INTERNATIONAL COURT OF JUSTICE

APPEAL RELATING TO THE JURISDICTION OF THE ICAO COUNCIL UNDER ARTICLE II, SECTION 2, OF THE 1944 INTERNATIONAL AIR SERVICES TRANSIT AGREEMENT

THE KINGDOM OF BAHRAIN,

THE ARAB REPUBLIC OF EGYPT,

AND THE UNITED ARAB EMIRATES

v.

THE STATE OF QATAR

REJOINDER OF THE STATE OF QATAR

VOLUME II

29 JULY 2019

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Annex 8 — David D. Kirkpatrick, "Journalist Joins His Jailer's Side in a Bizarre Persian Gulf Feud", *The New York Times* (1 July 2017), *available at* https://www.nytimes.com/2017/07/01/world/middleeast/qatar-egypt-united-arab-emirates-mohamed-fahmy.html

Annex 9 J. Malsin & S. Said, "Saudi Arabia Promised Support to Libyan Warlord in Push to Seize Tripoli", *The Wall Street Journal* (12 Apr. 2019), *available at* https://www.wsj.com/articles/saudi-arabia-promised-support-to-libyan-warlord-in-push-to-seize-tripoli-11555077600

Annex 10 Patrick Wintour, "Libya crisis: Egypt's Sisi backs Haftar assault on Tripoli", *The Guardian* (14 Apr. 2019), *available at* https://www.theguardian.com/world/2019/apr/14/libya-crisis-egypt-sisi-backs-haftar-assault-on-tripoli

Annex 11 Ramadan Al Sherbini, "Iran to face 'strong response' if it closes Strait of Hormuz", *Gulf News* (20 June 2019) *available at* https://gulfnews.com/world/gulf/saudi/iran-to-face-strong-response-if-it-closes-strait-of-hormuz-1.64730838

Annex 12 BBC, *About the BBC* (last accessed: 8 July 2019), *available at* https://www.bbc.com/aboutthebbc

Annex 13 Al Jazeera, *About Us* (last accessed: 8 July 2019), *available at* https://www.aljazeera.com/aboutus/

BOOKS, JOURNAL ARTICLES, REPORTS

Annex 14 Merriam-Webster's Collegiate Dictionary (11th ed., 2009)

Annex 15 Kenneth L. Marcus, "Accusations in a Mirror", *Loyola University Chicago Law Journal*, Vol. 43 (2012)

Annex 16 African Commission on Human and Peoples' Rights, 16th Extraordinary Session, *Resolution on Human Rights Abuses in Egypt*, ACHPR Res. 287 (EXT.OS/XVI) (20-29 July 2014)

Annex 17 International Commission of Jurists, *Egypt's Judiciary: A Tool of Repression* (Sept. 2016), *available at* https://www.icj.org/wp-content/uploads/2016/10/Egypt-Tool-of-repression-Publications-Reports-Thematic-reports-2016-ENG-1.pdf

OTHER DOCUMENTS

Annex 18 United Nations Office of the High Commissioner for Human Rights, *Egypt: Justice and reconciliation increasingly failing after second wave of mass death sentences* (15 May 2014), *available at* https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14596&LangID=E

Annex 19 "Libya detention centre airstrike could amount to a war crime says UN, as Guterres calls for independent investigation", *UN News* (3 July 2019), *available at* https://news.un.org/en/story/2019/07/1041792

Annex 1

ICAO Council, 19th Session, *Working Paper: Report to Council of the Working Group on Rules for Settlement of Differences*, ICAO Doc. C-WP/1457 (13 Mar. 1953)

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INTERNATIONAL CIVIL AVIATION ORGANIZATION

COUNCIL - NINETEENTH SESSION

Subject No. 26: Rules for Settlement of Disputes between Contracting States

Report to Council of the Working Group on Rules for Settlement of Differences

1. The Council, at its Fourth Meeting of the Sixteenth Session on Wednesday, 21 May 1952, decided to establish a Working Group of the Council on the revision of the rules governing the settlement of disagreements, differences and disputes between Contracting States.

2. The members of the Working Group were :

Mr. H.C.E. Söderberg (Chairman)	Denmark
Brig. C.S. Booth	Canada
Dr. S. Cacopardo	Italy
Dr. E.M. Loaeza	Mexico
Rear Admiral P. Smith	United States
(Mr. E.A. Lister, Alternate)	

3. The Working Group held ten meetings on 23 June, 14 and 15 July, 17 and 24 October, 8, 9 and 10 December 1952, 4 and 27 March 1953. The President of the Council and the Secretary General were present at some of the meetings.

4. The Council referred to the consideration of the Working Group C-WP/1171 which was the basic document for study. But, before arriving at a final draft, the Group found it essential to engage in a detailed study of the statute and rules of the International Court of Justice and also to consider a report adopted in August 1952 by the International Law Commission of the United Nations, as far as it relates to arbitration procedures. The rules governing the settlement of differences between Contracting States which were prepared early in 1946 and finally approved by the Interim Council in September 1946 were no longer of any value for the Working Group since the basis for action of the Council was different under the Interim Agreement and the Convention.

Scope of the Rules

5. The Working Group explored the possibilities of preparing rules which may apply to any case which may be submitted to the Organization. In addition to the provisions of the Chicago Acts, there are also in a number of bilateral and multilateral aeronautical agreements provisions relating to the settlement of disputes by the Organization or its Council. But the responsibility placed upon the Organization or the Council by these agreements has not yet been accepted except in the case of the Ocean Weather Stations Agreement and the Rome Convention; in the first case, Council is to give only an advisory opinion, and in the second the differences which may be referred to the Council are of a special nature which would not readily fit into general rules. In respect of other bilateral and multilateral agreements, it is believed that if and when cases arise, it will be more appropriate to decide then what rules of procedure should apply.

Therefore, the Working Group found that, at least at this stage, the scope of the rules should be limited to cases which may arise under the Chicago Acts still in force.

(13 pages)

6. As regards possible successive steps which may lead to a final settlement of a disagreement or difference, the Convention provides not only for an initial decision of the Council but also for a possible appeal of the decision under certain conditions. With respect to complaints under the Air Transit and Air Transport Agreements, certain measures may be taken after a recommendation has been made by Council. However, the Working Group agreed that the rules should concern only the action to be taken by the Council in the initial consideration of a disagreement, difference or complaint without reference in the rules to any action subsequent to a decision or recommendation of the Council. Therefore, no reference has been made in the rules to any procedure which may govern an appeal. However, mention has been made in Article 15 of such a possibility.

Disagreements and Complaints

7. The Working Group also considered the pertinent provisions of the Convention, the Transit Agreement and the Transport Agreement and agreed that there was a marked difference in character between "disagreements" arising under Article 84 of the Convention, Article 2, Section 2 of the Transit Agreement and Article 4, Section 3 of the Transport Agreement, on the one hand, and "complaints" under Article 2, Section of the Transit Agreement and Article 4, Section of the Transport Agreement, on the other hand; and that "disagreements" and "complaints" should therefore be given separate recognition and treatment in the rules.

8. Consequently, Part I of the rules deals with "disagreements" while Part II lays down a separate machinery for "complaints". These two Parts prescribe the individual steps of the proceedings, from the application or the request respectively up to an including the last Council decision. In Part III there have been collected all the general provisions which will apply both to "disagreements" and "complaints".

Principles

9. The overall aim of the Working Group in drafting the rules has been to arrive at a set of rules as simplified and as flexible as possible in order to provide workable machinery for the Council, taking into account the many ways in which this body differs from the conventional type of court or arbitral tribunal.

10. Emphasis has been put on the following main points:

(a) that a continuous possibility of encouraging negotiations between the parties be provided for (Arts. 6(1), 13);

(b) that cases should be handled by smaller groups of the Council whenever and to the extent possible (Arts. 6(2), 12, 13(3), 22);

(c) that oral proceedings be avoided as far as possible (Arts. 9(1), 11(2));

(d) that the application of the rules be made flexible in order to meet different circumstances (Art.32).

Special provisions

11. In addition to the foregoing, a careful study of the statute and the rules of the International Court, as well as of the aforementioned report by the International Law Commission, has convinced the Working Group that provision should be made for:

(a) a right of intervention on the part of all States parties to the particular Act, the interpretation or application of which is in question, subject, however, to any such intervening State undertaking to be equally bound by the resulting decision of Council (Art. 16);

(b) a possibility for revision or interpretation of a decision of the Council which is final, the right to request a revision to be open, of course, only under very special circumstances in accordance with generally recognized legal principles (Arts. 18, 19 and 26).

Conclusion

12. The Working Group unanimously recommends to the Council the adoption of the attached rules as the "Rules for the Settlement of Differences arising under the Chicago Acts", and submits the following resolution to this effect:

"THE COUNCIL

(a) RESOLVES to adopt the attached rules as the "Rules for the Settlement of Differences arising under the Chicago Acts"; and

(b) DIRECTS the Secretary General to notify these rules to all Contracting States."

Respectfully submitted,

Henry Söderberg
Chairman

RULES FOR THE SETTLEMENT OF DIFFERENCES ARISING UNDER THE CHICAGO ACTS

PRELIMINARY CHAPTER.- Scope of Rules

Article 1

(1) The rules of Parts I and III shall govern the settlement of the following disagreements between Contracting States:

(a) Any disagreement between two or more Contracting States relating to the interpretation or application of the Convention on International Civil Aviation (hereinafter called "the Convention") and its Annexes (Articles 84 to 88 of the Convention);

(b) Any disagreement between two or more Contracting States relating to the interpretation or application of the International Air Services Transit Agreement and of the International Air Transport Agreement (hereinafter respectively called "Transit Agreement" and "Transport Agreement") (Article II, Section 2 of the Transit Agreement; Article IV, Section 3 of the Transport Agreement).

(2) The rules of Parts II and III shall govern the consideration of any complaint regarding a situation which may arise from an action taken by a State party to the Transit Agreement and under that Agreement, which another State party to the same Agreement deems to cause injustice or hardship to it (Article II, Section 1), or regarding a situation which may arise from a similar action under the Transport Agreement (Article IV, Section 2).

PART I

DISAGREEMENTS

CHAPTER I.- Form of Applications

Article 2

Any Contracting State submitting a disagreement to the Council for settlement (hereinafter referred to as "the applicant") shall file an application to which shall be attached a memorial containing:

(a) The name of the applicant and the name of any State with which the disagreement exists (the latter hereinafter referred to as "the respondent");

(b) The name and address of an agent authorized to act for the applicant in the proceedings (see Article 27);

(c) A statement of relevant facts;

(d) Supporting data related to the facts;

(e) A statement of law;

(f) The relief desired by action of Council on the specific points submitted;

(g) A statement on the negotiations already carried out.

CHAPTER II.- Action upon receipt of Applications

Article 3 (Action by Secretary General)

Upon receipt of an application, the Secretary General shall:

(a) Verify that it complies in form with the requirements of Article 2, and, if necessary, require the applicant to supply any deficiencies appearing therein;

(b) Immediately thereafter notify all parties to the instrument, the interpretation or application of which is in question, as well as all Council Members, that the application has been received;

(c) Submit copies of the application and of the supporting documentation to the respondent, with an invitation to file a counter-memorial within a time limit fixed by the President of the Council.

Article 4 (Counter-memorial)

(1) The counter-memorial shall contain:

(a) The name and address of an agent authorized to act for the respondent in the proceedings (see Article 27);

(b) Answer to points raised in the applicant's memorial under Article 2(c) to (g);

(c) Any additional facts and supporting data;

(d) Statement of law.

Article 5 (Preliminary objection and action thereon)

(1) If the respondent questions the competence of the Council to handle the matter presented by the applicant, he shall file a preliminary objection setting out the facts and the law on which the objection is based.

(2) Such preliminary objection shall be filed in a special pleading at the latest before the expiry of the time limit set for delivery of the counter-memorial.

(3) If a preliminary objection has been filed, the Council shall decide the question as a preliminary issue in accordance with procedures to be established by the Council and before any further steps are taken under these rules.

Article 6 (Action of Council on procedure)

(1) Upon the filing of the counter-memorial by the respondent, the Council shall decide whether at this stage the parties should be invited to enter into direct negotiations as provided in Article 13.

(2) If it is decided not to invite direct negotiations at this stage, without prejudice to a later invitation as provided in Article 13, the Council shall decide which procedure under these rules is applicable. Unless the Council decides to examine the matter itself, it shall appoint a Committee (hereinafter referred to as "the Committee") of five individuals who shall be Representatives on the Council of Member States not concerned in the disagreement, and shall designate one of them as Chairman.

(3) The decisions under (2), in cases where negotiations are invited, may be postponed until the parties have either refused to enter into negotiations or reported that the negotiations have failed to solve the dispute.

CHAPTER III.- Proceedings

Article 7 (Written proceedings)

(1) The additional pleadings which may be filed by the parties shall consist of:

Reply to be filed by the applicant,

Rejoinder to be filed by the respondent.

Any of the said pleadings may be eliminated if the parties so agree.

(2) The pleadings shall be filed with the Secretary General within time limits fixed (see Article 28).

(3) There shall be annexed to every pleading, copies of all the relevant documents which the party filing the pleading may wish to have considered.

(4) Upon the filing of the last pleading, the case shall be deemed to be ready for hearing, and thereafter no further documents may be submitted by any party except by permission of the Council, which may hear any of the parties before reaching a decision.

Article 8 (Investigations by Council)

The Council may, at any time during the proceedings, order an investigation of any question of fact or any question requiring expert advice at issue in the proceedings.

Article 9 (Evidence)

(1) Evidence produced by the parties, including testimony of witnesses and experts, shall be submitted in writing, but on special application, the Council may agree to receive oral testimony.

(2) The results of an investigation ordered under Article 8 shall be presented in the form directed by Council.

Article 10 (Declaration by witnesses and experts)

(1) The testimony of a witness shall be verified by the following declaration :

"I solemnly declare upon my honour and conscience that my testimony contains the truth, the whole truth and nothing but the truth."

(2) The statement of an expert shall be verified by the following declaration :

"I solemnly declare upon my honour and conscience that my statement is in accordance with my sincere belief."

Article 11 (Arguments)

(1) Upon completion of the evidence, and after a reasonable delay for preparation by the parties, the Council shall receive arguments, if any.

(2) Such arguments shall be presented in writing, but limited supplementary oral arguments may be admitted at the discretion of the Council.

(3) During the presentation of arguments any member of the Council may put questions, through the President, to the agents of the parties or to any counsel or advocate appearing for them. Such questions, if any, may be answered immediately or at a later date.

Article 12 (Procedure before the Committee)

(1) If under Article 6 of the present rules a Committee has been appointed, it shall hear the case on behalf of the Council. The procedures governing the hearing before

the Committee shall be those prescribed for the Council when it examines the matter itself. Under these rules, while the Committee has charge of the proceedings, the functions of the President of the Council shall be exercised by the Chairman of the Committee.

(2) The hearing of arguments shall conclude the proceedings. The Committee shall thereafter, without undue delay, present to the Council a report, which shall be a part of the record of the proceedings. The report shall include a summary of the evidence on record and other matters, including findings of facts and the Committee's recommendation.

Article 13 (Negotiations during proceedings)

(1) The Council may, at any time during the proceedings and prior to the meeting at which the decision is rendered as provided in Article 14(4), invite the parties to the dispute to engage in direct negotiations, if the Council deems that the possibilities of settling the dispute or narrowing the issues through negotiations have not been exhausted.

(2) If the parties accept the invitation to negotiate, the Council may set a time limit for the completion of such negotiations, during which other proceedings on the merits shall be suspended.

(3) The Council may offer the parties any assistance likely to further the negotiations including the designation of an individual or a group of individuals to act as conciliator during the negotiation period.

(4) Any solution agreed through negotiations shall be recorded by Council. If no solution is found the parties shall so report to Council and the suspended proceedings shall be resumed.

Article 14 (Decision)

(1) After hearing arguments, or after consideration of the report of the Committee, as the case may be, the Council shall render its decision.

(2) The decision of the Council shall be in writing and shall contain:

(i) the date on which it is delivered;
(ii) a list of the Council Members participating;
(iii) the names of the parties and of their agents;
(iv) a summary of the proceedings;
(v) the reasons of the Council for reaching its decision together with the conclusions;
(vi) a statement of the voting in Council showing whether the conclusions were unanimous or by a majority vote, and if by a majority, giving the number of Council Members who voted in favour of the conclusions and the number of those who voted against or abstained.

(3) Any Council Member who voted against the majority opinion may have his views recorded in the form of a dissenting opinion which shall be attached to the decision of Council.

(4) The decision of the Council shall be rendered at a meeting of the Council called for that purpose which shall be held as soon as practicable after the close of the proceedings.

Article 15 (Notification and appeal)

(1) The decision of the Council shall be notified forthwith to all parties and shall be published. A copy of the decision shall also be communicated to all States previously notified under Article 3(b).

(2) Decisions rendered on cases submitted under Article 1(1)(a) and (b) are subject to appeal pursuant to Article 84 of the Convention. In case of appeal, the Council shall be notified that an appeal has been filed within sixty days of receipt of notification of the decision of the Council.

Article 16 (Intervention)

(1) Any State which is a party to the particular instrument, the interpretation or application of which has been made the subject of a dispute under these rules, has the right to intervene in the proceedings, but if it uses this right it shall undertake that the decision of Council will be equally binding upon it.

(2) Any State which desires to intervene in a disagreement shall forthwith file a declaration to that effect with the Secretary General.

(3) Such declaration shall be communicated to the parties to the disagreement. If, within a month of the despatch of this communication, any objection has been notified to the Secretary General with respect to the admissibility of an intervention, the decision shall rest with the Council.

(4) If no objection has been notified within the above-mentioned delay or if the Council decided in favour of the admissibility of an intervention, as the case may be, the Secretary General shall take the necessary steps to make the documents of the case available to an intervening party who may file a memorial within a time limit to be fixed by the President of the Council, in no event later than the date fixed for the filing of the last pleading referred to in Article 7(4).

(5) Any such memorial shall be communicated to the other parties to the disagreement and may be discussed by them in the course of the subsequent proceedings in which the intervening party shall take part.

Article 17 (Dismissal of proceedings)

(1) If at any time before a decision is reached the parties conclude an agreement for the settlement of the dispute, or agree to discontinue the proceedings, they shall so inform the Council in writing. The Council shall then officially record the conclusion of the settlement or the discontinuance of the proceedings.

(2) In case the termination of the proceedings is pursuant to a settlement between the parties, the terms of the settlement shall be transmitted to the President of the Council and he shall communicate such terms to all States previously notified under Article 3(b).

CHAPTER IV.- Revision or interpretation of Decision

Article 18 (Revision)

(1) A decision of the Council which is final or has become final by expiry of the time limit for appeal may be revised by Council on application from any party.

(2) Such application must be based upon the discovery of some fact of such a nature as to be a decisive factor, which fact, when the decision was given, was unknown to the Council and also to the party claiming revision, always provided that such ignorance was not due to negligence.

(3) Any application for revision must be made within six months of the discovery of the new fact.

(4) It shall be for the Council to decide, after due investigation, whether the conditions for revision exist.

(5) If the Council admits the application it shall determine the procedures to be followed for examining the merits of the application.

(6) A new decision by way of revision is subject to appeal in accordance with Article 15(2) of these rules.

Article 19 (Interpretation)

Any one or more of the parties shall be entitled to request the Council for an interpretation of its decision.

PART II

COMPLAINTS

Article 20 (Form of request)

Any Contracting State submitting a complaint to the Council regarding a situation defined in Article 1(2) of these rules shall file a request to which shall be attached a memorial containing the same particulars as in the case of an application submitted under Article 2.

Article 21 (Action upon receipt of requests)

Articles 3(a) and (c), 4 and 5 of Chapter II of Part I (Action upon receipt of Applications) shall apply correspondingly to a request submitted under the preceding Article.

Article 22 (Appointment of Committee)

(1) Upon the filing of the counter-memorial the Council shall meet and formally decide whether the matter falls under the category of complaints under the provisions listed in Article 1(2).

(2) The Council shall, if the answer under (1) is in the affirmative, in all cases appoint a Committee composed as the Committee described in Article 6, subparagraph (2) of these rules.

Article 23 (Proceedings before Committee)

(1) The Committee shall thereupon inquire into the matter on behalf of the Council and shall call the States concerned into consultation.

(2) The Committee shall arrange the procedures for the consultation as far as possible in agreement with the parties, and on an informal basis in accordance with the circumstances of each case. It may request additional information and summon representatives of the parties to meet with the Committee at Headquarters or in any other place.

Article 24 (Report of Committee)

(1) The Committee shall report to Council on the outcome of the consultation held as expeditiously as possible.

(2) If the consultation has failed to resolve the difficulty the report may include proposed findings and recommendations to the Contracting States concerned.

Article 25 (Council action)

(1) After receiving the report of the Committee the Council shall consider it.

(2) If a settlement has been reached through consultation the terms of the settlement shall be recorded and communicated to all States notified of the proceedings.

(3) If consultation has failed to resolve the difficulty the Council may make appropriate findings and recommendations to the Contracting States concerned. Article 14 and Article 15(1) shall apply to any Council decision in this regard.

Article 26 (Revision or interpretation)

The provisions of Chapter IV of Part I (Revision or Interpretation of Decision) shall apply correspondingly to recommendations made by Council pursuant to Article 25(3).

PART III

GENERAL PROVISIONS

Article 27 (Agents)

(1) A State which becomes a party to proceedings on disagreements or complaints under these rules shall name an agent authorized to represent it and to act for it in the proceedings, provided that a Representative on Council of any Member State shall not be nominated as an agent.

(2) The agent may have the assistance of counsel or advocates. The name of any assisting counsel or advocate shall be communicated to the Council in advance of any meeting where he will be present.

(3) The agents shall be invited to attend any meeting convened to discuss the substance of the case.

Article 28 (Procedural measures)

(1) Unless otherwise provided in these rules, the Council shall determine the time limits to be applied, and other procedural questions related to the proceedings.

(2) The Council may at any time extend any time limit that has been fixed, either at the request of any of the parties or at its own discretion. It may also in special circumstances and after hearing objections from any party, decide that any step taken after the expiration of a time limit shall be considered as valid.

Article 29 (Languages)

(1) Each document submitted in the proceedings shall be in the English, French or Spanish language. The Council may at the request of any party authorize another language to be used by that party, in which case the necessary arrangements for translation shall be made by the party concerned.

(2) The decision of the Council in case of a disagreement, or its findings and recommendations in case of a complaint, shall be rendered in the three languages, each of which shall be of equal authenticity unless all the parties agree that any one language shall be considered as the authentic text.

Article 30 (Records and publicity)

(1) The Secretary General shall keep a full record of the proceedings.

(2) A verbatim transcript shall be made of any oral testimony or any oral arguments and incorporated into the record of the proceedings.

(3) The record of the proceedings shall, unless otherwise ordered by the Council, be open to the public. The Council may open to the public any part of the record previously ordered to be withheld from the public.

Article 31 (Costs)

(1) Unless otherwise decided by the Council, each party shall bear its own costs.

(2) All other costs may be assessed to the parties in proportions fixed by the Council.

Article 32 (Suspension of the rules)

Subject to agreement of the parties, any of these rules may be varied or their application suspended when, in the opinion of the Council, such action would lead to a more expeditious or effective disposition of the case.

Article 33 (Amendments to the rules)

The present rules may, at any time, be amended by the Council.

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Annex 2

International Air Services Transit Agreement (7 Dec. 1944) (entry into force: 30 Jan. 1945), Trilingual Version, ICAO Doc. 7500 (1954)

Doc 7500

INTERNATIONAL AIR SERVICES TRANSIT AGREEMENT

Signed at Chicago, on 7 December 1944

ACCORD RELATIF AU TRANSIT DES SERVICES AÉRIENS INTERNATIONAUX

Signé à Chicago, le 7 décembre 1944

ACUERDO RELATIVO AL TRÁNSITO DE LOS SERVICIOS AÉREOS INTERNACIONALES

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Téléphone: (221) 23-47-86; Télécopieur: (221) 23-69-26; Sitatex: DKRCAYA

South Africa. Avex Air Training (Pty) Ltd., Private Bag X102, Halfway House, 1685, Republic of South Africa
Telephone: (27-11) 315-0004/5; Facsimile: (27-11) 805-3649; Internet: avex@iafrica.com

Spain. A.E.N.A. — Aeropuertos Españoles y Navegación Aérea, Calle Juan Ignacio Luca de Tena, 14,
Planta Tercera, Despacho 3. 11, 28027 Madrid
Teléfono: (34 1) 321-3148; Facsímile: (34 1) 321-3157

Thailand. ICAO Representative, Asia and Pacific Office, P.O. Box 11, Samyaek Ladprao,
Bangkok 10901
Telephone: (66 2) 537-8189; Facsimile: (66 2) 537-8199; Sitatex: BKKCAYA

United Kingdom. The Printing and Publications Services Limited,
37 Windsor Street, Cheltenham, Glos., GL52 2DG
Telephone: (44 1242) 235-151; Facsimile: (44 1242) 584-139

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Signed at Chicago, on 7 December 1944

FOREWORD

At the 14th Meeting of its 21st Session on 7 April 1954, the Council of the International Civil Aviation Organization adopted the following Resolution:

"THE COUNCIL,

CONSIDERING Resolution A3-2 relating to the preparation of texts of the Chicago Convention in French and Spanish, which specifies that it should be 'understood that these texts will be used only for the internal purposes of the Organization',

CONSIDERING that the Council on 19 February 1952 adopted such texts of the Chicago Convention, and

CONSIDERING that it is appropriate to take similar action in relation to the International Air Services Transit Agreement appended to the Final Act of the Chicago Conference, 1944,

RESOLVES that the texts in French and Spanish attached to this Resolution shall be used, in addition to the English text signed at Chicago, for the internal purposes of the Organization, i.e. for the work of the Secretariat, the Assembly, the Council and other bodies of the Organization, and for any reference to be made by the Organization in communications to Contracting States,

RECOMMENDS to Contracting States that, for reference purposes in their relations with ICAO or with other Contracting States, they use these three texts only, and

DIRECTS the Secretary General to make arrangements for the publication of the English, French and Spanish texts of the agreement."

The texts published herein are: in English, the text signed at Chicago on 7 December 1944, and, in French and Spanish, translations thereof. They have been accepted by the Council of ICAO for the internal purposes of the Organization and not as "authentic texts", and are published by the Secretary General in implementation of the decision quoted above.

INTERNATIONAL AIR SERVICES TRANSIT AGREEMENT

Signed at Chicago, on 7 December 1944

The States which sign and accept this International Air Services Transit Agreement, being members of the International Civil Aviation Organization, declare as follows:

ARTICLE I

Section 1

Each contracting State grants to the other contracting States the following freedoms of the air in respect of scheduled international air services:

(*1*) The privilege to fly across its territory without landing;
(*2*) The privilege to land for non-traffic purposes.

The privileges of this section shall not be applicable with respect to airports utilized for military purposes to the exclusion of any scheduled international air services. In areas of active hostilities or of military occupation, and in time of war along the supply routes leading to such areas, the exercise of such privileges shall be subject to the approval of the competent military authorities.

Section 2

The exercise of the foregoing privileges shall be in accordance with the provisions of the Interim Agreement on International Civil Aviation and, when it comes into force, with the provisions of the Convention on International Civil Aviation, both drawn up at Chicago on December 7, 1944.

Section 3

A contracting State granting to the airlines of another contracting State the privilege to stop for non-traffic purposes may require such airlines to offer reasonable commercial service at the points at which such stops are made.

Such requirement shall not involve any discrimination between airlines operating on the same route, shall take into account the capacity of the aircraft, and shall be exercised in such a manner as not to prejudice the normal operations of the international air services concerned or the rights and obligations of a contracting State.

Section 4

Each contracting State may, subject to the provisions of this Agreement,

(*1*) Designate the route to be followed within its territory by any international air service and the airports which any such service may use;

(*2*) Impose or permit to be imposed on any such service just and reasonable charges for the use of such airports and other facilities; these charges shall not be higher than would be paid for the use of such airports and facilities by its national aircraft engaged in similar international services: provided that, upon representation by an interested contracting State, the charges imposed for the use of airports and other facilities shall be subject to review by the Council of the International Civil Aviation Organization established under the above-mentioned Convention, which shall report and make recommendations thereon for the consideration of the State or States concerned.

Section 5

Each contracting State reserves the right to withhold or revoke a certificate or permit to an air transport enterprise of another State in any case where it is not satisfied that substantial ownership and effective control are vested in nationals of a contracting State, or in case of failure of such air transport enterprise to comply with the laws of the State over which it operates, or to perform its obligations under this Agreement.

ARTICLE II

Section 1

A contracting State which deems that action by another contracting State under this Agreement is causing injustice or hardship to it, may request the Council to examine the situation. The Council shall thereupon inquire into the matter, and shall call the States concerned into consultation. Should such consultation fail to resolve the difficulty, the Council may make appropriate findings and recommendations to the contracting States concerned. If thereafter a contracting State concerned shall in the opinion of the Council unreasonably fail to take suitable corrective action, the Council may recommend to the Assembly of the above-mentioned Organization that such contracting State be suspended from its rights and privileges under this Agreement until such action has been taken. The Assembly by a two-thirds vote may so suspend such contracting State for such period of time as it may deem proper or until the Council shall find that corrective action has been taken by such State.

Section 2

If any disagreement between two or more contracting States relating to the interpretation or application of this Agreement cannot be settled by negotiation, the provisions of Chapter XVIII of the above-mentioned Convention shall be applicable in the same manner as provided therein with reference to any disagreement relating to the interpretation or application of the above-mentioned Convention.

ARTICLE III

This Agreement shall remain in force as long as the above-mentioned Convention; provided, however, that any contracting State, a party to the present Agreement, may denounce it on one year's notice given by it to the Government of the United States of America, which shall at once inform all other contracting States of such notice and withdrawal.

ARTICLE IV

Pending the coming into force of the above-mentioned Convention, all references to it herein, other than those contained in Article II, Section 2, and Article V, shall be deemed to be references to the Interim Agreement on International Civil Aviation drawn up at Chicago on December 7, 1944; and references to the International Civil Aviation Organization, the Assembly, and the Council shall be deemed to be references to the Provisional International Civil Aviation Organization, the Interim Assembly, and Interim Council respectively.

ARTICLE V

For the purposes of this Agreement, "territory" shall be defined as in Article 2 of the above-mentioned Convention.

ARTICLE VI

Signatures and Acceptances of Agreement

The undersigned delegates to the International Civil Aviation Conference, convened in Chicago on November 1, 1944, have affixed their signatures to this Agreement with the understanding that the Government of the United States of

America shall be informed at the earliest possible date by each of the governments on whose behalf the Agreement has been signed whether signature on its behalf shall constitute an acceptance of the Agreement by that government and an obligation binding upon it.

Any State a member of the International Civil Aviation Organization may accept the present Agreement as an obligation binding upon it by notification of its acceptance to the Government of the United States, and such acceptance shall become effective upon the date of the receipt of such notification by that Government.

This Agreement shall come into force as between contracting States upon its acceptance by each of them. Thereafter it shall become binding as to each other State indicating its acceptance to the Government of the United States on the date of the receipt of the acceptance by that Government. The Government of the United States shall inform all signatory and accepting States of the date of all acceptances of the Agreement, and of the date on which it comes into force for each accepting State.

IN WITNESS WHEREOF, the undersigned, having been duly authorized, sign this Agreement on behalf of their respective governments on the dates appearing opposite their respective signatures.

DONE at Chicago the seventh day of December, 1944, in the English language. A text drawn up in the English, French, and Spanish languages, each of which shall be of equal authenticity,* shall be opened for signature at Washington, D.C. Both texts shall be deposited in the archives of the Government of the United States of America, and certified copies shall be transmitted by that Government to the governments of all the States which may sign or accept this Agreement.

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*The Agreement was signed in the English original version formulated at the International Civil Aviation Conference which took place at Chicago from 1 November to 7 December 1944. No trilingual text has been opened for signature as provided for in the Agreement.

FOR AFGHANISTAN: A. Hoseyn Aziz

FOR THE GOVERNMENT OF THE COMMONWEALTH OF AUSTRALIA: H.V. Evatt (July 4 1945)

FOR BELGIUM: Vicomte de Cartier. April 9th 1945.

FOR BOLIVIA: Tcnl. Arlacheo

FOR BRAZIL:

FOR CANADA: L. B. Pearson, Feb. 10/45

FOR CHILE: R Sacca

J. Trumbull. Alejandro R.

FOR CHINA:

FOR COLOMBIA:

FOR COSTA RICA:

March 10th 1945

FOR CUBA:

April 20, 1945

FOR CZECHOSLOVAKIA:

April 18. 46.

FOR THE DOMINICAN REPUBLIC:

FOR ECUADOR:

Francisco Gómez Jurado

FOR EGYPT:

M. O. Khalaf

FOR EL SALVADOR:

May 9, 1945.

FOR ETHIOPIA:

March 22, 1945

FOR FRANCE:

M. HYMANS

Bonnet

D. Bidault

FOR GREECE:

Alexi Batzaris

FOR GUATEMALA:

Jan. 30-1945

FOR HAITI:

FOR HONDURAS:

FOR ICELAND:

April 4-1945

FOR INDIA:

FOR IRAN:

FOR IRAQ:

FOR IRELAND:

FOR LEBANON:

FOR LIBERIA:

FOR LUXEMBOURG:

July 9th 1945.

FOR MEXICO:

FOR THE NETHERLANDS:

FOR THE GOVERNMENT OF NEW ZEALAND:

FOR NICARAGUA:

FOR NORWAY:

January 30, 1945.

FOR PANAMA:

FOR PARAGUAY:

July 27, 1945.

FOR PERU:

FOR THE PHILIPPINE COMMONWEALTH:

FOR POLAND:

FOR PORTUGAL:

FOR SPAIN:

FOR SWEDEN:

FOR SWITZERLAND:

July 6th 1945.

FOR SYRIA:

July 6, 1945

FOR TURKEY:

FOR THE UNION OF SOUTH AFRICA:

FOR THE GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND:

I declare that, failing later notification of inclusion, my signature to this Agreement does not cover Newfoundland.

FOR THE UNITED STATES OF AMERICA:

FOR URUGUAY:

FOR VENEZUELA:

La Delegación de Venezuela firma ad referendum y deja constancia de que la aprobación de este documento por su Gobierno está sujeta a las disposiciones constitucionales de los Estados Unidos de Venezuela.

FOR YUGOSLAVIA:

FOR DENMARK

FOR THAILAND:

* The Delegation of Venezuela signs ad referendum and declares that the approval of this document by its Government is subject to the constitutional provisions of the United States of Venezuela.

LIST OF STATES PARTIES TO THE AGREEMENT

As of 1 May 1954

Country	*Transit Agreement (Date of Receipt of Note of Acceptance)*
Afghanistan	17/5/45
Argentina	4/6/46
Australia	28/8/45
Belgium	19/7/45
Bolivia	4/4/47
Canada	10/2/45
Cuba	20/6/47
Czechoslovakia	18/4/45
Denmark	1/12/48
Egypt	13/3/47
El Salvador	1/6/45
Ethiopia	22/3/45
France	24/6/48
Greece	21/9/45
Guatemala	28/4/47
Honduras	13/11/45
Iceland	21/3/47
India	2/5/45
Iran	19/4/50
Iraq	15/6/45
Japan	20/10/53
Jordan	18/3/47
Liberia	19/3/45
Luxembourg	28/4/48
Mexico	25/6/46
Netherlands	12/1/45
New Zealand	19/4/45
Nicaragua	28/12/45
Norway	30/1/45
Pakistan	15/8/47*
Paraguay	27/7/45
Philippines	22/3/46
Poland	6/4/45
Spain	30/7/45
Sweden	19/11/45
Switzerland	6/7/45
Thailand	6/3/47
Turkey	6/6/45
Union of South Africa	30/11/45
United Kingdom	31/5/45
United States	8/2/45
Venezuela	28/3/46

* The Ambassador of *Pakistan* informed the Secretary of State by note No. F96/48/1 of March 24, 1948 "... that by virtue of the provisions in clause 4 of the Schedule of the Indian Independence (International Arrangements) Order, 1947 the International Air Services Transit Agreement signed by United India continues to be binding after the partition of the Dominion of Pakistan." The acceptance by India on May 2, 1945 of the Transit Agreement applied also to the territory, then a part of India, which later, on August 15, 1947, became Pakistan.

ACCORD RELATIF AU TRANSIT DES SERVICES AÉRIENS INTERNATIONAUX

Signé à Chicago, le 7 décembre 1944

AVANT-PROPOS

Le 7 avril 1954, lors de la 14ème séance de sa vingt et unième session, le Conseil de l'Organisation de l'aviation civile internationale a adopté la résolution suivante:

"LE CONSEIL,

VU la résolution A3-2, qui a trait à la préparation de textes français et espagnol de la Convention de Chicago et stipule qu'il doit être "entendu que ces textes ne seront utilisés que pour les besoins intérieurs de l'Organisation",

CONSIDÉRANT que, le 19 février 1952, il a adopté, conformément aux dispositions de la résolution précitée, des textes français et espagnol de ladite Convention,

CONSIDÉRANT qu'il convient de prendre une décision analogue en ce qui concerne l'Accord relatif au transit des services aériens internationaux, annexé à l'Acte final de la Conférence de Chicago (1944),

DÉCIDE qu'en sus du texte anglais signé à Chicago, les textes français et espagnol joints à la présente résolution seront utilisés pour les besoins intérieurs de l'Organisation, c'est-à-dire pour les travaux du Secrétariat, de l'Assemblée, du Conseil et des autres organes de l'Organisation, ainsi que pour toute référence que l'Organisation aurait à faire dans les communications adressées aux États contractants;

RECOMMANDE aux États contractants de n'employer aux fins de référence que ces trois textes dans leurs relations avec l'OACI ou avec d'autres États contractants;

CHARGE le secrétaire général de prendre toutes dispositions utiles pour publier les textes français, anglais et espagnol de cet accord."

Les textes publiés dans le présent document sont: le texte anglais, signé à Chicago le 7 décembre 1944, et les traductions de ce texte en français et en espagnol. Ces traductions ont été approuvées par le Conseil pour les besoins intérieurs de l'Organisation et non comme "textes faisant également foi", et sont publiées par le secrétaire général en application de la décision précitée.

ACCORD RELATIF AU TRANSIT DES SERVICES AÉRIENS INTERNATIONAUX

Signé à Chicago, le 7 décembre 1944

Les États qui, étant membres de l'Organisation de l'aviation civile internationale, signent le présent Accord sur le transit des services aériens internationaux et y adhèrent, sont convenus de ce qui suit:

ARTICLE PREMIER

Section 1

Chaque État contractant accorde aux autres États contractants, en ce qui concerne les services aériens internationaux réguliers, les libertés de l'air suivantes:

1) le droit de traverser son territoire sans atterrir;
2) le droit d'atterrir pour des raisons non commerciales.

Les droits visés à la présente section ne valent pas pour les aéroports utilisés à des fins militaires à l'exclusion de tout service aérien international régulier. Dans les zones où se déroulent des hostilités, ou les zones d'occupation militaire, et, en temps de guerre, sur les routes de ravitaillement conduisant à ces zones, l'exercice de ces droits est subordonné à l'approbation des autorités militaires compétentes.

Section 2

L'exercice des droits précités doit être conforme aux dispositions de l'Accord intérimaire sur l'aviation civile internationale et, lorsqu'elle entrera en vigueur, aux dispositions de la Convention relative à l'aviation civile internationale, tous deux faits à Chicago le 7 décembre 1944.

Section 3

Un État contractant qui accorde aux entreprises de transport aérien d'un autre État contractant le droit de faire escale pour des raisons non commerciales peut exiger que ces entreprises offrent un service commercial raisonnable aux points où ces escales sont effectuées.

Cette exigence ne doit entraîner aucune distinction entre les entreprises de transport aérien utilisant la même route, doit tenir compte de la capacité des

aéronefs et être appliquée de manière à ne nuire ni à l'exploitation normale des services aériens internationaux intéressés, ni à l'exercice des droits ou à l'accomplissement des obligations d'aucun État contractant.

Section 4

Chaque État contractant peut, sous réserve des dispositions du présent accord,

1) désigner la route à suivre sur son territoire par tout service aérien international et les aéroports pouvant être utilisés par ce service;

2) imposer ou permettre que soient imposés à tout service aérien international des droits justes et raisonnables pour l'utilisation de ces aéroports et d'autres installations et services; ces droits ne doivent pas excéder ceux que paieraient les aéronefs dudit État employés à des services internationaux analogues; étant entendu que, sur représentation d'un État contractant intéressé, les droits imposés pour l'utilisation des aéroports et d'autres installations et services feront l'objet d'un examen par le Conseil de l'Organisation de l'aviation civile internationale, institué en vertu de la convention précitée; ledit Conseil rédigera à ce sujet un rapport et des recommandations qui seront portés à l'attention de l'État ou des États intéressés.

Section 5

Chaque État contractant se réserve le droit de refuser à une entreprise de transport aérien d'un autre État un certificat ou une autorisation, ou de révoquer un certificat ou une autorisation, lorsqu'il n'a pas la preuve qu'une part importante de la propriété ainsi que le contrôle effectif de cette entreprise sont détenus par des ressortissants d'un État contractant, ou lorsqu'une entreprise de transport aérien ne se conforme pas aux lois de l'État survolé ou ne remplit pas les obligations que lui impose le présent accord.

ARTICLE II

Section 1

Un État contractant qui estime qu'une mesure prise aux termes du présent accord par un autre État contractant entraîne à son égard une injustice ou un préjudice peut demander au Conseil d'examiner la situation. Le Conseil enquêtera alors sur la question et réunira les États intéressés aux fins de consultation. Si cette consultation ne permet pas de résoudre la difficulté, le Conseil pourra adresser aux États intéressés ses conclusions et ses recommandations. Le Conseil pourra par la suite, s'il est d'avis qu'un de ces États manque sans raison valable à prendre les mesures correctives qui s'imposent, recommander à l'Assemblée de

l'Organisation précitée de suspendre les droits et privilèges conférés audit État contractant par le présent accord jusqu'à ce que cet État ait pris les mesures en question. L'Assemblée pourra, par un vote à la majorité des deux tiers, suspendre cet État contractant pour la durée qu'elle jugera nécessaire, ou jusqu'à ce que le Conseil ait constaté que les mesures correctives ont été prises par cet État.

Section 2

Si un désaccord entre deux ou plusieurs États contractants sur l'interprétation ou l'application du présent accord ne peut être réglé par voie de négociation, les dispositions du chapitre XVIII de la convention précitée seront appliquées de la manière prévue audit chapitre pour le cas de désaccord sur l'interprétation ou l'application de ladite convention.

ARTICLE III

Le présent accord restera en vigueur pendant la même durée que la convention précitée; toutefois, il reste entendu que tout État contractant partie au présent accord peut dénoncer celui-ci moyennant un préavis d'un an notifié au gouvernement des États-Unis d'Amérique, qui informera immédiatement tous les autres États contractants de cette notification et de cette dénonciation.

ARTICLE IV

Jusqu'à l'entrée en vigueur de la convention précitée, toute référence à cette convention dans le présent accord, autre que celle figurant à l'article II, section 2, et à l'article V, doit être considérée comme désignant l'Accord intérimaire sur l'aviation civile internationale fait à Chicago le 7 décembre 1944 et toute référence à l'Organisation de l'aviation civile internationale, à l'Assemblée et au Conseil doit être considérée comme désignant l'Organisation provisoire de l'aviation civile internationale, l'Assemblée intérimaire et le Conseil intérimaire.

ARTICLE V

Aux fins du présent accord, le terme "territoire" a le sens indiqué à l'article 2 de la convention précitée.

ARTICLE VI

Signature et adhésion

Les soussignés, délégués à la Conférence internationale de l'aviation civile réunie à Chicago le 1er novembre 1944, ont apposé leur signature au présent accord, étant entendu que chaque État au nom duquel l'accord a été signé fera

savoir, dès que possible, au gouvernement des États-Unis si la signature donnée au nom dudit État constitue pour lui une adhésion et une obligation qui le lie.

Tout État membre de l'Organisation de l'aviation civile internationale peut adhérer au présent accord comme à une obligation qui le lie en notifiant son adhésion au gouvernement des États-Unis, cette adhésion prenant effet à la date de réception de la notification par ledit gouvernement.

Le présent accord entrera en vigueur entre les États contractants à la date de l'adhésion de chacun d'eux. Il vaudra, par la suite, pour tout autre État qui notifiera son adhésion au gouvernement des États-Unis, à partir de la date de réception de cette adhésion par ledit gouvernement. Le gouvernement des États-Unis avisera tous les États qui auront signé le présent accord, ou y auront adhéré, de la date de chaque adhésion et de la date à laquelle l'accord entrera en vigueur pour chacun des États qui y auront adhéré.

EN FOI DE QUOI, les soussignés, dûment autorisés à cet effet, ont signé le présent accord au nom de leurs gouvernements respectifs, à la date figurant en regard de leur signature.

FAIT à Chicago, le sept décembre mil neuf cent quarante-quatre, en langue anglaise. Un texte rédigé dans les langues anglaise, française et espagnole, chacune faisant également foi, sera ouvert à la signature à Washington, D.C.* Les deux textes seront déposés aux archives du gouvernement des États-Unis d'Amérique, qui en délivrera des copies certifiées conformes aux gouvernements de tous les États qui signeront le présent accord ou qui y adhéreront.

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*L'accord a été signé uniquement dans la version originale anglaise rédigée à la Conférence de l'aviation civile internationale qui s'est tenue à Chicago du 1er novembre au 7 décembre 1944. Aucun texte en trois langues n'a été ouvert à la signature, nonobstant les dispositions de l'accord.

Pour l'Afghanistan:
A. Hosayn Aziz

Pour le Gouvernement du Commonwealth d'Australie:
F. W. Eggleston — Le 4 juillet 1945

Pour la Belgique:
Vicomte du Parc — Le 9 avril 1945

Pour la Bolivie:
Lieutenant-colonel Al. Pacheco

Pour le Brésil:

Pour le Canada:
L. B. Pearson — Le 10 février 1945

Pour le Chili:
R. Saénz
G. Bisquert
R. Magallanes B.

Pour la Chine:

Pour la Colombie:

Pour le Costa-Rica:
F. de P. Gutiérrez — Le 10 mars 1945

Pour Cuba:
Gmo Belt — Le 20 avril 1945

Pour la Tchécoslovaquie:
V. S. Hurban — Le 18 avril 1945

Pour la République Dominicaine:

Pour l'Equateur:
J. A. Correa
Francisco Gómez Jurado

Pour l'Egypte:
M. HASSAN
M. ROUSHDY
M. A. KHALIFA

Pour le Salvador:
Felipe VEGA-GÓMEZ — Le 9 mai 1945

Pour l'Ethiopie:
Ephrem T. MEDHEN — Le 22 mars 1945

Pour la France:
M. HYMANS
C. LEBEL
BOURGES
P. LOCUSSOL

Pour la Grèce:
D. T. NOTI BOTZARIS
A. J. ARGYROPOULOS

Pour le Guatemala:
Osc MORALES L. — Le 30 janvier 1945

Pour Haïti:
G. Edouard ROY

Pour le Honduras:
E. P. LEFEBVRE

Pour l'Islande:
Thor THORS — Le 4 avril 1945

Pour l'Inde:
G. V. BEWCOR

Pour l'Iran:
M. SHAYESTEH

Pour l'Irak:
Ali JAWDAT

Pour l'Irlande:

Pour le Liban:
C. CHAMOUN
F. EL-HOSS

Pour le Libéria:
Walter F. WALKER

Pour le Luxembourg:
Hugues LE GALLAIS — Le 9 juillet 1945

Pour le Mexique:
Pedro A. CHAPA

Pour les Pays-Bas:
M. STEENBERGHE
COPES
F. C. ARONSTEIN

Pour le Gouvernement de la Nouvelle-Zélande:
Daniel Giles SULLIVAN

Pour le Nicaragua:
R. E. FRIZELL

Pour la Norvège:
W. Munthe MORGENSTIERNE — Le 30 janvier 1945

Pour le Panama:

Pour le Paraguay:
Celso R. VELÁSQUEZ — Le 27 juillet 1945

Pour le Pérou:
A. REVOREDO
J. S. KOECHLIN
Luis ALVARADO
F. ELGUERA
Gllmo. van OORDT LEÓN

Pour la République des Philippines:
J. HERNÁNDEZ
Urbano A. ZAFRA
J. H. FOLEY

Pour la Pologne:
Zbyslaw CIOLKOSZ
Dr. H. J. GORECKI
Stefan J. KONORSKI
Witold A. URBANOWICZ
Ludwik H. GOTTLIEB

Pour le Portugal:

Pour l'Espagne:
E. TERRADAS
Germán BARAIBAR

Pour la Suède:
R. KUMLIN

Pour la Suisse:
Charles BRUGGMANN — Le 6 juillet 1945

Pour la Syrie:
N. KAHALE — Le 6 juillet 1945

Pour la Turquie:
S. KOCAK
F. SAHINBAS
Orhan H. EROL

Pour l'Union Sud-Africaine:
D. D. FORSYTH — Le 4 juin 1945

Pour le Gouvernement du Royaume-Uni
de Grande-Bretagne et d'Irlande du Nord:
Je déclare que, sauf notification ultérieure, ma signature au bas du présent Accord ne vise pas le territoire de Terre-Neuve.
SWINTON

Pour les États-Unis d'Amérique:
Adolf A. BERLE JR.
Alfred L. BULWINKLE
Chas. A. WOLVERTON
F. LAGUARDIA
Edward WARNER
L. Welch POGUE
William A. M. BURDEN

Pour l'Uruguay:

Carl CARBAJAL
Col. Medardo R. FARÍAS

Pour le Venezuela:

La délégation du Venezuela signe *ad referendum* et déclare expressément que l'approbation du présent instrument par son gouvernement est soumise aux dispositions constitutionnelles des États-Unis du Venezuela.

F. J. SUCRE
J. BLANCO USTÁRIZ

Pour la Yougoslavie:

Pour le Danemark:

Henrik KAUFFMANN

Pour la Thaïlande:

M. R. SENI PRAMOJ

LISTE DES ÉTATS PARTIES À L'ACCORD

Au 1er mai 1954

États	*Accord relatif au transit (Notification de l'acceptation)*	*États*	*Accord relatif au transit (Notification de l'acceptation)*
Afghanistan	17/5/45	Jordanie	18/3/47
Argentine	4/6/46	Libéria	19/3/45
Australie	28/8/45	Luxembourg	28/4/48
Belgique	19/7/45	Mexique	25/6/46
Bolivie	4/4/47	Nicaragua	28/12/45
Canada	10/2/45	Norvège	30/1/45
Cuba	20/6/47	Nouvelle-Zélande	19/4/45
Danemark	1/12/48	Pakistan	15/8/47*
Égypte	13/3/47	Paraguay	27/7/45
Espagne	30/7/45	Pays-Bas	12/1/45
États-Unis	8/2/45	Philippines	22/3/46
Éthiopie	22/3/45	Pologne	6/4/45
France	24/6/48	Royaume-Uni	31/5/45
Grèce	21/9/45	Salvador	1/6/45
Guatemala	28/4/47	Suède	19/11/45
Honduras	13/11/45	Suisse	6/7/45
Inde	2/5/45	Tchécoslovaquie	18/4/45
Irak	15/6/45	Thaïlande	6/3/47
Iran	19/4/50	Turquie	6/6/45
Islande	21/3/47	Union Sud-Africaine	30/11/45
Japon	20/10/53	Venezuela	28/3/46

*Dans la note n° F 96/48/1 du 24 mars 1948, qu'il a adressée au département d'État à Washington, l'ambassadeur du *Pakistan* a fait la déclaration suivante: "... En vertu des dispositions de la clause 4 de l'Annexe à l'Acte d'Indépendance de l'Inde de 1947 (Accords internationaux), l'Accord relatif au transit des services internationaux signé par l'Inde Unie, garde son caractère obligatoire après la séparation du Dominion du Pakistan." L'acceptation par l'Inde, le 2 mai 1945, de l'Accord relatif au transit est également valable pour le territoire qui faisait alors partie de l'Inde et qui constitue, depuis le 15 août 1947, le Dominion du Pakistan.

ACUERDO RELATIVO AL TRÁNSITO DE LOS SERVICIOS AÉREOS INTERNACIONALES

Firmado en Chicago el 7 de diciembre de 1944

PREÁMBULO

El 7 de abril de 1954, en la décimocuarta reunión de su XXI período de sesiones, el Consejo de la Organización de Aviación Civil Internacional adoptó la siguiente Resolución:

"VISTA la Resolución A3-2, que se refiere a la preparación de versiones en español y en francés del Convenio de Chicago y que estipula que debe "entenderse que estos textos serán únicamente para uso interno de la Organización";

CONSIDERANDO que el 19 de febrero de 1952 el Consejo adoptó textos en dichos idiomas del Convenio de Chicago;

CONSIDERANDO que conviene tomar una decisión análoga en lo que se refiere al Acuerdo relativo al Tránsito de los Servicios Aéreos Internacionales, anexado al Acta Final de la Conferencia de Chicago de 1944;

EL CONSEJO RESUELVE que, además del texto inglés firmado en Chicago, se empleen las versiones española y francesa adjuntas a esta Resolución para uso interno de la Organización, es decir para los trabajos de la Secretaría, la Asamblea, el Consejo y demás órganos de la Organización, así como para toda referencia que haya de hacer la Organización en sus comunicaciones dirigidas a los Estados Contratantes;

RECOMIENDA a los Estados Contratantes que solamente empleen estos tres textos en sus relaciones con la OACI o con los otros Estados Contratantes;

ENCARGA al Secretario General que disponga lo necesario para publicar el texto de este acuerdo en español, francés e inglés."

Este fascículo contiene los siguientes textos: El inglés, es decir el suscrito en Chicago el 7 de diciembre de 1944; el español y el francés, que son traducciones del anterior. Estos dos últimos han sido aceptados por el Consejo de la OACI para uso interno de la Organización y no como fehacientes. En virtud de la decisión anteriormente citada, el Secretario General publica los textos de ambas versiones.

ACUERDO RELATIVO AL TRÁNSITO DE LOS SERVICIOS AÉREOS INTERNACIONALES

Firmado en Chicago el 7 de diciembre de 1944

Los Estados miembros de la Organización de Aviación Civil Internacional, que firman y aceptan este Acuerdo relativo al Tránsito de los Servicios Aéreos Internacionales, han convenido lo siguiente:

ARTÍCULO I

Sección 1

Todo Estado Contratante concede a los demás Estados Contratantes, respecto a los servicios aéreos internacionales regulares, las siguientes libertades del aire:

1) El derecho de cruzar su territorio sin aterrizar.
2) El derecho de aterrizar sin fines comerciales.

Los derechos previstos en esta Sección no podrán exigirse respecto de los aeropuertos que se utilicen con fines militares y de los cuales se excluya todo servicio aéreo internacional regular. En zonas de hostilidades o de ocupación militar, y en tiempo de guerra en las rutas de abastecimiento de dichas zonas, el ejercicio de tales derechos estará condicionado a la aprobación de las autoridades militares competentes.

Sección 2

El ejercicio de los derechos anteriormente mencionados se ajustará a las disposiciones del Acuerdo Interino de Aviación Civil Internacional y, cuando entre en vigor, a las disposiciones del Convenio de Aviación Civil Internacional, ambos concluídos en Chicago el 7 de diciembre de 1944.

Sección 3

Todo Estado Contratante que conceda a las empresas de transporte aéreo de otro Estado Contratante el derecho de hacer escala sin fines comerciales, podrá exigir que dichas empresas ofrezcan servicio comercial razonable en los puntos en que hagan tales escalas.

Este derecho del Estado no implicará en modo alguno que las empresas de transporte aéreo que utilicen la misma ruta reciban un trato diferente, debiéndose

tener en cuenta la capacidad de las aeronaves, y su ejercicio no podrá perjudicar las operaciones normales de los servicios aéreos internacionales interesados, ni los derechos u obligaciones de ningún Estado Contratante.

Sección 4

A reserva de lo previsto en el presente Acuerdo, todo Estado Contratante podrá:

1) Designar la ruta que han de seguir en su territorio los servicios aéreos internacionales y los aeropuertos que podrán usar éstos.

2) Imponer, o permitir que se impongan, a los referidos servicios derechos justos y razonables por el uso de tales aeropuertos y demás instalaciones y servicios. Estos derechos no podrán exceder de los que abonarían las aeronaves de su propia nacionalidad empleadas en servicios internacionales similares, por el uso de los mismos aeropuertos e instalaciones y servicios; quedando entendido que, a solicitud de un Estado Contratante interesado, el Consejo de la Organización de Aviación Civil Internacional — establecido de conformidad con el Convenio anteriormente mencionado — examinará los derechos impuestos por el uso de aeropuertos y otras instalaciones y servicios, y presentará un informe, con las recomendaciones del caso, al Estado o Estados interesados.

Sección 5

Todo Estado Contratante se reserva el derecho de denegar o revocar el certificado o permiso a una empresa de transporte aéreo de otro Estado, cuando considere que gran parte de la propiedad y la dirección efectiva de la empresa no están en manos de nacionales de un Estado Contratante, o cuando la empresa de transporte aéreo no cumpla con las leyes del Estado que sobrevuele o con las obligaciones dimanantes del presente Acuerdo.

ARTÍCULO II

Sección 1

Todo Estado Contratante que estime que una medida tomada, de conformidad con este Acuerdo, por otro Estado Contratante es injusta o le causa perjuicio, podrá pedir al Consejo que examine la situación. A continuación, el Consejo investigará el asunto y llamará a consulta a los Estados interesados. Si con la consulta no se resuelven las dificultades, el Consejo podrá transmitir sus conclusiones y recomendaciones a los Estados Contratantes interesados. Si después de esto el Consejo opina que el Estado Contratante de que se trate deja injustificadamente de tomar las medidas del caso para rectificar la situación, el Consejo podrá recomendar a la Asamblea de la Organización anteriormente mencionada que suspenda a dicho Estado Contratante los derechos y privilegios

que le confiere el presente Acuerdo, hasta que haya tomado tales medidas. La Asamblea, por mayoría de dos terceras partes de sus votos, podrá imponer dicha suspensión a ese Estado Contratante por el período de tiempo que crea conveniente, o hasta que el Consejo considere que el Estado ha tomado las medidas rectificativas del caso.

Sección 2

Si surgen desavenencias entre dos o más Estados Contratantes sobre la interpretación o aplicación del presente Acuerdo que no puedan resolverse mediante negociación, se aplicará lo dispuesto en el Capítulo XVIII del Convenio anteriormente mencionado, en la forma allí prevista respecto a todo desacuerdo relativo a la interpretación o aplicación del citado Convenio.

ARTÍCULO III

El presente Acuerdo permanecerá en vigor mientras lo esté el Convenio anteriormente citado; entendiéndose, sin embargo, que todo Estado Contratante parte en el presente Acuerdo podrá denunciarlo previa notificación de un año dirigida al Gobierno de los Estados Unidos de América, el cual a su vez comunicará inmediatamente dicha notificación y denuncia a los demás Estados Contratantes.

ARTÍCULO IV

Hasta la entrada en vigor del Convenio anteriormente citado, toda referencia al mismo en el presente Acuerdo, excepto la de la Sección 2 del Artículo II y la del Artículo V, se considerará como referencia al Acuerdo Interino de Aviación Civil Internacional concluído en Chicago el 7 de diciembre de 1944; y toda referencia a la Organización de Aviación Civil Internacional, a la Asamblea y al Consejo, se considerará como referencia a la Organización Provisional de Aviación Civil Internacional, a la Asamblea Interina y al Consejo Interino respectivamente.

ARTÍCULO V

A los fines del presente Acuerdo, la palabra "territorio" tiene el significado indicado en el Artículo 2 del Convenio anteriormente mencionado.

ARTÍCULO VI

Firma y aceptación del Acuerdo

Los que suscriben, delegados a la Conferencia de Aviación Civil Internacional, reunida en Chicago el 1° de noviembre de 1944, firman el presente Acuerdo en

la inteligencia de que cada uno de los Gobiernos en cuyo nombre lo suscriben notificará al Gobierno de los Estados Unidos de América, a la mayor brevedad posible, si la firma puesta en su nombre constituye en sí la aceptación del Acuerdo y una obligación contraída en firme.

Todo Estado miembro de la Organización de Aviación Civil Internacional podrá aceptar el presente Acuerdo como obligación contraída mediante notificación de su aceptación al Gobierno de los Estados Unidos de América, y dicha aceptación surtirá efecto a partir de la fecha en que dicho Gobierno reciba la notificación.

El presente Acuerdo entrará en vigor entre los Estados Contratantes al ser aceptado por cada uno de ellos. Después, será obligatorio, respecto a cada Estado que notifique su aceptación al Gobierno de los Estados Unidos de América, a partir de la fecha en que dicho Gobierno reciba la notificación de aceptación. El Gobierno de los Estados Unidos de América comunicará a todos los Estados que suscriban y acepten el presente Acuerdo la fecha de cada una de las aceptaciones del mismo, así como las fechas en que entre en vigor respecto de cada uno de los Estados aceptantes.

EN FE DE LO CUAL, los que suscriben, debidamente autorizados al efecto, firman el presente Acuerdo en nombre de sus Gobiernos respectivos en las fechas que aparecen junto a sus firmas.

HECHO en Chicago el séptimo día de diciembre de mil novecientos cuarenta y cuatro, en lengua inglesa. Un texto redactado en los idiomas español, francés e inglés*, cada uno de los cuales será igualmente fehaciente, quedará abierto a la firma en Washington, D.C. Ambos textos quedarán depositados en los archivos del Gobierno de los Estados Unidos de América, el cual transmitirá copias certificadas de los mismos a los Gobiernos de todos los Estados que firmen o acepten el presente Acuerdo.

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* El Acuerdo fué firmado únicamente en la versión original inglesa redactada en la Conferencia de Aviación Civil Internacional celebrada en Chicago del 1º de noviembre al 7 de diciembre de 1944. No obstante lo dispuesto en el Acuerdo, no se abrió a la firma ningún texto en tres idiomas.

Por Afganistán:
A. Hosayn Aziz

Por el Gobierno del Commonwealth de Australia:
F. W. Eggleston — 4 de julio de 1945

Por Bélgica:
Vicomte du Parc — 9 de abril de 1945

Por Bolivia:
Cor. Al. Pacheco

Por Brasil:

Por Canadá:
L. B. Pearson — 10 de febrero de 1945

Por Chile:
R. Saénz
G. Bisquert
R. Magallanes B.

Por China:

Por Colombia:

Por Costa Rica:
F. de P. Gutiérrez — 10 de marzo de 1945

Por Cuba:
Gmo. Belt — 20 de abril de 1945

Por Checoeslovaquia:
V. S. Hurban — 18 de abril de 1945

Por la República Dominicana:

Por Ecuador:
J. A. Correa
Francisco Gómez Jurado

Por Egipto:
M. HASSAN
M. ROUSHDY
M. A. KHALIFA

Por El Salvador:
Felipe VEGA-GÓMEZ — 9 de mayo de 1945

Por Etiopía:
Ephrem T. MEDHEN — 22 de marzo de 1945

Por Francia:
M. HYMANS
C. LEBEL
BOURGES
P. LOCUSSOL

Por Grecia:
D. T. Noti BOTZARIS
A. J. ARGYROPOULOS

Por Guatemala:
Osc. MORALES L. — 30 de enero de 1945

Por Haití:
G. Edouard ROY

Por Honduras:
E. P. LEFEBVRE

Por Islandia:
Thor THORS — 4 de abril de 1945

Por India:
G. V. BEWOOR

Por Irán:
M. SHAYESTEH

Por Irak:
Ali JAWDAT

Por Irlanda:

Por Líbano:
C. CHAMOUN
F. EL-HOSS

Por Liberia:
Walter F. WALKER

Por Luxemburgo:
Hugues LE GALLAIS — 9 de julio de 1945

Por México:
Pedro A. CHAPA

Por Holanda:
M. STEENBERGHE
COPES
F. C. ARONSTEIN

Por el Gobierno de Nueva Zelandia:
Daniel Giles SULLIVAN

Por Nicaragua:
R. E. FRIZELL

Por Noruega:
W. Munthe MORGENSTIERNE — 30 de enero de 1945

Por Panamá:

Por Paraguay:
Celso R. VELÁSQUEZ — 27 de julio de 1945

Por Perú:
A. REVOREDO
J. S. KOECHLIN
Luis ALVARADO
F. ELGUERA
Gllmo. VAN OORDT LEÓN

Por la República de Filipinas:
J. HERNÁNDEZ
Urbano A. ZAFRA
J. H. FOLEY

Por Polonia:
Zbyslaw CIOLKOSZ
Dr. H. J. GORECKI
Stefan J. KONORSKI
Witold A. URBANOWICZ
Ludwik H. GOTTLIEB

Por Portugal:

Por España:
E. TERRADAS
Germán BARAIBAR

Por Suecia:
R. KUMLIN

Por Suiza:
Charles BRUGGMANN — 6 de julio de 1945

Por Siria:
N. KAHALE — 6 de julio de 1945

Por Turquía:
S. KOCAK
F. SAHINBAS
Orhan H. EROL

Por la Unión Sudafricana:
D. D. FORSYTH — 4 de junio de 1945

Por el Gobierno del Reino Unido de la Gran Bretaña e Irlanda del Norte:

Declaro que, a menos que se notifique su inclusión ulteriormente, mi firma del presente Acuerdo no comprende el territorio de Terranova.

SWINTON

Por los Estados Unidos de América:
Adolf A. BERLE Jr.
Alfred L. BULWINKLE
Chas. A. WOLVERTON
F. LAGUARDIA
Edward WARNER
L. Welch POGUE
William A. M. BURDEN

Por Uruguay:

Carl CARBAJAL
Col. Medardo R. FARÍAS

Por Venezuela:

La Delegación de Venezuela firma *ad referendum* y deja constancia de que la aprobación de este documento por su Gobierno está sujeta a las disposiciones constitucionales de los Estados Unidos de Venezuela.

F. J. SUCRE
J. BLANCO USTÁRIZ

Por Yugoeslavia:

Por Dinamarca:

Henrik KAUFFMANN

Por Thailandia:

M. R. SENI PRAMOJ

LISTA DE LOS ESTADOS PARTES EN EL ACUERDO

Al 1º de mayo de 1954

Estado	*Acuerdo de Tránsito (Notificación de la aceptación)*	*Estado*	*Acuerdo de Tránsito (Notificación de la aceptación)*
Afganistán	17/5/45	Irak	15/6/45
Argentina	4/6/46	Irán	19/4/50
Australia	28/8/45	Islandia	21/3/47
Bélgica	19/7/45	Japón	20/10/53
Bolivia	4/4/47	Jordán	18/3/47
Canadá	10/2/45	Liberia	19/3/45
Cuba	20/6/47	Luxemburgo	28/4/48
Checoeslovaquia	18/4/45	México	25/6/46
Dinamarca	1/12/48	Nicaragua	28/12/45
Egipto	13/3/47	Noruega	30/1/45
El Salvador	1/6/45	Nueva Zelandia	19/4/45
España	30/7/45	Pakistán	15/8/47*
Estados Unidos	8/2/45	Paraguay	27/7/45
Etiopía	22/3/45	Polonia	6/4/45
Filipinas	22/3/46	Reino Unido	31/5/45
Francia	24/6/48	Suecia	19/11/45
Grecia	21/9/45	Suiza	6/7/45
Guatemala	28/4/47	Thailandia	6/3/47
Holanda	12/1/45	Turquía	6/6/45
Honduras	13/11/45	Unión Sudafricana	30/11/45
India	2/5/45	Venezuela	28/3/46

* El Embajador de Pakistán informó al Secretario de Estado, mediante nota F. 96/48/1 del 24 de marzo de 1948: "... que en virtud de las disposiciones contenidas en la cláusula 4 de la Cédula de Independencia de la India (Acuerdos Internacionales), Orden 1947, el Acuerdo relativo al Tránsito de los Servicios Aéreos Internacionales firmado por la India Unida continúa siendo obligatorio después de la creación del Dominio de Pakistán." La aceptación de la India, el 2 de mayo de 1945, del Acuerdo de Tránsito se aplicó también al territorio que entonces formaba parte de la India y que más tarde, el 15 de agosto de 1947, pasó a ser Pakistán.

11/61, T/P2/250; 2/64, T/P3/500;
2/65, T/P4/1000; 11/74, T/P5/1000;
12/82, T/P6/1000; 2/89, T/P7/500;
10/93, T/P8/400; 1/98, T/P9/400

Order No. 7500
Printed in ICAO

Annex 3

Convention on International Civil Aviation (7 Dec. 1944) (entry into force: 4 Apr. 1947), Quadrilingual Version, ICAO Doc. 7300/9 (9th ed. 2006)

Doc 7300/9

Convention on International Civil Aviation

Convention relative à l'aviation civile internationale

Convenio sobre Aviación Civil Internacional

Конвенция о международной гражданской авиации

This document supersedes Doc 7300/8.
Le présent document annule et remplace le Doc 7300/8.
Este documento remplaza el Doc 7300/8.
Настоящий документ заменяет Doc 7300/8.

Ninth Edition – Neuvième édition – Novena edición – Издание девятое — 2006

International Civil Aviation Organization
Organisation de l'aviation civile internationale
Organización de Aviación Civil Internacional
Международная организация гражданской авиации

Doc 7300/9

Convention on International Civil Aviation

Convention relative à l'aviation civile internationale

Convenio sobre Aviación Civil Internacional

Конвенция о международной гражданской авиации

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Ninth Edition – Neuvième édition – Novena edición – Издание девятое — 2006

International Civil Aviation Organization
Organisation de l'aviation civile internationale
Organización de Aviación Civil Internacional
Международная организация гражданской авиации

FOREWORD

This document contains the text of the Convention on International Civil Aviation, signed at Chicago on 7 December 1944 (hereinafter referred to as the "Convention"), in the English, French, Russian and Spanish languages. Each of these texts is equally authentic. The English text is the text adopted and signed at Chicago on 7 December 1944, amended as indicated below. The French and Spanish texts are the texts adopted by and annexed to the Protocol on the Authentic Trilingual Text of the Convention, signed at Buenos Aires on 24 September 1968 (hereinafter referred to as the "Buenos Aires Protocol"), amended as indicated below. The text of the Buenos Aires Protocol is reproduced in this document at pages 45 to 47. This Protocol came into force on 24 October 1968. The Russian text is the text adopted by and annexed to the Protocol on the Authentic Quadrilingual Text of the Convention, signed at Montreal on 30 September 1977 (hereinafter referred to as the "Protocol on the Authentic Quadrilingual Text"), amended as indicated below. This Protocol came into force on 16 September 1999. The text of the Protocol on the Authentic Quadrilingual Text is reproduced in this document at pages 48 to 51.

In the body of the above-mentioned texts of the Convention, in English, French, Russian and Spanish, as presented in this document, are incorporated all the amendments made to the Convention which were in force on 1 January 2006, namely in respect of:

a) Article 3 *bis* (non-use of weapons against civil aircraft in flight);
b) Article 45 (permanent seat of the Organization);
c) Article 48 *a)* (frequency of Assembly Sessions);

d) Article 49 *e)* (powers of Assembly relating to annual budgets);
e) Article 50 *a)* (composition and election of Council);
f) Article 56 (membership of Air Navigation Commission);
g) Article 61 (budget and apportionment of expenses);
h) Article 83 *bis* (transfer of certain functions and duties in cases of lease, charter or interchange of aircraft);

i) Article 93 *bis* (expulsion from the International Civil Aviation Organization or suspension of membership in it); and
j) the final paragraph, adding Russian to the authentic texts of the Convention.

AVANT-PROPOS

Le présent document comporte le texte de la Convention relative à l'aviation civile internationale, signé à Chicago le 7 décembre 1944 (appelé ci-après la «Convention»), en langues française, anglaise, espagnole et russe. Chacun de ces textes fait également foi. Le texte anglais est celui qui a été adopté et signé à Chicago le 7 décembre 1944, amendé de la manière indiquée ci-dessous. Les textes français et espagnol sont ceux qui ont été adoptés au moyen du Protocole concernant le texte authentique trilingue de la Convention, et qui sont annexés à ce protocole, signé à Buenos Aires le 24 septembre 1968 (appelé ci-après le «Protocole de Buenos Aires»), amendé de la manière indiquée ci-dessous. Le texte du Protocole de Buenos Aires est reproduit dans le présent document aux pages 45 à 47. Ce protocole est entré en vigueur le 24 octobre 1968. Le texte russe est celui qui a été adopté au moyen du Protocole concernant le texte authentique quadrilingue de la Convention, et qui est annexé à ce protocole, signé à Montréal le 30 septembre 1977 (appelé ci-après le «Protocole concernant le texte authentique quadrilingue»), amendé de la manière indiquée ci-dessous. Ce protocole est entré en vigueur le 16 septembre 1999. Le texte du Protocole concernant le texte authentique quadrilingue est reproduit dans le présent document aux pages 48 à 51.

Les textes français, anglais, espagnol et russe précités de la Convention, tels qu'ils figurent dans le présent document, comportent tous les amendements apportés à la Convention qui étaient en vigueur le 1er janvier 2006, et qui concernaient:

a) l'article 3 *bis* (non-utilisation d'armes contre des aéronefs civils en vol);
b) l'article 45 (siège permanent de l'Organisation);
c) l'article 48 *a)* (fréquence des sessions de l'Assemblée);

d) l'article 49 *e)* (pouvoirs de l'Assemblée en matière de budgets annuels);
e) l'article 50 *a)* (composition et élection du Conseil);

f) l'article 56 (membres de la Commission de navigation aérienne);
g) l'article 61 (budget et répartition des dépenses);

h) l'article 83 *bis* (transfert de certaines fonctions et obligations en cas de location, d'affrètement ou de banalisation d'aéronefs);
i) l'article 93 *bis* (exclusion d'un État de l'Organisation de l'aviation civile internationale ou suspension de sa qualité de membre de l'Organisation);
j) le dernier paragraphe (ajout du russe aux textes authentiques de la Convention).

PRÓLOGO

El presente documento contiene el texto del Convenio sobre Aviación Civil Internacional, firmado en Chicago el 7 de diciembre de 1944 (mencionado en adelante como el "Convenio"), en los idiomas español, francés, inglés y ruso. Cada una de las versiones es igualmente auténtica. El texto inglés es el que fue adoptado y firmado en Chicago el 7 de diciembre de 1944, y que se ha enmendado como se indica más abajo. Los textos español y francés son los que fueron adoptados mediante el Protocolo sobre el texto auténtico trilingüe del Convenio, firmado en Buenos Aires el 24 de septiembre de 1968 (mencionado en adelante como el "Protocolo de Buenos Aires"), al que se adjuntan y que se han enmendado como se indica más abajo. El texto del Protocolo de Buenos Aires se reproduce en el presente documento en las páginas 45 a 47. Dicho protocolo entró en vigor el 24 de octubre de 1968. El texto ruso es el que fue adoptado mediante el Protocolo sobre el texto auténtico cuadrilingüe del Convenio, firmado en Montreal el 30 de septiembre de 1977, enmendado según se indica más adelante (mencionado en adelante como el "Protocolo sobre el texto auténtico cuadrilingüe"), que se adjunta al Protocolo. Éste entró en vigor el 16 de septiembre de 1999 y su texto se reproduce en el presente documento en las páginas 48 a 51.

En los mencionados textos del Convenio en los idiomas español, francés, inglés y ruso, que figuran en el presente documento, se han incluido todas las enmiendas al Convenio que estaban en vigor al 1 de enero de 2006, relativas a los artículos siguientes:

a) Artículo 3 *bis* (abstención del uso de armas en contra de aeronaves civiles en vuelo);

b) Artículo 45 (Sede permanente de la Organización);

c) Artículo 48 *a)* (frecuencia de los períodos de sesiones de la Asamblea);

d) Artículo 49 *e)* (poderes de la Asamblea respecto a los presupuestos anuales);

e) Artículo 50 *a)* (composición y elección del Consejo);

f) Artículo 56 (miembros de la Comisión de Aeronavegación);

g) Artículo 61 (presupuesto y distribución de gastos);

h) Artículo 83 *bis* (transferencia de ciertas funciones y obligaciones en los casos de arrendamiento, fletamento o intercambio de aeronaves);

i) Artículo 93 *bis* (expulsión de la Organización de Aviación Civil Internacional o suspensión de miembros de la Organización); y

j) párrafo final que añade el ruso a los textos auténticos del Convenio.

