two or more mortgages on the same aircraft, their precedence shall be determined by the order of their recordation dates.

Mortgages recorded on the same day shall be of equal rank regardless of the hour of their recordation.

Art. 19. Recordation shall keep a mortgage valid for ten years from the date of its recordation. It shall cease to be effective when the recordation is not renewed before the expiration of such period.

Art. 20. Recordation of a mortgage shall guarantee, in the same precedence as the mortgage itself, interest for three years in addition to the current year.

Art. 21. Recordation of mortgages shall be cancelled when there is a legal act stating the agreement of the parties or a final judgment on the matter.

Art. 22. Except in the case of judicial sale in accordance with the provisions specified in a decree, registration of an aircraft may not be stricken from the register when recorded rights have not been cancelled prior thereto.

Art. 23. Creditors whose mortgage on an aircraft has been recorded, shall follow their security in whatever hands it may pass, for the purpose of collection and payment in the order of their respective recordation and after privileged creditors, reserving the provision of Articles 24 and 27 below.

Art. 24. Only the following debts shall be privileged in preference to mortgages:

- 1) Court costs incurred in the sale of an aircraft and in the distribution of the price received in the common interest of the creditors;
- 2) Payments due for salvage of an aircraft;
- 3) Necessary expenses for the preservation thereof;
- 4) Debts resulting from the employment contract of flight crew members and other flight personnel, but as regards any security, only for a maximum of six months;
- 5) Fees for use of devices and aids to navigation and landing fees.

Art. 25. The privileges specified in the preceding article shall affect the aircraft or the insurance mentioned in Article 16. They shall follow the aircraft in whatever hands it may pass.

They shall be extinguished three months after the event which gave rise to them unless the creditor makes prior recordation of the debt in the register of the aircraft, after having given friendly notice of the amount or, in the absence thereof, after having commenced a legal action therefor.

They shall further be extinguished, independently of the normal methods of extinction of privileges:

1) By judicial sale of the aircraft, executed in the form provided for by decree:

2) In case of voluntary transfer properly recorded in the register, at the latest, one month after publication of the transfer in a journal of legal notices at the domicile of the vendor, unless, prior to expiration of such period, the creditor has given notice of such debt to the vendee, at the domicile stated by him in the publications.

Art. 26. Debts specified in Article 24 shall be privileged in the order in which they appear in that article.

Debts of the same order of precedence shall be of equal rank and shall be paid at the same rate in case of insufficient funds.

However, debts mentioned in Article 24, 2), and 3) shall be paid in inverse order as regards the events which gave rise to them.

Art. 27. Privileges other than those enumerated in Article 24 shall rank after mortgages whose recordation precedes the arising of such privileges. However, in the case of sale in Dahomey of an aircraft mortgaged in a State party to the international convention for the recognition of rights in aircraft signed at Geneva on June 19, 1948, the rights provided for in Article 1 of that convention which exist on the aircraft may be exercised only in recognition of the rights of the persons who suffered damages on the ground as provided for in Article 7 of that convention.

Art. 28. Except in the case of judicial sale in the manner provided for by decree, the registration of an aircraft may not be transferred to another State except by prior extinction of recorded rights or with the consent of the persons entitled thereto.

Until this condition has been fulfilled, the official in charge of the register must refuse any cancellation.

Art. 29. When there is attachment of an aircraft registered in a State party to the convention for the recognition of rights in aircraft signed at Geneva on June 19, 1948, no judicial sale may be had when the rights that have preference over those of the attaching creditor cannot be satisfied by the sale price or when they are not assumed by the vendee.

However, when a mortgaged aircraft causes damages to third persons on the ground within Dahomey, the provisions of the preceding paragraph may not be invoked against such persons suffering the damage or their representatives in attaching the aircraft which caused the damages or another aircraft of the same owner.

Art. 30. Without thereby affecting more serious penalties, if they are in order, any act of destruction or removal, or an attempt at destruction or removal of an aircraft or spare parts on which a mortgage has been properly recorded, shall be punished by a fine of from 240,000 to 2,400,000 CFA or by imprisonment of from 2 months to 2 years.

Any fraudulent act intended to deprive a creditor of his security shall be subject to the same penalties.

Art. 31. Dahomey aircraft and, when there is reciprocity, foreign aircraft shall be exempt from attachment under the conditions specified in the convention for the unification of certain rules on attachment of aircraft, signed in Rome on May 29, 1933, or in any convention amending it which is applicable in Dahomey.

Art. 32. In the case of attachment for infringement of a patent, design or model, the owner of a foreign aircraft or his representative may have the attachment lifted by deposit of a bond the amount of which, in the absence of a friendly agreement, shall be set within the shortest possible time by the president of the trial court at the place of the attachment.

There shall be exempt from attachment the aircraft of public airlines and spare parts and accessories indispensable in their operation provided that, in the case of foreign aircraft, they lawfully entered Dahomey territory and that there is reciprocity.

Art. 33. When the owner of an aircraft is not domiciled in Dahomey, or when the aircraft has foreign nationality, any creditor shall have the right to attach the aircraft with the permission of the president of the trial court at the place where the aircraft has landed.

The respective judge shall lift the attachment when the owner offers to deposit a bond equal to the amount of the debt claimed and he may order such lifting by setting the amount of the bond to be furnished in cases where the extent of the debt is contested.

Art. 34. In the case of damages caused on the ground by the crash of a foreign aircraft or whose owner is domiciled aboard, and in the case of a violation of this code by a foreigner, all officials empowered by Article 83 to enforce Articles 1 to 86, and 115 to 126 of this Code, and particularly the administrative authorities at the place of landing may ask the public authorities to detain the aircraft for forty-eight hours in order to permit the judge to go to the place in question and to determine the amount of damage caused, but also, in the case of a violation, the amount of fine and costs.

Art. 35. The persons specified in Articles 83 and 84 shall have the right to attach any Dahomey or foreign aircraft which does not comply with the conditions provided for in this Book for air navigation or whose pilot has committed a violation.

TITLE II. FLIGHT OF AIRCRAFT

CHAPTER I. THE RIGHT OF FLIGHT

Art. 36. Aircraft may fly freely above Dahomey territory provided they observe the rules concerning air navigation and flight. However, aircraft of foreign nationality may fly above Dahomey territory only when they have been granted such right by an international or diplomatic agreement or when they have been granted an authorization which must be special and temporary.

Article 5 of the Chicago Convention shall apply to scheduled international air services.

Art. 37. Use of aircraft on maneuvering areas of airdromes and in flight must be in compliance with the flight rules.

Flight rules and powers and the role of the civil aviation services shall be established by decree after notification of the Minister of Civil Aviation.

Flight rules shall be applicable in the airspace under the control of the agency or agencies of the civil aviation services in the territory of the Republic of Dahomey.

Outside the airspace as defined above they shall apply to aircraft which bear Dahomey nationality marks to the extent that this is compatible with the rules of the State, or of the international organization which has authority over the airspace where the aircraft is flying.

Art. 38. The right of an aircraft to fly over private property may not be exercised in such a manner as to infringe the right of the owner thereof.

Art. 39. Flight over certain areas or, in exceptional circumstances, the entire territory of Dahomey may be prohibited by decree for reasons of a military nature or of public safety. The location and extent of prohibited areas must be specifically indicated in the decree.

Any aircraft violating the above must, at the first request, land under the conditions specified in the decree.

Art. 40. Aircraft must fly over towns or villages at such altitude that landing is always possible, even after loss of power, outside the village or on a public airdrome.

Aerial dives and acrobatics by civil aircraft must be executed in compliance with the rules issued in this regard.

Art. 41. Maneuvers of aircraft in public shows may take place only with authorization from the regional administrative authorities after notification of the competent aeronautical authority.

When the test consists of a flight including successive landings, authorization shall be granted by the Ministry of the Interior after notification of the Minister of Civil Aviation.

CHAPTER II. LANDING

Art. 42. Except in case of *force majeure* or the cases provided for in the following paragraph, aircraft may only land on, and take off from properly established airdromes.

A decree issued on the report of the Minister of Civil Aviation and the Minister of the Interior, shall define the conditions under which certain types of aircraft may land or take off at places other than airdromes, with the agreement of the person who is entitled to the land or water area used.

However, such agreement shall not be required in the case of aid and salvage operations for which aircraft are used.

Art. 43. In case of landing or setting down on water on private property, the person entitled to the land or water area may not prevent departure or removal of the aircraft when no attachment has issued except as provided in Article 34.

Art. 44. Aircraft which make an international flight must land on customs airports under the conditions specified in the customs regulations.

They may have to follow a specific air route to cross the border.

However, because of the nature of their operation, certain categories of aircraft may be exempted by administrative authorization issued on

request by the Minister of Civil Aviation, from landing on customs airports; in such case, the authorization shall designate the airdrome of arrival and departure and, if required, the air route to be followed and the signals to be given at crossing the border or the boundary of the territorial waters.

CHAPTER III. REGULATION OF FLIGHT OF AIRCRAFT

Art. 45. Any person who belongs to the flight personnel of an aircraft must have one or more valid aptitude licenses, corresponding to his duties and issued under conditions specified by decree.

Art. 46. An aircraft may make a flight only when it has an airworthiness certificate or when it has a flight permit by way of exception issued after inspection of the aircraft under conditions determined by decree.

Such decree shall further determine the marks which must be affixed to aircraft and the operational rules, particularly, the documents which must be carried aboard and the technical operating conditions of aircraft, as well as operational rules applicable to foreign aircraft.

Decrees shall also determine the operational rules applicable to foreigners.

The costs for inspection required by the regulations for the issuance or renewal of the airworthiness certificate of aircraft shall be borne by the owners of the aircraft inspected under conditions specified by a decree (issued on the report of the Minister of Civil Aviation and the Minister of Finance).

This decree shall specify, in particular, the rates of the costs to be reimbursed to the Treasury, when the inspection is made by officials of the State.

Art. 47. Without a special authorization it shall be prohibited to transport on aircraft any explosives, weapons, and ammunition, carrier pigeons, or mail included in the postal monopoly.

Transportation and use of photographic equipment may be prohibited by decree.

The conditions for transportation of dangerous substances, cultures of microbes, and small infected or dangerous animals shall be determined by decree.

Art. 48. No equipment for radio telegraph or radio telephone intended for the mobile aeronautical communications service may be installed or used aboard an aircraft without special authorization; the same shall apply to equipment for radio navigation or electro-magnetic detection.

Aircraft for public passenger transport must be equipped with radio communication apparatus necessary for flight safety under conditions determined by regulation.

In all cases, the crew members who use radio telegraph or radio telephone equipment must have a radio operator's license or a qualification for radio telephone; the use of such equipment must be in accordance with the regulations.

Art. 49. Any aircraft landing on an airdrome or on private property shall be subject to the control and supervision of the administrative authorities.

Art. 50. Any aircraft in flight anywhere must submit to the orders of the police and customs stations and aircraft, in whatever form such order may be given.

Art. 51. Aircraft flying exclusively over airdromes and areas approved by the administrative authorities as training areas, shall not be subject to the provisions of Articles 45 to 52, provided such flights do not constitute a public show. However, they may not transport passengers unless they have a certificate of airworthiness.