ПРЕДИСЛОВИЕ

Настоящий документ содержит текст Конвенции о международной гражданской авиации, подписанной в Чикаго 7 декабря 1944 года (в дальнейшем именуемой "Конвенцией"), на русском, английском, испанском и французском языках. Каждый из этих текстов является равно аутентичным. Текст на английском языке – это текст, принятый и подписанный в Чикаго 7 декабря 1944 года, в который внесены нижеуказанные поправки. Тексты на испанском и французском языках – это тексты, принятые согласно и приложенные к Протоколу об аутентичном трехъязычном тексте Конвенции, подписанному в Буэнос-Айресе 24 сентября 1968 года (в дальнейшем именуемому "Буэнос-Айресским протоколом"), в которые внесены нижеуказанные поправки. Текст Буэнос-Айресского протокола приводится в настоящем документе на страницах 45–47. Текст на русском языке – это текст, принятый согласно и приложенный к Протоколу об аутентичном четырехъязычном тексте Конвенции, подписанному в Монреале 30 сентября 1977 года (в дальнейшем именуемому "Протоколом об аутентичном четырехъязычном тексте"), в который внесены нижеуказанные поправки. Этот Протокол вступил в силу 16 сентября 1999 года. Текст Протокола об аутентичном четырехъязычном тексте приводится в настоящем документе на страницах 48–51.

В основную часть вышеупомянутых текстов Конвенции на русском, английском, испанском и французском языках, приводимых в настоящем документе, включены все поправки к Конвенции, имевшие силу на 1 января 2006 года, а именно поправки в отношении:

a) Статьи 3 *bis* (неприменение оружия против гражданских воздушных судов в полете);

b) Статьи 45 (постоянное местопребывание Организации);

c) Статьи 48 *a)* (периодичность сессий Ассамблеи);

d) Статьи 49 *e)* (права Ассамблеи, касающиеся годовых бюджетов);

e) Статьи 50 *a)* (состав и выборы Совета);

f) Статьи 56 (состав Аэронавигационной комиссии);

g) Статьи 61 (бюджет и распределение расходов);

h) Статьи 83 *bis* (передача определенных функций и обязанностей в случае аренды, фрахтования воздушных судов или обмена ими);

i) Статьи 93 *bis* (исключение из Международной организации гражданской авиации или приостановление членства в ней); и

j) заключительного пункта (включение текста на русском языке в число аутентичных текстов Конвенции).

Attention is invited to the footnotes to the above-mentioned amendments.

Further amendments to the Convention have been adopted but have not been incorporated in this document as they have not yet entered into force, namely in respect of:

a) the final paragraph of the Convention, adding Arabic to the authentic texts of the Convention, adopted by the 31st Session of the Assembly; and

b) the final paragraph of the Convention, adding Chinese to the authentic texts of the Convention, adopted by the 32nd Session of the Assembly.

On voudra bien se reporter aux notes de bas de page relatives aux amendements précités.

D'autres amendements de la Convention ont été adoptés mais n'ont pas été incorporés au présent document du fait qu'ils ne sont pas encore entrés en vigueur. Il s'agit:

a) d'un amendement du dernier paragraphe de la Convention qui ajoute l'arabe aux textes authentiques de la Convention et qui a été adopté par l'Assemblée à sa 31e session;

b) d'un amendement du dernier paragraphe de la Convention qui ajoute le chinois aux textes authentiques de la Convention et qui a été adopté par l'Assemblée à sa 32e session.

Se señalan a la atención del lector las notas a pie de página relativas a las mencionadas enmiendas.

Se han adoptado otras enmiendas del Convenio que no figuran en el presente documento porque aún no han entrado en vigor; se trata de las siguientes:

a) párrafo final del Convenio, que añade el árabe a los textos auténticos del Convenio, adoptada por el 31º período de sesiones de la Asamblea; y

b) párrafo final del Convenio, que añade el chino a los textos auténticos del Convenio, adoptada por el 32º período de sesiones de la Asamblea.

Следует обращать внимание на подстрочные примечания к вышеупомянутым поправкам.

В настоящий документ не включены принятые дополнительные поправки к Конвенции, поскольку они еще не вступили в силу, а именно:

a) поправка к заключительному пункту Конвенции (включение текста на арабском языке в число аутентичных текстов Конвенции), принятая 31-й сессией Ассамблеи, и

b) поправка к заключительному пункту Конвенции (включение текста на китайском языке в число аутентичных текстов Конвенции), принятая 32-й сессией Ассамблеи.

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ОГЛАВЛЕНИЕ

CONVENTION[1]

ON INTERNATIONAL CIVIL AVIATION

Signed at Chicago, on 7 December 1944

PREAMBLE

WHEREAS the future development of international civil aviation can greatly help to create and preserve friendship and understanding among the nations and peoples of the world, yet its abuse can become a threat to the general security; and

WHEREAS it is desirable to avoid friction and to promote that cooperation between nations and peoples upon which the peace of the world depends;

THEREFORE, the undersigned governments having agreed on certain principles and arrangements in order that international civil aviation may be developed in a safe and orderly manner and that international air transport services may be established on the basis of equality of opportunity and operated soundly and economically;

Have accordingly concluded this Convention to that end.

1. Came into force on 4 April 1947, the thirtieth day after deposit with the Government of the United States of America of the twenty-sixth instrument of ratification thereof or notification of adherence thereto, in accordance with Article 91 *b)*.

CONVENTION[1]

RELATIVE À L'AVIATION CIVILE INTERNATIONALE

Signée à Chicago, le 7 décembre 1944

PRÉAMBULE

CONSIDÉRANT que le développement futur de l'aviation civile internationale peut grandement aider à créer et à préserver entre les nations et les peuples du monde l'amitié et la compréhension, alors que tout abus qui en serait fait peut devenir une menace pour la sécurité générale,

CONSIDÉRANT qu'il est désirable d'éviter toute mésentente entre les nations et les peuples et de promouvoir entre eux la coopération dont dépend la paix du monde,

EN CONSÉQUENCE, les Gouvernements soussignés étant convenus de certains principes et arrangements, afin que l'aviation civile internationale puisse se développer d'une manière sûre et ordonnée et que les services internationaux de transport aérien puissent être établis sur la base de l'égalité des chances et exploités d'une manière saine et économique,

Ont conclu la présente Convention à ces fins.

1. Entrée en vigueur le 4 avril 1947, trentième jour après le dépôt auprès du Gouvernement des États-Unis d'Amérique du vingt-sixième instrument de ratification ou notification d'adhésion, conformément à l'article 91 *b)*.

CONVENIO[1]

SOBRE AVIACIÓN CIVIL INTERNACIONAL

Firmado en Chicago, el 7 de diciembre de 1944

PREÁMBULO

CONSIDERANDO que el desarrollo futuro de la aviación civil internacional puede contribuir poderosamente a crear y a preservar la amistad y el entendimiento entre las naciones y los pueblos del mundo, mientras que el abuso de la misma puede llegar a constituir una amenaza a la seguridad general;

CONSIDERANDO que es deseable evitar toda disensión entre las naciones y los pueblos y promover entre ellos la cooperación de que depende la paz del mundo;

POR CONSIGUIENTE, los Gobiernos que suscriben, habiendo convenido en ciertos principios y arreglos, a fin de que la aviación civil internacional pueda desarrollarse de manera segura y ordenada y de que los servicios internacionales de transporte aéreo puedan establecerse sobre una base de igualdad de oportunidades y realizarse de modo sano y económico;

Han concluido a estos fines el presente Convenio.

1. Entró en vigor el 4 de abril de 1947, el trigésimo día después del depósito del vigésimo sexto instrumento de ratificación o notificación de adhesión al Gobierno de los Estados Unidos de América de acuerdo con el Artículo 91 *b)*.

КОНВЕНЦИЯ[1]

О МЕЖДУНАРОДНОЙ ГРАЖДАНСКОЙ АВИАЦИИ

Подписана в Чикаго 7 декабря 1944 года

ПРЕАМБУЛА

ПРИНИМАЯ ВО ВНИМАНИЕ, что будущее развитие международной гражданской авиации может в значительной степени способствовать установлению и поддержанию дружбы и взаимопонимания между нациями и народами мира, тогда как злоупотребление ею может создать угрозу всеобщей безопасности;

ПРИНИМАЯ ВО ВНИМАНИЕ, что желательно избегать трений и содействовать такому сотрудничеству между нациями и народами, от которого зависит мир во всем мире;

ПОЭТОМУ нижеподписавшиеся Правительства, достигнув согласия относительно определенных принципов и мер с тем, чтобы международная гражданская авиация могла развиваться безопасным и упорядоченным образом и чтобы международные воздушные сообщения могли устанавливаться на основе равенства возможностей и осуществляться рационально и экономично;

заключили в этих целях настоящую Конвенцию.

1. Вступила в силу 4 апреля 1947 года на тридцатый день после сдачи на хранение правительству Соединенных Штатов Америки двадцать шестого документа о ратификации Конвенции или уведомления о присоединении к ней в соответствии со Статьей 91 *b)*.

PART I

AIR NAVIGATION

CHAPTER I

GENERAL PRINCIPLES AND APPLICATION OF THE CONVENTION

Article 1

Sovereignty

The contracting States recognize that every State has complete and exclusive sovereignty over the airspace above its territory.

Article 2

Territory

For the purposes of this Convention the territory of a State shall be deemed to be the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or mandate of such State.

Article 3

Civil and state aircraft

a) This Convention shall be applicable only to civil aircraft, and shall not be applicable to state aircraft.

b) Aircraft used in military, customs and police services shall be deemed to be state aircraft.

c) No state aircraft of a contracting State shall fly over the territory of another State or land thereon without authorization by special agreement or otherwise, and in accordance with the terms thereof.

PREMIÈRE PARTIE

NAVIGATION AÉRIENNE

CHAPITRE I

PRINCIPES GÉNÉRAUX ET APPLICATION DE LA CONVENTION

Article premier

Souveraineté

Les États contractants reconnaissent que chaque État a la souveraineté complète et exclusive sur l'espace aérien au-dessus de son territoire.

Article 2

Territoire

Aux fins de la présente Convention, il faut entendre par territoire d'un État les régions terrestres et les eaux territoriales y adjacentes qui se trouvent sous la souveraineté, la suzeraineté, la protection ou le mandat dudit État.

Article 3

Aéronefs civils et aéronefs d'État

a) La présente Convention s'applique uniquement aux aéronefs civils et ne s'applique pas aux aéronefs d'État.

b) Les aéronefs utilisés dans des services militaires, de douane ou de police sont considérés comme aéronefs d'État.

c) Aucun aéronef d'État d'un État contractant ne peut survoler le territoire d'un autre État ou y atterrir, sauf autorisation donnée par voie d'accord spécial ou de toute autre manière et conformément aux conditions de cette autorisation.

PRIMERA PARTE

NAVEGACIÓN AÉREA

CAPÍTULO I

PRINCIPIOS GENERALES Y APLICACIÓN DEL CONVENIO

Artículo 1

Soberanía

Los Estados contratantes reconocen que todo Estado tiene soberanía plena y exclusiva en el espacio aéreo situado sobre su territorio.

Artículo 2

Territorio

A los fines del presente Convenio se consideran como territorio de un Estado las áreas terrestres y las aguas territoriales adyacentes a ellas que se encuentren bajo la soberanía, dominio, protección o mandato de dicho Estado.

Artículo 3

Aeronaves civiles y de Estado

a) El presente Convenio se aplica solamente a las aeronaves civiles y no a las aeronaves de Estado.

b) Se consideran aeronaves de Estado las utilizadas en servicios militares, de aduanas o de policía.

c) Ninguna aeronave de Estado de un Estado contratante podrá volar sobre el territorio de otro Estado o aterrizar en el mismo sin haber obtenido autorización para ello, por acuerdo especial o de otro modo, y de conformidad con las condiciones de la autorización.

ЧАСТЬ I

АЭРОНАВИГАЦИЯ

ГЛАВА I

ОБЩИЕ ПРИНЦИПЫ И ПРИМЕНЕНИЕ КОНВЕНЦИИ

Статья 1

Суверенитет

Договаривающиеся государства признают, что каждое государство обладает полным и исключительным суверенитетом над воздушным пространством над своей территорией.

Статья 2

Территория

В целях настоящей Конвенции под территорией государства понимаются сухопутные территории и прилегающие к ним территориальные воды, находящиеся под суверенитетом, сюзеренитетом, протекторатом или мандатом данного государства.

Статья 3

Гражданские и государственные воздушные суда

a) Настоящая Конвенция применяется только к гражданским воздушным судам и не применяется к государственным воздушным судам.

b) Воздушные суда, используемые на военной, таможенной и полицейской службах, рассматриваются как государственные воздушные суда.

c) Никакое государственное воздушное судно Договаривающегося государства не производит полета над территорией другого государства и не совершает на ней посадки, кроме как с разрешения, предоставляемого специальным соглашением или иным образом, и в соответствии с его условиями.

d) The contracting States undertake, when issuing regulations for their state aircraft, that they will have due regard for the safety of navigation of civil aircraft.

d) Les États contractants s'engagent à tenir dûment compte de la sécurité de la navigation des aéronefs civils lorsqu'ils établissent des règlements pour leurs aéronefs d'État.

Article 3 *bis**

a) The contracting States recognize that every State must refrain from resorting to the use of weapons against civil aircraft in flight and that, in case of interception, the lives of persons on board and the safety of aircraft must not be endangered. This provision shall not be interpreted as modifying in any way the rights and obligations of States set forth in the Charter of the United Nations.

b) The contracting States recognize that every State, in the exercise of its sovereignty, is entitled to require the landing at some designated airport of a civil aircraft flying above its territory without authority or if there are reasonable grounds to conclude that it is being used for any purpose inconsistent with the aims of this Convention; it may also give such aircraft any other instructions to put an end to such violations. For this purpose, the contracting States may resort to any appropriate means consistent with relevant rules of international law, including the relevant provisions of this Convention, specifically paragraph *a)* of this Article. Each contracting State agrees to publish its regulations in force regarding the interception of civil aircraft.

c) Every civil aircraft shall comply with an order given in conformity with paragraph *b)* of this Article. To this end each contracting State shall establish all necessary provisions in its national laws or regulations to make such compliance mandatory for any civil aircraft registered in that State or operated by an operator who has his principal place of business or permanent residence in that State. Each contracting State shall make any violation of such applicable laws or regulations punishable by severe penalties and shall submit the case to its competent authorities in accordance with its laws or regulations.

* The 25th (Extraordinary) Session of the Assembly on 10 May 1984 amended the Convention by adopting the Protocol introducing Article 3 *bis*. This amendment came into force on 1 October 1998.

Article 3 *bis**

a) Les États contractants reconnaissent que chaque État doit s'abstenir de recourir à l'emploi des armes contre les aéronefs civils en vol et qu'en cas d'interception, la vie des personnes se trouvant à bord des aéronefs et la sécurité des aéronefs ne doivent pas être mises en danger. Cette disposition ne saurait être interprétée comme modifiant de quelque manière que ce soit les droits et obligations des États en vertu de la Charte des Nations Unies.

b) Les États contractants reconnaissent que chaque État, dans l'exercice de sa souveraineté, est en droit d'exiger l'atterrissage, à un aéroport désigné, d'un aéronef civil qui, sans titre, survole son territoire ou s'il y a des motifs raisonnables de conclure qu'il est utilisé à des fins incompatibles avec les buts de la présente Convention; il peut aussi donner à cet aéronef toutes autres instructions pour mettre fin à ces violations. À cet effet, les États contractants peuvent recourir à tous moyens appropriés compatibles avec les règles pertinentes du droit international, y compris les dispositions pertinentes de la présente Convention, spécifiquement l'alinéa *a)* du présent article. Chaque État contractant convient de publier ses règlements en vigueur pour l'interception des aéronefs civils.

c) Tout aéronef civil doit respecter un ordre donné conformément à l'alinéa *b)* du présent article. À cette fin, chaque État contractant prend toutes les mesures nécessaires dans ses lois ou règlements nationaux pour faire obligation à tout aéronef immatriculé dans ledit État ou utilisé par un exploitant qui a le siège principal de son exploitation ou sa résidence permanente dans ledit État de se conformer à cet ordre. Chaque État contractant rend toute violation de ces lois ou règlements applicables passible de sanctions sévères et soumet l'affaire à ses autorités compétentes conformément à son droit interne.

* Le 10 mai 1984, à sa 25e session (extraordinaire), l'Assemblée a amendé la Convention en adoptant le Protocole concernant l'article 3 *bis*. Cet amendement est entré en vigueur le 1er octobre 1998.

d) Los Estados contratantes se comprometen a tener debidamente en cuenta la seguridad de la navegación de las aeronaves civiles, cuando establezcan reglamentos aplicables a sus aeronaves de Estado.

Artículo 3 *bis**

a) Los Estados contratantes reconocen que todo Estado debe abstenerse de recurrir al uso de las armas en contra de las aeronaves civiles en vuelo y que, en caso de interceptación, no debe ponerse en peligro la vida de los ocupantes de las aeronaves ni la seguridad de éstas. La presente disposición no se interpretará en el sentido de que modifica en modo alguno los derechos y las obligaciones de los Estados estipulados en la Carta de las Naciones Unidas.

b) Los Estados contratantes reconocen que todo Estado tiene derecho, en el ejercicio de su soberanía, a exigir el aterrizaje en un aeropuerto designado de una aeronave civil que sobrevuele su territorio sin estar facultada para ello, o si tiene motivos razonables para llegar a la conclusión de que se utiliza para propósitos incompatibles con los fines del presente Convenio; asimismo puede dar a dicha aeronave toda otra instrucción necesaria para poner fin a este acto de violación. A tales efectos, los Estados contratantes podrán recurrir a todos los medios apropiados compatibles con los preceptos pertinentes del derecho internacional, comprendidas las disposiciones pertinentes del presente Convenio y, específicamente, con el párrafo *a)* del presente Artículo. Cada Estado contratante conviene en publicar sus reglamentos vigentes en materia de interceptación de aeronaves civiles.

c) Toda aeronave civil acatará una orden dada de conformidad con el párrafo *b)* del presente Artículo. A este fin, cada Estado contratante incorporará en su legislación o reglamentación todas las disposiciones necesarias para que toda aeronave civil matriculada en él o explotada por un explotador cuya oficina principal o residencia permanente se encuentre en su territorio, tenga la obligación de acatar dicha orden. Cada Estado contratante tomará las disposiciones necesarias para que toda violación de esas leyes o reglamentos aplicables se castigue con sanciones severas, y someterá el caso a sus autoridades competentes de conformidad con las leyes nacionales.

* El 10 de mayo de 1984, el 25° período de sesiones (extraordinario) de la Asamblea enmendó el Convenio mediante la adopción del Protocolo que introducía el Artículo 3 *bis*. La enmienda entró en vigor el 1 de octubre de 1998.

d) Договаривающиеся государства при установлении правил для своих государственных воздушных судов обязуются обращать должное внимание на безопасность навигации гражданских воздушных судов.

Статья 3 *bis**

a) Договаривающиеся государства признают, что каждое государство должно воздерживаться от того, чтобы прибегать к применению оружия против гражданских воздушных судов в полете, и что в случае перехвата не должна ставиться под угрозу жизнь находящихся на борту лиц и безопасность воздушного судна. Это положение не истолковывается как изменяющее каким-либо образом права и обязательства государств, изложенные в Уставе Организации Объединенных Наций.

b) Договаривающиеся государства признают, что каждое государство при осуществлении своего суверенитета имеет право требовать посадки в каком-либо указанном аэропорту гражданского воздушного судна, если оно совершает полет над его территорией без разрешения или если имеются разумные основания полагать, что оно используется в каких-либо целях, несовместимых с целями настоящей Конвенции, или может давать такому воздушному судну любые другие указания, чтобы положить конец таким нарушениям. С этой целью Договаривающиеся государства могут прибегать к любым соответствующим средствам, совместимым с надлежащими нормами международного права, включая надлежащие положения настоящей Конвенции, конкретно пункт *a)* данной Статьи. Каждое Договаривающееся государство соглашается опубликовывать свои правила, действующие в отношении перехвата гражданских воздушных судов.

c) Каждое гражданское воздушное судно выполняет приказ, отдаваемый в соответствии с пунктом *b)* настоящей Статьи. С этой целью каждое Договаривающееся государство принимает все необходимые положения в своих национальных законах или правилах с тем, чтобы сделать его выполнение обязательным для любого гражданского воздушного судна, зарегистрированного в этом государстве или эксплуатируемого эксплуатантом, основное место деятельности которого или постоянное местопребывание которого находится в этом государстве. Каждое Договаривающееся государство предусматривает суровые наказания за любое нарушение таких применимых законов или правил и передает дело своим компетентным органам в соответствии со своими законами или правилами.

* 10 мая 1984 года Ассамблея на своей 25-й (чрезвычайной) сессии внесла поправку в Конвенцию, приняв Протокол, вводящий статью 3 *bis*. Данная поправка вступила в силу 1 октября 1998 года.

d) Each contracting State shall take appropriate measures to prohibit the deliberate use of any civil aircraft registered in that State or operated by an operator who has his principal place of business or permanent residence in that State for any purpose inconsistent with the aims of this Convention. This provision shall not affect paragraph *a)* or derogate from paragraphs *b)* and *c)* of this Article.

d) Chaque État contractant prendra des mesures appropriées pour interdire l'emploi délibéré de tout aéronef civil immatriculé dans ledit État ou utilisé par un exploitant qui a le siège principal de son exploitation ou sa résidence permanente dans ledit État à des fins incompatibles avec les buts de la présente Convention. Cette disposition ne porte pas atteinte à l'alinéa *a)* et ne déroge pas aux alinéas *b)* et *c)* du présent article.

Article 4

Misuse of civil aviation

Each contracting State agrees not to use civil aviation for any purpose inconsistent with the aims of this Convention.

Article 4

Usage indu de l'aviation civile

Chaque État contractant convient de ne pas employer l'aviation civile à des fins incompatibles avec les buts de la présente Convention.

CHAPTER II

FLIGHT OVER TERRITORY OF CONTRACTING STATES

CHAPITRE II

VOL AU-DESSUS DU TERRITOIRE DES ÉTATS CONTRACTANTS

Article 5

Right of non-scheduled flight

Each contracting State agrees that all aircraft of the other contracting States, being aircraft not engaged in scheduled international air services shall have the right, subject to the observance of the terms of this Convention, to make flights into or in transit non-stop across its territory and to make stops for non-traffic purposes without the necessity of obtaining prior permission, and subject to the right of the State flown over to require landing. Each contracting State nevertheless reserves the right, for reasons of safety of flight, to require aircraft desiring to proceed over regions which are inaccessible or without adequate air navigation facilities to follow prescribed routes, or to obtain special permission for such flights.

Article 5

Droits des aéronefs n'assurant pas de service régulier

Chaque État contractant convient que tous les aéronefs des autres États contractants qui n'assurent pas de services aériens internationaux réguliers ont le droit, à condition que soient respectés les termes de la présente Convention, de pénétrer sur son territoire, de le traverser en transit sans escale et d'y faire des escales non commerciales sans avoir à obtenir une autorisation préalable, sous réserve du droit pour l'État survolé d'exiger l'atterrissage. Néanmoins, pour des raisons de sécurité de vol, chaque État contractant se réserve le droit d'exiger que les aéronefs qui désirent survoler des régions inaccessibles ou dépourvues d'installations et services de navigation aérienne adéquats suivent les itinéraires prescrits ou obtiennent une autorisation spéciale.

Such aircraft, if engaged in the carriage of passengers, cargo, or mail for remuneration or hire on other than scheduled international air services, shall also, subject to the provisions of Article 7, have the privilege of taking on or discharging passengers, cargo, or mail, subject to the right of any State where such embarkation or discharge takes place to impose such regulations, conditions or limitations as it may consider desirable.

Si lesdits aéronefs assurent le transport de passagers, de marchandises ou de courrier contre rémunération ou en vertu d'un contrat de location en dehors des services aériens internationaux réguliers, ils auront aussi le privilège, sous réserve des dispositions de l'article 7, d'embarquer ou de débarquer des passagers, des marchandises ou du courrier, sous réserve du droit pour l'État où a lieu l'embarquement ou le débarquement d'imposer telles réglementations, conditions ou restrictions qu'il pourra juger souhaitables.

d) Cada Estado contratante tomará medidas apropiadas para prohibir el uso deliberado de aeronaves civiles matriculadas en dicho Estado o explotadas por un explotador que tenga su oficina principal o su residencia permanente en dicho Estado, para cualquier propósito incompatible con los fines del presente Convenio. Esta disposición no afectará al párrafo *a)* ni derogará los párrafos *b)* y *c)* del presente Artículo.

Artículo 4

Uso indebido de la aviación civil

Cada Estado contratante conviene en no emplear la aviación civil para propósitos incompatibles con los fines del presente Convenio.

CAPÍTULO II

VUELO SOBRE TERRITORIO
DE ESTADOS CONTRATANTES

Artículo 5

Derecho de vuelo en servicios no regulares

Cada Estado contratante conviene en que todas las aeronaves de los demás Estados contratantes que no se utilicen en servicios internacionales regulares tendrán derecho, de acuerdo con lo estipulado en el presente Convenio, a penetrar sobre su territorio o sobrevolarlo sin escalas, y a hacer escalas en él con fines no comerciales, sin necesidad de obtener permiso previo, y a reserva del derecho del Estado sobrevolado de exigir aterrizaje. Sin embargo, cada Estado contratante se reserva, por razones de seguridad de vuelo, el derecho de exigir que las aeronaves que deseen volar sobre regiones inaccesibles o que no cuenten con instalaciones y servicios adecuados para la navegación aérea, sigan las rutas prescritas u obtengan permisos especiales para tales vuelos.

Si dichas aeronaves se utilizan en servicios distintos de los aéreos internacionales regulares, en el transporte de pasajeros, correo o carga por remuneración o alquiler, tendrán también el privilegio, con sujeción a las disposiciones del Artículo 7, de embarcar o desembarcar pasajeros, carga o correo, sin perjuicio del derecho del Estado donde tenga lugar el embarque o desembarque a imponer las reglamentaciones, condiciones o restricciones que considere convenientes.

d) Каждое Договаривающееся государство принимает надлежащие меры для запрещения преднамеренного использования любых гражданских воздушных судов, зарегистрированных в этом государстве или эксплуатируемых эксплуатантом, основное место деятельности которого или постоянное местопребывание которого находится в этом государстве, в каких-либо целях, несовместимых с целями настоящей Конвенции. Это положение не влияет на пункт *a)* и не затрагивает пункты *b)* и *c)* настоящей Статьи.

Статья 4

Ненадлежащее использование гражданской авиации

Каждое Договаривающееся государство соглашается не использовать гражданскую авиацию в каких-либо целях, несовместимых с целями настоящей Конвенции.

ГЛАВА II

ПОЛЕТ НАД ТЕРРИТОРИЕЙ
ДОГОВАРИВАЮЩИХСЯ ГОСУДАРСТВ

Статья 5

Право нерегулярных полетов

Каждое Договаривающееся государство соглашается, что все воздушные суда других Договаривающихся государств, не являющиеся воздушными судами, занятыми в регулярных международных воздушных сообщениях, имеют право, при условии соблюдения положений настоящей Конвенции, осуществлять полеты на его территорию или транзитные беспосадочные полеты через его территорию и совершать посадки с некоммерческими целями без необходимости получения предварительного разрешения и при условии, что государство, над территорией которого осуществляется полет, имеет право требовать совершения посадки. Тем не менее каждое Договаривающееся государство сохраняет за собой право по соображениям безопасности полетов требовать от воздушных судов, которые намереваются следовать над районами, являющимися недоступными или не имеющими надлежащих аэронавигационных средств, следовать по предписанным маршрутам или получать специальное разрешение на такие полеты.

Такие воздушные суда, если они заняты в перевозке пассажиров, груза или почты за вознаграждение или по найму, но не в регулярных международных воздушных сообщениях, пользуются также, с учетом положений Статьи 7, привилегией принимать на борт или выгружать пассажиров, груз или почту при условии, что любое государство, где производится такая погрузка или выгрузка, имеет право устанавливать такие правила, условия или ограничения, какие оно может счесть желательными.

Article 6

Scheduled air services

No scheduled international air service may be operated over or into the territory of a contracting State, except with the special permission or other authorization of that State, and in accordance with the terms of such permission or authorization.

Article 6

Services aériens réguliers

Aucun service aérien international régulier ne peut être exploité au-dessus ou à l'intérieur du territoire d'un État contractant, sauf permission spéciale ou toute autre autorisation dudit État et conformément aux conditions de cette permission ou autorisation.

Article 7

Cabotage

Each contracting State shall have the right to refuse permission to the aircraft of other contracting States to take on in its territory passengers, mail and cargo carried for remuneration or hire and destined for another point within its territory. Each contracting State undertakes not to enter into any arrangements which specifically grant any such privilege on an exclusive basis to any other State or an airline of any other State, and not to obtain any such exclusive privilege from any other State.

Article 7

Cabotage

Chaque État contractant a le droit de refuser aux aéronefs d'autres États contractants la permission d'embarquer sur son territoire des passagers, du courrier ou des marchandises pour les transporter, contre rémunération ou en vertu d'un contrat de location, à destination d'un autre point de son territoire. Chaque État contractant s'engage à ne conclure aucun arrangement qui accorde expressément un tel privilège, à titre exclusif, à un autre État ou à une entreprise de transport aérien d'un autre État, et à ne pas se faire octroyer un tel privilège exclusif par un autre État.

Article 8

Pilotless aircraft

No aircraft capable of being flown without a pilot shall be flown without a pilot over the territory of a contracting State without special authorization by that State and in accordance with the terms of such authorization. Each contracting State undertakes to insure that the flight of such aircraft without a pilot in regions open to civil aircraft shall be so controlled as to obviate danger to civil aircraft.

Article 8

Aéronefs sans pilote

Aucun aéronef pouvant voler sans pilote ne peut survoler sans pilote le territoire d'un État contractant, sauf autorisation spéciale dudit État et conformément aux conditions de celle-ci. Chaque État contractant s'engage à faire en sorte que le vol d'un tel aéronef sans pilote dans des régions ouvertes aux aéronefs civils soit soumis à un contrôle qui permette d'éviter tout danger pour les aéronefs civils.

Article 9

Prohibited areas

a) Each contracting State may, for reasons of military necessity or public safety, restrict or prohibit uniformly the aircraft of other States from flying over certain areas of its territory, provided that no distinction in this respect is made between the aircraft of the State whose territory is involved, engaged in international scheduled airline services, and the aircraft of the other contracting States likewise engaged. Such

Article 9

Zones interdites

a) Chaque État contractant peut, pour des raisons de nécessité militaire ou de sécurité publique, restreindre ou interdire uniformément le vol au-dessus de certaines zones de son territoire par les aéronefs d'autres États, pourvu qu'il ne soit fait aucune distinction à cet égard entre les aéronefs dudit État qui assurent des services aériens internationaux réguliers et les aéronefs des autres États contractants qui assurent des

Artículo 6

Servicios aéreos regulares

Ningún servicio aéreo internacional regular podrá explotarse en el territorio o sobre el territorio de un Estado contratante, excepto con el permiso especial u otra autorización de dicho Estado y de conformidad con las condiciones de dicho permiso o autorización.

Статья 6

Регулярные воздушные сообщения

Никакие регулярные международные воздушные сообщения не могут осуществляться над территорией или на территорию Договаривающегося государства, кроме как по специальному разрешению или с иной санкции этого государства и в соответствии с условиями такого разрешения или санкции.

Artículo 7

Cabotaje

Cada Estado contratante tiene derecho a negar a las aeronaves de los demás Estados contratantes el permiso de embarcar en su territorio pasajeros, correo o carga para transportarlos, mediante remuneración o alquiler, con destino a otro punto situado en su territorio. Cada Estado contratante se compromete a no celebrar acuerdos que específicamente concedan tal privilegio a base de exclusividad a cualquier otro Estado o línea aérea de cualquier otro Estado, y a no obtener tal privilegio exclusivo de otro Estado.

Статья 7

Каботаж

Каждое Договаривающееся государство имеет право отказывать воздушным судам других Договаривающихся государств в разрешении принимать на борт на его территории пассажиров, почту и груз, перевозимых за вознаграждение или по найму и имеющих другой пункт назначения в пределах его территории. Каждое Договаривающееся государство обязуется не вступать ни в какие соглашения, которые специально предоставляют какому-либо другому государству или авиапредприятию какого-либо другого государства любую такую привилегию на исключительной основе, и не получать любой такой исключительной привилегии от любого другого государства.

Artículo 8

Aeronaves sin piloto

Ninguna aeronave capaz de volar sin piloto volará sin él sobre el territorio de un Estado contratante, a menos que se cuente con autorización especial de tal Estado y de conformidad con los términos de dicha autorización. Cada Estado contratante se compromete a asegurar que los vuelos de tales aeronaves sin piloto en las regiones abiertas a la navegación de las aeronaves civiles sean controlados de forma que se evite todo peligro a las aeronaves civiles.

Статья 8

Беспилотные воздушные суда

Никакое воздушное судно, способное совершать полеты без пилота, не производит полета без пилота над территорией Договаривающегося государства, кроме как по специальному разрешению этого государства и в соответствии с условиями такого разрешения. Каждое Договаривающееся государство обязуется при полете такого воздушного судна без пилота в районах, открытых для гражданских воздушных судов, обеспечить такой контроль этого полета, который позволял бы исключить опасность для гражданских воздушных судов.

Artículo 9

Zonas prohibidas

a) Cada Estado contratante puede, por razones de necesidad militar o de seguridad pública, restringir o prohibir uniformemente los vuelos de las aeronaves de otros Estados sobre ciertas zonas de su territorio, siempre que no se establezcan distinciones a este respecto entre las aeronaves del Estado de cuyo territorio se trate, que se empleen en servicios aéreos internacionales regulares, y las aeronaves de los otros

Статья 9

Запретные зоны

a) Каждое Договаривающееся государство может по соображениям военной необходимости или общественной безопасности ограничить или запретить на единообразной основе полеты воздушных судов других государств над определенными зонами своей территории при условии, что в этом отношении не будет проводиться никакого различия между занятыми в регулярных международных воздушных

prohibited areas shall be of reasonable extent and location so as not to interfere unnecessarily with air navigation. Descriptions of such prohibited areas in the territory of a contracting State, as well as any subsequent alterations therein, shall be communicated as soon as possible to the other contracting States and to the International Civil Aviation Organization.

services similaires. Ces zones interdites doivent avoir une étendue et un emplacement raisonnables afin de ne pas gêner sans nécessité la navigation aérienne. La définition desdites zones interdites sur le territoire d'un État contractant et toute modification ultérieure seront communiquées dès que possible aux autres États contractants et à l'Organisation de l'aviation civile internationale.

b) Each contracting State reserves also the right, in exceptional circumstances or during a period of emergency, or in the interest of public safety, and with immediate effect, temporarily to restrict or prohibit flying over the whole or any part of its territory, on condition that such restriction or prohibition shall be applicable without distinction of nationality to aircraft of all other States.

b) Chaque État contractant se réserve également le droit, dans des circonstances exceptionnelles, en période de crise ou dans l'intérêt de la sécurité publique, de restreindre ou d'interdire temporairement et avec effet immédiat les vols au-dessus de tout ou partie de son territoire, à condition que cette restriction ou interdiction s'applique, sans distinction de nationalité, aux aéronefs de tous les autres États.

c) Each contracting State, under such regulations as it may prescribe, may require any aircraft entering the areas contemplated in subparagraphs *a)* or *b)* above to effect a landing as soon as practicable thereafter at some designated airport within its territory.

c) Chaque État contractant peut, selon des règlements qu'il a la faculté d'édicter, exiger que tout aéronef qui pénètre dans les zones visées aux alinéas *a)* et *b)* ci-dessus, atterrisse dès que possible sur un aéroport désigné à l'intérieur de son territoire.

Article 10

Landing at customs airport

Except in a case where, under the terms of this Convention or a special authorization, aircraft are permitted to cross the territory of a contracting State without landing, every aircraft which enters the territory of a contracting State shall, if the regulations of that State so require, land at an airport designated by that State for the purpose of customs and other examination. On departure from the territory of a contracting State, such aircraft shall depart from a similarly designated customs airport. Particulars of all designated customs airports shall be published by the State and transmitted to the International Civil Aviation Organization established under Part II of this Convention for communication to all other contracting States.

Article 10

Atterrissage sur un aéroport douanier

Sauf dans le cas où, aux termes de la présente Convention ou d'une autorisation spéciale, il est permis à des aéronefs de traverser le territoire d'un État contractant sans y atterrir, tout aéronef qui pénètre sur le territoire d'un État contractant doit, si les règlements dudit État l'exigent, atterrir sur un aéroport désigné par cet État aux fins d'inspections douanière et autres. En quittant le territoire d'un État contractant, ledit aéronef doit partir d'un aéroport douanier désigné aux mêmes fins. Les caractéristiques de tous les aéroports douaniers désignés doivent être publiées par l'État et transmises à l'Organisation de l'aviation civile internationale, instituée en vertu de la deuxième partie de la présente Convention, pour communication à tous les autres États contractants.

Article 11

Applicability of air regulations

Subject to the provisions of this Convention, the laws and regulations of a contracting State relating to the admission to

Article 11

Application des règlements de l'air

Sous réserve des dispositions de la présente Convention, les lois et règlements d'un État contractant relatifs à l'entrée et à

Estados contratantes que se empleen en servicios similares. Dichas zonas prohibidas deberán ser de extensión y situación razonables, a fin de no estorbar innecesariamente a la navegación aérea. La descripción de tales zonas prohibidas situadas en el territorio de un Estado contratante y todas las modificaciones ulteriores deberán comunicarse lo antes posible a los demás Estados contratantes y a la Organización de Aviación Civil Internacional.

b) Cada Estado contratante se reserva igualmente el derecho, en circunstancias excepcionales, durante un período de emergencia o en interés de la seguridad pública, a restringir o prohibir temporalmente y con efecto inmediato los vuelos sobre todo su territorio o parte del mismo, a condición de que esta restricción o prohibición se aplique, sin distinción de nacionalidad, a las aeronaves de todos los demás Estados.

c) Cada Estado contratante puede exigir, de acuerdo con las reglamentaciones que establezca, que toda aeronave que penetre en las zonas indicadas en los párrafos *a)* y *b)* anteriores, aterrice tan pronto como le sea posible en un aeropuerto designado dentro de su territorio.

Artículo 10

Aterrizaje en aeropuertos aduaneros

Excepto en el caso en que, de acuerdo con lo dispuesto en el presente Convenio o en una autorización especial, se permita a las aeronaves cruzar el territorio de un Estado contratante sin aterrizar, toda aeronave que penetre en el territorio de un Estado contratante deberá, si los reglamentos de tal Estado así lo requieren, aterrizar en un aeropuerto designado por tal Estado para fines de inspección de aduanas y otras formalidades. Al salir del territorio de un Estado contratante, tales aeronaves deberán partir de un aeropuerto aduanero designado de igual manera. Las características de todos los aeropuertos aduaneros deberán ser publicadas por el Estado y transmitidas a la Organización de Aviación Civil Internacional, creada en virtud de lo dispuesto en la Segunda Parte del presente Convenio, a fin de que sean comunicadas a todos los demás Estados contratantes.

Artículo 11

Aplicación de las reglamentaciones aéreas

A reserva de lo dispuesto en el presente Convenio, las leyes y reglamentos de un Estado contratante relativos a la entrada y

сообщениях воздушными судами данного государства и воздушными судами других Договаривающихся государств, занятыми в аналогичных сообщениях. Такие запретные зоны имеют разумные размеры и местоположение, с тем чтобы без необходимости не создавать препятствий для аэронавигации. Описания таких запретных зон на территории Договаривающегося государства, а также любые последующие изменения в них в возможно кратчайшие сроки направляются другим Договаривающимся государствам и Международной организации гражданской авиации.

b) Каждое Договаривающееся государство также сохраняет за собой право немедленно при исключительных обстоятельствах, или в период чрезвычайного положения, или в интересах общественной безопасности временно ограничить или запретить полеты над всей своей территорией или какой-либо ее частью при условии, что такое ограничение или запрещение применяется к воздушным судам всех других государств, независимо от их национальности.

c) Каждое Договаривающееся государство на основании правил, которые оно может установить, может потребовать от любого воздушного судна, входящего в зоны, предусмотренные выше в подпунктах *a)* или *b)*, произвести посадку в возможно кратчайший срок в каком-либо указанном аэропорту в пределах его территории.

Статья 10

Посадка в таможенном аэропорту

За исключением случаев, когда по условиям настоящей Конвенции или специального разрешения воздушным судам разрешается пересекать территорию Договаривающегося государства без посадки, любое воздушное судно, которое входит на территорию Договаривающегося государства, совершает, если того требуют правила этого государства, посадку в аэропорту, указанном этим государством, с целью прохождения таможенного и иного контроля. При отбытии с территории Договаривающегося государства такое воздушное судно отбывает из указанного подобным же образом таможенного аэропорта. Сведения о всех указанных таможенных аэропортах публикуются государством и направляются Международной организации гражданской авиации, основанной в соответствии с Частью II настоящей Конвенции, для передачи всем другим Договаривающимся государствам.

Статья 11

Применение правил о воздушных передвижениях

При условии соблюдения положений настоящей Конвенции законы и правила Договаривающегося государства,

or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft while within its territory, shall be applied to the aircraft of all contracting States without distinction as to nationality, and shall be complied with by such aircraft upon entering or departing from or while within the territory of that State.

la sortie de son territoire des aéronefs employés à la navigation aérienne internationale, ou relatifs à l'exploitation et à la navigation desdits aéronefs à l'intérieur de son territoire, s'appliquent, sans distinction de nationalité, aux aéronefs de tous les États contractants et lesdits aéronefs doivent s'y conformer à l'entrée, à la sortie et à l'intérieur du territoire de cet État.

Article 12

Rules of the air

Each contracting State undertakes to adopt measures to insure that every aircraft flying over or maneuvering within its territory and that every aircraft carrying its nationality mark, wherever such aircraft may be, shall comply with the rules and regulations relating to the flight and maneuver of aircraft there in force. Each contracting State undertakes to keep its own regulations in these respects uniform, to the greatest possible extent, with those established from time to time under this Convention. Over the high seas, the rules in force shall be those established under this Convention. Each contracting State undertakes to insure the prosecution of all persons violating the regulations applicable.

Article 12

Règles de l'air

Chaque État contractant s'engage à adopter des mesures afin d'assurer que tout aéronef survolant son territoire ou y manœuvrant, ainsi que tout aéronef portant la marque de sa nationalité, en quelque lieu qu'il se trouve, se conforment aux règles et règlements en vigueur en ce lieu pour le vol et la manœuvre des aéronefs. Chaque État contractant s'engage à maintenir ses règlements dans ce domaine conformes, dans toute la mesure possible, à ceux qui pourraient être établis en vertu de la présente Convention. Au-dessus de la haute mer, les règles en vigueur sont les règles établies en vertu de la présente Convention. Chaque État contractant s'engage à poursuivre toute personne contrevenant aux règlements applicables.

Article 13

Entry and clearance regulations

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

Article 13

Règlements d'entrée et de congé

Les lois et règlements d'un État contractant concernant l'entrée ou la sortie de son territoire des passagers, équipages ou marchandises des aéronefs, tels que les règlements relatifs à l'entrée, au congé, à l'immigration, aux passeports, à la douane et à la santé, doivent être observés à l'entrée, à la sortie ou à l'intérieur du territoire de cet État, par lesdits passagers ou équipages, ou en leur nom, et pour les marchandises.

Article 14

Prevention of spread of disease

Each contracting State agrees to take effective measures to prevent the spread by means of air navigation of cholera, typhus (epidemic), smallpox, yellow fever, plague, and such other communicable diseases as the contracting States shall

Article 14

Prévention de la propagation des maladies

Chaque État contractant convient de prendre des mesures efficaces pour prévenir la propagation, par la navigation aérienne, du choléra, du typhus (épidémique), de la variole, de la fièvre jaune, de la peste, ainsi que de toute autre maladie

salida de su territorio de las aeronaves empleadas en la navegación aérea internacional o a la operación y navegación de dichas aeronaves, mientras se encuentren en su territorio, se aplicarán sin distinción de nacionalidad a las aeronaves de todos los Estados contratantes y dichas aeronaves deberán cumplir tales leyes y reglamentos a la entrada, a la salida y mientras se encuentren dentro del territorio de ese Estado.

Artículo 12

Reglas del aire

Cada Estado contratante se compromete a adoptar medidas que aseguren que todas las aeronaves que vuelen sobre su territorio o maniobren en él, así como todas las aeronaves que lleven la marca de su nacionalidad, dondequiera que se encuentren, observen las reglas y reglamentos en vigor relativos a los vuelos y maniobras de las aeronaves en tal lugar. Cada Estado contratante se compromete a mantener sus propios reglamentos sobre este particular conformes en todo lo posible, con los que oportunamente se establezcan en aplicación del presente Convenio. Sobre alta mar, las reglas en vigor serán las que se establezcan de acuerdo con el presente Convenio. Cada Estado contratante se compromete a asegurar que se procederá contra todas las personas que infrinjan los reglamentos aplicables.

Artículo 13

Disposiciones sobre entrada y despacho

Las leyes y reglamentos de un Estado contratante relativos a la admisión o salida de su territorio de pasajeros, tripulación o carga transportados por aeronaves, tales como los relativos a entrada, despacho, inmigración, pasaportes, aduanas y sanidad serán cumplidos por o por cuenta de dichos pasajeros, tripulaciones y carga, ya sea a la entrada, a la salida o mientras se encuentren dentro del territorio de ese Estado.

Artículo 14

Prevención contra la propagación de enfermedades

Cada Estado contratante conviene en tomar medidas efectivas para impedir la propagación por medio de la navegación aérea, del cólera, tifus (epidémico), viruela, fiebre amarilla, peste y cualesquiera otras enfermedades contagiosas

касающиеся допуска на его территорию или убытия с его территории воздушных судов, занятых в международной аэронавигации, либо эксплуатации и навигации таких воздушных судов во время их пребывания в пределах его территории, применяются к воздушным судам всех Договаривающихся государств без различия их национальности и соблюдаются такими воздушными судами при прибытии, убытии или во время пребывания в пределах территории этого государства.

Статья 12

Правила полетов

Каждое Договаривающееся государство обязуется принимать меры для обеспечения того, чтобы каждое воздушное судно, совершающее полет или маневрирующее в пределах его территории, а также каждое воздушное судно, несущее его национальный знак, где бы такое воздушное судно ни находилось, соблюдало действующие в данном месте правила и регламенты, касающиеся полетов и маневрирования воздушных судов. Каждое Договаривающееся государство обязуется поддерживать максимально возможное единообразие своих собственных правил в этой области и правил, устанавливаемых время от времени на основании настоящей Конвенции. Над открытым морем действующими являются правила, установленные в соответствии с настоящей Конвенцией. Каждое Договаривающееся государство обязуется обеспечить привлечение к ответственности всех лиц, нарушающих действующие регламенты.

Статья 13

Правила о въезде и выпуске

Законы и правила Договаривающегося государства, относящиеся к допуску на его территорию или отправлению с его территории пассажиров, экипажа или груза воздушных судов, такие, как правила, касающиеся въезда, выпуска, иммиграции, паспортного и таможенного контроля и карантина, соблюдаются такими пассажирами и экипажем или от их имени, а также в отношении груза при прибытии, убытии или во время нахождения на территории этого государства.

Статья 14

Предотвращение распространения болезней

Каждое Договаривающееся государство соглашается принимать эффективные меры в целях предотвращения распространения посредством аэронавигации холеры, тифа эпидемического, оспы, желтой лихорадки, чумы и таких

from time to time decide to designate, and to that end contracting States will keep in close consultation with the agencies concerned with international regulations relating to sanitary measures applicable to aircraft. Such consultation shall be without prejudice to the application of any existing international convention on this subject to which the contracting States may be parties.

contagieuse que les États contractants décident de désigner le cas échéant et, à cette fin, les États contractants se tiendront en étroite consultation avec les institutions chargées des règlements internationaux relatifs aux mesures sanitaires applicables aux aéronefs. Une telle consultation ne préjuge en rien l'application de toute convention internationale existant en la matière et à laquelle les États contractants seraient parties.

Article 15

Airport and similar charges

Every airport in a contracting State which is open to public use by its national aircraft shall likewise, subject to the provisions of Article 68, be open under uniform conditions to the aircraft of all the other contracting States. The like uniform conditions shall apply to the use, by aircraft of every contracting State, of all air navigation facilities, including radio and meteorological services, which may be provided for public use for the safety and expedition of air navigation.

Any charges that may be imposed or permitted to be imposed by a contracting State for the use of such airports and air navigation facilities by the aircraft of any other contracting State shall not be higher,

a) As to aircraft not engaged in scheduled international air services, than those that would be paid by its national aircraft of the same class engaged in similar operations, and

b) As to aircraft engaged in scheduled international air services, than those that would be paid by its national aircraft engaged in similar international air services.

All such charges shall be published and communicated to the International Civil Aviation Organization, provided that, upon representation by an interested contracting State, the charges imposed for the use of airports and other facilities shall be subject to review by the Council, which shall report and make recommendations thereon for the consideration of the State or States concerned. No fees, dues or other charges shall be

Article 15

Redevances d'aéroport et droits similaires

Tout aéroport situé dans un État contractant et ouvert aux aéronefs de cet État aux fins d'usage public est aussi, sous réserve des dispositions de l'article 68, ouvert dans des conditions uniformes aux aéronefs de tous les autres États contractants. De même, des conditions uniformes s'appliquent à l'utilisation, par les aéronefs de chaque État contractant, de toutes installations et tous services de navigation aérienne, y compris les services radioélectriques et météorologiques, mis en place aux fins d'usage public pour la sécurité et la rapidité de la navigation aérienne.

Les redevances qu'un État contractant peut imposer ou permettre d'imposer pour l'utilisation desdits aéroports et installations et services de navigation aérienne par les aéronefs de tout autre État contractant ne doivent pas:

a) pour les aéronefs qui n'assurent pas de services aériens internationaux réguliers, être supérieures aux redevances qui seraient payées par ses aéronefs nationaux de même classe assurant des services similaires;

b) pour les aéronefs qui assurent des services aériens internationaux réguliers, être supérieures aux redevances qui seraient payées par ses aéronefs nationaux assurant des services internationaux similaires.

Toutes ces redevances sont publiées et communiquées à l'Organisation de l'aviation civile internationale, étant entendu que, sur représentation d'un État contractant intéressé, les redevances imposées pour l'utilisation des aéroports et autres installations et services sont soumises à l'examen du Conseil, qui fait rapport et formule des recommandations à ce sujet à l'attention de l'État ou des États intéressés. Aucun État

que los Estados contratantes decidan designar oportunamente. A este fin, los Estados contratantes mantendrán estrecha consulta con los organismos encargados de los reglamentos internacionales relativos a las medidas sanitarias aplicables a las aeronaves. Tales consultas se harán sin perjuicio de la aplicación de cualquier convenio internacional existente sobre la materia en el que sean partes los Estados contratantes.

Artículo 15

Derechos aeroportuarios y otros similares

Todo aeropuerto de un Estado contratante que esté abierto a sus aeronaves nacionales para fines de uso público estará igualmente abierto, en condiciones uniformes y a reserva de lo previsto en el Artículo 68, a las aeronaves de todos los demás Estados contratantes. Tales condiciones uniformes se aplicarán por lo que respecta al uso, por parte de las aeronaves de cada uno de los Estados contratantes, de todas las instalaciones y servicios para la navegación aérea, incluso los servicios de radio y de meteorología, que se provean para uso público para la seguridad y rapidez de la navegación aérea.

Los derechos que un Estado contratante imponga o permita que se impongan por el uso de tales aeropuertos e instalaciones y servicios para la navegación aérea por las aeronaves de cualquier otro Estado contratante, no deberán ser más elevados:

a) respecto a las aeronaves que no se empleen en servicios aéreos internacionales regulares, que los derechos que pagarían sus aeronaves nacionales de la misma clase dedicadas a servicios similares;

b) respecto a las aeronaves que se empleen en servicios aéreos internacionales regulares, que los derechos que pagarían sus aeronaves nacionales dedicadas a servicios aéreos internacionales similares.

Todos estos derechos serán publicados y comunicados a la Organización de Aviación Civil Internacional, entendiéndose que, si un Estado contratante interesado hace una reclamación, los derechos impuestos por el uso de aeropuertos y otras instalaciones y servicios serán objeto de examen por el Consejo, que hará un informe y formulará recomendaciones al respecto para consideración del Estado o Estados interesados.

других инфекционных болезней, которые время от времени определяются Договаривающимися государствами, и с этой целью Договаривающиеся государства будут поддерживать непосредственные консультации с учреждениями, ведающими вопросами международного регулирования в области санитарных мер, применяемых к воздушным судам. Такие консультации осуществляются без ущерба для применения любой действующей по этому вопросу международной конвенции, участниками которой могут являться Договаривающиеся государства.

Статья 15

Аэропортовые и подобные им сборы

Каждый аэропорт в Договаривающемся государстве, открытый для общественного пользования его национальными воздушными судами, открыт также, с учетом положений Статьи 68, на единообразных условиях для воздушных судов всех других Договаривающихся государств. Такие же единообразные условия применяются при пользовании воздушными судами каждого Договаривающегося государства всеми аэронавигационными средствами, включая радио- и метеорологическое обеспечение, которые могут быть предоставлены для общественного пользования в целях обеспечения безопасности и оперативности аэронавигации.

Любые сборы, которые могут взиматься или разрешены для взимания Договаривающимся государством за пользование такими аэропортами и аэронавигационными средствами воздушными судами любого другого Договаривающегося государства, не превышают:

a) в отношении воздушных судов, не занятых в регулярных международных воздушных сообщениях, – сборов, которые взимались бы со своих национальных воздушных судов того же класса, занятых в аналогичных сообщениях; и

b) в отношении воздушных судов, занятых в регулярных международных воздушных сообщениях, – сборов, которые взимались бы со своих национальных воздушных судов, занятых в аналогичных международных воздушных сообщениях.

Информация о всех таких сборах публикуется и сообщается Международной организации гражданской авиации, при этом по заявлению заинтересованного Договаривающегося государства сборы, взимаемые за пользование аэропортами и другими средствами, подлежат рассмотрению Советом, который представляет по ним доклад и дает рекомендации для рассмотрения заинтере-

imposed by any contracting State in respect solely of the right of transit over or entry into or exit from its territory of any aircraft of a contracting State or persons or property thereon.

contractant ne doit imposer de droits, taxes ou autres redevances uniquement pour le droit de transit, d'entrée ou de sortie de son territoire de tout aéronef d'un État contractant, ou de personnes ou biens se trouvant à bord.

Article 16

Search of aircraft

The appropriate authorities of each of the contracting States shall have the right, without unreasonable delay, to search aircraft of the other contracting States on landing or departure, and to inspect the certificates and other documents prescribed by this Convention.

Article 16

Visite des aéronefs

Les autorités compétentes de chacun des États contractants ont le droit de visiter, à l'atterrissage et au départ, sans causer de retard déraisonnable, les aéronefs des autres États contractants et d'examiner les certificats et autres documents prescrits par la présente Convention.

CHAPTER III

NATIONALITY OF AIRCRAFT

CHAPITRE III

NATIONALITÉ DES AÉRONEFS

Article 17

Nationality of aircraft

Aircraft have the nationality of the State in which they are registered.

Article 17

Nationalité des aéronefs

Les aéronefs ont la nationalité de l'État dans lequel ils sont immatriculés.

Article 18

Dual registration

An aircraft cannot be validly registered in more than one State, but its registration may be changed from one State to another.

Article 18

Double immatriculation

Un aéronef ne peut être valablement immatriculé dans plus d'un État, mais son immatriculation peut être transférée d'un État à un autre.

Article 19

National laws governing registration

The registration or transfer of registration of aircraft in any contracting State shall be made in accordance with its laws and regulations.

Article 19

Lois nationales régissant l'immatriculation

L'immatriculation ou le transfert d'immatriculation d'aéronefs dans un État contractant s'effectue conformément à ses lois et règlements.

Ningún Estado contratante impondrá derechos, impuestos u otros gravámenes por el mero derecho de tránsito, entrada o salida de su territorio de cualquier aeronave de un Estado contratante o de las personas o bienes que se encuentren a bordo.

сованным государством или государствами. Никакое Договаривающееся государство не взимает каких-либо пошлин, налогов или других сборов только лишь за право транзита через его территорию, или влета на его территорию, или вылета с его территории любого воздушного судна Договаривающегося государства или находящихся на нем лиц или имущества.

Artículo 16

Inspección de aeronaves

Las autoridades competentes de cada uno de los Estados contratantes tendrán derecho a inspeccionar sin causar demoras innecesarias, las aeronaves de los demás Estados contratantes, a la llegada o a la salida, y a examinar los certificados y otros documentos prescritos por el presente Convenio.

Статья 16

Досмотр воздушных судов

Компетентные власти каждого Договаривающегося государства имеют право без необоснованной задержки производить досмотр воздушных судов других Договаривающихся государств при их прибытии или убытии и проверять удостоверения и другие документы, предусмотренные настоящей Конвенцией.

CAPÍTULO III

NACIONALIDAD DE LAS AERONAVES

ГЛАВА III

НАЦИОНАЛЬНОСТЬ ВОЗДУШНЫХ СУДОВ

Artículo 17

Nacionalidad de las aeronaves

Las aeronaves tienen la nacionalidad del Estado en el que estén matriculadas.

Статья 17

Национальность воздушных судов

Воздушные суда имеют национальность того государства, в котором они зарегистрированы.

Artículo 18

Matriculación doble

Ninguna aeronave puede estar válidamente matriculada en más de un Estado, pero su matrícula podrá cambiarse de un Estado a otro.

Статья 18

Двойная регистрация

Не может считаться действительной регистрация воздушного судна более чем в одном государстве, но его регистрация может переходить от одного государства к другому.

Artículo 19

Leyes nacionales sobre matriculación

La matriculación o transferencia de matrícula de aeronaves en un Estado contratante se efectuará de acuerdo con sus leyes y reglamentos.

Статья 19

Национальное законодательство, регулирующее регистрацию

Регистрация или смена регистрации воздушных судов в любом Договаривающемся государстве производится в соответствии с его законами и правилами.

Article 20

Display of marks

Every aircraft engaged in international air navigation shall bear its appropriate nationality and registration marks.

Article 21

Report of registrations

Each contracting State undertakes to supply to any other contracting State or to the International Civil Aviation Organization, on demand, information concerning the registration and ownership of any particular aircraft registered in that State. In addition, each contracting State shall furnish reports to the International Civil Aviation Organization, under such regulations as the latter may prescribe, giving such pertinent data as can be made available concerning the ownership and control of aircraft registered in that State and habitually engaged in international air navigation. The data thus obtained by the International Civil Aviation Organization shall be made available by it on request to the other contracting States.

CHAPTER IV

MEASURES TO FACILITATE AIR NAVIGATION

Article 22

Facilitation of formalities

Each contracting State agrees to adopt all practicable measures, through the issuance of special regulations or otherwise, to facilitate and expedite navigation by aircraft between the territories of contracting States, and to prevent unnecessary delays to aircraft, crews, passengers and cargo, especially in the administration of the laws relating to immigration, quarantine, customs and clearance.

Article 23

Customs and immigration procedures

Each contracting State undertakes, so far as it may find practicable, to establish customs and immigration procedures

Article 20

Port des marques

Tout aéronef employé à la navigation aérienne internationale porte les marques de nationalité et d'immatriculation qui lui sont propres.

Article 21

Rapports d'immatriculation

Chaque État contractant s'engage à fournir, sur demande, à tout autre État contractant ou à l'Organisation de l'aviation civile internationale, des renseignements sur l'immatriculation et la propriété de tout aéronef immatriculé dans ledit État. De plus, chaque État contractant fournit à l'Organisation de l'aviation civile internationale, selon les règlements que cette dernière peut édicter, des rapports donnant les renseignements pertinents qui peuvent être rendus disponibles sur la propriété et le contrôle des aéronefs immatriculés dans cet État et habituellement employés à la navigation aérienne internationale. Sur demande, l'Organisation de l'aviation civile internationale met les renseignements ainsi obtenus à la disposition des autres États contractants.

CHAPITRE IV

MESURES DESTINÉES À FACILITER LA NAVIGATION AÉRIENNE

Article 22

Simplification des formalités

Chaque État contractant convient d'adopter, par la promulgation de règlements spéciaux ou de toute autre manière, toutes mesures en son pouvoir pour faciliter et accélérer la navigation par aéronef entre les territoires des États contractants et éviter de retarder sans nécessité les aéronefs, équipages, passagers et cargaisons, particulièrement dans l'application des lois relatives à l'immigration, à la santé, à la douane et au congé.

Article 23

Formalités de douane et d'immigration

Chaque État contractant s'engage, dans la mesure où il le juge réalisable, à établir des règlements de douane et

Artículo 20

Ostentación de las marcas

Toda aeronave empleada en la navegación aérea internacional deberá llevar las correspondientes marcas de nacionalidad y matrícula.

Artículo 21

Informes sobre matrículas

Cada Estado contratante se compromete a suministrar, a petición de cualquier otro Estado contratante o de la Organización de Aviación Civil Internacional, información relativa a la matrícula y propiedad de cualquier aeronave matriculada en dicho Estado. Además, todo Estado contratante proporcionará a la Organización de Aviación Civil Internacional, de acuerdo con las disposiciones que ésta dicte, informes con los datos pertinentes que puedan facilitarse sobre la propiedad y control de las aeronaves matriculadas en el Estado que se empleen habitualmente en la navegación aérea internacional. Previa solicitud, la Organización de Aviación Civil Internacional pondrá los datos así obtenidos a disposición de los demás Estados contratantes.

CAPÍTULO IV

MEDIDAS PARA FACILITAR LA NAVEGACIÓN AÉREA

Artículo 22

Simplificación de formalidades

Cada Estado contratante conviene en adoptar, mediante la promulgación de reglamentos especiales o de otro modo, todas las medidas posibles para facilitar y acelerar la navegación de las aeronaves entre los territorios de los Estados contratantes y para evitar todo retardo innecesario a las aeronaves, tripulaciones, pasajeros y carga, especialmente en la aplicación de las leyes sobre inmigración, sanidad, aduana y despacho.

Artículo 23

Formalidades de aduana y de inmigración

Cada Estado contratante se compromete, en la medida en que lo juzgue factible, a establecer disposiciones de aduana y

Статья 20

Наличие знаков

Каждое воздушное судно, занятое в международной аэронавигации, имеет соответствующие национальные и регистрационные знаки.

Статья 21

Уведомление о регистрации

Каждое Договаривающееся государство обязуется предоставлять по запросу любому другому Договаривающемуся государству или Международной организации гражданской авиации информацию относительно регистрации и принадлежности любого конкретного воздушного судна, зарегистрированного в этом государстве. Кроме того, каждое Договаривающееся государство направляет Международной организации гражданской авиации в соответствии с теми правилами, которые последняя может установить, уведомления, содержащие такие соответствующие данные, какие могут быть предоставлены о принадлежности и контроле над воздушными судами, зарегистрированными в этом государстве и обычно занятыми в международной аэронавигации. Данные, полученные таким путем Международной организацией гражданской авиации, предоставляются ею другим Договаривающимся государствам по их просьбе.

ГЛАВА IV

МЕРЫ СОДЕЙСТВИЯ АЭРОНАВИГАЦИИ

Статья 22

Упрощение формальностей

Каждое Договаривающееся государство соглашается путем издания специальных правил или иным образом принимать все возможные меры по содействию и ускорению навигации воздушных судов между территориями Договаривающихся государств и по предотвращению не вызванных необходимостью задержек воздушных судов, экипажей, пассажиров и груза, в особенности при применении законов, касающихся иммиграции, карантина, таможенного контроля и выпуска.

Статья 23

Таможенные иммиграционные процедуры

Каждое Договаривающееся государство обязуется, насколько оно сочтет возможным, устанавливать таможенные

affecting international air navigation in accordance with the practices which may be established or recommended from time to time, pursuant to this Convention. Nothing in this Convention shall be construed as preventing the establishment of customs-free airports.

d'immigration intéressant la navigation aérienne internationale, conformément aux pratiques qui pourraient être établies ou recommandées en vertu de la présente Convention. Aucune disposition de la présente Convention ne doit être interprétée comme empêchant la création d'aéroports francs.

Article 24

Customs duty

a) Aircraft on a flight to, from, or across the territory of another contracting State shall be admitted temporarily free of duty, subject to the customs regulations of the State. Fuel, lubricating oils, spare parts, regular equipment and aircraft stores on board an aircraft of a contracting State, on arrival in the territory of another contracting State and retained on board on leaving the territory of that State shall be exempt from customs duty, inspection fees or similar national or local duties and charges. This exemption shall not apply to any quantities or articles unloaded, except in accordance with the customs regulations of the State, which may require that they shall be kept under customs supervision.

b) Spare parts and equipment imported into the territory of a contracting State for incorporation in or use on an aircraft of another contracting State engaged in international air navigation shall be admitted free of customs duty, subject to compliance with the regulations of the State concerned, which may provide that the articles shall be kept under customs supervision and control.

Article 24

Droits de douane

a) Au cours d'un vol à destination ou en provenance du territoire d'un autre État contractant ou transitant par ce territoire, tout aéronef est temporairement admis en franchise de droits, sous réserve des règlements douaniers de cet État. Le carburant, les huiles lubrifiantes, les pièces de rechange, l'équipement habituel et les provisions de bord se trouvant dans un aéronef d'un État contractant à son arrivée sur le territoire d'un autre État contractant et s'y trouvant encore lors de son départ de ce territoire, sont exempts des droits de douane, frais de visite ou autres droits et redevances similaires imposés par l'État ou les autorités locales. Cette exemption ne s'applique pas aux quantités ou aux objets déchargés, à moins que ne l'admettent les règlements douaniers de l'État, qui peuvent exiger que ces quantités ou objets soient placés sous la surveillance de la douane.

b) Les pièces de rechange et le matériel importés dans le territoire d'un État contractant pour être installés ou utilisés sur un aéronef d'un autre État contractant employé à la navigation aérienne internationale sont admis en franchise de droits de douane, sous réserve de l'observation des règlements de l'État intéressé, qui peuvent disposer que ces objets sont placés sous la surveillance et le contrôle de la douane.

Article 25

Aircraft in distress

Each contracting State undertakes to provide such measures of assistance to aircraft in distress in its territory as it may find practicable, and to permit, subject to control by its own authorities, the owners of the aircraft or authorities of the State in which the aircraft is registered to provide such measures of assistance as may be necessitated by the circumstances. Each contracting State, when undertaking search for missing aircraft, will collaborate in coordinated measures which may be recommended from time to time pursuant to this Convention.

Article 25

Aéronefs en détresse

Chaque État contractant s'engage à prendre les mesures qu'il jugera réalisables afin de porter assistance aux aéronefs en détresse sur son territoire et, sous réserve du contrôle par ses propres autorités, à permettre aux propriétaires de l'aéronef ou aux autorités de l'État dans lequel l'aéronef est immatriculé de prendre les mesures d'assistance nécessitées par les circonstances. Chaque État contractant entreprenant la recherche d'aéronefs disparus collaborera aux mesures coordonnées qui pourraient être recommandées en vertu de la présente Convention.

de inmigración relativas a la navegación aérea internacional, de acuerdo con los métodos que puedan establecerse o recomendarse oportunamente en aplicación del presente Convenio. Ninguna disposición del presente Convenio se interpretará en el sentido de que impide el establecimiento de aeropuertos francos.

Artículo 24

Derechos de aduana

a) Las aeronaves en vuelo hacia, desde o a través del territorio de otro Estado contratante, serán admitidas temporalmente libres de derechos, con sujeción a las reglamentaciones de aduana de tal Estado. El combustible, aceites lubricantes, piezas de repuesto, equipo corriente y provisiones de a bordo que se lleven en una aeronave de un Estado contratante cuando llegue al territorio de otro Estado contratante y que se encuentren aún a bordo cuando ésta salga de dicho Estado, estarán exentos de derechos de aduana, derechos de inspección u otros derechos o impuestos similares, ya sean nacionales o locales. Esta exención no se aplicará a las cantidades u objetos descargados, salvo disposición en contrario de conformidad con las reglamentaciones de aduana del Estado, que pueden exigir que dichas cantidades u objetos queden bajo vigilancia aduanera.

b) Las piezas de repuesto y el equipo que se importen al territorio de un Estado contratante para su instalación o uso en una aeronave de otro Estado contratante empleada en la navegación aérea internacional, serán admitidos libres de derechos de aduana, con sujeción al cumplimiento de las reglamentaciones del Estado interesado, que pueden establecer que dichos efectos queden bajo vigilancia y control aduaneros.

Artículo 25

Aeronaves en peligro

Cada Estado contratante se compromete a proporcionar los medios de asistencia que considere factibles a las aeronaves en peligro en su territorio y a permitir, con sujeción al control de sus propias autoridades, que los propietarios de las aeronaves o las autoridades del Estado en que estén matriculadas proporcionen los medios de asistencia que las circunstancias exijan. Cada Estado contratante, al emprender la búsqueda de aeronaves perdidas, colaborará en las medidas coordinadas que oportunamente puedan recomendarse en aplicación del presente Convenio.

и иммиграционные процедуры, касающиеся международной аэронавигации, в соответствии с практикой, которая время от времени может устанавливаться или рекомендоваться согласно настоящей Конвенции. Ничто в настоящей Конвенции не должно толковаться как препятствующее созданию аэропортов, свободных от выполнения таможенных формальностей.

Статья 24

Таможенные пошлины

a) При полетах на территорию, с территории или через территорию другого Договаривающегося государства воздушные суда временно допускаются без уплаты пошлин с учетом таможенных правил этого государства. Топливо, смазочные масла, запасные части, комплектное оборудование и запасы, находящиеся на борту воздушного судна Договаривающегося государства по прибытии на территорию другого Договаривающегося государства и остающиеся на борту при убытии с территории этого государства, освобождаются от таможенных пошлин, досмотровых сборов и подобных государственных или местных пошлин и сборов. Это освобождение не применяется к любым выгруженным грузам, независимо от их количества и наименования, за исключением случаев, предусмотренных таможенными правилами данного государства, которые могут требовать, чтобы они содержались под таможенным надзором.

b) Запасные части и оборудование, ввозимые на территорию Договаривающегося государства для установки или использования на воздушном судне другого Договаривающегося государства, занятого в международной аэронавигации, освобождаются от таможенных пошлин при условии соблюдения правил данного государства, которые могут предусматривать, чтобы данные предметы содержались под таможенным надзором и контролем.

Статья 25

Воздушные суда, терпящие бедствие

Каждое Договаривающееся государство обязуется принимать такие меры по оказанию помощи воздушным судам, терпящим бедствие на его территории, какие оно сочтет возможными, и, при условии осуществления контроля со стороны своих властей, разрешать собственникам этих воздушных судов или властям государства, в котором эти воздушные суда зарегистрированы, оказывать такие меры помощи, какие могут диктоваться данными обстоятельствами. Каждое Договаривающееся государство при организации поиска пропавшего воздушного судна будет сотрудничать в осуществлении согласованных мер, которые время от времени могут рекомендоваться в соответствии с настоящей Конвенцией.

Article 26

Investigation of accidents

In the event of an accident to an aircraft of a contracting State occurring in the territory of another contracting State, and involving death or serious injury, or indicating serious technical defect in the aircraft or air navigation facilities, the State in which the accident occurs will institute an inquiry into the circumstances of the accident, in accordance, so far as its laws permit, with the procedure which may be recommended by the International Civil Aviation Organization. The State in which the aircraft is registered shall be given the opportunity to appoint observers to be present at the inquiry and the State holding the inquiry shall communicate the report and findings in the matter to that State.

Article 26

Enquête sur les accidents

En cas d'accident survenu à un aéronef d'un État contractant sur le territoire d'un autre État contractant et ayant entraîné mort ou lésion grave ou révélé de graves défectuosités techniques de l'aéronef ou des installations et services de navigation aérienne, l'État dans lequel l'accident s'est produit ouvrira une enquête sur les circonstances de l'accident, en se conformant, dans la mesure où ses lois le permettent, à la procédure qui pourra être recommandée par l'Organisation de l'aviation civile internationale. Il est donné à l'État dans lequel l'aéronef est immatriculé la possibilité de nommer des observateurs pour assister à l'enquête et l'État procédant à l'enquête lui communique le rapport et les constatations en la matière.

Article 27

Exemption from seizure on patent claims

a) While engaged in international air navigation, any authorized entry of aircraft of a contracting State into the territory of another contracting State or authorized transit across the territory of such State with or without landings shall not entail any seizure or detention of the aircraft or any claim against the owner or operator thereof or any other interference therewith by or on behalf of such State or any person therein, on the ground that the construction, mechanism, parts, accessories or operation of the aircraft is an infringement of any patent, design, or model duly granted or registered in the State whose territory is entered by the aircraft, it being agreed that no deposit of security in connection with the foregoing exemption from seizure or detention of the aircraft shall in any case be required in the State entered by such aircraft.

Article 27

Exemption de saisie en cas de contestation sur les brevets d'invention

a) Lorsqu'un aéronef d'un État contractant est employé à la navigation aérienne internationale, l'entrée autorisée sur le territoire d'un autre État contractant ou le transit autorisé à travers le territoire dudit État, avec ou sans atterrissage, ne donne lieu ni à saisie ou rétention de l'aéronef, ni à réclamation à l'encontre de son propriétaire ou exploitant, ni à toute autre intervention de la part ou au nom de cet État ou de toute personne qui s'y trouve, du fait que la construction, le mécanisme, les pièces, les accessoires ou l'exploitation de l'aéronef porteraient atteinte aux droits afférents à tout brevet, dessin ou modèle dûment délivré ou déposé dans l'État sur le territoire duquel a pénétré l'aéronef, étant convenu que, dans cet État, il n'est exigé en aucun cas un dépôt de garantie en raison de l'exemption de saisie ou de rétention de l'aéronef visée ci-dessus.

b) The provisions of paragraph *a)* of this Article shall also be applicable to the storage of spare parts and spare equipment for the aircraft and the right to use and install the same in the repair of an aircraft of a contracting State in the territory of any other contracting State, provided that any patented part or equipment so stored shall not be sold or distributed internally

b) Les dispositions du paragraphe *a)* du présent article s'appliquent aussi à l'entreposage des pièces et du matériel de rechange pour les aéronefs, ainsi qu'au droit d'utiliser et de monter ces pièces et matériel lors de la réparation d'un aéronef d'un État contractant sur le territoire d'un autre État contractant, aucune pièce ni aucun matériel breveté ainsi

Artículo 26

Investigación de accidentes

En el caso de que una aeronave de un Estado contratante sufra en el territorio de otro Estado contratante un accidente que ocasione muerte o lesión grave, o que indique graves defectos técnicos en la aeronave o en las instalaciones y servicios para la navegación aérea, el Estado en donde ocurra el accidente abrirá una encuesta sobre las circunstancias del mismo, ajustándose, en la medida que lo permitan sus leyes, a los procedimientos que pueda recomendar la Organización de Aviación Civil Internacional. Se permitirá al Estado donde esté matriculada la aeronave que designe observadores para estar presentes en la encuesta y el Estado que la realice comunicará al otro Estado el informe y las conclusiones al respecto.

Статья 26

Расследование происшествий

В случае происшествия с воздушным судном одного Договаривающегося государства, имевшего место на территории другого Договаривающегося государства и повлекшего смерть или серьезные телесные повреждения либо свидетельствующего о серьезном техническом дефекте воздушного судна или аэронавигационных средств, государство, на территории которого произошло происшествие, назначает расследование обстоятельств происшествия в соответствии с процедурой, которая может быть рекомендована Международной организацией гражданской авиации, насколько это допускает его законодательство. Государству, в котором зарегистрировано воздушное судно, предоставляется возможность назначить наблюдателей для присутствия при расследовании, а государство, проводящее расследование, направляет этому государству отчет и заключение о расследовании.

Artículo 27

Exención de embargo por reclamaciones sobre patentes

a) Mientras una aeronave de un Estado contratante esté empleada en la navegación aérea internacional, la entrada autorizada en el territorio de otro Estado contratante o el tránsito autorizado a través de dicho territorio, con o sin aterrizaje, no darán lugar a embargo o detención de la aeronave ni a reclamación alguna contra su propietario u operador ni a ingerencia alguna por parte o en nombre de este Estado o de cualquier persona que en él se halle, basándose en que la construcción, el mecanismo, las piezas, los accesorios o la operación de la aeronave infringen los derechos de alguna patente, diseño o modelo debidamente concedidos o registrados en el Estado en cuyo territorio haya penetrado la aeronave, entendiéndose que en dicho Estado no se exigirá en ningún caso un depósito de garantía por la exención anteriormente mencionada de embargo o detención de la aeronave.

b) Las disposiciones del párrafo *a)* del presente artículo se aplicarán también al almacenamiento de piezas y equipo de repuesto para aeronaves, así como al derecho de usarlos e instalarlos en la reparación de una aeronave de un Estado contratante en el territorio de cualquier otro Estado contratante, siempre que las piezas o el equipo patentados, así almacenados,

Статья 27

Освобождение от ареста по патентным искам

a) При осуществлении международной аэронавигации любой разрешенный влет воздушного судна одного Договаривающегося государства на территорию другого Договаривающегося государства или разрешенный транзитный полет через территорию такого государства с посадками или без посадок не влечет наложения ареста на это воздушное судно или его задержания, предъявления какого-либо иска собственнику или эксплуатанту последнего или какого-либо иного вмешательства со стороны или от имени этого государства или любого находящегося на его территории лица на том основании, что конструкция, механизмы, узлы, вспомогательное оборудование воздушного судна или его эксплуатация являются нарушением каких-либо прав на патент, промышленный образец или модель, должным образом выданных или зарегистрированных в государстве, на территорию которого прибыло это воздушное судно; при этом подразумевается, что в государстве, на территорию которого прибыло такое воздушное судно, ни при каких обстоятельствах не требуется залог в связи с вышеназванным освобождением от наложения ареста или задержания воздушного судна.

b) Положения пункта *a)* настоящей Статьи распространяются также на хранение запасных частей и запасного оборудования для воздушных судов и на право их использования и установки при ремонте воздушного судна Договаривающегося государства на территории любого другого Договаривающегося государства при условии, что

in or exported commercially from the contracting State entered by the aircraft.

c) The benefits of this Article shall apply only to such States, parties to this Convention, as either 1) are parties to the International Convention for the Protection of Industrial Property and to any amendments thereof; or 2) have enacted patent laws which recognize and give adequate protection to inventions made by the nationals of the other States parties to this Convention.

Article 28

Air navigation facilities and standard systems

Each contracting State undertakes, so far as it may find practicable, to:

a) Provide, in its territory, airports, radio services, meteorological services and other air navigation facilities to facilitate international air navigation, in accordance with the standards and practices recommended or established from time to time, pursuant to this Convention;

b) Adopt and put into operation the appropriate standard systems of communications procedure, codes, markings, signals, lighting and other operational practices and rules which may be recommended or established from time to time, pursuant to this Convention;

c) Collaborate in international measures to secure the publication of aeronautical maps and charts in accordance with standards which may be recommended or established from time to time, pursuant to this Convention.

CHAPTER V

CONDITIONS TO BE FULFILLED WITH RESPECT TO AIRCRAFT

Article 29

Documents carried in aircraft

Every aircraft of a contracting State, engaged in international navigation, shall carry the following documents

entreposé ne pouvant être vendu ou cédé à l'intérieur de l'État contractant sur le territoire duquel a pénétré l'aéronef, ou exporté de cet État à des fins commerciales.

c) Seuls bénéficient des dispositions du présent article les États parties à la présente Convention 1) qui sont également parties à la Convention internationale sur la protection de la propriété industrielle et à tous amendements à ladite Convention ou 2) qui ont promulgué, sur les brevets, des lois reconnaissant et protégeant d'une manière adéquate les inventions des ressortissants des autres États parties à la présente Convention.

Article 28

Installations et services de navigation aérienne et systèmes normalisés

Chaque État contractant s'engage, dans la mesure où il le juge réalisable:

a) à fournir sur son territoire, des aéroports, des services radioélectriques et météorologiques et d'autres installations et services de navigation aérienne afin de faciliter la navigation aérienne internationale, conformément aux normes et pratiques qui pourraient être recommandées ou établies en vertu de la présente Convention;

b) à adopter et mettre en œuvre les systèmes normalisés appropriés relatifs aux procédures de communications, aux codes, au balisage, à la signalisation, aux feux et aux autres pratiques et règles d'exploitation qui pourraient être recommandés ou établis en vertu de la présente Convention;

c) à collaborer aux mesures internationales destinées à assurer la publication de cartes et plans aéronautiques, conformément aux normes qui pourraient être recommandées ou établies en vertu de la présente Convention.

CHAPITRE V

CONDITIONS À REMPLIR EN CE QUI CONCERNE LES AÉRONEFS

Article 29

Documents de bord des aéronefs

Tout aéronef d'un État contractant employé à la navigation internationale doit, conformément aux conditions

no se vendan ni distribuyan internamente ni se exporten con fines comerciales desde el Estado contratante en el que haya penetrado la aeronave.

c) Los beneficios de este artículo se aplicarán sólo a los Estados, partes en el presente Convenio, que 1) sean partes en la Convención Internacional para la Protección de la Propiedad Industrial y sus enmiendas, o 2) hayan promulgado leyes sobre patentes que reconozcan y protejan debidamente las invenciones de los nacionales de los demás Estados que sean partes en el presente Convenio.

Artículo 28

Instalaciones y servicios y sistemas normalizados para la navegación aérea

Cada Estado contratante se compromete, en la medida en que lo juzgue factible a:

a) Proveer en su territorio aeropuertos, servicios de radio, servicios meteorológicos y otras instalaciones y servicios para la navegación aérea a fin de facilitar la navegación aérea internacional, de acuerdo con las normas y métodos recomendados o establecidos oportunamente en aplicación del presente Convenio.

b) Adoptar y aplicar los sistemas normalizados apropiados sobre procedimientos de comunicaciones, códigos, balizamiento, señales, iluminación y demás métodos y reglas de operación que se recomienden o establezcan oportunamente en aplicación del presente Convenio.

c) Colaborar en las medidas internacionales tomadas para asegurar la publicación de mapas y cartas aeronáuticas, de conformidad con las normas que se recomienden o establezcan oportunamente, en aplicación del presente Convenio.

CAPÍTULO V

CONDICIONES QUE DEBEN CUMPLIRSE CON RESPECTO A LAS AERONAVES

Artículo 29

Documentos que deben llevar las aeronaves

Toda aeronave de un Estado contratante que se emplee en la navegación internacional llevará los siguientes documentos,

любая запатентованная деталь или оборудование, хранящиеся таким образом, не будут продаваться или распространяться внутри страны или экспортироваться в коммерческих целях из Договаривающегося государства, на территорию которого прибыло это воздушное судно.

c) Привилегии, предусмотренные настоящей Статьей, распространяются лишь на такие государства – участники настоящей Конвенции, которые либо 1) являются участниками Международной конвенции по охране промышленной собственности и любых поправок к ней, либо 2) приняли патентное законодательство, признающее изобретения граждан других государств – участников настоящей Конвенции и обеспечивающее их надлежащую защиту.

Статья 28

Аэронавигационные средства и стандартные системы

Каждое Договаривающееся государство обязуется, насколько оно сочтет это возможным:

a) предоставлять на своей территории аэропорты, радио- и метеорологические службы и другие аэронавигационные средства для содействия международной аэронавигации в соответствии со стандартами и практикой, рекомендуемыми или устанавливаемыми время от времени в соответствии с настоящей Конвенцией;

b) принимать и вводить в действие надлежащие стандартные системы процедур связи, кодов, маркировки, сигналов, светооборудования и другую эксплуатационную практику и правила, которые время от времени могут рекомендоваться или устанавливаться в соответствии с настоящей Конвенцией;

c) сотрудничать в международных мероприятиях по обеспечению издания аэронавигационных карт и схем в соответствии со стандартами, которые время от времени могут рекомендоваться или устанавливаться в соответствии с настоящей Конвенцией.

ГЛАВА V

УСЛОВИЯ, ПОДЛЕЖАЩИЕ СОБЛЮДЕНИЮ В ОТНОШЕНИИ ВОЗДУШНЫХ СУДОВ

Статья 29

Документация, имеющаяся на воздушном судне

Каждое воздушное судно Договаривающегося государства, занятое в международной навигации, в соответствии с

in conformity with the conditions prescribed in this Convention:

a) Its certificate of registration;

b) Its certificate of airworthiness;

c) The appropriate licenses for each member of the crew;

d) Its journey log book;

e) If it is equipped with radio apparatus, the aircraft radio station license;

f) If it carries passengers, a list of their names and places of embarkation and destination;

g) If it carries cargo, a manifest and detailed declarations of the cargo.

Article 30

Aircraft radio equipment

a) Aircraft of each contracting State may, in or over the territory of other contracting States, carry radio transmitting apparatus only if a license to install and operate such apparatus has been issued by the appropriate authorities of the State in which the aircraft is registered. The use of radio transmitting apparatus in the territory of the contracting State whose territory is flown over shall be in accordance with the regulations prescribed by that State.

b) Radio transmitting apparatus may be used only by members of the flight crew who are provided with a special license for the purpose, issued by the appropriate authorities of the State in which the aircraft is registered.

Article 31

Certificates of airworthiness

Every aircraft engaged in international navigation shall be provided with a certificate of airworthiness issued or rendered valid by the State in which it is registered.

prescrites par la présente Convention, avoir à bord les documents suivants:

a) son certificat d'immatriculation;

b) son certificat de navigabilité;

c) les licences appropriées pour chaque membre de l'équipage;

d) son carnet de route;

e) s'il est muni d'appareils radioélectriques, la licence de la station radio de l'aéronef;

f) s'il transporte des passagers, la liste de leurs noms et lieux d'embarquement et de destination;

g) s'il transporte du fret, un manifeste et des déclarations détaillées de ce fret.

Article 30

Équipement radio des aéronefs

a) Les aéronefs de chaque État contractant ne peuvent, lorsqu'ils se trouvent à l'intérieur ou au-dessus du territoire d'autres États contractants, avoir à bord des appareils émetteurs que si les autorités compétentes de l'État dans lequel l'aéronef est immatriculé ont délivré une licence d'installation et d'utilisation de ces appareils. Les appareils émetteurs sont utilisés à l'intérieur du territoire de l'État contractant survolé conformément aux règlements édictés par cet État.

b) Les appareils émetteurs ne peuvent être utilisés que par les membres de l'équipage navigant munis à cet effet d'une licence spéciale, délivrée par les autorités compétentes de l'État dans lequel l'aéronef est immatriculé.

Article 31

Certificats de navigabilité

Tout aéronef employé à la navigation internationale doit être muni d'un certificat de navigabilité délivré ou validé par l'État dans lequel il est immatriculé.

de conformidad con las condiciones prescritas en el presente Convenio:

a) certificado de matrícula;

b) certificado de aeronavegabilidad;

c) las licencias apropiadas para cada miembro de la tripulación;

d) diario de a bordo;

e) si está provista de aparatos de radio, la licencia de la estación de radio de la aeronave;

f) si lleva pasajeros, una lista de sus nombres y lugares de embarco y destino;

g) si transporta carga, un manifiesto y declaraciones detalladas de la carga.

Artículo 30

Equipo de radio de las aeronaves

a) Las aeronaves de cada Estado contratante, cuando se encuentren en o sobre el territorio de otros Estados contratantes, solamente pueden llevar a bordo radiotransmisores si las autoridades competentes del Estado en el que esté matriculada la aeronave han expedido una licencia para instalar y utilizar dichos aparatos. El uso de radiotransmisores en el territorio del Estado contratante sobre el que vuele la aeronave se efectuará de acuerdo con los reglamentos prescritos por dicho Estado.

b) Sólo pueden usar los radiotransmisores los miembros de la tripulación de vuelo provistos de una licencia especial expedida al efecto por las autoridades competentes del Estado en el que esté matriculada la aeronave.

Artículo 31

Certificados de aeronavegabilidad

Toda aeronave que se emplee en la navegación internacional estará provista de un certificado de aeronavegabilidad expedido o convalidado por el Estado en el que esté matriculada.

условиями, установленными настоящей Конвенцией, имеет на борту следующие документы:

a) свидетельство о его регистрации;

b) удостоверение о его годности к полетам;

c) соответствующие свидетельства на каждого члена экипажа;

d) бортовой журнал;

e) если оно оборудовано радиоаппаратурой – разрешение на бортовую радиостанцию;

f) если оно перевозит пассажиров – список их фамилий с указанием пунктов отправления и назначения;

g) если оно перевозит груз – манифест и подробные декларации на груз.

Статья 30

Радиооборудование воздушных судов

a) Воздушные суда каждого Договаривающегося государства, находящиеся на территории или над территорией других Договаривающихся государств, могут иметь радиопередающую аппаратуру только в том случае, если компетентными властями государства, в котором зарегистрировано воздушное судно, выдано разрешение на установку и использование такой аппаратуры. Использование радиопередающей аппаратуры на территории Договаривающегося государства, над которой производится полет, осуществляется в соответствии с правилами, установленными данным государством.

b) Радиопередающая аппаратура может использоваться только членами летного экипажа, имеющими на то специальное разрешение, выданное компетентными властями государства, в котором зарегистрировано воздушное судно.

Статья 31

Удостоверения о годности к полетам

Каждое воздушное судно, занятое в международной навигации, обеспечивается удостоверением о годности к полетам, которое выдано или которому придана сила государством, где это воздушное судно зарегистрировано.

Article 32

Licenses of personnel

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

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

Article 33

Recognition of certificates and licenses

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

Article 34

Journey log books

There shall be maintained in respect of every aircraft engaged in international navigation a journey log book in which shall be entered particulars of the aircraft, its crew and of each journey, in such form as may be prescribed from time to time pursuant to this Convention.

Article 35

Cargo restrictions

a) No munitions of war or implements of war may be carried in or above the territory of a State in aircraft engaged in international navigation, except by permission of such State. Each State shall determine by regulations what constitutes

Article 32

Licences du personnel

a) Le pilote de tout aéronef et les autres membres de l'équipage de conduite de tout aéronef employé à la navigation internationale doivent être munis de brevets d'aptitude et de licences délivrés ou validés par l'État dans lequel l'aéronef est immatriculé.

b) Chaque État contractant se réserve le droit de ne pas reconnaître, pour le survol de son propre territoire, les brevets d'aptitude et les licences accordés à l'un de ses ressortissants par un autre État contractant.

Article 33

Reconnaissance des certificats et licences

Les certificats de navigabilité, ainsi que les brevets d'aptitude et les licences délivrés ou validés par l'État contractant dans lequel l'aéronef est immatriculé, seront reconnus valables par les autres États contractants si les conditions qui ont régi la délivrance ou la validation de ces certificats, brevets ou licences sont équivalentes ou supérieures aux normes minimales qui pourraient être établies conformément à la présente Convention.

Article 34

Carnets de route

Pour chaque aéronef employé à la navigation internationale, il est tenu un carnet de route sur lequel sont portés les renseignements relatifs à l'aéronef, à l'équipage et à chaque voyage, sous la forme qui pourrait être prescrite en vertu de la présente Convention.

Article 35

Restrictions relatives à la cargaison

a) Les munitions de guerre et le matériel de guerre ne peuvent être transportés à l'intérieur ou au-dessus du territoire d'un État à bord d'aéronefs employés à la navigation internationale, sauf permission dudit État. Chaque État détermine

Artículo 32

Licencias del personal

a) El piloto y los demás miembros de la tripulación operativa de toda aeronave que se emplee en la navegación internacional estarán provistos de certificados de aptitud y de licencias expedidos o convalidados por el Estado en el que la aeronave esté matriculada.

b) Cada Estado contratante se reserva el derecho de no reconocer, por lo que respecta a los vuelos sobre su propio territorio, los certificados de aptitud y licencias ortogados a cualquiera de sus súbditos por otro Estado contratante.

Artículo 33

Reconocimiento de certificados y licencias

Los certificados de aeronavegabilidad, los certificados de aptitud y las licencias expedidos o convalidados por el Estado contratante en el que esté matriculada la aeronave, se reconocerán como válidos por los demás Estados contratantes, siempre que los requisitos de acuerdo con los cuales se hayan expedido o convalidado dichos certificados o licencias sean iguales o superiores a las normas mínimas que oportunamente se establezcan en aplicación del presente Convenio.

Artículo 34

Diario de a bordo

Por cada aeronave que se emplee en la navegación internacional se llevará un diario de a bordo, en el que se asentarán los datos relativos a la aeronave, a su tripulación y a cada viaje en la forma que oportunamente se prescriba en aplicación del presente Convenio.

Artículo 35

Restricciones sobre la carga

a) Las aeronaves que se empleen en la navegación internacional no podrán transportar municiones de guerra o material de guerra en o sobre el territorio de un Estado, excepto con el consentimiento de tal Estado. Cada Estado determinará,

Статья 32

Свидетельства на членов экипажа

a) Пилот каждого воздушного судна и другие члены летного состава экипажа каждого воздушного судна, занятого в международной навигации, обеспечиваются удостоверениями о квалификации и свидетельствами, которые выданы или которым придана сила государством, где это воздушное судно зарегистрировано.

b) Каждое Договаривающееся государство сохраняет за собой право отказаться признать для целей выполнения полета над его собственной территорией удостоверения о квалификации и свидетельства, выданные любому из его граждан другим Договаривающимся государством.

Статья 33

Признание удостоверений и свидетельств

Удостоверения о годности к полетам и удостоверения о квалификации, а также свидетельства, которые выданы или которым придана сила Договаривающимся государством, где зарегистрировано воздушное судно, признаются действительными другими Договаривающимися государствами при условии, что требования, в соответствии с которыми такие удостоверения или свидетельства выданы или которым придана сила, соответствуют минимальным стандартам, которые время от времени могут устанавливаться в соответствии с настоящей Конвенцией, или превышают их.

Статья 34

Бортовые журналы

На каждом воздушном судне, занятом в международной навигации, ведется бортовой журнал, в который заносятся данные о воздушном судне, его экипаже и каждом полете в такой форме, какая может время от времени устанавливаться в соответствии с настоящей Конвенцией.

Статья 35

Ограничения в отношении грузов

a) Никакое военное снаряжение или военные материалы не могут перевозиться на территорию или над территорией государства на воздушных судах, занятых в международной навигации, кроме как с разрешения такого

munitions of war or implements of war for the purposes of this Article, giving due consideration, for the purposes of uniformity, to such recommendations as the International Civil Aviation Organization may from time to time make.

b) Each contracting State reserves the right, for reasons of public order and safety, to regulate or prohibit the carriage in or above its territory of articles other than those enumerated in paragraph *a)*: provided that no distinction is made in this respect between its national aircraft engaged in international navigation and the aircraft of the other States so engaged; and provided further that no restriction shall be imposed which may interfere with the carriage and use on aircraft of apparatus necessary for the operation or navigation of the aircraft or the safety of the personnel or passengers.

Article 36

Photographic apparatus

Each contracting State may prohibit or regulate the use of photographic apparatus in aircraft over its territory.

CHAPTER VI

INTERNATIONAL STANDARDS AND RECOMMENDED PRACTICES

Article 37

Adoption of international standards and procedures

Each contracting State undertakes to collaborate in securing the highest practicable degree of uniformity in regulations, standards, procedures, and organization in relation to aircraft, personnel, airways and auxiliary services in all matters in which such uniformity will facilitate and improve air navigation.

To this end the International Civil Aviation Organization shall adopt and amend from time to time, as may be necessary,

par voie de règlement ce qu'il faut entendre par munitions de guerre ou matériel de guerre aux fins du présent article, en tenant dûment compte, dans un souci d'uniformité, des recommandations que l'Organisation de l'aviation civile internationale pourrait formuler le cas échéant.

b) Chaque État contractant se réserve le droit, pour des raisons d'ordre public et de sécurité, de réglementer ou d'interdire le transport, à l'intérieur ou au-dessus de son territoire, d'articles autres que ceux qui sont mentionnés au paragraphe *a)*, à condition qu'il ne soit fait aucune distinction à cet égard entre ses aéronefs nationaux employés à la navigation internationale et les aéronefs des autres États employés aux mêmes fins, et à condition aussi qu'il ne soit imposé aucune restriction pouvant gêner le transport et l'usage, à bord des aéronefs, des appareils nécessaires à l'exploitation ou à la navigation desdits aéronefs, ou à la sécurité du personnel ou des passagers.

Article 36

Appareils photographiques

Tout État contractant peut interdire ou réglementer l'usage d'appareils photographiques à bord des aéronefs survolant son territoire.

CHAPITRE VI

NORMES ET PRATIQUES RECOMMANDÉES INTERNATIONALES

Article 37

Adoption de normes et procédures internationales

Chaque État contractant s'engage à prêter son concours pour atteindre le plus haut degré réalisable d'uniformité dans les règlements, les normes, les procédures et l'organisation relatifs aux aéronefs, au personnel, aux voies aériennes et aux services auxiliaires, dans toutes les matières pour lesquelles une telle uniformité facilite et améliore la navigation aérienne.

À cette fin, l'Organisation de l'aviation civile internationale adopte et amende, selon les nécessités, les normes, pratiques

mediante reglamentaciones, lo que consituye municiones de guerra o material de guerra a los fines del presente artículo, teniendo debidamente en cuenta, a los efectos de uniformidad, las recomendaciones que la Organización de Aviación Civil Internacional haga oportunamente.

b) Cada Estado contratante se reserva el derecho, por razones de orden público y de seguridad, de reglamentar o prohibir el transporte en o sobre su territorio de otros artículos que no sean los especificados en el párrafo *a)*, siempre que no haga ninguna distinción a este respecto entre sus aeronaves nacionales que se empleen en la navegación internacional y las aeronaves de otros Estados que se empleen para los mismos fines y siempre que, además, no imponga restricción alguna que pueda obstaculizar el transporte y uso en las aeronaves de los aparatos necesarios para la operación, o navegación de éstas o para la seguridad del personal o de los pasajeros.

Artículo 36

Aparatos fotográficos

Cada Estado contratante puede prohibir o reglamentar el uso de aparatos fotográficos en las aeronaves que vuelen sobre su territorio.

CAPÍTULO VI

NORMAS Y MÉTODOS RECOMENDADOS INTERNACIONALES

Artículo 37

Adopción de normas y procedimientos internacionales

Cada Estado contratante se compromete a colaborar, a fin de lograr el más alto grado de uniformidad posible en las reglamentaciones, normas, procedimientos y organización relativos a las aeronaves, personal, aerovías y servicios auxiliares, en todas las cuestiones en que tal uniformidad facilite y mejore la navegación aérea.

A este fin, la Organización de Aviación Civil Internacional adoptará y enmendará, en su oportunidad, según sea necesario,

государства. Каждое государство в своих правилах определяет, что является военным снаряжением или военными материалами применительно к настоящей Статье, должным образом учитывая в целях единообразия такие рекомендации, какие может время от времени давать Международная организация гражданской авиации.

b) Каждое Договаривающееся государство в интересах соблюдения общественного порядка и безопасности сохраняет за собой право регулировать или запрещать перевозку на свою территорию или над своей территорией иных предметов, кроме тех, которые перечислены в пункте *a)*, при условии, что в этом отношении не будет проводиться различий между его национальными воздушными судами, занятыми в международной навигации, и воздушными судами других государств, занятыми подобным же образом, а также при условии, что не будут устанавливаться никакие ограничения, которые могут препятствовать перевозке и использованию на воздушных судах аппаратуры, необходимой для эксплуатации воздушных судов или навигации либо для обеспечения безопасности членов экипажа или пассажиров.

Статья 36

Фотографическая аппаратура

Каждое Договаривающееся государство может запрещать или регламентировать использование фотографической аппаратуры на борту воздушных судов над своей территорией.

ГЛАВА VI

МЕЖДУНАРОДНЫЕ СТАНДАРТЫ И РЕКОМЕНДУЕМАЯ ПРАКТИКА

Статья 37

Принятие международных стандартов и процедур

Каждое Договаривающееся государство обязуется сотрудничать в обеспечении максимально достижимой степени единообразия правил, стандартов, процедур и организации, касающихся воздушных судов, персонала, воздушных трасс и вспомогательных служб, по всем вопросам, в которых такое единообразие будет содействовать аэронавигации и совершенствовать ее.

С этой целью Международная организация гражданской авиации принимает и по мере необходимости время от

international standards and recommended practices and procedures dealing with:

a) Communications systems and air navigation aids, including ground marking;

b) Characteristics of airports and landing areas;

c) Rules of the air and air traffic control practices;

d) Licensing of operating and mechanical personnel;

e) Airworthiness of aircraft;

f) Registration and identification of aircraft;

g) Collection and exchange of meteorological information;

h) Log books;

i) Aeronautical maps and charts;

j) Customs and immigration procedures;

k) Aircraft in distress and investigation of accidents;

and such other matters concerned with the safety, regularity, and efficiency of air navigation as may from time to time appear appropriate.

Article 38

Departures from international standards and procedures

Any State which finds it impracticable to comply in all respects with any such international standard or procedure, or to bring its own regulations or practices into full accord with any international standard or procedure after amendment of the latter, or which deems it necessary to adopt regulations or practices differing in any particular respect from those established by an international standard, shall give immediate notification to the International Civil Aviation Organization of the differences between its own practice and that established by the international standard. In the case of amendments to international standards, any State which does not make the appropriate amendments to its own regulations or practices shall give notice to the Council within sixty days of the adoption of the amendment to the international standard, or

recommandées et procédures internationales traitant des sujets suivants:

a) systèmes de communications et aides à la navigation aérienne, y compris le balisage au sol;

b) caractéristiques des aéroports et des aires d'atterrissage;

c) règles de l'air et pratiques de contrôle de la circulation aérienne;

d) licences et brevets du personnel technique d'exploitation et d'entretien;

e) navigabilité des aéronefs;

f) immatriculation et identification des aéronefs;

g) collecte et échange de renseignements météorologiques;

h) livres de bord;

i) cartes et plans aéronautiques;

j) formalités de douane et d'immigration;

k) aéronefs en détresse et enquêtes sur les accidents;

et, lorsqu'il paraît approprié de le faire, de tout autre sujet intéressant la sécurité, la régularité et l'efficacité de la navigation aérienne.

Article 38

Dérogation aux normes et aux procédures internationales

Tout État qui estime ne pouvoir se conformer en tous points à l'une quelconque de ces normes ou procédures internationales, ou mettre ses propres règlements ou pratiques en complet accord avec une norme ou procédure internationale amendée, ou qui juge nécessaire d'adopter des règles ou des pratiques différant sur un point quelconque de celles qui sont établies par une norme internationale, notifie immédiatement à l'Organisation de l'aviation civile internationale les différences entre ses propres pratiques et celles qui sont établies par la norme internationale. Dans le cas d'amendements à des normes internationales, tout État qui n'apporte pas à ses propres règlements ou pratiques les amendements appropriés en avise le Conseil dans les soixante jours à compter de l'adoption de l'amendement à la norme internationale ou

las normas, métodos recomendados y procedimientos internacionales que traten de:

a) sistemas de comunicaciones y ayudas para la navegación aérea, incluida la señalización terrestre;

b) características de los aeropuertos y áreas de aterrizaje;

c) reglas del aire y métodos de control del tránsito aéreo;

d) otorgamiento de licencias del personal operativo y mecánico;

e) aeronavegabilidad de las aeronaves;

f) matrícula e identificación de las aeronaves;

g) compilación e intercambio de información meteorológica;

h) diarios de a bordo;

i) mapas y cartas aeronáuticos;

j) formalidades de aduana e inmigración;

k) aeronaves en peligro e investigación de accidentes;

y de otras cuestiones relacionadas con la seguridad, regularidad y eficiencia de la navegación aérea que en su oportunidad puedan considerarse apropiadas.

Artículo 38

Desviaciones respecto de las normas y procedimientos internacionales

Cualquier Estado que considere impracticable cumplir, en todos sus aspectos, con cualesquiera de tales normas o procedimientos internacionales, o concordar totalmente sus reglamentaciones o métodos con alguna norma o procedimiento internacionales, después de enmendados estos últimos, o que considere necesario adoptar reglamentaciones o métodos que difieran en cualquier aspecto particular de lo establecido por una norma internacional, notificará inmediatamente a la Organización de Aviación Civil Internacional las diferencias entre sus propios métodos y lo establecido por la norma internacional. En el caso de enmiendas a las normas internacionales, todo Estado que no haga las enmiendas adecuadas en sus reglamentaciones o métodos lo comunicará al Consejo dentro de sesenta días a partir de la adopción de la

времени изменяет международные стандарты, рекомендуемую практику и процедуры, касающиеся:

a) систем связи и аэронавигационных средств, включая наземную маркировку;

b) характеристик аэропортов и посадочных площадок;

c) правил полетов и практики управления воздушным движением;

d) присвоения квалификации летному и техническому персоналу;

e) годности воздушных судов к полетам;

f) регистрации и идентификации воздушных судов;

g) сбора метеорологической информации и обмена ею;

h) бортовых журналов;

i) аэронавигационных карт и схем;

j) таможенных и иммиграционных процедур;

k) воздушных судов, терпящих бедствие, и расследования происшествий;

а также таких других вопросов, касающихся безопасности, регулярности и эффективности аэронавигации, какие время от времени могут оказаться целесообразными.

Статья 38

Отклонения от международных стандартов и процедур

Любое государство, которое сочтет практически затруднительным придерживаться во всех отношениях каких-либо международных стандартов или процедур либо приводить свои собственные правила или практику в полное соответствие с какими-либо международными стандартами или процедурами после изменения последних либо которое сочтет необходимым принять правила или практику, имеющие какое-либо особое отличие от тех правил, которые установлены международным стандартом, незамедлительно уведомляет Международную организацию гражданской авиации о различиях между его собственной практикой и той, которая установлена международным стандартом. В случае изменения международных стандартов любое государство, которое не внесет

indicate the action which it proposes to take. In any such case, the Council shall make immediate notification to all other states of the difference which exists between one or more features of an international standard and the corresponding national practice of that State.

indique les mesures qu'il se propose de prendre. En pareil cas, le Conseil notifie immédiatement à tous les autres États la différence existant entre un ou plusieurs points de la norme internationale et la pratique nationale correspondante de l'État en question.

Article 39

Endorsement of certificates and licenses

a) Any aircraft or part thereof with respect to which there exists an international standard of airworthiness or performance, and which failed in any respect to satisfy that standard at the time of its certification, shall have endorsed on or attached to its airworthiness certificate a complete enumeration of the details in respect of which it so failed.

b) Any person holding a license who does not satisfy in full the conditions laid down in the international standard relating to the class of license or certificate which he holds shall have endorsed on or attached to his license a complete enumeration of the particulars in which he does not satisfy such conditions.

Article 39

Annotation des certificats et licences

a) Tout aéronef ou élément d'aéronef au sujet duquel il existe une norme internationale de navigabilité ou de performance et qui n'a pas satisfait sur un point quelconque à cette norme lors de l'établissement de son certificat de navigabilité, doit avoir sous forme d'annotation sur son certificat de navigabilité, ou en annexe à celui-ci, l'énumération complète des détails sur lesquels l'aéronef ou l'élément d'aéronef s'écartait de cette norme.

b) Tout titulaire d'une licence qui ne satisfait pas entièrement aux conditions imposées par la norme internationale relative à la classe de la licence ou du brevet qu'il détient doit avoir sous forme d'annotation sur sa licence, ou en annexe à celle-ci, l'énumération complète des points sur lesquels il ne satisfait pas auxdites conditions.

Article 40

Validity of endorsed certificates and licenses

No aircraft or personnel having certificates or licenses so endorsed shall participate in international navigation, except with the permission of the State or States whose territory is entered. The registration or use of any such aircraft, or of any certificated aircraft part, in any State other than that in which it was originally certificated shall be at the discretion of the State into which the aircraft or part is imported.

Article 40

Validité des certificats et des licences annotés

Aucun aéronef ou membre du personnel dont le certificat ou la licence a été ainsi annoté ne peut participer à la navigation internationale si ce n'est avec la permission de l'État ou des États sur le territoire desquels il pénètre. L'immatriculation ou l'emploi d'un tel aéronef ou d'un élément certifié d'aéronef dans un État autre que celui où il a été certifié à l'origine, est laissé à la discrétion de l'État dans lequel cet aéronef ou élément est importé.

Article 41

Recognition of existing standards of airworthiness

The provisions of this Chapter shall not apply to aircraft and aircraft equipment of types of which the prototype is submitted

Article 41

Reconnaissance des normes de navigabilité existantes

Les dispositions du présent chapitre ne s'appliquent ni aux aéronefs ni au matériel d'aéronefs des types dont le prototype

enmienda a la norma internacional o indicará las medidas que se proponga adoptar. En tales casos, el Consejo notificará inmediatamente a todos los demás Estados las diferencias que existan entre uno o varios puntos de una norma internacional y el método nacional correspondiente del Estado en cuestión.

соответствующих изменений в свои собственные правила или практику, уведомляет об этом Совет в течение шестидесяти дней после принятия поправки к международному стандарту или указывает меры, которые оно предполагает принять. В любом таком случае Совет незамедлительно уведомляет все другие государства о различиях, которые существуют между одним или несколькими положениями международного стандарта и соответствующей национальной практикой этого государства.

Artículo 39

Anotaciones en los certificados y licencias

a) Toda aeronave o pieza de ésta, respecto a la cual exista una norma internacional de aeronavegabilidad o de comportamiento de vuelo y que deje de satisfacer en algún aspecto dicha norma en el momento de su certificación, debe llevar anotada en el certificado de aeronavegabilidad, o agregada a éste, una enumeración completa de los detalles respecto a los cuales deje de satisfacer dicha norma.

b) Todo titular de una licencia que no reúna por completo las condiciones prescritas por la norma internacional relativa a la clase de licencia o certificado que posea, debe llevar anotada en su licencia o agregada a ésta una enumeración completa de los aspectos en que deje de cumplir con dichas condiciones.

Статья 39

Отметки в удостоверениях и свидетельствах

a) В удостоверение о годности к полетам любого воздушного судна или его части, в отношении которых существует международный стандарт годности к полетам или летных характеристик и которые в каком-либо отношении не соответствуют этому стандарту в момент сертификации, вносится или прилагается к нему полный перечень деталей, по которым воздушное судно или его часть не соответствует такому стандарту.

b) В свидетельство любого лица, не удовлетворяющего полностью условиям, установленным международным стандартом относительно класса свидетельства или удостоверения, владельцем которого это лицо является, вносится или прилагается к нему полный перечень всех данных, по которым это лицо не отвечает таким условиям.

Artículo 40

Validez de los certificados y licencias con anotaciones

Ninguna aeronave ni personal cuyos certificados o licencias estén así anotados podrán participar en la navegación internacional, sin permiso del Estado o Estados en cuyo territorio entren. La matriculación o empleo de tales aeronaves, o de cualquier pieza certificada de aeronave, en un Estado que no sea aquél en el que se certificaron originariamente, quedará a discreción del Estado en el que se importen las aeronaves o la pieza.

Статья 40

Действительность удостоверений и свидетельств с внесенными отметками

Ни одно воздушное судно, а также ни один член персонала, имеющие удостоверения или свидетельства с указанными отметками, не участвуют в международной навигации иначе, как с разрешения государства или государств, на территорию которых они прибывают. Регистрация или использование любого такого воздушного судна или любой его сертифицированной части в любом ином государстве, кроме того, в котором оно первоначально сертифицировано, остаются на усмотрение государства, в которое импортируется воздушное судно или его часть.

Artículo 41

Reconocimiento de las normas de aeronavegabilidad existentes

Las disposiciones del presente Capítulo no se aplicarán a las aeronaves ni al equipo de aeronaves de los tipos cuyo prototipo

Статья 41

Признание существующих стандартов годности к полетам

Положения настоящей Главы не применяются к воздушным судам и авиационному оборудованию таких типов,

to the appropriate national authorities for certification prior to a date three years after the date of adoption of an international standard of airworthiness for such equipment.

Article 42

Recognition of existing standards of competency of personnel

The provisions of this Chapter shall not apply to personnel whose licenses are originally issued prior to a date one year after initial adoption of an international standard of qualification for such personnel; but they shall in any case apply to all personnel whose licenses remain valid five years after the date of adoption of such standard.

a été soumis aux autorités nationales compétentes pour homologation avant l'expiration des trois années qui suivent la date d'adoption d'une norme internationale de navigabilité pour ce matériel.

Article 42

Reconnaissance des normes existantes de compétence du personnel

Les dispositions du présent chapitre ne s'appliquent pas au personnel dont les licences ont été délivrées à l'origine avant l'expiration de l'année qui suit la date de l'adoption initiale d'une norme internationale d'aptitude pour ce personnel; mais elles s'appliquent dans tous les cas à tout le personnel dont les licences demeurent valides cinq ans après la date d'adoption de cette norme.

se someta a las autoridades nacionales competentes para su certificación antes de expirar los tres años siguientes a la fecha de adopción de una norma internacional de aeronavegabilidad para tal equipo.

Artículo 42

Reconocimiento de las normas existentes sobre competencia del personal

Las disposiciones del presente Capítulo ne se aplicarán al personal cuyas licencias se expidan originariamente antes de cumplirse un año a partir de la fecha de adopción inicial de una norma internacional de calificación de tal personal; pero, en cualquier caso, se aplicarán a todo el personal cuyas licencias sigan siendo válidas cinco años después de la fecha de adopción de dicha norma.

прототип которых представлен компетентным национальным органам для сертификации до истечения трех лет со дня принятия международного стандарта годности к полетам для такого оборудования.

Статья 42

Признание существующих стандартов квалификации персонала

Положения настоящей Главы не применяются к персоналу, которому первоначально выданы свидетельства до истечения одного года после первого принятия международного стандарта о квалификации такого персонала; однако они в любом случае применяются ко всему персоналу, свидетельства которого остаются действительными в течение пяти лет с даты принятия такого стандарта.

PART II

THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

CHAPTER VII

THE ORGANIZATION

Article 43

Name and composition

An organization to be named the International Civil Aviation Organization is formed by the Convention. It is made up of an Assembly, a Council, and such other bodies as may be necessary.

Article 44

Objectives

The aims and objectives of the Organization are to develop the principles and techniques of international air navigation and to foster the planning and development of international air transport so as to:

a) Insure the safe and orderly growth of international civil aviation throughout the world;

b) Encourage the arts of aircraft design and operation for peaceful purposes;

c) Encourage the development of airways, airports, and air navigation facilities for international civil aviation;

d) Meet the needs of the peoples of the world for safe, regular, efficient and economical air transport;

e) Prevent economic waste caused by unreasonable competition;

f) Insure that the rights of contracting States are fully respected and that every contracting State has a fair opportunity to operate international airlines;

DEUXIÈME PARTIE

L'ORGANISATION DE L'AVIATION CIVILE INTERNATIONALE

CHAPITRE VII

L'ORGANISATION

Article 43

Nom et composition

Il est institué par la présente Convention une organisation qui portera le nom d'Organisation de l'aviation civile internationale. Elle se compose d'une Assemblée, d'un Conseil et de tous autres organes qui pourraient être nécessaires.

Article 44

Objectifs

L'Organisation a pour buts et objectifs d'élaborer les principes et les techniques de la navigation aérienne internationale et de promouvoir la planification et le développement du transport aérien international de manière à:

a) assurer le développement ordonné et sûr de l'aviation civile internationale dans le monde entier;

b) encourager les techniques de conception et d'exploitation des aéronefs à des fins pacifiques;

c) encourager le développement des voies aériennes, des aéroports et des installations et services de navigation aérienne pour l'aviation civile internationale;

d) répondre aux besoins des peuples du monde en matière de transport aérien sûr, régulier, efficace et économique;

e) prévenir le gaspillage économique résultant d'une concurrence déraisonnable;

f) assurer le respect intégral des droits des États contractants et une possibilité équitable pour chaque État contractant d'exploiter des entreprises de transport aérien international;

SEGUNDA PARTE

LA ORGANIZACIÓN DE AVIACIÓN CIVIL INTERNACIONAL

CAPÍTULO VII

LA ORGANIZACIÓN

Artículo 43

Nombre y composición

Por el presente Convenio se crea un organismo que se denominará Organización de Aviación Civil Internacional. Se compone de una Asamblea, un Consejo y demás órganos que se estimen necesarios.

Artículo 44

Objetivos

Los fines y objetivos de la Organización son desarrollar los principios y técnicas de la navegación aérea internacional y fomentar la organización y el desenvolvimiento del transporte aéreo internacional, para:

a) lograr el desarrollo seguro y ordenado de la aviación civil internacional en todo el mundo;

b) fomentar las técnicas de diseño y manejo de aeronaves para fines pacíficos;

c) estimular el desarrollo de aerovías, aeropuertos e instalaciones y servicios de navegación aérea para la aviación civil internacional;

d) satisfacer las necesidades de los pueblos del mundo respecto a un transporte aéreo seguro, regular, eficaz y económico;

e) evitar el despilfarro económico producido por una competencia excesiva;

f) asegurar que se respeten plenamente los derechos de los Estados contratantes y que cada Estado contratante tenga oportunidad equitativa de explotar empresas de transporte aéreo internacional;

ЧАСТЬ II

МЕЖДУНАРОДНАЯ ОРГАНИЗАЦИЯ ГРАЖДАНСКОЙ АВИАЦИИ

ГЛАВА VII

ОРГАНИЗАЦИЯ

Статья 43

Название и структура

Настоящей Конвенцией учреждается организация под названием "Международная организация гражданской авиации". Она состоит из Ассамблеи, Совета и таких других органов, какие могут быть необходимы.

Статья 44

Цели

Целями и задачами Организации являются разработка принципов и методов международной аэронавигации и содействие планированию и развитию международного воздушного транспорта с тем, чтобы:

a) обеспечивать безопасное и упорядоченное развитие международной гражданской авиации во всем мире;

b) поощрять искусство конструирования и эксплуатации воздушных судов в мирных целях;

c) поощрять развитие воздушных трасс, аэропортов и аэронавигационных средств для международной гражданской авиации;

d) удовлетворять потребности народов мира в безопасном, регулярном, эффективном и экономичном воздушном транспорте;

e) предотвращать экономические потери, вызванные неразумной конкуренцией;

f) обеспечивать полное уважение прав Договаривающихся государств и справедливые для каждого Договаривающегося государства возможности использовать авиапредприятия, занятые в международном воздушном сообщении;

g) Avoid discrimination between contracting States;

h) Promote safety of flight in international air navigation;

i) Promote generally the development of all aspects of international civil aeronautics.

Article 45*

Permanent seat

The permanent seat of the Organization shall be at such place as shall be determined at the final meeting of the Interim Assembly of the Provisional International Civil Aviation Organization set up by the Interim Agreement on International Civil Aviation signed at Chicago on December 7, 1944. The seat may be temporarily transferred elsewhere by decision of the Council, and otherwise than temporarily by decision of the Assembly, such decision to be taken by the number of votes specified by the Assembly. The number of votes so specified will not be less than three-fifths of the total number of contracting States.

Article 46

First meeting of Assembly

The first meeting of the Assembly shall be summoned by the Interim Council of the above-mentioned Provisional Organization as soon as the Convention has come into force, to meet at a time and place to be decided by the Interim Council.

* This is the text of the Article as amended by the 8th Session of the Assembly on 14 June 1954; it entered into force on 16 May 1958. The original text read as follows:

"The permanent seat of the Organization shall be at such place as shall be determined at the final meeting of the Interim Assembly of the Provisional International Civil Aviation Organization set up by the Interim Agreement on International Civil Aviation signed at Chicago on December 7, 1944. The seat may be temporarily transferred elsewhere by decision of the Council."

g) éviter la discrimination entre États contractants;

h) promouvoir la sécurité de vol dans la navigation aérienne internationale;

i) promouvoir, en général, le développement de l'aéronautique civile internationale sous tous ses aspects.

Article 45*

Siège permanent

L'Organisation aura son siège permanent au lieu que fixera, au cours de sa dernière session, l'Assemblée intérimaire de l'Organisation provisoire de l'aviation civile internationale, établie par l'Accord intérimaire sur l'aviation civile internationale signé à Chicago le 7 décembre 1944. Ce siège pourra être transféré provisoirement en tout autre lieu par décision du Conseil, et autrement que de façon provisoire par décision de l'Assemblée, cette décision devant recueillir le nombre des suffrages fixé par l'Assemblée. Le nombre des suffrages ainsi fixé ne sera pas inférieur aux trois cinquièmes du nombre total des États contractants.

Article 46

Première session de l'Assemblée

La première session de l'Assemblée sera convoquée par le Conseil intérimaire de l'Organisation provisoire précitée dès l'entrée en vigueur de la présente Convention et se tiendra à la date et au lieu que fixera le Conseil intérimaire.

* Ce texte est celui de l'article modifié lors de la 8e session de l'Assemblée, le 14 juin 1954; il est entré en vigueur le 16 mai 1958. Le texte original se lisait comme suit:

«L'Organisation aura son siège permanent au lieu que fixera, au cours de sa dernière session, l'Assemblée intérimaire de l'Organisation provisoire de l'aviation civile internationale, établie par l'Accord intérimaire sur l'aviation civile internationale signé à Chicago le 7 décembre 1944. Ce siège pourra être transféré provisoirement en tout autre lieu par décision du Conseil.»

g) evitar discriminación entre Estados contratantes;

h) promover la seguridad de vuelo en la navegación aérea internacional;

i) promover, en general, el desarrollo de la aeronáutica civil internacional en todos sus aspectos.

Artículo 45*

Sede permanente

La Organización tendrá su sede permanente en el lugar que determine en su reunión final la Asamblea Interina de la Organización Provisional de Aviación Civil Internacional, creada por el Convenio Provisional de Aviación Civil Internacional, firmado en Chicago el 7 de diciembre de 1944. La sede podrá trasladarse temporalmente a otro lugar por decisión del Consejo, y no siendo con carácter provisional por decisión de la Asamblea. Para tomar tal decisión será necesario el número de votos que determine la Asamblea. El número de votos así determinado no podrá ser inferior a las tres quintas partes del total de los Estados contratantes.

Artículo 46

Primera reunión de la Asamblea

La primera reunión de la Asamblea será convocada por el Consejo Interino de la Organización Provisional precitada, tan pronto como entre en vigor el presente Convenio, para celebrarse en la fecha y lugar que designe el Consejo Interino.

* Este es el texto del artículo modificado por el 8° período de sesiones de la Asamblea el 14 de junio de 1954; entró en vigor el 16 de mayo de 1958. El texto original es el siguiente:

"La Organización tendrá su sede permanente en el lugar que determine en su reunión final la Asamblea Interina de la Organización Provisional de Aviación Civil Internacional, creada por el Convenio Provisional de Aviación Civil Internacional, firmado en Chicago el 7 de diciembre de 1944. La sede podrá trasladarse temporalmente a otro lugar por decisión del Consejo."

g) избегать дискриминации в отношении Договаривающихся государств;

h) способствовать безопасности полетов в международной аэронавигации;

i) оказывать общее содействие развитию международной гражданской аэронавтики во всех ее аспектах.

Статья 45*

Постоянное местопребывание

Постоянное местопребывание Организации находится в таком месте, какое определяется на заключительном заседании Временной ассамблеи Временной международной организации гражданской авиации, учрежденной Временным соглашением о международной гражданской авиации, подписанным в Чикаго 7 декабря 1944 года. Местопребывание может быть временно перенесено по решению Совета в любое другое место, а по-иному, чем временно, – по решению Ассамблеи, причем такое решение должно быть принято числом голосов, установленным Ассамблеей. Установленное таким образом число голосов будет составлять не менее трех пятых от общего числа Договаривающихся государств.

Статья 46

Первая сессия Ассамблеи

Первая сессия Ассамблеи созывается Временным советом вышеупомянутой Временной организации немедленно по вступлении в силу настоящей Конвенции в такое время и в таком месте, как это определит Временный совет.

* Текст данной статьи, измененный на 8-й сессии Ассамблеи 14 июня 1954 года, вступил в силу 16 мая 1958 года. Первоначальный текст гласил следующее.

"Постоянное местопребывание Организации находится в таком месте, какое определяется на заключительном заседании Временной ассамблеи Временной международной организации гражданской авиации, учрежденной Временным соглашением о международной гражданской авиации, подписанным в Чикаго 7 декабря 1944 года. Местопребывание может быть временно перенесено по решению Совета в любое другое место".

Article 47

Legal capacity

The Organization shall enjoy in the territory of each contracting State such legal capacity as may be necessary for the performance of its functions. Full juridical personality shall be granted wherever compatible with the constitution and laws of the State concerned.

CHAPTER VIII

THE ASSEMBLY

Article 48

Meetings of Assembly and voting

a) The Assembly shall meet not less than once in three years and shall be convened by the Council at a suitable time and place. An extraordinary meeting of the Assembly may be held at any time upon the call of the Council or at the request of not less than one-fifth of the total number of contracting States addressed to the Secretary General.*

b) All contracting States shall have an equal right to be represented at the meetings of the Assembly and each

* This is the text of the Article as amended by the 14th Session of the Assembly on 15 September 1962; it entered into force on 11 September 1975. The previous text of this Article as amended by the 8th Session of the Assembly on 14 June 1954 and which entered into force on 12 December 1956 read as follows:

"*a)* The Assembly shall meet not less than once in three years and shall be convened by the Council at a suitable time and place. Extraordinary meetings of the Assembly may be held at any time upon the call of the Council or at the request of any ten contracting States addressed to the Secretary General."

The original unamended text of the Convention read as follows:

"*a)* The Assembly shall meet annually and shall be convened by the Council at a suitable time and place. Extraordinary meetings of the Assembly may be held at any time upon the call of the Council or at the request of any ten contracting States addressed to the Secretary General."

Article 47

Capacité juridique

Sur le territoire de chaque État contractant, l'Organisation jouit de la capacité juridique nécessaire à l'exercice de ses fonctions. La pleine personnalité juridique lui est accordée partout où elle est compatible avec la constitution et les lois de l'État intéressé.

CHAPITRE VIII

L'ASSEMBLÉE

Article 48

Sessions de l'Assemblée et vote

a) L'Assemblée se réunit au moins une fois tous les trois ans et est convoquée par le Conseil en temps et lieu utiles. Elle peut tenir une session extraordinaire à tout moment sur convocation du Conseil ou sur requête adressée au Secrétaire général par un nombre d'États contractants égal au cinquième au moins du nombre total de ces États*.

b) Tous les États contractants ont un droit égal d'être représentés aux sessions de l'Assemblée et chaque État

* Ce texte est celui de l'article modifié lors de la 14e session de l'Assemblée, le 15 septembre 1962; il est entré en vigueur le 11 septembre 1975. Le texte précédent de cet article établi par l'Assemblée à sa 8e session, le 14 juin 1954, et qui est entré en vigueur le 12 décembre 1956 se lisait comme suit:

«*a)* L'Assemblée se réunit au moins une fois tous les trois ans et est convoquée par le Conseil en temps et lieu utiles. Elle peut tenir des sessions extraordinaires à tout moment sur convocation du Conseil ou sur requête adressée au Secrétaire général par dix États contractants.»

Le texte original de cet article se lisait comme suit:

«*a)* L'Assemblée se réunit chaque année et est convoquée par le Conseil en temps et lieu utiles. Elle peut tenir des sessions extraordinaires à tout moment sur convocation du Conseil ou sur requête adressée au Secrétaire général par dix États contractants.»

Artículo 47

Capacidad jurídica

La Organización gozará en el territorio de todo Estado contratante de la capacidad jurídica necesaria para el ejercicio de sus funciones. Se le concederá plena personalidad jurídica en cualquier lugar en que ello sea compatible con la constitución y las leyes del Estado de que se trate.

CAPÍTULO VIII

LA ASAMBLEA

Artículo 48

Reuniones de la Asamblea y votaciones

a) La Asamblea se reunirá por lo menos una vez cada tres años y será convocada por el Consejo en la fecha y lugar apropiados. La Asamblea podrá celebrar reuniones extraordinarias en todo momento por convocatoria del Consejo o a petición de no menos de la quinta parte del número total de Estados contratantes dirigida al Secretario General.*

b) Todos los Estados contratantes tendrán igual derecho a estar representados en las reuniones de la Asamblea y cada

Статья 47

Правоспособность

Организация пользуется на территории каждого Договаривающегося государства такой правоспособностью, какая может быть необходима для выполнения ее функций. Ей предоставляется полная правосубъектность повсюду, где это совместимо с конституцией и законодательством соответствующего государства.

ГЛАВА VIII

АССАМБЛЕЯ

Статья 48

Сессии Ассамблеи и голосование

a) Ассамблея собирается не реже одного раза в три года и созывается Советом в удобное время и в подходящем месте. Чрезвычайные сессии Ассамблеи могут проводиться в любое время по требованию Совета или по просьбе не менее одной пятой от общего числа Договаривающихся государств, направленной Генеральному секретарю.*

b) Все Договаривающиеся государства имеют равное право быть представленными на сессиях Ассамблеи и

* Este es el texto del artículo modificado por el 14º período de sesiones de la Asamblea el 15 de septiembre de 1962; entró en vigor el 11 de septiembre de 1975. El texto anterior de este artículo, modificado por el 8º período de sesiones de la Asamblea el 14 de junio de 1954 y que entró en vigor el 12 de diciembre de 1956, decía lo siguiente:

"*a)* La Asamblea se reunirá por lo menos una vez cada tres años y será convocada por el Consejo en la fecha y lugar apropiados. La Asamblea podrá celebrar reuniones extraordinarias en todo momento por convocatoria del Consejo o a petición de diez Estados contratantes dirigida al Secretario General."

El texto original del Convenio previo a la enmienda, decía lo siguiente:

"*a)* La Asamblea se reunirá anualmente y será convocada por el Consejo en la fecha y lugar apropiados. La Asamblea podrá celebrar reuniones extraordinarias en todo momento por convocatoria del Consejo o a petición de diez Estados contratantes dirigida al Secretario General."

* Текст данной статьи, измененный на 14-й сессии Ассамблеи 15 сентября 1962 года, вступил в силу 11 сентября 1975 года. Предыдущий текст этой статьи с поправкой, внесенной на 8-й сессии Ассамблеи 14 июня 1954 года, вступивший в силу 12 декабря 1956 года, гласил следующее:

"*a)* Ассамблея собирается не реже одного раза в три года и созывается Советом в удобное время и в подходящем месте. Чрезвычайные сессии Ассамблеи могут проводиться в любое время по требованию Совета или по просьбе любых десяти Договаривающихся государств, направленной Генеральному секретарю".

Первоначальный неизмененный текст Конвенции гласил следующее:

"*a)* Ассамблея собирается ежегодно и созывается Советом в удобное время и в подходящем месте. Чрезвычайные сессии Ассамблеи могут проводиться в любое время по требованию Совета или по просьбе любых десяти Договаривающихся государств, направленной Генеральному секретарю".

contracting State shall be entitled to one vote. Delegates representing contracting States may be assisted by technical advisers who may participate in the meetings but shall have no vote.

c) A majority of the contracting States is required to constitute a quorum for the meetings of the Assembly. Unless otherwise provided in this Convention, decisions of the Assembly shall be taken by a majority of the votes cast.

Article 49

Powers and duties of Assembly

The powers and duties of the Assembly shall be to:

a) Elect at each meeting its President and other officers;

b) Elect the contracting States to be represented on the Council, in accordance with the provisions of Chapter IX;

c) Examine and take appropriate action on the reports of the Council and decide on any matter referred to it by the Council;

d) Determine its own rules of procedure and establish such subsidiary commissions as it may consider to be necessary or desirable;

e) Vote annual budgets and determine the financial arrangements of the Organization, in accordance with the provisions of Chapter XII;*

f) Review expenditures and approve the accounts of the Organization;

g) Refer, at its discretion, to the Council, to subsidiary commissions, or to any other body any matter within its sphere of action;

contractant a droit à une voix. Les délégués représentant les États contractants peuvent être assistés de conseillers techniques, qui peuvent participer aux séances mais n'ont pas droit de vote.

c) La majorité des États contractants est requise pour constituer le quorum lors des réunions de l'Assemblée. Sauf dispositions contraires de la présente Convention, les décisions de l'Assemblée sont prises à la majorité des votes émis.

Article 49

Pouvoirs et obligations de l'Assemblée

Les pouvoirs et obligations de l'Assemblée sont les suivants:

a) élire à chaque session son Président et les autres membres du bureau;

b) élire les États contractants qui seront représentés au Conseil, conformément aux dispositions du Chapitre IX;

c) examiner les rapports du Conseil, leur donner la suite qui convient et statuer sur toute question dont elle est saisie par le Conseil;

d) établir son propre règlement intérieur et instituer les commissions subsidiaires qu'elle pourra juger nécessaires ou souhaitables;

e) voter des budgets annuels et déterminer le régime financier de l'Organisation, conformément aux dispositions du Chapitre XII*;

f) examiner les dépenses et approuver les comptes de l'Organisation;

g) renvoyer, à sa discrétion, au Conseil, aux commissions subsidiaires ou à tout autre organe, toute question de sa compétence;

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* This is the text of the Article as amended by the 8th Session of the Assembly on 14 June 1954; it entered into force on 12 December 1956. The original text read as follows:

"*e*) Vote an annual budget and determine the financial arrangements of the Organization, in accordance with the provisions of Chapter XII;".

* Ce texte est celui de l'article modifié lors de la 8e session de l'Assemblée, le 14 juin 1954; il est entré en vigueur le 12 décembre 1956. Le texte original se lisait comme suit:

«*e)* voter un budget annuel et déterminer le régime financier de l'Organisation, conformément aux dispositions du Chapitre XII;».

Estado contratante tendrá derecho a un voto. Los delegados que representen a los Estados contratantes podrán ser asistidos por asesores técnicos, quienes podrán participar en las reuniones, pero sin derecho a voto.

c) En las reuniones de la Asamblea, será necesaria la mayoría de los Estados contratantes para constituir quórum. Salvo disposición en contrario del presente Convenio, las decisiones de la Asamblea se tomarán por mayoría de votos emitidos.

Artículo 49

Facultades y deberes de la Asamblea

Serán facultades y deberes de la Asamblea:

a) elegir en cada reunión a su Presidente y otros dignatarios;

b) elegir los Estados contratantes que estarán representados en el Consejo, de acuerdo con las disposiciones del Capítulo IX;

c) examinar los informes del Consejo y actuar según convenga y decidir en cualquier asunto que éste someta a su consideración;

d) establecer su propio reglamento interno y crear las comisiones auxiliares que juzgue necesario y conveniente;

e) aprobar presupuestos anuales y determinar el régimen financiero de la Organización de acuerdo con lo dispuesto en el Capítulo XII;*

f) examinar los gastos y aprobar las cuentas de la Organización;

g) a su discreción referir al Consejo, a las comisiones auxiliares o a cualquier otro órgano toda cuestión que esté dentro de su esfera de acción;

каждое Договаривающееся государство имеет право на один голос. Делегатов, представляющих Договаривающиеся государства, могут сопровождать технические советники, которые могут участвовать в заседаниях, но не имеют права голоса.

c) На заседаниях Ассамблеи для получения кворума требуется большинство Договаривающихся государств. Если иное не предусмотрено настоящей Конвенцией, решения Ассамблеи принимаются большинством поданных голосов.

Статья 49

Права и обязанности Ассамблеи

Права и обязанности Ассамблеи состоят в том, чтобы:

a) избирать на каждой сессии ее Председателя и других должностных лиц;

b) избирать Договаривающиеся государства для представительства в Совете в соответствии с положениями Главы IX;

c) рассматривать отчеты Совета и принимать по ним соответствующие меры, а также выносить решения по любому вопросу, переданному ей Советом;

d) определять свои собственные правила процедуры и учреждать такие вспомогательные комиссии, какие она может счесть необходимыми или желательными;

e) утверждать путем голосования годовые бюджеты и определять финансовые мероприятия Организации в соответствии с положениями Главы XII*;

f) проверять расходы и утверждать финансовые отчеты Организации;

g) передавать по своему усмотрению Совету, вспомогательным комиссиям или какому-либо другому органу любой вопрос, входящий в ее сферу деятельности;

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* Este es el texto del artículo modificado por el 8° período de sesiones de la Asamblea el 14 de junio de 1954; entró en vigor el 12 de diciembre de 1956. El texto original es el siguiente:

"*e)* aprobar un presupuesto anual y determinar el régimen financiero de la Organización de acuerdo con lo dispuesto en el Capítulo XII;".

* Текст данной статьи, измененный на 8-й сессии Ассамблеи 14 июня 1954 года, вступил в силу 12 декабря 1956 года. Первоначальный текст гласил следующее:

"*e)* утверждать путем голосования годовой бюджет и определять финансовые мероприятия Организации в соответствии с положениями Главы XII;".

h) Delegate to the Council the powers and authority necessary or desirable for the discharge of the duties of the Organization and revoke or modify the delegations of authority at any time;

i) Carry out the appropriate provisions of Chapter XIII;

j) Consider proposals for the modification or amendment of the provisions of this Convention and, if it approves of the proposals, recommend them to the contracting States in accordance with the provisions of Chapter XXI;

k) Deal with any matter within the sphere of action of the Organization not specifically assigned to the Council.

CHAPTER IX

THE COUNCIL

Article 50

Composition and election of Council

a) The Council shall be a permanent body responsible to the Assembly. It shall be composed of thirty-six contracting States elected by the Assembly. An election shall be held at the first meeting of the Assembly and thereafter every three years, and the members of the Council so elected shall hold office until the next following election.*

b) In electing the members of the Council, the Assembly shall give adequate representation to 1) the States of chief importance in air transport; 2) the States not otherwise included which make the largest contribution to the provision of facilities for international civil air navigation; and 3) the States not otherwise included whose designation will insure that all

* This is the text of the Article as amended by the 28th (Extraordinary) Session of the Assembly on 26 October 1990; it entered into force on 28 November 2002. The original text of the Convention provided for twenty-one members of the Council. That text was subsequently amended by the 13th (Extraordinary) Session of the Assembly on 21 June 1961; this amendment entered into force on 17 July 1962 and provided for twenty-seven members of the Council. A second amendment was adopted by the 17th (A) (Extraordinary) Session of the Assembly on 12 March 1971; this amendment entered into force on 16 January 1973 and provided for thirty members of the Council. A third amendment was adopted by the 21st Session of the Assembly on 16 October 1974; this amendment entered into force on 15 February 1980 and provided for thirty-three members of the Council.

h) déléguer au Conseil les pouvoirs et l'autorité nécessaires ou souhaitables pour l'exercice des fonctions de l'Organisation et révoquer ou modifier à tout moment ces délégations de pouvoirs;

i) donner effet aux dispositions appropriées du Chapitre XIII;

j) examiner les propositions tendant à modifier ou à amender les dispositions de la présente Convention et, si elle les approuve, les recommander aux États contractants conformément aux dispositions du Chapitre XXI;

k) traiter de toute question relevant de la compétence de l'Organisation et dont le Conseil n'est pas expressément chargé.

CHAPITRE IX

LE CONSEIL

Article 50

Composition et élection du Conseil

a) Le Conseil est un organe permanent responsable devant l'Assemblée. Il se compose de trente-six États contractants élus par l'Assemblée. Il est procédé à une élection lors de la première session de l'Assemblée et ensuite tous les trois ans; les membres du Conseil ainsi élus restent en fonction jusqu'à l'élection suivante*.

b) En élisant les membres du Conseil, l'Assemblée donne une représentation adéquate: 1) aux États d'importance majeure dans le transport aérien; 2) aux États, non inclus à un autre titre, qui contribuent le plus à fournir des installations et services pour la navigation aérienne civile internationale; 3) aux États, non inclus à un autre titre, dont la désignation

* Ce texte est celui de l'article modifié lors de la 28e session (extraordinaire) de l'Assemblée, le 26 octobre 1990; il est entré en vigueur le 28 novembre 2002. Le texte original de la Convention prévoyait 21 sièges au Conseil. Il a été modifié lors de la 13e session (extraordinaire) de l'Assemblée, le 21 juin 1961; cet amendement est entré en vigueur le 17 juillet 1962 et prévoyait 27 sièges au Conseil. Un deuxième amendement, adopté lors de la 17e session (extraordinaire) de l'Assemblée, le 12 mars 1971, est entré en vigueur le 16 janvier 1973 et prévoyait 30 sièges au Conseil. Un troisième amendement, adopté lors de la 21e session de l'Assemblée, le 16 octobre 1974, est entré en vigueur le 15 février 1980 et prévoyait 33 sièges au Conseil.

h) delegar en el Consejo las facultades y autoridad necesarias o convenientes para el desempeño de las funciones de la Organización y revocar o modificar en cualquier momento tal delegación de autoridad;

i) llevar a efecto las disposiciones apropiadas del Capítulo XIII;

j) considerar las propuestas de modificación o enmienda de las disposiciones del presente Convenio y, si las aprueba, recomendarlas a los Estados contratantes de acuerdo con las disposiciones del Capítulo XXI;

k) entender en toda cuestión que esté dentro de la esfera de acción de la Organización, no asignada expresamente al Consejo.

CAPÍTULO IX

EL CONSEJO

Artículo 50

Composición y elección del Consejo

a) El Consejo será un órgano permanente, responsable ante la Asamblea. Se compondrá de treinta y seis Estados contratantes, elegidos por la Asamblea. Se efectuará una elección en la primera reunión de la Asamblea y, después, cada tres años. Los miembros del Consejo así elegidos permanecerán en funciones hasta la elección siguiente.*

b) Al elegir los miembros del Consejo, la Asamblea dará representación adecuada: 1) a los Estados de mayor importancia en el transporte aéreo; 2) a los Estados, no incluidos de otra manera, que contribuyan en mayor medida al suministro de instalaciones y servicios para la navegación aérea civil internacional; y 3) a los Estados, no incluidos de otra manera,

* Este es el texto del artículo modificado por el 28° período de sesiones (extraordinario) de la Asamblea el 26 de octubre de 1990; entró en vigor el 28 de noviembre de 2002. El texto inicial del Convenio preveía que el Consejo estaría integrado por veintiún miembros. Ese texto fue posteriormente modificado por el 13° período de sesiones (extraordinario) de la Asamblea el 21 de junio de 1961; dicha enmienda entró en vigor el 17 de julio de 1962 y disponía que el Consejo estaría integrado por veintisiete miembros; el 17° (A) período de sesiones (extraordinario) de la Asamblea adoptó una segunda enmienda el 12 de marzo de 1971. Esa enmienda entró en vigor el 16 de enero de 1973 y en ella se preveía que el Consejo estaría integrado por treinta miembros. El 21° período de sesiones de la Asamblea adoptó una tercera enmienda el 16 de octubre de 1974; esa enmienda entró en vigor el 15 de febrero de 1980 y en ella se preveía que el consejo estaría integrado por treinta y tres miembros.

h) наделять Совет правами и полномочиями, необходимыми или желательными для выполнения обязанностей Организации, и в любое время отменять или изменять такие делегированные полномочия;

i) выполнять соответствующие положения Главы XIII;

j) рассматривать предложения об изменениях положений настоящей Конвенции и поправках к ним и, в случае принятия ею этих предложений, рекомендовать их Договаривающимся государствам в соответствии с положениями Главы XXI;

k) рассматривать любые вопросы, входящие в сферу деятельности Организации, которые конкретно не вменены в обязанность Совету.

ГЛАВА IX

СОВЕТ

Статья 50

Состав и выборы Совета

a) Совет является постоянным органом, ответственным перед Ассамблеей. Он состоит из тридцати шести Договаривающихся государств, избранных Ассамблеей. Выборы проводятся на первой сессии Ассамблеи и в дальнейшем – через каждые три года; избранные таким образом члены Совета исполняют свои обязанности до следующих очередных выборов*.

b) При выборах членов Совета Ассамблея обеспечивает надлежащее представительство 1) государствам, играющим ведущую роль в воздушном транспорте; 2) государствам, не включенным на ином основании, которые вносят наибольший вклад в предоставление средств обслуживания для международной гражданской аэронавигации;

* Текст данной статьи, измененный на 28-й (чрезвычайной) сессии Ассамблеи 26 октября 1990 года, вступил в силу 28 ноября 2002 года. Первоначальный текст Конвенции предусматривал Совет в составе двадцати одного члена. Затем 21 июня 1961 года на 13-й (чрезвычайной) сессии Ассамблеи в текст была внесена поправка; эта поправка вступила в силу 17 июля 1962 года и предусматривала Совет в составе двадцати семи членов. Вторая поправка была принята 12 марта 1971 года на 17-й (А) (чрезвычайной) сессии Ассамблеи; эта поправка вступила в силу 16 января 1973 года и предусматривала Совет в составе тридцати членов. Третья поправка была принята 16 октября 1974 года на 21-й сессии Ассамблеи; эта поправка вступила в силу 15 февраля 1980 года и предусматривала Совет в составе тридцати трех членов.

the major geographic areas of the world are represented on the Council. Any vacancy on the Council shall be filled by the Assembly as soon as possible; any contracting State so elected to the Council shall hold office for the unexpired portion of its predecessor's term of office.

assure la représentation au Conseil de toutes les grandes régions géographiques du monde. L'Assemblée pourvoit aussitôt que possible à toute vacance au Conseil; tout État contractant ainsi élu au Conseil reste en fonction jusqu'à l'expiration du mandat de son prédécesseur.

c) No representative of a contracting State on the Council shall be actively associated with the operation of an international air service or financially interested in such a service.

c) Aucun représentant d'un État contractant au Conseil ne peut être activement associé à l'exploitation d'un service aérien international ou avoir des intérêts financiers dans un tel service.

Article 51

President of Council

The Council shall elect its President for a term of three years. He may be reelected. He shall have no vote. The Council shall elect from among its members one or more Vice Presidents who shall retain their right to vote when serving as acting President. The President need not be selected from among the representatives of the members of the Council but, if a representative is elected, his seat shall be deemed vacant and it shall be filled by the State which he represented. The duties of the President shall be to:

Article 51

Président du Conseil

Le Conseil élit son Président pour une période de trois ans. Celui-ci est rééligible. Il n'a pas droit de vote. Le Conseil élit parmi ses membres un ou plusieurs Vice-Présidents, qui conservent leur droit de vote lorsqu'ils remplissent les fonctions de Président. Le Président n'est pas nécessairement choisi parmi les représentants des membres du Conseil mais, si un représentant est élu, son siège est réputé vacant et l'État qu'il représentait pourvoit à la vacance. Les fonctions du Président sont les suivantes:

a) Convene meetings of the Council, the Air Transport Committee, and the Air Navigation Commission;

a) convoquer le Conseil, le Comité du transport aérien et la Commission de navigation aérienne;

b) Serve as representative of the Council; and

b) agir comme représentant du Conseil;

c) Carry out on behalf of the Council the functions which the Council assigns to him.

c) exercer au nom du Conseil les fonctions que celui-ci lui assigne.

Article 52

Voting in Council

Decisions by the Council shall require approval by a majority of its members. The Council may delegate authority with respect to any particular matter to a committee of its members. Decisions of any committee of the Council may be appealed to the Council by any interested contracting State.

Article 52

Vote au Conseil

Les décisions du Conseil sont prises à la majorité de ses membres. Le Conseil peut déléguer ses pouvoirs, pour tout sujet déterminé, à un comité composé de membres du Conseil. Les décisions de tout comité du Conseil peuvent être portées en appel devant le Conseil par tout État contractant intéressé.

Article 53

Participation without a vote

Any contracting State may participate, without a vote, in the consideration by the Council and by its committees and commissions of any question which especially affects its

Article 53

Participation sans droit de vote

Tout État contractant peut participer, sans droit de vote, à l'examen par le Conseil ainsi que par ses comités et commissions de toute question qui touche particulièrement ses intérêts.

cuya designación asegure la representación en el Consejo de todas las principales regiones geográficas del mundo. Toda vacante en el Consejo será cubierta por la Asamblea lo antes posible; el Estado contratante así elegido para el Consejo permanecerá en funciones hasta la expiración del mandato de su predecesor.

c) Ningún representante de un Estado contratante en el Consejo podrá estar activamente vinculado con la explotación de un servicio aéreo internacional, o estar financieramente interesado en tal servicio.

Artículo 51

Presidente del Consejo

El Consejo elegirá su Presidente por un período de tres años. Puede ser reelegido. No tendrá derecho a voto. El Consejo elegirá entre sus miembros uno a más vicepresidentes, quienes conservarán su derecho a voto cuando actúen como Presidente. No se requiere que el Presidente sea elegido entre los representantes de los miembros del Consejo pero si se elige a un representante su puesto se considerará vacante y será cubierto por el Estado que representaba. Las funciones del Presidente serán:

a) convocar las reuniones del Consejo, del Comité de Transporte Aéreo y de la Comisión de Aeronavegación;

b) actuar como representante del Consejo; y

c) desempeñar en nombre del Consejo las funciones que éste le asigne.

Artículo 52

Votaciones en el Consejo

Las decisiones del Consejo deberán ser aprobadas por mayoría de sus miembros. El Consejo podrá delegar su autoridad, respecto a determinada cuestión, en un comité elegido entre sus miembros. Todo Estado contratante interesado podrá apelar ante el Consejo de las decisiones tomadas por cualquiera de los comités del Consejo.

Artículo 53

Participación sin derecho a voto

Todo Estado contratante puede participar, sin derecho a voto, en la consideración por el Consejo y por sus comités y comisiones de toda cuestión que afecte especialmente a sus

и 3) государствам, не включенным на ином основании, назначение которых обеспечит представительство в Совете всех основных географических районов мира. Любая вакансия в Совете заполняется Ассамблеей в возможно кратчайший срок; любое Договаривающееся государство, избранное таким образом в Совет, исполняет свои обязанности до истечения срока полномочий своего предшественника.

c) Ни один представитель Договаривающегося государства в Совете не будет активно связан с эксплуатацией международных воздушных сообщений или иметь финансовую заинтересованность в таких сообщениях.

Статья 51

Президент Совета

Совет избирает своего Президента сроком на три года. Он может быть переизбран. Он не имеет права голоса. Совет избирает из числа своих членов одного или нескольких вице-президентов, которые сохраняют за собой право голоса во время исполнения обязанностей Президента. Президент не обязательно избирается из числа представителей членов Совета, но если такой представитель избран на пост Президента, его место считается вакантным и занимается государством, которое он представлял. Обязанности Президента состоят в том, чтобы:

a) созывать заседания Совета, Авиатранспортного комитета и Аэронавигационной комиссии;

b) действовать в качестве представителя Совета;

c) выполнять от имени Совета те функции, которые возлагает на него Совет.

Статья 52

Голосование в Совете

Решения Совета требуют одобрения большинством его членов. Совет может делегировать свои полномочия по какому-либо отдельному вопросу комитету, образованному из его членов. Решения любого комитета Совета могут быть обжалованы в Совет любым заинтересованным Договаривающимся государством.

Статья 53

Участие без права голоса

Любое Договаривающееся государство может участвовать без права голоса в рассмотрении Советом и его комитетами и комиссиями любого вопроса, особо затраги-

interests. No member of the Council shall vote in the consideration by the Council of a dispute to which it is a party.

Article 54

Mandatory functions of Council

The Council shall:

a) Submit annual reports to the Assembly;

b) Carry out the directions of the Assembly and discharge the duties and obligations which are laid on it by this Convention;

c) Determine its organization and rules of procedure;

d) Appoint and define the duties of an Air Transport Committee, which shall be chosen from among the representatives of the members of the Council, and which shall be responsible to it;

e) Establish an Air Navigation Commission, in accordance with the provisions of Chapter X;

f) Administer the finances of the Organization in accordance with the provisions of Chapters XII and XV;

g) Determine the emoluments of the President of the Council;

h) Appoint a chief executive officer who shall be called the Secretary General, and make provision for the appointment of such other personnel as may be necessary, in accordance with the provisions of Chapter XI;

i) Request, collect, examine and publish information relating to the advancement of air navigation and the operation of international air services, including information about the costs of operation and particulars of subsidies paid to airlines from public funds;

j) Report to contracting States any infraction of this Convention, as well as any failure to carry out recommendations or determinations of the Council;

k) Report to the Assembly any infraction of this Convention where a contracting State has failed to take appropriate action within a reasonable time after notice of the infraction;

l) Adopt, in accordance with the provisions of Chapter VI of this Convention, international standards and

Aucun membre du Conseil ne peut voter lors de l'examen par le Conseil d'un différend auquel il est partie.

Article 54

Fonctions obligatoires du Conseil

Le Conseil doit:

a) soumettre des rapports annuels à l'Assemblée;

b) exécuter les instructions de l'Assemblée et s'acquitter des fonctions et obligations que lui assigne la présente Convention;

c) arrêter son organisation et son règlement intérieur;

d) nommer un Comité du transport aérien dont les membres sont choisis parmi les représentants des membres du Conseil et qui est responsable devant celui-ci et définir les fonctions de ce Comité;

e) instituer une Commission de navigation aérienne, conformément aux dispositions du Chapitre X;

f) gérer les finances de l'Organisation conformément aux dispositions des Chapitres XII et XV;

g) fixer les émoluments du Président du Conseil;

h) nommer un agent exécutif principal, qui porte le titre de Secrétaire général, et prendre des dispositions pour la nomination de tout autre personnel nécessaire, conformément aux dispositions du Chapitre XI;

i) demander, réunir, examiner et publier des renseignements relatifs au progrès de la navigation aérienne et à l'exploitation des services aériens internationaux, y compris des renseignements sur les coûts d'exploitation et sur le détail des subventions versées aux entreprises de transport aérien et provenant de fonds publics;

j) signaler aux États contractants toute infraction à la présente Convention, ainsi que tout cas de non-application de recommandations ou décisions du Conseil;

k) rendre compte à l'Assemblée de toute infraction à la présente Convention, lorsqu'un État contractant n'a pas pris les mesures appropriées dans un délai raisonnable après notification de l'infraction;

l) adopter, conformément aux dispositions du Chapitre VI de la présente Convention, des normes et des

intereses. Ningún miembro del Consejo podrá votar en la consideración por el Consejo de una controversia en la que aquél sea parte.