Art. 52. Airworthiness certificates, aptitude patents and licenses issued or validated by the State whose nationality the aircraft has, shall be recognized as valid for flight above Dahomey territory when reciprocity exists under an international convention or a decree.

TITLE III. DAMAGES, LIABILITY, AND LOSS OF AIRCRAFT

Art. 53. During flight, pilots must comply with the rules provided for in Title II of this Book and must take all precautions necessary to avoid damages.

Art. 54. In the case of damage caused by an aircraft in flight to another aircraft in flight, the liability of the pilot and of the operator of the aircraft shall be regulated by the provisions of the Civil Code.

Art. 55. The operator of an aircraft shall be fully liable for damages caused to third persons on the ground by the flight of aircraft or by persons or articles falling therefrom.

Such liability may be reduced or avoided only by proof of the negligence of the injured person.

Art. 56. Except with a special authorization, it shall be prohibited, other than in cases of *force majeure*, to throw from an aircraft in flight any goods or articles whatever, with the exception of regulation ballast.

In case of jettisoning by reason of *force majeure*, or jettisoning of regulation ballast, or of specially authorized jettisoning, which causes damage to persons and property on the ground, the liability shall be determined in accordance with the provisions of the preceding article.

Art. 57. In the case of charter of an aircraft, the owner and the operator shall be jointly liable to third persons for any damage.

However, when the charter has been recorded in the register, the owner shall only be liable when the third person proves negligence on his part.

Art. 58. An action for damage liability shall be brought, at the choice of the plaintiff, in the court of the place where the damage was caused or in the court at the domicile of the defendant.

In the case of damage to an aircraft in flight, the court at the place where the aircraft had to land after the damage shall have jurisdiction.

Art. 59. The provisions of the Merchant Marine Code concerning aid and salvage at sea shall apply to aircraft in danger at sea and to pilots of aircraft who may render assistance to the persons in danger.

Art. 60. Any person who finds a wrecked aircraft must notify the nearest administrative authority within forty-eight hours after the discovery.

However, the rules concerning shipwrecks shall apply only to aircraft wrecked at sea or on the seashore.

Art. 61. In the case of disappearance of an aircraft without news, the aircraft shall be presumed lost three months after the date when the last news was sent.

The death of persons aboard an aircraft may, after expiration of such period, be declared by a judgment in accordance with the provisions of the Civil Code.

If necessary, the Minister of Civil Aviation may declare that there is a presumption of disappearance and he may send to the court of jurisdiction the requests necessary for a judicial declaration of the death of the persons who have disappeared.

The persons concerned may also proceed, in accordance with the provisions of the Civil Code, to obtain a judicial declaration of death. In that case, such request shall be transmitted by the Public Ministry to the Minister of Civil Aviation.

Art. 62. The manner of application of the preceding articles shall be determined by decree.

TITLE IV. ACCIDENTS

Art. 63. The flight commander shall submit a detailed report within forty-eight hours after any accident or event which may have serious consequences, whether it occurs on the ground, or in flight, or concerning any violation of flight rules.

Art. 64. The Minister of Civil Aviation shall initiate all investigations and inquiries in order to determine and state the causes of accidents or other events.

He may appoint a commission of investigation, whose membership, functioning, and jurisdiction shall be determined by regulation.

Art. 65. When the commission of investigation provided for in the preceding article finds negligence in performance of a professional duty, a copy of the file shall be sent directly to the Council of Flight Personnel provided for in Article 150 below.

TITLE V. CRIMINAL PROVISIONS

Art. 66. Any owner shall be punished by a fine of from 60,000 to 1,200,000 CFA and by imprisonment of from six days to one month, or by only one of these penalties, who:

- 1) puts, or retains in service any aircraft which does not have a registration certificate, an airworthiness certificate, or a flight permit by way of exception;

- 2) puts, or retains in service any aircraft without the identification marks provided for in Article 4;

- 3) causes or permits to fly, any aircraft whose airworthiness certificate or flight permit by way of exception has ceased to be valid;

- 4) causes or permits to fly any aircraft under conditions other than those specified in the airworthiness certificate and related documents or the flight permit by way of exception;

- 5) causes or permits to fly any aircraft under conditions that are contrary to the provisions of Articles 36 and 48 of this Code.

Art. 67. Any person shall be punished by a fine of from 60,000 to 1,200,000 CFA and by imprisonment of from six days to six months, or by only one of these penalties, who:

- 1) flies, or participates in flying an aircraft without valid documents required by the regulations;

2) destroys or removes a flight log or any other flight document required by air regulations or makes in such log or any other document inaccurate notations;

3) flies or participates in flying an aircraft under the conditions specified in Article 66;

4) violates Article 42.

Art. 68. The penalties provided for in Article 66 shall be doubled when the violations specified in paragraphs 1), 3), and 4) of Article 66, and paragraph 1) of Article 67 have been committed after denial or withdrawal of the registration certificate, the airworthiness certificate, or the flight permit by way of exception, or the licenses required for crew members under the regulations.

Art. 69. There shall be punished by a fine of from 12,000 to 200,000 CFA and by imprisonment of from six days to one month, or by only one of these penalties:

1) any person who is found aboard an aircraft in flight without being able to justify his presence by a proper ticket or by permission of the operator or the flight commander;

2) any person who does not comply with, or refuses to comply with the instructions of the flight commander in view of the safety of the aircraft or that of the persons carried.

Art. 70. A pilot who does not comply with the provisions of Article 39 shall be punished by a fine of from 60,000 to 1,200,000 CFA and by imprisonment of from 15 days to 3 months.

Art. 71. Any person who affixes, or causes to be affixed to an aircraft, registration marks not in conformity with those on the registration certificate, or who removes or causes to be removed, or renders or cause to be rendered illegible properly affixed marks, shall be punished by a fine of from 120,000 to 2,400,000 CFA and by imprisonment of from 6 months to 3 years.

Art. 72. The violation of any provision of Article 47 by any person shall be punished by the penalties provided for in Article 66.

There shall be punished by the penalties provided for in Article 69:

1) Any person who uses on an aircraft any article or apparatus the transport of which is prohibited;

2) any person who, without special authorization, uses photograph or motion picture equipment above prohibited areas.

Art. 73. Any person who has been sentenced for a violation of the preceding articles and who commits a further violation of a provision of this Code, or the same violation within a period of five years from the end of the imprisonment or from payment of the fine, or from prescription of these two penalties, shall be sentenced to the maximum imprisonment and fine and these penalties may be doubled.

Art. 74. There shall be punished by a fine of from 12,000 to 60,000 CFA and, according to the circumstances, also by imprisonment of from 6 days to one month:

1) any flight commander who does not keep or cause to be kept any of the flight documents required by Article 46, second paragraph, and any crew member specially ordered to keep them;

2) the owner or charterer recorded in the register who omits to preserve any of the flight documents for 3 years from the last entry;

3) any person who violates Article 40;

4) any person who violates the regulations concerning technical operating conditions of aircraft issued in application of Article 46.

In case of repetition, there shall always be imprisonment. There shall be repetition when, during the preceding year, a judgment has been rendered against the violator for one of these violations.

Art. 75. Any person who violates article 41, or any decrees issued in application thereof, shall be punished by a fine of from 30,000 to 200,000 CFA, and, according to the circumstances, also [by imprisonment].²

Art. 76. A prohibition to fly, or to participate in flying an aircraft may be imposed by judgment or ordinance for a period of from 3 months to 3 years, against a crew member sentenced under Articles 68, 70, and 71.

When a crew member is sentenced the second time for the same violation within the period provided for in Article 73, the prohibition to fly, or to participate in flying an aircraft shall be imposed and the duration thereof shall be the maximum period and may be doubled. The patents, licenses, and certificates held by the violators shall be deposited for the whole duration of the prohibition with the clerk of the court which imposed the prohibition.

The persons sentenced must deposit such patents, licenses, and certificates either with the above clerk or the clerk at their domicile, within 5 days after the date on which the sentence has become final, under penalty of from 6 days to 1 month imprisonment and a fine of from 6,000 to 120,000 CFA, without thereby affecting the penalties under Article 67 in the case that they fly or participate in flying an aircraft during the period of prohibition and such penalties cannot be intermingled.

Art. 77. In accordance with Article 56 of this Code, any unauthorized jettisoning of articles from an aircraft in flight shall be punished by a fine of from 60,000 to 360,000 CFA and by imprisonment of from 6 days to months, or by only one of these penalties, even if such jettisoning causes no damage, and without thereby affecting more severe penalties which may be imposed in case of other violations.

Art. 78. Any flight commander of an aircraft who, in the knowledge that the aircraft has caused or occasioned an accident on the ground, does not immediately notify the authorities of the nearest airport with which he can communicate, and thus attempts to avoid any criminal and civil liability he may have incurred, shall be punished by the penalties provided for by the law in cases of the offense of leaving the scene of an accident.

Art. 79. The provisions of the Criminal Code pertaining to mitigation and aggravation of penalties shall be applicable to all violations specified in this law.

Art. 80. All provisions of laws relating to the prevention of violations of customs regulations shall be applicable to goods imported or exported by aircraft under any customs system.

All unauthorized unloading and dropping of goods other than that necessary for the welfare of the aircraft shall be punished by the penalties provided for in the customs law in respect to contraband.

In case of a violation, the aircraft may only be used as surety for payment of the fine incurred, or may be subject to attachment which,

² Missing in original text. Ed.

however, shall be lifted when a bond is furnished or a deposit is paid to the extent of the fine.

Art. 81. In regard to goods exported in discharge of temporary admittance or bonding permits subject to internal taxes, the shippers shall justify their shipment abroad by producing, within the periods specified, a valid customs certificate of destination under penalty of payment of four times the value of the goods.

Art. 82. Article 79 shall not be applicable to violations specified in the customs laws.

Art. 83. Violation of the provisions of this Book and of the regulations issued for its application shall be prosecuted, independently of the officers of the judicial policy, by the officials of the tax authorities, the technical officials of the Bureau of Water and Forests or the Customs, the gendarmes, the engineers, the technical officials and sub-agents of aeronautics, the engineers and officials of the Bureau of Public Works in charge of airports, the engineers and inspectors of mines, and the surveyors, the officials of the technical bureau of the Civil Aeronautics Board, military or naval officers, and agents of the military or naval authorities appointed for such purpose.

Art. 84. The State Attorney, the investigating courts, the justices of the peace, the police officers at the office of the State attorney designated by the Code of Criminal Investigation, the officials of the technical bureau of the Civil Aviation Board, military or naval officers, and agents of the civil or military authorities appointed for such purpose, the gendarmes and customs agents, and the technical officials of the Bureau of Water and Forests shall have the right to seize explosives, weapons and ammunition, carrier pigeons, photographic equipment, photographic negatives and mail, as well as all radio telegraph and telephone equipment which may be on board without the special authorization provided for in Articles 47 and 48.

These authorities may seize carrier pigeons, photographic equipment and negatives which may be on board aircraft authorized to transport such articles in case such aircraft passed over prohibited areas.