Artículo 54

Funciones obligatorias del Consejo

El Consejo debe:

a) someter informes anuales a la Asamblea;

b) ejecutar las instrucciones de la Asamblea y cumplir con los deberes y obligaciones que le asigna el presente Convenio;

c) determinar su organización y reglamento interno;

d) nombrar y definir las funciones de un Comité de Transporte Aéreo, que será elegido entre los representantes de los miembros del Consejo y ante el cual será responsable el Comité;

e) establecer una Comisión de Aeronavegación, de acuerdo con las disposiciones del Capítulo X;

f) administrar los fondos de la Organización, de acuerdo con las disposiciones de los Capítulos XII y XV;

g) fijar los emolumentos del Presidente del Consejo;

h) nombrar un funcionario ejecutivo principal, que se denominará Secretario General, y adoptar medidas para el nombramiento del personal necesario, de acuerdo con las disposiciones del Capítulo XI;

i) solicitar, compilar, examinar y publicar información relativa al progreso de la navegación aérea y a la operación de los servicios aéreos internacionales, incluyendo información sobre los costos de explotación y datos sobre subvenciones pagadas por el erario público a las líneas aéreas;

j) comunicar a los Estados contratantes toda infracción del presente Convenio, así como toda inobservancia de las recomendaciones o decisiones del Consejo;

k) comunicar a la Asamblea toda infracción del presente Convenio, cuando un Estado contratante no haya tomado las medidas pertinentes en un lapso razonable, después de notificada la infracción;

l) adoptar, normas y métodos recomendados internacionales, de acuerdo con las disposiciones del Capítulo VI

вающего его интересы. Никто из членов Совета не участвует в голосовании при рассмотрении Советом спора, стороной которого он является.

Статья 54

Обязательные функции Совета

Совет:

a) представляет Ассамблее годовые доклады;

b) выполняет указания Ассамблеи и выполняет обязанности и обязательства, возложенные на него настоящей Конвенцией;

c) определяет свою организационную структуру и свои правила процедуры;

d) назначает Авиатранспортный комитет, который формируется из числа представителей членов Совета и ответственен перед ним, и определяет его обязанности;

e) учреждает Аэронавигационную комиссию в соответствии с положениями Главы X;

f) распоряжается финансами Организации в соответствии с положениями Глав XII и XV;

g) определяет жалованье Президента Совета;

h) назначает главное исполнительное должностное лицо, именуемое Генеральным секретарем, а также в соответствии с положениями Главы XI принимает меры для назначения такого другого персонала, какой может оказаться необходимым;

i) запрашивает, собирает, изучает и публикует сведения, относящиеся к развитию аэронавигации и эксплуатации международных воздушных сообщений, включая сведения об эксплуатационных расходах и подробные данные о субсидиях, выплачиваемых авиапредприятиям из государственных фондов;

j) сообщает Договаривающимся государствам о любом нарушении настоящей Конвенции, а также о любом невыполнении рекомендаций или решений Совета;

k) докладывает Ассамблее о любом нарушении настоящей Конвенции, когда Договаривающееся государство не приняло надлежащих мер в течение разумного срока после уведомления его о нарушении;

l) принимает в соответствии с положениями Главы VI настоящей Конвенции международные стан-

recommended practices; for convenience, designate them as Annexes to this Convention; and notify all contracting States of the action taken;

m) Consider recommendations of the Air Navigation Commission for amendment of the Annexes and take action in accordance with the provisions of Chapter XX;

n) Consider any matter relating to the Convention which any contracting State refers to it.

Article 55

Permissive functions of Council

The Council may:

a) Where appropriate and as experience may show to be desirable, create subordinate air transport commissions on a regional or other basis and define groups of states or airlines with or through which it may deal to facilitate the carrying out of the aims of this Convention;

b) Delegate to the Air Navigation Commission duties additional to those set forth in the Convention and revoke or modify such delegations of authority at any time;

c) Conduct research into all aspects of air transport and air navigation which are of international importance, communicate the results of its research to the contracting States, and facilitate the exchange of information between contracting States on air transport and air navigation matters;

d) Study any matters affecting the organization and operation of international air transport, including the international ownership and operation of international air services on trunk routes, and submit to the Assembly plans in relation thereto;

e) Investigate, at the request of any contracting State, any situation which may appear to present avoidable obstacles to the development of international air navigation; and, after such investigation, issue such reports as may appear to it desirable.

pratiques recommandées internationales; pour des raisons de commodité, les désigner comme Annexes à la présente Convention et notifier à tous les États contractants les dispositions prises;

m) examiner les recommandations de la Commission de navigation aérienne tendant à amender les Annexes et prendre toutes mesures utiles conformément aux dispositions du Chapitre XX;

n) examiner toute question relative à la Convention dont il est saisi par un État contractant.

Article 55

Fonctions facultatives du Conseil

Le Conseil peut:

a) s'il y a lieu et lorsque cela se révèle souhaitable à l'expérience, créer, sur une base régionale ou autre, des commissions de transport aérien subordonnées et définir des groupes d'États ou d'entreprises de transport aérien avec lesquels ou par l'intermédiaire desquels il pourra s'employer à faciliter la réalisation des fins de la présente Convention;

b) déléguer des fonctions à la Commission de navigation aérienne en sus de celles que prévoit la Convention et révoquer ou modifier à tout moment ces délégations de pouvoirs;

c) mener des recherches sur tous les aspects du transport aérien et de la navigation aérienne qui sont d'importance internationale, communiquer les résultats de ses recherches aux États contractants et faciliter l'échange, entre États contractants, de renseignements sur des questions de transport aérien et de navigation aérienne;

d) étudier toutes questions touchant l'organisation et l'exploitation du transport aérien international, y compris la propriété et l'exploitation internationales de services aériens internationaux sur les routes principales, et soumettre à l'Assemblée des propositions s'y rapportant;

e) enquêter, à la demande d'un État contractant, sur toute situation qui paraîtrait comporter, pour le développement de la navigation aérienne internationale, des obstacles qui peuvent être évités et, après enquête, publier les rapports qui lui semblent indiqués.

del presente Convenio, designándolos, por razones de conveniencia, como Anexos al presente Convenio, y notificar a todos los Estados contratantes las medidas adoptadas;

m) considerar las recomendaciones de la Comisión de Aeronavegación para enmendar los Anexos y tomar medidas de acuerdo con las disposiciones del Capítulo XX;

n) examinar todo asunto relativo al Convenio que le someta a su consideración un Estado contratante.

Artículo 55

Funciones facultativas del Consejo

El Consejo puede:

a) cuando sea conveniente y lo aconseje la experiencia, crear comisiones subordinadas de transporte aéreo sobre base regional o de otro modo y designar grupos de Estados o líneas aéreas con los cuales, o por su conducto, pueda tratar para facilitar la realización de los fines del presente Convenio;

b) delegar en la Comisión de Aeronavegación otras funciones, además de las previstas en el presente Convenio, y revocar o modificar en cualquier momento tal delegación;

c) realizar investigaciones en todos los aspectos del transporte aéreo y de la navegación aérea que sean de importancia internacional, comunicar los resultados de sus investigaciones a los Estados contratantes y facilitar entre éstos el intercambio de información sobre asuntos de transporte aéreo y navegación aérea;

d) estudiar todos los asuntos relacionados con la organización y explotación del transporte aéreo internacional, incluso la propiedad y explotación internacionales de servicios aéreos internacionales en las rutas troncales, y presentar a la Asamblea proyectos sobre tales cuestiones;

e) investigar, a petición de cualquier Estado contratante, toda situación que pueda presentar obstáculos evitables al desarrollo de la navegación aérea internacional y, después de tal investigación, emitir los informes que considere convenientes.

дарты и рекомендуемую практику; для удобства именует их Приложениями к настоящей Конвенции; и уведомляет все Договаривающиеся государства о принятых мерах;

m) рассматривает рекомендации Аэронавигационной комиссии по изменению Приложений и принимает меры в соответствии с положениями Главы XX;

n) рассматривает любой вопрос, относящийся к Конвенции, который передает ему любое Договаривающееся государство.

Статья 55

Факультативные функции Совета

Совет может:

a) когда это целесообразно и, как может показать опыт, желательно, создавать на региональной или иной основе подчиненные ему авиатранспортные комиссии и определять группы государств или авиапредприятий, с помощью или через посредство которых Совет может способствовать осуществлению целей настоящей Конвенции;

b) передавать Аэронавигационной комиссии обязанности в дополнение к тем, которые изложены в Конвенции, и в любое время отменять или изменять такие делегированные полномочия;

c) проводить исследования по всем аспектам воздушного транспорта и аэронавигации, имеющим международное значение, сообщать результаты своих исследований Договаривающимся государствам и способствовать обмену информацией между Договаривающимися государствами по вопросам воздушного транспорта и аэронавигации;

d) изучать любые вопросы, влияющие на организацию и эксплуатацию международного воздушного транспорта, включая вопросы международной собственности и эксплуатации международных воздушных сообщений по основным маршрутам, и представлять Ассамблее предложения по этим вопросам;

e) расследовать по просьбе любого Договаривающегося государства любую ситуацию, при которой могут возникать устранимые препятствия для развития международной аэронавигации, и после этого расследования выпускать такие отчеты, которые он может счесть желательными.

CHAPTER X

THE AIR NAVIGATION COMMISSION

Article 56

Nomination and appointment of Commission

The Air Navigation Commission shall be composed of nineteen members appointed by the Council from among persons nominated by contracting States. These persons shall have suitable qualifications and experience in the science and practice of aeronautics. The Council shall request all contracting States to submit nominations. The President of the Air Navigation Commission shall be appointed by the Council.*

Article 57

Duties of Commission

The Air Navigation Commission shall:

a) Consider, and recommend to the Council for adoption, modifications of the Annexes to this Convention;

b) Establish technical subcommissions on which any contracting State may be represented, if it so desires;

c) Advise the Council concerning the collection and communication to the contracting States of all information which it considers necessary and useful for the advancement of air navigation.

* This is the text of the Article as amended by the 27th Session of the Assembly on 6 October 1989; it entered into force on 18 April 2005. The original text of the Convention provided for twelve members of the Air Navigation Commission. That text was subsequently amended by the 18th Session of the Assembly on 7 July 1971; this amendment entered into force on 19 December 1974 and provided for fifteen members of the Air Navigation Commission.

CHAPITRE X

LA COMMISSION DE NAVIGATION AÉRIENNE

Article 56

Nomination de la Commission

La Commission de navigation aérienne se compose de dix-neuf membres nommés par le Conseil parmi des personnes proposées par des États contractants. Ces personnes doivent posséder les titres et qualités, ainsi que l'expérience voulus en matière de science et de pratique de l'aéronautique. Le Conseil invite tous les États contractants à soumettre des candidatures. Le Président de la Commission de navigation aérienne est nommé par le Conseil*.

Article 57

Fonctions de la Commission

La Commission de navigation aérienne doit:

a) examiner et recommander au Conseil, pour adoption, des modifications aux Annexes à la présente Convention;

b) instituer des sous-commissions techniques, auxquelles tout État contractant peut être représenté, s'il le désire;

c) donner des avis au Conseil sur la collecte et la communication aux États contractants de tous les renseignements qu'elle juge nécessaires et utiles au progrès de la navigation aérienne.

* Ce texte est celui de l'article modifié lors de la 27e session de l'Assemblée, le 6 octobre 1989; il est entré en vigueur le 18 avril 2005. Le texte original de la Convention prévoyait 12 sièges à la Commission de navigation aérienne. Il a été modifié lors de la 18e session de l'Assemblée, le 7 juillet 1971; cet amendement est entré en vigueur le 19 décembre 1974 et prévoyait 15 sièges à la Commission de navigation aérienne.

CAPÍTULO X

LA COMISIÓN DE AERONAVEGACIÓN

Artículo 56

Nombramiento de la Comisión

La Comisión de Aeronavegación se compondrá de diecinueve miembros, nombrados por el Consejo entre las personas propuestas por los Estados contratantes. Dichas personas deberán poseer las calificaciones y experiencia apropiadas en la ciencia y práctica aeronáuticas. El Consejo invitará a todos los Estados contratantes a que presenten candidaturas. El Presidente de la Comisión de Aeronavegación será nombrado por el Consejo.*

Artículo 57

Obligaciones de la Comisión

La Comisión de Aeronavegación debe:

a) considerar y recomendar al Consejo, a efectos de adopción, modificaciones a los Anexos del presente Convenio;

b) establecer subcomisiones técnicas en las que podrá estar representado todo Estado contratante, si así lo desea;

c) asesorar al Consejo sobre la compilación y comunicación a los Estados contratantes de toda información que considere necesaria y útil para el progreso de la navegación aérea.

* Texto resultante de la modificación realizada por el 27° período de sesiones de la Asamblea el 6 de octubre de 1989, que entró en vigor el 18 de abril del 2005. El texto inicial del Convenio disponía que la Comisión de Aeronavegación estaría integrada por doce miembros. Luego ese texto fue enmendado por el 18° período de sesiones de la Asamblea el 7 de julio de 1971; esa enmienda entró en vigor el 19 de diciembre de 1974 y en ella se disponía que la Comisión de Aeronavegación estaría integrada por quince miembros.

ГЛАВА X

АЭРОНАВИГАЦИОННАЯ КОМИССИЯ

Статья 56

Выдвижение и назначение членов Комиссии

Аэронавигационная комиссия состоит из девятнадцати членов, назначенных Советом из числа лиц, выдвинутых Договаривающимися государствами. Эти лица обладают соответствующей квалификацией и опытом в научной и практической областях аэронавтики. Совет обращается ко всем Договаривающимся государствам с просьбой о представлении кандидатур. Председатель Аэронавигационной комиссии назначается Советом*.

Статья 57

Обязанности Комиссии

Аэронавигационная комиссия:

a) рассматривает предложения об изменении Приложений к настоящей Конвенции и рекомендует их Совету для принятия;

b) учреждает технические подкомиссии, в которых может быть представлено любое Договаривающееся государство, если оно того пожелает;

c) консультирует Совет относительно сбора и передачи Договаривающимся государствам всех сведений, которые она сочтет необходимыми и полезными для развития аэронавигации.

* Текст данной статьи, измененный на 27-й сессии Ассамблеи 6 октября 1989 года, вступил в силу 18 апреля 2005 года. Первоначальный текст Конвенции предусматривал Аэронавигационную комиссию в составе двенадцати членов. Затем 7 июля 1971 года на 18-й сессии Ассамблеи в данный текст была внесена поправка; эта поправка вступила в силу 19 декабря 1974 года и предусматривала Аэронавигационную комиссию в составе пятнадцати членов.

CHAPTER XI

PERSONNEL

Article 58

Appointment of personnel

Subject to any rules laid down by the Assembly and to the provisions of this Convention, the Council shall determine the method of appointment and of termination of appointment, the training, and the salaries, allowances, and conditions of service of the Secretary General and other personnel of the Organization, and may employ or make use of the services of nationals of any contracting State.

Article 59

International character of personnel

The President of the Council, the Secretary General, and other personnel shall not seek or receive instructions in regard to the discharge of their responsibilities from any authority external to the Organization. Each contracting State undertakes fully to respect the international character of the responsibilities of the personnel and not to seek to influence any of its nationals in the discharge of their responsibilities.

Article 60

Immunities and privileges of personnel

Each contracting State undertakes, so far as possible under its constitutional procedure, to accord to the President of the Council, the Secretary General, and the other personnel of the Organization, the immunities and privileges which are accorded to corresponding personnel of other public international organizations. If a general international agreement on the immunities and privileges of international civil servants is arrived at, the immunities and privileges accorded to the President, the Secretary General, and the other personnel of the Organization shall be the immunities and privileges accorded under that general international agreement.

CHAPITRE XI

PERSONNEL

Article 58

Nomination du personnel

Sous réserve des règles établies par l'Assemblée et des dispositions de la présente Convention, le Conseil détermine le mode de nomination et de cessation d'emploi, la formation et les traitements, indemnités et conditions de service du Secrétaire général et des autres membres du personnel de l'Organisation et peut employer des ressortissants de tout État contractant ou utiliser leurs services.

Article 59

Caractère international du personnel

Le Président du Conseil, le Secrétaire général et les autres membres du personnel ne doivent ni solliciter ni accepter d'instructions, dans l'exécution de leur tâche, d'aucune autorité extérieure à l'Organisation. Chaque État contractant s'engage à respecter pleinement le caractère international des fonctions du personnel et à ne chercher à influencer aucun de ses ressortissants dans l'exécution de sa tâche.

Article 60

Immunités et privilèges du personnel

Chaque État contractant s'engage, dans la mesure où son régime constitutionnel le permet, à accorder au Président du Conseil, au Secrétaire général et aux autres membres du personnel de l'Organisation les immunités et privilèges accordés au personnel correspondant d'autres organisations internationales publiques. Si un accord international général sur les immunités et privilèges des fonctionnaires internationaux intervient, les immunités et privilèges accordés au Président du Conseil, au Secrétaire général et aux autres membres du personnel de l'Organisation seront les immunités et privilèges accordés aux termes de cet accord international général.

CAPÍTULO XI

PERSONAL

Artículo 58

Nombramiento del personal

Con sujeción a los reglamentos establecidos por la Asamblea y a las disposiciones del presente Convenio, el Consejo determinará el método de nombramiento y cese en el servicio, la formación profesional, los sueldos, bonificaciones y condiciones de empleo del Secretario General y demás personal de la Organización, pudiendo emplear o utilizar los servicios de súbditos de cualquier Estado contratante.

Artículo 59

Carácter internacional del personal

En el desempeño de sus funciones, el Presidente del Consejo, el Secretario General y demás personal no deberán solicitar ni recibir instrucciones de ninguna autoridad externa a la Organización. Cada Estado contratante se compromete plenamente a respetar el carácter internacional de las funciones del personal y a no tratar de ejercer influencia sobre sus súbditos en el desempeño de sus funciones.

Artículo 60

Inmunidades y privilegios del personal

Cada Estado contratante se compromete, en la medida que lo permita su sistema constitucional, a conceder al Presidente del Consejo, al Secretario General y demás personal de la Organización las inmunidades y privilegios que se concedan al personal correspondiente de otros organismos internacionales públicos. Si se llegase a un acuerdo internacional general sobre las inmunidades y privilegios de los funcionarios civiles internacionales, las inmunidades y privilegios concedidos al Presidente, al Secretario General y demás personal de la Organización, serán los otorgados de conformidad con dicho acuerdo internacional general.

ГЛАВА XI

ПЕРСОНАЛ

Статья 58

Назначение персонала

С учетом правил, установленных Ассамблеей, и положений настоящей Конвенции Совет определяет порядок назначения и освобождения от должности, подготовку, оклады, пособия и условия службы Генерального секретаря и другого персонала Организации и может нанимать на работу граждан любого Договаривающегося государства или пользоваться их услугами.

Статья 59

Международный характер персонала

Президент Совета, Генеральный секретарь и другой персонал не должны запрашивать или получать инструкции от какой-либо власти, посторонней для Организации, в отношении исполнения своих обязанностей. Каждое Договаривающееся государство обязуется полностью уважать международный характер обязанностей персонала и не пытаться влиять на кого-либо из своих граждан в отношении исполнения ими своих обязанностей.

Статья 60

Иммунитеты и привилегии персонала

Каждое Договаривающееся государство обязуется, насколько это позволяет его конституционный порядок, предоставлять Президенту Совета, Генеральному секретарю и другому персоналу Организации иммунитеты и привилегии, предоставляемые соответствующему персоналу других международных межгосударственных организаций. Если будет заключено общее международное соглашение об иммунитетах и привилегиях международных гражданских служащих, то иммунитеты и привилегии, предоставляемые Президенту, Генеральному секретарю и другому персоналу Организации, должны соответствовать иммунитетам и привилегиям, предоставляемым таким общим международным соглашением.

CHAPTER XII

FINANCE

Article 61*

Budget and apportionment of expenses

The Council shall submit to the Assembly annual budgets, annual statements of accounts and estimates of all receipts and expenditures. The Assembly shall vote the budgets with whatever modification it sees fit to prescribe, and, with the exception of assessments under Chapter XV to States consenting thereto, shall apportion the expenses of the Organization among the contracting States on the basis which it shall from time to time determine.

Article 62

Suspension of voting power

The Assembly may suspend the voting power in the Assembly and in the Council of any contracting State that fails to discharge within a reasonable period its financial obligations to the Organization.

Article 63

Expenses of delegations and other representatives

Each contracting State shall bear the expenses of its own delegation to the Assembly and the remuneration, travel, and other expenses of any person whom it appoints to serve on the Council, and of its nominees or representatives on any subsidiary committees or commissions of the Organization.

* This is the text of the Article as amended by the 8th Session of the Assembly on 14 June 1954; it entered into force on 12 December 1956. The original text read as follows:

"The Council shall submit to the Assembly an annual budget, annual statements of accounts and estimates of all receipts and expenditures. The Assembly shall vote the budget with whatever modification it sees fit to prescribe, and, with the exception of assessments under Chapter XV to States consenting thereto, shall apportion the expenses of the Organization among the contracting States on the basis which it shall from time to time determine."

CHAPITRE XII

FINANCES

Article 61*

Budget et répartition des dépenses

Le Conseil soumet à l'Assemblée des budgets annuels, ainsi que des états de comptes et des prévisions de recettes et de dépenses annuelles. L'Assemblée vote les budgets en y apportant les modifications qu'elle juge à propos et, exception faite des contributions fixées en vertu du Chapitre XV à l'égard des États qui y consentent, répartit les dépenses de l'Organisation entre les États contractants sur la base qu'elle détermine en tant que de besoin.

Article 62

Suspension du droit de vote

L'Assemblée peut suspendre le droit de vote à l'Assemblée et au Conseil de tout État contractant qui ne s'acquitte pas, dans un délai raisonnable, de ses obligations financières envers l'Organisation.

Article 63

Dépenses des délégations et des autres représentants

Chaque État contractant prend à sa charge les dépenses de sa propre délégation à l'Assemblée ainsi que la rémunération, les frais de déplacement et autres dépenses de toute personne qu'il nomme pour siéger au Conseil, et des personnes qu'il propose comme membres ou désigne comme représentants dans tous comités ou commissions subsidiaires de l'Organisation.

* Ce texte est celui de l'article modifié lors de la 8e session de l'Assemblée, le 14 juin 1954; il est entré en vigueur le 12 décembre 1956. Le texte original se lisait comme suit:

«Le Conseil soumet à l'Assemblée un budget annuel, des états de comptes annuels et des prévisions annuelles de toutes recettes et dépenses. L'Assemblée vote le budget en y apportant les modifications qu'elle juge à propos et, exception faite des contributions fixées en vertu du Chapitre XV à l'égard des États qui y consentent, répartit les dépenses de l'Organisation entre les États contractants sur la base qu'elle détermine en tant que de besoin.»

CAPÍTULO XII

FINANZAS

Artículo 61*

Presupuesto y distribución de gastos

El Consejo someterá a la Asamblea presupuestos, estados de cuentas y cálculos de todos los ingresos y egresos por períodos anuales. La Asamblea aprobará los presupuestos con las modificaciones que considere conveniente introducir y, a excepción del prorrateo de contribuciones que se haga de acuerdo con el Capítulo XV entre los Estados que consientan en ello, distribuirá los gastos de la Organización entre los Estados contratantes en la forma que oportunamente determine.

Artículo 62

Suspensión del derecho de voto

La Asamblea puede suspender el derecho de voto en la Asamblea y en el Consejo a todo Estado contratante que, en un período razonable, no cumpla sus obligaciones financieras para con la Organización.

Artículo 63

Gastos de las delegaciones y otros representantes

Cada Estado contratante sufragará los gastos de su propia delegación en la Asamblea y la remuneración, gastos de viaje y otros de toda persona que nombre para actuar en el Consejo, así como de las que representen o actúen por designación de tal Estado en cualquier comité o comisión subsidiaria de la Organización.

* Este es el texto del artículo modificado por el 8° período de sesiones de la Asamblea el 14 de junio de 1954; entró en vigor el 12 de diciembre de 1956. El texto original es el siguiente:

"El Consejo someterá a la Asamblea un presupuesto anual, estados de cuentas y cálculos anuales de todos los ingresos y egresos. La Asamblea votará el presupuesto con las modificaciones que considere conveniente introducir y, a excepción del prorrateo de contribuciones que se haga de acuerdo con el Capítulo XV entre los Estados que consientan en ello, distribuirá los gastos de la Organización entre los Estados contratantes en la forma que oportunamente determine."

ГЛАВА XII

ФИНАНСЫ

Статья 61*

Бюджет и распределение расходов

Совет представляет Ассамблее годовые бюджеты, годовые отчеты о состоянии счетов и предположения по всем поступлениям и расходам. Ассамблея путем голосования принимает бюджеты со всеми изменениями, какие она сочтет необходимыми, и, за исключением взносов в соответствии с Главой XV для государств, дающих на то согласие, распределяет расходы Организации между Договаривающимися государствами на такой основе, какую она определяет время от времени.

Статья 62

Приостановление права голоса

Ассамблея может приостановить право голоса в Ассамблее и в Совете любого Договаривающегося государства, которое не выполняет в пределах разумного срока своих финансовых обязательств перед Организацией.

Статья 63

Расходы делегаций и других представителей

Каждое Договаривающееся государство принимает на себя расходы своей делегации на Ассамблее, а также содержание, путевые и другие расходы любого лица, которое оно назначает для работы в Совете, и назначенных им членов или представителей в любых вспомогательных комитетах или комиссиях Организации.

* Текст данной статьи, измененный на 8-й сессии Ассамблеи 14 июня 1954 года, вступил в силу 12 декабря 1956 года. Первоначальный текст гласил следующее:

"Совет представляет Ассамблее годовой бюджет, годовые отчеты о состоянии счетов и предположения по всем поступлениям и расходам. Ассамблея путем голосования принимает бюджет со всеми изменениями, какие она сочтет необходимыми, и, за исключением взносов в соответствии с Главой XV для государств, дающих на то согласие, распределяет расходы Организации между Договаривающимися государствами на такой основе, какую она определяет время от времени".

CHAPTER XIII

OTHER INTERNATIONAL ARRANGEMENTS

Article 64

Security arrangements

The Organization may, with respect to air matters within its competence directly affecting world security, by vote of the Assembly enter into appropriate arrangements with any general organization set up by the nations of the world to preserve peace.

Article 65

Arrangements with other international bodies

The Council, on behalf of the Organization, may enter into agreements with other international bodies for the maintenance of common services and for common arrangements concerning personnel and, with the approval of the Assembly, may enter into such other arrangements as may facilitate the work of the Organization.

Article 66

Functions relating to other agreements

a) The Organization shall also carry out the functions placed upon it by the International Air Services Transit Agreement and by the International Air Transport Agreement drawn up at Chicago on December 7, 1944, in accordance with the terms and conditions therein set forth.

b) Members of the Assembly and the Council who have not accepted the International Air Services Transit Agreement or the International Air Transport Agreement drawn up at Chicago on December 7, 1944 shall not have the right to vote on any questions referred to the Assembly or Council under the provisions of the relevant Agreement.

CHAPITRE XIII

AUTRES ARRANGEMENTS INTERNATIONAUX

Article 64

Arrangements en matière de sécurité

Pour les questions aériennes de sa compétence qui concernent directement la sécurité mondiale, l'Organisation peut, par un vote de l'Assemblée, conclure des arrangements appropriés avec toute organisation générale établie par les nations du monde pour préserver la paix.

Article 65

Arrangements avec d'autres organismes internationaux

Le Conseil peut, au nom de l'Organisation, conclure avec d'autres organismes internationaux des accords en vue d'entretenir des services communs et d'établir des arrangements communs au sujet du personnel et peut, avec l'approbation de l'Assemblée, conclure tous autres arrangements de nature à faciliter le travail de l'Organisation.

Article 66

Fonctions relatives à d'autres accords

a) L'Organisation exerce également les fonctions que lui confèrent l'Accord relatif au transit des services aériens internationaux et l'Accord relatif au transport aérien international, établis à Chicago le 7 décembre 1944, conformément aux dispositions desdits accords.

b) Les membres de l'Assemblée et du Conseil qui n'ont pas accepté l'Accord relatif au transit des services aériens internationaux ou l'Accord relatif au transport aérien international établis à Chicago le 7 décembre 1944, n'ont pas droit de vote sur les questions soumises à l'Assemblée ou au Conseil en vertu des dispositions de l'Accord en cause.

CAPÍTULO XIII

OTROS ARREGLOS INTERNACIONALES

Artículo 64

Arreglos sobre seguridad

La Organización puede, por voto de la Asamblea, en lo que respecta a cuestiones aéreas de su competencia que afecten directamente a la seguridad mundial, concluir arreglos apropiados con toda organización general que establezcan las naciones del mundo para preservar la paz.

Artículo 65

Arreglos con otros organismos internacionales

El Consejo, en nombre de la Organización, podrá concluir acuerdos con otros organismos internacionales para el mantenimiento de servicios comunes y para arreglos comunes concernientes al personal y, con la aprobación de la Asamblea, podrá participar en todos aquellos arreglos susceptibles de facilitar la labor de la Organización.

Artículo 66

Funciones relativas a otros acuerdos

a) La Organización, asimismo, desempeñará las funciones, asignadas por el Acuerdo de Tránsito de los Servicios Aéreos Internacionales y por el Acuerdo de Transporte Aéreo Internacional, redactados en Chicago el 7 de diciembre de 1944, según los términos y condiciones establecidos en ellos.

b) Los miembros de la Asamblea y del Consejo, que no hayan aceptado el Acuerdo de Tránsito de los Servicios Aéreos Internacionales o el Acuerdo de Transporte Aéreo Internacional, redactados en Chicago el 7 de diciembre de 1944, no tendrán derecho a votar sobre ninguna cuestión referida a la Asamblea o al Consejo de conformidad con las disposiciones del Acuerdo de que se trate.

ГЛАВА XIII

ДРУГИЕ МЕЖДУНАРОДНЫЕ СОГЛАШЕНИЯ

Статья 64

Соглашения о безопасности

В отношении вопросов, касающихся авиации, входящих в компетенцию Организации и непосредственно влияющих на международную безопасность, Организация может, с одобрения Ассамблеи путем голосования, вступать в соответствующие соглашения с любой всеобщей организацией, учрежденной народами мира для сохранения мира.

Статья 65

Соглашения с другими международными учреждениями

Совет от имени Организации может вступать в соглашения с другими международными учреждениями для содержания общих служб и для принятия общих правил в отношении персонала и с одобрения Ассамблеи может вступать в такие другие соглашения, какие могут содействовать работе Организации.

Статья 66

Функции, относящиеся к другим соглашениям

a) Организация также выполняет функции, возложенные на нее Соглашением о транзите в международных воздушных сообщениях и Соглашением о международном воздушном транспорте, выработанными в Чикаго 7 декабря 1944 года, в соответствии с установленными в них условиями и положениями.

b) Члены Ассамблеи и Совета, которые не приняли Соглашение о транзите в международных воздушных сообщениях или Соглашение о международном воздушном транспорте, выработанные в Чикаго 7 декабря 1944 года, не имеют права участвовать в голосовании ни по каким вопросам, переданным Ассамблее или Совету на основании положений соответствующего Соглашения.

PART III

INTERNATIONAL AIR TRANSPORT

CHAPTER XIV

INFORMATION AND REPORTS

Article 67

File reports with Council

Each contracting State undertakes that its international airlines shall, in accordance with requirements laid down by the Council, file with the Council traffic reports, cost statistics and financial statements showing among other things all receipts and the sources thereof.

CHAPTER XV

AIRPORTS AND OTHER AIR NAVIGATION FACILITIES

Article 68

Designation of routes and airports

Each contracting State may, subject to the provisions of this Convention, designate the route to be followed within its territory by any international air service and the airports which any such service may use.

Article 69

Improvement of air navigation facilities

If the Council is of the opinion that the airports or other air navigation facilities, including radio and meteorological services, of a contracting State are not reasonably adequate for the safe, regular, efficient, and economical operation of international air services, present or contemplated, the Council shall consult with the State directly concerned, and other States

TROISIÈME PARTIE

TRANSPORT AÉRIEN INTERNATIONAL

CHAPITRE XIV

RENSEIGNEMENTS ET RAPPORTS

Article 67

Communication de rapports au Conseil

Chaque État contractant s'engage à ce que ses entreprises de transport aérien international communiquent au Conseil, conformément aux règles établies par celui-ci, des rapports sur leur trafic, des statistiques sur leur prix de revient et des états financiers indiquant, notamment, le montant et la source de tous leurs revenus.

CHAPITRE XV

AÉROPORTS ET AUTRES INSTALLATIONS ET SERVICES DE NAVIGATION AÉRIENNE

Article 68

Désignation des itinéraires et des aéroports

Chaque État contractant peut, sous réserve des dispositions de la présente Convention, désigner l'itinéraire que doit suivre tout service aérien international à l'intérieur de son territoire, ainsi que les aéroports que ce service peut utiliser.

Article 69

Amélioration des installations et services de navigation aérienne

Si le Conseil estime que les aéroports ou autres installations et services de navigation aérienne d'un État contractant, y compris ses services radioélectriques et météorologiques, ne suffisent pas à assurer l'exploitation sûre, régulière, efficace et économique des services aériens internationaux existants ou projetés, il consulte l'État directement en cause et les autres

TERCERA PARTE

TRANSPORTE AÉREO INTERNACIONAL

CAPÍTULO XIV

DATOS E INFORMES

Artículo 67

Transmisión de informes al Consejo

Cada Estado contratante se compromete a que sus líneas aéreas internacionales comuniquen al Consejo, según las prescripciones establecidas por el mismo, informes sobre tráfico, estadísticas de costos y estados financieros que muestren, entre otras cosas, todos los ingresos y las fuentes de su procedencia.

CAPÍTULO XV

AEROPUERTOS Y OTRAS INSTALACIONES Y SERVICIOS PARA LA NAVEGACIÓN AÉREA

Artículo 68

Designación de rutas y aeropuertos

Cada Estado contratante puede, con sujeción a las disposiciones del presente Convenio, designar la ruta que deberá seguir en su territorio cualquier servicio aéreo internacional así como los aeropuertos que podrá utilizar.

Artículo 69

Mejora de las instalaciones y servicios para la navegación aérea

Si el Consejo estima que los aeropuertos u otras instalaciones y servicios para la navegación aérea de un Estado contratante, incluso los servicios de radio y meteorológicos, no son razonablemente adecuados para el funcionamiento seguro, regular, eficaz y económico de los servicios aéreos internacionales, existentes o en proyecto, el Consejo consultará con

ЧАСТЬ III

МЕЖДУНАРОДНЫЙ ВОЗДУШНЫЙ ТРАНСПОРТ

ГЛАВА XIV

ИНФОРМАЦИЯ И ОТЧЕТЫ

Статья 67

Представление отчетов в Совет

Каждое Договаривающееся государство обязуется, что его авиапредприятия, занятые в международном воздушном сообщении, в соответствии с требованиями, устанавливаемыми Советом, будут представлять в Совет отчеты о перевозках, статистику по расходам и финансовые данные с указанием в числе прочего всех поступлений и их источников.

ГЛАВА XV

АЭРОПОРТЫ И ДРУГИЕ АЭРОНАВИГАЦИОННЫЕ СРЕДСТВА

Статья 68

Установление маршрутов и аэропортов

Каждое Договаривающееся государство с учетом положений настоящей Конвенции может устанавливать маршрут, по которому в пределах его территории осуществляется любое международное воздушное сообщение, а также аэропорты, которые могут использоваться при любом таком сообщении.

Статья 69

Усовершенствование аэронавигационных средств

Если Совет считает, что аэропорты или другие аэронавигационные средства какого-либо Договаривающегося государства, включая средства радио- и метеорологического обслуживания, недостаточно отвечают требованиям безопасной, регулярной, эффективной и экономичной эксплуатации международных воздушных сообщений, как су-

affected, with a view to finding means by which the situation may be remedied, and may make recommendations for that purpose. No contracting State shall be guilty of an infraction of this Convention if it fails to carry out these recommendations.

États intéressés afin de trouver le moyen de remédier à la situation et il peut formuler des recommandations à cet effet. Aucun État contractant n'est coupable d'infraction à la présente Convention s'il omet de donner suite à ces recommandations.

Article 70

Financing of air navigation facilities

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

Article 70

Financement des installations et services de navigation aérienne

Un État contractant peut, dans les circonstances envisagées à l'article 69, conclure un arrangement avec le Conseil afin de donner effet à de telles recommandations. L'État peut choisir de prendre à sa charge tous les frais résultant dudit arrangement; dans le cas contraire, le Conseil peut accepter, à la demande de l'État, de pourvoir à la totalité ou à une partie des frais.

Article 71

Provision and maintenance of facilities by Council

If a contracting State so requests, the Council may agree to provide, man, maintain, and administer any or all of the airports and other air navigation facilities including radio and meteorological services, required in its territory for the safe, regular, efficient and economical operation of the international air services of the other contracting States, and may specify just and reasonable charges for the use of the facilities provided.

Article 71

Fourniture et entretien d'installations et services par le Conseil

Si un État contractant le demande, le Conseil peut accepter de fournir, pourvoir en personnel, entretenir et administrer en totalité ou en partie les aéroports et autres installations et services de navigation aérienne, y compris les services radioélectriques et météorologiques requis sur le territoire dudit État pour l'exploitation sûre, régulière, efficace et économique des services aériens internationaux des autres États contractants et peut fixer des redevances justes et raisonnables pour l'utilisation des installations et services fournis.

Article 72

Acquisition or use of land

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

Article 72

Acquisition ou utilisation de terrain

Lorsqu'un terrain est nécessaire pour des installations et services financés en totalité ou en partie par le Conseil à la demande d'un État contractant, cet État doit, soit fournir lui-même ce terrain, dont il conservera la propriété s'il le désire, soit en faciliter l'utilisation par le Conseil à des conditions justes et raisonnables et conformément à ses lois.

el Estado en cuestión y con otros Estados afectados, con miras a encontrar los medios por los cuales la situación pueda remediarse y podrá hacer recomendaciones a tal efecto. Ningún Estado contratante será culpable de infracción del presente Convenio si no pone en práctica tales recomendaciones.

ществующих, так и планируемых, то Совет консультируется с этим непосредственно заинтересованным государством и другими государствами, интересы которых затрагиваются, с тем чтобы изыскать средства, с помощью которых такое положение может быть исправлено, и с этой целью может давать рекомендации. Ни одно Договаривающееся государство не считается виновным в нарушении настоящей Конвенции, если оно не выполняет эти рекомендации.

Artículo 70

Financiación de las instalaciones y servicios para la navegación aérea

Un Estado contratante, en las circunstancias resultantes de las disposiciones del Artículo 69, puede concluir un arreglo con el Consejo para dar efecto a tales recomendaciones. El Estado podrá optar por hacerse cargo de todos los gastos que implique tal arreglo; en caso contrario el Consejo puede convenir, a petición del Estado, en sufragar la totalidad o parte de los gastos.

Статья 70

Финансирование аэронавигационных средств

Договаривающееся государство при возникновении обстоятельств, предусмотренных положениями Статьи 69, может вступать в соглашение с Советом с целью осуществления таких рекомендаций. Государство может принять решение взять на себя все расходы, связанные с любым таким соглашением. Если государство не принимает такого решения, Совет может по просьбе этого государства дать согласие покрыть все или часть этих расходов.

Artículo 71

Provisión y mantenimiento de instalaciones y servicios por el Consejo

Si un Estado contratante así lo solicita, el Consejo puede convenir en proveer, dotar de personal, mantener y administrar en su totalidad o en parte los aeropuertos y otras instalaciones y servicios para la navegación aérea, incluso los servicios de radio y meteorológicos requeridos en su territorio para el funcionamiento seguro, regular, eficaz y económico de los servicios aéreos internacionales de los demás Estados contratantes y podrá fijar derechos justos y razonables por el uso de las instalaciones y servicios proporcionados.

Статья 71

Предоставление и содержание средств Советом

Если Договаривающееся государство о том просит, Совет может дать согласие на предоставление, укомплектование персоналом, содержание и административное руководство деятельностью аэропортов и других аэронавигационных средств, полностью или частично, включая средства радио- и метеорологического обслуживания, которые необходимы на его территории для безопасной, регулярной, эффективной и экономичной эксплуатации международных воздушных сообщений других Договаривающихся государств, и может установить справедливые и разумные сборы за пользование предоставленными средствами.

Artículo 72

Adquisición o uso de terrenos

Cuando se necesiten terrenos para instalaciones y servicios financiados en su totalidad o en parte por el Consejo a petición de un Estado contratante, tal Estado deberá proveerlos, conservando su título si lo desea, o bien facilitar al Consejo su uso en condiciones justas y razonables y de acuerdo con las leyes de dicho Estado.

Статья 72

Приобретение или использование земельных участков

Если требуются земельные участки под средства, полностью или частично финансируемые Советом по просьбе какого-либо Договаривающегося государства, то это государство либо предоставляет сами земельные участки, сохраняя по своему желанию право собственности, либо содействует использованию этих земельных участков Советом на справедливых и разумных условиях и в соответствии с законодательством этого государства.

Article 73

Expenditure and assessment of funds

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

Article 73

Dépenses et répartition des fonds

Dans la limite des fonds qui peuvent être mis à sa disposition par l'Assemblée en vertu du Chapitre XII, le Conseil peut pourvoir aux dépenses courantes aux fins du présent chapitre en prélevant sur les fonds généraux de l'Organisation. Le Conseil fixe les contributions au capital requis aux fins du présent chapitre, selon des proportions préalablement convenues pour une période de temps raisonnable, entre les États contractants qui y consentent et dont les entreprises de transport aérien utilisent les installations et services en cause. Le Conseil peut également fixer les contributions des États qui y consentent à tous fonds de roulement nécessaires.

Article 74

Technical assistance and utilization of revenues

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

Article 74

Assistance technique et utilisation des revenus

Lorsque le Conseil, à la demande d'un État contractant, avance des fonds ou fournit des aéroports ou d'autres installations et services en totalité ou en partie, l'arrangement peut prévoir, avec le consentement de cet État, une assistance technique dans la direction et l'exploitation des aéroports et autres installations et services, ainsi que le paiement, par prélèvement sur les revenus d'exploitation de ces aéroports et autres installations et services, des frais d'exploitation desdits aéroports et autres installations et services et des charges d'intérêt et d'amortissement.

Article 75

Taking over of facilities from Council

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

Article 75

Reprise des installations et services fournis par le Conseil

Un État contractant peut à tout moment se dégager de toute obligation contractée par lui en vertu de l'article 70 et prendre en charge les aéroports et autres installations et services établis par le Conseil sur son territoire en vertu des dispositions des articles 71 et 72, en versant au Conseil une somme qui, de l'avis du Conseil, est raisonnable en l'occurrence. Si l'État estime que la somme fixée par le Conseil n'est pas raisonnable, il peut appeler de la décision du Conseil à l'Assemblée et l'Assemblée peut confirmer ou modifier la décision du Conseil.

Artículo 73

Gastos y prorrateo de fondos

El Consejo, dentro del límite de los fondos que ponga a su disposición la Asamblea de acuerdo con el Capítulo XII, puede efectuar los gastos ordinarios para los fines del presente Capítulo, con los fondos generales de la Organización. A los fines del presente Capítulo, el Consejo fijará, en la proporción previamente acordada y por un plazo razonable, las aportaciones al capital necesario entre los Estados contratantes que consienta en ello y cuyas líneas aéreas utilicen las instalaciones y servicios. El Consejo puede también prorratear, entre los Estados que lo consientan, cualquier capital circulante requerido.

Статья 73

Расходование и распределение фондов

В пределах фондов, которые могут быть предоставлены ему Ассамблеей в соответствии с Главой XII, Совет может производить текущие расходы для целей настоящей Главы из общих фондов Организации. Совет распределяет покрытие основных расходов, требуемых для целей настоящей Главы, в предварительно согласованных пропорциях на разумный период времени между Договаривающимися государствами, которые дали на это согласие и авиапредприятия которых пользуются вышеуказанными аэронавигационными средствами. Совет может также распределять между государствами, давшими на то согласие, покрытие любых необходимых оборотных фондов.

Artículo 74

Ayuda técnica y destino de los ingresos

Cuando, a petición de un Estado contratante, el Consejo adelante fondos, o proporcione aeropuertos u otras instalaciones y servicios en su totalidad o en parte, el acuerdo puede prever, si tal Estado consiente en ello, asistencia técnica en la supervisión y funcionamiento de tales aeropuertos y otras instalaciones y servicios y el pago, por medio de los ingresos derivados de la explotación de los aeropuertos y de las instalaciones y servicios, de los gastos de funcionamiento de dichos aeropuertos e instalaciones y servicios, así como de los intereses y de la amortización.

Статья 74

Техническая помощь и использование доходов

Когда Совет по просьбе Договаривающегося государства авансирует фонды или предоставляет полностью или частично аэропорты или другие средства, соглашение может предусматривать с согласия этого государства техническую помощь в управлении деятельностью и в эксплуатации этих аэропортов и других средств и оплату текущих расходов по эксплуатации этих аэропортов и других средств и процентные и амортизационные отчисления за счет доходов от эксплуатации аэропортов и других средств.

Artículo 75

Adquisición de las instalaciones y servicios suministrados por el Consejo

Un Estado contratante puede en cualquier momento liberarse de toda obligación contraída en virtud del Artículo 70 y hacerse cargo de los aeropuertos y otras instalaciones y servicios provistos por el Consejo en su territorio según las disposiciones de los Artículos 71 y 72, mediante pago al Consejo de una suma que, en opinión de éste, sea razonable en tales circunstancias. Si el Estado considera que la suma fijada por el Consejo es irrazonable, puede apelar de la decisión del Consejo ante la Asamblea, la que podrá confirmar o enmendar tal decisión.

Статья 75

Передача средств из ведения Совета

Договаривающееся государство может в любое время отказаться от обязательств, принятых им в соответствии со Статьей 70, и взять в свое ведение аэропорты и другие средства, предоставленные Советом на его территории в соответствии с положениями Статей 71 и 72, выплатив Совету сумму, которая, по мнению Совета, является разумной при данных обстоятельствах. Если государство сочтет, что назначенная Советом сумма выходит за разумные пределы, оно может обжаловать решение Совета перед Ассамблеей, и Ассамблея может утвердить или изменить решение Совета.

Article 76

Return of funds

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

CHAPTER XVI

JOINT OPERATING ORGANIZATIONS AND POOLED SERVICES

Article 77

Joint operating organizations permitted

Nothing in this Convention shall prevent two or more contracting States from constituting joint air transport operating organizations or international operating agencies and from pooling their air services on any routes or in any regions, but such organizations or agencies and such pooled services shall be subject to all the provisions of this Convention, including those relating to the registration of agreements with the Council. The Council shall determine in what manner the provisions of this Convention relating to nationality of aircraft shall apply to aircraft operated by international operating agencies.

Article 78

Function of Council

The Council may suggest to contracting States concerned that they form joint organizations to operate air services on any routes or in any regions.

Article 79

Participation in operating organizations

A State may participate in joint operating organizations or in pooling arrangements, either through its government or through an airline company or companies designated by its government. The companies may, at the sole discretion of the State concerned, be state-owned or partly state-owned or privately owned.

Article 76

Restitution de fonds

Les fonds réunis par le Conseil par voie de remboursement effectué en vertu de l'article 75 et provenant de paiements d'intérêt et d'amortissement en vertu de l'article 74 sont, dans le cas des avances financées à l'origine par des États en vertu de l'article 73, restitués aux États pour lesquels des contributions ont été fixées à l'origine, proportionnellement à leurs contributions, selon la décision du Conseil.

CHAPITRE XVI

ORGANISATIONS D'EXPLOITATION EN COMMUN ET SERVICES EN POOL

Article 77

Organisations d'exploitation en commun autorisées

Aucune disposition de la présente Convention n'empêche deux ou plusieurs États contractants de constituer, pour les transports aériens, des organisations d'exploitation en commun ou des organismes internationaux d'exploitation, ni de mettre en pool leurs services aériens sur toute route ou dans toute région. Toutefois, ces organisations ou organismes et ces services en pool sont soumis à toutes les dispositions de la présente Convention, y compris celles qui ont trait à l'enregistrement des accords au Conseil. Le Conseil détermine les modalités d'application des dispositions de la présente Convention concernant la nationalité des aéronefs aux aéronefs exploités par des organismes internationaux d'exploitation.

Article 78

Rôle du Conseil

Le Conseil peut suggérer aux États contractants intéressés de former des organisations conjointes pour exploiter des services aériens sur toute route ou dans toute région.

Article 79

Participation aux organisations d'exploitation

Un État peut participer à des organisations d'exploitation en commun ou à des arrangements de pool par l'intermédiaire soit de son gouvernement, soit d'une ou de plusieurs compagnies de transport aérien désignées par son gouvernement. Ces compagnies peuvent, à la discrétion exclusive de l'État intéressé, être propriété d'État, en tout ou partie, ou propriété privée.

Artículo 76

Restitución de fondos

Los fondos obtenidos por el Consejo, por reembolsos en virtud del Artículo 75 y por ingresos de intereses y amortizaciones según el Artículo 74 serán, en el caso de adelantos financiados originariamente por los Estados de acuerdo con el Artículo 73, restituidos a los Estados entre los cuales se prorratearon originariamente en proporción a sus contribuciones, según lo determinado por el Consejo.

CAPÍTULO XVI

ORGANIZACIONES DE EXPLOTACIÓN CONJUNTA Y SERVICIOS MANCOMUNADOS

Artículo 77

Organizaciones de explotación conjunta autorizadas

Ninguna disposición del presente Convenio impide que dos o más Estados contratantes constituyan organizaciones de explotación conjunta del transporte aéreo ni organismos internacionales de explotación, ni que mancomunen sus servicios aéreos en cualquier ruta o región, pero tales organizaciones u organismos y tales servicios mancomunados estarán sujetos a todas las disposiciones del presente Convenio, incluso las relativas al registro de acuerdos en el Consejo. Éste determinará la forma en que las disposiciones del presente Convenio sobre nacionalidad de aeronaves se aplicarán a las utilizadas por organismos internacionales de explotación.

Artículo 78

Función del Consejo

El Consejo podrá sugerir a los Estados contratantes interesados la formación de organizaciones conjuntas para efectuar servicios aéreos en cualesquiera rutas o regiones.

Artículo 79

Participación en organizaciones de explotación

Un Estado podrá participar en organizaciones de explotación conjunta o en arreglos de mancomún por conducto de su gobierno o de una o varias compañías de transporte aéreo designadas por éste. Las compañías, a discreción exclusiva del Estado interesado, podrán ser estatales, parcialmente estatales o de propiedad privada.

Статья 76

Возврат фондов

Фонды, полученные Советом в порядке возмещения согласно Статье 75, а также за счет процентов и амортизационных отчислений согласно Статье 74, в случае, если взносы первоначально внесены государствами согласно Статье 73, возвращаются тем государствам, для которых первоначально определены взносы, пропорционально размерам их взносов, установленным Советом.

ГЛАВА XVI

ОРГАНИЗАЦИИ СОВМЕСТНОЙ ЭКСПЛУАТАЦИИ И ПУЛЬНЫЕ СОГЛАШЕНИЯ

Статья 77

Разрешенные организации совместной эксплуатации

Ничто в настоящей Конвенции не препятствует двум или более Договаривающимся государствам учреждать авиатранспортные организации совместной эксплуатации или международные эксплуатационные агентства и объединять в пул их воздушные сообщения на любых маршрутах и в любых районах, однако на такие организации или агентства, а также пульные сообщения распространяются все положения настоящей Конвенции, в том числе те, которые относятся к регистрации соглашений в Совете. Совет определяет порядок применения положений настоящей Конвенции, касающихся национальности воздушных судов, к воздушным судам, эксплуатируемым международными эксплуатационными агентствами.

Статья 78

Роль Совета

Совет может предлагать заинтересованным Договаривающимся государствам создавать совместные организации для эксплуатации воздушных сообщений на любых маршрутах или в любых районах.

Статья 79

Участие в организациях по эксплуатации

Государство может участвовать в организациях совместной эксплуатации или в пульных соглашениях либо через свое правительство, либо через одну или несколько авиатранспортных компаний, назначенных его правительством. Эти компании исключительно по усмотрению заинтересованного государства могут находиться либо в государственной собственности полностью или частично, либо в частной собственности.

PART IV

FINAL PROVISIONS

CHAPTER XVII

OTHER AERONAUTICAL AGREEMENTS AND ARRANGEMENTS

Article 80

Paris and Habana Conventions

Each contracting State undertakes, immediately upon the coming into force of this Convention, to give notice of denunciation of the Convention relating to the Regulation of Aerial Navigation signed at Paris on October 13, 1919 or the Convention on Commercial Aviation signed at Habana on February 20, 1928, if it is a party to either. As between contracting States, this Convention supersedes the Conventions of Paris and Habana previously referred to.

Article 81

Registration of existing agreements

All aeronautical agreements which are in existence on the coming into force of this Convention, and which are between a contracting State and any other State or between an airline of a contracting State and any other State or the airline of any other State, shall be forthwith registered with the Council.

Article 82

Abrogation of inconsistent arrangements

The contracting States accept this Convention as abrogating all obligations and understandings between them which are inconsistent with its terms, and undertake not to enter into any such obligations and understandings. A contracting State which, before becoming a member of the Organization has undertaken any obligations toward a non-contracting State or a national of a contracting State or of a non-contracting State inconsistent with the terms of this Convention, shall take immediate steps to procure its release from the obligations. If an airline of any contracting State has entered into any such inconsistent obligations, the State of which it is a national shall

QUATRIÈME PARTIE

DISPOSITIONS FINALES

CHAPITRE XVII

AUTRES ACCORDS ET ARRANGEMENTS AÉRONAUTIQUES

Article 80

Conventions de Paris et de La Havane

Chaque État contractant s'engage à dénoncer, dès l'entrée en vigueur de la présente Convention, la Convention portant réglementation de la navigation aérienne, signée à Paris le 13 octobre 1919, ou la Convention relative à l'aviation commerciale, signée à La Havane le 20 février 1928, s'il est partie à l'une ou l'autre de ces Conventions. Entre États contractants, la présente Convention remplace les Conventions de Paris et de La Havane ci-dessus mentionnées.

Article 81

Enregistrement des accords existants

Tous les accords aéronautiques existant au moment de l'entrée en vigueur de la présente Convention entre un État contractant et tout autre État, ou entre une entreprise de transport aérien d'un État contractant et tout autre État ou une entreprise de transport aérien de tout autre État, doivent être enregistrés immédiatement au Conseil.

Article 82

Abrogation d'arrangements incompatibles

Les États contractants reconnaissent que la présente Convention abroge toutes les obligations et ententes entre eux qui sont incompatibles avec ses dispositions et s'engagent à ne pas contracter de telles obligations ni conclure de telles ententes. Un État contractant qui, avant de devenir membre de l'Organisation, a contracté envers un État non contractant ou un ressortissant d'un État contractant ou d'un État non contractant des obligations incompatibles avec les dispositions de la présente Convention, doit prendre sans délai des mesures pour se libérer desdites obligations. Si une entreprise de transport aérien d'un État contractant a assumé de telles obligations

CUARTA PARTE

DISPOSICIONES FINALES

CAPÍTULO XVII

OTROS ACUERDOS Y ARREGLOS AERONÁUTICOS

Artículo 80

Convenciones de París y de La Habana

Cada Estado contratante se compromete, tan pronto como entre en vigor el presente Convenio, a notificar la denuncia de la Convención sobre la Reglamentación de la Navegación Aérea, suscrita en París el 13 de octubre de 1919, o de la Convención sobre Aviación Comercial, suscrita en La Habana el 20 de febrero de 1928, si es parte de una u otra. El presente Convenio reemplaza, entre los Estados contratantes, las Convenciones de París y de La Habana anteriormente mencionadas.

Artículo 81

Registro de acuerdos existentes

Todos los acuerdos aeronáuticos que existan al entrar en vigor el presente Convenio, entre un Estado contratante y cualquier otro Estado o entre una línea aérea de un Estado contratante y cualquier otro Estado o línea aérea de otro Estado, se registrarán inmediatamente en el Consejo.

Artículo 82

Abrogación de arreglos incompatibles

Los Estados contratantes acuerdan que el presente Convenio abroga todas las obligaciones y entendimientos mutuos que sean incompatibles con sus disposiciones y se comprometen a no contraer tales obligaciones o entendimientos. Un Estado contratante que antes de ser miembro de la Organización haya contraído con un Estado no contratante o un súbdito de un Estado contratante o no, obligaciones incompatibles con las disposiciones del presente Convenio, tomará medidas inmediatas para liberarse de dichas obligaciones. Si una línea aérea de un Estado contratante ha contraído tales obligaciones incompatibles, el Estado del cual sea nacional hará cuanto

ЧАСТЬ IV

ЗАКЛЮЧИТЕЛЬНЫЕ ПОЛОЖЕНИЯ

ГЛАВА XVII

ДРУГИЕ СОГЛАШЕНИЯ ПО ВОПРОСАМ АЭРОНАВТИКИ

Статья 80

Парижская и Гаванская конвенции

Каждое Договаривающееся государство обязуется немедленно после вступления в силу настоящей Конвенции сделать заявление о денонсации Конвенции о регулировании воздушной навигации, подписанной в Париже 13 октября 1919 года, или Конвенции о коммерческой авиации, подписанной в Гаване 20 февраля 1928 года, если оно является участником любой из них. В отношениях между Договаривающимися государствами настоящая Конвенция заменяет вышеупомянутые Парижскую и Гаванскую конвенции.

Статья 81

Регистрация существующих соглашений

Все соглашения по вопросам аэронавтики, существующие на дату вступления в силу настоящей Конвенции и заключенные между Договаривающимся государством и любым другим государством либо между авиапредприятием Договаривающегося государства и любым другим государством или авиапредприятием любого другого государства, подлежат немедленной регистрации в Совете.

Статья 82

Отмена несовместимых соглашений

Договаривающиеся государства признают, что настоящая Конвенция отменяет все обязательства и соглашения между ними, несовместимые с ее положениями, и обязуются не принимать на себя любые такие обязательства и не вступать в подобные соглашения. Договаривающееся государство, которое до вступления в Организацию приняло на себя какие-либо обязательства по отношению к недоговаривающемуся государству или гражданину Договаривающегося государства либо недоговаривающегося государства, несовместимые с положениями настоящей Конвенции, немедленно примет меры к тому, чтобы освободиться

use its best efforts to secure their termination forthwith and shall in any event cause them to be terminated as soon as such action can lawfully be taken after the coming into force of this Convention.

incompatibles, l'État dont elle a la nationalité s'emploiera de son mieux pour qu'il soit mis fin immédiatement à ces obligations et en tout cas fera en sorte qu'il y soit mis fin aussitôt que cela sera juridiquement possible après l'entrée en vigueur de la présente Convention.

Article 83

Registration of new arrangements

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

Article 83

Enregistrement des nouveaux arrangements

Sous réserve des dispositions de l'article précédent, tout État contractant peut conclure des arrangements qui ne soient pas incompatibles avec les dispositions de la présente Convention. Tout arrangement de cette nature doit être enregistré immédiatement au Conseil, qui le rend public aussitôt que possible.

Article 83 *bis

Transfer of certain functions and duties

a) Notwithstanding the provisions of Articles 12, 30, 31 and 32 *a)*, when an aircraft registered in a contracting State is operated pursuant to an agreement for the lease, charter or interchange of the aircraft or any similar arrangement by an operator who has his principal place of business or, if he has no such place of business, his permanent residence in another contracting State, the State of registry may, by agreement with such other State, transfer to it all or part of its functions and duties as State of registry in respect of that aircraft under Articles 12, 30, 31 and 32 *a)*. The State of registry shall be relieved of responsibility in respect of the functions and duties transferred.

b) The transfer shall not have effect in respect of other contracting States before either the agreement between States in which it is embodied has been registered with the Council

Article 83 *bis

Transfert de certaines fonctions et obligations

a) Nonobstant les dispositions des articles 12, 30, 31 et 32 *a)*, lorsqu'un aéronef immatriculé dans un État contractant est exploité en vertu d'un accord de location, d'affrètement ou de banalisation de l'aéronef, ou de tout autre arrangement similaire, par un exploitant qui a le siège principal de son exploitation, ou à défaut, sa résidence permanente dans un autre État contractant, l'État d'immatriculation peut, par accord avec cet autre État, transférer à celui-ci tout ou partie des fonctions et obligations que les articles 12, 30, 31 et 32 *a)* lui confèrent, à l'égard de cet aéronef, en sa qualité d'État d'immatriculation. L'État d'immatriculation sera dégagé de sa responsabilité en ce qui concerne les fonctions et obligations transférées.

b) Le transfert ne portera pas effet à l'égard des autres États contractants avant que l'accord dont il fait l'objet ait été enregistré au Conseil et rendu public conformément à

* The 23rd Session of the Assembly on 6 October 1980 amended the Chicago Convention by introducing Article 83 *bis*. This amendment came into force on 20 June 1997.

* Le 6 octobre 1980, à sa 23e session, l'Assemblée a amendé la Convention de Chicago en ajoutant l'article 83 *bis*. Cet amendement est entré en vigueur le 20 juin 1997.

pueda para conseguir su rescisión inmediata y, en todo caso, hará que se rescindan tan pronto como sea legalmente posible después de la entrada en vigor del presente Convenio.

Artículo 83

Registro de nuevos arreglos

Con sujeción a lo dispuesto en el artículo precedente, todo Estado contratante puede concertar arreglos que no sean incompatibles con las disposiciones del presente Convenio. Todo arreglo de esta naturaleza se registrará inmediatamente en el Consejo, el cual lo hará público a la mayor brevedad posible.

Artículo 83 *bis

Transferencia de ciertas funciones y obligaciones

a) No obstante lo dispuesto en los Artículos 12, 30, 31 y 32 *a)*, cuando una aeronave matriculada en un Estado contratante sea explotada de conformidad con un contrato de arrendamiento, fletamento o intercambio de aeronaves, o cualquier arreglo similar, por un explotador que tenga su oficina principal o, de no tener tal oficina, su residencia permanente en otro Estado contratante, el Estado de matrícula, mediante acuerdo con ese otro Estado, podrá transferirle todas o parte de sus funciones y obligaciones como Estado de matrícula con respecto a dicha aeronave, según los Artículos 12, 30, 31 y 32 *a)*. El Estado de matrícula quedará relevado de su responsabilidad con respecto a las funciones y obligaciones transferidas.

b) La transferencia no producirá efectos con respecto a los demás Estados contratantes antes de que el acuerdo entre Estados sobre la transferencia se haya registrado ante el

* El 6 de octubre de 1980, el 23º período de sesiones de la Asamblea enmendó el Convenio de Chicago, incluyendo el Artículo 83 *bis*. Esa enmienda entró en vigor el 20 de junio de 1997.

от этих обязательств. Если авиапредприятие любого Договаривающегося государства приняло на себя любые такие несовместимые обязательства, государство его национальности делает все возможное, чтобы обеспечить их немедленное прекращение, и в любом случае добивается их прекращения, как только такое действие может быть осуществлено на законном основании после вступления в силу настоящей Конвенции.

Статья 83

Регистрация новых соглашений

При условии соблюдения положений предыдущей Статьи любое Договаривающееся государство может заключать соглашения, не являющиеся несовместимыми с положениями настоящей Конвенции. Любое такое соглашение подлежит немедленной регистрации в Совете, который делает о нем публикацию в возможно короткий срок.

Статья 83 *bis

Передача определенных функций и обязанностей

a) Несмотря на положения Статей 12, 30, 31 и 32 *a)*, в том случае, когда воздушное судно, зарегистрированное в Договаривающемся государстве, эксплуатируется в соответствии с договором аренды, фрахтования или взаимного обмена воздушными судами или в соответствии с любым подобным договором эксплуатантом, основное место деятельности которого или, если он не имеет такого места деятельности, постоянное местопребывание которого находится в другом Договаривающемся государстве, государство регистрации может по соглашению с таким другим государством передать ему все или часть своих функций и обязанностей как государства регистрации в отношении этого воздушного судна, предусмотренных Статьями 12, 30, 31 и 32 *a)*. Государство регистрации освобождается от ответственности в отношении переданных функций и обязанностей.

b) Передача не будет иметь действия в отношении других Договаривающихся государств до тех пор, пока соглашение между государствами, в котором передача преду-

* Ассамблея на своей 23-й сессии 6 октября 1980 года внесла поправку в Чикагскую конвенцию, включив статью 83 *bis*. Данная поправка вступила в силу 20 июня 1997 года.

and made public pursuant to Article 83 or the existence and scope of the agreement have been directly communicated to the authorities of the other contracting State or States concerned by a State party to the agreement.

c) The provisions of paragraphs *a)* and *b)* above shall also be applicable to cases covered by Article 77.

CHAPTER XVIII

DISPUTES AND DEFAULT

Article 84

Settlement of disputes

If any disagreement between two or more contracting States relating to the interpretation or application of this Convention and its Annexes cannot be settled by negotiation, it shall, on the application of any State concerned in the disagreement, be decided by the Council. No member of the Council shall vote in the consideration by the Council of any dispute to which it is a party. Any contracting State may, subject to Article 85, appeal from the decision of the Council to an ad hoc arbitral tribunal agreed upon with the other parties to the dispute or to the Permanent Court of International Justice. Any such appeal shall be notified to the Council within sixty days of receipt of notification of the decision of the Council.

Article 85

Arbitration procedure

If any contracting State party to a dispute in which the decision of the Council is under appeal has not accepted the Statute of the Permanent Court of International Justice and the contracting States parties to the dispute cannot agree on the choice of the arbitral tribunal, each of the contracting States parties to the dispute shall name a single arbitrator who shall name an umpire. If either contracting State party to the dispute fails to name an arbitrator within a period of three months from the date of the appeal, an arbitrator shall be named on behalf of that State by the President of the Council from a list of qualified and available persons maintained by the Council. If, within thirty days, the arbitrators cannot agree on an umpire, the President of the Council shall designate an umpire from the list previously referred to. The arbitrators and the umpire shall then jointly constitute an arbitral tribunal. Any arbitral tribunal

l'article 83 ou que l'existence et la portée de l'accord aient été notifiées directement aux autorités de l'État ou des autres États contractants intéressés par un État partie à l'accord.

c) Les dispositions des alinéas *a)* et *b)* ci-dessus sont également applicables dans les cas envisagés à l'article 77.

CHAPITRE XVIII

DIFFÉRENDS ET MANQUEMENTS

Article 84

Règlement des différends

Si un désaccord entre deux ou plusieurs États contractants à propos de l'interprétation ou de l'application de la présente Convention et de ses Annexes ne peut être réglé par voie de négociation, le Conseil statue à la requête de tout État impliqué dans ce désaccord. Aucun membre du Conseil ne peut voter lors de l'examen par le Conseil d'un différend auquel il est partie. Tout État contractant peut, sous réserve de l'article 85, appeler de la décision du Conseil à un tribunal d'arbitrage ad hoc établi en accord avec les autres parties au différend ou à la Cour permanente de Justice internationale. Un tel appel doit être notifié au Conseil dans les soixante jours à compter de la réception de la notification de la décision du Conseil.

Article 85

Procédure d'arbitrage

Si un État contractant, partie à un différend dans lequel la décision du Conseil est en instance d'appel, n'a pas accepté le Statut de la Cour permanente de Justice internationale et si les États contractants parties à ce différend ne peuvent se mettre d'accord sur le choix du tribunal d'arbitrage, chacun des États contractants parties au différend désigne un arbitre et ces arbitres désignent un surarbitre. Si l'un des États contractants parties au différend n'a pas désigné d'arbitre dans les trois mois à compter de la date de l'appel, un arbitre sera choisi au nom de cet État par le Président du Conseil sur une liste de personnes qualifiées et disponibles tenue par le Conseil. Si, dans les trente jours, les arbitres ne peuvent se mettre d'accord sur un surarbitre, le Président du Conseil désigne un surarbitre choisi sur la liste susmentionnée. Les arbitres et le surarbitre se constituent alors en tribunal d'arbitrage. Tout tribunal d'arbitrage établi en vertu du

Consejo y hecho público de conformidad con el Artículo 83 o de que un Estado parte en dicho acuerdo haya comunicado directamente la existencia y alcance del acuerdo a los demás Estados contratantes interesados.

c) Las disposiciones de los párrafos *a)* y *b)* anteriores también serán aplicables en los casos previstos por el Artículo 77.

CAPÍTULO XVIII

CONTROVERSIAS E INCUMPLIMIENTO

Artículo 84

Solución de controversias

Si surge un desacuerdo entre dos o más Estados contratantes sobre la interpretación o la aplicación del presente Convenio y de sus Anexos que no pueda ser solucionado mediante negociaciones, será decidido por el Consejo, a petición de cualquier Estado interesado en el desacuerdo. Ningún miembro del Consejo votará cuando éste trate de una controversia en la que dicho miembro sea parte. Todo Estado contratante podrá, con sujeción al Artículo 85, apelar de la decisión del Consejo ante un tribunal de arbitraje ad hoc aceptado por las otras partes en la controversia, o ante la Corte Permanente Internacional de Justicia. Tal apelación se notificará al Consejo dentro de los sesenta días de recibida la notificación de la decisión del Consejo.

Artículo 85

Procedimiento de arbitraje

Si un Estado contratante, parte en una controversia en que se ha apelado de la decisión del Consejo, no ha aceptado el Estatuto de la Corte Permanente Internacional de Justicia y si los Estados contratantes partes en la controversia no pueden concordar en la elección del tribunal de arbitraje, cada uno de los Estados contratantes partes en la controversia designará un árbitro y éstos nombrarán un tercero. Si cualquier Estado contratante parte en la controversia no nombra un árbitro dentro de tres meses desde la fecha de apelación, el Presidente del Consejo designará por tal Estado un árbitro, de una lista de personas calificadas y disponibles que lleve el Consejo. Si dentro de treinta días los árbitros no pueden convenir en el tercero, el Presidente del Consejo lo designará de la lista antedicha. Los árbitros y el tercero se constituirán entonces en tribunal de arbitraje. Todo tribunal de arbitraje

сматривается, не будет зарегистрировано в Совете и опубликовано в соответствии со Статьей 83 или до того, как о существовании и предмете соглашения не будет непосредственно сообщено властям другого заинтересованного Договаривающегося государства или государств государством – стороной соглашения.

c) Положения пунктов *a)* и *b)*, упомянутых выше, также применяются к случаям, предусмотренным Статьей 77.

ГЛАВА XVIII

СПОРЫ И НЕВЫПОЛНЕНИЕ ОБЯЗАТЕЛЬСТВ

Статья 84

Разрешение споров

Если какое-либо разногласие между двумя или более Договаривающимися государствами, касающееся толкования или применения настоящей Конвенции и ее Приложений, не может быть урегулировано путем переговоров, оно по просьбе любого государства, вовлеченного в это разногласие, разрешается Советом. Ни один член Совета, являющийся стороной в каком-либо споре, не участвует в голосовании при рассмотрении Советом этого спора. Любое Договаривающееся государство может при условии соблюдения положений Статьи 85 обжаловать решение Совета в третейский суд ad hoc, образованный по согласованию с другими сторонами в споре, или в Постоянную Палату Международного Правосудия. О любом таком обжаловании Совет уведомляется в течение шестидесяти дней после получения уведомления о решении Совета.

Статья 85

Процедура третейского суда

Если какое-либо Договаривающееся государство – сторона в споре, по которому обжалуется решение Совета, не признает Статута Постоянной Палаты Международного Правосудия и если Договаривающиеся государства – стороны в споре не могут прийти к соглашению о выборе третейского суда, то каждое из Договаривающихся государств – сторон в споре называет по одному арбитру, а арбитры избирают суперарбитра. Если какое-либо из Договаривающихся государств – сторон в споре не назовет арбитра в течение трехмесячного периода со дня обжалования решения, то арбитр от имени этого государства назначается Президентом Совета из ведущегося Советом списка квалифицированных лиц, которыми Совет может располагать. Если в течение тридцати дней арбитры не смогут договориться о суперарбитре, Президент Совета назначает его из

established under this or the preceding Article shall settle its own procedure and give its decisions by majority vote, provided that the Council may determine procedural questions in the event of any delay which in the opinion of the Council is excessive.

Article 86

Appeals

Unless the Council decides otherwise any decision by the Council on whether an international airline is operating in conformity with the provisions of this Convention shall remain in effect unless reversed on appeal. On any other matter, decisions of the Council shall, if appealed from, be suspended until the appeal is decided. The decisions of the Permanent Court of International Justice and of an arbitral tribunal shall be final and binding.

Article 87

Penalty for non-conformity of airline

Each contracting State undertakes not to allow the operation of an airline of a contracting State through the airspace above its territory if the Council has decided that the airline concerned is not conforming to a final decision rendered in accordance with the previous Article.

Article 88

Penalty for non-conformity by State

The Assembly shall suspend the voting power in the Assembly and in the Council of any contracting State that is found in default under the provisions of this Chapter.

présent article ou de l'article précédent détermine ses règles de procédure et rend ses décisions à la majorité des voix, étant entendu que le Conseil peut décider des questions de procédure dans le cas d'un retard qu'il estimerait excessif.

Article 86

Appels

À moins que le Conseil n'en décide autrement, toute décision du Conseil sur la question de savoir si l'exploitation d'une entreprise de transport aérien international est conforme aux dispositions de la présente Convention conserve son effet, tant qu'elle n'a pas été infirmée en appel. Sur toute autre question, les décisions du Conseil sont suspendues en cas d'appel, jusqu'à ce qu'il soit statué sur l'appel. Les décisions de la Cour permanente de Justice internationale et celles d'un tribunal d'arbitrage sont définitives et obligatoires.

Article 87

Sanctions à l'encontre d'une entreprise de transport aérien qui ne se conforme pas aux dispositions prévues

Chaque État contractant s'engage à ne pas permettre, dans l'espace aérien au-dessus de son territoire, l'exploitation d'une entreprise de transport aérien d'un État contractant, si le Conseil a décidé que cette entreprise ne se conforme pas à une décision définitive rendue conformément aux dispositions de l'article précédent.

Article 88

Sanctions à l'encontre d'un État qui ne se conforme pas aux dispositions prévues

L'Assemblée suspend le droit de vote à l'Assemblée et au Conseil de tout État contractant trouvé en infraction au regard des dispositions du présent chapitre.

establecido según el presente artículo o el anterior adoptará su propio procedimiento y pronunciará sus decisiones por mayoría de votos, entendiéndose que el Consejo podrá decidir cuestiones de procedimiento en caso de dilaciones que, en su opinión fuesen excesivas.

Artículo 86

Apelaciones

Salvo que el Consejo decida otra cosa, toda decisión de éste sobre si una línea aérea internacional funciona de acuerdo con las disposiciones del presente Convenio continuará en vigor a menos que sea revocada en apelación. Sobre toda otra cuestión, las decisiones del Consejo, si se apelan, se suspenderán hasta que se falle la apelación. Las decisiones de la Corte Permanente Internacional de Justicia o de un tribunal de arbitraje serán firmes y obligatorias.

Artículo 87

Sanciones en caso de incumplimiento por las líneas aéreas

Todo Estado contratante se compromete a no permitir los vuelos de una línea aérea de un Estado contratante en el espacio aéreo situado sobre su territorio si el Consejo ha decidido que la línea aérea en cuestión no cumple con una decisión firme pronunciada según el artículo precedente.

Artículo 88

Sanciones a los Estados en caso de incumplimiento

La Asamblea suspenderá el derecho de voto en la Asamblea y en el Consejo a todo Estado contratante que se encuentre en falta con respecto a las disposiciones del presente Capítulo.

вышеуказанного списка. После этого арбитры и суперарбитр совместно образуют третейский суд. Любой третейский суд, учрежденный согласно настоящей или предыдущей Статье, устанавливает свою собственную процедуру и выносит свои решения большинством голосов при условии, что Совет может решать процедурные вопросы в случае какой-либо задержки, которая, по мнению Совета, является чрезмерной.

Статья 86

Обжалование

Если Совет не решит иначе, любое решение Совета о том, эксплуатирует ли авиапредприятие международные авиационные линии в соответствии с положениями настоящей Конвенции, остается в силе, при условии, что оно не отменено в порядке обжалования. Решения Совета по любому другому вопросу в случае их обжалования приостанавливаются до принятия решения по обжалованию. Решения Постоянной Палаты Международного Правосудия и третейского суда являются окончательными и обязательными.

Статья 87

Санкции в отношении авиапредприятия, не выполняющего решения

Каждое Договаривающееся государство обязуется не разрешать деятельность авиапредприятия какого-либо Договаривающегося государства в воздушном пространстве над своей территорией, если Совет принял решение, что данное авиапредприятие не выполняет окончательного решения, вынесенного в соответствии с предыдущей Статьей.

Статья 88

Санкции в отношении государства, не выполняющего обязательств

Ассамблея приостанавливает право голоса в Ассамблее и в Совете любого Договаривающегося государства, которое определено как не выполняющее обязательств, предусмотренных положениями настоящей Главы.

CHAPTER XIX

WAR

Article 89

War and emergency conditions

In case of war, the provisions of this Convention shall not affect the freedom of action of any of the contracting States affected, whether as belligerents or as neutrals. The same principle shall apply in the case of any contracting State which declares a state of national emergency and notifies the fact to the Council.

CHAPITRE XIX

GUERRE

Article 89

Guerre et état de crise

En cas de guerre, les dispositions de la présente Convention ne portent atteinte à la liberté d'action d'aucun des États contractants concernés, qu'ils soient belligérants ou neutres. Le même principe s'applique dans le cas de tout État contractant qui proclame l'état de crise nationale et notifie ce fait au Conseil.

CHAPTER XX

ANNEXES

Article 90

Adoption and amendment of Annexes

a) The adoption by the Council of the Annexes described in Article 54, subparagraph *l)*, shall require the vote of two-thirds of the Council at a meeting called for that purpose and shall then be submitted by the Council to each contracting State. Any such Annex or any amendment of an Annex shall become effective within three months after its submission to the contracting States or at the end of such longer period of time as the Council may prescribe, unless in the meantime a majority of the contracting States register their disapproval with the Council.

b) The Council shall immediately notify all contracting States of the coming into force of any Annex or amendment thereto.

CHAPITRE XX

ANNEXES

Article 90

Adoption et amendement des Annexes

a) L'adoption par le Conseil des Annexes visées à l'alinéa *l)* de l'article 54 requiert les voix des deux tiers du Conseil lors d'une réunion convoquée à cette fin et lesdites Annexes sont ensuite soumises par le Conseil à chaque État contractant. Toute Annexe ou tout amendement à une Annexe prend effet dans les trois mois qui suivent sa communication aux États contractants ou à la fin d'une période plus longue fixée par le Conseil, à moins qu'entre-temps la majorité des États contractants n'ait fait connaître sa désapprobation au Conseil.

b) Le Conseil notifie immédiatement à tous les États contractants l'entrée en vigueur de toute Annexe ou de tout amendement à une Annexe.

CHAPTER XXI

RATIFICATIONS, ADHERENCES, AMENDMENTS, AND DENUNCIATIONS

Article 91

Ratification of Convention

a) This Convention shall be subject to ratification by the signatory States. The instruments of ratification shall be deposited in the archives of the Government of the United

CHAPITRE XXI

RATIFICATIONS, ADHÉSIONS, AMENDEMENTS ET DÉNONCIATIONS

Article 91

Ratification de la Convention

a) La présente Convention est soumise à la ratification des États signataires. Les instruments de ratification sont déposés dans les archives du Gouvernement des États-Unis

CAPÍTULO XIX

GUERRA

Artículo 89

Estado de guerra y situaciones de emergencia

En caso de guerra, las disposiciones del presente Convenio no afectarán la libertad de acción de los Estados contratantes afectados, ya sean beligerantes o neutrales. El mismo principio se aplicará cuando un Estado contratante declare estado de emergencia nacional y lo comunique al Consejo.

ГЛАВА XIX

ВОЙНА

Статья 89

Война и чрезвычайное положение

В случае войны положения настоящей Конвенции не затрагивают свободы действий любого затронутого войной Договаривающегося государства, как воюющего, так и нейтрального. Такой же принцип применяется в случае, когда любое Договаривающееся государство объявляет у себя чрезвычайное положение и уведомляет об этом Совет.

CAPÍTULO XX

ANEXOS

Artículo 90

Adopción y enmienda de los Anexos

a) La adopción por el Consejo de los Anexos previstos en el párrafo *l)* del Artículo 54, requerirá el voto de dos tercios del Consejo en sesión convocada a ese fin; luego serán sometidos por el Consejo a cada Estado contratante. Todo Anexo o enmienda a uno de ellos, surtirá efecto a los tres meses de ser transmitido a los Estados contratantes o a la expiración de un período mayor que prescriba el Consejo, a menos que en el ínterin la mayoría de los Estados contratantes registren en el Consejo su desaprobación.

b) El Consejo notificará inmediatamente a todos los Estados contratantes la entrada en vigor de todo Anexo o enmienda a éste.

ГЛАВА XX

ПРИЛОЖЕНИЯ

Статья 90

Принятие Приложений и поправок к ним

a) Принятие Советом Приложений, упомянутых в подпункте *"l"* Статьи 54, требует две трети голосов Совета на созванном для этой цели заседании, после чего они направляются Советом каждому Договаривающемуся государству. Любое такое Приложение или любая поправка к Приложению вступают в силу в течение трех месяцев после направления их Договаривающимся государствам либо по истечении такого более длительного периода времени, какой может установить Совет при условии, что в течение этого времени большинство Договаривающихся государств не уведомит Совет о своем несогласии.

b) Совет немедленно извещает все Договаривающиеся государства о вступлении в силу любого Приложения или поправки к нему.

CAPÍTULO XXI

RATIFICACIONES, ADHESIONES, ENMIENDAS Y DENUNCIAS

Artículo 91

Ratificación del Convenio

a) El presente Convenio deberá ser ratificado por los Estados signatarios. Los instrumentos de ratificación se depositarán en los archivos del Gobierno de los Estados Unidos de

ГЛАВА XXI

РАТИФИКАЦИЯ, ПРИСОЕДИНЕНИЕ, ПОПРАВКИ И ДЕНОНСАЦИЯ

Статья 91

Ратификация Конвенции

a) Настоящая Конвенция подлежит ратификации подписавшими ее государствами. Ратификационные грамоты сдаются на хранение в архивы Правительства Соединенных

States of America, which shall give notice of the date of the deposit to each of the signatory and adhering States.

b) As soon as this Convention has been ratified or adhered to by twenty-six States it shall come into force between them on the thirtieth day after deposit of the twenty-sixth instrument. It shall come into force for each State ratifying thereafter on the thirtieth day after the deposit of its instrument of ratification.

c) It shall be the duty of the Government of the United States of America to notify the government of each of the signatory and adhering States of the date on which this Convention comes into force.

Article 92

Adherence to Convention

a) This Convention shall be open for adherence by members of the United Nations and States associated with them, and States which remained neutral during the present world conflict.

b) Adherence shall be effected by a notification addressed to the Government of the United States of America and shall take effect as from the thirtieth day from the receipt of the notification by the Government of the United States of America, which shall notify all the contracting States.

Article 93

Admission of other States

States other than those provided for in Articles 91 and 92 *a)* may, subject to approval by any general international organization set up by the nations of the world to preserve peace, be admitted to participation in this Convention by means of a four-fifths vote of the Assembly and on such conditions as the Assembly may prescribe: provided that in each case the assent of any State invaded or attacked during the present war by the State seeking admission shall be necessary.

d'Amérique, qui notifie la date du dépôt à chacun des États signataires et adhérents.

b) Dès que la présente Convention aura réuni les ratifications ou adhésions de vingt-six États, elle entrera en vigueur entre ces États le trentième jour après le dépôt du vingt-sixième instrument. Elle entrera en vigueur, à l'égard de chaque État qui la ratifiera par la suite, le trentième jour après le dépôt de son instrument de ratification.

c) Il incombe au Gouvernement des États-Unis d'Amérique de notifier au Gouvernement de chacun des États signataires et adhérents la date d'entrée en vigueur de la présente Convention.

Article 92

Adhésion à la Convention

a) La présente Convention est ouverte à l'adhésion des États membres des Nations Unies, des États associés à ceux-ci et des États demeurés neutres pendant le présent conflit mondial.

b) L'adhésion s'effectue par une notification adressée au Gouvernement des États-Unis d'Amérique et prend effet le trentième jour qui suit la réception de la notification par le Gouvernement des États-Unis d'Amérique, lequel en avise tous les États contractants.

Article 93

Admission d'autres États

Les États autres que ceux auxquels s'appliquent les articles 91 et 92 *a)* peuvent, sous réserve de l'approbation de toute organisation internationale générale créée par les nations du monde pour préserver la paix, être admis à participer à la présente Convention par un vote des quatre cinquièmes de l'Assemblée dans les conditions que l'Assemblée pourra prescrire, étant entendu que dans chaque cas l'assentiment de tout État envahi ou attaqué au cours de la présente guerre par l'État qui demande son admission sera nécessaire.

América, el cual notificará la fecha de depósito a cada uno de los Estados signatarios y adherentes.

b) Tan pronto como veintiséis Estados hayan ratificado o se hayan adherido al presente Convenio, éste entrará en vigor entre ellos al trigésimo día después del depósito del vigésimo sexto instrumento. Entrará en vigor para cada Estado que lo ratifique posteriormente, al trigésimo día después del depósito del correspondiente instrumento de ratificación.

c) Será obligación del Gobierno de los Estados Unidos de América notificar al Gobierno de cada uno de los Estados signatarios y adherentes la fecha de entrada en vigor del presente Convenio.

Artículo 92

Adhesión al Convenio

a) El presente Convenio quedará abierto a la adhesión de los miembros de las Naciones Unidas, de los Estados asociados a ellos y de los Estados que permanecieron neutrales durante el presente conflicto mundial.

b) La adhesión se efectuará por notificación dirigida al Gobierno de los Estados Unidos de América y surtirá efecto al trigésimo día de la fecha de recibo de la notificación por el Gobierno de los Estados Unidos de América, el cual notificará a todos los Estados contratantes.

Artículo 93

Admisión de otros Estados

Los Estados no previstos en los Artículos 91 y 92 *a)*, con el voto de los cuatro quintos de la Asamblea y en las condiciones que ésta fije, podrán participar en el presente Convenio, previo consentimiento del organismo internacional general que para preservar la paz establezcan las naciones del mundo; entendiéndose que en cada caso será necesario el asentimiento de todo Estado invadido o atacado durante la guerra actual por el Estado que solicite su ingreso.

Штатов Америки, которое уведомляет о дате такой сдачи на хранение каждое из подписавших настоящую Конвенцию и присоединившихся к ней государств.

b) Как только двадцать шесть государств ратифицируют настоящую Конвенцию или присоединятся к ней, она вступит для них в силу на тридцатый день после сдачи на хранение двадцать шестого документа. В дальнейшем она вступает в силу для каждого ратифицировавшего ее государства на тридцатый день после сдачи на хранение его ратификационной грамоты.

c) Обязанность извещать Правительство каждого из подписавших настоящую Конвенцию и присоединившихся к ней государств о дате вступления в силу настоящей Конвенции лежит на Правительстве Соединенных Штатов Америки.

Статья 92

Присоединение к Конвенции

a) Настоящая Конвенция открыта для присоединения членов Объединенных Наций и присоединившихся к ним государств и государств, которые оставались нейтральными в течение настоящего мирового конфликта.

b) Присоединение осуществляется путем уведомления, направляемого Правительству Соединенных Штатов Америки, и вступает в силу на тридцатый день со дня получения уведомления Правительством Соединенных Штатов Америки, которое извещает об этом все Договаривающиеся государства.

Статья 93

Допуск других государств

Помимо государств, упомянутых в Статьях 91 и 92*a)*, к участию в настоящей Конвенции, при условии одобрения какой-либо всеобщей международной организацией, учрежденной народами мира для сохранения мира, могут быть допущены другие государства четырьмя пятыми голосов Ассамблеи и на таких условиях, какие может установить Ассамблея; при этом в каждом отдельном случае необходимо согласие каждого государства, подвергшегося вторжению или нападению во время настоящей войны со стороны государства, добивающегося допуска.

Article 93 *bis

a) Notwithstanding the provisions of Articles 91, 92 and 93 above:

1) A State whose government the General Assembly of the United Nations has recommended be debarred from membership in international agencies established by or brought into relationship with the United Nations shall automatically cease to be a member of the International Civil Aviation Organization;

2) A State which has been expelled from membership in the United Nations shall automatically cease to be a member of the International Civil Aviation Organization unless the General Assembly of the United Nations attaches to its act of expulsion a recommendation to the contrary.

b) A State which ceases to be a member of the International Civil Aviation Organization as a result of the provisions of paragraph *a)* above may, after approval by the General Assembly of the United Nations, be readmitted to the International Civil Aviation Organization upon application and upon approval by a majority of the Council.

c) Members of the Organization which are suspended from the exercise of the rights and privileges of membership in the United Nations shall, upon the request of the latter, be suspended from the rights and privileges of membership in this Organization.

Article 94

Amendment of Convention

a) Any proposed amendment to this Convention must be approved by a two-thirds vote of the Assembly and shall then come into force in respect of States which have ratified such amendment when ratified by the number of contracting States specified by the Assembly. The number so specified shall not be less than two-thirds of the total number of contracting States.

* The 1st Session of the Assembly on 27 May 1947 amended the Chicago Convention by introducing Article 93 *bis*. This amendment came into force on 20 March 1961.

Article 93 *bis

a) Nonobstant les dispositions des articles 91, 92 et 93 ci-dessus,

1) Tout État dont le gouvernement fait l'objet de la part de l'Assemblée générale de l'Organisation des Nations Unies d'une recommandation tendant à le priver de sa qualité de membre d'institutions internationales, établies par l'Organisation des Nations Unies ou reliées à celle-ci, cesse automatiquement d'être membre de l'Organisation de l'aviation civile internationale;

2) Tout État qui est exclu de l'Organisation des Nations Unies cesse automatiquement d'être membre de l'Organisation de l'aviation civile internationale à moins que l'Assemblée générale de l'Organisation des Nations Unies joigne à son acte d'exclusion une recommandation contraire.

b) Tout État qui cesse d'être membre de l'Organisation de l'aviation civile internationale, en application des dispositions du paragraphe *a)* ci-dessus, peut, avec l'accord de l'Assemblée générale de l'Organisation des Nations Unies, être admis à nouveau dans l'Organisation de l'aviation civile internationale sur sa demande, et avec l'approbation du Conseil votée à la majorité.

c) Les membres de l'Organisation qui sont suspendus de l'exercice des droits et privilèges inhérents à la qualité de membre de l'Organisation des Nations Unies, sont, à la requête de cette dernière, suspendus des droits et privilèges inhérents à la qualité de membre de la présente Organisation.

Article 94

Amendement de la Convention

a) Toute proposition d'amendement à la présente Convention doit être approuvée par les deux tiers de l'Assemblée et entre alors en vigueur à l'égard des États qui ont ratifié cet amendement, après sa ratification par le nombre d'États contractants fixé par l'Assemblée. Le nombre ainsi fixé ne doit pas être inférieur aux deux tiers du nombre total des États contractants.

* Le 27 mai 1947, à sa 1re session, l'Assemblée a amendé la Convention de Chicago en ajoutant l'article 93 *bis*. Cet amendement est entré en vigueur le 20 mars 1961.

Artículo 93 *bis

a) A pesar de las disposiciones de los Artículos 91, 92 y 93, que anteceden,

1) un Estado cuyo gobierno la Asamblea General de las Naciones Unidas ha recomendado que sea excluido de los organismos internacionales, establecidos por las Naciones Unidas o vinculados con ellas, dejará automáticamente de ser miembro de la Organización de Aviación Civil Internacional;

2) un Estado que haya sido expulsado de las Naciones Unidas dejará automáticamente de ser miembro de la Organización de Aviación Civil Internacional, a no ser que la Asamblea General de las Naciones Unidas incluya en su acta de expulsión una recomendación en sentido contrario.

b) Un Estado que deje de ser miembro de la Organización de Aviación Civil Internacional como resultado de lo dispuesto en el párrafo *a)* que antecede, puede, previa aprobación de la Asamblea General de las Naciones Unidas, ser readmitido en la Organización de Aviación Civil Internacional mediante solicitud y con la aprobación de la mayoría del Consejo.

c) Los miembros de la Organización que sean suspendidos en el ejercicio de sus derechos y privilegios como miembros de las Naciones Unidas, serán, si lo piden las Naciones Unidas, suspendidos en sus derechos y privilegios como miembros de esta Organización.

Artículo 94

Enmiendas del Convenio

a) Toda enmienda que se proponga al presente Convenio deberá ser aprobada por voto de dos tercios de la Asamblea y entrará en vigor con respecto a los Estados que la hayan ratificado, cuando la ratifique el número de Estados contratantes fijado por la Asamblea. Este número no será inferior a los dos tercios del total de Estados contratantes.

* El 27 de mayo de 1947, el 1er período de sesiones de la Asamblea enmendó el Convenio de Chicago, incluyendo el Artículo 93 *bis*. Esa enmienda entró en vigor el 20 de marzo de 1961.

Статья 93 *bis

a) Независимо от изложенных выше положений вышеуказанных Статей 91, 92 и 93:

1) государство, правительство которого Генеральная Ассамблея Организации Объединенных Наций рекомендовала лишить права членства в международных учреждениях, созданных Организацией Объединенных Наций или вступивших с ней в отношения, автоматически перестает быть членом Международной организации гражданской авиации;

2) государство, исключенное из членов Организации Объединенных Наций, автоматически перестает быть членом Международной организации гражданской авиации, если только Генеральная Ассамблея Организации Объединенных Наций не дополнит свой акт об исключении рекомендацией об обратном.

b) Государство, которое перестает быть членом Международной организации гражданской авиации в силу положений вышеуказанного пункта *a)*, может после одобрения Генеральной Ассамблеей Организации Объединенных Наций быть вновь допущено в Международную организацию гражданской авиации по его просьбе и с одобрения большинства Совета.

c) Если осуществление членами данной Организации прав и привилегий, принадлежащих им как членам Организации Объединенных Наций, приостановлено, то, по требованию последней, приостанавливается осуществление ими прав и привилегий, вытекающих из членства в данной Организации.

Статья 94

Поправки к Конвенции

a) Любая предложенная поправка к настоящей Конвенции должна быть одобрена двумя третями голосов Ассамблеи и затем вступает в силу в отношении государств, ратифицировавших такую поправку, после того, как ее ратифицирует установленное Ассамблеей число Договаривающихся государств. Установленное таким образом число составляет не менее двух третей общего числа Договаривающихся государств.

* Ассамблея на своей 1-й сессии 27 мая 1947 года внесла поправку в Чикагскую конвенцию, включив статью 93 *bis*. Данная поправка вступила в силу 20 марта 1961 года.

b) If in its opinion the amendment is of such a nature as to justify this course, the Assembly in its resolution recommending adoption may provide that any State which has not ratified within a specified period after the amendment has come into force shall thereupon cease to be a member of the Organization and a party to the Convention.

Article 95

Denunciation of Convention

a) Any contracting State may give notice of denunciation of this Convention three years after its coming into effect by notification addressed to the Government of the United States of America, which shall at once inform each of the contracting States.

b) Denunciation shall take effect one year from the date of the receipt of the notification and shall operate only as regards the State effecting the denunciation.

CHAPTER XXII

DEFINITIONS

Article 96

For the purpose of this Convention the expression:

a) "Air service" means any scheduled air service performed by aircraft for the public transport of passengers, mail or cargo.

b) "International air service" means an air service which passes through the air space over the territory of more than one State.

c) "Airline" means any air transport enterprise offering or operating an international air service.

d) "Stop for non-traffic purposes" means a landing for any purpose other than taking on or discharging passengers, cargo or mail.

b) Si à son avis l'amendement est de nature à justifier cette mesure, l'Assemblée peut, dans sa résolution qui en recommande l'adoption, stipuler que tout État qui n'aura pas ratifié ledit amendement dans un délai déterminé après que cet amendement sera entré en vigueur cessera alors d'être membre de l'Organisation et partie à la Convention.

Article 95

Dénonciation de la Convention

a) Tout État contractant peut dénoncer la présente Convention trois ans après son entrée en vigueur au moyen d'une notification adressée au Gouvernement des États-Unis d'Amérique, qui en informe immédiatement chacun des États contractants.

b) La dénonciation prend effet un an après la date de réception de la notification et ne vaut qu'à l'égard de l'État qui a effectué la dénonciation.

CHAPITRE XXII

DÉFINITIONS

Article 96

Aux fins de la présente Convention:

a) «Service aérien» signifie tout service aérien régulier assuré par aéronef pour le transport public de passagers, de courrier ou de marchandises;

b) «Service aérien international» signifie un service aérien qui traverse l'espace aérien au-dessus du territoire de deux ou plusieurs États;

c) «Entreprise de transport aérien» signifie toute entreprise de transport aérien offrant ou exploitant un service aérien international;

d) «Escale non commerciale» signifie un atterrissage ayant un but autre que l'embarquement ou le débarquement de passagers, de marchandises ou de courrier.

b) Si la Asamblea opina que la enmienda es de naturaleza tal que justifique esta medida, puede disponer, en la resolución que recomiende su adopción, que todo Estado que no la haya ratificado dentro de determinado período después de que ésta entre en vigor, cese *ipso facto* de ser miembro de la Organización y parte en el Convenio.

b) Если, по мнению Ассамблеи, характер поправки оправдывает эту меру, то Ассамблея в своей резолюции, рекомендующей принятие поправки, может предусмотреть, что любое государство, которое не ратифицирует поправку в течение установленного периода после вступления ее в силу, вследствие этого перестает быть членом Международной организации гражданской авиации и участником Конвенции.

Artículo 95

Denuncia del Convenio

a) Todo Estado contratante puede comunicar la denuncia del presente Convenio tres años después de su entrada en vigor, por notificación dirigida al Gobierno de los Estados Unidos de América, quien inmediatamente lo informará a cada uno de los Estados contratantes.

b) La denuncia surtirá efecto un año después de la fecha de recibo de la notificación y sólo se aplicará al Estado que haya hecho tal denuncia.

Статья 95

Денонсация Конвенции

a) Любое Договаривающееся государство может известить о денонсации настоящей Конвенции через три года после ее вступления в силу посредством уведомления, направляемого Правительству Соединенных Штатов Америки, которое незамедлительно сообщает об этом каждому Договаривающемуся государству.

b) Денонсация вступает в силу через год со дня получения уведомления и действует только в отношении государства, денонсировавшего Конвенцию.

CAPÍTULO XXII

DEFINICIONES

Artículo 96

A los fines del presente Convenio se entiende por:

a) "Servicio aéreo", todo servicio aéreo regular realizado por aeronaves de transporte público de pasajeros, correo o carga.

b) "Servicio aéreo internacional", el servicio aéreo que pasa por el espacio aéreo sobre el territorio de más de un Estado.

c) "Línea aérea", toda empresa de transporte aéreo que ofrezca o explote un servicio aéreo internacional.

d) "Escala para fines no comerciales", el aterrizaje para fines ajenos al embarque o desembarque de pasajeros, carga o correo.

ГЛАВА XXII

ОПРЕДЕЛЕНИЯ

Статья 96

В целях настоящей Конвенции:

a) "Воздушное сообщение" означает любое регулярное воздушное сообщение, осуществляемое воздушными судами с целью общественных перевозок пассажиров, почты или груза.

b) "Международное воздушное сообщение" означает воздушное сообщение, осуществляемое через воздушное пространство над территорией более чем одного государства.

c) "Авиапредприятие" означает любое авиатранспортное предприятие, предлагающее или эксплуатирующее международные воздушные сообщения.

d) "Остановка с некоммерческими целями" означает посадку с любой целью, иной, чем принятие на борт или выгрузка пассажиров, груза или почты.

SIGNATURE OF CONVENTION

IN WITNESS WHEREOF, the undersigned plenipotentiaries, having been duly authorized, sign this Convention on behalf of their respective governments on the dates appearing opposite their signatures.

DONE at Chicago the seventh day of December 1944 in the English language. The texts of this Convention drawn up in the English, French, Russian and Spanish languages are of equal authenticity. These texts shall be deposited in the archives of the Government of the United States of America, and certified copies shall be transmitted by that Government to the Governments of all the States which may sign or adhere to this Convention. This Convention shall be open for signature at Washington, D.C.*

SIGNATURE DE LA CONVENTION

EN FOI DE QUOI, les plénipotentiaires soussignés, dûment autorisés, signent la présente Convention au nom de leurs Gouvernements respectifs aux dates figurant en regard de leurs signatures.

FAIT à Chicago, le septième jour du mois de décembre 1944, en langue anglaise. Les textes de la présente Convention rédigés dans les langues française, anglaise, espagnole et russe font également foi. Ces textes seront déposés aux archives du Gouvernement des États-Unis d'Amérique et des copies certifiées conformes seront transmises par ce Gouvernement aux Gouvernements de tous les États qui signeront la présente Convention ou y adhéreront. La présente Convention sera ouverte à la signature à Washington (D.C.)*.

* This is the text of the final paragraph as amended by the 22nd Session of the Assembly on 30 September 1977; it entered into force on 17 August 1999. The original text read as follows:

"DONE at Chicago the seventh day of December 1944 in the English language. A text drawn up in the English, French and Spanish languages, each of which shall be of equal authenticity, shall be open for signature at Washington, D.C. Both texts shall be deposited in the archives of the Government of the United States of America, and certified copies shall be transmitted by that Government to the governments of all the States which may sign or adhere to this Convention."

* Ce texte est celui du dernier paragraphe amendé par l'Assemblée à sa 22e session, le 30 septembre 1977; il est entré en vigueur le 17 août 1999. Le texte original se lisait comme suit:

«FAIT à Chicago, le septième jour du mois de décembre 1944, en langue anglaise. Un texte rédigé dans les langues française, anglaise et espagnole, chacune faisant également foi, sera ouvert à la signature à Washington (D.C.). Les deux textes seront déposés aux archives du Gouvernement des États-Unis d'Amérique et des copies certifiées conformes seront transmises par ce Gouvernement aux Gouvernements de tous les États qui signeront la présente Convention ou y adhéreront.»

FIRMA DEL CONVENIO

EN FE DE LO CUAL, los plenipotenciarios que suscriben, debidamente autorizados, firman el presente Convenio en nombre de sus Gobiernos respectivos en las fechas que aparecen frente a sus firmas.

HECHO en Chicago, el día siete de diciembre de 1944, en el idioma inglés. Los textos del presente Convenio, redactados en los idiomas español, francés, inglés y ruso, tendrán igual autenticidad. Dichos textos serán depositados en los archivos del Gobierno de los Estados Unidos de América, el cual transmitirá copias certificadas a los Gobiernos de todos los Estados que firmen o se adhieran a él. El presente Convenio quedará abierto para la firma en Washington, D.C.*

ПОДПИСАНИЕ КОНВЕНЦИИ

В УДОСТОВЕРЕНИЕ ЧЕГО нижеподписавшиеся полномочные представители, должным образом уполномоченные, подписали настоящую Конвенцию от имени своих соответствующих Правительств в даты, указанные против их подписей.

СОВЕРШЕНО в Чикаго седьмого дня декабря 1944 года на английском языке. Тексты настоящей Конвенции, составленные на русском, английском, испанском и французском языках, являются равно аутентичными. Эти тексты сдаются на хранение в архивы правительства Соединенных Штатов Америки, а заверенные копии направляются этим правительством правительствам всех государств, которые могут подписать настоящую Конвенцию или присоединиться к ней. Настоящая Конвенция открывается для подписания в Вашингтоне, округ Колумбия*.

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* Éste es el texto del párrafo final enmendado por el 22° período de sesiones de la Asamblea el 30 de septiembre de 1977; entró en vigor el 17 de agosto de 1999. El texto original es el siguiente:

"HECHO en Chicago, el día siete de diciembre de mil novecientos cuarenta y cuatro, en el idioma inglés. Un texto redactado en los idiomas español, francés e inglés, cada uno de los cuales tendrá igual autenticidad, quedará abierto para la firma en Washington, D.C. Ambos textos serán depositados en los archivos del Gobierno de los Estados Unidos de América, el cual transmitirá copias certificadas a los Gobiernos de todos los Estados que firmen o se adhieran al presente Convenio."

* Текст заключительного пункта с поправкой, внесенной на 22-й сессии Ассамблеи 30 сентября 1977 года, вступил в силу 17 августа 1999 года. Первоначальный текст гласил следующее:

"СОВЕРШЕНО в Чикаго седьмого дня декабря 1944 года на английском языке. Текст, составленный на английском, испанском и французском языках, каждый из которых является равно аутентичным, открывается для подписания в Вашингтоне, округ Колумбия. Оба текста сдаются на хранение в архивы Правительства Соединенных Штатов Америки, а заверенные копии направляются этим Правительством Правительствам всех государств, которые могут подписать настоящую Конвенцию или присоединиться к ней".

PROTOCOL[1]

ON THE AUTHENTIC TRILINGUAL TEXT OF THE CONVENTION ON INTERNATIONAL CIVIL AVIATION (CHICAGO, 1944)

Signed at Buenos Aires on 24 September 1968

THE UNDERSIGNED GOVERNMENTS

CONSIDERING that the last paragraph of the Convention on International Civil Aviation, hereinafter called "the Convention", provides that a text of the Convention, drawn up in the English, French and Spanish languages, each of which shall be of equal authenticity, shall be open for signature;

CONSIDERING that the Convention was opened for signature, at Chicago, on the seventh day of December, 1944, in a text in the English language;

CONSIDERING, accordingly, that it is appropriate to make the necessary provision for the text to exist in three languages as contemplated in the Convention;

CONSIDERING that in making such provision, it should be taken into account that there exist amendments to the Convention in the English, French and Spanish languages, and that the text of the Convention in the French and Spanish languages should not incorporate those amendments because, in accordance with Article 94 *a)* of the Convention, each such amendment can come into force only in respect of any State which has ratified it;

HAVE AGREED as follows:

Article I[2]

The text of the Convention in the French and Spanish languages annexed to this Protocol, together with the text of the Convention in the English language, constitutes the text equally authentic in the three languages as specifically referred to in the last paragraph of the Convention.

1. Came into force on 24 October 1968.
2. The text of the Convention in the French and Spanish languages mentioned in this Article will be found in the second and third columns at pages 1 to 44 of this document, subject to what is stated in the second paragraph of the Foreword at page (ii).

PROTOCOLE[1]

CONCERNANT LE TEXTE AUTHENTIQUE TRILINGUE DE LA CONVENTION RELATIVE À L'AVIATION CIVILE INTERNATIONALE (CHICAGO, 1944)

Signé à Buenos Aires le 24 septembre 1968

LES GOUVERNEMENTS SOUSSIGNÉS

CONSIDÉRANT que le dernier paragraphe de la Convention relative à l'aviation civile internationale, appelée ci-après «la Convention», stipule qu'un texte de la Convention, rédigé en langues française, anglaise et espagnole, chacune faisant également foi, sera ouvert à la signature;

CONSIDÉRANT que la Convention a été ouverte à la signature à Chicago, le sept décembre mil neuf cent quarante-quatre, dans un texte en langue anglaise;

CONSIDÉRANT, en conséquence, qu'il convient de prendre les dispositions nécessaires pour qu'existe le texte en trois langues tel que prévu dans la Convention;

CONSIDÉRANT qu'il devrait être tenu compte, en prenant ces dispositions, de ce que des amendements à la Convention existent en langues française, anglaise et espagnole, et de ce que le texte de la Convention en langues française et espagnole ne devrait pas comporter ces amendements, car chacun desdits amendements n'entre en vigueur, conformément aux dispositions de l'article 94 *a)* de la Convention, qu'à l'égard de tout État qui l'a ratifié;

SONT CONVENUS de ce qui suit:

Article I[er] [2]

Le texte en langues française et espagnole de la Convention annexé au présent Protocole constitue, conjointement avec le texte en langue anglaise de la Convention, le texte faisant également foi dans les trois langues, tel que prévu expressément au dernier paragraphe de la Convention.

1. Entré en vigueur le 24 octobre 1968.
2. Le texte en langues française et espagnole de la Convention, visé au présent article, figure dans les deuxième et troisième colonnes du présent document, pages 1 à 44, sous réserve de ce qui est dit au deuxième paragraphe de l'Avant-propos, page (ii).

PROTOCOLO[1]

RELATIVO AL TEXTO AUTÉNTICO TRILINGÜE DEL CONVENIO SOBRE AVIACIÓN CIVIL INTERNACIONAL (CHICAGO, 1944)

Firmado en Buenos Aires el 24 de septiembre de 1968

LOS GOBIERNOS FIRMANTES

CONSIDERANDO que el párrafo final del Convenio sobre Aviación Civil Internacional, en adelante llamado "el Convenio", dispone que un texto del Convenio, redactado en los idiomas español, francés o inglés, cada uno de los cuales tendrá igual autenticidad, quedará abierto a la firma;

CONSIDERANDO que el Convenio fue abierto a la firma en Chicago el siete de diciembre de mil novecientos cuarenta y cuatro, en un texto en idioma inglés;

CONSIDERANDO que, por lo tanto, conviene adoptar las disposiciones necesarias para que exista el texto en tres idiomas, tal como se prevé en el Convenio;

CONSIDERANDO que, al adoptar tales disposiciones, se debería tener en cuenta que existen enmiendas al Convenio en los idiomas español, francés e inglés, y que el texto del Convenio en los idiomas español y francés no debería incluir dichas enmiendas, ya que, de acuerdo con el Artículo 94 *a)* del Convenio, cada una de tales enmiendas solamente entra en vigor para los Estados que las hayan ratificado;

HAN ACORDADO lo siguiente:

Artículo I[2]

El texto en los idiomas español y francés del Convenio adjunto al presente Protocolo constituye, con el texto en el idioma inglés del Convenio, el texto igualmente auténtico en tres idiomas, tal como se prevé expresamente en el párrafo final del Convenio.

1. Entró en vigor el 24 de octubre de 1968.
2. Véase el texto del Convenio en los idiomas francés y español a que se hace referencia en este artículo en las columnas segunda y tercera de las páginas 1 a 44 de este documento, según lo previsto en el segundo párrafo del Prólogo en la página (ii).

ПРОТОКОЛ[1]

ОБ АУТЕНТИЧНОМ ТРЕХЪЯЗЫЧНОМ ТЕКСТЕ КОНВЕНЦИИ О МЕЖДУНАРОДНОЙ ГРАЖДАНСКОЙ АВИАЦИИ (ЧИКАГО, 1944 ГОД)

Подписан в Буэнос-Айресе 24 сентября 1968 года

НИЖЕПОДПИСАВШИЕСЯ ПРАВИТЕЛЬСТВА,

ПРИНИМАЯ ВО ВНИМАНИЕ, что последний пункт Конвенции о международной гражданской авиации, именуемой ниже "Конвенция", предусматривает, что текст Конвенции, составленный на английском, испанском и французском языках, каждый из которых является равно аутентичным, открывается для подписания;

ПРИНИМАЯ ВО ВНИМАНИЕ, что Конвенция была открыта для подписания в Чикаго седьмого дня декабря 1944 года в виде текста на английском языке;

ПРИНИМАЯ ВО ВНИМАНИЕ соответственно, что целесообразно предусмотреть необходимые положения о существовании текста на трех языках, как это предусматривается в Конвенции;

ПРИНИМАЯ ВО ВНИМАНИЕ, что при принятии таких положений следует учитывать, что существуют поправки к Конвенции на английском, испанском и французском языках и что текст Конвенции на испанском и французском языках не должен включать эти поправки, поскольку в соответствии со Статьей 94 *a)* Конвенции каждая такая поправка может вступить в силу только в отношении государства, ратифицировавшего ее;

СОГЛАСИЛИСЬ о нижеследующем:

Статья I[2]

Текст Конвенции на испанском и французском языках, приложенный к настоящему Протоколу, вместе с текстом Конвенции на английском языке составляет текст равно аутентичный на этих трех языках, как это конкретно указывается в последнем пункте Конвенции.

1. Вступил в силу 24 октября 1968 года.
2. Текст Конвенции на французском и испанском языках, упомянутый в данной статье, приводится во второй и третьей колонках на страницах 1–44 настоящего документа с учетом оговорки во втором абзаце предисловия на странице (ii).

Article II

If a State party to this Protocol has ratified or in the future ratifies any amendment made to the Convention in accordance with Article 94 *a)* thereof, then the text of such amendment in the English, French and Spanish languages shall be deemed to refer to the text, equally authentic in the three languages, which results from this Protocol.

Article III

1) The States members of the International Civil Aviation Organization may become parties to this Protocol either by:

a) signature without reservation as to acceptance, or

b) signature with reservation as to acceptance followed by acceptance, or

c) acceptance.

2) This Protocol shall remain open for signature at Buenos Aires until the twenty-seventh day of September 1968 and thereafter at Washington, D.C.

3) Acceptance shall be effected by the deposit of an instrument of acceptance with the Government of the United States of America.

4) Adherence to or ratification or approval of this Protocol shall be deemed to be acceptance thereof.

Article IV

1) This Protocol shall come into force on the thirtieth day after twelve States shall, in accordance with the provisions of Article III, have signed it without reservation as to acceptance or accepted it.

2) As regards any State which shall subsequently become a party to this Protocol, in accordance with Article III, the Protocol shall come into force on the date of its signature without reservation as to acceptance or of its acceptance.

Article II

Lorsqu'un État partie au présent Protocole a ratifié ou ratifie ultérieurement un amendement apporté à la Convention, conformément aux dispositions de l'article 94 *a)* de celle-ci, le texte en langues française, anglaise et espagnole de cet amendement est réputé se référer au texte faisant également foi dans les trois langues qui résulte du présent Protocole.

Article III

1) Les États membres de l'Organisation de l'aviation civile internationale peuvent devenir parties au présent Protocole:

a) soit en le signant, sans réserve d'acceptation,

b) soit en le signant, sous réserve d'acceptation, suivie d'acceptation,

c) soit en l'acceptant.

2) Le présent Protocole restera ouvert à la signature à Buenos Aires jusqu'au 27 septembre 1968 et après cette date à Washington (D.C.).

3) L'acceptation est effectuée par le dépôt d'un instrument d'acceptation auprès du Gouvernement des États-Unis d'Amérique.

4) L'adhésion au présent Protocole, sa ratification ou son approbation est considérée comme acceptation du Protocole.

Article IV

1) Le présent Protocole entrera en vigueur le trentième jour après que douze États l'auront signé sans réserve d'acceptation ou accepté, conformément aux dispositions de l'article III.

2) En ce qui concerne tout État qui deviendra ultérieurement partie au présent Protocole, conformément aux dispositions de l'article III, le Protocole entrera en vigueur à la date de sa signature sans réserve ou de son acceptation.

Artículo II

Si un Estado parte en el presente Protocolo ha ratificado o en el futuro ratifica cualquier enmienda hecha al Convenio de acuerdo con el Artículo 94 *a)* del mismo, se considerará que el texto en los idiomas español, francés e inglés de tal enmienda se refiere al texto de igual autenticidad en los tres idiomas que resulta del presente Protocolo.

Artículo III

1) Los Estados miembros de la Organización de Aviación Civil Internacional pueden ser partes en el presente Protocolo ya sea mediante:

a) la firma, sin reserva de aceptación,

b) la firma, bajo reserva de aceptación, seguida de aceptación,

c) la aceptación.

2) El presente Protocolo quedará abierto a la firma en Buenos Aires hasta el veintisiete de septiembre de 1968 y después de esta fecha en Washington, D.C.

3) La aceptación se llevará a cabo mediante el depósito de un instrumento de aceptación ante el Gobierno de los Estados Unidos de América.

4) La adhesión al presente Protocolo o su ratificación o aprobación se considerarán como aceptación del mismo.

Artículo IV

1) El presente Protocolo entrará en vigor el trigésimo día después de que doce Estados, de acuerdo con las disposiciones del Artículo III, lo hayan firmado sin reserva de aceptación o lo hayan aceptado.

2) Por lo que se refiere a cualquier Estado que sea posteriormente parte en el presente Protocolo, de acuerdo con las disposiciones del Artículo III, el Protocolo entrará en vigor en la fecha de la firma sin reserva de aceptación o de la aceptación.

Статья II

Если государство – сторона настоящего Протокола ратифицировало или в будущем ратифицирует любую поправку, сделанную к Конвенции в соответствии со Статьей 94 *a)* Конвенции, то текст такой поправки на английском, испанском и французском языках будет считаться относящимся к тексту, равно аутентичному на трех языках, предусмотренному настоящим Протоколом.

Статья III

1) Государства – члены Международной организации гражданской авиации могут стать участниками настоящего Протокола путем:

a) подписания без оговорки в отношении принятия, или

b) подписания с оговоркой в отношении принятия с последующим принятием, или

c) принятия.

2) Настоящий Протокол останется открытым для подписания в Буэнос-Айресе до двадцать седьмого дня сентября 1968 года и после этого – в Вашингтоне, округ Колумбия.

3) Принятие осуществляется путем сдачи на хранение документа о принятии Правительству Соединенных Штатов Америки.

4) Присоединение к настоящему Протоколу, или ратификация, или утверждение настоящего Протокола рассматриваются как его принятие.

Статья IV

1) Настоящий Протокол вступит в силу на тридцатый день после того, как двенадцать государств в соответствии с положениями Статьи III подпишут его без оговорки в отношении принятия или примут его.

2) В отношении любого государства, которое впоследствии становится Стороной настоящего Протокола в соответствии со Статьей III, Протокол вступит в силу на дату его подписания без оговорки в отношении принятия или на дату его принятия.

Article V

Any future adherence of a State to the Convention shall be deemed to be acceptance of this Protocol.

Article VI

As soon as this Protocol comes into force, it shall be registered with the United Nations and with the International Civil Aviation Organization by the Government of the United States of America.

Article VII

1) This Protocol shall remain in force so long as the Convention is in force.

2) This Protocol shall cease to be in force for a State only when that State ceases to be a party to the Convention.

Article VIII

The Government of the United States of America shall give notice to all States members of the International Civil Aviation Organization and to the Organization itself:

a) of any signature of this Protocol and the date thereof, with an indication whether the signature is with or without reservation as to acceptance;

b) of the deposit of any instrument of acceptance and the date thereof;

c) of the date on which this Protocol comes into force in accordance with the provisions of Article IV, paragraph 1).

Article IX

This Protocol, drawn up in the English, French and Spanish languages, each text being equally authentic, shall be deposited in the archives of the Government of the United States of America, which shall transmit duly certified copies thereof to the Government of the States members of the International Civil Aviation Organization.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, duly authorized, have signed this Protocol.

DONE at Buenos Aires this twenty-fourth day of September, one thousand nine hundred and sixty-eight.

Article V

L'adhésion future d'un État à la Convention vaut acceptation du présent Protocole.

Article VI

Dès son entrée en vigueur, le présent Protocole sera enregistré par le Gouvernement des États-Unis d'Amérique auprès de l'Organisation des Nations Unies et auprès de l'Organisation de l'aviation civile internationale.

Article VII

1) Le présent Protocole reste en vigueur aussi longtemps que la Convention est en vigueur.

2) Le présent Protocole cesse d'être en vigueur à l'égard d'un État, seulement lorsque cet État cesse d'être partie à la Convention.

Article VIII

Le Gouvernement des États-Unis d'Amérique notifie à tous les États membres de l'Organisation de l'aviation civile internationale et à l'Organisation elle-même:

a) toute signature du présent Protocole et la date de cette signature, en indiquant si la signature a été apposée sans ou sous réserve d'acceptation;

b) le dépôt de tout instrument d'acceptation et la date de ce dépôt;

c) la date à laquelle le présent Protocole est entré en vigueur, conformément aux dispositions de son article IV, paragraphe 1.

Article IX

Le présent Protocole, rédigé dans les langues française, anglaise et espagnole, chaque texte faisant également foi, sera déposé aux archives du Gouvernement des États-Unis d'Amérique qui en transmettra des copies certifiées conformes aux Gouvernements des États membres de l'Organisation de l'aviation civile internationale.

EN FOI DE QUOI, les Plénipotentiaires soussignés, dûment autorisés, ont apposé leur signature au présent Protocole.

FAIT à Buenos Aires le vingt-quatre septembre mil neuf cent soixante-huit.

Artículo V

La futura adhesión de un Estado al Convenio será considerada como aceptación del presente Protocolo.

Artículo VI

Tan pronto como el presente Protocolo entre en vigor, será registrado en las Naciones Unidas y en la Organización de Aviación Civil Internacional por el Gobierno de los Estados Unidos de América.

Artículo VII

1) El presente Protocolo permanecerá en vigor mientras lo esté el Convenio.

2) El presente Protocolo cesará de estar en vigor con respecto a un Estado solamente cuando dicho Estado cese de ser Parte en el Convenio.

Artículo VIII

El Gobierno de los Estados Unidos de América comunicará a todos los Estados miembros de la Organización de Aviación Civil Internacional y a la Organización misma:

a) Toda firma del presente Protocolo y la fecha de la misma, indicando si la firma se hace sin reserva o bajo reserva de aceptación;

b) El depósito de cualquier instrumento de aceptación y la fecha del mismo;

c) La fecha en que el presente Protocolo entre en vigor de acuerdo con el Artículo IV, párrafo 1.

Artículo IX

El presente Protocolo, redactado en los idiomas español, francés e inglés, teniendo cada texto igual autenticidad, será depositado en los archivos del Gobierno de los Estados Unidos de América, el cual transmitirá copias debidamente certificadas del mismo a los Gobiernos de los Estados miembros de la Organización de Aviación Civil Internacional.

EN TESTIMONIO DE LO CUAL, los Plenipotenciarios abajo firmantes, debidamente autorizados, han firmado el presente Protocolo.

HECHO en Buenos Aires, el veinticuatro de septiembre de mil novecientos sesenta y ocho.

Статья V

Любое будущее присоединение государства к Конвенции будет рассматриваться как принятие настоящего Протокола.

Статья VI

После вступления настоящего Протокола в силу он будет зарегистрирован в Организации Объединенных Наций и в Международной организации гражданской авиации Правительством Соединенных Штатов Америки.

Статья VII

1) Настоящий Протокол будет оставаться в силе до тех пор, пока будет находиться в силе Конвенция.

2) Настоящий Протокол утратит силу для государства только в том случае, если это государство перестанет быть Стороной Конвенции.

Статья VIII

Правительство Соединенных Штатов Америки уведомляет все государства – члены Международной организации гражданской авиации и саму Организацию о:

a) каждом подписании настоящего Протокола и дате подписания с указанием, является ли подписание с оговоркой или без оговорки в отношении принятия;

b) сдаче на хранение каждого документа о принятии и дате его;

c) дате вступления в силу настоящего Протокола в соответствии с положениями пункта 1 Статьи IV.

Статья IX

Настоящий Протокол, составленный на английском, испанском и французском языках, причем каждый текст является равно аутентичным, сдается на хранение в архивы Правительства Соединенных Штатов Америки, которое направит должным образом заверенные копии его Правительствам государств – членов Международной организации гражданской авиации.

В УДОСТОВЕРЕНИЕ ЧЕГО нижеподписавшиеся полномочные представители, должным образом уполномоченные, подписали настоящий Протокол.

СОВЕРШЕНО в Буэнос-Айресе двадцать четвертого дня сентября одна тысяча девятьсот шестьдесят восьмого года.

PROTOCOL[1]

ON THE AUTHENTIC QUADRILINGUAL TEXT OF THE CONVENTION ON INTERNATIONAL CIVIL AVIATION (CHICAGO, 1944)

Signed at Montreal on 30 September 1977

THE UNDERSIGNED GOVERNMENTS

CONSIDERING that the 21st Session of the Assembly of the International Civil Aviation Organization requested the Council of this Organization "to undertake the necessary measures for the preparation of the authentic text of the Convention on International Civil Aviation in the Russian language, with the aim of having it approved not later than the year 1977";

CONSIDERING that the English text of the Convention on International Civil Aviation was opened for signature at Chicago on 7 December 1944;

CONSIDERING that, pursuant to the Protocol signed at Buenos Aires on 24 September 1968 on the authentic trilingual text of the Convention on International Civil Aviation done at Chicago, 7 December 1944, the text of the Convention on International Civil Aviation (hereinafter called the Convention) was adopted in the French and Spanish languages and, together with the text of the Convention in the English language, constitutes the text equally authentic in the three languages as provided for in the final clause of the Convention;

CONSIDERING accordingly, that it is appropriate to make the necessary provision for the text of the Convention to exist in the Russian language;

CONSIDERING that in making such provision account must be taken of the existing amendments to the Convention in the English, French and Spanish languages, the texts of which are equally authentic and that, according to Article 94 *a)* of the Convention, any amendment can come into force only in respect of any State which has ratified it;

1. Came into force on 16 September 1999.

PROTOCOLE[1]

CONCERNANT LE TEXTE AUTHENTIQUE QUADRILINGUE DE LA CONVENTION RELATIVE À L'AVIATION CIVILE INTERNATIONALE (CHICAGO, 1944)

Signé à Montréal le 30 septembre 1977

LES GOUVERNEMENTS SOUSSIGNÉS

CONSIDÉRANT que l'Assemblée de l'Organisation de l'aviation civile internationale, à sa vingt et unième session, a demandé au Conseil de cette Organisation «de prendre les mesures nécessaires pour que soit élaboré le texte authentique de la Convention relative à l'aviation civile internationale en langue russe, en vue de le faire approuver d'ici à 1977 au plus tard»;

CONSIDÉRANT que la Convention relative à l'aviation civile internationale a été ouverte à la signature à Chicago, le sept décembre mil neuf cent quarante-quatre, dans un texte en langue anglaise;

CONSIDÉRANT que, en vertu du Protocole signé à Buenos Aires le vingt-quatre septembre mil neuf cent soixante-huit concernant le texte authentique trilingue de la Convention relative à l'aviation civile internationale, conclue à Chicago le sept décembre mil neuf cent quarante-quatre, le texte de cette Convention (nommée ci-après «la Convention»), a été adopté en langues française et espagnole et constitue, conjointement avec le texte en langue anglaise de la Convention, le texte faisant également foi dans ces trois langues tel qu'il est prévu dans les dispositions protocolaires de la Convention;

CONSIDÉRANT en conséquence qu'il convient de prendre les dispositions nécessaires pour qu'existe un texte de la Convention en langue russe;

ESTIMANT que lors de l'adoption desdites dispositions il est nécessaire de tenir compte de l'existence d'amendements à la Convention en langues française, anglaise et espagnole, ces textes faisant également foi et chacun de ces amendements ne pouvant, en vertu de l'article 94 *a)* de la Convention, entrer en vigueur qu'à l'égard des États qui l'ont ratifié;

1. Entré en vigueur le 16 septembre 1999.

PROTOCOLO[1]

RELATIVO AL TEXTO AUTÉNTICO CUADRILINGÜE DEL CONVENIO SOBRE AVIACIÓN CIVIL INTERNACIONAL (CHICAGO, 1944)

Firmado en Montreal el 30 de septiembre de 1977

LOS GOBIERNOS FIRMANTES,

CONSIDERANDO que la Asamblea de la Organización de Aviación Civil Internacional, en su 21° período de sesiones solicitó del Consejo de dicha Organización "que tome las medidas necesarias para preparar el texto auténtico del Convenio sobre Aviación Civil Internacional en idioma ruso, de tal manera que pueda ser aprobado en el año 1977 a más tardar";

CONSIDERANDO que el Convenio sobre Aviación Civil Internacional fue abierto a la firma en Chicago el 7 de diciembre de 1944, en un texto en idioma inglés;

CONSIDERANDO que, de conformidad con el Protocolo firmado en Buenos Aires, el 24 de septiembre de 1968, sobre el texto auténtico trilingüe del Convenio sobre Aviación Civil Internacional, hecho en Chicago el 7 de diciembre de 1944, se adoptó el texto del Convenio sobre Aviación Civil Internacional (en adelante llamado "el Convenio") en los idiomas español y francés, los que, junto con el texto del Convenio en idioma inglés, tienen igual autenticidad tal como se estipula en la disposición final del Convenio;

CONSIDERANDO que, por lo tanto, conviene adoptar las disposiciones necesarias para que exista el texto del Convenio en idioma ruso;

CONSIDERANDO que, al adoptar tales disposiciones, debe tenerse en cuenta que existen enmiendas al Convenio en los idiomas español, francés e inglés, cuyos textos son igualmente auténticos y que, de acuerdo con el Artículo 94 *a)* del Convenio, toda enmienda solamente entrará en vigor con respecto a los Estados que la hayan ratificado;

1. Entró en vigor el 16 de septiembre de 1999.

ПРОТОКОЛ[1]

ОБ АУТЕНТИЧНОМ ЧЕТЫРЕХЪЯЗЫЧНОМ ТЕКСТЕ КОНВЕНЦИИ О МЕЖДУНАРОДНОЙ ГРАЖДАНСКОЙ АВИАЦИИ (ЧИКАГО, 1944 ГОД)

Подписан в Монреале 30 сентября 1977 года

НИЖЕПОДПИСАВШИЕСЯ ПРАВИТЕЛЬСТВА,

ПРИНИМАЯ ВО ВНИМАНИЕ, что 21-я сессия Ассамблеи Международной организации гражданской авиации предложила Совету этой Организации "провести необходимые мероприятия по подготовке аутентичного текста Конвенции о международной гражданской авиации на русском языке с целью принятия его не позднее 1977 года";

ПРИНИМАЯ ВО ВНИМАНИЕ, что текст Конвенции о международной гражданской авиации был открыт для подписания в Чикаго 7 декабря 1944 года на английском языке;

ПРИНИМАЯ ВО ВНИМАНИЕ, что в соответствии с подписанным 24 сентября 1968 года в Буэнос-Айресе Протоколом об аутентичном трехъязычном тексте Конвенции о международной гражданской авиации, совершенной в Чикаго 7 декабря 1944 года, был принят текст Конвенции о международной гражданской авиации (именуемой ниже "Конвенция") на испанском и французском языках, который вместе с текстом Конвенции на английском языке составляет текст, равно аутентичный на этих трех языках, как это предусмотрено в заключительном положении Конвенции;

ПРИНИМАЯ ВО ВНИМАНИЕ соответственно, что целесообразно предусмотреть необходимые положения о существовании текста Конвенции на русском языке;

ПРИНИМАЯ ВО ВНИМАНИЕ, что при принятии таких положений необходимо учитывать существование поправок к Конвенции на английском, испанском и французском языках, тексты которых являются равно аутентичными и каждая из которых в соответствии со Статьей 94 *a)* Конвенции может вступить в силу только в отношении государства, ратифицировавшего ее;

1. Вступил в силу 16 сентября 1999 года.

HAVE AGREED as follows:

Article I[2]

The text of the Convention and of the amendments thereto in the Russian language annexed to this Protocol, together with the text of the Convention and of the amendments thereto in the English, French and Spanish languages, constitutes the text equally authentic in the four languages.

Article II

If a State party to this Protocol has ratified or in the future ratifies any amendment made to the Convention in accordance with Article 94 *a)* thereof, then the text of such amendment in the Russian, English, French and Spanish languages shall be deemed to refer to the text equally authentic in the four languages, which results from this Protocol.

Article III

1) The States members of the International Civil Aviation Organization may become parties to this Protocol either by:

a) signature without reservation as to acceptance, or

b) signature with reservation as to acceptance followed by acceptance, or

c) acceptance.

2) This Protocol shall remain open for signature at Montreal until the 5th of October 1977 and thereafter at Washington, D.C.

3) Acceptance shall be effected by the deposit of an instrument of acceptance with the Government of the United States of America.

4) Adherence to or ratification or approval of this Protocol shall be deemed to be acceptance thereof.

2. The text of the Convention in the Russian language mentioned in this Article will be found in the fourth column at pages 1 to 44 of this document, subject to what is stated in the second paragraph of the Foreword at page (ii).

SONT CONVENUS de ce qui suit:

Article Ier [2]

Le texte en langue russe de la Convention et des amendements annexé au présent Protocole, constitue, conjointement avec le texte en langues française, anglaise et espagnole de la Convention et des amendements à cette Convention, un texte faisant également foi dans les quatre langues.

Article II

Lorsqu'un État partie au présent Protocole a ratifié ou ratifie ultérieurement un amendement apporté à la Convention, conformément aux dispositions de l'article 94 *a)* de celle-ci, le texte en langues française, anglaise, espagnole et russe de cet amendement est réputé se référer au texte faisant également foi dans les quatre langues qui résulte du présent Protocole.

Article III

1) Les États membres de l'Organisation de l'aviation civile internationale peuvent devenir parties au présent Protocole:

a) soit en le signant, sans réserve d'acceptation,

b) soit en le signant, sous réserve d'acceptation, suivie d'acceptation,

c) soit en l'acceptant.

2) Le présent Protocole restera ouvert à la signature à Montréal jusqu'au 5 octobre 1977 et après cette date à Washington (D.C.).

3) L'acceptation est effectuée par le dépôt d'un instrument d'acceptation auprès du Gouvernement des États-Unis d'Amérique.

4) L'adhésion au présent Protocole, sa ratification ou son approbation est considérée comme acceptation du Protocole.

2. Le texte en langue russe de la Convention, visé au présent article, figure dans la quatrième colonne du présent document, pages I à 44, sous réserve de ce qui est dit au deuxième paragraphe de l'Avant-propos, page (ii).

HAN ACORDADO lo siguiente:

Artículo I[2]

El texto en idioma ruso del Convenio y de las enmiendas al mismo adjunto al presente Protocolo constituye, con el texto del Convenio y de las enmiendas al mismo en los idiomas español, francés e inglés, un texto igualmente auténtico en los cuatro idiomas.

Artículo II

Si un Estado Parte en el presente Protocolo ha ratificado o en el futuro ratifica cualquier enmienda hecha al Convenio de acuerdo con el Artículo 94 *a)* del mismo, se considerará que el texto en los idiomas español, francés, inglés y ruso de tal enmienda se refiere al texto de igual autenticidad en los cuatro idiomas que resulta del presente Protocolo.

Artículo III

1) Los Estados miembros de la Organización de Aviación Civil Internacional podrán ser Partes en el presente Protocolo mediante:

a) la firma, sin reserva de aceptación,

b) la firma, bajo reserva de aceptación, seguida de aceptación, o

c) la aceptación.

2) El presente Protocolo quedará abierto a la firma en Montreal hasta el 5 de octubre de 1977 y después de esta fecha en Washington, D.C.

3) La aceptación se llevará a cabo mediante el depósito de un instrumento de aceptación en poder del Gobierno de los Estados Unidos de América.

4) La adhesión al presente Protocolo o su ratificación o aprobación se considerarán como aceptación del mismo.

2. Véase el texto del Convenio en el idioma ruso a que se hace referencia en este artículo en la cuarta columna de las páginas 1 a 44 de este documento, según lo previsto en el segundo párrafo del Prólogo en la página (ii).

СОГЛАСИЛИСЬ о нижеследующем:

Статья I[2]

Текст Конвенции и тексты поправок к ней на русском языке, приложенные к настоящему Протоколу, вместе с текстами Конвенции и поправок к ней на английском, испанском и французском языках составляют текст, равно аутентичный на этих четырех языках.

Статья II

Если государство – сторона настоящего Протокола ратифицировало или в будущем ратифицирует любую поправку, сделанную к Конвенции в соответствии со Статьей 94 *a)* Конвенции, то текст такой поправки на русском, английском, испанском и французском языках будет считаться относящимся к тексту, равно аутентичному на четырех языках, предусмотренному настоящим Протоколом.

Статья III

1) Государства – члены Международной организации гражданской авиации могут стать участниками настоящего Протокола путем:

a) подписания без оговорки в отношении принятия, или

b) подписания с оговоркой в отношении принятия с последующим принятием, или

c) принятия.

2) Настоящий Протокол останется открытым для подписания в Монреале до 5 октября 1977 года и после этого – в Вашингтоне, округ Колумбия.

3) Принятие осуществляется путем сдачи на хранение документа о принятии Правительству Соединенных Штатов Америки.

4) Присоединение к настоящему Протоколу, или ратификация, или утверждение настоящего Протокола рассматриваются как его принятие.

2. Текст Конвенции на русском языке, упомянутый в данной статье, приводится в четвертой колонке на страницах 1–44 настоящего документа с учетом оговорки во втором абзаце предисловия на странице (ii).

Article IV

1) This Protocol shall come into force on the thirtieth day after twelve States shall, in accordance with the provisions of Article III, have signed it without reservation as to acceptance or accepted it and after entry into force of the amendment to the final clause of the Convention, which provides that the text of the Convention in the Russian language is of equal authenticity.

2) As regards any State which shall subsequently become a party to this Protocol in accordance with Article III, the Protocol shall come into force on the date of its signature without reservation as to acceptance or of its acceptance.

Article V

Any adherence of a State to the Convention after this Protocol has entered into force shall be deemed to be acceptance of this Protocol.

Article VI

Acceptance by a State of this Protocol shall not be regarded as ratification by it of any amendment to the Convention.

Article VII

As soon as this Protocol comes into force, it shall be registered with the United Nations and with the International Civil Aviation Organization by the Government of the United States of America.

Article VIII

1) This Protocol shall remain in force so long as the Convention is in force.

2) This Protocol shall cease to be in force for a State only when that State ceases to be a party to the Convention.

Article IX

The Government of the United States of America shall give notice to all States members of the International Civil Aviation Organization and to the Organization itself:

a) of any signature of this Protocol and the date thereof, with an indication whether the signature is with or without reservation as to acceptance;

Article IV

1) Le présent Protocole entrera en vigueur le trentième jour après que douze États l'auront signé sans réserve d'acceptation ou accepté, conformément aux dispositions de l'article III, et après que l'amendement à la disposition finale de la Convention, selon lequel le texte de la Convention en langue russe fait également foi, sera entré en vigueur.

2) En ce qui concerne tout État qui deviendra ultérieurement partie au présent Protocole, conformément aux dispositions de l'article III, le Protocole entrera en vigueur à la date de sa signature sans réserve ou de son acceptation.

Article V

L'adhésion d'un État à la Convention après l'entrée en vigueur du présent Protocole vaut acceptation du présent Protocole.

Article VI

L'acceptation du présent Protocole par un État n'est pas considérée comme ratification par cet État d'un amendement quelconque à la Convention.

Article VII

Dès son entrée en vigueur, le présent Protocole sera enregistré par le Gouvernement des États-Unis d'Amérique auprès de l'Organisation des Nations Unies et auprès de l'Organisation de l'aviation civile internationale.

Article VIII

1) Le présent Protocole reste en vigueur aussi longtemps que la Convention est en vigueur.

2) Le présent Protocole cesse d'être en vigueur à l'égard d'un État, seulement lorsque cet État cesse d'être partie à la Convention.

Article IX

Le Gouvernement des États-Unis d'Amérique notifie à tous les États membres de l'Organisation de l'aviation civile internationale et à l'Organisation elle-même:

a) toute signature du présent Protocole et la date de cette signature, en indiquant si la signature a été apposée sans ou sous réserve d'acceptation;

Artículo IV

1) El presente Protocolo entrará en vigor el trigésimo día después de que doce Estados, de acuerdo con las disposiciones del Artículo III, lo hayan firmado sin reserva de aceptación o lo hayan aceptado y después de que haya entrado en vigor la enmienda a la disposición final del Convenio que dispone que el texto del Convenio en idioma ruso se considerará igualmente auténtico.

2) Por lo que se refiere a cualquier Estado que sea posteriormente Parte en el presente Protocolo, de acuerdo con las disposiciones del Artículo III, el Protocolo entrará en vigor en la fecha de la firma sin reserva de aceptación o de la aceptación.

Artículo V

La adhesión de un Estado al Convenio después de que el presente Protocolo haya entrado en vigor será considerada como aceptación del mismo.

Artículo VI

La aceptación del presente Protocolo por un Estado no se considerará como ratificación de ninguna enmienda del Convenio.

Artículo VII

Tan pronto como el presente Protocolo entre en vigor, será registrado en las Naciones Unidas y en la Organización de Aviación Civil Internacional por el Gobierno de los Estados Unidos de América.

Artículo VIII

1) El presente Protocolo permanecerá en vigor mientras lo esté el Convenio.

2) El presente Protocolo cesará de estar en vigor con respecto a un Estado solamente cuando dicho Estado cese de ser Parte en el Convenio.

Artículo IX

El Gobierno de los Estados Unidos de América comunicará a todos los Estados miembros de la Organización de Aviación Civil Internacional y a la Organización misma:

a) Toda firma del presente Protocolo y la fecha de la misma, indicando si la firma se hizo sin reserva o bajo reserva de aceptación;

Статья IV

1) Настоящий Протокол вступит в силу на тридцатый день после того, как двенадцать государств в соответствии с положениями Статьи III подпишут его без оговорки в отношении принятия или примут его, и после того, как вступит в силу поправка к заключительному положению Конвенции, предусматривающая, что текст Конвенции на русском языке является равно аутентичным.

2) В отношении любого государства, которое впоследствии становится Стороной настоящего Протокола в соответствии со Статьей III, Протокол вступит в силу на дату его подписания без оговорки в отношении принятия или на дату его принятия.

Статья V

Любое присоединение государства к Конвенции после вступления в силу настоящего Протокола будет рассматриваться как принятие настоящего Протокола.

Статья VI

Принятие государством настоящего Протокола не должно рассматриваться как ратификация им любой поправки к Конвенции.

Статья VII

После вступления настоящего Протокола в силу он будет зарегистрирован в Организации Объединенных Наций и в Международной организации гражданской авиации Правительством Соединенных Штатов Америки.

Статья VIII

1) Настоящий Протокол будет оставаться в силе до тех пор, пока будет находиться в силе Конвенция.

2) Настоящий Протокол утратит силу для государства только в том случае, если это государство перестанет быть Стороной Конвенции.

Статья IX

Правительство Соединенных Штатов Америки уведомляет все государства – члены Международной организации гражданской авиации и саму Организацию о:

a) каждом подписании настоящего Протокола и дате подписания с указанием, является ли подписание с оговоркой или без оговорки в отношении принятия;

b) of the deposit of any instrument of acceptance and the date thereof;

c) of the date on which this Protocol comes into force in accordance with the provisions of Article IV, paragraph 1.

Article X

This Protocol, drawn up in the English, French, Russian and Spanish languages, each text being equally authentic, shall be deposited in the archives of the Government of the United States of America, which shall transmit duly certified copies thereof to the Governments of the States members of the International Civil Aviation Organization.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, duly authorized, have signed this Protocol.

DONE at Montreal this thirtieth day of September, one thousand nine hundred and seventy-seven.

— END —

b) le dépôt de tout instrument d'acceptation et la date de ce dépôt;

c) la date à laquelle le présent Protocole est entré en vigueur, conformément aux dispositions de son Article IV, paragraphe 1.

Article X

Le présent Protocole, rédigé dans les langues française, anglaise, espagnole et russe, chaque texte faisant également foi, sera déposé aux archives du Gouvernement des États-Unis d'Amérique qui en transmettra des copies certifiées conformes aux Gouvernements des États membres de l'Organisation de l'aviation civile internationale.

EN FOI DE QUOI, les Plénipotentiaires soussignés, dûment autorisés, ont apposé leur signature au présent Protocole.

FAIT à Montréal, le trente septembre mil neuf cent soixante-dix-sept.

— FIN —

b) el depósito de cualquier instrumento de aceptación y la fecha del mismo;

c) la fecha en que el presente Protocolo entre en vigor de acuerdo con el Artículo IV, párrafo 1.

Artículo X

El presente Protocolo, redactado en los idiomas español, francés, inglés y ruso, cada texto con igual autenticidad, será depositado en los archivos del Gobierno de los Estados Unidos de América, el cual transmitirá copias debidamente certificadas del mismo a los Gobiernos de los Estados miembros de la Organización de Aviación Civil Internacional.

EN TESTIMONIO DE LO CUAL, los Plenipotenciarios abajo firmantes, debidamente autorizados, han firmado el presente Protocolo.

HECHO en Montreal, el treinta de septiembre de mil novecientos setenta y siete.

— FIN —

b) сдаче на хранение каждого документа о принятии и дате его;

c) дате вступления в силу настоящего Протокола в соответствии с положениями пункта 1 Статьи IV.

Статья X

Настоящий Протокол, составленный на русском, английском, испанском и французском языках, причем каждый текст является равно аутентичным, сдается на хранение в архивы Правительства Соединенных Штатов Америки, которое направит должным образом заверенные копии его Правительствам государств – членов Международной организации гражданской авиации.

В УДОСТОВЕРЕНИЕ ЧЕГО нижеподписавшиеся полномочные представители, должным образом уполномоченные, подписали настоящий Протокол.

СОВЕРШЕНО в Монреале тридцатого дня сентября одна тысяча девятьсот семьдесят седьмого года.

– КОНЕЦ –

Annex 4

Email from Olumuyiwa Benard Aliu, President of the ICAO Council, to All Council Delegations
(19 June 2017)

From: LEB
Sent: 19-Jun-17 2:23 PM
To: All Council Delegations Docs
Cc: Office of the President; Office of the Secretary General
Subject: Request by the State of Qatar under Article 54(n) of the Convention on International Civil Aviation (Chicago, 1944 – "the Chicago Convention")

I wish to inform you that I have received a letter dated 17 June 2017 reference 2017/16032 from the Chairman of the Civil Aviation Authority of the State of Qatar confirming "the decision of the State of Qatar to invoke Article 54 (n)" of the Chicago Convention. The letter requests the Council to include this matter on a "top-urgent" basis as an item in the Work Programme of the current 211th Session. The letter references earlier correspondence as listed below from the State of Qatar which request the intervention of the Council under Article 54 (n) "in the Matter of the Actions of the Arab Republic of Egypt, the Kingdom of Bahrain, the Kingdom of Saudi Arabia and the United Arab Emirates to Close their Airspace to Aircraft Registered in the State of Qatar":

1. Letter from the Chairman of the Civil Aviation Authority of the State of Qatar dated 5 June 2017, reference ANS.02/502/17;
2. Letter from the Chairman of the Civil Aviation Authority of the State of Qatar dated 8 June 2017, reference 15984/2017;
3. Letter from the Minister of Transport and Communications of the State of Qatar dated 13 June 2017, reference 2017/15993;
4. Letter from the Chairman of the Civil Aviation Authority of the State of Qatar dated 13 June 2017, reference 2017/15994 with attachments;
5. Letter from the Chairman of the Civil Aviation Authority of the State of Qatar dated 15 June 2017, reference 2017/15995 and its supplement of the same date; and

The relevant correspondence is attached.

Under Article 54 (n) of the Chicago Convention, the Council shall "consider any matter relating to the Convention which any contracting State refers to it". While it is a mandatory function of the Council to consider such a request, the approval of a majority of the Members of the Council is necessary on the decision as to when to meet on the matter, and in particular, whether or not to include a new item in the Work Programme for this Session. It will therefore be appreciated if you could inform me urgently but not later than **by noon on Wednesday, 21 June 2017** if you agree to the inclusion of the subject of the said request in the Work Programme of the Council for the current Session.

Olumuyiwa Benard Aliu
President of the Council

Annex 5

Letter from Abdulla Nasser Turki Al-Subaey, President of Qatar Civil Aviation Authority, to Dr. Olumuyiwa Benard Aliu, President of ICAO Council (20 Feb. 2019)

الهيئة العامة للطيران المدني
CIVIL AVIATION AUTHORITY

دولة قطر
State of Qatar

Ref. No. CAA/ASD/GEN/FF/19/005
20 February 2019

H.E Dr. Olumuyiwa Benard Aliu
President of the Council
International Civil Aviation Organization

Subject: Recent safety incidents in the Bahrain FIR

Dear Mr. President,

I write to express concern about a troubling rise in safety incidents involving military aircraft operating in close proximity to Qatari civilian aircraft in the Bahrain FIR. The month of December 2018 saw a steep increase in both their frequency and severity. Whether these or similar lapses may have affected air carriers of other nationalities is unknown. **We believe that the situation is sufficiently serious that an urgent response, including appropriate mitigation measures, is required.**

A technical analysis of incidents that occurred in December 2018, with supporting annexes, is attached. One of the incidents occurred in the Teheran FIR immediately after a handoff from Bahrain. The analysis concludes that there is a lack of civil-military coordination.

You will recall that Qatar proposed in August 2018 to establish its own FIR/UIR in accord with established procedures for amendment of the Middle East Air Navigation Plan, MID ANP, ICAO Doc 9708. A task force was established and had its first meeting at the ICAO Middle East Regional office in Cairo on 8-10 January 2019. It will meet again on 13-14 April in Cairo. Permitting Qatar to control air traffic in both its sovereign airspace and an appropriate area of adjacent international airspace will go a long way toward reducing these kinds of incidents.

In January 2018, we asked Bahrain to allow the QCAA to audit its air traffic control operation with respect to its handling of traffic in Qatar's territorial airspace, to ascertain Bahrain's compliance with Standards and Recommended Practices. Bahrain has not yet responded to the request, but in light of these incidents it would be appropriate to add the area of civil-military coordination to the scope of our proposed audit.

Yours sincerely,

STATE OF QATAR
دولة قطر
CIVIL AVIATION AUTHORITY
الهيئة العامة للطيران المدني

Abdulla Nasser Turki Al-Subaey
President

cc: H.E Dr. Fang Liu Secretary General
ICAO MID Office
Permanent Mission of State of Qatar to ICAO

Annex 5

Technical Analysis of reported Airprox occurrences within Bahrain FIR between civil and military aircraft in December 2018

Technical Analysis of Reported Aircraft Proximity Occurrences between Civil and Military Aircraft within the Bahrain FIR in December 2018

Glossary

ACC: Area Control Center

ATC: Air Traffic Control

ATCO: Air Traffic Control Officer

ATS: Air Traffic Services

CA: Conflict Alert

FIR: Flight Information Region

FL: Flight level

MAC: Mid-Air Collision. Alerts of Near Mid-Air Collision events include AIRPROX (Aircraft Proximity) and TCAS (Traffic Collision Avoidance System)

NM: Nautical Mile

PANS ATM: Procedure for Air Navigation Services – Air Traffic Management

PIC: Pilot in Command

QR: Qatar Airways

SMS: Safety Management System

SSP: State Safety Programme

TCAS: Traffic Collision Avoidance System, which provides TA (Traffic Alerts) and RA (Resolution Advisories)

TSA: Total System Approach

UTC: Coordinated Universal Time

INTRODUCTION

Qatar takes very seriously its international obligations for aviation safety, as expressed in the Convention on International Aviation (the Chicago Convention) and its Annexes. The Qatar Civil Aviation Authority maintains a Total System Approach over a methodology that encompasses all domains and sectors of the aviation industry. Safety management activities are undertaken in a holistic, coherent manner.

Qatar's State Safety Programme (SSP) establishes a framework for an integrated total system approach that addresses the safety performance delivered by the State overall, relying upon the total system performance of both the regulator and all service providers working together for a safe outcome.

The SSP has a number of regulatory and practical aspects. Of importance to this analysis, the reporting system allows real-time interactivity across all aviation stakeholders (service providers, the regulator, the Accident Investigation Authority, and others).

Using this approach, the analysis of safety data has recorded an increase in occurrences categorized as MAC (Mid-Air Collision) events within the Bahrain FIR involving Qatari civil aircraft and foreign military traffic. Consequently, a technical analysis was launched to determine the root cause.

1. GENERAL OUTLINE OF OCCURRENCES

The study relates to events within the Bahrain FIR, involving foreign military traffic and Qatari civil aircraft where a TCAS report (TA /RA) has been notified.

There were 5 TCAS events which occurred during the last 6 months involving Qatari civil aircraft with military traffic within Bahrain FIR. The analysis of these events revealed that trend line is rising, and their severity is gaining more importance that requires immediate actions to preserve the safety of international civil aviation. Accordingly, the following 3 serious occurrences are highlighted.

- ***(QR 540) File O30645-18 of 22/12/2018 16:27UTC: Significant risk of collision***

In this incident, QR 540 flight (A7-ACK / Airbus 330-200) transferred to Bahrain ATC. Upon transfer, a TCAS RA occurred in the Bahrain FIR involving with two military aircraft, both identified as A#0040. This RA has been classified as serious incident. The military aircraft were operating in the block FL220-FL270. The QR 540 crew got a TCAS RA "descend" and performed a descent without delay. Shortly after, crew got a corrective TCAS "climb" followed by a "level off". The closest point of proximity during the TCAS event occurred at 16.26.41 UTC with one of the military aircraft head-on to QR 540, starting at almost the same level, but with zero lateral spacing. Bahrain Authority confirmed that it was facing difficulties in handling military aircraft operating outside the safety afforded by civilian air traffic control. For the radar image, see attachment A.

- ***(QR 506) File O30674-18 of 22/12/2018 16:55UTC***

This TCAS RA event occurred in the Teheran FIR on 22 Dec 2018 at 16:55 UTC. It involved QR 506 (A7-AID / Airbus 321-231) and two military aircraft, identified as A#0052 and A#0035 and operating at FL 240 and FL229 respectively. The event occurred when the A#0052 passed down the right hand side of QR 506 at FL 240 with approximately 2 NM of lateral spacing and almost 2000 feet vertically. **At that time the A#0035 aircraft was approximately at 4 NM and FL223, only 600 feet of vertical spacing.** The pilot in command did not receive any traffic information on that traffic from the ATC. Later, Teheran ATC informed the PIC that it was unknown traffic and Bahrain ATC did not give them information about the traffic when QR 506 was handed over to them. For the radar image see attachment B. Bahrain's failure to provide that information was the key reason that the incident took place.

- ***(QR 8954) File O31270-18 of 28/12/2018 17:15UTC***

This TCAS event occurred in the Bahrain FIR on 28 Dec 2018 at 17:17 UTC involving QR 8954 (A7-AFY / Airbus 330-200F) with a military aircraft, identified as A#0041 operating at FL224. The TCAS TA occurred when the military aircraft passed down the left-hand side of QR 8954 at FL 228 with approximately 4 NM of lateral spacing at the same level. Prior to the TA, the Pilot in Command requested information on the concerned traffic, but ATC informed him that they had no information on the traffic. See attachment C.