Confiscation of articles and equipment lawfully seized shall be pronounced by the courts.

Art. 85. Any aircraft whose airworthiness certificate and registration certificate cannot be produced or whose registration marks do not agree with those on the registration certificate may be detained at the expense of the owner or, in the case of a charter recorded in the register, at the expense of the recorded charterer, by the authorities in charge of enforcement of this Code until the identity of the owner has been established.

Art. 86. The file stating violations of this Code and the decrees provided for therein, shall be transmitted without delay to the State attorney.

BOOK II. AIRDROMES

TITLE I. AIRDROME REGULATION

CHAPTER I. ESTABLISHMENT AND OPERATION

Art. 87. An airdrome shall be deemed any land or water area specially equipped for the landing, take-off, and maneuvering of air-

craft, including the related installations which may be present for the needs of traffic and service of aircraft.

Art. 88. An airdrome shall be called "open to public air traffic" when all aircraft which have the appropriate technical characteristics are authorized to use it, subject to the provisions of Article 91.

Art. 89. A decree shall state the conditions of creation, establishment and use of airdromes whether or not they are open to public air traffic.

Art. 90. Opening of an airdrome to public air traffic shall be pronounced by ordinance of the Minister of Civil Aviation after a technical investigation.

Closing of an airdrome to public air traffic shall occur in the same manner.

Art. 91. The use of an airdrome open to public air traffic may at any time be made subject to certain restrictions or may be temporarily closed if flight conditions on the airdrome or in the adjoining airspace, or reasons of public order justify such action. Such decisions shall be the subject of notices to air navigators.

Art. 92. Airdromes for public air traffic may be established by the State, by public organizations and public establishments, or by private natural or legal persons who fulfill the conditions specified by decree.

Art. 93. All airdromes may be made subject to the technical and administrative control of the State, under conditions determined by decree.

Art. 94. Contracts granted by the State for the construction, maintenance, and operation of airdromes owned by it, shall be subject to the following conditions:

The cost accounts³ of the contracts shall be approved by decree issued on the report of the Minister of Civil Aviation and the Minister of Finance.

[Contracts which do not involve a cost account shall be awarded by inter-ministerial ordinance.]⁴

Art. 95. The establishment of an airdrome for public air traffic that does not belong to the State shall be subject to the conclusion of an agreement between the Minister of Civil Aviation and the public or private natural or legal person who established the airport; such agreement must be approved by the Minister who supervises the public organization or establishment concerned. It shall also be subject to approval by the Minister of Finance if it involves financial obligations of the State.

Art. 96. For reasons of national defense a decree may prescribe that the State temporarily or permanently replace the operator of an airdrome.

CHAPTER II. CLASSIFICATION

Art. 97. Airdromes for public air traffic shall be subject to a classification established by taking account of the character and the importance of the traffic thereon.

Art. 98. The technical and administrative conditions of the classification provided for in the preceding article, the categories into which airdromes are divided, the procedure preceding the classification and

³ See Art. 86 of the French Code of Civil and Commercial Aviation for this term. Ed.

⁴ Missing in original text. Ed.

the effects of the classification shall be determined by decree issued on the report of the Minister of Civil Aviation, on the advice of the Minister of Justice, the Minister of Finance, the Minister of the Interior, and the Minister of National Defense.

Art. 99. [The classification of airdromes shall be declared by decree issued on the report of the Minister of Civil Aviation, on the advice of the Minister of Finance, the Minister of the Interior, and other Ministers concerned.] ⁵

CHAPTER III. FEES

Art. 100. On all airdromes open to public air traffic the services rendered to users and to the public shall give rise to a remuneration in the form of fees levied for the benefit of the person rendering the service, and particularly for the following operations:

Landing of aircraft:

Use of devices of assistance to air navigation;

Use of aeronautical telecommunications facilities;

Parking and hangar space for aircraft;

Use of installations equipped for the reception of passengers and goods;

Occupation of land and buildings;

Use of various installations and workshops.

Art. 101. The fees provided for in the preceding article shall be fixed by decree, on the advice of the Superior Council of the Civil Aeronautics Board whose composition and rules of operation shall also be specified by decree.

Art. 102. The fees shall become due on use of the facilities, installations, buildings, and workshops for which they constitute the payment, (and they must be commensurate with the services rendered).

In case of non-payment of fees due from the operator of air aircraft, the operator of the airdrome shall be entitled to request the authority responsible for air traffic on the airport that the aircraft be held until deposit has been made of the amounts in dispute.

Fees accruing to the State, to public organizations and to public establishments shall be collected by a revenue agent. They shall be paid, in accordance with applicable rules, to the organization or establishment which has the benefit thereof, and as regards the State, in accordance with the rules applicable to foreign credits, into taxes and the Treasury by virtue of the power to obtain receipts granted by the Minister of Finance. When the fees have been paid in cash, their receipt may be ensured by a collector.

TITLE II. AERONAUTICAL RESTRICTIONS

Art. 103. In order to ensure the safety of navigation of aircraft, special restrictions called "aeronautical restrictions" are imposed.

Such restrictions shall include:

1. Aeronautical restrictions for the purpose of clearance including the prohibition to create, or the obligation to remove, any obstacles that may constitute a danger to air traffic or impair the functioning of safety devices established in the interest of air traffic;

⁵ The original text repeats Art. 98 up to the word "decree." Presumably, this is in error, and the law of Niger is correct. Ed.

2. Aeronautical restrictions of marking, carrying an obligation to provide visual or radio-electric devices on certain obstacles and locations in order to notify their presence to air navigators or to permit their identification, or to support the installation of such devices.

Art. 104. The provisions of this Title shall be applicable:

- a) To airdromes intended for public air traffic or established by the State;
- b) to airdromes not intended for public air traffic and established by a natural or legal person other than the State;
- c) to installations of aid to air navigation, or aeronautical telecommunications, but the provisions concerning restrictions established in the interest of radio-electric transmissions and reception shall apply;
- d) to certain locations which constitute preferred reference points for air navigation.

Art. 105. The restrictions provided for in Article 103 shall ensure to air navigation conditions of safety at least equivalent to those resulting from the standards and recommendations of the International Civil Aviation Organization, in accordance with annex 14 of the Convention on International Civil Aviation of December 7, 1944.

Art. 106. The Minister of Civil Aviation or, for airdromes or air routes concerning him, the Minister of National Defense, may prescribe day and night markings or markings for day or for night time for all obstacles which he considers dangerous to air navigation.

He may further order the installation of visual or radio-electric devices of aid to air navigation.

He may also order the removal or modification of any visual device other than a maritime marker, which is such as to create confusion with visual aids to air navigation.

Art. 107. In order to install the markings mentioned in Article 106, the administration shall have the right to build supports, to pass, to cut or trim trees, and the right to install devices on outside walls and roofs.

These rights may be exercised by the private persons who may be in charge of the markings.

Art. 108. Outside of the areas subject to clearance restrictions in application of this Title, the establishment of certain installations which, due to their height, may constitute obstacles to air navigation, shall be subject to special authorization by the Minister of Civil Aviation or, insofar as it concerns him, the Minister of National Defense. Ministerial ordinances shall determine the installations subject to authorization.

Art. 109. When, for reasons of the requirements of air traffic, the competent authority decides on the expansion or establishment of airdromes or of installations intended to ensure the safety of air navigation, the necessary land, if not already reserved for that purpose or approved, may be declared reserved by decree after a public investigation in the form prescribed by the provisions applicable to expropriation.

Art. 110. A decree shall prescribe the methods of application of this Title.

TITLE III. CRIMINAL PROVISIONS

Art. 111. Any person who remains or enters on any land prohibited by the general regulations and ordinances concerning airdromes affected with a public service, or permits cattle, carriage, pack or riding animals to remain thereon, shall be subject to the penalties provided for in this matter by the Criminal Code and, in addition, may be deprived of any right to damages in the case of an accident.

The provisions of Articles 83 and 86 shall be applicable to this article.

Art. 112. Violations of the regulations concerning aeronautical restrictions of clearance and marking established in the interest of air navigation shall be punished by a fine of from 50,000 to 1,500,000 CFA.

In the case of repetition, violations shall be punished by a fine of from 100,000 to 3,000,000 CFA, and by imprisonment of from ten days to three months, or by only one of these penalties.

Art. 113. On request of the Public Ministry, acting at the request of the Minister concerned, the court that has cognizance of the case shall, under the penalty of 1,000 to 10,000 CFA for each day of delay, impose on the persons who violate these provisions, a time limit to remove or modify the structures subject to restrictions or to provide markings thereon.

When such time period is not observed, the penalty imposed shall be due from the expiration of said time limit until the day when the situation has been effectively remedied.

When the matter has not been remedied within one year from the expiration of the time limit, the court may, on request of the Public Ministry acting under the same conditions, collect, once or several times, the amount of the penalty, even exceeding the maximum provided above.

The court may decree return of part of the penalties when the matter has been remedied and the person liable shows that he had been prevented by circumstances beyond his control to observe the time limit imposed. When at the expiration of the time limit set in the judgment the matter has not been remedied, the administration may do the work at the expense and risk of the persons liable therefor.

The penalties shall be collected by the revenue agents of the Treasury.

There shall be a judgment against the persons subject to civil liability for removal of the structures subject to the restriction or to the establishment and maintenance of the marking provided for in Article 106.

In case of non-compliance within the time limit imposed on them for such purpose by the court, the Administration shall have the right to proceed on its own at their expense, risk and peril, and to recover from them all expenses it has incurred.

BOOK III. AIR TRANSPORTATION

Art. 114. Air transportation means the transportation by aircraft of passengers, mail and goods from one point to another.

TITLE I. TRANSPORTATION CONTRACT

CHAPTER I. TRANSPORTATION OF GOODS

Art. 115. The rules of the Commercial Code concerning transportation on the ground and by water shall apply to transportation by air, except as provided in the following articles:

Art. 116. Contracts for air transportation of goods shall be governed by the provisions of the Warsaw Convention of October 12, 1929, or any Convention or protocol modifying it and applicable in Dahomey, even if the transportation is not international in the sense of that convention.

Art. 117. Liability of the carrier of goods or baggage shall be governed, in the case of transportation by air, by the provisions of the Warsaw Convention of October 12, 1929, under the conditions provided for in Article 116 above.

Art. 118. The fraud provided for in Article 26, paragraph 4, of said convention, is one by which the carrier hides or tries to hide a loss, shortage or delay, or by any other means prevents or tries to prevent the addressee from presenting his claims within the required time. The injured person shall also be relieved from the running of the statute of limitations as provided for in this law if he has been prevented from presenting his claim by *force majeure*.

Art. 119. An action for liability may be brought, at the choice of the plaintiff, either before the court of the domicile of the carrier, at his principal place of operation or at the place where he possesses an establishment by means of which the contract was concluded, or before the court of the place of destination.

An action for liability must be brought, under penalty of losing the right, within two years from the day when the aircraft has arrived or should have arrived at the place of destination.

Art. 120. The carrier shall make out a manifest containing the type and nature of the goods carried under the conditions specified by the regulations. A duplicate of the manifest shall be kept aboard the aircraft and be made available, on request, to the flight controllers and customs officials.

Art. 121. Jettisoning of goods necessary for the welfare of the aircraft shall not create liability on the part of the carrier to the shipper and the addressee on account of such loss of the goods.

CHAPTER II. TRANSPORTATION OF PERSONS

Art. 122. Contracts for transportation of passengers must be made by delivery of a ticket.

The carrier must submit to the competent authorities a traffic form or, in the absence thereof, a passenger manifest.

However, this provision shall not apply to trips which provide for return to the airport of departure without an intermediate stop.

Art. 123. For international transportation, the operators shall take the precautions necessary to ensure that the passengers possess all documents required by the States for purposes of control.

Art. 124. Liability of a carrier of persons shall be governed by the provisions of the Convention of Warsaw of October 12, 1929, as provided for in Articles 117, 118, and 119 above. However, unless there

are contrary provisions in the agreement, a carrier who undertakes gratuitous transportation, shall not be liable, within the limits provided for in said convention, except where it is established that the damage has been caused by a fault attributable to the carrier or his employees.

Liability of an air carrier may not be imposed except under the conditions and within the limits provided for above, whoever the persons bringing the action, and whatever the right they pretend to claim, may be.

CHAPTER III. CHARTER AND RENTAL

Art. 125. In case of charter of an aircraft for a predetermined time, the crew members as defined by the regulations shall remain the agents of the aircraft owner, unless there is an agreement to the contrary.

Art. 126. The owner of an aircraft chartered to a third person shall remain liable for all legal obligations and shall be jointly liable with the charterer for any violation thereof.

However, when the charter contract is recorded in the register and when the charterer fulfills the conditions required for ownership in a Dahomey aircraft, such charterer shall be solely liable as operator for all legal obligations and shall be solely liable for violation thereof.

TITLE II. CARRIERS

CHAPTER I. DAHOMEY CARRIERS

Art. 127. No one shall engage in air transportation on a commercial basis and for payment, unless he has been authorized (by the Minister of Civil Aviation).

The manner in which such authorization is granted or withdrawn, shall be determined by decree.

Art. 128. Carriers authorized under Article 127 above must submit for prior approval of the Minister of Civil Aviation:

- 1) Their general plans for the purchase and rental of flight equipment;
- 2) Their plans of operation containing in particular an indication of the types of equipment normally used in each of the passenger services listed in such plans.

The Superior Council of the Civil Aeronautics Board shall have jurisdiction to decide on such plans and on all changes made therein.

The rates shall be submitted for approval to the Minister of Civil Aviation.

Transportation of a maximum of six passengers by aircraft whose weight is less than a maximum fixed by a decree shall not be subject to the obligations specified in this article.

Art. 129. Conditions of coordination between air transportation and transportation on the ground shall be determined by decree.

Art. 130. Air carriers shall be subject to the technical control exercised by the Minister of Civil Aviation in order to insure air safety.

Expenses incurred by such control shall be borne by the carriers.

Art. 131. Control by the State of air carriers shall be exercised as regards technical operation and working conditions for the personnel, commercial operation and administrative regulation by the Minister of Civil Aviation.

Art. 132. The Minister of Civil Aviation may delegate certain functions of control to a technical organization set up for this purpose.

Art. 133. Authorized carriers must on request by the officials in charge of control open to them for inspection all documents which are necessary for the exercise of their functions.

Art. 134. The conditions of application of Articles 122 and 124, shall be fixed by decree.

CHAPTER II. THE COMPANY "AIR AFRIQUE"

Art. 135. The company "Air Afrique" established by the Treaty of Yaoundé signed on March 28, 1961, shall be deemed to have Dahomey nationality.

CHAPTER III. FOREIGN CARRIERS

Art. 136. The establishment and operation of foreign scheduled international air carriers coming from, or going to Dahomey shall be subject to prior authorization by the Government.

Art. 137. The plans, timetables, rates and technical facilities for operation of foreign air carriers providing services from or to Dahomey must be submitted to the competent aviation authorities under the conditions fixed by the latter.

Art. 138. Commercial transportation of passengers and goods between two points in Dahomey shall be reserved to Dahomey carriers except for special and temporary exceptions.

CHAPTER IV. PENALTIES

Art. 139. When an air carrier violates the provision of Articles 128, 130, 137, and 138, in regard to all or some of the activities undertaken, the suspension or withdrawal of the permits or authorizations granted may be pronounced by decree.

Art. 140. Any Dahomey or foreign air carrier who, without authorization or in violation of the conditions prescribed in the authorizations issued to him, undertakes in Dahomey any air transportation, shall be punishable by a fine.

Such fine shall be imposed by any agent empowered to pursue violations in air traffic matters, particularly by airdrome commanders, and shall be paid in cash to the qualified agents, particularly to collectors of fees attached to airdromes.

Such fine shall be in proportion to the weight of the aircraft and shall be established on the basis of 25,000 francs CFA per ton, for each transportation.

The weight considered shall be the maximum take-off weight under the airworthiness certificate.

Any fraction of a ton shall count as a ton.

If payment of the fine is refused, or in case of repetition, the aircraft may be sequestered on the request of the competent aviation authorities.

BOOK IV. FLIGHT PERSONNEL

TITLE I. PROFESSIONAL FLIGHT PERSONNEL

CHAPTER I. CATEGORIES

Art. 141. The capacity of professional airman of civil aeronautics shall be granted to persons whose habitual and principal occupation

either for their own account or for the account of others and for gainful purposes or for a fee, is:

The command and the guidance of aircraft (section A) ;

The servicing aboard of various engines, machines, and instruments necessary for the running and the flight of the aircraft (section B) ;

The servicing aboard of other equipment installed in the aircraft, and particularly, photographic and meteorological equipment, or equipment serving agricultural work and equipment serving the operation of parachutes (section C) ;

Additional services aboard shall include particularly the commercial flight personnel of the air carriers (section D).

Art. 142. The professional flight personnel of civil aeronautics shall belong to one of the three following categories:

I. Testing and admissions.

II. Air transportation.

III. Air work.

Art. 143. For application of the present book:

1) Testing and admissions are defined as follows:

a) Testing: Any tests—made in flight, on the ground or in the water, under the direction or control of representatives of industry or of the State—which serve research in regard to the characteristics and the functioning of aircraft. Such tests concern the fuselage, the engines and, generally, all instruments, machines, equipment and installations contributing to the operation and direction of aircraft. They concern also the safety and the comfort of the crew and the passengers. They apply to aircraft which are prototypes or first in a series, or which incorporate a new element of a nature that may affect their flight characteristics or their performance;

b) Admissions: Any tests of examination in flight, provided for in the regulations or conventions, and concerning the aircraft and flight equipment in a series;

2) Air transportation is defined as follows: Any air operation done in view of or during the course of transportation, for a fee or salary, of passenger, mail or goods:

3) Air work is defined as follows: Any air operation for a remuneration which utilizes an aircraft for purposes other than transportation or tests and admissions defined in 1 and 2 above.

It shall include, in particular flight instruction, demonstration and advertising flights, photography, parachuting, publicity and agricultural air operations.

Art. 144. The classification, by section and by category, of the professional flight personnel of civil aeronautics of sections A and B and of the personnel in sections C and D is determined, upon the advice of the council of flight personnel defined in Article 150.

Art. 145. No one may be a member of the professional flight personnel of civil aeronautics in section A, B, and C and of the permanent personnel in section D who is not registered in the respective special register for his category and section.

However, the personnel in Section D hired for a period of less than six months shall not be registered in the register.

Art. 146. In order to be first registered in any of the registers, the applicant must satisfy the following conditions and he must:

- 1) Be of Dahomey nationality;
- 2) Hold certificates (sections A, B, C) or the certificate of safety and lifesaving (section D) as well as, depending on the case, valid licenses corresponding to the applicable register;
- 3) Not have been convicted to serve a prison term or a more serious penalty, either for a crime or a delict against decency and good morals.

By decree issued after advice of the council of flight personnel shall be fixed:

- a) the rules applicable to the establishment and the keeping of such registers;
- b) the conditions under which changes in registration, refusal of registration, suspension, elimination and re-registration may be made, as well as the conditions under which applicants must justify their registration in the register.

Art. 147. Persons who do not have Dahomey nationality, and who are admitted to exercise a professional activity in the Republic of Dahomey may be authorized to exercise temporarily the activities reserved by Article 141 to the professional flight personnel of the civil aeronautics.

TITLE II. PATENTS, LICENSES, AND QUALIFICATIONS

Art. 148. The titles designated "patents" denote general overall theoretical and practical knowledge. They are issued after an examination and are permanently acquired by the titleholders.

The titles designated "licenses" denote an aptitude and the right, for titleholders of patents, to execute the corresponding functions subject to the qualifications provided for in the following article. Licenses are valid only for a limited time; they may be renewed after periodic examination for the various aptitudes required.

The list of patents and licenses, the conditions required to obtain them, the rules, plans, and regulations for pertinent examinations and the rules for exemption of candidates who possess certain Dahomey or foreign qualifications denoting knowledge at least equal to that required for such examinations, shall be fixed by regulations.

In no case shall the beneficiaries of the exemptions mentioned above be exempt from the practical examination.

Art. 149. The exercise of functions corresponding to the different licenses is subject to the titleholder's possession of special professional qualifications in view of the aircraft, the equipment, and the conditions of the flights contemplated.

The definition of the special professional qualifications, the conditions to obtain and renew them, the plans and regulations for the respective examinations shall be fixed by regulations.

Art. 150. The council of professional flight personnel of civil aeronautics has the task:

- 1) of presenting to the ministers concerned all useful proposals concerning programs of instruction, examination, training and of control over certificates, licenses and qualifications of the personnel mentioned in Articles 148 and 149.

2) of keeping track of any informative matter in the development of aeronautical techniques for the better exercise of the profession.

3) To propose to the minister concerned the application of the penalties provided for in Article 168.

The council of flight personnel shall consist of: one-third of representatives of the administration, one-third of representatives of the operators and one-third of representatives of the flight personnel.

The membership and functioning of the council shall be fixed by decree.

TITLE III. THE AIRCRAFT COMMANDER AND THE CREW

Art. 151. The crew shall consist of all the persons aboard for the service of the aircraft in flight. It shall be subject to the orders of the aircraft commander.

The members of the crew shall be appointed by the operator and carried on a list as required by the regulations.

Art. 152. The functions of aircraft commander shall be exercised by a pilot.

The aircraft commander shall be named first on the crew list.

In the case of death or disability of the aircraft commander, the command of the aircraft to the place of landing shall be exercised as a matter of law in the order set by such list.

Art. 153. The aircraft commander shall be responsible for the execution of the mission and shall have authority over all persons aboard. He shall have the right to remove from the aircraft any person among the crew or the passengers or any part of the cargo that may present a danger for the safety, the welfare or good order aboard the aircraft. If he considers it necessary, he may, during the flight, discharge all or part of the cargo of merchandise or fuel, provided he renders an account thereof to the operator. If any choice is possible, he must jettison goods of low value.