2. RISK ASSESSMENT - TECHNICAL ANALYSIS

The purpose of this technical analysis is to determine the risk level presented by these incidents, including likelihood and severity, and to identify the root cause. The estimated proximity between civil and military aircraft has been analyzed taking into account all data available, including radar (CA), TCAS (TA and RA), and other available reports.

This assessment covers only known occurrences received involving QR flights. It is unknown whether additional events or other similar events involving civil and military traffic have occurred and whether they have been reported to BAH ACC.

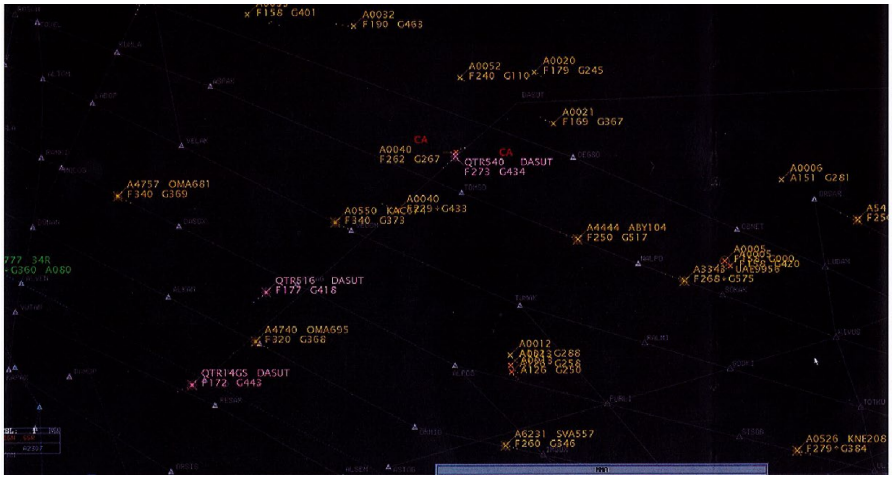
In any case, the ATC unit seems to have ignored the applicable provision of PANS ATM, ICAO Doc 4444, para. 16.1, which provides: "*the ATC unit is to accept a reduction of separation minima required by military necessity only when a specific request has been obtained from authority having jurisdiction over the aircraft concerned and the lower minima then to be observed shall apply only between those aircraft*".

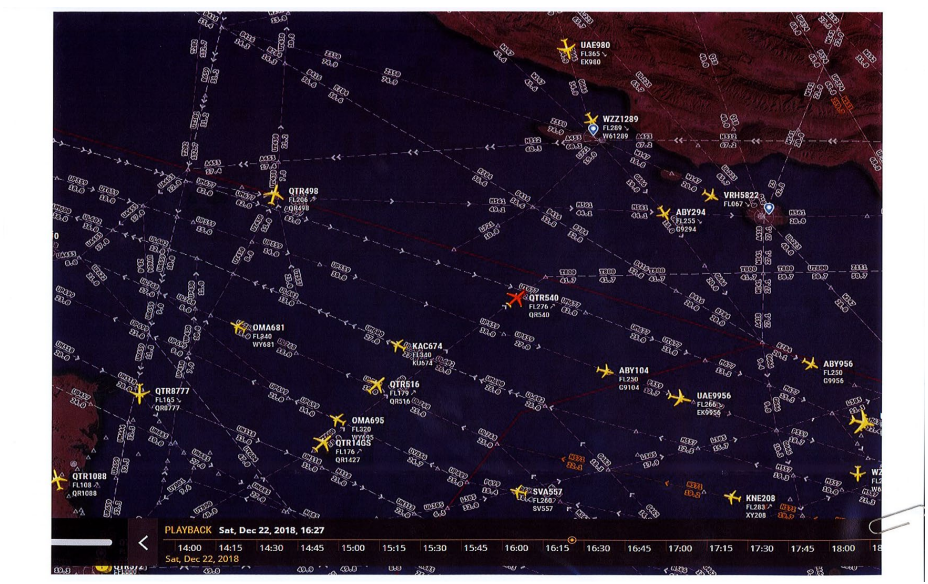
3. FACTS AND CONCLUSIONS

The results of the analysis led the Qatar Civil Aviation Authority (QCAA) to conclude that:

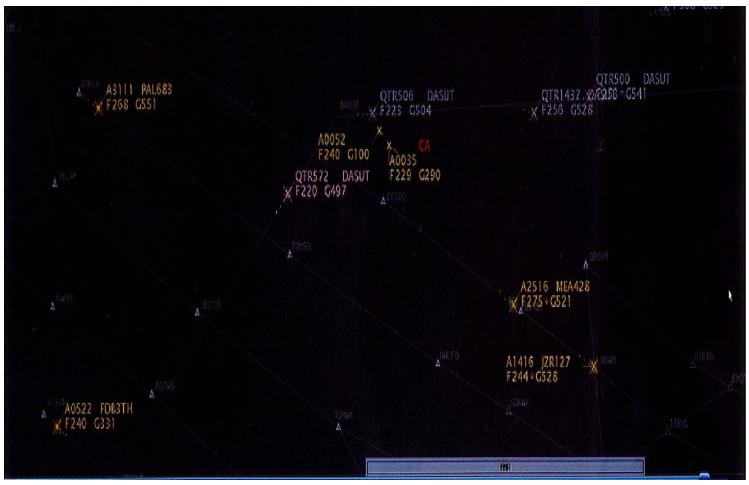
a. The principles of due regard in conformance with article 3.d of the Chicago Convention were not applied to prevent the occurrence of these events.
b. The PANS ATM procedures for responsibility regarding military traffic appear to have been ignored (QR 506).
c. The safety margins were significantly reduced, and the safety of occupants was seriously affected (QR 540).
d. Despite the information on military traffic being provided by the ATC the measures taken by Bahrain ATC were not enough to ensure a reasonable level of safety of civil aviation (QR 540).
e. The many recent civil-military conflict events demonstrate a lack of civil-military coordination within the concerned airspaces. This lack of civil-military coordination may lead to increased pressure on airspace resources, including pilots and ATCOs, and lead to inefficient airspace use.
f. The military traffic operating around the cross-border area between two adjacent FIRs is increasing the safety risk level.
g. The limited access to and from Qatari airspace and restrictions imposed on Qatari-registered operators on top of the evident lack of civil-military coordination may lead to increase likelihood of a collision.
h. The combination of such incidents and the political situation in the region may seriously jeopardize the safety of civil aviation, calling for urgent action from the international civil aviation organization bodies.
i. The high risk calls for immediate mitigating measures to reduce the risk to an acceptable level.

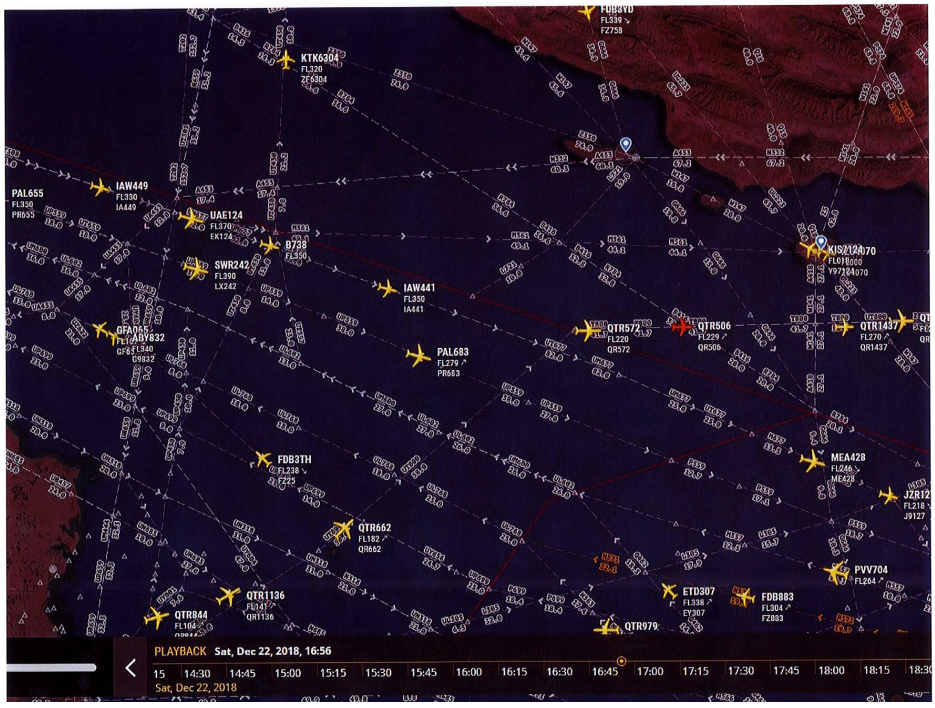
ATTACHMENT A (Radar image of QR 540)



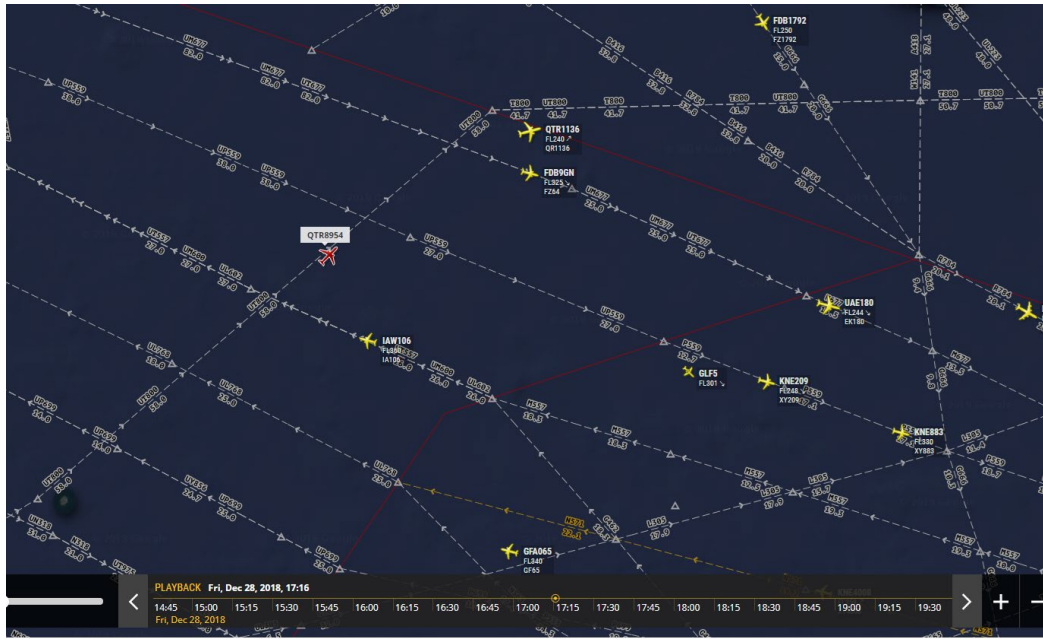


ATTACHMENT B (Radar image of QR 506)





ATTACHMENT C (Air traffic picture of QR 8954- source from Flight Radar24 tool)



Annex 6

Qatar Civil Aviation Authority, Air Navigation Department, *Reply to Conclusion 17/19 MIDANPIRG/17*, *Assessment of Contingency Routes* (7 July 2019)

STATE OF QATAR CIVIL AVIATION AUTHORITY AIR NAVIGATION DEPARTMENT	
Doc. ref.: ICAO Letter AN 6/1.2.1-19/200 dated 2 July 2019 MIDANPIRG/17	Date: 07/07/2019

Name of WP	**Reply to Conclusion 17/19 MIDANPIRG/17**
Subject of WP	**Assessment of Contingency Routes**

1. INTRODUCTION

During the MIDANPIRG/17 meeting held in Cairo, Egypt, 15-18 April 2019, conclusion 17/19 stated that Bahrain, Iran, Oman, Qatar and the UAE were to provide *" outcomes of their safety assessment of the contingency routes and/or changes to the ATS Routes Network to the ICAO MID Office"*

Despite tremendous efforts made by Oman and Iran to provide access to airspace over the 'high seas', traffic to/from the State of Qatar remains highly restricted for Qatar registered aircraft, although other traffic in the region appears to be largely unaffected by the current contingency measures imposed.

It is the State of Qatar's belief that proposals for the implementation of appropriate contingency measures to assure sustainability of safe and efficient operations should be strongly recommended by ICAO Airspace Management and Optimization Section (AMO), and wholly supported by ICAO MID Region to ensure non-discriminatory application of ICAO principles.

The State of Qatar does not discount the safety assessments conducted by the States for the implementation of the limited current contingency measures; however, it is of the opinion that the assessments were undertaken on the assumption that no other traffic flows were to be affected. If at any time a safety assessment is undertaken by a State(s) to review a proposed 'contingency measure', whether at the request of an airline or another State, and the outcome of the assessment does not deliver a suitable resolution then ICAO should not hesitate to address the issue to provide an alternative solution.

ICAO and States should commit to undertake a review of the airspace in its entirety to ensure a safe and efficient airspace that will meet the revised traffic flows resulting from the illegal airspace restrictions imposed on 5 June 2017, which limit the operations of one of the major carriers in the region. ICAO should not focus on trying to fit a new 'traffic flow' into an 'old structure'.

Changes should not be limited to merely providing a 'temporary and restricted' airspace that overly restricts one airspace user over another.

The State of Qatar recommends that this the next MIDANPIRG meeting agrees to effectively deliver a coordinated approach for managing this ongoing situation, commit to a further review of the current proposals for airspace utilization, and address the need to provide a robust contingency planning framework should a similar situation arise in the ICAO Mid Region in the

STATE OF QATAR CIVIL AVIATION AUTHORITY AIR NAVIGATION DEPARTMENT	
Doc. ref.: ICAO Letter AN 6/1.2.1-19/200 dated 2 July 2019 MIDANPIRG/17	Date: 07/07/2019

future. The framework should consider all stakeholders to be part of coordination activities, including adjacent States and airspace users.

– ADDRESSING SHORT TERM MEASURES

The present contingency arrangements do not support current operating traffic levels and therefore do not support predicted traffic growth within the Region.

Routinely, and particularly with regard to inbound traffic peak periods to Doha, it is obvious that existing contingency routes are “not fit for purpose” result in regular overload situations (inbound) and significant delays to outbound traffic from Doha.

This, in addition to managing the traffic with increased coordination outside of the current Letters of Agreement (LOAs) poses a **Significant Safety Concern**.

Supported by ICAO MID Region, the State of Qatar strongly recommends that a review by all States on current arrangements be undertaken as a priority.

This should include, not limited to, the following points:

1. *Managing the diverse demands within the airspace (including the restrictions imposed due to constraints in adjacent airspace)*

2. *Maximize the airspace potential above Qatar (territory) this cannot be achieved without a review of all airspace.*

3. *Considerations of the constraints in Qatar (sovereign airspace) should be addressed (limited access to potential efficient route options for overflying traffic), FUA/FRA/CDR need to be part of this review.*

4. *Cross border cooperation to manage airspace demand without unnecessary constraints applied to the operator.*

5. *Reduction in complex coordination between ATC Units during peak operating periods when the Contingency Routes do not support the traffic demands/flows.*

6. *A review of current LOAs and their appropriateness considering traffic flows (time banded to meet peak and off peak periods)*

7. *Traffic Orientation/Traffic Flow restrictions to be considered.*

8. *Flexible sectorisation to ensure airspace can adapt to demands.*

STATE OF QATAR CIVIL AVIATION AUTHORITY AIR NAVIGATION DEPARTMENT	
Doc. ref.: ICAO Letter AN 6/1.2.1-19/200 dated 2 July 2019 MIDANPIRG/17	Date: 07/07/2019

The priority for all States within the Region is to maintain or improve safety levels with an increase in capacity and avoid delays during peak periods. It should therefore be a priority, without prejudice, of the ICAO MID Regional office to support continued coordinated cross state activities to assure greater predictability for arriving traffic, avoid unnecessary level capping through possible FRTO (ASBU) and support a unified airspace approach (GANP ASBU)

– ADDRESSING - MID TERM MEASURES

ICAO and States should commit to undertake a review of the airspace in its entirety to ensure a safe and efficient airspace to meet the revised traffic flows resulting from the illegal airspace restrictions imposed on 5 June 2017, which limit the operations of one of the major carriers in the region.

ICAO Mid Region and the States should not focus on trying to fit a new 'traffic flow' into an 'old structure'.

There is an significant Safety Requirement, to address airspace demands resulting in predicted traffic associated with World Cup 2022 and affecting the entire region.

– ADDRESSING REGIONAL CONTINGENCY PLANNNG – LONG TERM MEASURES

The current 'Qatar CCT' has been limited in its impact to affecting only one major carrier in the region. If the circumstances of contingency had been different, i.e. had impacted more than one operator, the impact to regional operations might have been catastrophic.

The ATM regional contingency plan is weak, and the States, airlines, and representatives of the carriers of the region should take action to deliver a robust regional contingency plan that supports the sustainability of safety and efficiency for the region.

Without a suitable framework for managing the dynamics of the region in a coordinated and harmonized manner, the region is at risk.

Annex 7

"Custodian of the Two Holy Mosques welcomes Islamic personalities and heads of Hajj delegations at the annual reception in Mina", *Al Riyadh* (28 Oct. 2012), *available at* http://www.alriyadh.com/779832#

الاحد12 ذو الحجة 1433 هـ - 28 اكتوبر 2012م - العدد 16197

خادم الحرمين يرحب بالشخصيات الإسلامية ورؤساء بعثات الحج في حفل الاستقبال السنوي بمنى

الملك عبدالله: حوار الأمة مع نفسها واجب شرعي.. والشتات والجهل والغلو تهدد آمال المسلمين

الملك عبدالله يخاطب كبار الشخصيات من ضيوف الرحمن (و.ا.س)

تغيير الخط

منى - و.ا.س

أقام خادم الحرمين الشريفين الملك عبدالله بن عبدالعزيز آل سعود حفظه الله في الديوان الملكي بقصر منى أمس حفل الاستقبال السنوي للشخصيات الإسلامية ورؤساء بعثات الحج الذين يؤدون فريضة الحج هذا العام.

ومن أبرز الشخصيات التي حضرت الحفل صاحب الجلالة المعتصم بالله محب الدين توانكو الحاج عبدالحليم معظم شاه ملك مملكة ماليزيا وفخامة الرئيس البروفيسور ألفا كوندي رئيس جمهورية غينيا ودولة نائب رئيس الجمهورية الإندونيسية الدكتور بوديونو ودولة نائب رئيس الجمهورية العراقية طارق الهاشمي ودولة رئيس وزراء جمهورية باكستان الإسلامية راجا برويز أشرف ودولة رئيس الوزراء في جمهورية جيبوتي دليتا محمد دليتا.

«مركز الحوار بين المذاهب الإسلامية» لا يعني بالضرورة الاتفاق على أمور العقيدة بل الهدف منه الوصول إلى حلول للفرقة

حضر الاستقبال صاحب السمو الملكي الأمير متعب بن عبدالعزيز آل سعود وصاحب السمو الملكي الأمير سلمان بن عبدالعزيز آل سعود ولي العهد نائب رئيس مجلس الوزراء وزير الدفاع وصاحب السمو الملكي الأمير خالد الفيصل بن عبدالعزيز أمير منطقة مكة المكرمة رئيس لجنة الحج المركزية وصاحب السمو الملكي الأمير عبدالإله بن عبدالعزيز مستشار خادم الحرمين الشريفين وصاحب السمو الملكي الأمير أحمد بن عبدالعزيز وزير الداخلية رئيس لجنة الحج العليا وصاحب السمو الأمير فيصل بن محمد بن سعود الكبير وصاحب السمو الملكي الأمير مقرن بن عبدالعزيز المستشار والمبعوث الخاص لخادم الحرمين الشريفين وأصحاب السمو الملكي الأمراء.

الملك يطالب الأمم المتحدة بمشروع يدين أي دولة أو مجموعة تتعرض للأديان السماوية والأنبياء

كما حضره أصحاب الفضيلة العلماء والمعالي الوزراء ومعالي أمين عام منظمة التعاون الإسلامي ومعالي أمين عام مجلس التعاون لدول الخليج العربية وكبار المسؤولين وسفراء الدول العربية والإسلامية.

وقد بدئ الحفل الخطابي المعد بهذه المناسبة بتلاوة آيات من القرآن الكريم.

ثم ألقى خادم الحرمين الشريفين - حفظه الله - الكلمة التالية:

بسم الله الرحمن الرحيم، والصلاة والسلام على رسول الله وعلى آله وصحبه أجمعين.

وزير الحج: نهجكم في خدمة الحرمين وضيوف الرحمن امتداد لنهج الملك عبدالعزيز

أيها الأخوة الحضور:

السلام عليكم ورحمة الله وبركاته:

أهنئكم بعيد الأضحى المبارك، وأتمنى لكم حجا مبرورا وذنبا مغفورا وسعيا مشكورا، وكل عام وأنتم بخير.

منذ عهد سيدنا إبراهيم الخليل عليه السلام، ومرورا بعهد نبينا محمد عليه أفضل الصلاة والسلام، إلى أيامنا هذه، والمؤمنون يتوافدون على بيت الله الحرام ملبين نداء الحق في مشهد عظيم يجسد فكرة المساواة، متمسكين بالأمل بالله «جل جلاله» في وحدة الأمة الإسلامية، ونبذ الفرقة والتحام الصف الإسلامي في وجه أعداء الأمة والمتربصين بها.

إن حوار الأمة الإسلامية مع نفسها واجب شرعي، فالشتات، والجهل، والتحزب، والغلو، عقبات تهدد آمال المسلمين، إن الحوار تعزيز للاعتدال والوسطية، والقضاء على أسباب النزاع، والتطرف، ولا مخرج من ذلك إلا أن نعلق آمالنا بالله، فهو القائل «وَلا تَايْئَسُوا مِنْ رَوْحِ اللَّهِ إِنَّهُ لا يَايْئَسُ مِنْ رَوْحِ اللَّهِ إِلاَّ الْقَوْمُ الكَفِرُونَ» ومن ثم التوكل بعزيمة مؤمنة لا تعترف بالعثرات مهما كانت.

التركي: الأمل في خادم الحرمين والمخلصين من قادة الأمة أن يضاعفوا الجهود في مواجهة ما يهددها

أيها الاخوة الكرام:

إن فكرة مركز الحوار بين المذاهب الإسلامية، والذي أعلنا عنه في مكة المكرمة لا يعني بالضرورة الاتفاق على أمور العقيدة، بل الهدف منه الوصول إلى حلول للفرقة وإحلال التعايش بين المذاهب بعيدا عن الدسائس أو غيرها، الأمر الذي سيعود نفعه لصالح أمتنا الإسلامية وجمع كلمتها.

من مكاني هذا وبجوار بيت الله الحرام أطالب هيئة الأمم المتحدة بمشروع يُدين أي دولة أو مجموعة تتعرض للأديان السماوية والأنبياء عليهم الصلاة والسلام، وهذا واجب علينا وعلى كل مسلم تجاه الذود عن حياض ديننا الإسلامي والدفاع عن رسل الحق.

خادم الحرمين يتوسط المدعوين من كبار الشخصيات ورؤساء بعثات الحج (و.ا.س)

هذا وأسأل الله أن يعزز الأمل في قلوبنا المعلقة به، وأن يثبتنا على الحق والطاعة.

والسلام عليكم ورحمة الله وبركاته.

كلمة وزير الحج

ثم ألقى معالي وزير الحج الدكتور بندر بن محمد حجار كلمة قال فيها:

بسم الله الرحمن الرحيم

(سبح اسم ربك الأعلى، الذي خلق فسوى، والذي قدر فهدى).

والصلاة والسلام على رسول الله سيدنا محمد وعلى آله وصحبه أجمعين.

خادم الحرمين الشريفين الملك عبدالله بن عبدالعزيز آل سعود.

صاحب السمو الملكي الأمير سلمان بن عبدالعزيز آل سعود ولي العهد نائب رئيس مجلس الوزراء وزير الدفاع.

أصحاب الجلالة والفخامة والسمو والفضيلة والمعالي والسعادة.

أيها الحفل الكريم:

السلام عليكم ورحمة الله وبركاته:

سيدي في مثل هذا اليوم من شهر ذي الحجة عام 1432ه وجهتم حفظكم الله كلمة سامية حيث أكدتم أن الأمن والاستقرار من أسباب نماء المجتمعات وازدهار الاقتصاد وبهما يعم الرخاء وتتقدم الأمة.

كما دعوتم أيدكم الله المسلمين إلى أن يتخذوا من الحج وسيلة للتعلم لنبذ الفرقة والتشاحن وتبيان أن هذه الأرض الطيبة وما تشهده من إقبال الحاج والمعتمر إليها إنما لأنها تنعم بنعمة الأمن والاستقرار استجابة لدعوة أبي الأنبياء إبراهيم الخليل عليه السلام، وإنه من فضل الله تبارك وتعالى أن شرف المملكة العربية السعودية بخدمة حجاج بيت الله الحرام، وإنها تستشعر في ذلك عظمة الأمانة الملقاة على عاتقها، ونحن على ذلك محتسبين الأجر والمثوبة من الله سبحانه وتعالى ماضين في ذلك مستمدين العون من رب العزة والجلال جاعلين خدمة الحاج وأمنه من أعظم المسؤوليات.

حديث بين الملك عبدالله وكبار الضيوف خلال حفل الإستقبال (و.ا.س)

وأنا إذ أشير إلى تلك الكلمة الضافية لأستذكر أيضاً مبادراتكم الخيرة لمصلحة أمة الإسلام وبخاصة والإنسانية بعامة، ويأتي في المقدمة الدعوة لعقد قمة التضامن الإسلامي التي اجتمعت في رحاب مكة المكرمة إبان ذروة موسم العمرة يومي السادس والعشرين والسابع والعشرين من شهر رمضان المبارك 1433ه الموافق الرابع عشر والخامس عشر من شهر آب أغسطس 2012م ، حيث وجهتم كلمة سامية تعد بمثابة خارطة طريق على درب التمكين للتضامن والتسامح والاعتدال ومحاربة الغلو وإخماد الفتن ومن ضمن آليات تحقيق هذا التوجه الطيب مقترح تأسيس مركز للحوار بين المذاهب الإسلامية للوصول إلى كلمة سواء الذي تم تبنيه وعلى أساس أن يعين أعضاؤه من مؤتمر القمة الإسلامية ، وفي خضم هذا الزخم من المكاسب العظيمة التي لها ما بعدها، بما يدعو للتفاؤل بمستقبل واعد لأمة الإسلام، فجزاكم الله خير الجزاء.

كما أغتنم هذه المناسبة الطيبة لأرفع لمقامكم الكريم كلمات الشكر والامتنان، وذلك اعترافاً لما تتفضلون به من دعم غير محدود، ومن حسن توجيه، الأمر الذي مكن ولله الحمد من إصابة النجاحات لتلبية احتياجات ضيوف الرحمن بكل كفاية ليؤدوا نسكهم بكل يسر وسهولة، وأن هذا النهج الذي تمضون فيه قدماً حفظكم الله هو امتداد لما أرساه الراحل العظيم والدكم جلالة الملك عبدالعزيز بن عبدالرحمن الفيصل آل سعود طيب الله ثراه ، حيث نسج على منواله من بعده خلفاؤه البررة رحمهم الله وحتى هذا العهد الزاهر الذي يشهد نقلة تنموية وحضارية غير مسبوقة، وذلك بفضل من الله، ثم بفضل السياسة الحكيمة المتزنة والمتوازنة للحكومة السعودية الرشيدة، التي تأخذ بالأسباب لتحقيق الأهداف وفق ما يخطط لها من أجل الوطن والمواطن والحاج والمعتمر والزائر على حد سواء.

الملك يرحب بالشيخ القرضاوي (و.ا.س)

وحقيقة الأمر أن جملة ما يخطط له يأتي من منطلق إيماني، هو شغلكم الشاغل، الذي تنفقون من أجله الملايين، بل البلايين من الريالات السعودية، وفي الطليعة التوسعات المتتالية في الحرمين الشريفين وفتح المزيد من الطرق والجسور للحافلات والأنفاق والأعمار في مكة المكرمة والمدينة المنورة، والأخذ بنظام النقل الترددي بالحافلات ومن ثماره بيئة نظيفة واختصار عامل الوقت في نقل الحجاج، إلى جانب قطار المشاعر المقدسة الذي يسهم في نقل نحو خمسمائة ألف حاج وفي وقت قياسي، إضافة إلى استكمال جسر الجمرات بأدواره المتعددة الذي هو عبارة عن مدينة تضم العديد من المرافق الإدارية والإشرافية والأمنية والصحية ومهابط للطائرات، لضمان إنجاح ما يعد من خطط لإدارة الحشود البشرية وصولاً إلى بر الأمان.

وكذلك فإن قطار الحرمين الذي سيدخل الخدمة إن شاء الله خلال العامين المقبلين لنقل الحجاج والزائرين بين المدينتين المقدستين مكة المكرمة والمدينة المنورة عبر مدينة جدة.

الأمير متعب والأمير أحمد والأمير خالد الفيصل وطارق الهاشمي وعدد من كبار الشخصيات أثناء الحفل (و.ا.س)

وأن أيقونة المشروعات العملاقة هو مشروع التوسعة الجديدة للمسجد الحرام الذي أنجز منها الكثير ليتسع لمليون وستمائة ألف مصل، وكذلك مشروع التوسعة للمسجد النبوي الشريف الذي ستبلغ مساحته بناءً وساحات عند إتمامه نحو مليون وواحد وعشرين ألف متر مربع.

كما اختم حديثي بمقتطف من الكلمة الضافية التي وجهتموها حفظكم الله في المدينة المنورة إبان وضع حجر الأساس لمشروع التوسعة لما تنطوي عليه من مدلولات جوهرية ذات صلة بالثوابت، ومنها ما قلتم: «لقد أكرمنا الله سبحانه وتعالى بشرف خدمة الحرمين الشريفين وما أعظمها وأجلها من خدمة، وأن إيماننا بالحق تعالى نستمد منه عزيمتنا وقوتنا في الدفاع عن شريعتنا وعقيدتنا، وعن نبينا محمد صلى الله عليه وسلم، وسنبقى ثابتين على ذلك لا نتراجع عنه إلى يوم الدين إن شاء الله، فهو الشرف والكرامة والإباء.

كما ناشدتم عقلاء العالم للتصدي لكل من يحاول الإساءة إلى الديانات السماوية أو إلى الأنبياء والرسل»، وبعد فهذا قليل من كثير مما رغبت أن أعرض له تقديراً لوقتكم الثمين، سائلاً المولى جل وعلا أن يهبكم، وسمو ولي عهدكم الأمين، والحكومة السعودية الرشيدة، مزيدًا من التوفيق والتوجه والسداد لكل ما فيه الخير والصلاح للإسلام والمسلمين.

الأمراء وكبار الشخصيات خلال حفل الإستقبال (و.ا.س)

والسلام عليكم ورحمة الله وبركاته.

كلمة التركي

إثر ذلك ألقى معالي الأمين العام لرابطة العالم الإسلامي الدكتور عبدالله بن عبدالمحسن التركي كلمة هنأ في مستهلها خادم الحرمين الشريفين، وسمو ولي عهده الأمين، وأصحاب السمو الملكي الأمراء وأصحاب الفضيلة والمعالي، وحجاج بيت الله الحرام بعيد الأضحى المبارك.

وقال: يسر رابطة العالم الإسلامي أن تعرب عن إشادتها وضيوف خادم الحرمين الشريفين لديها، بالجهود العظيمة التي تبذلها المملكة، لتيسير الحج ومتطلباته في مختلف المجالات، ومع التطوير المستمر للخطط والمشاريع في الحرمين الشريفين والمشاعر.

خادم الحرمين يتبادل الحديث مع البروفيسور إحسان أوغلي وطارق الهاشمي (و.ا.س)

وأوضح أن توجه خادم الحرمين الشريفين - أيده الله - إلى المدينة النبوية مباشرة، عند عودته الميمونة إلى المملكة، لبدء توسعة ضخمة للمسجد النبوي، بحيث يستوعب أكثر من ثلاثة ملايين مصل، له عظيم الأثر في نفوس المسلمين، سائلاً الله تعالى أن يجزل له المثوبة ولولي عهده الأمين، وأن يبقي المملكة شامخة عزيزة الجانب ، قدوة للمسلمين في السير على الكتاب والسنة، وتطبيق شرع الله، وخدمة الحرمين الشريفين، والدفاع عن الإسلام، والحرص على جمع كلمة الأمة، وحل مشكلات المسلمين، والوقوف إلى جنبهم في محنهم: (الذين إن مكناهم في الأرض أقاموا الصلاة وآتوا الزكاة وأمروا بالمعروف ونهوا عن المنكر ولله عاقبة الأمور). (الحج - 41).

وبين أن من تعظيم شعائر الله وحرماته، أن يعمل كل ذي مسؤولية في الحج، على إشاعة الأخوة والمحبة بين الحجاج، والمحافظة على ربانية الموسم، فلا يرفع فيه شعار إلا توحيد الله وعبادته، ووحدة الأمة وتآلفها في ظل أخوة الإسلام وسمو رسالته الخالدة.

وأفاد معاليه أن رابطة العالم الإسلامي تتابع بقلق واهتمام بالغين ما يجري في بعض البلدان الإسلامية، وفي مقدمتها سوريا، داعية إلى تكثيف الجهود الرسمية والشعبية في معالجة الأوضاع المأساوية فيها، وإيقاف نزيف الدم الذي تمادى النظام السوري في إراقته.

وقال معاليه: وإن الرابطة لتستنكر إثارة الفتنة الطائفية بين المسلمين، والتذرع بها للتدخل في الشؤون الداخلية في بعض الدول الإسلامية، مما يزيد الأمة تمزقاً وضعفًا. والأمل في خادم الحرمين الشريفين، والمخلصين من قادة الأمة أن يضاعفوا الجهود في مواجهة ما يهدد الأمة ويستهدف وحدتها واستقرارها، وينسقوا جهودهم من خلال المنظمات الجامعة للأمة، وهيئاتها الثقافية والفقهية والقانونية.

كبار شخصيات الحج يتشرفون بالسلام على خادم الحرمين (و.ا.س)

وأضاف قائلاً: إن الرابطة والهيئات والمراكز الإسلامية، ليشيدون بمؤتمر القمة الإسلامية الاستثنائي الرابع، الذي انعقد في مكة المكرمة في أواخر شهر رمضان المبارك، وميثاق مكة المكرمة لتعزيز التضامن الإسلامي، الصادر عنه، وتعتبره الرابطة قاعدة انطلاق نحو بناء قدرات الأمة ومؤسساتها، وتحقيق نهضتها واستعادة تضامنها، وإقامة الحكم الرشيد بما يعمق قيم الشورى والحوار والعدل.

وأردف معاليه قائلا: إن الأمة المسلمة، على الرغم مما تمر به من المحن، تظل الحارس الأمين للحق الذي بعث الله به رسله الكرام إلى الأمم الغابرة، ثم ورثه هذه الأمة واستحفظها عليه: (ثم أورثنا الكتاب الذي اصطفينا من عبادنا) (فاطر- 32)، وبذلك جعلها شاهدة على الناس: (وكذلك جعلناكم أمة وسطا لتكونوا شهداء على الناس ويكون الرسول عليكم شهيدًا) (البقرة - 143). وفي أوطانها من الثروات وفي أبنائها من الطاقات المتخصصة، ما يغنيها ويؤهلها للتعافي من ضعفها وتجاوز محنها، والنهوض بمجتمعاتها، إذا أخذت بأسباب التلاحم فيما بينها لأداء رسالتها وبناء نهضتها على أساس إعطاء الأهمية اللائقة به تعليماً وتطبيقاً، وتعريفاً به في الآفاق العالمية، ونفي الشبهات المنسوبة إليه جهلاً أو عمداً.

ولفت معاليه النظر إلى أن رابطة العالم الإسلامي أنجزت إنجازات كبيرة في خدمة الدعوة والإغاثة والتعلم بين الشعوب والأقليات والجاليات المسلمة، وأصبحت منبراً للحوار والوسطية والاعتدال في التعريف بالإسلام والدفاع عنه وعن أمته، وملتقىً عالمياً للشخصيات الإسلامية البارزة وذلك بتوفيق الله ثم بدعم خادم الحرمين الشريفين، وسمو ولي عهده الأمين، والتعاون مع المسلمين حكومات وشعوباً، فلله الحمد والشكر، ونسأله المزيد من الفضل والنعم.

كلمة بعثات الحج

بعد ذلك ألقيت كلمة بعثات الحج ألقاها نيابة عنهم معالي وزير الأوقاف والإرشاد بالجمهورية اليمنية حمود محمد عباد عبر فيها باسمه ونيابة عن رؤساء بعثات الحج لخادم الحرمين الشريفين ولشعب وحكومة المملكة العربية السعودية عن عظيم الشكر وجزيل التقدير على الجهود الكبيرة والعزائم المباركة في خدمة حجاج بيته الحرام والزائرين لمسجد رسول الله عليه أفضل الصلاة والتسليم، وعلى الإنجازات العظيمة التي شملت الحرمين الشريفين والمشاعر المقدسة.

وقال: ياخادم الحرمين الشريفين لقد تجلى من ملامح بدايات عهدك وكوامن إرادتك وقوة عزمك أنك تحمل هم المسلمين لتيسير الصعوبات، وإقالة العثرات لأداء عبادات الحج والعمرة والزيارة في سعة وراحة وسلامة واطمئنان خاصة وأن أعداد الحجيج والعمار تتزايد عاما بعد عام، وفي كل عام نشهد إنجازاً وتوسعاً في المشاعر والحرمين تجاوزت قياسات الزمن».

وزير الحج يلقي كلمته بين يدي خادم الحرمين (و.ا.س)
وأضاف: فمنذ أن كتب الله في أزله غزير خيراته على هذا البلد، وصدع نوره في واد غير ذي زرع بمقدم أبي الأنبياء إبراهيم عليه السلام، وخط جل وعلا في لوحه المحفوظ وقدره المتحقق الملحوظ، دعوة خالدة غيّرت مسار التاريخ بهذا البلد الذي ما جاءت قبل هذه الدعوة المباركة بزرع أو عطاء ضرع فهي دعوة قلبت الجفاء إلى وفاء، والوعود إلى وجود، دعوة مباركة أطلقها الخليل عليه السلام من قلبه وضميره إلى ربه الكريم ومولاه المانح العليم، فكانت هذه الدعوة في لظى الصحراء القاحلة والمعاناة الهائلة خيراً وأمناً، مثلما جعل الله النار على إبراهيم برداً وسلاماً، ولأن الله قد جعل مقاديره جارية فإنه جعل سننه سارية، فأخذتم ياخادم الحرمين الشريفين بأسباب السنن وحققتم بإبداعاتكم نهضة الوطن، وسرتم على منهج الرحمن في ترسيخ الأمان، وسابقتم الزمان بما ابدعتموه من بناء نهضة الأوطان، فعملتم بما وفقكم الله مالم يكن مع قصر المدة يخطر في بال أو مقدور أحد».

وأكد وزير الأوقاف والإرشاد اليمني أن خدمة حجاج بيت الله الحرام، وترسيخ عوامل الأمن والسلام وبناء نهضة الأوطان ومعالجة مخاطر التكفير، ومواجهة شياطين التفجير منهجًا، سيثيب الله خادم الحرمين الشريفين على فعله ويسدده على تنفيذه.

وقال: فكما أن الله قد أحاطك بفضل عنايته ونور هدايته، فقد جبل روحك على نقاء الفطرة وعمق البصيرة وصفاء البادية، وقوة ومراس وإرادة أبنائها الأتقياء الأنقياء الأوفياء، ليكن ذلك زادك في مسيرة خيرك وإنجازات سيرك.

ونوه عباد بما قام به خادم الحرمين الشريفين من دور جليل وفعل جميل، لم شمل الأخوة وربط أواصر الأحبة في يمن» الحكمة والإيمان، وفي علاقته -أيده الله - بأخيه الرئيس عبد ربه هادي منصور رئيس الجمهورية اليمنية الذي ما نسي في كل حين نبل مواقفه - رعاه الله - مع أهله وأحبائه اليمانيين.

وسأل الله أن يجزي خادم الحرمين الشريفين وسمو ولي عهده الأمين، وسمو وزير الداخلية رئيس اللجنة العليا للحج ورجال الأمن الأوفياء خير الجزاء.

وقدم الشكر لمعالي وزير الحج ولجميع العاملين معه في الوزارة وفي جميع مرافق الدولة والأمن على الخدمات الجليلة والجهود العظيمة والأداء الرائع الذي جمع في عمقه بين القيم الإسلامية والتقنية الحديثة لخدمة حجاج بيت الله الحرام.

إثر ذلك تشرف الجميع بالسلام على خادم الحرمين الشريفين الملك عبدالله بن عبدالعزيز آل سعود.

ثم تناول الحضور طعام الغداء مع خادم الحرمين الشريفين.

بعد ذلك ودع الملك المفدى ضيوفه من أصحاب الجلالة والفخامة والدولة متمنياً لهم حجاً مبروراً وسعياً مشكوراً .

التعليقات

1

صل على سيدنا محمد

07:04:46 2012-10-29

الله يطول عمرك يا ملكنا الغالي والله مافي احد من حكام فاهم شعبو غير ابو متعب الله يحمي ويبعد عنا الفتن ويحمي المملكة العربية

Sunday, 12 Dhul Hijjah 1433H - October 28, 2012G - no. 16197

Custodian of the Two Holy Mosques welcomes Islamic personalities and heads of Hajj delegations at the annual reception in Mina

King Abdullah: the Muslim nation's dialogue with itself is a religious duty. Disagreement, ignorance and exaggeration threaten the hopes of Muslims

King Abdullah speaks to senior personalities performing the pilgrimage [SPA]

Change font

Mina - Saudi Press Agency (SPA)

The Custodian of the Two Holy Mosques, King Abdullah Bin Abdulaziz Al Saud, may God preserve him, held the annual reception for Islamic personalities and heads of Hajj delegations performing the Hajj this year at the Royal Court at Mina Palace.

Among the most prominent personalities who attended the reception were His Excellency Sultan Al-Mu'tassimu Billahi Muhibbuddin Tuanku Al-Haj Abdul Halim Mu'adzam Shah, King of Malaysia; His Excellency Professor Alpha Condé, President of the Republic of Guinea; Vice President of the Republic of Indonesia Dr. Boediono; Vice President of the Republic of Iraq Tariq al-Hashimi; Prime Minister of the Islamic Republic of Pakistan Raja Pervaiz Ashraf; and the Prime Minister of the Republic of Djibouti, Delita Mohammed Delita.

"A center for dialogue between Islamic denominations" does not necessarily mean agreement on issues related to creed; the aim is to reach solutions on points of difference."

The reception was attended by HRH Prince Mutaib bin Abdulaziz Al Saud; HRH Prince Salman bin Abdulaziz Al Saud, Crown Prince, Deputy Prime Minister and Minister of Defense; HRH Prince Khalid Faisal bin Abdulaziz, Governor of Makkah Province and President of the Central Hajj Committee; HRH Prince Abdul Elah bin Abdulaziz, Advisor to the Custodian of the Two Holy Mosques; HH Prince Ahmed bin Abdulaziz, Minister of Interior and President of the Supreme Hajj Committee; HH Prince Faisal bin Mohammed bin Saud Al-Kabir; and HH Muqrin bin Abdulaziz, Advisor and Special Envoy of the Custodian of the Two Holy Mosques, and their highnesses the Princes.

The King calls upon the United Nations for a draft condemning any state or group that insults the revealed religions and prophets.

It was also attended by religious scholars, ministers, the Secretary General of the Organization of the Islamic Conference, the Secretary General of the Gulf Cooperation Council, and senior officials and ambassadors of Arab and Islamic states.

The ceremonial speeches prepared for the reception were prefaced with a recital of verses from the Holy Quran.

The Custodian of the Two Holy Mosques, may God preserve him, then gave the following speech:

In the name of God, the Most Merciful, the Most Compassionate, and may prayers and blessings be upon the Messenger of God and all of his family and companions.

The Minister of Hajj: Your approach to serving the Two Holy Mosques and the pilgrims is an extension of the approach of King Abdulaziz.

Dear brothers present today:

May peace be upon you and the mercy of God and His blessings be upon you.

I congratulate you on the occasion of the blessed Eid Al-Adha. I wish you a successful Hajj, forgiveness of sins and a commendable effort. May every year find you in good health.

Since the time of Abraham, peace be upon him, to the time of Prophet Mohammed, peace be upon him, to our time, believers have flocked to the Sacred House of God, answering the call to truth in a great scene that embodies the idea of equality, holding on to hope in God the Almighty for the unity of the Islamic nation, rejecting dissent, and maintaining order in the Islamic ranks against the enemies of the nation and those who lie in wait [for an opportunity to attack it].

Dialogue in the Muslim nation is a religious duty. Disagreement, partisanship, ignorance and exaggeration are obstacles that threaten the hopes of Muslims. Dialogue strengthens moderation and the middle path and puts an end to the causes of conflict and extremism. The only way out of this situation is to place our hope in God. He has said, "and despair not of the Spirit of Allah. Lo! none despaireth of the Spirit of Allah save disbelieving folk." Consequently, resolute and faithful trust in God does not give heed to obstacles, whatever they may be.

Al-Turki: We hope that the Custodian of the Two Holy Mosques and the sincere leaders of the nation will redouble their efforts to deal with the threats.

Dear brothers:

The idea of a center for dialogue among Islamic denominations, which we have announced in Mecca, does not necessarily mean agreement on issues related to creed. Indeed, the aim is to reach solutions on points of difference and to establish co-existence among the denominations away from intrigues and other such matters. This will benefit our Islamic nation and unite it.

From my position, here, next to the Sacred House of God, I call upon the United Nations to draw up a draft that condemns any state or group that insults the revealed religions and prophets. This is our duty and a duty of every Muslim in defense of our Islamic religion and the messengers of Truth.

The Custodian of the Two Holy Mosques sits amidst senior personalities and heads of Hajj delegations (SPA)

In addition, I ask God to strengthen hope in our hearts that rely on Him and to make us steadfast in adhering to the truth and obedience [to Him].

Thank you.

The Minister of Hajj's speech:

Then HH Minister of Hajj Bandar bin Mohammed Al Hajjar gave a speech in which he said:

In the name of God, the Most Merciful, the most Compassionate,

"Praise the name of thy Lord the Most High, who creates and fashions in due proportions, who hath ordained laws and granted guidance."

Prayers and blessings be on the Apostle of God, our Master Muhammad, and all of his family and companions.

Custodian of the Two Holy Mosques, King Abdullah Bin Abdulaziz Al Saud

Prince Salman bin Abdulaziz Al Saud, the Crown Prince, Deputy Prime Minister and Minister of Defense

Your Excellencies, honorable guests,

Dear honorable gathering,

May peace be upon you and the mercy of God and His blessings.

Sire, on a similar day in the month of Dhul Hijjah 1432H, you made a royal statement in which you stated that security and stability are among the reasons for the growth of societies and the prosperity of their economies, and that through them prosperity prevails, and the nation moves forward.

You also called upon the Muslims to use the Hajj as a means to learn to reject dissent and conflict. You explained that this good land in which the pilgrims are eager to perform the minor and major pilgrimages is blessed with security and stability as a result of the supplications of the Father of the Prophets, Abraham, and the grace of God Almighty. The Kingdom of Saudi Arabia has the honor of serving the pilgrims to the Sacred House of God. It appreciates the magnitude of the trust given to it. Consequently, we are hopeful of reward and recompense from God the Almighty and proceed with the help of the Almighty Lord and consider serving the pilgrims and their safety to be one of the greatest responsibilities we bear.

Discussion between King Abdullah and senior guests during the reception (SPA)

I refer to this extensive speech to also recall your charitable initiative for the interest of the nation in particular and humanity in general. First came the invitation to hold an Islamic Solidarity Summit, which was held in Mecca during the peak of the Umrah season on 26-27 Ramadan 1433H (14-15 August 2012G), during which you made a royal statement that proposed a roadmap for facilitating solidarity, tolerance, and moderation, combating extremism, and suppression of sedition. The mechanisms for achieving this good initiative included a proposal to establish a center for dialogue among Islamic denominations to reach a common position that will be adopted, based on the plan that its members will be appointed by the Islamic Summit Conference. Amidst the momentum of the large gains it has since made, which include a sense of optimism for a promising future for the Muslim nation, I thank you very much.

I will also use this good opportunity to present to Your Majesty my thanks and gratitude in acknowledgement of your kind and unlimited support and guidance. This has, thanks be to God, enabled success in adequately meeting the needs of pilgrims so they can perform the rituals in ease and comfort. This approach in which you are proceeding is an expansion of what was established by your great late father, HRH King Abdulaziz Bin Abdulrahman Faisal Al Saud, which has been followed by his distinguished successors until this prosperous era, which itself is witnessing an unprecedented developmental and civilizational shift. This is due to the grace of God and the wise and balanced policy of the judicious government of Saudi Arabia, which considers the means for achieving its goals in accordance with its plan for the nation, its citizens, the pilgrims and its visitors, equally.

The King welcomes Sheikh Al-Qaradawi (SPA)

The truth of the matter is that everything that is planned is based on faith. This is what motivates you to spend millions, nay, billions of Saudi riyals. At the forefront of this were the successive expansions of the two Holy Mosques, opening more roads and bridges to buses, opening tunnels, and construction in Mecca and Medina, and the establishment of a bus shuttle service. This has resulted in a clean environment and reducing the time taken to transport pilgrims. This is in addition to the train at the holy sites which helps to transport some 500,000 pilgrims in record time and the completion of the multi-level Al-Jamaraat Bridge, which is a town that includes numerous administrative, supervisory, security, and health facilities and air craft landing strips to ensure the success of the plans to safely manage human crowds.

In addition, the Two Holy Mosques Train will enter into service in the next two years to transport pilgrims and visitors between the two holy cities of Mecca and Medina via Jeddah.

Prince Mutaib, Prince Ahmed, Prince Khalid Faisal, Tariq Al-Hashimi and a number of VIPs during the reception (SPA)

The most iconic of the giant projects is the new project for expansion of the Holy Mosque in Mecca, much of which has been completed to extend it to hold 1.6 million worshippers. Also iconic is the project for expansion of the Prophet's Mosque, the area of the buildings and courtyards of which, when complete, will be approximately 1,021,000 square meters.

I will conclude my speech with a selection from the generous speech that you made, may God preserve you, in Medina, on the occasion of the laying of the foundation stone for the expansion project, due to the essential implications that it contains for fundamental issues. For example, you said, "God has blessed us with the honor of serving the Two Holy Mosques—and what a great and worthy service it is. Our belief in the Truth is the basis of our resolve and strength in defending our religious law and creed and our Prophet Mohammed, may the peace and blessings of God be upon him. We will remain steadfast in this and will not fall back until the Day of Judgement, God willing, because it is an honor, dignity, and pride.

You also called upon the rational people of the world to confront anyone who attempts to insult the revealed religions or the prophets and apostles. This is just a little of much that I wanted to present in appreciation of your precious time. I ask the Almighty to grant you, HRH the Crown prince and the wise Saudi Government more success, guidance and accomplishment toward everything that is good and righteous for Islam and the Muslims.

Princes and VIPs during the reception (SPA)

Peace be upon you and the mercy of God and His blessings.

Al-Turki's speech

Afterward, HE the Secretary General of the Muslim World League, Dr. Abdullah Bin Abdulmohsen Al-Turki gave a speech, which he began by extending his best wishes to the Custodian of the Two Holy Mosques, the Crown Prince, HRH the Royal Princes, the distinguished attendees, and pilgrims on the occasion of the blessed Eid Al-Adha.

He said: "The Muslim World League is pleased to express its praise and the praise of the guests of the Custodian of the Two Holy Mosques for the great efforts that Saudi Arabia has made to facilitate the Hajj and its requirements in all areas, and the constant development of plans and projects at the two Holy Mosques and the religious sites."

The custodian of the Holy Mosques speaks with Professor İhsanoğlu and Tariq Al-Hashimi (SPA)

He said: "The Custodian of the Two Holy Mosques went straight to Medina upon his auspicious return to Saudi Arabia to inaugurate the immense expansion of the Prophet's Mosque to allow it to hold more than three million worshippers. He has a tremendous impact on Muslims and I ask God to reward him and the Crown Prince and to keep Saudi Arabia proud as an example to the Muslims of how to follow the Quran and the *Sunnah*, apply God's Law, serve the two Holy Mosques, defend Islam, strive to unite the nation, solve the problems of the Muslims and stand alongside them in their trials: 'Those who, if We give them power in the land, establish worship and pay the poor-due and enjoin goodness and forbid iniquity. And Allah's is the sequel of events.'" (Al-Hajj: 41).

He stated that to glorify God's rituals and sacred places, every person responsible for the Hajj is working to spread brotherhood and love among the pilgrims and to preserve the holiness of the season, as no slogans are raised except oneness of God and worship of Him, unity and harmony of the nation through the brotherhood of Islam, and the loftiness of its eternal message.

His Excellency stated that the Muslim World League is following the events in some Muslim countries with great interest and concern, particularly Syria, and that it is calling on official and popular efforts to be increased to deal with the catastrophic situation there and to bring an end to the bloodshed that Syrian regime has taken too far.

His Excellency said: “The League denounces the stirring of sectarian strife between Muslims as a pretext to interfere in the internal affairs of some Islamic states, which makes the nation more fragmented and weaker. I hope that the custodian of the Two Holy Mosques and the faithful leaders of the nation will increase efforts to deal with the threats to the nation that are targeting its unity and stability and that they coordinate their efforts through organizations that will bring the nation together and their cultural, jurisprudential and legal bodies.”

Senior Hajj officials have the honor of greeting the Custodian of the Two Holy Mosques (SPA)

He added: “The League and Islamic centers and bodies praise the Fourth Extraordinary Islamic Summit Conference held in Mecca at the end of Ramadan and the Mecca Charter on Strengthening Islamic Solidarity issued there. The League considers it a basis for launching capacity building for the nation and its establishments to achieve its revival, restore its solidarity and establish good governance to promote the values of *shura*, dialogue and justice.”

He added that “In spite of the trials it is experiencing, the Muslim nation remains an active guardian of the truth sent by God with his messengers to past nations, which was then inherited by this nation which seeks to protect it: ‘Then We gave the Scripture as inheritance unto those whom We elected of Our bondmen’ (Fatir: 32). In this way, He has made this nation a witness for people: ‘Thus We have appointed you a middle nation, that ye may be witnesses against mankind, and that the messenger may be a witness against you.’ (Al-Baqara: 143). In our countries, we have resources and people with special abilities that enrich them and are qualified to cure their weaknesses and overcome their trials, and thus revive our communities. We must look at the reasons for cohesion among us to carry out our nation’s mission and build its revival on a foundation of assigning proper importance to teaching, applying and introducing it around the world, and refuting the suspicions attributed to it ignorantly or deliberately.”

He mentioned that the Muslim World League has had major achievements in serving the call to the religion and providing aid and education to Muslim peoples, minorities and communities. It has become a platform for dialogue and moderation in introducing people to Islam, defending both Islam and the nation, and providing an international meeting place for prominent Muslim personalities. This was done by the grace of God and the support of the Custodian of the Two Holy Mosques and HRH the Crown Prince, and with the cooperation of Muslim governments and people. All praise and thanks be to God and we ask Him for more grace and blessings.

Annex 7

Speech of Hajj delegations:

After that, the speech of the hajj delegations was given on their behalf by HE the Minister of Religious Endowments and Guidance of the Republic of Yemen, Hamoud Mohammed Abbad, in which he expressed on his own behalf and on behalf of the heads of the Hajj delegations great thanks and appreciation to the Custodian of the Two Holy Mosques and the people and government of Saudi Arabia for their major efforts and determination in providing services to the pilgrims to God's sacred house and visitors to the mosque of the Apostle of God, as well as the great achievements at the Two Holy Mosques and the holy sites.

He said: "O custodian of the Two Holy Mosques, it was clear from the features of the beginning of your reign by your interest and the strength of your resolve that you have an interest in facilitating the difficulties of Muslims, reducing the obstacles to performing the rituals of Hajj and Umrah and visiting [the religious sites] in safety, comfort and certainty, particularly with the numbers of pilgrims that increase every year. Every year we witness an accomplishment and expansion of the sites and the Two Holy Mosques, which are done in record time."

The Minister of Hajj delivers his speech before the Custodian of the Two Holy Mosques (SPA)

He added, “Since God wrote His timeless blessings for this country and sent forth his light in the barren valley with the arrival of Father of the Prophets Abraham and wrote in His blessed Book and set forth with His decree an eternal call that changed the history of this land in which there was no agriculture or fertility. It is a call that transformed this barren land into a land of fulfilment and potential into reality. It was a blessed call that Abraham made from his heart and his conscience to his All-Knowing Lord and Master. This call for goodness and safety was made in the blazing, arid desert amid enormous suffering. Just as God made the fire cool and safe for Abraham, God made its abundance ongoing and his traditions lasting. You, o Custodian of the Two Holy Mosques, have taken the reasons for these traditions and, through your creativity, have achieved the revival of the nation. You have continued on the path of the Almighty by establishing safety and have raced against time in your creativity to build the revival of nations. You have done what God has destined for you despite the shortness of time what has never occurred to anybody and what nobody else could have done.”

The Yemeni Minister of Religious Endowments and Guidance stated that for his service to pilgrims to the House of God, his establishment of peace and safety, his building of the revival of nations, his dealing with the risks of calling Muslims disbelievers and dealing with those who have adopted violence as a practice, God will reward the Custodian of the Two Holy Mosques and bless him for what he has done.

He said: “Just as God has granted you the grace of His care and the light of His guidance, He has created in your soul the pureness of instinct, depth of vision, clarity, strength, power and will of its devout, pure and faithful people in order to be your provisions on the path of goodness and the achievement of your labors.”

Abbad praised the role played and the good actions of the Custodian of the Two Holy Mosques in re-establishing brotherhood and ties of affection with Yemen with wisdom and faith and through his relationship with his brother, President Abdrabbuh Mansur Hadi, President of the Republic of Yemen, who will not forget the nobility of his position towards his Yemeni family and loved ones.

He asked God to bless the Custodian of the Two Holy Mosques, HRH the Crown Prince, HRH the Minister of Interior and President of the Supreme Committee for the Hajj, and the loyal security officers.

He offered his thanks to HE the Minister of the Hajj and everyone working with him at the Ministry and all agencies of the state and the security services for the important services, great efforts and wonderful actions that combine Islamic values and modern technology to serve the pilgrims to the sacred House of God.

Thereafter, all people present were honored to greet the Custodian of the Two Holy Mosques, King Abdullah Bin Abdulaziz Al Saud.

The attendees then had lunch with the Custodian of the Two Holy Mosques.

After that, the beloved King bade farewell to his eminent guests and wished them a successful Hajj and divine acceptance of their efforts.

LIONBRIDGE

STATE OF NEW YORK)
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CERTIFICATION

This is to certify that the attached translation is, to the best of my knowledge and belief, a true and accurate translation from Arabic into English of the attached article, dated October 28, 2012.

Lynda Green, Senior Managing Editor
Geotext Translations, Inc.

Sworn to and subscribed before me

this 12 day of July, 2019.

JEFFREY AARON CURETON
NOTARY PUBLIC-STATE OF NEW YORK
No. 01CU6169789
Qualified in New York County
My Commission Expires September 23, 2019

Annex 8

David D. Kirkpatrick, "Journalist Joins His Jailer's Side in a Bizarre Persian Gulf Feud", *The New York Times* (1 July 2017), *available at* https://www.nytimes.com/2017/07/01/world/middleeast/qatar-egypt-united-arab-emirates-mohamed-fahmy.html

Journalist Joins His Jailer's Side in a Bizarre Persian Gulf Feud

The New York Times

July 1, 2017 Saturday 00:00 EST

Section: WORLD; middleeast

Length: 1636 words

Byline: DAVID D. KIRKPATRICK

Highlight: Mohamed Fahmy, who was working for the Qatari-owned Al Jazeera when the Egyptian authorities jailed him in 2013, has become a pawn in an intra-gulf rivalry.

Body

LONDON — The journalist Mohamed Fahmy had been working in Cairo for Al Jazeera when the Egyptian authorities threw him in prison for more than a year, accusing him of stirring up unrest as an agent of the channel's owner, the Qatari government.

Now, less than two years after his release, he has filed a lawsuit for more than $100 million. But the target of the suit is not Egypt; it is his former employers: Al Jazeera and Qatar.

And a recent campaign of surveillance and computer hacking against Mr. Fahmy, for Qatar's benefit, revealed that a senior official of the United Arab Emirates later provided $250,000 to help pay for the legal action.

Behind these bizarre twists and turns is a Persian Gulf family feud, pitting Qatar against the United Arab Emirates and its regional clients, including Egypt.

Mr. Fahmy, no longer a neutral bystander, has become a pawn exploited and abused by both sides.

The intra-gulf rivalry erupted into open hostility last month as the United Arab Emirates, Saudi Arabia and Egypt severed all trade, travel and diplomatic ties with Qatar, accusing it of using Al Jazeera broadcasts and financial support to promote Islamist extremism and interfere in the affairs of its neighbors. Qatar disputed those allegations and said its own internal affairs had become the targets of Saudi and Emirati meddling.

Mr. Fahmy, 43, has eagerly joined in, holding a recent news conference in Washington to add his voice to Saudi and Emirati accusations that Qatar and Al Jazeera conspire with Islamist extremists. "Qatar has been given so many chances, and they have been warned so many times," he said, commending the Saudi and Emirati blockade.

Asked at the news conference if he had consulted Saudi or Emirati officials, or if he was close to the Emirati ambassador to Washington, Yousef al-Otaiba, Mr. Fahmy said, falsely, "To simply answer your question, no." (Mr. Fahmy said this past week that he was protecting a friend.)

Mr. Fahmy, an Egyptian-Canadian, now lives in Vancouver, British Columbia. He acknowledged in a recent telephone interview that he had received what he described as a "loan" from Mr. Otaiba to finance the legal action against Qatar. The ambassador had been a friend since they attended high school together in Egypt, at the Cairo American College, and he was one of several people asked for financial support, Mr. Fahmy said.

He insisted that the money for the lawsuit had gone to a third party, whom Mr. Fahmy refused to name. "I have not received a penny from Yousef," he said.

But he dismissed many of the other claims raised by investigators who conducted the surveillance against him. He called the assertions in their resulting report "absurd," saying they were "fabrications" by Al Jazeera and Qatar in "a systematic campaign to smear my reputation."

The investigation raised far-fetched allegations that Mr. Fahmy had worked covertly for nearly two decades as a spy for Italy, beginning when he was still a full-time college student in Vancouver. The report included many handwritten observations, presented as originating with Israeli intelligence, that describe dozens of sightings of Mr. Fahmy in Rome and at Italian diplomatic facilities in Paris, Cairo and Morocco.

But in an interview this past week, Mr. Fahmy said he had never been to Italy or Morocco, nor to the other Italian diplomatic facilities mentioned in the report. For several of the dates in question, he provided detailed evidence that he had been far from the alleged meeting locations.

The investigative report — hundreds of pages in length — was provided to The New York Times and other journalists by intermediaries sympathetic to Qatar in an apparent attempt to discredit Mr. Fahmy. The name of the client who commissioned the research was deleted from the copy provided to The Times. But the report indicates that the anonymous client had given the investigators a copy of Mr. Fahmy's Canadian passport and already had a "comprehensive knowledge of the subject and his activities," as a former employer might.

The report is also the latest in a series of cases when emails from Mr. Otaiba's account have appeared in leaks embarrassing the United Arab Emirates and benefiting Qatar. All are widely believed to be the work of hackers working for Qatar.

A spokesman for the government of Qatar said it had no knowledge of any investigation of Mr. Fahmy, and a representative of the Emirati Embassy in Washington did not respond to a request for comment.

Mr. Fahmy worked for a few months in 2007 as a freelance reporter for the Cairo bureau of The Times. He went on to work as a reporter and producer for CNN, where he helped cover the Arab Spring revolts of 2011 in Egypt and Libya.

Al Jazeera was known in Egypt for its sympathetic coverage of Mohamed Morsi, the ousted Egyptian president, and his political faction, the Muslim Brotherhood. Egypt's Emirati-backed military government, which removed Mr. Morsi from power in July 2013, considered Al Jazeera a tool of Qatar and the Brotherhood, and Egyptian security forces had already raided the offices of Al Jazeera's Arabic language channels before the network hired Mr. Fahmy, in September 2013.

Mr. Fahmy, a nominal Muslim who drank alcohol and seldom prayed, personally opposed the Brotherhood and cheered for the military takeover, he told friends at the time.

But Al Jazeera offered him a job as the Cairo bureau chief for its English-language arm, which was less conspicuously supportive of the Muslim Brotherhood than its Arabic-language counterparts. Mr. Fahmy later wrote in a memoir that he had been convinced that Al Jazeera would maintain, and the Egyptian government would accept, a bright-line distinction between the sister Arabic and English networks. His lawsuit centers on claims that Al Jazeera broke promises to uphold that separation and to secure a proper Egyptian broadcasting license.

The Egyptian police arrested Mr. Fahmy and two colleagues in Cairo in December 2013 on charges that they had conspired with the Muslim Brotherhood to broadcast false reports of unrest in Egypt. (Prosecutors never presented any evidence to support the charges.)

Former fellow inmates say Mr. Fahmy started talking avidly of suing Al Jazeera almost as soon as he was arrested. He soon also echoed the claims of the Egyptian government and its Emirati patrons that Al Jazeera had been conspiring with the Brotherhood and promoting dangerous extremism. He initiated his lawsuit against Al Jazeera in a Canadian court in May 2015, before he was released from jail in September of that year.

His fellow prisoners said the lawsuit appeared motivated in part by a desire for a big payoff from Qatar and was in part a strategy to win over the Egyptian authorities.

After his release, Mr. Fahmy also began corresponding with Mr. Otaiba. When Mr. Fahmy gave a news conference in Cairo in May 2015, for example, Mr. Otaiba emailed an offer to arrange coverage by the Emirati-linked news network SkyNews Arabia.

"SkyNews to take it live would be awesome, I think a nudge to their C.E.O. could make it happen," Mr. Fahmy wrote back.

"Already done," Mr. Otaiba responded. "Let's hope they can get there."

After the news conference, Mr. Fahmy wrote to the ambassador, "I plan to keep the pressure on through the media," and he alluded to documents from the Qatari opposition that would "embarrass the government."

He asked for money, too. "I am looking for a personal loan with a written agreement to pay back on success plus interest, and or a profit margin," Mr. Fahmy wrote in the same email.

His appeal seems to have worked. That October, Mr. Otaiba emailed an Egyptian businessman, Tawfik Diab, a relative, to arrange a transfer of $250,000 to an account under Mr. Fahmy's name at the Royal Bank of Canada in Montreal. (Mr. Fahmy said in the interview that the Montreal account had belonged to the unnamed third party and that he had been unaware until now of Mr. Diab's involvement.)

A few days later, Mr. Fahmy confirmed the transaction. "The money is in," he wrote, and he promised "a progress report that we were planning to send to AD" — presumably Abu Dhabi, the capital of the United Arab Emirates. "My team here will start working on the media blitz to revive the case in U.S. media," he added.

The next May, in 2016, Mr. Fahmy emailed information about his personal checking account, in Vancouver, to Mr. Otaiba. But it is unclear how Mr. Otaiba responded. Mr. Fahmy said in the interview that there had been no payment, and he provided corroborating bank statements.

The investigation into Mr. Fahmy began in late November, according to a footnote to the report. The investigators obtained telephone bills, call lists, credit reports, court records, electronic communications, and photographs of Mr. Fahmy's residences and workplaces. They also compiled a list of places where his wife likes to shop.

A second report by the same investigators mixed in the handwritten notes, allegedly compiled by Israeli intelligence, claiming that Mr. Fahmy had worked as a spy for Italy since as early as 1997. Other handwritten documents, also unconfirmed, purport to indicate a secret account in his name in the Vatican Bank.

Mr. Fahmy called the report defamation and said he would add it to his lawsuit. There is no turning back, he said. "I am in too deep now."

PHOTO: From left, the journalists Peter Greste, Mohamed Fahmy and Baher Mohamed during their 2014 trial in Cairo. Mr. Fahmy was accused of stirring up unrest as an agent of the Qatari government. (PHOTOGRAPH BY KHALED DESOUKI/AGENCE FRANCE-PRESSE — GETTY IMAGES)

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- Al Jazeera Journalists Are Not Egypt's Enemies
- 5 Arab Nations Move to Isolate Qatar, Putting the U.S. in a Bind

Load-Date: July 3, 2017

Annex 9

J. Malsin & S. Said, "Saudi Arabia Promised Support to Libyan Warlord in Push to Seize Tripoli", *The Wall Street Journal* (12 Apr. 2019), *available at* https://www.wsj.com/articles/saudi-arabia-promised-support-to-libyan-warlord-in-push-to-seize-tripoli-11555077600

MIDDLE EAST

Saudi Arabia Promised Support to Libyan Warlord in Push to Seize Tripoli

As some nations looked to Khalifa Haftar for stability in Libya, others backed his army

By Jared Malsin in Cairo and Summer Said in Dubai
Updated April 12, 2019 1:30 pm ET

Days before Libyan military commander Khalifa Haftar launched an offensive to seize the capital and attempt to unite the divided country under his rule, Saudi Arabia promised tens of millions of dollars to help pay for the operation, according to senior advisers to the Saudi government.

The offer came during a visit to Saudi Arabia that was just one of several meetings Mr. Haftar had with foreign dignitaries in the weeks and days before he began the military campaign on April 4.

Foreign powers including the U.S. and the European Union have looked to Mr. Haftar, whose forces control much of eastern Libya, as a necessary participant in peace negotiations with the United Nations-backed government in Tripoli.

While the U.S. and EU called on Mr. Haftar to avoid military conflict, other powers have provided weapons, funds and other support that aided his quest to take control of the oil-rich North African state.

Foreign contacts—even to encourage peace—have secured the status of the Libyan warlord. "They thought he was agreeing to a diplomatic process. He thought he was building up his power," said Jonathan M. Winer, the former U.S. special envoy to Libya.

Mr. Haftar accepted the recent Saudi offer of funds, according to the senior Saudi advisers, who said the money was intended for buying the loyalty of tribal leaders, recruiting and paying

fighters, and other military purposes.

“We were quite generous,” one of the advisers said.

The Saudi government didn’t respond to a request for comment on the offer. A spokesman for Mr. Haftar didn’t respond to a request for comment on the Saudi pledge and other foreign contacts.

The offensive on Tripoli represents the latest upheaval in a country that has lurched from crisis to crisis since longtime leader Moammar Gadhafi was overthrown and killed in a 2011 armed uprising. The chaos that ensued provided ground for Islamic State to operate and offered a route for hundreds of thousands of migrants to reach Europe in recent years.

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What should a political settlement look like in Libya? Join the conversation below.

Libya is now split between the internationally recognized government in Tripoli and a government allied with Mr. Haftar based in eastern Libya.

“Haftar would not be a player today without the foreign support he has received,” said Wolfram Lacher, a Libya expert at the German Institute for International and Security Affairs. “The last few months, pretty much everyone jumped on the Haftar train.”

On the day after Mr. Haftar launched the assault on Tripoli, U.N. Secretary General António Guterres visited the commander to urge him to abandon any offensive and help revive a U.N.-sponsored peace process. Mr. Guterres said he left the country “with a heavy heart and deeply concerned.”

Such visits have become more frequent as Mr. Haftar’s influence in Libya has grown. Days earlier, Mr. Haftar had hosted a delegation of ambassadors and officials from 13 European states and the EU, who urged him to stand down.

The following day, on March 27, he was welcomed in Riyadh by Saudi King Salman and Crown Prince Mohammed Bin Salman. Undisclosed by the Saudi government at the time, he also met with Saudi Arabia’s interior minister and intelligence chief, according to the Saudi advisers.

The Saudi government didn’t respond to a request for comment about Mr. Haftar’s meetings in the kingdom.

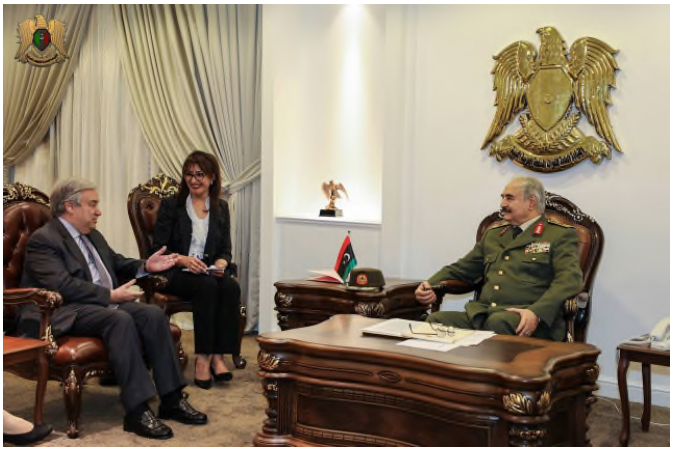
“King Salman stressed the kingdom’s eagerness for security and stability in Libya,” the Saudi Ministry of Foreign Affairs tweeted afterward.

Members of Khalifa Haftar's Libyan National Army head out of Benghazi on April 7 to reinforce troops advancing to Tripoli. PHOTO: ESAM OMRAN AL-FETORI/REUTERS

The Saudis and some other Middle Eastern states have backed Mr. Haftar as a bulwark against Islamist groups, notably the Muslim Brotherhood, who took on a prominent role in Libya following the 2011 uprising and continue to participate in political life under the Tripoli government.

Mr. Haftar has received air support from the United Arab Emirates and Egypt, according to a U.N. panel monitoring the international arms embargo on Libya. Egypt denies this, and the U.A.E. hasn't acknowledged or commented on the presence of its aircraft in Libya as documented by the U.N.

U.S. officials say Russia has sent weapons and military advisers, which the Kremlin denies.



A handout photo made available by the Libyan Army Media office shows United Nations Secretary-General Antonio Guterres, left, meeting with Mr. Haftar in Benghazi on April 5. PHOTO: LIBYAN ARMY MEDIA OFFICE HANDOUT/SHUTTERSTOCK

The U.S., meanwhile, has backed Mr. Haftar's rivals in Tripoli. But before the attack on the capital, Trump administration officials expressed a willingness for Mr. Haftar to play a role in Libya's future under a possible political settlement.

President Trump's national security adviser, John Bolton, spoke with Mr. Haftar by phone the day before the attack on Tripoli and urged him to stand down, according to a senior Trump administration official.

"I suspect he was on the move already" when Mr. Bolton spoke to him, the official said.

After the attack began, the U.S. responded with a public call for Mr. Haftar to halt his offensive. "There is no military solution to the Libya conflict," Secretary of State Mike Pompeo said on Sunday. The following day, the U.S. military said it had pulled its small contingent of forces from the country.

Saudi Arabia's King Salman bin Abdulaziz met with Libyan military commander Khalifa Haftar in Riyadh on March 27. PHOTO: BANDAR ALGALOUD/SAUDI ROYAL COURT/REUTERS

Mr. Haftar has showed no signs of backing down. In recent days, his forces, attacking the outskirts of Tripoli from the south and west, have been slowed by resistance from militias that have often been at odds with one another but have united in opposition to a common foe.

The fighting has driven more than 6,000 people from their homes since April 4, according to the U.N. At least 58 people have died and 275 wounded, the U.N. said.

Mr. Haftar's quest to consolidate power in Libya has deep roots, nourished over the years by various foreign governments.

As a military commander, Mr. Haftar broke with Ghaddafi in the 1980s and became part of a C.I.A.-backed effort to destabilize the Libyan regime. He then spent two decades in exile in the U.S., before returning to join the rebellion in 2011.

In 2014, Mr. Haftar launched a military campaign he said was intended to snuff out terrorists, a term he applied to a swath of Islamist groups and other opponents. Foreign air power and hardware gave him an edge in a country divided among an array of lightly armed factions.

In 2016, France sent special forces to fight Islamist militants around the city of Benghazi in cooperation with Mr. Haftar's troops.

Russia flew Mr. Haftar to an aircraft carrier in the Mediterranean in 2017 in a display of support. The Kremlin has cultivated ties with both sides of the Libyan conflict as it seeks to expand its regional influence to the southern shores of Europe.

With the foreign backing, Mr. Haftar's forces established loose control over a huge section of the country, including the eastern city of Benghazi and much of its physical oil infrastructure. In recent months his forces swept into southern Libya before turning north toward the capital.

Close observers of Libya say that Mr. Haftar has interpreted increased international attention as a sign of his legitimacy.

"Haftar did not want to be part of the solution. He wanted to be the solution," said Mr. Lacher.

Libyan fighters loyal to the Tripoli-based government are shown on Wednesday during clashes with forces loyal to Khalifa Haftar. PHOTO: MAHMUD TURKIA/AGENCE FRANCE-PRESSE/GETTY IMAGES

—Laurence Norman in Brussels and Vivian Salama in Washington contributed to this article.