Art. 154. The aircraft commander shall be consignee of the aircraft and shall be responsible for the cargo. In the case of difficulties in the execution of his task, he must request instructions from the operator. If it is impossible for him to receive precise instructions, he shall have the right without special orders:

a) to incur expenses necessary for the accomplishment of the mission undertaken;

b) to have repairs made that are necessary to permit the aircraft to continue its mission within a reasonable time;

c) to take all measures and incur all expenses to assure the safety of the persons aboard and the safekeeping of the cargo;

d) to hire additional personnel for the completion of the mission and to discharge them.

e) to borrow any amount necessary to permit the performance of the measures mentioned in the preceding paragraphs.

TITLE IV. WORK CONTRACTS

Art. 155. The hiring of a member of the professional flight personnel shall, in every case, give rise to a written work contract.

Such contract shall specify in particular:

1) the guaranteed monthly minimum salary;

2) the severance payment which will be allowed, except in the case of gross negligence, to the licensed personnel without pension rights for immediate enjoyment. Such payment shall be calculated for sections A, B and C on the basis of a guarantee of one month's salary per year of service in the organization, and for section D, on the basis of one-half month per year of service, and the operator shall not be held to exceed a total of twelve months for sections A, B and C, and six months for section D;

3) the conditions under which the contract will be terminated in case of illness, invalidity or disappearance;

4) the place of final destination and the time at which the mission is deemed accomplished if the contract is made for a predetermined mission;

5) if the contract provides for foreign duty of the airman: the duration of the stay outside Dahomey not to exceed three consecutive years except by agreement between the two parties:

the payment for such stay;

the leave accorded at the end of the stay and the conditions of repatriation. In the case of severance, the persons concerned shall have the right, except for demand on their part, to be repatriated before the expiration of the notice period and at the expense of the employer.

6) The notice period to be observed in the case of termination of the contract by either party which must be at least three months except in the case of gross negligence. During the notice period, the monthly air work demanded of the airmen must remain equal to that demanded during the same period of the members of the flight personnel of the organization in question.

For the personnel of category D, the notice period shall be equal to at least one and one-half month, except in the case of gross negligence.

The employer may, however, refrain from using the airman during the notice period, in which case he must pay him, immediately and in one payment, an amount calculated for the minimum notice period on the basis of the total median monthly salary during the last year of regular employment.

Except where a public service has to be assured, the airmen and the other flight personnel cannot be forced to perform air work in areas of civil or military hostilities except on a voluntary basis. A special contract shall then fix the special working conditions and shall expressly cover, apart from the normal risks, the special risks due to the conditions of employment.

The provisions of the present article shall be applicable only to the relations between an employer and a salaried employee. They shall not oppose the exercise of the right of requisitioning by the public authorities as provided for by the laws in force.

Art. 156. A work contract of predetermined duration whose term ends during the course of a mission shall be deemed extended until the accomplishment of the mission.

A work contract of undetermined duration, terminated during the course of a mission, shall end at the expiration of the notice period which shall begin to run on the day the mission is accomplished.

Any member of the flight personnel grounded for any reason whatsoever during a mission shall be repatriated to the place of hiring at the expense of the operator.

Art. 157. Interruption of a mission decided upon by the aircraft commander for safety reasons shall not constitute a breach of the work contract. The aircraft commander shall render an account to the operator of the circumstances which led him to decide on interrupting the mission.

All expenses resulting from such interruption shall be borne by the operator including those specified in the preceding article.

Art. 158. In the case of internment, arrest or captivity of a member of the crew while in service, and which is not obviously the result of an ordinary crime, the work contract shall be deemed extended until the end of such internment, arrest or captivity.

Without an agreement to the contrary, the operator shall make monthly payments of three-fifths of the total average monthly salary during the twelve preceding months to the persons entitled thereto or, if there is none, to the person designated by the titleholder.

After his release the person concerned shall be asked to present a report concerning the cause and the circumstances of the measures which have been taken against him.

If it appears that these have not been the result of gross negligence on his part, the balance of his salary shall be paid to him without delay, and also the amount of expenses, if any, for housing and living expenses during the period in question.

Otherwise, and upon advice of the disciplinary council or judgment, as the case may be, if it be established that the circumstances of internment, arrest or captivity are such as to show gross negligence of the person concerned, such person shall not be entitled to the payment of the balance of his salary and other penalties may be imposed including repayment of any amounts received in application of this article.

Art. 159. No member of the flight personnel of the civil aeronautics shall have to fulfill any functions other than those specified in his work contract, except when in flight on the order of the aircraft commander.

However, where the technical means are insufficient, the crew shall participate in ground operations to repair aircraft and make it air-worthy.

In order to improve and perfect their professional knowledge, the members of the flight personnel may be called to take instruction courses on the ground that are considered necessary by the management of the operator or by the administrative authorities.

Art. 160. Apart from the property which, under the provisions of the laws, may not be seized or garnished, the following shall be neither seized nor garnished for any reason whatsoever: the equipment, the instruments and other property of the members of the flight personnel and used in the exercise of their profession.

No amounts due the persons concerned for medical expenses or medications, housing and living expenses, and expenses for repatriation to the place of hiring may be assigned or seized.

Art. 161. The elements of compensation of the flight personnel of the civil aeronautics that must be taken into consideration for the determination of the guaranteed monthly minimum salary and the total average salary provided for in this title, shall be fixed by a ministerial order.

TITLE V. DISCIPLINE

Art. 162. The aircraft commander shall have to make a detailed report within forty-eight hours following any accident or incident that may have serious consequences and occurring either on the ground or in flight, or any violation of the rules of air traffic.

Such report, made out in three copies, shall be directed :

to the competent representatives of the civil aeronautics or of the armed forces (air) depending on whether the aircraft commander belongs to the categories "air transportation" or "air work" or to the category "testing and admissions";

to the management of the operator concerned ;

to the council of flight personnel.

Art. 163. The competent administrative authority shall proceed to all investigations and inquiries in order to seek and state the causes of accidents or incidents.

Art. 164. A commission of investigation may be set up by order.

Such commission must hear the representatives of the operators concerned, as well as the flight personnel in question, or its representatives.

Investigation reports shall be addressed to the courts upon their request, and on request, to the foreign States which have participated in the investigation, to the departments of the ministries, to the operating companies, to aviation clubs, to the owners of the aircraft concerned in the accident and to the *Journal Officiel* for publication.

Art. 165. The council of the flight personnel provided for in Article 150 shall have the task of proposing to the competent minister the application of the penalties provided for in Article 168 in regard to members of the flight personnel of the civil aeronautics who have been found guilty of negligence in the exercise of their profession.

Art. 166. When the commission of investigation provided for in Article 164 concludes that there was professional negligence, a duplicate file shall be sent directly to the council of the flight personnel.

Art. 167. The person concerned may challenge the members of the council under the conditions provided for in Articles 378 *et seq.* of the Code of Civil Procedure.

Art. 168. Disciplinary penalties within the jurisdiction of the council of the flight personnel shall be the following :

temporary revocation with or without suspension of one or several certificates or licenses.

permanent revocation of one or several certificates or licenses. removal from the register provided for in Article 145.

Art. 169. In case there is a serious presumption concerning the responsibility of the aircraft commander or a member of the crew and while awaiting the conclusions of the council of the flight personnel, the competent minister may relieve the person concerned of his functions for a period not to exceed, in any case, two months.

The person concerned shall receive his minimum guaranteed salary during the period of suspension.

Art. 170. Any violation of the regulations concerning working hours of the flight personnel shall mean automatic withdrawal of the license of the person committing the violation for a period of not less than fifteen days, nor more than two months.

TITLE VI. PENSIONS

Art. 171. A decree shall determine the rights of the professional flight personnel in case of permanent or temporary loss of working capacity, and the pension system applicable to them.

TITLE VII. CRIMINAL PROVISIONS

Art. 172. Any person who performs any of the duties requiring a patent, license and qualification of the professional flight personnel of civil aviation in violation of the provision of this Title, shall be punished by a fine of from 20,000 to 120,000 francs CFA, and by imprisonment of from ten days to one month, or by only one of these penalties.

Any management official of a carrier who entrusts such duties to a person who does not fulfill the conditions required by this title, shall be subject to the same penalty.

DENMARK

PRELIMINARY NOTE FOR FINLAND

Denmark, Finland, Norway and Sweden agreed to prepare uniform air laws for all four countries in the framework of the Nordic Council, and to put them into force simultaneously. Laws, based on this uniform draft, were enacted by the legislatures of Denmark, Norway, and Sweden. Finland did not enact a new law by the time agreed upon, and the old law is still in force.

A Finnish preliminary draft for a new air law was prepared by a special committee and submitted to the Cabinet on January 1, 1961. It was transmitted to a legal committee of the Cabinet on January 30, 1962. According to the information available, the draft, which differs to a certain degree from the laws of the other Scandinavian countries, is now under discussion but has not been submitted to the Legislature. It is not possible to predict when it will be enacted.

PRELIMINARY NOTE FOR DENMARK, ICELAND, NORWAY AND SWEDEN

On January 1, 1962, new air laws and new regulations for the application thereof went into effect in Denmark, Norway and Sweden. They were drafted within the framework of legal cooperation among the three countries. On the drafting committee there were also representatives of Finland and Iceland. The new law was adopted by the legislatures of Sweden on June 6, 1957 (later amended), to Denmark on June 10, 1960, and of Norway on December 16, 1960. (Iceland passed a new law on May 9, 1964. See *infra*.) The laws are close as to main principles, but they are not uniform and differ considerably in detail and wording.

There were many reasons for revision of the air laws which date as far back as the beginning of the twenties. First, the old laws were obsolete in view of the technical development of aviation. Second, these countries had ratified the Chicago Convention, and it was necessary to adapt the internal laws to the provision of the Chicago Convention and other international conventions.

In accordance with the Chicago Convention, the new Scandinavian air laws express unrestricted sovereignty of the States over the airspace.

The laws do not contain explicit provisions on outer space. It was the opinion of the drafting committee that this question should be solved by international organizations or agreements. However, the committee discussed the problems arising from the appearance of new inventions as a result of technical developments which cannot be considered aircraft in the sense of air laws. For these new "extraordinary types" of air vehicle, a special article was adopted in the laws

of each of the three countries relating to aircraft without a pilot, or which are of an extraordinary type, and to related inventions which are designed to move in the air but are not aircraft. In each country the King is authorized to issue special regulations concerning such vehicles and inventions and, if necessary, to enact exceptions from the provisions of the law.

Another major consideration in Denmark, Norway and Sweden in revising the air laws was the cooperation of these countries in the field of flight operations. International cooperation among the private aviation companies of Denmark, Norway and Sweden started in 1946 when these companies formed a consortium for the operation of inter-continental air service, named Overseas Scandinavian Airlines System (OSAS). In 1948 a separate arrangement was made for the traffic in Europe and the Near-East, called European Scandinavian Airlines System (ESAS). An agreement of February 8, 1951 among the companies of the three countries, which was approved by the three governments, consolidated the former consortia into a new consortium, the Scandinavian Airlines System (SAS) with a share capital of \$30,350,500, divided among the three countries in the ratio of 3-2-2, e.g., the Swedish share is $\frac{3}{4}$ of the capital, and the Danish and Norwegian shares $\frac{2}{4}$ each. Fifty per cent of the shares are Government owned and fifty per cent are privately owned. Parties to the agreement are three companies, *Aktiebolaget Aerotransport* in Sweden, *Det Danske Luftfartsselskab* in Denmark and *Det Norske Luftfartsselskab* in Norway.

One half of the members of the Board of Directors are appointed by the respective Governments and the other half elected by the private shareholders. The activities in the workshops and hangars and the number of the employees of higher rank or of technical learning are also divided among the countries in the ratio of 3-2-2. The headquarters of the consortium are at Stockholm, Sweden.

Aircraft at the disposal of the SAS and other property are owned jointly by the contracting parties. Aircraft are registered in the ratio of 3-2-2 in Sweden, Denmark and Norway. They are marked with the nationality and registration marks of the country of registration and, in addition, with the special emblem of the SAS. Flight personnel is granted certificates by the State of their nationality, validated for service on the aircraft registered in the two other countries by special documents issued by the authorities of the two other countries. Airworthiness certificates are issued by the State of registration.

According to a special Government Agreement of December 20, 1951, the civil aviation authorities of the three countries will cooperate with regard to the exercise of control of SAS air operations according to the national laws of the three countries, and international rules.

Disputes regarding the application of the agreement are subject of arbitration. If no agreement is reached among the parties the presidents of the Supreme Courts of the three countries appoint the arbitrators, one from each country.

The period of validity of the Agreement is 25 years. By an Additional agreement of 1959 the period was extended to September 30, 1985.

*Royal Decree on Making Effective the Law on Aviation of June 10, 1960, No. 252 of December 8, 1961 No. 353*¹

Pursuant to Article 157 of the Law on Aviation of June 10, 1960, No. 252, be it resolved that the law shall be effective from January 1, 1962, with the exception of Chapter 9, and that the Law on Transportation by Aircraft of May 7, 1937, No. 123 shall apply temporarily.²

According to the Resolution of the King of June 18, 1963, No. 272, Chapter IX of the Law on Aviation June 10, 1960, has been effective from August 1, 1963. (Lovtidende A. No. XXIII, 1963.)

*Law on Aviation of June 10, 1960, No. 252*³

1. CIVIL AVIATION

CHAPTER 1. INTRODUCTORY PROVISIONS

Article 1. Flights within Danish territory may take place only in accordance with this law and the regulations enacted pursuant to this law.

Article 2. Flights within Danish territory may only be made by aircraft:

- a) of Danish nationality, or
- b) of foreign nationality if a treaty has been concluded granting the foreign country such right of aviation, or
- c) which has a special license from the Ministry of Public Works.

The license referred to under (c) may be granted under such conditions as are considered in each case, necessary for flight safety or any other circumstances pertaining to the public interest. This license may be revoked at any time.

Article 3. For reasons of public safety, or, if required, by military considerations, flights may be restricted or prohibited in certain areas by Royal decree.

If it is required for public safety or if there are exceptional circumstances, flights may be temporarily restricted or prohibited by Royal decree throughout the realm.

Article 4. This law also applies to Danish aircraft outside Danish territory, unless otherwise provided for in the law or unless the provisions of the law conflict with a foreign law which applies by virtue of a treaty concluded with such foreign country or, in general, with general principles of law.

Article 5. In accordance with the provisions of chapter 9 on Air Transportation, concerning the scope of application, only the restrictions stipulated in Articles 90 and 91 of this chapter shall be applied unless otherwise provided for in a treaty with a foreign country.

CHAPTER 2. REGISTRATION, NATIONALITY, AND MARKING

Article 6. An aircraft register (nationality register) shall be kept by the Aviation Board in its capacity as registration board.

¹ Published in *Lovtidende A* (Law Gazette) No. XXVII, 1961.

² As to rights in aircraft the Law on Registration of Rights in Aircraft of March 31, 1960, No. 135, was made effective from January 1, 1962 by Royal Decree of December 20, 1961, No. 369 (*Lovtidende A*, No. XXVIII).

³ Published in *Lovtidende A*, No. XX, 1960.

As to registration of rights in aircraft, Law No. 135 of Mar. 31, 1960, shall apply.

Article 7. An aircraft may be registered in Denmark only if it belongs to a Danish owner. Danish owners are deemed:

- a) The Danish State and institutions managed by the State;
- b) Danish municipalities;
- c) Danish nationals;
- d) foundations solely under Danish management with main offices in Denmark;
- e) associations and similar organizations solely under Danish management with main offices in Denmark when at least $\frac{2}{3}$ of their members are Danish nationals;
- f) joint stock companies solely under Danish management and direction, with main offices in Denmark;
- g) other companies with limited liability when the majority of members are Danish nationals, or who, according to this Article, are deemed equal to Danish nationals;
- h) partnerships when all the members are Danish nationals, or who, according to this Article are deemed equal to Danish nationals.

The Minister of Public Works, in special cases, may grant registration of an aircraft which is frequently operated in this country and whose point of departure is generally in this country even in the event the owner does not fulfill the requirements of paragraphs (a) to (h).

Article 8. An aircraft which is registered in a foreign country may not be registered in this country unless the foreign registration is cancelled, and provided all holders of registered rights in the aircraft, agree to the transfer of their rights which, in accordance with an agreement with the foreign country, are recognized in this country or such rights have lapsed by legal proceedings.

Article 9. No aircraft shall be registered unless it has a certificate of airworthiness granted or approved by the Aviation Board.

Article 10. Registration shall be made upon written application of the owner.

This application shall contain the following information: that the applicant is the owner; that he acquired the aircraft, whether it was purchased on instalments; and information on the aircraft including when, where and by whom the aircraft was manufactured.

The application shall have attached evidence that the conditions required by Articles 7 to 9 have been fulfilled.

Article 11. If the registration board approves an application for registration of an aircraft, it will be registered and furnished with registration markings.

The register shall contain:

- a) the nationality and registration markings of the aircraft;
- b) data necessary for identification of the aircraft;
- c) data on the owner, how the aircraft was acquired and whether the aircraft was purchased on instalments;
- d) a statement on the airworthiness certificate of the aircraft;
- e) the date of registration;
- f) other data in accordance with the regulations issued by the Minister of Public Works.

Article 12. The owner shall notify the registration board without delay of any changes in ownership of the aircraft, sale of the aircraft on instalments while retaining rights of ownership, or of any substantial changes when the aircraft has undergone alterations which are essential to its identification. This shall apply even if the owner no longer conforms to the requirements of Article 7. When the aircraft is transferred in whole or in part to a new owner, the responsibility to submit such information shall also be assumed by the transferor. When there is a judicial sale or seizure by an act of the bailiff, the bailiff shall file the necessary information with the registration authority; in cases of bankruptcy, and public administration of an estate of a deceased person, the Surrogate's Court or the executor shall assume this responsibility.

The registration board, in accordance with the provisions of Articles 10 and 11, shall enter such information in the register or strike the aircraft from the register in accordance with Articles 13 and 14, or make other notations in the register.

Article 13. An aircraft shall be stricken from the register :

- a) upon request of the owner recorded in the register;
- b) if the conditions provided for in Article 7 are no longer fulfilled and the Minister of Public Works refuses to permit such registration to remain in the register;
- c) if the aircraft is wrecked or completely destroyed;
- d) if the aircraft is lost. An aircraft is presumed to be lost if three months have passed since its last take-off and no information is available that the aircraft is still intact.

The owner shall inform without delay the registration authority as to any occurrences indicated above in the event this has not been done in accordance with the provisions of Article 12.

When an aircraft has not had a valid airworthiness certificate for a period of three years, it may be stricken from the register if the owner fails to submit such certificate within the time limit specified by the registration board.

Article 14. When an aircraft is subject to a mortgage and the mortgage is recorded in the register, the aircraft may not be stricken from the register without agreement of the mortgagee; in this case an entry shall be made in the register as to the circumstances under which there may be a cancellation of the registration. This entry shall not affect the mortgage but in other respects shall have the same effect as a cancellation.

When an aircraft is stricken from the register or when a notation is made in the register according to paragraph one of this Article, the chief of the Register of Rights on Aircraft shall be informed.

Article 15. If a registered aircraft is transferred to a lease-holder or to any other person for use on his own account, for a period of at least 14 days or for an indefinite time, each contracting party may submit such information to the registration authority; in this case an entry shall be made in the register as to the user and his rights.

Article 16. When an aircraft is manufactured on Danish account in a foreign country or is transferred to Danish ownership, and the requirements of Article 7 and 8 are fulfilled, the aircraft may be entered temporarily in a special part of the aircraft register in accordance with requirements determined by the Minister of Public Works.

NATIONALITY

Article 17. A registered aircraft has Danish nationality.

The registration authority shall issue for the aircraft a nationality certificate and a registration certificate.

Article 18. If an aircraft is stricken from the register or a notation has been entered in the register in accordance with Article 14, the owner of such aircraft or, if the aircraft is transferred to foreign ownership, the former owner shall return the nationality and registration certificates to the Aviation authority without delay. If there are entries in the register referring to changes in facts referred to in the certificate, the owner shall be required to return without delay the certificate to the Aviation board for modification or replacement.

Article 19. An aircraft validly entered in the special part of the register referred to in Article 16 shall have Danish nationality until the entry is in force.

The registration board shall grant temporary nationality and registration certificates for such aircraft.

Article 20. A Danish aircraft used for aviation in accordance with this law shall have Danish nationality and registration certificates in accordance with the provisions of this chapter.

For flights in the Danish realm foreign aircraft must have foreign nationality and registration certificates or comparable documents granted by the foreign country with whom a treaty has been concluded for aviation rights in the Danish realm.

The regulations of the Minister of Public Works shall apply to aircraft licensed in accordance with Article 2, (c).

MARKINGS

Article 21. Aircraft registered in the Danish national register in accordance with Articles 11 or 16 shall have Danish nationality and registration markings. Aircraft shall bear these markings as long as it remains on the register.

Aircraft operated in accordance with Article 2, (b), shall bear markings in accordance with the regulations of the home country of the aircraft.

Aircraft operated under a special license required by Article 2, (c), shall bear markings in accordance with the regulations issued by the Minister of Public Works.

CHAPTER 3. AIRWORTHINESS

Article 22. Aircraft used for aviation pursuant to this law, must be airworthy.

An aircraft may not be considered airworthy unless it is designed, constructed, equipped, maintained, and has flying qualities consistent with standards of safety.

Article 23. Inspection of aircraft for airworthiness shall be the responsibility of the Aviation Board, which shall also supervise the airworthiness of aircraft insofar as it is used in accordance with this law.

The Aviation Board may perform such inspection and supervision through a designated Danish or foreign expert, or through foreign authorities.

Article 24. When it has been established by inspection or other means that an aircraft satisfies the conditions of airworthiness, a certificate of airworthiness shall be granted by the Aviation authority. The certificate may be granted for a specified period, or may be limited to flights of a specified nature or within specified areas. The Minister of Public Works may determine that the certificate or a special document which must follow the certificate, shall contain specific instructions on the use of the aircraft which must be observed in order to ensure the continued airworthiness of the aircraft.