Write to Jared Malsin at jared.malsin@wsj.com and Summer Said at summer.said@wsj.com

LIBYA DIVIDED

Since the 2011 death of Libyan strongman Moammar Gadhafi, this oil-rich North African country has become a theater of rival, foreign-backed governments and militias pushing different agendas. In the chaos, Islamic State has taken root and migrants from the Middle East and Africa are flowing through to Europe. At stake now as fighting heats up again isn't just Libya's stability but billions of dollars in oil revenue. Here are the main rival players in the country's volatile political mix:

- •The Government of National Accord: Established through a United Nations-brokered political deal in 2015, the Tripoli-based government is headed by Prime Minister Faiez Serraj. It is backed by militias, including powerful ones in Misrata, and security forces under the government's nominal control. The Tripoli government also controls the central bank and the country's vast oil revenues under the auspices of the National oil company. Aside from the U.N., its international backers include the U.S. and the European Union, with which the government cooperates to halt illegal migration across the Mediterranean. The U.S. has launched hundreds of airstrikes to help the government drive Islamic State from its foothold in Sirte city in 2016.
- •The Eastern government: A rival government is based in the eastern cities of Tobruk and Bayda, including a Parliament in Bayda. It is allied with Khalifa Haftar, the renegade military commander whose self-proclaimed Libyan National Army launched an assault on Tripoli on Friday. His militias have gradually established control over a huge swath of Libya. The group's international backers include Egypt, Russia, and the United Arab Emirates. Libya's oil revenues still go to government in Tripoli, which also controls the central bank, but Mr. Haftar and his militias control most of the oil infrastructure. Their attempts to independently export the oil last year were blocked by a U.N. embargo on illicit sales.

Appeared in the April 13, 2019, print edition as 'Saudis Helped to Fund Libyan Assault.'

Annex 10

Patrick Wintour, "Libya crisis: Egypt's Sisi backs Haftar assault on Tripoli", *The Guardian* (14 Apr. 2019), *available at* https://www.theguardian.com/world/2019/apr/14/libya-crisis-egypt-sisi-backs-haftar-assault-on-tripoli

Libya crisis: Egypt's Sisi backs Haftar assault on Tripoli

theguardian.com/world/2019/apr/14/libya-crisis-egypt-sisi-backs-haftar-assault-on-tripoli

Patrick Wintour Diplomatic editor

April 13, 2019

Khalifa Haftar, the Libyan warlord bombarding Tripoli in an attempt to oust the country's UN-recognised government, has won unequivocal support from the Egyptian leader, Abdel Fatah al-Sisi, his closest political ally.

"The president affirmed Egypt's support in efforts to fight terrorism and extremist militias to achieve security and stability for Libyan citizens throughout the country," Sisi's office said on Sunday.

It is thought Haftar also has the private support of leaders in Saudi Arabia and the United Arab Emirates.

The Cairo meeting came amid reports the Italian security services were warning that Libya could become "another Syria", as fighting and general instability could prompt thousands more people to try to flee across the Mediterranean to Europe.

Haftar has defied international calls to halt his battle against fighters loyal to the government of national accord (GNA) based in Tripoli, the capital. The warlord supports a parallel administration based in Libya's east. Egypt has provided funding and arms to Haftar's "Libyan National Army", seeing him as a bulwark against Islamist militants.

As fighting raged in the capital, the death toll since Haftar's assault began on Thursday was put at 121 by the UN World Health Organization, with nearly 600 wounded. More than 13,000 civilians have been displaced by the fighting, which has included air raids that have hit schools.

In a message directed at Haftar, the UN's special envoy for Libya, Ghassan Salamé, said: "Our position will not change. You've learned and tasted war. No matter how obstinate one becomes, there is no solution except a political one."

Before last week, Salamé believed he had finally negotiated a deal that would have seen a painful reunification of Haftar's forces in the east with the government in the west, thereby creating a single set of economic and political institutions across the country for the first time in four years.

Haftar's assault, as well as thwarting that plan, threatens to disrupt oil supplies. The chairman of the Libyan National Oil Corporation warned that supplies faced their biggest threat since 2011, when Nato-backed Libyan forces ousted Muammar Gaddafi.

With Haftar seemingly bogged down on the outskirts of Tripoli, Sisi was probably the single external leader who might have persuaded the Libyan warlord to accept a ceasefire.

Italy, the former colonial power in Libya, with extensive oil investments, is trying to protect the Tripoli-based government, led by Fayez al-Sarraj. Italy's coalition government has ruled out any use of military force.

Italian newspapers reported that Italian security services had warned that 6,000 people might try to flee the fighting, and that human traffickers were trying to take advantage of the chaos. The International Organization for Migration said it was impossible to predict the numbers that might try to leave detention camps, some of which are administered by the UN. The Italian interior minister, Matteo Salvini, has insisted Italian ports will remain closed to all migrants.

Italy's already fraught diplomatic relations with France have been put under further pressure by Haftar's attack. Last week France blocked a draft EU resolution that would have condemned him and called for him to retreat.

The GNA vice-president, Ahmed Maiteeq, was due in Rome on Monday as part of a tour of Europe including Berlin and London, where he will try to enlist support for a ceasefire – only if Haftar's forces retreat to pre-existing positions.

Annex 11

Ramadan Al Sherbini, "Iran to face 'strong response' if it closes Strait of Hormuz", *Gulf News* (20 June 2019) *available at* https://gulfnews.com/world/gulf/saudi/iran-to-face-strong-response-if-it-closes-strait-of-hormuz-1.64730838

GULF NEWS
GULF

Iran to face 'strong response' if it closes Strait of Hormuz

Al Jubeir pins dialogue with Qatar on behaviour change

Published: June 20, 2019 17:36
Ramadan Al Sherbini, Correspondent

Story in Audio

Saudi Arabia's Foreign Minister Adel al-Jubeir speaks at a briefing with reporters in London, Britain June 20, 2019.
Image Credit: REUTERS

Riyadh: Iran would face a "very, very strong" response if it closed the vital Strait of Hormuz, Saudi Minister of State for Foreign Affairs Adel Al Jubeir said on Thursday.

His warning comes shortly after the US said that Iran had shot down a US drone in the international airspace over the strait.

"The situation in the region is very dangerous because of Iran's behaviour," Al Jubeir said.

Last week, two tankers were attacked in the Gulf of Oman near the Strait of Hormuz. Last month, four commercial ships, including two Saudi oil tankers, were sabotaged off the coast of the United Arab Emirates.

The US has blamed Iran for the attacks.

Al Jubeir cited an increase in the Iranian attacks in the region in recent weeks.

"Saudi Arabia does not want war with Iran. [But] the international community is determined to confront Tehran's hostile behaviour," he added.

Al Jubeir, meanwhile, ruled out dialogue with Qatar unless it changes its behaviour.

"We demand Qatar to stop its support for the radical groups and interference in other countries' affairs," the Saudi official said. "Patience is running thin with Qatar."

In June 2017, Saudi Arabia, the United Arab Emirates, Bahrain and Egypt severed diplomatic and transportation links with the tiny Gulf emirate over its sponsorship of militant groups.

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Annex 12

BBC, *About the BBC* (last accessed: 8 July 2019), *available at* https://www.bbc.com/aboutthebbc

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ANNUAL REPORT

What we do

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Annex 13

Al Jazeera, *About Us* (last accessed: 8 July 2019), *available at* https://www.aljazeera.com/aboutus/

Who we are


A Truly Global Network


Leadership at Al Jazeera


The Voice of the People

A Truly Global Network

Al Jazeera is an independent news organization funded in part by the Qatari government.

In 2006 Al Jazeera Satellite Network was changed to a public utility, private corporation by a public memorandum and articles of association in accordance with the provisions of (Qatar) Law No. 21 of 2006, and was re-named “Al Jazeera Media Network”.

Thus, it is private corporation established for the public benefit.

The Board of Directors of Al Jazeera Media Network issues directives, decisions and related regulations.
Al Jazeera English is part of a growing network comprising more than 10 channels and divisions. Launched in 1996, Al Jazeera Arabic was the first independent news channel in the Arab world dedicated to providing comprehensive news and live debate.

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Annex 14

MERRIAM-WEBSTER'S COLLEGIATE DICTIONARY (11th ed., 2009)

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\ˌi-dē-ō-(ˌ)sin-ˈkra-tik\ *adj* — **id·i·o·syn·crat·i·cal·ly** \-ˈkra-ti-k(ə-)lē\ *adv*

id·i·ot \ˈi-dē-ət\ *n* [ME, fr. AF *ydiote*, fr. L *idiota* ignorant person, fr. Gk *idiōtēs* one in a private station, layman, ignorant person, fr. *idios* one's own, private; akin to L *suus* one's own — more at SUICIDE] (14c) **1** *usu offensive* : a person affected with extreme mental retardation **2** : a foolish or stupid person — **idiot** *adj*

idiot box *n* (ca. 1955) : TELEVISION

id·i·ot·ic \ˌi-dē-ˈä-tik\ *also* **id·i·ot·i·cal** \-ˈä-ti-kəl\ *adj* (1713) **1** : characterized by idiocy **2** : showing complete lack of thought or common sense : FOOLISH — **id·i·ot·i·cal·ly** \-ti-k(ə-)lē\ *adv*

¹id·i·o·tism \ˈi-dē-ə-ˌti-zəm\ *n* [MF *idiotisme*, fr. L *idiotismus* common speech, fr. Gk *idiōtismos*, fr. *idiōtēs*] (1588) **1** *obs* : IDIOM 1 **2** : IDIOM 2

²id·i·ot·ism \ˈi-dē-ə-(ˌ)ti-zəm\ *n* [*idiot* + *-ism*] (1592) *archaic* : IDIOCY 2

idiot light *n* (1966) : a colored light on an instrument panel (as of an automobile) designed to give a warning (as of low oil pressure)

id·i·ot-proof \ˈi-dē-ət-ˌprüf\ *adj* (1976) : extremely easy to operate or maintain

idiot sa·vant \ˈē-ˌdyō-sä-ˈvä⁰n, *or same as* IDIOT *and* SAVANT *for respective sing and pl forms*\ *n, pl* **idiots savants** \-ˌdyō-sä-ˈvä⁰(z)\ *or* **idiot savants** \-ˈvä⁰(z)\ [F, lit., learned idiot] (1927) **1** : a person affected with a mental disability (as autism or mental retardation) who exhibits exceptional skill or brilliance in some limited field (as mathematics or music) — called also *savant* **2** : a person who is highly knowledgeable about one subject but knows little about anything else

id·io·type \ˈi-dē-ə-ˌtīp\ *n* (1960) : the molecular structure and conformation of an antibody that confers its antigenic specificity — **id·io·typ·ic** \ˌi-dē-ə-ˈti-pik\ *adj*

-idium *n suffix, pl* **-idiums** *or* **-idia** [NL, fr. Gk *-idion*, dim. suffix] : small one ⟨anther*idium*⟩

¹idle \ˈī-dᵊl\ *adj* **idler** \ˈīd-lər, ˈī-dᵊl-ər\; **idlest** \ˈīd-ləst, ˈī-dᵊl-əst\ [ME *idel*, fr. OE *īdel;* akin to OHG *ītal* worthless] (bef. 12c) **1** : lacking worth or basis : VAIN ⟨~ chatter⟩ ⟨~ pleasure⟩ **2** : not occupied or employed: as **a** : having no employment : INACTIVE ⟨~ workers⟩ **b** : not turned to normal or appropriate use ⟨~ farmland⟩ **c** : not scheduled to compete ⟨the team will be ~ tomorrow⟩ **3 a** : SHIFTLESS, LAZY **b** : having no evident lawful means of support *syn* see VAIN, INACTIVE — **idle·ness** \ˈī-dᵊl-nəs\ *n* — **idly** \ˈīd-lē, ˈī-dᵊl-ē\ *adv*

²idle *vb* **idled; idling** \ˈīd-liŋ, ˈī-dᵊl-iŋ\ *vi* (1592) **1 a** : to spend time in idleness **b** : to move idly **2** : to run at low power and often disconnected usu. so that power is not used for useful work ⟨the engine is *idling*⟩ ~ *vt* **1** : to pass in idleness **2** : to make idle ⟨workers *idled* by a strike⟩ **3** : to cause to idle — **idler** \ˈīd-lər, ˈī-dᵊl-ər\ *n*

syn IDLE, LOAF, LOUNGE, LOLL, LAZE mean to spend time doing nothing. IDLE may be used in reference to persons that move lazily or without purpose ⟨*idled* the day away⟩. LOAF suggests either resting or wandering about as though there were nothing to do ⟨she does her work and then *loafs* the rest of the day⟩. LOUNGE, though occasionally used as equal to *idle* or *loaf*, typically conveys an additional implication of resting or reclining against a support or of physical comfort and ease in relaxation ⟨he *lounged* against the wall⟩. LOLL also carries an implication of a posture similar to that of *lounge*, but places greater stress upon an indolent or relaxed attitude ⟨*lolling* on the couch⟩. LAZE usu. implies the relaxation of a busy person enjoying a vacation or moments of leisure ⟨*lazed* about between appointments⟩.

idler pulley *n* (ca. 1890) : a guide or tightening pulley for a belt or chain

idler wheel *n* (1929) **1** : a wheel, gear, or roller used to transfer motion or to guide or support something **2** : IDLER PULLEY

idlesse \ˈīd-ləs, īd-ˈles\ *n* [ME, fr. *idle* + *-esse* (as in *richesse* wealth) — more at RICHES] (15c) : the quality or state of being idle : IDLENESS

ido·crase \ˈī-də-ˌkrās, ˈi-, -ˌkrāz\ *n* [F, fr. Gk *eidos* form + *krasis* mixture, fr. *kerannynai* to mix — more at CRATER] (1804) : a mineral that is a complex silicate esp. of calcium, magnesium, iron, and aluminum

idol \ˈī-dᵊl\ *n* [ME, fr. AF *idle*, fr. LL *idolum*, fr. Gk *eidōlon* image, idol; akin to Gk *eidos* form — more at IDYLL] (13c) **1** : a representation or symbol of an object of worship; *broadly* : a false god **2 a** : a likeness of something **b** *obs* : PRETENDER, IMPOSTOR **3** : a form or appearance visible but without substance ⟨an enchanted phantom, a lifeless ~ —P. B. Shelley⟩ **4** : an object of extreme devotion ⟨a movie ~⟩; *also* : IDEAL 2 **5** : a false conception : FALLACY

idol·a·ter *or* **idol·a·tor** \ī-ˈdä-lə-tər\ *n* (14c) **1** : a worshiper of idols **2** : a person that admires intensely and often blindly one that is not usu. a subject of worship

idol·a·trous \ī-ˈdä-lə-trəs\ *adj* (ca. 1500) **1** : of or relating to idolatry **2** : having the character of idolatry ⟨the religion of ~ nationalism —Aldous Huxley⟩ **3** : given to idolatry — **idol·a·trous·ly** *adv* — **idol·a·trous·ness** *n*

idol·a·try \-trē\ *n, pl* **-tries** [ME *ydolatrie*, fr. AF, fr. ML *idolatria*, alter. of LL *idolotatria*, fr. Gk *eidōlolatreia*, fr. *eidōlon* idol + *-latreia* -latry] (13c) **1** : the worship of a physical object as a god **2** : immoderate attachment or devotion to something

idol·ize \ˈī-də-ˌlīz\ *vb* **-ized; -iz·ing** *vt* (1598) : to worship as a god; *broadly* : to love or admire to excess ⟨the common people whom he so *idolized* —*Times Lit. Supp.*⟩ ~ *vi* : to practice idolatry — **idol·i·za·tion** \ˌī-də-lə-ˈzā-shən\ *n* — **idol·iz·er** \ˈī-də-ˌlī-zər\ *n*

IDP *abbr* international driving permit

idyl *also* **idyl** \ˈī-dᵊl, *Brit usu* ˈi-(ˌ)dil\ *n* [L *idyllium*, fr. Gk *eidyllion*, fr. dim. of *eidos* form; akin to Gk *idein* to see — more at WIT] (1586) **1 a** : a simple descriptive work in poetry or prose that deals with rustic life or pastoral scenes or suggests a mood of peace and contentment **b** : a narrative poem (as Tennyson's *Idylls of the King*) treating an epic, romantic, or tragic theme **2 a** : a lighthearted carefree episode that is a fit subject for an idyll **b** : a romantic interlude

idyl·lic \ī-ˈdi-lik, *chiefly Brit* i-\ *adj* (1856) **1** : pleasing or picturesque in natural simplicity **2** : of, relating to, or being an idyll — **idyl·li·cal·ly** \-ˈdil-li-k(ə-)lē\ *adv*

i.e. *abbr* [L *id est*] that is

IE *abbr* industrial engineer

-ie *also* **-y** *n suffix* [ME] **1** : little one : dear little one ⟨birdie⟩ ⟨sonny⟩ **2 a** : one belonging to : one having to do with ⟨townie⟩ **b** : one who is ⟨preemie⟩ **3** : one of (such) a kind or quality ⟨cutie⟩ ⟨toughie⟩

IED *abbr* improvised explosive device

IEEE *abbr* The Institute of Electrical and Electronics Engineers

-ier — see -ER

¹if \ˈif, əf\ *conj* [ME, fr. OE *gif;* akin to OHG *ibu* if] (bef. 12c) **1 a** : in the event that **b** : allowing that **c** : on the assumption that **d** : on condition that **2** : WHETHER ⟨asked ~ the mail had come⟩ ⟨I doubt ~ I'll pass the course⟩ **3** — used as a function word to introduce an exclamation expressing a wish ⟨~ it would only rain⟩ **4** : even though : although perhaps ⟨an interesting ~ untenable argument⟩ **5** : and perhaps not even ⟨few ~ any changes are expected⟩ — often used with *not* ⟨difficult ~ not impossible⟩ — **if anything** : on the contrary even : perhaps even ⟨*if anything*, you ought to apologize⟩

²if \ˈif\ *n* (1513) **1** : CONDITION, STIPULATION ⟨the question . . . depends on too many ~s to allow an answer —*Encounter*⟩ **2** : SUPPOSITION

-iferous *adj comb form* [L *-ifer*, fr. *-i-* + *-fer* -ferous] : -FEROUS

iff \ˈif-ᵊn(d)-ˈōn-lē-ˌif; ˈif, *sometimes read with a prolonged* f\ *conj* [alter. of ¹*if*] (1955) : if and only if ⟨two figures are congruent ~ one can be placed over the other so that they coincide⟩

IFF *abbr* identification, friend or foe

if·fy \ˈi-fē\ *adj* [¹*if*] (1937) **1** : having many uncertain or unknown qualities or conditions ⟨an ~ proposition⟩ **2** : of inconsistent or unreliable quality — **if·fi·ness** *n*

-ification *n suffix* [L *-ification-, -ificatio*, fr. *-i-* + *-ficatio* -fication] : -FICATION ⟨desert*ification*⟩

IFO *abbr* identified flying object

-iform *adj comb form* [L *-iformis*, fr. *-i-* + *-formis* -form] : -FORM ⟨patel*liform*⟩

I formation *n* (1951) : an offensive football formation in which the running backs line up in a line directly behind the quarterback — compare T FORMATION

-ify *vb suffix* [ME *-ifien*, fr. AF *-ifier*, fr. L *-ificare*, fr. *-i-* + *-ficare* -fy] : -FY

Ig *abbr* immunoglobulin

IG *abbr* inspector general

IgA \ˌī-(ˌ)jē-ˈā\ *n* [*immunoglobulin*] (1969) **1** : a class of immunoglobulins including antibodies found in external bodily secretions (as saliva, tears, and sweat) **2** : an antibody of the class IgA

Igbo *var of* IBO

IgE \ˌī-(ˌ)jē-ˈē\ *n* (1969) **1** : a class of immunoglobulins including antibodies that function esp. in allergic reactions **2** : an antibody of the class IgE

IGF *abbr* insulin-like growth factor

IgG \-ˈjē\ *n* (1965) **1** : a class of immunoglobulins including the most common antibodies circulating in the blood that facilitate the phagocytic destruction of microorganisms foreign to the body, that bind to and activate complement, and that are the only immunoglobulins to cross over the placenta from mother to fetus **2** : an antibody of the class IgG

ig·loo \ˈi-(ˌ)glü\ *n, pl* **igloos** [Inuit *iglu* house] (1856) **1** : an Eskimo house usu. made of sod, wood, or stone when permanent or of blocks of snow or ice in the shape of a dome when built for temporary purposes **2** : a building or structure shaped like a dome

igloo 1

IgM \ˌī-(ˌ)jē-ˈem\ *n* (1969) **1** : a class of immunoglobulins of high molecular weight including the primary antibodies that are released into the blood early in the immune response to be replaced later by IgG and that are highly efficient in binding complement **2** : an antibody of the class IgM

ig·ne·ous \ˈig-nē-əs\ *adj* [L *igneus*, fr. *ignis* fire; akin to Skt *agni* fire] (1664) **1** : of, relating to, or resembling fire : FIERY **2 a** : relating to, resulting from, or suggestive of the intrusion or extrusion of magma or volcanic activity **b** : formed by solidification of magma ⟨~ rock⟩

ig·nes·cent \ig-ˈne-sᵊnt\ *adj* [L *ignescent-, ignescens*, prp. of *ignescere* to catch fire, fr. *ignis*] (ca. 1828) : VOLATILE

ig·nim·brite \ˈig-nəm-ˌbrīt\ *n* [G *Ignimbrit*, fr. L *ignis* + *imbr-* (fr. *imber* rain) + G *-it* ¹-ite — more at IMBRICATE] (1932) : a hard rock formed by solidification of chiefly fine deposits of volcanic ash

ig·nis fat·u·us \ˈig-nəs-ˈfa-chə-wəs, -ˈfach-wəs\ *n, pl* **ig·nes fat·ui** \-ˌnēz-ˈfa-chə-ˌwī\ [ML, lit., foolish fire] (1563) **1** : a light that sometimes appears in the night over marshy ground and is often attributable to the combustion of gas from decomposed organic matter **2** : a deceptive goal or hope

ig·nite \ig-ˈnīt\ *vb* **ig·nit·ed; ig·nit·ing** [L *ignitus*, pp. of *ignire* to ignite, fr. *ignis*] *vt* (1666) **1** : to subject to fire or intense heat; *esp* : to render luminous by heat **2 a** : to set afire; *also* : KINDLE **b** : to cause (a fuel) to burn **3 a** : to heat up : EXCITE ⟨oppression that *ignited* the hatred of the people⟩ **b** : to set in motion : SPARK ⟨~ a debate⟩ ~ *vi* **1** : to catch fire **2** : to begin to glow — **ig·nit·abil·i·ty** \ig-ˌnī-tə-ˈbi-lə-tē\ *n* — **ig·nit·able** *also* **ig·nit·ible** \-ˈnī-tə-bəl\ *adj* — **ig·nit·er** *also* **ig·ni·tor** \-ˈnī-tər\ *n*

ig·ni·tion \ig-ˈni-shən\ *n* (1612) **1** : the act or action of igniting: as **a** : the starting of a fire **b** : the heating of a plasma to a temperature high enough to sustain nuclear fusion **2 a** : the process or means (as an electric spark) of igniting a fuel mixture **b** : a device that activates an ignition system (as in an automobile) ⟨put the key in the ~⟩

ig·ni·tron \ig-ˈnī-ˌträn\ *n* [L *ignis* fire + E *-tron*] (1933) : a mercury-containing rectifier tube in which the arc is struck again at the beginning of each cycle by a special electrode separately energized by an auxiliary circuit

ig·no·ble \ig-ˈnō-bəl\ *adj* [ME, fr. MF, fr. L *ignobilis*, fr. *in-* + OL *gnobilis* noble] (15c) **1** : of low birth or common origin : PLEBEIAN **2** : characterized by baseness, lowness, or meanness *syn* see MEAN — **ig·no·bil·i·ty** \ˌig-nō-ˈbi-lə-tē\ *n* — **ig·no·ble·ness** \ig-ˈnō-bəl-nəs\ *n* — **ig·no·bly** \-blē *also* -bə-lē\ *adv*

Annex 15

Kenneth L. Marcus, "Accusations in a Mirror", *Loyola University Chicago Law Journal*, Vol. 43 (2012)

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Accusation in a Mirror

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Accusation in a Mirror

*Kenneth L. Marcus**

I. INTRODUCTION

One of the most astonishing discoveries in the history of genocide studies was the *Note Relative à la Propagande d'Expansion et de Recrutement* (the "*Note*"), a mimeographed document found in Butare prefecture in the wake of the Rwandan genocide. The *Note*, which draws from Goebbels, Lenin, and others, is a manual of the rhetorical methods that could be used to inflame ordinary people to attack their countrymen.[1] For jurists attempting to interpret or apply the Convention on the Prevention and Punishment of the Crime of Genocide (the "Genocide Convention")[2] and related statutes,[3] this

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1. *See* ALISON LIEBHAFSKY DES FORGES, LEAVE NONE TO TELL THE STORY: GENOCIDE IN RWANDA 65 (1999) (describing the *Note* as a detailed analysis of how to use propaganda to sway the public).

2. For purposes of this Article, the term "genocide" will be used as defined by the Convention on the Prevention and Punishment of the Crime of Genocide, simply because it is legally binding on its signatories. The Genocide Convention defines "genocide" as:

> [A]ny of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group.

Convention on the Prevention and Punishment of the Crime of Genocide, G.A. Res. 260 (III) A, U.N. GAOR, 3d Sess., U.N. Doc. A/RES/260, at 174 (Dec. 9, 1948) [hereinafter Genocide Convention]. It should be noted, however, that many commentators have lamented the narrowness of this definition. *See* William A. Schabas, *Origins of the Genocide Convention: From Nuremberg to Paris*, 40 CASE W. RES. J. INT'L L. 35, 53–54 (2008) (summarizing these criticisms).

3. The Rome Convention is also applicable here, as is Article II 3(c) of the International

discovery has been illuminating because it demonstrates the instrumentalities through which propaganda can be used to incite mass-murder.[4] The Genocide Convention's prohibition of incitement is central to efforts to prevent genocide,[5] so it is unfortunate that the *Note*'s principal rhetorical contribution—the method called "accusation in a mirror" ("AiM")—has yet to receive the attention from legal scholars[6] and tribunals[7] that it deserves. If properly understood, the concept of AiM could assist jurists in correcting the Genocide Convention's most conspicuous weakness (i.e., its utter failure to prevent genocides before the killings occur).[8]

Criminal Tribunal for Rwanda Statute, which mirrors the Genocide Convention's Article III (b). *See* Gregory S. Gordon, *"A War of Media, Words, Newspapers, and Radio Stations": The ICTR Media Trial Verdict and a New Chapter in the International Law of Hate Speech*, 45 VA. J. INT'L L. 139, 150 (2004) [hereinafter *Media Trial*] (comparing statutes).

4. DES FORGES, *supra* note 1, at 57. As Alexander Tsesis has noted, it also demonstrates the long-term effects of propaganda.

5. The other four acts punishable under the Genocide Convention are genocide, conspiracy to commit genocide, attempt to commit genocide, and complicity in genocide. Genocide Convention, *supra* note 2. *See generally* NEHEMIAH ROBINSON, THE GENOCIDE CONVENTION: ITS ORIGINS AND INTERPRETATION 19–22 (1949), *reprinted in* 40 CASE W. RES. J. INT'L L. 315 (2008) (describing both the importance and the ambiguity of the "incitement" provision).

6. Indeed, these issues have been wholly unexamined except for a trilogy of articles by Gregory Gordon and a single article by Susan Benesch. *See* Susan Benesch, *Vile Crime or Inalienable Right: Defining Incitement to Genocide*, 48 VA. J. INT'L L. 485, 509 (2008) (examining accusation in a mirror as one of the techniques used in incitement of genocide); Gregory S. Gordon, *From Incitement to Indictment? Prosecuting Iran's President for Advocating Israel's Destruction and Piecing Together Incitement Law's Emerging Analytical Framework*, 98 J. CRIM. L. & CRIMINOLOGY 853, 900 (2008) [hereinafter *Incitement to Indictment?*] (explaining, in the context of the "direct element" of incitement, Ahmadinejad's use of accusation in a mirror to pit the Hutus against the Tutsis); *Media Trial*, *supra* note 3, at 186–87 (discussing how the Rwandan government appeared to use accusation in a mirror as a propaganda technique); Gregory S. Gordon, *Music and Genocide: Harmonizing Coherence, Freedom and Nonviolence in Incitement Law*, 50 SANTA CLARA L. REV. 607, 609 (2010) [hereinafter *Music and Genocide*] (describing the failure of the International Criminal Tribunal for Rwanda to build upon the framework for incitement law that had otherwise begun to take shape).

7. Gregory Gordon has repeatedly taken the International Criminal Tribunal for Rwanda ("ICTR") to task for failing to properly explain the significance of accusation in a mirror. *See Music and Genocide*, *supra* note 6, at 638 (challenging the ICTR for failure to keep track of incitement techniques, such as accusation in a mirror); *Media Trial*, *supra* note 3, at 186–87 (criticizing the ICTR for failing to consider an analysis of accusation in a mirror when issuing the *Nahimana* judgment).

8. *See* W. Michael Reisman, *Acting Before Victims Become Victims: Preventing and Arresting Mass Murder*, 40 CASE W. RES. J. INT'L L. 57, 78 (2008) ("For anyone who is horrified by the prevalence of mass killing on our planet and expects the institutions of international law in the twenty-first century to act—or to authorize someone to act—to prevent or arrest it, the legal situation is not encouraging."); Michael P. Scharf & Brianne M. Draffin, *Foreword: To Prevent and to Punish: An International Conference in Commemoration of the Sixtieth Anniversary of the Genocide Convention*, 40 CASE W. RES. J. INT'L L. 1, 1–2 (2008) (lambasting the Genocide Convention's "utter irrelevance" in the face of genocidal crimes committed subsequent to its passage).

The basic idea of AiM is deceptively simple: propagandists must "impute to enemies exactly what they and their own party are planning to do."[9] In other words, AiM is a rhetorical practice in which one falsely accuses one's enemies of conducting, plotting, or desiring to commit precisely the same transgressions that one plans to commit against them. For example, if one plans to kill one's adversaries by drowning them in a particular river, then one should accuse one's adversaries of plotting precisely the same crime. As a result, one will accuse one's enemies of doing the same thing despite their plans.[10] It is similar to a false anticipatory *tu quoque*: before one's enemies accuse one truthfully, one accuses them falsely of the same misdeed.[11]

This may seem an unlikely means of inciting mass-murder, since it would intuitively seem likely not only to fail but also to backfire by publicly telegraphing its speakers' malicious intentions at times when the speakers may lack the wherewithal to carry out their schemes.[12] The counter-intuitiveness of this method is best appreciated when one grasps that its injunctions are to be taken literally. There is no hyperbole in the *Note*'s directive that the propagandist should "impute to enemies *exactly* what they and their own party are planning to do."[13] The point is not merely to impute iniquities that are as bad as the misdeeds that the propagandist's own party intends. Instead, AiM is the more audacious idea of charging one's adversary with "exactly" the misdeeds that the propagandist's party intends to commit. But why, out

9. DES FORGES, *supra* note 1, at 66.

10. As Alison Des Forges explains in her authoritative examination of the *Note* that presents a detailed analysis of *Psycholohie de la publicicité et de la propaganda* that "[a propagandist] advocates using lies, exaggeration, ridicule, and innuendo to attack the opponent, in both his public and his private life." *Id.* The propagandist suggests that "moral considerations are irrelevant, except when they happen to offer another weapon against the other side." *Id.* A propagandist "must persuade the public that the adversary stands for war, death, slavery, repression, injustice, and sadistic cruelty." *Id.* The propagandist then suggests two techniques that would later be used in the Rwanda genocide. *Id.* The first is to create phony events that could be used later to give credence to propaganda. *Id.* The second is AiM: "In this way, the party which is using terror will accuse the enemy of using terror." *Id.*

11. The *tu quoque* argument attempts to defeat an opponent's position by claiming that the opponent has failed to comply with that position. Also known as an appeal to hypocrisy, the *tu quoque* argument is a type of logical fallacy and may be considered to be a form of *argumentum ad hominem*.

12. The intuition is that an Adolf Hitler who plans to destroy a particular ethnic population en route to global domination should not go around talking about ethnic destruction and world domination before he has the wherewithal to pull it off. Yet this is precisely what Hitler did, *see infra* Part II.B (describing the actions taken by Hitler to reach his goals), and others have done it too. Some readers have challenged this intuition on the ground that the technique relies upon lies that the listener will not be able to detect. But why is it so clear that the listeners will not be able to see through the lies? Some, if not all, of the lies described are rather incredible. The point here is that the success of these lies is counter-intuitive.

13. DES FORGES, *supra* note 1, at 66 (emphasis added).

of all of the serious allegations that one might level at one's enemy, should one accuse the adversary of precisely the wrongs that one's own party intends to commit? After all, the risks are apparent. By revealing the propagandist's own intentions, AiM deprives the propagandist's party of the advantages of speed and surprise and gives the adversary an opportunity to anticipate and prepare. At the same time, this method provides independent observers and subsequent judicial tribunals with evidence of intent. Moreover, AiM is not based on any evaluation of what misdeeds are most plausibly ascribed to the enemy, such as those that are based on traditional stereotypes, defamations, or actual culpability, since it relies instead on the plans of the propagandist's party.

Despite its counter-intuitive nature, AiM has proven to be one of the central mechanisms by which *genocidaires* publicly and directly incite genocide, in part because it turns out to be quite effective. Once AiM's structure and functions are understood, its pervasive and efficacious presence can be discerned not only in mass-murder but also in a host of lesser persecutions. These qualities can make AiM an indispensable tool for identifying and prosecuting incitement.

The Genocide Convention criminalizes "direct and public incitement to commit genocide,"[14] regardless of whether actual genocide occurs.[15] Nevertheless, actionable incitement must be a direct instigation to commit an act of genocide rather than vague hate speech.[16] This doctrinal element is important because it protects against prosecutions that would otherwise intrude upon internationally and domestically recognized norms of free speech. In light of the covert, coded, and euphemistic manner in which genocidal appeals are generally communicated, it is often difficult to determine what expressions may be deemed sufficiently direct.[17] At the same time, it is critical for judicial bodies to recognize incitement even when it takes such forms because these bodies will otherwise fail to satisfy the Genocide Convention's purpose of preventing genocide rather than merely punishing its perpetrators.[18] In light of its common usage, false

14. Genocide Convention, *supra* note 2, at 174.

15. William A. Schabas, *Hate Speech in Rwanda: The Road to Genocide*, 46 MCGILL L.J. 141, 149 (2000).

16. Mugesera v. Canada, [2005] 2 S.C.R. 100 (Can.).

17. *See* Schabas, *supra* note 15, at 160 ("The problem with the requirement that incitement be 'direct' is that history shows that those who attempt to incite genocide speak in euphemisms. It would surely be contrary to the intent of the drafters to view such coded language as being insufficiently direct.").

18. Some have argued that punishing genocidal crimes will deter potential future genocides. *See, e.g.*, Stephen J. Rapp, *Achieving Accountability for the Greatest Crimes—The Legacy of the International Tribunals*, 55 DRAKE L. REV. 259, 285 (2007) (explaining the long process that the

genocidal claims leveled against a vulnerable population should be deemed to satisfy the Genocide Convention's requirement that incitement to genocide must be "direct."[19] This means that they can be used to demonstrate that certain expressions call for the elimination of target populations even though they do not do so in explicit terms.

The directness of AiM is hardly obvious: at first blush, it seems unlikely that a false charge against an adversary—even if maliciously intended—should be considered a direct incitement to the wrong-doing that the speaker condemns. Indeed, nothing could seem more indirect. After all, the speaker need not urge listeners to take any action; yet if any actions are urged, the actions are likely to be framed in the language of self-defense or the pursuit of just goals.[20] When AiM is properly understood, it is clear that this rhetorical method, while oblique in its form, is actually quite direct in operation.[21]

AiM's directness can be seen in both its widespread usage by *genocidaires* and its effectiveness. First, AiM has historically been an almost invariable harbinger of genocide. As this Article explains, AiM has been commonly used in atrocities committed by Nazis, Serbs, and Hutus, among others. This is a peculiar feature, not of genocide, but of AiM since non-genocidal forms of AiM have also been ubiquitous with respect to other forms of persecution. This can be seen in what this Article will describe as the myths of the Indian giver, the black rapist, and the murderous Jew.

Second, AiM is extraordinarily effective as a means of facilitating genocide and other forms of persecution. This is largely because of the manner in which it legitimizes the crimes it describes, but also because AiM serves at least five other functions, both in genocidal and non-genocidal contexts: to shock, to silence, to threaten, to insulate, and, finally, to motivate or incite. The extraordinary efficacy of this method,

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international community will go through to regulate incitement while arguing that this might be difficult but it is necessary). This theory, however, has not been supported by the sorry history of the post-Nuremburg period.

19. The "directness" requirement is explained *infra* Part IV. The Rome Statute of the ICC also prohibits direct and public incitement to commit genocide. The Rome Statute has been criticized for weakening the criminal prohibition against incitement to genocide on the grounds that "the status of incitement from a crime in its own right to a mode of criminal participation in genocide." Thomas E. Davies, Note, *How the Rome Statute Weakens the International Prohibition on Incitement to Genocide*, 22 HARV. HUM. RTS. J. 245, 245 (2009).

20. *See* Karen Eltis, *A Constitutional "Right" to Deny and Promote Genocide? Preempting the Usurpation of Human Rights Discourse Towards Incitement from a Canadian Perspective*, 9 CARDOZO J. CONFLICT RESOL. 463, 464–65 (2008) ("[G]enocidal affirmations are increasingly cast in human rights discourse as a religious right or a right of the oppressed to self-defense or self-determination, often preceded by the denial of previous atrocities perpetrated against the vilified group.").

21. *See infra* Part III.B (explaining how AiM functions).

combined with the great frequency of its usage, suggests that it should raise the same flags as the more commonly discussed methods of demonization and dehumanization. In contrast to these techniques, however, AiM is more direct in the sense that it communicates a specific message to its listeners (i.e., do unto others as they would do unto you).

This Article demonstrates that AiM is sufficiently direct to constitute incitement to genocide. In Part II, this Article will situate the surprising ubiquity of AiM, both in modern genocide and in other persecutions. This is important to understand because it shows two things. On the one hand, it shows that the technique is sufficiently commonplace to be readily understood—in its gruesome implications—by its hearers. On the other hand, this frequency of usage suggests that genocide doctrine needs to account for it carefully. Part III will show why AiM has become so commonplace (i.e., because it works). AiM is strikingly effective, not only at motivating genocide but also at meeting the perpetrators' psychological needs and fulfilling a number of other functions necessary to subject a victim population to the prospect of mass-murder. Part IV will build on these demonstrations, showing that this widespread and causally effective technique should be considered sufficiently "direct" to meet the "directness" element for charging incitement to genocide. Part V will show why other approaches to the treatment of AiM are either too loose or too stringent.

II. THE OMNIPRESENCE OF ACCUSATION IN A MIRROR

A. The General Pervasiveness of the Practice

AiM's genocidal directness can be seen first in the frequency with which it is used as a precursor to mass-murder. As a general rule, the more frequently a trope is repeated in common discourse, the more readily its meaning is understood. It is in this sense that Judith Butler observes, "[I]f a performative provisionally succeeds . . . then it is . . . only because that action echoes prior actions, and accumulates the force of authority through the repetition or citation of a prior and authoritative set of practices."[22] AiM operates by issuing false claims against a vulnerable population through repetition in a manner that listeners have already been primed by prior practices to understand as a call to arms.

AiM has been widespread not only among those who intend to perpetrate genocide, but also among a wide range of persons who consciously or unconsciously defame persecuted minorities. This is illustrated in the myths of the Indian giver, black racist, and murderous

22. JUDITH BUTLER, EXCITABLE SPEECH: A POLITICS OF THE PERFORMATIVE 51 (1997).

Jew.[23] Genocide scholars will better understand the concept if they situate it within a broader domestic and international human rights context. Similarly, civil and human rights scholars will better understand other forms of discrimination and persecution if they can discern the continuities between domestic defamations and genocidal murder.[24] The commonness of the technique is important to appreciate, not only because it underscores the need to identify its occurrence in genocidal and pre-genocidal contexts and to respond with appropriate alacrity, but also because it underscores how critical it is for courts to recognize its relationship to incitement.

B. Pervasiveness in Twentieth Century Genocide

In its genocidal form, AiM has been used and refined by Nazi, Serbian, and Hutu propagandists.[25] Adolf Hitler, for example, warned that Jews intended to engage in mass-murder while he devised his own plans for Aryan domination.[26] Similarly, the International Criminal Tribunal for the Former Yugoslavia observed this phenomenon in Serbia: "In articles, announcements, television programs and public proclamations, Serbs were told that they needed to protect themselves from a fundamentalist Muslim threat . . . that the Croats and Muslims were preparing a plan of genocide against them."[27] Indeed, this form of propaganda has been so widely used as a means of inciting genocide that it can properly be classified with demonization and dehumanization as a basic form of genocidal rhetoric.[28]

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23. *See infra* Part II.D (exploring the myths of the Indian giver, black racist, and murderous Jew).

24. Some readers have cautioned that grouping genocidal incitement together with lesser group defamations could create problems for the freedom of speech. This assumes, however, that these parallels are drawn for regulatory or punitive purposes. In fact, a better understanding of the commonness and efficacy of AiM—even in domestic, non-regulable contexts—can advance our understanding of the consequences of certain forms of communication in ways that have little to do with criminal prosecution. Among other implications, it may substantiate Alexander Tsesis's argument regarding the long-term effects of hate speech. *See* Alexander Tsesis, *The Empirical Shortcomings of First Amendment Jurisprudence: A Historical Perspective on the Power of Hate Speech*, 40 SANTA CLARA L. REV. 729, 731 (2000) ("[H]ate speech is not only dangerous when it poses an immediate threat of harm, but also when it is systematically developed and thereby becomes part of culturally acceptable dialogue.").

25. Benesch, *supra* note 6, at 511.

26. ADOLF HITLER, MEIN KAMPF 65 (Ralph Manheim trans., Houghton Mifflin 1971) (1927).

27. Prosecutor v. Tadic, Case No. IT-94-1-T, Opinion and Judgment, ¶ 91 (Geneva Convention, May 7, 1997), *available at* http://www.icty.org/x/cases/tadic/tjug/en/tad-tsj70507JT2-e.pdf.

28. Dehumanization impugns the target population with impaired biological capacity, while demonization charges them with a depraved moral condition. *See* DANIEL JONAH GOLDHAGEN, WORSE THAN WAR: GENOCIDE, ELIMINATIONISM, AND THE ONGOING ASSAULT ON HUMANITY 320 (2009).

C. Genocide Cases

Some of the most important genocide law cases illustrate the tactic of AiM, although they discuss it with varying degrees of explicitness. For present purposes, these cases are interesting not only for their doctrinal development, but also for their documentation of the relationship between AiM and incitement to genocide. It is telling that the history of modern incitement law is virtually coextensive with the modern history of AiM: incitement is invariably accompanied by AiM in law as it is in fact.

1. Nazi Genocide: The Nuremburg Trials

Adolf Hitler and the Nazis used AiM against the Jews during Hitler's rise to power and throughout the Nazi regime. In *Mein Kampf*, Hitler charged, "[I]f, with the help of his Marxist creed, the Jew is victorious over the other peoples of the world, his crown will be the funeral wreath of humanity and this planet will, as it did millions of years ago, move through the ether devoid of men."[29] The Nazis' AiM technique evolved in tandem with their human rights abuses leading up to genocide.[30] Early on, for example, Nazi propagandist Josef Goebbels wrote about fictitious Jewish plans to sterilize Germans at a time when Germans were actually sterilizing thousands of Jewish victims, as well as persons with various disabilities.[31] Later, as the German government escalated its persecution of Jews to mass-murder, Nazi AiM was similarly upgraded.[32] Thus, Goebbels asked in a 1941 pamphlet, "Who should die, the Germans or the Jews? . . . You know what your eternal enemy and opponent intends for you. There is only one instrument against his plans for annihilation."[33]

The International Military Tribunal ("IMT") at Nuremberg provides a window into some of the Nazis' AiM technique, although Hitler and many other Nazi perpetrators were able to avoid prosecution for their crimes. The IMT tried two defendants, Julius Streicher,[34] editor of the notoriously anti-Semitic Nazi tabloid *Der Stürmer*, and senior Nazi propaganda official Hans Fritzsche, for acts that today would be

29. HITLER, *supra* note 26, at 65.

30. *See* Benesch, *supra* note 6, at 505 (asserting that as the genocide expanded, so too did AiM).

31. *See id.* (noting that Goebbels emphasized the Jews' fictitious plan to sterilize the Germans in his newspaper articles).

32. *Id.*

33. *Id.*

34. *See* THE TRIAL OF GERMAN MAJOR WAR CRIMINALS: PROCEEDINGS OF THE INTERNATIONAL MILITARY TRIBUNAL SITTING AT NUREMBERG GERMANY, PART 10, at 1 (H.M. Attorney-General By His Majesty's Stationery Office, 1946) (restating the record between the president of the tribunal and Streicher's defense counsel, Dr. Marx).

charged incitement to genocide.[35] Since the Nuremburg trials preceded the Genocide Convention, the defendants were alternatively tried instead for crimes against humanity.[36] Both Streicher and Fritzsche had engaged in AiM.[37] Streicher, for example, accused the Jews of harboring genocidal intent against the Germans, writing in May 1939 that the Jews must be exterminated precisely for this reason:

> A punitive expedition must come against the Jews in Russia. A punitive expedition which will provide the same fate for them that every murderer and criminal must expect. Death sentence and execution. The Jews in Russia must be killed. They must be exterminated root and branch.[38]

Fritzsche, head of the German Propaganda Ministry's Radio Division, was accused of falsifying news to incite the German people to commit atrocities.[39]

Although Streicher denied that he was advocating the literal killing of Jews, prosecutors established that he had continued his incitement after he knew that thousands of Eastern European Jews had been slaughtered.[40] Streicher was ultimately convicted by the Nuremburg tribunal and executed in what has been called "the most famous conviction for incitement."[41] Fritzsche, by contrast, was acquitted at Nuremburg, on the grounds that his language was insufficiently direct and his intent was insufficiently clear. Specifically, the court found that Fritzche did not have control over the development of propaganda policies, but was instead merely a conduit for directives from more senior officials.[42] Nevertheless, a German court later convicted Fritzsche on similar charges and sentenced him to nine years of hard labor.[43] The German appeals court affirmed the conviction, emphasizing that Fritzsche had practiced what one might call AiM.[44]

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35. *See id.* (discussing Streicher's involvements in demonstrations against the Jewish population).

36. *See* Benesch, *supra* note 6, at 509 (explaining that because the crime of incitement to genocide was not yet known, Streicher and Fritzsche were charged with crimes against humanity).

37. *See id.* at 510–11 (asserting that both Streicher and Fritzsche used the AiM technique).

38. *Id.* at 510 (quoting MARTIN GILBERT, THE SECOND WORLD WAR: A COMPLETE HISTORY 731 (2004)).

39. *See id.* at 510 (discussing Fritzche's accusation and subsequent acquittal).

40. *See id.* (recognizing that while Streicher claimed that he had only advocated for the classification of the Jews as aliens, prosecutors were able to show that he had in fact called for the their extermination by pointing to a series of inciting articles he drafted).

41. Prosecutor v. Jean-Paul Akayesu, Case No. ICTR-96-4-T, Judgment, ¶ 550 (Sept. 2, 1998); *Media Trial*, *supra* note 3, at 143.

42. *Media Trial*, *supra* note 3, at 144.

43. Benesch, *supra* note 6, at 511.

44. *See id.* (recognizing that in affirming the conviction, the court noted that Fritzche practiced the AiM technique).

2. Rwandan Genocide I: The *Mugesera* Case

Since the Nuremburg Trials, *Mugesera v. Canada* has become the leading case on AiM.[45] In this Canadian case, Rwandan politician Leon Mugesera was charged with inciting his fellow Hutus to massacre the Tutsis of Rwanda.[46] On November 22, 1992, Mugesera delivered a long, passionate speech to over 1000 Hutus in Kabaya, Rwanda.[47] In this oration, Mugesera warned the Hutus that they were about to be exterminated by "inyenzi," a term that has been translated as "cockroaches," and he urged the Hutus to kill the Tutsis. The next day, several killings took place nearby.[48] Less than a year and a half later, the Rwandan genocide began in earnest.[49] But it was not the Tutsis who massacred the Hutus. Rather, it was the Hutus who attacked the Tutsis, killing at least 500,000.[50]

The AiM technique was used throughout the Rwandan massacre, not only by Mugesera, but also by other Hutu leaders who falsely accused Tutsis of plotting precisely the crimes that the Hutus were plotting against them.[51] For example, in 1991, La Médaille Nyiramacibiri claimed that Tutsis were conspiring to "clean up Rwanda . . . by throwing Hutu in the Nyabarongo [River]."[52] This accusation would become infamous when Leon Mugesera leveled it against Tutsis the following year.[53] The specificity of the accusation is significant because the Hutus did not merely charge Tutsis with murderous intent; rather, they accused them specifically of wanting to throw Hutus to their death in the Nyabarongo. This is a perfect example of inversion,

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45. *See* Mugesera v. Canada (Minister of Citizenship and Immigration) (2003), [2004] 1 F.C. 325 (Can. Que. Fed. Ct. App.) (ordering the deportation of Rwandan politician for using speech to incite people to commit crimes against humanity).

46. *See* Mugesera v. Canada, (Minister of Citizenship and Immigration) [2005] 2 S.C.R. 100 (Can.) (discussing how Mugesera used extremely violent language to incite the Hutus to exterminate the Tutsi).

47. *See* Benesch, *supra* note 6, at 486 (citing DES FORGES, *supra* note 1, at 83–86; *Broadcasting Genocide: Censorship, Propaganda & State-Sponsored Violence in Rwanda 1990–1994*, ARTICLE 19, 18–20, 38–40 (Oct. 15, 1996) [hereinafter ARTICLE 19], http://www.article19.org/pdfs/publications/rwanda-broadcasting-genocide.pdf (analyzing the Mugesera speech and deeming it "the most explicit call for violence against Tutsi civilians and Hutu opposition supporters at that time").

48. *Mugesera*, [2004] 1 F.C. para. 7.

49. THE INTERNATIONAL PANEL OF EMINENT PERSONALITIES TO INVESTIGATE THE 1994 GENOCIDE IN RWANDA AND THE SURROUNDING EVENTS, RWANDA: THE PREVENTABLE GENOCIDE § 14.20 (1998) [hereinafter PREVENTABLE GENOCIDE], *available at* http://www.scribd.com/Report-Rowanda-Genocide/d/45636507.

50. *Id.* § 14.80.

51. DES FORGES, *supra* note 1, at 65 (recounting that Hutu leaders often "attributed to Tutsi the words that Hutu themselves would eventually use in inciting the slaughter of Tutsi").

52. *Mugesera*, [2004] F.C. para. 227.

53. *Id.* para. 172.

considering many Tutsis were thrown to their deaths in the very same river.

Mugesera's speech is worth considering in detail, as it has become paradigmatic of AiM. Charging the "inyenzis" with various capital crimes, such as attempting to demoralize military troops, Mugesera insisted that capital punishment must be meted out by the people if the government did not take action:

> I should like to tell you that we are now asking that these people be placed on a list and be taken to court to be tried in our presence. If they (the judges) refuse, it is written in the Constitution that 'ubutabera bubera abaturage.' In English, this means that [TRANSLATION] 'JUSTICE IS RENDERED IN THE PEOPLE'S NAME.' If justice therefore is no longer serving the people . . . *we must do something ourselves to exterminate this rabble*.[54]

Having urged the Hutus to exterminate the Tutsis because of the Tutsis' purported criminality, Mugesera added urgency to his charge by insisting that the Tutsis would otherwise exterminate them. "'Why do they [the government] . . . not exterminate all of them?' he asked, 'Are we really waiting till they come to exterminate us?'"[55] He insisted the issue was neither speculative nor distant. "'These people called Inyenzis,' he emphasized, 'are now on their way to attack us.'"[56] Moreover, he insisted that this lethal threat was central to the Tutsis' being, "I am telling you, and I am not lying, . . . they only want to exterminate us. They only want to exterminate us: they have no other aim. We must tell them the truth."[57] It was precisely to meet this inverted genocidal threat that Mugesera urged his countrymen, "[W]e must all rise, we must rise as one man . . . ."[58]

After the war, Mugesera moved to Quebec, where some of his countrymen insisted that the government deport him for inciting genocide and committing crimes against humanity. The Canadian Minister of Citizenship and Immigration began deportation proceedings against him, which were followed by a long and complicated process through the Canadian immigration and judicial system. Under Canadian law, statements constitute incitement to genocide if they are "1) likely to incite, and 2) are made with a view to inciting the commission of the offence."[59] An adjudicator determined that the allegations against Mugesera were valid and issued a deportation order

54. *Id.* at para. 17 (emphasis added).
55. *Id.* at para. 16.
56. *Id.* at para. 13.
57. *Id.* at para. 13.
58. *Id.* at para. 29.
59. *Mugesera*, [2005] 2 S.C.R. para. 6.

against him, which Canada's Immigration and Refugee Board (Appeal Division) upheld. Mugesera appealed next to a federal trial court, which dismissed his application for judicial review on incitement to commit murder, genocide or hatred, but affirmed with respect to the allegation of crimes against humanity.

Nevertheless, a Canadian appeals court reversed the lower court's decision, rejecting the Minister's argument that Mugesera's speech was an incitement to genocide or a crime against humanity. More broadly, the court was not convinced that Mugesera was motivated by ethnic animus or that his intent was to incite murder.[60] However, the court acknowledged that the prosecution's case could be taken to mean "that the speech could be very valuable in establishing the presence of a criminal intent when the perpetrators of the genocide were brought to justice."[61]

The Supreme Court of Canada reversed, finding that Mugesera's speech "was likely to incite, and was made with a view to inciting murder."[62] The Court held Mugesera culpable for his criminal acts because he met the two criminal act requirements of incitement: his words were direct and public. At the same time, the Court held Mugesera had specific intent, since as an educated and sophisticated man he must have known the import of his words, which were made at a public event before a primed audience at a time when ethnic violence was already occurring. Mugesera's use of AiM was central to this incitement.

3. Rwandan Genocide II: The Media Trial

The ICTR's 2003 tribunal decision and 2007 appellate decision in *Prosecutor v. Nahimana, et al.*, better known as the *Media Trial*, have quickly joined the *Nuremburg* and *Mugasera* trials in the pantheon of leading cases on incitement to genocide.[63] For present purposes, the *Media Trial* is particularly important because the trial featured considerable testimony on AiM. The three *Media Trial* defendants were all prominent Rwandan media figures: Jean-Bosco Barayagwiza and

60. *See Mugesera*, [2004] F.C. paras. 44, 58 (arguing that there was nothing in the record to suggest that the massacres that took place were coordinated and for a common purpose, nor was there any evidence in the record that Mugesera's speech "was part of any strategy whatever").

61. *Id.* para. 43.

62. *Mugesera*, [2005] 2 S.C.R. para. 7 (stating that the elements of the actus reus were met, as "Mugesera conveyed to his listeners, in extremely violent language, the message that they faced a choice of either exterminating the Tutsi, the accomplices of the Tutsi, and their own political opponents, or being exterminated by them").

63. *See Media Trial*, *supra* note 3, at 140–41 (pointing out that the Media Trial was the first case since the trials at Nuremberg to face an international tribunal on the issue of free expression in the media with respect to genocide).

Ferdinand Nahimana were founders of the notorious Radio Télévision Libre des Mille Collines ("RTLM"), also known as "Radio Machete," while Hassan Ngeze was editor of the equally discredited newspaper *Kangura*.[64]

Hassan Ngeze, an experienced journalist, edited and published *Kangura* (translated as "wake others up"), which was considered the most popular newspaper in Rwanda for its time.[65] In December 1990, *Kangura* ran an article entitled "Appeal to the Conscience of the Hutu," which described the Tutsis as "bloodthirsty" and warned readers that Tutsi "infiltrators" were conspiring to seize control of the country and rule over the Hutus.[66] Hutus were encouraged to "take all necessary measures to deter the enemy from launching a fresh attack."[67] In other issues, *Kangura* continued its drumbeat of anti-Tutsi propaganda.[68] Here again, a vulnerable population (Tutsis) was described as "bloodthirsty" in terms that would better describe the views and intentions of the writer towards that population. In the same way, *Kangura* misreported that Tutsi soldiers captured by the government forces confessed that they "had come to clean the county of the filth of Hutu," when actually it was the Hutu who frequently spoke of cleansing their communities of the Tutsi "filth."[69] *Kangura* was not, however, alone in this approach. In April 1992, the *Jyambere* newspaper accused Tutsi parties of arming their youth groups, demonstrating by AiM precisely what Hutu forces were planning at the time.[70]

Ferdinand Nahimana was a prominent historian and university administrator at the National University of Rwanda before being appointed to the directorship of the Rwandan Office of Information. In that position, he oversaw Radio Rwanda, the national radio station, from 1990 until 1992, during which he ordered five Radio Rwanda broadcasts describing a supposed Tutsi plot to murder several Hutu leaders.[71] Hundreds of Tutsis were murdered because of these broadcasts,[72] which led to Nahimana's termination.[73] Within months of

64. Nahimina v. Prosecutor, Case No. ICTR-99-52-T, Judgment, ¶ 1 (Nov. 28, 2007), http://www.unictr.org/Portals/0/Case/English/Nahimana/decisions/071128_judgement.pdf; *see also Media Trial*, *supra* note 3, at 140–41.

65. *See Media Trial*, *supra* note 3, at 157 (illustrating that during its publication, the *Kangura* newspaper was the most widely read Rwandan newspaper).

66. *Nahimana*, ICTR-99-52-T, ¶ 259.

67. *Id.*

68. *See Media Trial*, *supra* note 3, at 157–58. The Tutsis were described as being "biologically distinct" from Hutus due to their bloodthirsty and malicious nature. *Id.*

69. DES FORGES, *supra* note 1, at 79.

70. *Id.*

71. *Media Trial*, *supra* note 3, at 158–59.

72. *Nahimana Judgment*, ICTR-99-52-T, Judgment, ¶ 691 (Nov. 28, 2007).

73. *Id.* ¶ 690.

his firing, Nahimana co-founded and helped to develop and lead a new radio station, RTLM, that he hoped would better reflect the views of his party.[74] During two formal meetings on November 26, 1993, and February 10, 1994, Rwanda's Minister of Information warned Nahimana and other RTLM leadership that they were inciting ethnic violence and hatred against Tutsis.[75] Nevertheless, RTLM continued to broadcast flagrant propaganda encouraging such animus, including one notorious episode in which RTLM announced that:

> One hundred thousand young men must be recruited rapidly. They should all stand up so that we kill the Inkotanyi and exterminate them . . . . [T]he reason we will exterminate them is that they belong to one ethnic group. Look at the person's height and his physical appearance. Just look at his small nose and then break it.[76]

Jean-Bosco Barayagwiza, a lawyer by training, co-founded RTLM with Nahimana and helped to lead the station while directing the political affairs function as a senior official of the Rwandan Ministry of Foreign Affairs.[77] If Nahimana was the "top man" at RTLM, Barayagwiza was considered the "number two."[78] During the time of the Rwandan genocide, Barayagwiza continued in his position with RTLM.[79]

The Tribunal's judgment indicated that the Rwandan government had deliberately and self-consciously used AiM. Alison Des Forges testified at length about the *Note*, explaining the significance of its methods in the Rwandan tragedy, and the *Nahimana* tribunal describes Des Forges's testimony regarding AiM in detail.[80] Nevertheless, Professor Gregory Gordon, who acknowledges the Tribunal's one key reference to a pre-genocide broadcast that warned of murderous Tutsi intentions, criticizes the Tribunal for not adequately analyzing it since: "[o]ut of the hundreds of RTLM tapes introduced into evidence, one might expect to find genocide-period passages where Tutsis were falsely accused of committing or planning to commit against Hutus the types of atrocities extremist Hutus were actually committing against Tutsis."[81]

Ngeze, Barayagwiza, and Nahimana were all convicted of genocide, direct and public incitement to commit genocide, conspiracy to commit

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74. *Id.* ¶¶ 489–90; *Media Trial*, *supra* note 3, at 159.
75. *Nahimana Judgment*, ICTR-99-52-T, ¶¶ 573–607; *Media Trial*, *supra* note 3, at 161–62.
76. *Nahimana Judgment*, ICTR-99-52-T, ¶ 396.
77. *Id.* ¶ 6; *Media Trial*, *supra* note 3, at 165.
78. *Nahimana Judgment*, ICTR-99-52-T, ¶ 511; *Media Trial*, *supra* note 3, at 165.
79. *Nahimana Judgment*, ICTR-99-52-T, ¶ 541–42; *Media Trial*, *supra* note 3, at 166.
80. *Nahimana Judgment*, ICTR-99-52-T, ¶ 111.
81. *Media Trial*, *supra* note 3, at 186–87.

genocide, and crimes against humanity.[82] Barayagwiza was sentenced to thirty-five years incarceration, while Ngeze and Nahimana were sentenced to life imprisonment.[83]

On November 28, 2007, the Appeals Chamber affirmed the Tribunal's judgment in part, reducing Ngeze's sentence to thirty-five years' imprisonment,[84] Nahimana's to thirty,[85] and Barayagwiza's to thirty-two.[86] The Appeals Chamber concluded that the appellants "were consciously, deliberately and determinedly using the media to perpetrate direct and public incitement to genocide."[87] Although the appeals court was no less vulnerable than the original tribunal to Gordon's criticism that it failed to properly catalog AiM, the appeals court nevertheless identified this passage in the *Kangura* as inciteful:

> If the *Inkotanyi* have decided to massacre us, the killing should be mutually done. This boil must be burst. The present situation warrants that we should be vigilant because they are difficult. . . . It will be necessary for the majority people and its army to defend itself . . . . On that day, blood will be spilled. On that day, much blood must have been spilled.[88]

The Appeals Chamber noted that this article contained an appeal to "the majority people" to kill the Inkotanyi and their "accomplices within the country" (meaning the Tutsis) in case of an attack by the RPF. Accordingly, the Appeals Chamber found that this article constituted direct and public incitement to commit genocide.[89]

D. Other Examples

To fully grasp the pervasiveness of AiM, it is helpful to consider not only the handful of well-known twentieth-century genocide cases, but also the range of other persecutions in which the technique is used. The contemporary genocidal practice is merely a specific application of a more general phenomenon. To choose just one current example from today's newspaper headlines,[90] consider that much of the violent persecution that Egypt's Coptic Christians now suffer is related to the continually repeated but unfounded allegation that the Coptic Church is

82. *Nahimana Judgment*, ICTR-99-52-T, ¶¶ 1105–08; *Media Trial*, *supra* note 3, at 140–41.
83. *Nahimana Judgement*, ICTR-99-52-T, ¶¶ 1105–08.
84. Nahimina v. Prosecutor, Case No. ICTR 99-52-A, Appeal, ¶ 1115 (Nov. 28, 2007).
85. *Id.* ¶ 1052.
86. *Id.* ¶ 1097.
87. *Id.* ¶ 73 (Shahabuddeen, J., partially dissenting).
88. *Id.* ¶ 772.
89. *Id.*
90. *See* David D. Kirkpatrick, *Egypt's Christians Fear Violence as Changes Embolden Islamists*, N.Y. TIMES, May 31, 2011, at A1 (highlighting an unconfirmed case where a young Muslim alleged that Coptic Christians abducted her and tattooed her with a cross).

abducting and abusing Coptic women who convert to Islam. Ironically, the opposite is occurring—Egyptian Muslims are kidnapping Coptic women and forcing them to convert to Islam.[91] This is a textbook example of AiM.

Historically, AiM prefigures many, if not all, of the worst persecutions that despised groups have faced. They include, for example, what will be described below as the myths of the black rapist, the Indian giver, and the murderous Jew. In each case, the victim is falsely accused of precisely the crimes that the perpetrator would visit upon him or her.

Situating AiM within this broader context allows us to better appreciate its nature, frequency, etiology, and function. In so doing, it demonstrates that this practice often amounts to a direct, public, and effective means of incitement. But at the same time, this contextualization suggests an inconvenient insight obscured by the association of the practice with its explicit elucidation in the *Note*—that AiM, while sometimes a deliberate propagandistic tactic, also sometimes expresses an unconscious impulse.

1. The Myth of the Indian Giver

Consider the term "Indian giver" with all that it signifies within American idiomatic English: the notion that Indians have so frequently, recklessly, and materially breached their promises to the white man as to render promise-breaking a defining feature of their character—indeed, a feature so defining of their character as to justify applying the name to the promise-breaking of all the world's peoples. The Oxford English Dictionary illustrates that the term has long signified an illusory form of gift giving.[92]

It is not coincidental that *promise-breaking* is the evil that has been uniquely visited upon Native Americans *by* the white man. Indeed, the U.S. Commission on Civil Rights titled its most recent evaluation of Native American health care policy *Broken Promises*.[93] Even a

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91. *See* CHRISTIAN SOLIDARITY INT'L & COPTIC FOUND. FOR HUMAN RIGHTS, THE DISAPPEARANCE, FORCED CONVERSIONS, AND FORCED MARRIAGES OF COPTIC CHRISTIAN WOMEN IN EGYPT (Nov. 2009) (asserting that the abduction, forcible marriage, and conversion of Coptic Christian women by Muslim men is considered a crime against humanity); Raymond Ibrahim, *Islamists Project Islam's Worst Traits onto Christians*, MIDDLE EAST F. (May 25, 2011), http://www.meforum.org/2915/islamists-project-islam-worst-traits-onto (alleging that the abduction and conversion of Coptic Christian women by Muslim men is a "notorious phenomenon in Egypt").

92. *See* OXFORD ENGLISH DICTIONARY 856–57 (2d ed. 1989) (substantiating the term's long usage). When the material in this section was first delivered before an international audience in Toronto, references to the term "Indian giver" were met with blank stares. In the United States, audiences understand the term completely.

93. U.S. COMM'N ON CIVIL RIGHTS, BROKEN PROMISES: EVALUATING THE NATIVE

cursory Google search for the words "broken promises" and "Indians" yields an extraordinary volume and range of materials documenting promises broken against Native Americans.[94]

The best-known example is the United States's historical breach of promises with respect to Indian lands. For example, the Northwest Ordinance ensured Indian tribes that "lands and property shall never be taken from [the Indians] without their consent[,] and, in their property, rights, and liberty, they shall never be invaded or disturbed, unless in just and lawful wars authorized by Congress."[95] The United States repeatedly and violently breached this promise. For example, during the infamous "trail of tears,"[96] the United States government compelled the relocation of Indian tribes located east of the Mississippi River under the Indian Removal Act.[97]

The stereotypical view of Indians as promise-breakers—a deeply entrenched American English idiom—is a classic example of human rights inversion, or AiM: white North Americans systematically broke their promises to Native Americans while accusing Indians of precisely this malfeasance, going so far as to name one form of promise-breaking after them.

2. The Myth of the Black Rapist

A second example is the myth of the black rapist. This defamation was so widespread in the Jim Crow South[98] that it provided a leading justification—perhaps the leading justification—for the practice of lynching,[99] which took over 3700 American lives through 1930.[100] Many black men accused of raping white women were lynched, when their only true crime may have been allegedly glancing for a moment too long at a white woman.[101] Unsubstantiated allegations were

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AMERICAN HEALTH CARE SYSTEM (Sept. 2004).

94. *See, e.g.*, ENCYCLOPEDIA OF NATIVE AMERICAN WARS AND WARFARE 143 (William B. Kessel & Robert Wooster eds., 2005) ("Disease, broken promises, corruption, and the poor lands reserved for Indian use decimated Native American populations.").

95. Northwest Ordinance, 1 Stat. 50 (1787).

96. Lindsay Glauner, *The Need for Accountability and Reparation: 1830–1976 The United States Government's Role in the Promotion, Implementation, and Execution of the Crime of Genocide Against Native Americans*, 51 DEPAUL L. REV. 911, 931–32 (2002).

97. INDIAN REMOVAL ACT OF 1830, *reprinted in* DOCUMENTS OF UNITED STATES INDIAN POLICY 52 (Francis Paul Prucha ed., 3d ed. 2000).

98. *See* DIANE MILLER SOMMERVILLE, RAPE AND RACE IN THE NINETEENTH-CENTURY SOUTH 223 (2004) ("The American South's hysterical fear of black men as rapists, often referred to as the 'rape myth' or 'rape complex,' is well documented and has been memorialized in the pages of fiction and nonfiction alike for over a hundred years.").

99. This was famously the point of the classic novel *To Kill a Mockingbird*. HARPER LEE, TO KILL A MOCKINGBIRD (1960).

100. LAWRENCE M. FRIEDMAN, AMERICAN LAW IN THE TWENTIETH CENTURY 118 (2002).

101. *See* SOMMERVILLE, *supra* note 98, at 224 ("To be a black man accused of raping or

sufficient because "[w]hite supremacy norms did not permit white jurors to believe a black man over a white woman . . . . Because most southern white men believed that black males secretly lusted after 'their' women, they generally found rape allegations credible."[102] White men were willing to believe that black males secretly lusted after and forcibly raped white women because, in numerous cases, they harbored precisely these same desires and committed exactly these same crimes against black women.[103]

It is clearly not coincidental that rape was systematically inflicted upon African-American women throughout and well after the long period of slavery.[104] These rapes were almost never punished in the Jim Crow South.[105] Until emancipation, black women lacked the right to bring charges of rape, but some racial distinctions persisted in rape law well into the later years of Reconstruction.[106] As recently as 1867, Kentucky law defined a rapist as one who shall "unlawfully and carnally know any white woman, against her will or consent."[107] Even with the change in rape law, white men frequently used rape as a "weapon of terror" against black women in the Reconstruction South.[108]

3. The Myth of the Murderous Jew

Since ancient times, European anti-Semites constructed the Jew as a murderous criminal.[109] This defamation was frequently the precursor to anti-Jewish violence and mass-killings.[110] This can be seen in historical examples, such as "blood libel,"[111] which is the myth that Jews kill

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attempting to rape a white woman in the American South was to face certain death, at the hands of either the executioner or an angry mob.").

102. MICHAEL J. KLARMAN, FROM JIM CROW TO CIVIL RIGHTS: THE SUPREME COURT AND THE STRUGGLE FOR RACIAL EQUALITY 118 (2004).

103. *See, e.g.*, RANDALL KENNEDY, INTERRACIAL INTIMACIES: SEX, MARRIAGE, IDENTITY, AND ADOPTION 178 (2003) ("[T]hroughout the Reconstruction period, violent white supremacists used rape as a weapon of terror aimed at intimidating or punishing blacks who dared to read, travel, work for themselves, or pursue politics.").

104. *See, e.g.*, Osagie K. Obasogie, *Anything but a Hypocrite: Interactional Musings on Race, Colorblindness, and the Redemption of Strom Thurmond*, 18 YALE J.L. & FEMINISM 451, 464–69 & nn.37–63 (2006) (describing the widespread rape of African-American women by white Southern men during the period slavery and throughout the Jim Crow South).

105. FRIEDMAN, *supra* note 100, at 119.

106. SOMMERVILLE, *supra* note 98, at 148.

107. *Id.*

108. *Id.*

109. MARVIN PERRY & FREDERICK SCHWEITZER, ANTISEMITISM: MYTH AND HATE FROM ANTIQUITY TO THE PRESENT 43–72 (2002).

110. ROBERT S. WISTRICH, A LETHAL OBSESSION: ANTI-SEMITISM FROM ANTIQUITY TO THE GLOBAL JIHAD 90 (2010).

111. *See id.* at 88–90 (noting that the term "blood libel" was invented in 1944). The term arose after the murder of a twelve-year-old Christian boy just before Easter. *Id.* The crime was attributed to local Jews without any evidence, with a claim that "the Jews of Norwich bought a

gentile children for ritual purposes.[112] Since twelfth-century England, the primary version of the blood libel is that Jews kill Christian babies in order to use their blood to bake traditional flatbread, or *matzah*, on the holiday of Passover.[113] Throughout the Middle Ages, the recurrent false accusation of Jewish ritual murder was invariably followed by the actual murder of countless Jews.[114] The most salient, contemporary form of the myth of the murderous Jew, however, has been the Holocaust inversion defamation, which accuses Jews of perpetrating the crimes that were perpetrated against them.[115] In some cases, the speaker himself is intending to perpetrate such crimes against Jews, especially Israeli Jews, in the future.

It has become commonplace in the Middle East for Israel's extremist adversaries to accuse the Jewish state of harboring genocidal ambitions while simultaneously urging the destruction of the Jewish state and the Jewish people. Over the last several years, for example, Iranian President Mahmoud Ahmadinejad has repeatedly engaged in AiM,[116] insisting that Israelis "have no boundaries, limits, or taboos when it comes to killing human beings," while simultaneously asserting that Israel "should be wiped off the map."[117] As if to dispel any ambiguities about his intentions, President Ahmadinejad paraded a Shahab-3 missile through the streets of Tehran in 2008 with the message, "Israel must be wiped off the map."[118] As historian Robert Wistrich observed, "There is a compulsive annihilationist dimension to these declarations."[119]

Christian child before Easter and tortured him . . . ." *Id.* Ritual crucifixion of a Christian was, according to claimant Theobald, a way to expedite the coming of the Messiah. *Id.* "The blood libel was linked . . . to the notion of an international Jewish conspiracy." *Id.*; ANTISEMITIC MYTHS: A HISTORICAL AND CONTEMPORARY ANTHOLOGY 11–19 (Marvin Perry & Frederick M. Schweitzer eds., 2008) (collecting historical examples of the blood libel from ancient to early modern times).

112. WALTER LAQUEUR, THE CHANGING FACE OF ANTI-SEMITISM: FROM ANCIENT TIMES TO THE PRESENT 55 (2006).

113. *See id.* at 55–57 (describing this use of the blood libel beginning in 1144).

114. WISTRICH, *supra* note 110, at 90.

115. Paul Iganski and Abe Sweiry call this practice "playing the Nazi card." PAUL IGANSKI & ABE SWEIRY, EUROPEAN INSTITUTE FOR THE STUDY OF CONTEMPORARY ANTISEMITISM, UNDERSTANDING AND ADDRESSING THE 'NAZI CARD' (2009).

116. Gordon, *From Incitement to Indictment?*, *supra* note 6, at 900–01; Kenneth L. Marcus, *Iran's Nuclear Anti-Zionism Is Genocidal, Not Political*, INFOCUS Q., Winter 2009, *available at* http://www.jewishpolicycenter.org/1521/iran-nuclear-anti-zionism-genocidal-political; Kenneth L. Marcus, Iranian Incitement to Genocide 5 (unpublished manuscript), *available at* http://digitalcase.case.edu:9000/fedora/get/ksl:marira00/marira00.pdf.

117. There has been, however, substantial debate over the translations of Ahmadinejad's pronouncements. *See, e.g.*, Ethan Bronner, *Just How Far Did They Go, Those Words Against Israel?*, N.Y. TIMES, June 11, 2006, at WK4 (noting that some translators argue that Ahmadinejad was calling an end to the Jewish-Zionist state occupying Jerusalem, rather than calling for Israel to be wiped off the map).

118. Irwin Cotler, *Iran's Incitement to Genocide Can't Be Treated as Bombast*, NAT'L POST

Among its myriad variants, Holocaust inversion includes portraying Jews—especially Israeli Jews—as Nazis, crypto-Nazis, Nazi sympathizers, Holocaust perpetrators, or Holocaust "copycats."[120] As a category of "Holocaust distortion," inversion is distinguished in part from such kindred practices as Holocaust denial, minimization, and trivialization by its precisely targeted offensive usage—such as its tendency not only to disarm but to accuse. Several agencies and commentators have characterized Holocaust inversion not only as a form of anti-Semitism but also as a primary criterion by which contemporary anti-Semitism can be discerned.[121] For example, the

(Canada) (Dec. 5, 2008), http://network.nationalpost.com/np/blogs/fullcomment/archive/2008/12/05/irwin-cotler-iran-s-incitement-of-genocide-can-t-be-treated-as-bombast.aspx.

119. WISTRICH, *supra* note 110, at 885. Such exhortations may constitute incitement to genocide. *See, e.g.*, *Incitement to Indictment?*, *supra* note 6, at 864–68 (commenting that Ahmadinejad's hostile public statements about Israel, Jews, and the Holocaust can be "divided into seven categories: (1) calling for Israel's destruction; (2) predicting Israel's destruction; (3) dehumanizing Israeli Jews; (4) accusing Israel of perpetrating mass murder; (5) condoning past violence against Israel and issuing threats against those who would protect Israel; (6) advocating expulsion of Israeli Jews from the Middle East; and (7) denying the Holocaust"); Marcus, *Iran's Nuclear Anti-Zionism*, *supra* note 116; DAVID MATAS ET AL., B'NAI BRITH CAN., INDICTMENT OF IRANIAN PRESIDENT MAHMOUD AHMADINEJAD FOR INCITEMENT TO GENOCIDE AGAINST THE JEWISH PEOPLE (2007), *available at* http://www.bnaibrith.ca/pdf/institute/IndictmentIranianPresidentMarch07.pdf (illustrating Jewish organization B'nai Brith's request that Canada prosecute President Ahmadinejad for inciting genocide against the Jewish people). Hassan Nasrallah, Secretary General of the Iranian-sponsored Hezbollah made the genocidal element in such declarations more explicit when he explained in 2006, "If Jews all gather in Israel, it will save us the trouble of going after them worldwide." Elena Lappin, *The Enemy Within*, N.Y. TIMES, May 23, 2004, at V15. Nasrallah calls for "an open war until the elimination of Israel and until the death of the last Jew on earth." Michael Rubin, *Nasrallah Urges Arabs to Evacuate Haifa*, NAT'L REVIEW ONLINE (Aug. 9, 2006), http://www.nationalreview.com/corner/126871/nasrallah-urges-arabs-evacuate-haifa/michael-rubin.