The certificate may be renewed upon application of the owner if the airworthiness of the aircraft has been maintained at the time of renewal. The Aviation Board may entrust the experts or authorities referred to in Article 23, paragraph 2, as to the renewal of airworthiness certificates.

Article 25. Danish aircraft used in accordance with this law must be provided with an airworthiness certificate issued or approved by the Aviation authority.

Foreign aircraft must be provided with the certificate referred to in paragraph 1 for flights in the Danish realm or an airworthiness certificate issued or approved by a foreign country, which shall be recognized in Denmark pursuant to agreement with such country.

An aircraft which is not provided with an airworthiness certificate pursuant to paragraphs 1 or 2, may be granted a special license for flights by the Aviation Board. Such licenses may be revoked at any time.

Article 26. If not provided otherwise by the Minister of Public Works, a Danish airworthiness certificate shall not be valid in the following instances:

- a) If the aircraft has not been inspected in accordance with the regulations;
- b) If the aircraft or its equipment has been altered and the alteration may have had an effect on its airworthiness;
- c) If the aircraft or its equipment has sustained damage apparently affecting its airworthiness.

In general the airworthiness certificate may be declared invalid if such incidents have occurred which in the judgment of the Minister affect the airworthiness of the aircraft.

In the cases mentioned under (c) the invalidity shall subsist until the damage is repaired in conformity with the regulations issued by the Minister. In general the invalidity shall subsist until the aircraft is considered airworthy.

The Aviation Board may demand the return of an invalid certificate.

Article 27. The requirements for airworthiness certificates provided for in Articles 24 and 26 shall apply accordingly to approval, renewal or cancellation of a foreign airworthiness certificate.

Article 28. The owner or user of an aircraft which is used pursuant to this law shall be responsible for maintaining the airworthiness of the aircraft and that a valid certificate of airworthiness is in effect. Pursuant to the regulations issued by the Minister of Public Works the owner must notify the Aviation Board without delay of all in-

cidents which may affect the airworthiness and submit all information necessary for purposes of inspection.

Article 29. The Aviation Board and the experts or authorities referred to in Article 23, paragraph 2, shall have access to any aircraft which is used pursuant to this law, and they shall have the right to inspect such aircraft and its equipment when necessary to fulfill their responsibility of inspection and supervision. The Aviation Board and the experts or authorities referred to in Article 23, paragraph 2, shall have the right to require all necessary cooperation from the owner or user and crew members. On request of the Aviation Board, the aircraft shall be prepared for inspection, as well as test flights and other tests deemed necessary may be requested to be performed.

Article 30. In order to test the qualities of an aircraft, or for other special reasons, the Aviation board, pursuant to the regulations of the Minister of Public Works, may make exceptions from the provisions of this chapter and from regulations issued in accordance with this chapter.

Article 31. The Minister of Public Works may provide that the building of aircraft and the manufacture of accessories and spare parts, and maintenance, repair, alteration of aircraft or accessories and spare parts, may be performed only by persons approved for such purpose or by an enterprise whose technical organization has been approved.

CHAPTER 4. THE CREW OF AN AIRCRAFT

Article 32. An aircraft used pursuant to this law must be adequately manned.

The Minister for Public Works shall issue detailed regulations on manning.

The owner or user of an aircraft shall be responsible for the adequate manning of the aircraft.

Article 33. The Aviation Board shall supervise compliance with the regulations on manning. The Board may request Danish or foreign experts, or a foreign authority to perform the necessary supervision.

Article 34. The Minister of Public Works shall specify the requirements for service on an aircraft in regard to nationality, age, physical and mental qualifications, sobriety, training, practice, etc.

Article 35. A certificate for service on an aircraft as commander or in such other position as determined by the Minister of Public Works shall be granted by the Aviation Board to persons who fulfill established requirements for the particular type of service.

The certificate may be limited to service on a specified type of aircraft, for aviation of a specified nature, or for aviation within specified areas.

The certificate shall be granted for a specified period and may be renewed upon application for a specified period provided the holder of the certificate at the time of application for renewal has fulfilled the requirements for the type of service authorized by the certificate.

A certificate may be denied to persons convicted of a crime which gives rise to the assumption that the certificate may be abused (c.f. Article 78 of the Criminal Code.)

Article 36. Any person serving on an aircraft referred to in Article 35 shall have a certificate granted or approved by the Aviation Board or possess a certificate issued or approved by a foreign country, provided the certificate issued is valid in this country by virtue of an agreement with such country.

A person serving on a Danish aircraft in international aviation shall be provided with a certificate granted or approved by the Aviation Board.

The Aviation Board shall have the power to refuse recognition of a certificate issued to a Danish national by a foreign country for flights over the Danish realm.

Such person may be granted by the Aviation Board a special license to serve on an aircraft regardless of the provisions of paragraph 1. Such license may be revoked at anytime.

Article 37. The Aviation authority may suspend a Danish certificate for a specified period, or until further notice, or for the remainder of its period of validity, when the holder does not fulfill the requirements for the type of service authorized by the certificate.

If the Aviation Board finds grounds for suspension according to paragraph 1, it may invalidate the certificate until the matter of suspension is decided.

If a certificate is suspended or invalidated pursuant to the provisions of this article, it shall be returned to the Aviation Board.

Article 38. The requirements for a Danish certificate, as provided for in Articles 35 and 37 also apply to the approval of a foreign certificate or to the renewal or revocation of such approval.

Article 39. Any person who has a certificate granted or approved by the Aviation Board, shall advise the Board without delay of any incidents which might have a bearing on the holder's continuing compliance with the requirements for the type of service. He shall be subject to such investigation and tests as may be deemed necessary by the Aviation Board.

Article 40. The Aviation Board may permit an aircraft to be used for training or for other special purposes even if it is not manned pursuant to the requirements specified in Article 32.

CHAPTER 5. AIRCRAFT COMMANDER AND FLIGHT PERSONNEL

Article 41. There shall be an aircraft commander on all Danish Aircraft operated pursuant to this law.

The commander shall be the highest authority aboard the aircraft.

Article 42. The aircraft commander shall be responsible that the aircraft is airworthy and adequately equipped, manned and loaded, and that the flight is prepared and carried out in accordance with the regulations.

The provisions of Article 28 on notification to the Aviation Board of circumstances which might affect airworthiness and the submission of information required for performance or airworthiness inspection shall apply to the aircraft commander.

Article 43. The aircraft, crew, passengers and cargo shall be subject to the supervision of the commander.

When he deems it necessary, he may temporarily assign members of the crew to duties other than those they normally perform.

To maintain order aboard an aircraft, the passengers must follow the instructions of the commander.

When he deems it necessary the commander may refuse to take aboard, or may remove from the aircraft any members of the crew, passengers or cargo.

Article 44. If necessary, a commander may resort to the use of force for maintenance of order aboard an aircraft.

When an aircraft is in danger or in an emergency the commander shall be entitled to use all means which he deems necessary for the maintenance of order and safety aboard the aircraft. Each member of the crew shall assist the commander in this respect even without an order.

When a person who does not follow the directions of the commander suffers an injury, he shall have a cause of action for damages only if harsher treatment was used than the circumstances required.

Article 45. When a serious crime is committed on an aircraft, the commander shall take such measures as may be necessary to clear up the case when postponement of such measures would be detrimental.

The aircraft commander shall use due care to prevent the offender from escaping and hold him in custody if necessary, until he may be released to the police or to competent authority outside the Realm.

The aircraft commander may also take into custody items of evidence which are considered essential for clearing up the case until such evidence can be handed over to the police or authority mentioned in paragraph 2.

Article 46. The aircraft commander shall see that prescribed aviation documents are on board an aircraft and are duly kept.

Article 47. In case of emergency the aircraft commander shall take all measures in his power for the safety of the aircraft, the persons, and goods aboard. If it is found necessary to abandon the aircraft, the commander shall take all possible care to preserve the aircraft documents.

Article 48. It shall be the responsibility of the aircraft commander to inform the Aviation Board and as soon as possible submit a report on any air accident which results in the death of, or serious injury to persons on or outside the aircraft, or in serious damage to the aircraft or property outside the aircraft. This shall also apply in the event if there was a serious threat to such accident or an essential defect on the aircraft or in aviation installations on the ground or in their operation.

If the aircraft commander is unable to submit this information or make a report, it shall be submitted by the owner or user of the aircraft.

The Minister of Public Works may issue regulations concerning limitation of responsibilities for submission of this information, or on the extension of these responsibilities to other members of the crew or its submission to agencies other than the Aviation Board.

Article 49. Any person who serves on an aircraft must follow orders of his superiors, take care of the aircraft and persons and goods aboard, and generally conscientiously perform his duties.

Article 50. No person may perform or attempt to perform any service on an aircraft in any position referred to in Article 35, when he has used alcohol in such quantities as to be unable to perform his

service in a satisfactory manner and within the rules of safety, or apart from service of small importance to safety, has a concentration of 0.40 per thousand or more of alcohol in his blood.

No person may perform or attempt to perform any service on an aircraft in any position referred to in Article 35 when, because of illness, weakness, overwork, lack of sleep, influence of narcotics or other similar circumstances he is unable to perform his service on an aircraft in a satisfactory manner.

It is prohibited to use a person in any service on an aircraft if he is under the effect or influence referred to in paragraphs 1 and 2.

Any person who performs or attempts to perform the services under conditions referred to in paragraphs 1 and 2, on an aircraft operated in commercial transportation of persons, shall be punished in accordance with the provisions dealing with aggravating circumstances.

The employer or other superior is subject to the same punishment if he is responsible for the performance or attempt to perform service on an aircraft by a person under the conditions specified in paragraphs 1 and 2.

If a person indulges in intoxicating beverages in a public eating place, and the owner or his employees know or have reason to assume that he will perform service on an aircraft and that he is or will be under the influence of alcohol as specified in paragraph 1, such owner or employees shall do their best to prevent the performance or attempt to perform service on an aircraft by such person, if necessary, with the assistance of the police.

If it is reasonable to assume that a person has violated the provisions of paragraphs 1 or 2, the police, or the Aviation Board with the assistance of the police, may request a physician to determine the percentage of alcohol in the blood and urine of such person.

Article 51. The Minister for Public Works shall determine the extent of application of the provisions of this chapter to foreign aircraft operated within Danish territory.

CHAPTER 6. AIRDROMES AND OTHER INSTALLATIONS FOR AVIATION GENERAL PROVISIONS

Article 52. Airdromes and other installations used in aviation shall comply with the requirements established by the Minister of Public Works.

The Minister shall issue instructions on the operation, maintenance, and supervision of such installations. The authority supervising the installations shall also supervise compliance with other provisions of this chapter and such regulations as may be issued on the basis of this chapter. Such authority may demand access to aviation installations and other property to the extent necessary to carry out its responsibilities.

Article 53. The Minister of Public Works, in concurrence with the Minister of Defense, may designate air routes and other areas where aviation is subject to special regulations.

Article 54. For purposes of flight safety and rescue a service for safety of aviation shall be established. The Minister of Public Works shall issue instructions for this service and stipulate the extent to which the duties may be performed by agencies other than government agencies.

LICENSES

Article 55. For the establishment and operation of an airdrome for public use, a special license shall be granted by the Minister of Public Works in addition to the approval granted pursuant to Article 60.

The Minister may allow an airdrome to be established and operated without a license, taking into consideration the nature of the airdrome, dimensions and duration of the traffic or any other circumstances.

Article 56. A license may be granted only if it is compatible with the public interest.

Article 57. A license shall be granted for a specified period and shall be dependent on conditions deemed necessary.

Article 58. A license may be revoked if in the exercise of the rights granted under the license are exercised in essential disregard of the provisions of this law, or of any conditions included in the license, or of any other laws and regulations applicable to such activities. A license may be revoked if the licensee fails to maintain and operate an aviation installation.

Article 59. To establish and operate an airdrome which is not for the use of the general public or other installations used in aviation, the Minister of Public Works may require license by the Aviation Board. The Minister may issue regulations for such license.

APPROVAL

Article 60. Airdromes for the general use of the public shall be approved by the Minister of Public Works. The Minister shall determine the extent to which such authorization is necessary for airdromes in general and other aviation installations.

To the approval shall be attached such conditions as are deemed necessary.

A license may be revoked by the Minister when the installation does not comply with conditions for such license in force at the time of revocation or when the established conditions have been essentially disregarded.

The owner shall advise the Aviation Board as soon as he has knowledge of any events which make the installation unsuitable to requirements. If these events make the use of the installation dangerous, the owner must, to the extent deemed necessary, cease operation without waiting for a decision of the Aviation Board.

EXPROPRIATION AND OBSTRUCTIONS TO AVIATION

Article 61. To establish an airdrome or other aviation installations or in the expansion, improvement, and maintenance of such installations, property may be expropriated in accordance with the Decree of March 5, 1845, as amended by the law of January 10, 1928, No. 6, insofar as the Minister of Public Works may consider such action necessary in the public interest.

Article 62. Flights to airdromes open for the public use shall be made by aircraft in accordance with the following provisions; however, exceptions may be granted by the Minister of Public Works in specific cases.

Article 63. If no exceptions have been granted in accordance with Article 62 for airdromes mentioned therein there shall be a plan approved by the Minister of Public Works, indicating the rules of flight to such airdromes.

For the territory outside the landing area, the plan shall indicate the limitations deemed necessary as to the maximum height of buildings, industrial plants, masts, wires and other possible obstructions to aviation. As sea and ice airports the plan shall include the port area.

In designated areas within this territory the limitations of heights required for the safety of take-offs and landings shall be specified.

The plan may specify sectors for take-offs and landings in good weather and bad weather. The validity of plan may be limited for a specified period.

Article 64. In areas where the plan provides for limitation of height up to 25 meters, the safety of landing shall be secured by a restriction against obstructions higher than those established by the plan.

The restriction may be established by an expropriation procedure in accordance with the provisions of Article 61.

The Commission for Inspection and Expropriation may determine, with the consent of the Aviation Board, that obstructions to aviation in this area which are more than the heights indicated in the plan may remain, if necessary, with a special marking.

Similarly the Commission for Inspection and Expropriation may authorize exceptions from the limitations on the height indicated in the plan, insofar as future construction of any obstructions to aviation is concerned.

After expropriation procedures have been completed, the Minister of Public Works may grant an exemption to the established restriction if warranted. Such exemption may be granted on condition that any money paid for the establishment of the restriction shall be returned in whole or in part.

Article 65. Where the plan allows obstructions of 25 meters or more in height, every project for the construction of structures of 25 meters or more in height which might obstruct aviation must be submitted to the Aviation Board; such condition shall be entered in the Land Registry on the initiative of the Aviation Board.

If the project is not in conflict with the plan approved by the Minister of Public Works, the Aviation Board shall issue such a certificate.

If the project is in conflict with the plan, the case shall be submitted by the Aviation Board to the Minister of Public Works who decides whether the construction in this particular case may be permitted.

If there were obstructions to aviation in the areas referred to in the present article which exceeded the limitations established by the plan at the time of its approval, the Minister shall determine whether these obstructions shall be removed or have special markings. If necessary, expropriation procedure may be resorted to in accordance with Article 61.

Article 66. The owner of an airdrome shall be required to observe limitations on height, and note and if necessary, report violations to the Aviation Board.

Article 67. The Minister of Public Works, in concurrence with the Minister of Defense, may order the removal or the marking of an ob-

struction outside the territory for which the plan is approved, provided, the height of these obstructions endangers the safety of aviation.

Expropriation procedures may be resorted to in accordance with Article 61.

Any expenses incurred, including compensation to the owner or user, shall be paid by the Treasury.

Article 68. The Minister of Public Works, in concurrence with the Minister of Defense, may prohibit the installation and use of marks, light or sound devices, radio transmission or other installations which may endanger the safety of aviation, as well as demand alteration or removal of these installations.

The general provisions of the Danish law shall apply in any action for compensation relating to installations mentioned in paragraph 1.

OTHER PROVISIONS

Article 69. The Minister of Public Works shall designate by regulation the airdromes which are to be used for the take-off and landing of aircraft.

Article 70. The Minister of Public Works may issue regulations on access to, and traffic and parking of aircraft on airdromes, and in concurrence with the Minister of Commerce, he may prohibit navigation and mooring in waters which temporarily or permanently are operated as airdromes.

Article 71. Pursuant to the regulations issued by the Minister of Public Works, landing fees may be levied for the use of airdromes and other installations which are open for public use. Aircraft may be detained for payments.

Article 72. Airdromes and other installations which are open for the use of the public shall be open to foreign aircraft under the same conditions as to Danish aircraft in international aviation, if an agreement has been concluded with the respective foreign country.

Article 73. The Minister of Public Works shall determine the requirements which must be fulfilled by persons who perform service on airdromes or other installations, or in general, outside aircraft, in positions of importance to the safety of aviation, and he shall issue regulations for the granting of certificates of the right to such employment.

Article 74. The provisions of Article 50 shall apply to persons who perform service as aircraft control officers, flight engineers or persons in other positions which are considered by the Minister of Public Works to have significance for the safety of aviation.

CHAPTER 7. LICENSES FOR AIR OPERATIONS

Article 75. Scheduled flights over Danish territory for commercial purposes may be only operated under a license granted by the Minister of Public Works.

For non-scheduled commercial flights over Danish territory a license granted by the Minister of Public Works shall also be required unless he decided otherwise.

The Minister of Public Works may determine that a license is required for flight training, air exhibition, competitive flights and other flying activities of a specific nature, even if not made for commercial purposes.

Article 76. The license shall be granted only when it is compatible with the public interest.

Article 77. In the case of transportation between points within the realm, a license for the transportation of passengers, mail and goods shall be granted only to persons who fulfill the conditions specified in Article 7, paragraph 1, dealing with registration of aircraft in the realm.

The license shall be revoked when the holder no longer fulfills the above mentioned conditions and has not corrected deficiencies within the time limit specified by the proper authority.

Under specific circumstances the Minister of Public Works may grant license in accordance with Article 75 even when the required conditions are not fulfilled.

Article 78. The license shall be granted for a specified time, and may be dependent upon conditions deemed necessary.

Article 79. The license may be revoked when, in its exercise there is a substantial disregard of this law, or of conditions of the license or of other regulations. The license may also be revoked when it may be assumed that the owner is unable to maintain or continue operations.

Article 80. In granting a license in accordance with this chapter, exceptions from its provisions may be made if an agreement with a foreign country makes it necessary.

Article 81. The Minister of Public Works may issue regulations on the transfer of aircraft, accessories thereof, or spare parts, to another person for use on his account.

CHAPTER 8. AIR TRAFFIC REGULATIONS

Article 82. Air traffic shall comply with the regulations of the Minister of Public Works on measures to prevent collisions between aircraft or other flight accidents and, in general, on safety measures to prevent flight accidents and inconvenience during flight.

Article 83. The Minister of Public Works shall determine the air routes aircraft must follow while flying within Danish territory, and issue special regulations indicating airdromes which maybe used for take-offs and landings.

In concurrence with the Minister of Defense, the Minister of Public Works may determine the air routes to be followed by aircraft in flight within Danish territory outside of controlled air space, and he may issue regulations for aircraft crossing the borders of the realm, designating points where the boundaries may be crossed.

Article 84. When required for reasons of public order and safety the proper authority may order the landing of an aircraft. The landing shall be promptly executed. If not otherwise directed, the aircraft shall land at the nearest airdrome in the realm open for the use of the public, where a landing is possible.

When the aircraft enters an area where flights are prohibited, it shall leave the area and advise the proper authority without delay, and if the authority has not otherwise directed, immediately land at the nearest airdrome in the realm open for public use, where a landing is possible.

Any aircraft which does not comply with the requirements of this article may be prevented by the proper authority by suitable means, from continuing the flight.

Article 85. An aircraft may not carry explosives, war material or war munitions without authorization from the Ministers of Public Works and of Justice, or persons authorized by them. The Minister of Public Works, in concurrence with the Ministers of Defense and of Justice, may, by regulation, make exceptions from the first sentence of this provision and define, by agreement with the Minister of Justice, explosives, war material or war munitions.

For reasons of public order and safety the Minister may prohibit or establish conditions for the carriage of goods other than those specified in paragraph 1.

The Minister of Public Works, in concurrence with the Ministers of Defense and of Justice, may prohibit, or determine conditions for the admittance and carrying of cameras, or their use on board an aircraft.

Article 86. Unless provided otherwise by law, the Minister of Public Works shall prescribe what aircraft documents are required, to what extent they shall be available on board, and how they shall be established, kept, and maintained.

Article 87. Any person who has a legal interest therein shall have access to aircraft documents for examination.

Article 88. The Minister of Public Works shall determine the extent to whether persons serving on an aircraft shall carry with them certificates and other documents.

Article 89. The Aviation Board and the police shall be authorized to search an aircraft, and check documents which the aircraft and members of the crew must carry with them.

CHAPTER 9. AIR TRANSPORTATION

SCOPE OF APPLICATION

Article 90. The provisions of this chapter shall apply to transportation by aircraft of passengers, baggage and goods if the transportation is carried out for payment. The law shall also apply to transportation performed free of charge by a transportation enterprise.

Article 91. The provisions of this chapter shall not apply to the transportation of mail.

The provisions of Articles 92 to 98 pertaining to documents for air transportation shall not apply if the transportation is performed under unusual circumstances and outside the scope of normal air operations.

DOCUMENTS OF AIR TRANSPORTATION

Article 92. In passenger transportation there shall be issued a ticket which states:

- a) the place of departure and of destination,
- b) at least one intermediate landing point if the place of departure and destination are in the same state and one or more intermediate landings in another state are agreed upon.
- c) a notice that the transportation may be subject to the Warsaw Convention or to a law which is in conformity with the limits provided for in the Convention as to liability of a carrier for personal injury, and loss of, or damage to the baggage.