120. In his useful taxonomy of Holocaust distortion, Manfred Gerstenfeld has catalogued eleven distinct forms: Holocaust Promotion; Holocaust Denial; Holocaust Depreciation; Holocaust Deflection; Holocaust Inversion; Prewar and Wartime Holocaust Equivalence; Postwar Holocaust Equivalence; Accusations of Jewish Holocaust-Memory Abuse; Obliterating the Holocaust Memory; Holocaust-Memory Silencing; and Universalizing/Trivializing the Holocaust. Manfred Gerstenfeld, *The Multiple Distortions of Holocaust Memory*, 19 JEWISH POL. STUD. REV. 3–4 (2007).

121. *See, e.g.*, BERNARD HARRISON, AM. JEWISH COMM., ISRAEL, ANTI-SEMITISM, AND FREE SPEECH 22–23 (2007) (discussing how the "Nazi Analogy" is factually flawed and how the use of the analogy absent circumstances more akin to the Holocaust makes it a mere abusive epithet of anti-Semitism, not a "serious political point"); Howard Jacobson, *Wordsmiths and Atrocities Against Language: The Incendiary Use of the Holocaust and Nazism Against Jews*, *in* A NEW ANTISEMITISM? DEBATING JUDEOPHOBIA IN 21ST CENTURY BRITAIN 102 (P. Iganski & B. Kosmin eds., 2003) (criticizing other authors for their "stupidity" for equating Zionism with Nazism); U.S. DEP'T OF STATE, REPORT ON GLOBAL ANTI-SEMITISM 1 (2005); *Working Definition of Antisemitism*, EUROPEAN FORUM ON ANTISEMITISM (Mar. 16, 2005), http://www.european-forum-on-antisemitism.org/working-definition-of-antisemitism/english/ (providing a contemporary example of anti-Semitism by examining how in certain countries in the Middle East the media has publicized "comparisons of Israeli leaders to Hitler and the Nazis" without government response, whereas in other countries, such as France and Germany, laws that

European Monitoring Centre on Racism and Xenophobia's ("EUMC") authoritative[122] working definition of anti-Semitism correctly characterizes Holocaust inversion as a discrete form of anti-Semitism.

Analogous practices have been used with other groups as well. For example, Des Forges observed that Mugesera and Ngeze (in *Kangura*) explicitly tried to connect the Tutsis with the Nazis in the course of employing AiM.[123] The irony in this tactic, as Des Forges recognized, is that it is the *Hutu* perpetrators who may have been admirers of Hitler and Nazi Germany.[124] Indeed, films about Hitler and Nazism were found in the residence of Rwandan President Juvénal Habyarimana after he was assassinated in April 1994.[125] Similarly, Holocaust inversion appears more deeply ironic in the face of documented collaboration, including genocidal conspiracy[126] between the Nazi regime and the Palestinian leadership of the Holocaust era.[127] The continuing influence of Nazi propaganda can be seen in the anti-Semitic doctrines of extremist Islam from World War II to the present day.[128]

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punish those who publicly equate Israel with Nazism have been promoted).

122. The influence of this definition, and particularly of its examples, can be seen in its rapid international adoption. *See, e.g.*, U.S. DEP'T OF STATE, CONTEMPORARY GLOBAL ANTI-SEMITISM 6–7 (2008) ("[E]xamples of the ways in which anti-Semitism manifests itself with regard to the state of Israel taking into account the overall context could include: . . . [d]rawing comparisons of contemporary Israeli policy to that of the Nazis . . . ."); ALL-PARTY PARLIAMENTARY GROUP AGAINST ANTISEMITISM, REPORT OF THE ALL-PARTY PARLIAMENTARY INQUIRY INTO ANTISEMITISM 5 (2006) (recommending the adoption of the EUMC's working definition). Increased international adoption of this definition is a goal of the 2009 London Declaration on Combating Antisemitism and the 2010 Ottawa Protocol of the Interparliamentary Coalition to Combat Antisemitism.

123. DES FORGES, *supra* note 1, at 79–81.

124. *Id.*

125. *Id.*

126. *See* KLAUS-MICHAEL MALLMANN & MARTIN CÜPPERS, NAZI PALESTINE: THE PLANS FOR THE EXTERMINATION OF THE JEWS IN PALESTINE (Krista Smith, trans., 2010) (examining the relations between the Third Reich in Germany and Arab nationalists and positing the two shared common schemes to eradicate Jews).

127. *See, e.g.*, MATTHIAS KÜNTZEL, JIHAD AND JEW-HATRED: ISLAMISM, NAZISM AND THE ROOTS OF 9/11 (C. Meade trans., 2007) (documenting Nazi collaboration with Palestinian leadership and continuing influence of Nazi propaganda on extremist elements within Islamist movement).

128. *See, e.g.*, JEFFREY HERF, NAZI PROPAGANDA AND THE ARAB WORLD (2009) (recounting the influence of Nazi propaganda on the development of anti-Semitic doctrines within extremist elements of the Islamic world); PAUL BERMAN, THE FLIGHT OF THE INTELLECTUALS (2010) (analyzing the continuing influence of Nazi anti-Semitism within radical Islam).

III. EFFECTIVENESS

A. Effectiveness as a Means of Facilitating Persecution

Despite its evident drawbacks, AiM has turned out to be extraordinarily effective. As Catharine MacKinnon observed of one case before the International Criminal Tribunal for Rwanda, "This infamous 'accusation in a mirror'—the propaganda technique in which one side falsely attributes attacks to the other in order to justify retaliation in kind, casting aggression as self-defense—was especially causally potent."[129] That is to say, the use of AiM has a direct causal effect on the perpetration of genocide. Similarly, Des Forges explained that this tactic was used quite effectively both in specific incidents, such as the March 1992 Bugesera massacre and also more generally in the propaganda campaign to convince Hutu to rise up against the Tutsi and to exterminate them.[130] The Hutu officials and propagandists repeatedly employed the *Note*'s techniques, even if it cannot be proven that that they were personally familiar with the actual document.[131]

The technique's effectiveness is poignantly described by Coptic activist Mounir Bishai, who describes the manner in which his community has recently been subjected to abuse in Egypt:

> Suddenly we have shifted from complaints to self-defense, from demanding [our] rights to [trying to] convince the public that we are not depriving others of their rights. . . Before [Hurricane] Fitna we were known as the weak and attacked [party], and now we are being accused of amassing weapons. . . How have we suddenly turned from persecuted into persecutors, from the weak [party] into the strong and tyrannical [one], from the attacked [party] into the infamous attackers, and from the poor [party] into the rich exploiters? How did these lies become widespread, without us gaining any ground or improving our situation one whit?. . .[132]

The answer to Bishai's lament has been the rhetorical effectiveness of AiM.

In order to fully understand AiM's effectiveness, however, one must identify each of the functions that it plays. The effectiveness is most frequently addressed in terms of its legitimizing function, but, in fact, it serves at least five other primary functions, each of which must be

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129. Catharine MacKinnon, *International Decisions:* Prosecutor v. Nahimana, Barayagwiza & Ngeze, 98 AM. J. INT'L L. 325, 330 (2004).

130. DES FORGES, *supra* note 1, at 66.

131. *Id.*

132. L. AZURI, MEMRI, INQUIRY & ANALYSIS SERIES REPORT NO.646, RISING TENSIONS BETWEEN MUSLIMS, CHRISTIANS IN EGYPT (Nov. 15, 2010), *available at* http://www.memri.org/report/en/0/0/0/0/0/0/4765.htm.

understood to fully appreciate the extent to which it can serve as an effective form of incitement.

B. Functions in Facilitating Persecution

AiM has six interrelated functions: to shock, to silence, to threaten, to insulate, to legitimize, and, finally, to motivate or incite.[133] First and most unmistakably, it is *shocking*, even when it is frequently repeated, which is why it is frequently repeated. No one tells Holocaust survivors—or a nation of Holocaust survivors and their children—that they are Nazis without expecting to shock. The same can be said of the inversive accusations leveled at Bosnians, Tutsis, and Copts.

But AiM is shocking in a particular manner—a manner that tends to *silence*. As Charles Lawrence has explained, the visceral "[f]ear, rage, [and] shock" of hate speech systematically preempts response.[134] Lawrence wrote about hate speech expressed in the United States against African Americans and other American minorities, but his observations are also applicable to other groups that have experienced human rights inversion. Given the sensitivity of many Jews to issues concerning the *Shoah*, for example, Holocaust inversions have the power not only to shock, but also to silence expression of Jewish viewpoints, including speech sympathetic to the State of Israel.[135] Moreover, the stereotype of Jewish conspiratorial power, combined with the use of Nazi motifs, has a peculiarly chilling effect. As activist Melanie Kaye-Kantrowitz explains, it "mutes our loud, proud Jewish energy, make[s] us afraid of seeming too powerful, too . . . well, Jewish. How can we fight injustice powerfully if we fear our power?"[136] The silencing function of inciteful speech is worth noting in light of the inevitable claims that those who oppose hate speech are the silencers.[137]

Beyond silencing, AiM is also *threatening*. It is threatening, because the ascription of guilt carries with it the threat of punishment. For example, this can be seen in the warning that Jewish students at the University of California at Irvine recently received from one recent campus speaker who said, "[I]t's time for you to live in some fear now

133. *See* KENNETH L. MARCUS, JEWISH IDENTITY AND CIVIL RIGHTS IN AMERICA 63–64 (2010) (introducing most of these functions).

134. Charles R. Lawrence III, *If He Hollers, Let Him Go: Regulating Racist Speech on Campus*, 1990 DUKE L.J. 431, 452.

135. The point is amplified in Kenneth L. Marcus, *Higher Education, Harassment, and First Amendment Opportunism*, 16 WM. & MARY BILL RTS. J. 1025, 1050–52 (2008).

136. Melanie Kaye/Kantrowitz, *Some Notes on Anti-Semitism from a Progressive Jewish Perspective*, JEWISH CURRENTS (Mar. 2007), http://www.jewishcurrents.org/2007-mar-kayekantrowiz.htm.

137. *See* JEWISH IDENTITY, *supra* note 133, at 71–75 (analyzing such claims).

because you were so good at dispensing fear."[138] Significantly, it is not only the target group that is threatened by such forms of expressive conduct, but also bystanders who might be dissuaded from supporting the out-group.[139]

AiM's threatening function is also apparent in the United States's sad history of lynching. By the most conservative estimates, the proportion of black victims lynched for purportedly rape-related offenses varied between 26.7% and 40.6%, but some authorities suggest that in Georgia, sexual allegations were associated with more than 60% of lynchings between 1880 and 1889 and approximately half of all lynchings.[140] Moreover, when black men were accused of raping women, the difference between lynching and "regular" justice was sometimes more a matter of form than of substance.[141] Indeed, "guilt or innocence was often beside the point when southern blacks were accused of . . . sexually assaulting white women."[142]

Nevertheless, AiM is presented in a manner that is frequently immune from criticism because its political guise is *insulting*. The insulting function provides a means by which animus can be expressed without provoking the resistance that post-World War II racism tends to precipitate. Like other contemporary hate and bias modalities, Holocaust inversion has been protected from normal anti-discrimination enforcement by its ability to replicate or mimic the tropes of a dissident political discourse. This masking effect has permitted the growth and dissemination of hate and bias that would otherwise be checked by

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138. Letter from Charles R. Love, Program Manager, U.S. Dep't of Educ., Office for Civil Rights, Region IX, to Dr. Michael V. Drake, Chancellor, Univ. of Cali., Irvine, *In re* OCR Case No. 09-05-2013 (Nov. 30, 2007) [hereinafter *In re* University of California at Irvine, OCR Case No. 09-05-2013], *available at* http://www.ocregister.com/newsimages/news/2007/12/OCR_Report_120507-Z05145157-0001.pdf (quoting an unnamed campus speaker). In this case, the speaker taunted, "You were so good at making people think that y'all was all that and the Islamic tide started coming up." *Id.* For a discussion of the *Irvine* case, see JEWISH IDENTITY, *supra* note 133 and Kenneth L. Marcus, *Jurisprudence of the New Anti-Semitism*, 44 WAKE FOREST L. REV. 371, 383–93 (2009). The Israelis-as-Nazis analogy serves to justify not only anti-Israeli, but also anti-Jewish activity, which is otherwise socially or legally repelled. In light of the social stigma associated with anti-Semitism and racism, inversion serves to legitimate prejudice that would otherwise be socially unacceptable. In many cases, Holocaust inversion is coupled with suggestions that Jews should be treated in a manner consistent with their putative status as genocidal criminals. This particular quotation is taken from the official report of the U.S. Department of Education, Office for Civil Rights and investigation into charges of unlawful anti-Semitic harassment at the University of California at Irvine.

139. *See* STEVEN K. BAUM, THE PSYCHOLOGY OF GENOCIDE: PERPETRATORS, BYSTANDERS AND RESCUERS 119 (2008) (noting that even if 80% of community members may be compassionate and caring, a vocal 20% biased minority may nevertheless intimidate the rest of the community).

140. SOMMERVILLE, *supra* note 98, at 223.

141. FRIEDMAN, *supra* note 100, at 118.

142. KLARMAN, *supra* note 102, at 118.

various social, political, administrative, and legal controls, including human and civil rights law.

More significantly, AiM is *legitimizing*. In the genocidal context, AiM's legitimizing function is particularly important because of the enormity of the crime that must be justified. Des Forges has observed that "[w]ith such a tactic, propagandists can persuade listeners and 'honest people' that they are being attacked and are justified in taking whatever measures are necessary 'for legitimate [self-]defense.'"[143] As Joseph Goebbels put it, "The Jews are guilty [and] the punishment is coming." Similarly, Heinrich Himmler, *Reichsführer* of the SS, argued that "we had the moral right vis-a-vis our people to annihilate this people which wanted to annihilate us."[144] AiM has served the same function in a wide range of contexts, whether the victims' purported crimes are contemporaneous (as with the "black racist"), prospective ("Tutsi exterminators"), or retrospective ("Zionist Holocaust").

In the mind of Southern racists, the myth of the black rapist served to legitimize Jim Crow lynchings. Similarly, it provided the Nazis with a justification for their murder of the Jews. In the same way, Hutu claims of Tutsi aggression "legitimized" the violence that Hutus would visit upon them. For example, Mugesera warned his Hutu countrymen, "[K]now that anyone whose neck you do not cut is the one who will cut your neck."[145]

Thus, as Susan Benesch explains, the propagandist understood at least one aspect of genocide inversion's legitimizing function: it provides a collective self-defense justification for mass atrocities in the same way that individual self-defense provides a defense against the crime of murder.[146] Even in its legitimizing function, however, genocide inversion does more than provide a prospective defense against subsequent charges. Beyond such persuasion, AiM also functions as a means of constructing the identity of a despised other. In the simplest sense, genocide AiM may be, as Benesch has defined it, the technique of "claim[ing] (falsely) that the victims-to-be are planning to commit atrocities against the genocidaires-to-be."[147] In a broader sense, however, it is not merely a set of explicit claims, but rather a practice of constructing the other in a particular manner. Specifically, genocide inversion consists of constructing an identifiable other as so deeply and ineradicably criminal as to justify and even to require extermination

143. DES FORGES, *supra* note 1, at 58

144. *Id.*

145. Mugesera v. Canada (Minister of Citizenship and Immigration) (2003), [2004] 1 F.C. 325 (Can. Que. Fed. Ct. App.).

146. *Id.*

147. Benesch, *supra* note 6, at 504.

precisely because the drive to exterminate is so central within the constructed self of the other.

Finally, AiM is *motivating* or *inciting*. That is to say, AiM not only provides a reason or justification for aggression, as other less effective forms of incitement also do; more insidiously, it also communicates to the listener that it is necessary to attack another group in order to avoid having the same fate visited upon one's own community. As Benesch has explained, other rhetorical techniques such as demonization can make mass-murder seem acceptable, but AiM makes it appear *necessary*.[148] This function follows in part from the functions described above but also goes beyond them. Although this motivating quality is useful in lesser forms of incitement, it is critical to those who are inciting genocide because these perpetrators must overcome the strong social prohibitions on such heinous deeds.[149] AiM is able to accomplish this by redefining the target population as being guilty of such a vile transgression as to lie outside the scope of mutual obligations and lawful protections.[150] In his most infamous speech, Mugesera repeatedly claimed that the "inyenzi" planned to commit genocide against the Hutu: "These people called Inyenzis are now on their way to attack us . . . I am telling you, and I am not lying [that] . . . they only want to exterminate us. They only want to exterminate us: they have no other aim."[151] Mugesera used this form of AiM precisely because he understood its motivating quality: "Are we really waiting till they come to exterminate us?" Mugesera demanded.[152]

Similarly, Bernard-Henri Lévy argues that Holocaust inversion, together with other elements of the "new anti-Semitism," erodes the inhibitions that have, for several decades, prevented most Europeans from wanting to exterminate Jews.[153] Such defamations enable "people to feel once again the desire and, above all, the *right* to burn all the synagogues they want, to attack boys wearing yarmulkes, to harass large numbers of rabbis, to kill not just one but many Ilan Halimis—in in order for anti-Semitism to be reborn on a large scale."[154] The directness of AiM can be seen, not only in its common usage, but in the effectiveness with which it accomplishes its intention. Most

148. *Id.* at 506.

149. *Id.* at 486 (quoting FRANK CHALK & KURT JONASSOHN, THE HISTORY AND SOCIOLOGY OF GENOCIDE 28 (1990)).

150. *Id.*

151. Mugesera v. Canada (Minister of Citizenship and Immigration), [2005] S.C.R. 100, 93 paras. 16, 18 (Can.).

152. *Id.* para. 49.

153. BERNARD-HENRI LÉVY, LEFT IN DARK TIMES 155 (Benjamin Moser trans., 2008).

154. *Id.*

importantly, AiM motivates people to commit precisely the transgressions that are falsely attributed to the victim group. This is particularly important in the case of heinous crimes such as genocide, which require powerful motivation to overcome strong social bonds. But it can also explain the way in which large numbers of people are induced to engage in other forms of persecution, such as the systematic rape of black women during the Jim Crow South or the United States government's callous disregard for the rights of Indians during the Trail of Tears. This direct motivation is, moreover, only one facet of the complex efficacy through which AiM aids perpetrators in subjecting target populations for persecution or destruction. In fulfilling the range of functions described above, AiM facilitates aggression against its victims with peculiar effectiveness. For this additional reason, the use of AiM in genocidal or non-genocidal contexts cannot reasonably be viewed as being anything but direct.

C. Psychological Functions

A full assessment of AiM's effectiveness must acknowledge that the technique serves important psychological functions for the speaker as well as critical functions for the speaker's party. In this sense, the widespread use of AiM results not only from its effectiveness at facilitating persecution, up to and including genocide, but also because AiM fulfills independent psychological needs of the perpetrators who use it.

First, there is no phenomenon that better exemplifies the defense mechanism that prejudice, classically, has been understood to provide. "Projection" is the process of displacing unwanted feelings onto despised others, who may then appear to be external threats.[155] While projection has been explained as a source of all prejudice, including anti-Semitism, it is never more conspicuous than when it takes the form of AiM.[156]

Second, AiM is a paradigmatic form of what might be called "secondary prejudice." Secondary prejudice is any form of bias that is itself a reflection of the taboo of open bigotry.[157] For example, the European Union's Agency for Fundamental Rights ("FRA") recently noted that "secondary anti-Semitism" could be most broadly defined as

155. AVNER FALK, ANTI-SEMITISM: A HISTORY AND PSYCHOANALYSIS OF CONTEMPORARY HATRED (2008) 67, 71–72, 83 (discussing the possible roots behind the psychological projections that Christians place on Jews that manifest into anti-Semitism).

156. *Id.*

157. Clemens Heni, *Secondary Anti-Semitism: From Hard-Core to Soft-Core Denial of the Shoah*, 20 JEWISH POL. STUD. REV. 3–4 (2008), *available at* http://www.jcpa.org/JCPA/Templates/ShowPage.asp?DBID=1&LNGID=1&TMID=111&FID=625&PID=0&IID=2675.

"any form of anti-Semitism that is in itself a reflection of the taboo of 'open anti-Semitism.'"[158] Peter Schönbach, a colleague of leading Frankfurt School scholar Theodor Adorno, coined the increasingly used concept of "secondary anti-Semitism." The classic example, prevalent in post-War Germany and Austria, is the claim that Jews were responsible for the Holocaust.[159] "Rather than constituting a form of anti-Semitism that exists in spite of the history of National Socialism," the FRA explains, "it exists because of it."[160] In one pointed formulation, "The Germans will never forgive the Jews for Auschwitz."[161]

Secondary prejudice is often directed at other persecuted groups as well. For example, Jim Crow laws reflected the South's refusal to forgive blacks for the sin of slavery. Similarly, when heterosexual majorities deny certain rights or privileges, such as marriage, to gays and lesbians—and then accuse gay rights activists of seeking "special privileges"—they are engaging in AiM. These attitudes can be described as a secondary prejudice because, to a certain extent, the resentment that these majorities experience arises from subconscious shame for their treatment of a disadvantaged minority. In general, secondary prejudice arises from the guilt or shame that non-minority groups experience in the face of their own present or prior hate or bias.

IV. ACCUSATION IN A MIRROR AND GENOCIDE LAW DOCTRINE

A. The Doctrinal Significance of Accusation in a Mirror

AiM is a primary form of incitement, like demonization and dehumanization, which can be used to show the "directness" of expressive conduct that intuitively might appear indirect.[162] The Genocide Convention criminalizes "direct and public incitement to commit genocide,"[163] regardless of whether actual genocide results.[164] Under the Genocide Convention, incitement is an autonomous infraction that—like conspiracy—constitutes an inchoate crime, in the

158. European Union Agency for Fundamental Rights, Anti-Semitism: Summary overview of the situation in the European Union 2001–2010, at 25 (Apr. 2011) (FRA working paper), *available at* http://fra.europa.eu/fraWebsite/attachments/Antisemitism_Update_2011.pdf.

159. *Id.*

160. *Id.*

161. Ben Weinthal, *The Raging Bronx Bull of German Journalism*, JEWISH DAILY FORWARD (June 8, 2007), http://www.forward.com/articles/10874/ (quoting psychologist Zvi Rex).

162. The importance of accusation in a mirror to incitement law is discussed in *Music and Genocide*, *supra* note 6, at 638; Benesch, *supra* note 6, at 504–06.

163. G.A. Res. 260 (III), at 174, U.N. GAOR, 3d Sess., A/810 (Part I) (Dec. 9, 1948).

164. The key point that actual violence need not be shown was authoritatively established in the *Media Case*. Nahimana v. Prosecutor, Case No. ICTR-99-52-A, Appeals Judgment, n.26, ¶ 720 (Nov. 28, 2007), *aff'g* Nahimana, Barayagwiza & Ngeze, Case No. ICTR 99-52-T, ¶ 1015.

sense that the result need not be proven, as long as the incitement was direct and public, as well as intentional, with the intent to destroy a protected group completely or partially.[165] The conundrum for genocide law is that incitement doctrine is squeezed between two imperatives: on the one hand, the need to distinguish between genocidal incitement and ordinary hate speech and, on the other hand, the need to address genocidal incitement before it results in murder. By identifying primary incitement techniques, such as AiM, courts can satisfy the latter imperative while still respecting the former.

B. Accusation in a Mirror and the Elements of Incitement

Gregory Gordon has performed the admirable task of elucidating the criteria that actionable incitement must meet under modern genocide law.[166] First, the statements in question must be publicly uttered.[167] Needless to say, AiM may be used publicly or privately. For purposes of applying genocide law, only public utterances are at issue here.

Second, and most importantly for present purposes, actionable statements must be uttered in a sufficiently direct manner.[168] The Genocide Convention and related authorities do not prohibit casual or indirect utterances, nor do they provide a general prohibition on hate speech.[169] As further discussed below, the legally critical aspect of AiM is that it is a substantively direct form of incitement notwithstanding the indirect appearance that it sometimes assumes.

Third, the utterance must be actual incitement rather than protected speech.[170] This criterion overlaps considerably with the directness element, since the directness requirement is intended in no small part to distinguish protected speech from punishable incitement. The two criteria can be distinguished for certain analytical purposes, however, because the directness requirement should also be understood as a creature of contemporary values regarding the freedom of speech.

Finally, an actionable statement must have an underlying intent to provoke mass-murder.[171] This is an important independent requirement that must be satisfied even in cases of AiM. Some advocates might argue that the mirror itself can reveal the speaker's intent, but this is too

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165. Schabas, *supra* note 15, at 149.

166. Gordon bases his analysis largely on the ICTR cases, which have been relatively detailed in their analysis, since the applicable statute mirrors the Genoicde Convention. *Incitement to Indictment?*, *supra* note 6, at 869–70.

167. *Id.* at 870.

168. *Id.*

169. Diane F. Orentlicher, *Criminalizing Hate Speech in the Crucible of Trial:* Prosecutor v. Nahimana, 21 AM. U. INT'L L. REV. 557, 566 (2006).

170. *Incitement to Indictment?*, *supra* note 6, at 869–70.

171. *Id.*

facile. As explained in Part II, AiM can be used consciously or unconsciously and therefore can be either a deliberate propagandistic technique or an expression of unconscious projection.[172] To the extent that AiM is used in an unconscious manner, its communicative process is no less direct, but it would be inaccurate to characterize what it reveals as the speaker's "intent." In genocide cases, the directness is not sufficient to provide a basis for prosecution without the presence of intent.

C. Accusation in a Mirror as Evidence of Directness

Given the importance of protecting the freedom of speech,[173] courts have been appropriately cautious in ensuring that only direct incitements be proscribed.[174] Unfortunately it is often difficult to determine what expressions may be deemed sufficiently direct in light of the covert, coded, and euphemistic manner in which genocidal appeals are generally communicated.[175] This is a serious problem because the Genocide Convention is intended to prevent genocides before they occur and not merely to punish the perpetrators after the killing is done.[176]

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172. *See infra* Part II (discussing how AiM, "while sometimes a deliberate propagandistic tactic, also sometimes expresses an unconscious impulse" by examining the Nazi and Rwandan genocides and the myths of the Indian giver, black racist, and murderous Jew).

173. Indeed, the United States was initially reluctant to enter into the Genocide Convention for reasons relating to the freedom of speech. *See* Continuation of the Consideration of the Draft Convention on Genocide [E/794]: Report of the Economic and Social Council [A/633], U.N. GAOR 6th Comm., 3d Sess., 84th mtg. at 213 (1948) (discussing the debates over whether or not to include incitement to genocide within the list of punishable acts). When the U.S. Senate finally ratified the Genocide Convention, after decades of debate, it did so only with this reservation: "Nothing in the Convention requires or authorizes legislation or other action by the United States of America prohibited by the Constitution of the United States as interpreted by the United States." 132 CONG. REC. S1252-54 (daily ed. Feb. 18, 1986) (Lugar/Helms/Hatch Reservations to the Genocide Convention).

174. U.S. courts have been similarly cautious, requiring a "directness" element in domestic incitement cases. *Compare, e.g.*, Masses Publ'g Co. v. Patten, 244 F. 535, 542 (S.D.N.Y. 1917) ("[I]ndirect result of the language might be to arouse a seditious disposition, [however, this] would not be enough . . . ?"), *rev'd*, 246 F. 24 (2d. Cir. 1917) *with* Prosecutor v. Jean-Paul Akayesu, Judgment, ICTR-96-4-T, ¶ 557 (1998) ("[M]ore than mere vague or indirect suggestion [is required to] constitute direct incitement."). Such comparisons are usefully explored in Ameer F. Gopalani, *The International Standard of Direct and Public Incitement to Commit Genocide: An Obstacle to U.S. Ratification of the International Criminal Court Statute?*, 32 CAL. W. INT'L L.J. 87, 102–04 (2001).

175. *See* Schabas, *supra* note 15, at 160 ("The problem with the requirement that incitement be 'direct' is that history shows that those who attempt to incite genocide speak in euphemisms. It would surely be contrary to the intent of the drafters to view such coded language as being insufficiently direct.").

176. Michael P. Scharf & Brianne M. Draffin, *Foreword: To Prevent and to Punish: An International Conference in Commemoration of the Sixtieth Anniversary of the Genocide Convention*, 40 CASE W. RES. J. INT'L L. 1, 4 (2007).

Sadly, for reasons that are both legal and political,[177] the Genocide Convention has failed to prevent or appreciably reduce the incidents of mass-killings.[178] The Genocide Convention's passage has been justly characterized as "utterly irrelevant" when the first half century following its passage witnessed the slaughter of four million by Stalin's Russia, five million in Mao's Chinese Cultural Revolution, two million in Pol Pot's killing field, 750,000 in Uganda, etc.[179] This abject failure prompted the United Nation's High Commissioner for Human Rights to lament: "A person stands a better chance of being tried and judged for killing one human being than for killing 100,000."[180] In recent years, the U.N. has committed to correcting this sorry history, for example, by adopting its Responsibility to Protect doctrine.[181] If the Genocide Convention is to merit its designation as the "Never Again" treaty, its incitement provisions must be interpreted in ways that effectuate its intent to prevent further tragedies. At a minimum this requires that judicial bodies properly recognize the forms that incitement to genocide habitually assume so that they can be properly addressed.

Given the frequency with which genocidal AiM presages actual genocide, courts and tribunals must attribute proper significance to this form of incitement. At a minimum, this requires an appreciation that AiM is generally understood in pre-genocidal and genocidal contexts as a direct call to commit mass-murder, whether it is accompanied by other more explicit exhortations or not. This is important, because courts have taken the directness requirement of incitement seriously. For example, the *Mugesera* court cautioned that an equivocal speech, open to differing interpretations, could not constitute direct and public incitement to commit genocide.[182] *Mugesera*'s teaching that actionable incitement must be a direct appeal to commit an act of genocide,[183]

177. *See generally* SAMANTHA POWER, "A PROBLEM FROM HELL": AMERICA AND THE AGE OF GENOCIDE (2002) (discussing why American leaders frequently promise to prevent genocide yet repeatedly fail to do so).

178. *See* Scharf & Draffin, *supra* note 176, at 2 (describing the Genocide Convention's failure to prevent genocide even after it was established).

179. *Id.*

180. MICHAEL P. SCHARF, BALKAN JUSTICE: THE STORY BEHIND THE INTERNATIONAL WAR CRIMES TRIAL SINCE NUREMBERG xiv (1997).

181. Scharf & Draffin, *supra* note 176, at 4; *see also* Paul R. Williams & Meghan E. Stewart, *Humanitarian Intervention: The New Missing Link in the Fight to Prevent Crimes Against Humanity and Genocide?*, 40 CASE W. RES. J. INT'L L. 97, 105–06 (2008) (elucidating the responsibility to protect, or "R2P"); David Scheffer, *Atrocity Crimes Framing the Responsibility to Protect*, 40 CASE W. RES. J. INT'L L. 111 (2008) (drawing lines for determining which atrocity crimes merit application of the R2P doctrine and which do not).

182. Mugesera v. Canada (Minister of Citizenship and Immigration) (2003), [2004] F.C. 325 (Can.).

183. *Id.*

rather than a vague advocacy of hate or discrimination, has been influential.[184] Furthermore, the *Media Case*, carefully distinguished between direct incitements and most other forms of hate speech:

> Direct incitement to commit genocide assumes that the speech is a direct appeal to commit an act referred to in Article 2(2) of the Statute; it has to be more than a mere vague or indirect suggestion. In most cases, direct and public incitement to commit genocide can be preceded or accompanied by hate speech, but only direct and public incitement to commit genocide is prohibited under Article 2(3)(c) of the Statute.[185]

Genocidal AiM is inciteful not because it is hate speech, but because it is in fact—if not in form—an appeal to commit particular acts. In the *Media Case*, the appeals court emphasized that while genocide is often preceded by or coupled with hate speech, hate speech is not *per se* actionable unless it directly calls for the commission of genocide.[186] Similarly, the International Law Commission explained, "The element of direct incitement requires specifically urging another individual to take immediate criminal action rather than merely making a vague or indirect suggestion."[187]

The meaning of coded speech may, however, be unequivocal. That is to say, its meaning may be clear and definite when it is properly decoded. In such cases, its meaning may be well understood to its listeners. It is now well established that the directness element must be "viewed in the light of its cultural and linguistic content."[188] Whether a particular communication can be considered direct will vary depending on local linguistic contexts. Most importantly, it is a basic principle of genocide law that "incitement may be direct, and nonetheless implicit."[189]

The value of AiM, as a legal concept, is that it provides a means of understanding how a major category of coded speech can meet the directness element under the Genocide Convention and other laws prohibiting incitement to genocide. The Genocide Convention criminalizes "direct and public incitement to commit genocide."[190] The

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184. *See* George William Mugwanya, *Recent Trends in International Criminal Law: Perspectives from the U.N. International Criminal Tribunal for Rwanda*, 6 NW. U. J. INT'L HUM. RTS. 415, 436 (2008) (describing influence of *Mugesera* on ICTR decisions).

185. Nahimana v. Prosecutor, Case No. ICTR-99-52-A, Appeals Judgment, n.26, ¶ 693 (Nov. 28, 2007); Mugwanya, *supra* note 184, at 437.

186. *Nahimana Judgment*, ICTR-99-52-A, ¶ 693 (Nov. 28, 2007); Mugwanya, *supra* note 184, at 437.

187. Rep. of the Int'l Law Comm'n, 48th Sess. May 6–July 26, 1996, at 22, U.N. Doc. A/51/10; GAOR, 51st Sess., Supp. No. 10 (1996).

188. Prosecutor v. Akayesu, Case No. ICTR 96-4-T, Judgment, ¶ 557 (Sept. 2, 1998).

189. *Id.*

190. Genocide Convention, *supra* note 2.

Convention makes genocidal incitement an inchoate crime, in the sense that actual genocide need not occur for its incitement to be actionable.[191] Nevertheless, actionable incitement must be a direct appeal to commit an act of genocide rather than vague hate speech.[192] "Directness" is often difficult to discern in light of the covert, coded, and euphemistic manner in which genocidal appeals are generally communicated.[193] At the same time, it is critical for judicial bodies to recognize incitement, even when it takes such forms, because otherwise they will fail to satisfy the Genocide Convention's purpose of preventing genocide rather than merely punishing its perpetrators.[194]

At first blush, AiM appears to be entirely indirect. The speaker need not urge the target audience to take any particular course of conduct; moreover, if any actions are urged, they are veiled in the language of self-defense. Nevertheless, as discussed earlier, the "directness" requirement is not construed formalistically to require an explicit exhortation, since that is not the form that genocidal incitement characteristically takes. Indeed, genocide law cannot succeed in preventing mass-killings—as opposed to punishing their perpetrators after the fact—unless incitement doctrine is construed broadly to encompass such ways in which genocidaires actually ply their craft.

For this reason, "directness" is interpreted contextually to require a communication that reasonable listeners would understand—within local conditions—as an appeal to undertake certain actions. As the Rwanda tribunal has explained, "The Chamber will therefore consider on a case-by-case basis whether, in light of the culture of Rwanda and the specific circumstances of the instant case, acts of incitement can be viewed as direct or not, by focusing mainly on the issue of whether the persons for whom the message was intended immediately grasped the implication thereof."[195] The Rwandan example demonstrates the clarity with which implicit directives contained within AiM are understood and executed.

In this sense, the directness element should be considered satisfied when it can be shown that a defendant has publicly accused a particular vulnerable population of genocidal practices, or genocidal intent, in a

191. Schabas, *supra* note 15, at 149.

192. Mugesera v. Canada (Minister of Citizenship and Immigration), [2005] S.C.R. 100 (Can.).

193. *See* Schabas, *supra* note 15, at 160 ("The problem with the requirement that incitement be 'direct' is that history shows that those who attempt to incite genocide speak in euphemisms. It would surely be contrary to the intent of the drafters to view such coded language as being insufficiently direct.").

194. Scharf & Draffin, *supra* note 176, at 4.

195. Prosecutor v. Akayesu, Case No. ICTR-96-4-T, Judgment, ¶ 558 (Sept. 2, 1998).

manner that mirrors practices that have been directed against them. This approach does not push the boundaries impermissibly between incitement and hate speech. This is important not only because domestic constitutional considerations sometimes apply,[196] but also because the Genocide Convention's history indicates an "unambiguous determination" by the Convention's drafters to exclude hate speech from the scope of the clause that criminalizes "direct and public incitement to commit genocide."[197] This approach to AiM does not criminalize speech that provokes hatred towards a protected group, but instead punishes speech that advocates violence against members of the group.[198] Indeed, one of the defining features of AiM is that it does not merely stoke generalized feelings of racial hatred; rather, it incites very specific forms of criminal conduct.

This conclusion follows from the essentially euphemistic character that incitement characteristically assumes. For this reason, other commentators have recommended that euphemisms used to mask incitement should be considered "kinds of incitement."[199]

V. ALTERNATIVE APPROACHES

This approach to AiM is more stringent than some alternative approaches and less stringent than others. This Part will evaluate two roads not taken here. One alternative would be to treat the use of AiM, at least under some circumstances, as a chargeable offense. The other would be to consider it to constitute (and not merely to satisfy) an element that must be met in a prosecution for incitement. This Section will argue that the former approach is too loose and the latter too stringent.

A. Accusation in a Mirror as a Form of Incitement

This proposal is more stringent than an alternative approach that would recognize AiM as a form of incitement to commit genocide *per*

196. *See, e.g.*, Audrey Golden, Comment, *Monkey Read, Monkey Do: Why the First Amendment Should Not Protect the Printed Speech of an International Genocide Inciter*, 43 WAKE FOREST L. REV. 1149 (2008) (discussing the differences between international customary law, under which genocide inciters would be found in violation of, and the U.S. Constitution, under which genocide inciters would be protected under the First Amendment guaranteeing free speech).

197. Diane F. Orentlicher, *Criminalizing Hate Speech in the Crucible of Trial:* Prosecutor v. Nahimana, 12 NEW ENG. J. INT'L & COMP. L. 17, 22–28 (2005).

198. *Id.* at 39–40 (criticizing the ICTR for convicting defendants in the *Media Case* for crimes against humanity based upon what she considered to be "speech that constitutes incitement to racial hatred but not incitement to violence"); *Incitement to Indictment?*, *supra* note 6, at 910–11 (arguing that incitement to genocide can be distinguished from speech that merely encourages racial hatred).

199. *Incitement to Indictment?*, *supra* note 6, at 857.

se regardless of whether genocide actually ensures, as long as the basic elements of genocide are met. For example, one commentator has seemingly argued that AiM should be recognized as a "legally chargeable form of incitement."[200] In other words, AiM should be considered a category of chargeable offense rather than merely a technique that satisfies only one element of the offense.[201]

Thus, a person who specifically intends to motivate others to engage in genocidal murder and furthers this plan by publicly and directly accusing his or her would-be victims of genocidal intent, has committed incitement to genocide. The virtue of recognizing this distinct category of incitement is that it spares each adjudicator the burden of having to determine in each instance whether this accusatory technique bears a sufficient nexus to any actual or potential killing. The notion is that certain forms of accusation are incitement *per se*.

This approach faces certain challenges, even aside from the usual questions of expressive freedom that invariably surround the issue of incitement. Can specific intent be inferred from the act itself, or must one demonstrate that the accusation is motivated by genocidal intent? Given the difficulty of proving intent, the tendency will be to infer it from the circumstances in which the technique was used. This inference is of limited persuasiveness, however. If the speaker urges the elimination of a particular group at a time when members of that group are notoriously being killed, one can infer that the speaker intends to perpetuate the killing. But if the speaker merely accuses the victim group of plotting similar crimes, can we assume that the speaker's intent is similarly murderous? The challenge of determining intent is

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200. This approach greatly simplifies the analysis in *Music and Genocide*, *supra* note 6, at 638. Gordon's approach is much more sophisticated and nuanced than these quotations convey. Indeed, when his three major works on this topic are taken together, it appears that Gordon might consider AiM to be chargeable only when certain other criteria are satisfied and perhaps only when it is anchored in some other form of incitement. For example, in some places Gordon argues that AiM, to be chargeable, must be "anchored to direct calls" to genocide, *Incitement to Indictment?*, *supra* note 6, at 857, which if taken literally almost seems to imply that accusation in a mirror is *not* itself a form of incitement *per se*. A full presentation of the complexities of Gordon's analysis would however exceed the scope of this Article.

201. Gordon's nine categories are:

(1) direct calls for destruction;
(2) predictions of destruction;
(3) verminization, pathologization, and demonization;
(4) accusation in a mirror;
(5) euphemisms and metaphors;
(6) justification during contemporaneous violence;
(7) condoning and congratulating past violence;
(8) asking questions about violence; and
(9) victim-sympathizer conflation.

Id.

exacerbated by the extent to which AiM often arises from the subconscious process of "projection," rather than as a conscious intention.

B. Accusation in a Mirror as an Element of Incitement

Susan Benesch argues, by contrast, that AiM supports an incitement charge by demonstrating that the speaker not only dehumanized a target population, but also justified mass-killing.[202] In this way, AiM would be a persuasive means of meeting one prong in the six-prong test that Benesch has proposed in place of the current doctrinal framework.[203] Specifically, it would provide an affirmative answer to the second half of the first compound sentence in Benesch's fifth prong, which goes to what has previously been identified as the requirement of "effectiveness": Did the speaker describe the victims-to-be as subhuman, or accuse them of plotting genocide? Had the audience been conditioned by the use of these techniques in other, previous speech?[204]

In other words, accusation is one of three techniques—together with dehumanization and repetition—that can be used to demonstrate effectiveness. In Benesch's scheme, prosecution must establish all six elements in order to achieve a conviction.[205] Thus, under Benesch's scheme, these three common techniques would effectively become an element of the crime; no matter how directly and forcefully a public speaker urges genocide, it would not be chargeable unless AiM or dehumanization is used, unless the crowd has been primed by prior use of these techniques.[206]

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202. Benesch, *supra* note 6, at 523–24.

203. The six prongs Benesch proposes to identify incitement to commit genocide and to distinguish it from lawfully protected speech are as follows:

> 1. Was the speech understood by the audience as a call to genocide? Did it use language, explicit or coded, to justify and promote violence?
>
> 2. Did the speaker have authority or influence over the audience and did the audience have the capacity to commit genocide?
>
> 3. Had the victims-to-be already suffered an outbreak of recent violence?
>
> 4. Were contrasting views still available at the time of the speech? Was it still safe to express them publicly?
>
> 5. Did the speaker describe the victims-to-be as subhuman, or accuse them of plotting genocide? Had the audience been conditioned by the use of these techniques in other, previous speech?
>
> 6. Had the audience received similar messages before the speech?

Id. at 498.

204. *Id.*

205. *Id.* at 520.

206. For substantially similar reasons, Gordon has argued that Benesch's six-prong test is too rigid and has also criticized it on additional grounds. *See Music and Genocide*, *supra* note 6, at 626–30 (criticizing Benesch's test for failing to encompass scenarios that should pass the test, such as a governmental official in a country experiencing inter-ethnic violence calling for the

Since dehumanization is by no means universally used prior to the commitment of genocide, this places an untenable burden on AiM.[207] Goldhagen has provided a rather lengthy list of genocidaires who have not relied on dehumanization, including the Turks against Armenians and Serbs against Bosnians.[208] In these forms of genocide, which do not involve dehumanization, Benesch's scheme makes accusation a necessary condition for incitement. This approach is far too rigid, as it would exculpate non-dehumanizing genocidaires who do not use AiM.

In short, AiM cannot be an element of incitement, because this requirement would be impracticably rigid. On the other hand, it cannot constitute the crime of incitement *per se*, as this would be too lenient. Rather, it should be considered a primary technique for incitement, and its presence should satisfy the directness requirement, but other elements of incitement must also be met for the statement to be actionable.

VI. CONCLUSION

AiM is an extraordinary concept that deserves closer attention than it has thus far received. First, AiM has been very *commonly* or frequently employed, both in genocidal and non-genocidal contexts, and in widely differing times and places. Second, AiM is *strange* or counter-intuitive: of all of the false accusations that one might level at one's adversaries, it is surprising that one would draw public attention to precisely the misdeeds that one intends to commit. Third, despite these drawbacks, AiM has had a famous *potency*, to use Catharine MacKinnon's term.[209] That is to say, it has been oddly effective in serving several functions, including those observed by propagandists. Finally, for jurists, this strangely effective and widespread phenomenon has a peculiar *utility*; to wit: it provides a means by which prosecutors can demonstrate the "directness," which is requisite to a showing of genocidal incitement. AiM should be closely considered in incitement cases, not because it is a necessary or a sufficient condition of incitement to genocide, as some have suggested, but rather because it is strong evidence of directness.

---

ethnic majority to "go to work" on the ethnic minority, being too final as a "self-contained universe" and containing ambiguous terms).

207. Goldhagen demonstrates that genocide is commonly accompanied by dehumanization, demonization, or both. GOLDHAGEN, *supra* note 28, at 319–30.

208. *Id.* at 331.

209. MacKinnon, *supra* note 129, at 330.

Annex 16

African Commission on Human and Peoples' Rights, 16th Extraordinary Session, *Resolution on Human Rights Abuses in Egypt*, ACHPR Res. 287 (EXT.OS/XVI) (20-29 July 2014)

RECOMMENDATIONS AND RESOLUTIONS ADOPTED BY THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

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ACHPR/Res.287 (EXT.OS/XVI) 2014: Resolution on Human Rights Abuses in Egypt

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 16th Extraordinary Session held from 20 to 29 July 2014, in Kigali, Republic of Rwanda;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Considering that the Arab Republic of Egypt is a party to the African Charter and committed to ensuring respect for human and peoples' rights within its territory;

Recalling Articles 4, 5, 6, 7 9, 10, 11 and 26 of the African Charter which guarantees the right to life, the right to respect of the dignity of the person, the right to liberty and security of person, the right to fair trial, the right to freedom of expression, the right to freedom of association and assembly and independence of the judiciary respectively;

Recalling also its Resolutions ACHPR/Res.136(XXXXIV)08 calling on State Parties to observe a moratorium on the death penalty, ACHPR/Res.62(XXXII)02 on the adoption of the Declaration of principles on Freedom of Expression in Africa, ACHPR/Res.185 (XLIX)11 on the safety of journalists and media practitioners in Africa, ACHPR/Res.281(LV)2014 on the right to peaceful demonstration and ACHPR/Res. 111(XXXXII)07 on the Right to a remedy and reparation for Women and Girls victims of sexual violence;

Alarmed by the grave and rapid deterioration of the human rights situation in Egypt since the 2011 uprising, where human rights violations continue to occur such as arbitrary detention acts of torture and ill-treatment in detention centers, violations of rights of human rights defenders, sexual violence against women, violations of the right to freedom of expression, association and assembly and death sentences;

Deploring the blatant disregard for the most basic guarantees of fair trial and due process by courts and tribunals as well as the lack of independence of the judiciary;

Concerned about the overall continuous impunity for human rights violations including security forces responsible for the excessive and often lethal use of force against demonstrators which led to the death of thousands from January 2011 to date;

Further concerned that the death penalty is still retained in the statute books of Egypt;

Deploring the fact that the Commission's recommendations contained in its letter of Urgent Appeal in April 2014 urging the Government of Egypt to uphold its obligations under international human rights law, including granting those sentenced to death an opportunity to appeal against the sentence have not been

implemented to the letter;

Further deploring the attacks, harassment and arbitrary detention targeting human rights defenders and groups;

Deeply concerned by the high level of sexual violence including sexual violence perpetrated against arrested persons during pre-trial detention as well as the culture of impunity which prevents victims especially women, from obtaining justice for acts of sexual harassment, rape and sexual assault in public spaces and during protests.

Strongly denouncing the severe restrictions imposed on journalists and media practitioners and their arbitrary arrest, detention and killing for carrying out their work, and for having expressed dissenting views in violation of the right to freedom of expression and freedom of opinion;

Deeply concerned by the government's draft law on Associations which include the ban on cooperation or affiliation of local NGOs with international bodies, approval for foreign funding without the prior permission of the government; a situation which could hamper the work and independence of civil society organizations;

The Commission:

1. ***Condemns*** the flagrant violation of human rights such as harassments, arbitrary arrests and detentions, sexual violence against women and acts of torture;

2. ***Calls*** on the Egyptian authorities to take all necessary measures to put an immediate end to human rights violations;

3. ***Further calls*** on the Egyptian Government to uphold the right to a fair trial for all citizens before independent courts of law in accordance with international law and standards;

4. ***Urges*** the Egyptian authorities to guarantee the right to peaceful protest, association and assembly and to refrain from disproportionate use of force against protesters as well review its laws on demonstrations and public rallies on the use of firearms against protesters to bring them in line with international standards;

5. ***Strongly urges*** the authorities to observe an immediate moratorium on the death sentences and execution as a first step to abolishing the death penalty;

6. ***Invites*** the Government of Egypt to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of

the death penalty; the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa and the Optional Protocol to CEDAW; and to withdraw reservations to articles 2 and 16 of CEDAW;

7. ***Calls*** on the authorities to investigate and prosecute the perpetrators of human rights violations in order to end the culture of impunity in the country;

8. ***Calls*** on the Egyptian authorities to respect and uphold provisions of the African Charter and other regional and international human rights instruments which it has ratified.

Adopted at the 16th Extraordinary Session of the African Commission on Human and Peoples' Rights held from 20 to 29 July 2014 in Kigali, Republic of Rwanda

Annex 17

International Commission of Jurists, *Egypt's Judiciary: A Tool of Repression* (Sept. 2016), *available at* https://www.icj.org/wp-content/uploads/2016/10/Egypt-Tool-of-repression-Publications-Reports-Thematic-reports-2016-ENG-1.pdf

Egypt's Judiciary: A Tool of Repression

Lack of Effective Guarantees of Independence and Accountability

icj International Commission of Jurists

Composed of 60 eminent judges and lawyers from all regions of the world, the International Commission of Jurists promotes and protects human rights through the Rule of Law, by using its unique legal expertise to develop and strengthen national and international justice systems. Established in 1952 and active on the five continents, the ICJ aims to ensure the progressive development and effective implementation of international human rights and international humanitarian law; secure the realization of civil, cultural, economic, political and social rights; safeguard the separation of powers; and guarantee the independence of the judiciary and legal profession.

® **Egypt's Judiciary: A Tool of Repression**
Lack of Effective Guarantees of Independence and Accountability

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Egypt's Judiciary: A Tool of Repression

Lack of Effective Guarantees of Independence and Accountability

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INTRODUCTION

In this time of crisis in Egypt, one of the last lines of defence, the judiciary, is failing in its essential task of upholding the Rule of Law and protecting human rights.

In May 2014, following a second wave of mass death sentences, a group of UN independent experts highlighted the "continuing and unacceptable mockery of justice that casts a big shadow over the Egyptian legal system".[1] Two months later, the African Commission on Human and Peoples' Rights issued a resolution "[d]eploring the blatant disregard for the most basic guarantees of fair trial and due process by courts and tribunals as well as the lack of independence of the judiciary" in Egypt.[2]

This report examines how longstanding interference by the executive power in the judicial system in Egypt and legal provisions that bolster such interference have undermined the judiciary's ability to act as independent and impartial arbiters of justice, upholding human rights.

Following the overthrow of the autocratic regime of Hosni Mubarak in February 2011, through widespread popular protests, those that have served as the authorities have consistently failed to uphold the Rule of Law and enact reforms that are consistent with respect for human rights.

The vacuum of power left by President Mubarak's departure was initially filled by the army, in the form of the unelected and unaccountable Supreme Council of Armed Forces (SCAF), which ruled through a series of unilateral decrees, called "Constitutional Declarations". Parliamentary elections were held in January 2012 but six months later were ruled unlawful by the Supreme Constitutional Court. The People's Assembly, Egypt's lower parliamentary chamber, was dissolved, thereby consolidating power in the hands of the military.

Following, the election of President Mohamed Morsi in June 2012, executive decrees continued to be used as the basis to rule the country and a series of legal struggles between President Morsi and the courts ensued, including President Morsi attempting to immunize his decrees from judicial review and, in response to frustration over the lack of successful prosecutions of those responsible for human rights violations, to reopen investigations into the attacks on protestors that occurred in the context of the 2011 uprising.

A flawed constitution-drafting process resulted in the Constitution that was adopted in a referendum held in December 2012. Six months later, in another significant decision, the Supreme Constitutional Court ruled that the Constituent Assembly, which drafted the Constitution, and Egypt's upper parliamentary chamber, the Shura Council, were unlawful on the basis that the electoral law violated the principles of equality and non-discrimination; however, the Court authorized the Shura Council to continue to sit until the election of a new legislative body.

Mass protests against President Morsi culminated in July 2013 when the army ousted him from power. Additionally, the the 2012 Constitution was suspended and the Chief Justice of the Constitutional Court, Adly Mansour, was installed as interim President. Days after taking power, Mansour's government dissolved the Shura Council, concentrating power, once again, in the Executive.

Decrees issued by interim President Mansour paved the way for another flawed constitution-drafting process, which culminated in the adoption of a new Constitution in January 2014. The presidential elections that followed, in May 2014, resulted in the election of the former head of

1 "Egypt: Justice and reconciliation increasingly failing after second wave of mass death sentences", 15 May 2014, joint press release of African and UN human rights experts.

2 Resolution on Human Rights Abuses in Egypt, No. 287, African Commission on Human and Peoples' Rights, 16th Extraordinary Session held from 20 to 29 July 2014.

the army, Abdel Fattah el-Sisi, as President. Both Presidents Mansour and Sisi have used their unchecked power to crackdown on political dissent, including by introducing draconian restrictions on fundamental freedoms and expanding the jurisdiction of military courts to try civilians.

Judges and prosecutors have not escaped this crackdown. Those that have spoken out against erosions of the rule of law and human rights have faced disciplinary proceedings, been transferred to non-judicial positions and been dismissed from office. At the same time, judges and prosecutors have been targeted by armed groups. For example, in June 2015, the Prosecutor-General, Hisham Barakat, was assassinated.

Amid this backdrop, on 5 December 2015, the results of elections for a new House of Representatives was announced, with 94% of parliamentarians reported as supporting President Sisi. It remains to be seen whether the new legislature can help engender a return to the rule of law and foster much needed reforms to bolster the independence of the judiciary.

Through this report, the International Commission of Jurists (ICJ) strives to contribute to the efforts of those who seek the enhancement of human rights and the rule of law in Egypt, including by developing and strengthening the independence and impartiality of the Egyptian judiciary and reforming the national legal framework in line with international standards.

The fundamental right to a competent, independent and impartial tribunal established by law, is widely recognized in international law and standards, including Article 14 of the International Covenant on Civil and Political Rights (ICCPR) and Article 7 of the African Charter on Human and Peoples' Rights. In addition, any individual accused of a criminal offence has the right to a fair trial before such a court.[3]

Egypt has ratified the ICCPR, the African Charter on Human and Peoples' Rights and the CRC.[4] In addition, pursuant to Article 93 of the Constitution, international treaties ratified by Egypt are binding and have the force of law. Egypt is therefore obligated to respect and ensure respect for these rights as well as to provide for necessary legislative and other safeguards to secure their realization.[5]

This report also relies on declaratory instruments such as the United Nations Basic Principles on the Independence of the Judiciary, the UN Guidelines on the Role of Prosecutors and the Principles and Guidelines on the Right to Legal Assistance and Fair Trial in Africa that, although these are not legally binding in themselves, they are widely accepted as authoritative and reflect or elaborate upon legal obligations of the States under treaty or customary international law.

Both treaties and declaratory instruments are important sources for international human rights monitoring mechanisms, such as the United Nations Human Rights Committee (the body of independent experts mandated by the ICCPR to monitor State's Parties implementation of that treaty), the United Nations Human Rights Council and its expert special procedures, and the African Commission on Human and Peoples' Rights.

This report was written on the basis of research carried out by the ICJ in Egypt from 2011 to 2015. In September 2012, April and August 2013 and January 2015, the ICJ met with a range of officials, including government ministers, members of parliament, heads of the Cassation

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3 In situations where an individual is under the age of 18 at the time of the alleged crime specific rights, including those enshrined in Articles 37 and 40 of the Convention on the Rights of Child (CRC), also apply.

4 Egypt ratified the ICCPR on 14 January 1982, the African Charter on Human and Peoples' Rights on 20 March 1984 and the CRC on 6 July 1990.

5 ICCPR, Article 2.

Court, Supreme Constitutional Court and the State Council, other judges, members of the National Council for Human Rights, as well as representatives of Egyptian non-governmental organizations focusing on human rights, lawyers, and families of victims of human rights violations.

Analysis of individual cases were conducted by reviewing case files and through meetings with judges, lawyers, trial observers and victims of human rights violations.

This report builds on three earlier papers published by the ICJ, 'Upholding the Rule of Law and Human Rights Following the Ouster of President Morsi', 'the Draft Egyptian Constitution in Light of International Law and Standards' and 'Egypt's new Constitution: a flawed process; uncertain outcomes'.[6]
As described in Chapter One of this report, "The judiciary in times of crisis", instead of introducing much needed reforms to buttress the independence of the judiciary, the various authorities in power since the ouster of President Mubarak in February 2011 have continued their attempts to control and use the judiciary to gain political advantage. With reference to specific cases. Chapter One also highlights how the period from February 2011 onward, in particular since the ouster of President Mohamed Morsi in July 2013, has seen both civilian and military courts preside over unfair trials and impose punishment on political opponents, journalists and human rights defenders, often for the peaceful exercise of their rights to freedom of expression, association and assembly. This Chapter also highlights how judges who have dared to speak out in favour of judicial independence and the rule of law have been subjected to unfair disciplinary proceedings resulting in transfers or dismals from office.

Chapter Two of the report provides a brief overview of the court system in Egypt and the subsequent chapters analyse the legal framework under which the Egyptian judiciary operates in light of international standards that aim to safeguard the independence of the judiciary and the role of prosecutors.[7] They highlight how constitutional provisions, laws, policies and practices impede the ability of the judiciary to function in an independent and impartial manner and makes recommendations to amend them. These chapters concern: The High Judicial Council, the Judicial Authority Law, the Supreme Constitutional Court, the Office of the Public Prosecutor, and Military and Emergency Courts.

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6 ICJ Position Paper, 13 January 2014, http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2014/01/Egypt_PolicyPaper_13-Jan.pdf ; ICJ Legal Briefing Paper, 14 December 2012, http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2012/12/Legal-Briefing-Paper-FINAL-14.12.12.pdf ; ICJ report, 13 November 2012, http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2012/11/EGYPT-CONSTITUTION-REPORT-w-COVER.pdf

7 Under the Constitution and Egyptian law prosecutors are considered to be an "integral part of the judiciary" (2014 Constitution, Art. 189). In this report however, the term "judges" does not include prosecutors.

EXECUTIVE SUMMARY AND KEY RECOMMENDATIONS

Judiciary in times of crisis

Given the fundamental role played by the judiciary in upholding the rule of law and human rights, the right to a fair and public hearing by a competent, independent and impartial tribunal is clearly enshrined in international law and standards, including Article 14 of the International Covenant on Civil and Political Rights (ICCPR), to which Egypt is party.[8] This right is absolute and is not subject to any exception. Egypt is obligated to respect and ensure respect of this right as well as to provide for necessary safeguards to secure its realisation.[9]

In times of crisis, the judiciary should act as a check on the arbitrary exercise of power by the other branches of government, in particular by ensuring that laws and measures adopted to address the crisis comply with the rule of law and human rights.

Instead of respecting and reinforcing this role, since the overthrow of President Mubarak in February 2011, Egyptian governing authorities, both civilian and military, have attempted to control and use the judiciary for political gain, including by expanding the jurisdiction of military and emergency courts, unilaterally dismissing the Prosecutor-General, and attempting to immunize executive decrees from judicial review. Such decisions have served to further undermine the independence of Egypt's judiciary and erode human rights protections.

Egypt's judiciary has frequently failed to fulfil its essential role in upholding the rule of law and safeguarding human rights throughout the transition period. An analysis of recent cases, in particular those initiated or decided since the overthrow of President Morsi, demonstrates that Egypt's judges and prosecutors have become to be seen as a primary tool in the repression of political opponents, journalists and human rights defenders.

Furthermore, an examination of individual cases demonstrates that criminal proceedings against political opponents, journalists and human rights defenders have been marred by a litany of violations of internationally recognised rights. More specifically, prosecutions have been initiated by prosecutors and, in many instances, continued by judges, where the charges are unfounded. A presumption in favour of pre-trial detention has routinely been applied by both prosecutors and judges, as seen in the cases of *Yara Sallam and 22 others* and *Alaa Abdel Fattah and 24 others*.

The accused in many cases have not been given adequate time and facilities to prepare a defence, for example in the case of *Alaa Abdel Fattah and 24 others*, the first accused was restricted to meeting his lawyers once every 30 days and was denied any confidential access to them. In addition, judges have refused to refer constitutional challenges to laws to the Constitutional Court and have instead applied laws that violate human rights, notably the Demonstration Law (Law No.107 of 2013).

Judges have also failed to ensure equality of arms and rights of defence during trial and to ensure public hearings in such trials. Convictions have frequently been based on a lack of credible evidence of the individualized guilt of each of the accused despite the absence of proof beyond a reasonable doubt. Thousands have been convicted following unfair trials and, of them, hundreds have been sentenced to death in violation of the right to life. As such, some of the most egregious examples of fair trial violations have involved trials involving hundreds of accused, dozens or hundreds of whom have been sentenced to death or life imprisonment.

At the same time, judges who are considered to be opponents of the current regime and/or have

8 Egypt ratified the ICCPR on 14 January 1982.

9 ICCPR, Article 2.

spoken out against attacks on the rule of law and human rights violations, have been subjected to unfair disciplinary proceedings. These proceedings have frequently been pursued in violation of judges' rights to freedom of expression, association and assembly and have been marred by due process violations and well as violations of the right to a fair hearing.

Urgent measures are required to prevent a complete collapse of the rule of law in Egypt, including measures to ensure that the judiciary is independent and serves to safeguard human rights, such as the right to a fair trial and the right to life. To this end, the Egyptian authorities must ensure that:

- **i. Executive interference in judicial affairs ends, including the unilateral removal of prosecutors and the imposition of restrictions on the jurisdiction of ordinary courts aimed at immunizing Executive decisions from judicial review.**
- **ii. The use of military courts to try civilians ends, and that Presidential Decree No. 136 of 27 October 2014 is abolished.**
- **iii. The convictions and sentences of all civilians tried by military courts and those of individuals convicted following unfair trials in civilian courts are quashed. Those against whom there is reasonable suspicion that they have committed a recognizable criminal offence (under national and international law) should be afforded a retrial within a reasonable time before an independent and impartial civilian tribunal in proceedings that meet international standards of fairness.**
- **iv. Prosecutorial guidelines require prosecutors:**
  - **a. To perform their duties fairly, consistently and expeditiously, and respect and protect human dignity and uphold human rights;**
  - **b. Not to initiate or continue prosecutions where an impartial investigation shows the charges are unfounded.**
- **v. A code of judicial conduct and ethics, established by judges, includes obligations on judges to:**
  - **a. ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected; and**
  - **b. safeguard and uphold human rights.**
- **vi. The Code of Criminal Procedure, including Articles 125, 233 and 374, is amended to ensure that the law enshrines the rights of all persons suspected or accused of an offence to:**
  - **a. access to legal counsel as soon as they are deprived of their liberty and on an ongoing and regular basis;**
  - **b. adequate time and facilities to consult their lawyer in confidence;**
  - **c. the right to have their lawyer present and to assistance of their lawyer, including during all questioning by the authorities;**
  - **d. the right to adequate time and facilities to prepare their defence;**
  - **e. that those charged with a criminal offence or their lawyers are given access to documents and other evidence in sufficient time, including all materials the prosecutor intends to rely on and exculpatory evidence;**
  - **f. sufficient notice for the accused and their legal counsel of the dates, time and location of court hearings.**
- **vii. Judges refer challenges to laws on constitutional grounds to the Supreme Constitutional Court and do not apply laws that are in conflict with either the Constitution or with international human rights treaties to which Egypt is party.**
- **viii. The Code of Criminal Procedure is amended to clearly enshrine the right of the accused to be present during criminal proceedings and assisted by defence counsel of his or her choosing or in cases where the interest of justice requires, appropriately qualified and experienced appointed counsel, free of charge where the individual does not have sufficient means to pay.**
- **ix. The Code of Criminal Procedure is reformed to fully enshrine the principle of equality of arms and to ensure this principle is recognized and enforced by judges.**
- **x. The Criminal Code of Procedure is amended to fully enshrine the presumption of innocence and individual criminal responsibility in law such that any individual**

is presumed innocent and treated as such until his or her individual guilt for the crime(s) he or she is charged with are proven beyond reasonable doubt through admissible evidence in the course of fair proceedings.

xi. Egyptian law is amended to abolish the use of the death penalty and, until the death penalty is abolished, an immediate moratorium on all executions is imposed.

xii. Disciplinary proceedings initiated against judges for the legitimate exercise of their right to freedom of expression, association and assembly should be dropped and sanctions imposed pursuant to such proceedings and to proceedings that failed to ensure judges' right to a fair hearing should be quashed.

High Judicial Council

The United Nations Human Rights Committee, interpreting the requirements of Article 14 of the ICCPR, has noted the obligation on States to protect "judges from any form of political influence in their decision-making" by "establishing clear procedures and objective criteria" in matters relating to the careers of judges.[10] Furthermore, the Human Rights Committee and the UN Special Rapporteur on the independence of judges and lawyers have raised concerns about the involvement of the Executive in such matters and have recommended that an independent body undertake these decisions.

Although Egypt's High Judicial Council (HJC) is mandated by the Constitution to be the primary body tasked with oversight of the judiciary, it falls short of the mark of a safeguard of judicial independence. Rather, the HJC predominantly acts as a rubber stamp for the Minister of Justice, whose control over the courts and careers of judges in Egypt, as prescribed by law, is inconsistent with respect for the independence of the judiciary.

While, most decisions relating to appointments, assignments and disciplining are subject by law to the final consent of the HJC, the HJC's role is largely limited to providing approval to the Minister's decisions.

The Minister of Justice is legally empowered to assign judges to specific courts, to the Office of the Public Prosecutor and to non-judicial posts. The Minister of Justice also determines the membership and rules of the Judicial Inspection Department, an administration within the Ministry of Justice that acts under his direct authority and is charged with investigating and appraising the work of judges for the purposes of promotion, transfer and disciplinary decisions. By law, the Minister of Justice can also request the Prosecutor-General to initiate disciplinary proceedings against judges and prosecutors and is tasked with implementing the disciplinary decisions issued by the disciplinary board against judges.

Aside from its powers of approval, the HJC is tasked, by law, with interviewing judicial candidates, conducting investigations into and deciding whether a written warning against a judge is well-founded and ordering the commencement of an investigation in disciplinary cases against judges. The HJC must also be consulted on draft laws concerning the judiciary and the prosecution service.

The composition of the HJC, although made up entirely of judges is not, as international standards recommend, freely chosen by judges and widely representative of the judiciary. The members of the HJC are assigned by virtue of their official positions. None of them are elected by their peers, nor are the members required to meet any objective criteria. The HJC is presided over by the Chief Justice of the Court of Cassation. The six other members are the Prosecutor-General, the President of the Cairo Court of Appeal, the two most senior vice-presidents of the Court of Cassation, and the two most senior presidents of the other appellate courts. No woman has ever served on the HJC; women have been predominantly excluded from judicial office.

10 Human Rights Committee, General Comment No. 32, Article 14: Right to equality before courts and tribunals and to a fair trial, UN Doc. CCPR/C/GC/32 (2007), para.19.

In order to strengthen the HJC and its capacity to safeguard the independence of the judiciary and of individual judges, laws governing the High Judicial Council should be amended to ensure that:

i. **The independence of the HJC is guaranteed in law.**
ii. **The composition of the HJC is such that at least half the members are judges who are elected by their peers.**
iii. **The powers of the Minister of Justice with regard to managing the careers of judges, including selection, appointment, assignment, secondment and discipline, are transferred to the HJC.**
iv. **The Judicial Inspection Department is considered an element of the HJC, and is supervised by the HJC rather than by the Ministry of Justice.**
v. **The HJC has sufficient staff and resources to carry out its duties with regard to the selection and appointment of judges and the management of their careers, including the disciplining of judges.**
vi. **The HJC is responsible for initiating and conducting any disciplinary proceedings against judges.**

Judicial Authority Law

All aspects of the careers of judges are governed by the Judicial Authority Law (JAL) of 1972, last amended in 2008.[11]

The JAL grants the Ministry of Justice extensive powers to take decisions affecting both courts and individual judges, especially in terms of appointment, assignment, judicial inspection, and discipline, that undermine the independence of the judiciary.

As explained by the UN Human Rights Committee the requirement of an independent judiciary set out in Article 14 of the ICCPR encompasses "the procedure and qualifications for the appointment of judges, and guarantees relating to their security of tenure until a mandatory retirement age or the expiry of their term of office, where such exist, the conditions governing promotion, transfer, suspension and cessation of their functions."[12] To comply with Article 14, the Human Rights Committee affirmed that States should establish "clear procedures and objective criteria for the appointment, remuneration, tenure, promotion, suspension and dismissal of the members of the judiciary and disciplinary sanctions taken against them."[13]

The absence of specific criteria or a prescribed and transparent procedure in the JAL for the appointment of judges to the bench makes the appointment process both vulnerable to political taint and overly dependent on personal connections, or nepotism, which the ICJ was told is pervasive and systematic.

The fact that the Office of the Public Prosecutor is the primary avenue for individuals to become judges means that there is a very close relationship between the two functions, to the detriment of the independence of both. Indeed, prosecutors are considered part of the judiciary in Egypt. The fact that the Minister of Justice, pursuant to the JAL, controls and administratively supervises the Office of the Public Prosecutor and all its members further undermines judicial independence when these prosecutors are appointed to the bench.

The under representation of women in the judiciary and their complete absence from the HJC is also

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11 Law No.192 of 2008, amending Law No.46 of 1972, the Judicial Authority Law (JAL).

12 Human Rights Committee, General Comment No. 32, Article 14: Right to equality before courts and tribunals and to a fair trial, UN Doc. CCPR/C/GC/32 (2007), para. 19.

13 Human Rights Committee, General Comment No. 32, Article 14: Right to equality before courts and tribunals and to a fair trial, UN Doc. CCPR/C/GC/32 (2007), para. 19.

inconsistent with international standards that guarantee equality and freedom from discrimination. This also undermines the credibility as well as the independence and impartiality of the judiciary. Even though the Egyptian legal framework does not prohibit women from appointment to the judiciary, the number of women judges is shockingly low. Women were first appointed to judicial office as a result of a unilateral decision of the government in 2006. Between 2006 and 2015 there were less than 45 female judges across Egypt, for a population of 90.2 million. In June 2015, 28 additional women were appointed as judges.

The disciplinary process for judges and the way this process is implemented, is also inconsistent with the requirement, found both in the Egyptian Constitution and international standards, that the authorities guarantee and ensure the independence of the judiciary. With regard to the procedure, the Minister of Justice chooses the staff of the Judicial Inspection Department, which investigates and appraises the work of judges. The Inspection Department is under the Minister's authority.

Further, the Minister can request the Prosecutor-General to initiate disciplinary proceedings against judges. The rules stipulating proceedings in disciplinary matters also do not guarantee a fair procedure. Judges who are subject to them are not guaranteed the right to legal representation of their choice and adequate time and information to prepare a defence.

The disciplinary system in Egypt has been used to punish judges who publicly raised concerns about the human rights situation and lack of respect for the rule of law in Egypt, including the lack of the independence of the judiciary, in violation of their rights, under international standards, to freedom of expression and association.

With a view to ensuring respect for and enhancing the independence of the judiciary, the ICJ recommends that the Judicial Authority Law should be amended to ensure that:

- **i. There are fair, open and transparent procedures for appointing judges, which are overseen by the HJC.**
- **ii. The process for the appointment of judges is non-discriminatory and is based on objective merit-based criteria and on redressing past discrimination that has resulted, among other things in the under representation of qualified women and individuals from diverse socio-economic backgrounds on the bench.**
- **iii. Assessments, promotions as well as transfers of judges are based on objective criteria and follow fair and transparent procedures, and are carried out under the authority of the HJC.**
- **iv. All assignments, secondments and other transfers of judges are based on the consent of the judge and the court President concerned, such consents shall not be unreasonably withheld, and decision-making power is vested in the HJC.**
- **v. The Minister of Justice's powers to appoint and supervise the Judicial Inspection Department are transferred to the HJC.**
- **vi. A code of ethics and judicial conduct that is consistent with international standards is established by the judiciary and used as the basis on which judges are disciplined and subject to removal from office.**
- **vii. The Disciplinary Board and Superior Disciplinary Board are overseen by the HJC.**
- **viii. Disciplinary proceedings are held before an independent and impartial body and afford the judge concerned a fair hearing that is consistent with international standards of due process, guaranteeing that the judge concerned:**
  - **a. is given sufficient notice of the allegations of misconduct;**
  - **b. has the right to adequate time and facilities to prepare and present defence, including the right to be represented by counsel of choice; and**
  - **c. has the right to appeal any adverse decision and sanction to an independent judicial body.**
- **ix. Sanctions against judges are proportionate to the misconduct in question that a judge may only be removed from office, including by way of dismissal, forced retirement and transfer to non-judicial positions, on proven grounds of incapacity or behaviour that renders the judge unfit to discharge the duties of his or her judicial office.**
- **x. The rights of judges, to freedom of expression, association and peaceful assembly,**

exercised in a manner that is consistent with preservation of the dignity of their office and the independence and impartiality of the judiciary, are respected and protected.

Supreme Constitutional Court

Where a Constitutional Court determines "any criminal charge" or "rights and obligations in a suit at law" it must meet the requirements set out at Article 14 of the ICCPR, namely competence, independence and impartiality. Procedures and qualifications must therefore be put in place regarding the appointment, promotion, security of tenure, transfer and disciplining of judges of such courts.

Given the role played by the Supreme Constitutional Court (SCC) in Egypt, the SCC must meet the requirements of Article 14.

Prior to the 2012 Constitution, the Supreme Constitutional Court (SCC) was composed of a flexible number of judges; however, the 2012 Constitution restricted judges on the SCC to 11, resulting in the automatic removal of seven judges, including the Court's only female judge. The 2014 Constitution reinstated the former situation of a Court President and a "sufficient number" of Vice-Presidents. At present the Court comprises 12 judges, all of whom are male.

The General Assembly of the Court selects the judges of the SCC, who are then appointed by a Presidential decree. Although judges of the Court must meet certain age and seniority requirements, SCC fails to meet international standards by not including in the law additional selection criteria and providing for transparent procedures for appointments, including guaranteeing non-discrimination. The absence of any women on the SCC is inconsistent with international standards and undermines the credibility of the SCC.

In addition, the basis on which decisions can be made to investigate allegations of misconduct against judges of the SCC is both broad in scope and ill-defined. The disciplinary process grants a wide discretion to decision-makers as to whether disciplinary proceedings should be instituted and whether a judge has engaged in misconduct, and is therefore open to being abused.

Under the SCC Law, the SCC has the power to review the constitutionality of laws and regulations, interpret legislative texts, and adjudicate in disputes between judicial bodies and agencies. It cannot review the constitutionality of laws *ex ante*.

In the long-running battle between the military and the Muslim Brotherhood, the SCC issued several important court decisions that shaped the transition process. In June 2012, following the parliamentary elections of November 2011 resulting in a plurality victory for the Muslim Brotherhood's Freedom and Justice Party, the SCC found that the law on parliamentary elections was unconstitutional and the formation of the People's Assembly null and void. It also held that the amendments to the political exclusion law, which would have banned individuals who had served in the Mubarak regime from standing as candidates for election in the presidential elections, were unconstitutional. In July 2012, shortly after the election of the Freedom and Justice Party candidate, Mohamed Morsi, as president, it suspended President Morsi's decree reinstating the People's Assembly. In June 2013, a few weeks before the ouster of President Morsi by the army, the SCC ruled that both the Shura Council and the second Constituent Assembly, the body that drafted the 2012 Constitution, were unconstitutional.

Because of these decisions, many view the SCC as a politicized body. The fact that the Executive had extensive powers in appointing the judges of the Court, in particular the President, has further contributed to this perspective.

Under the 2014 Constitution, the SCC's General Assembly, rather than the President of the Republic, chooses the Chief Justice from among the three most senior vice-presidents of the Supreme Constitutional Court. While this can serve as a safeguard for the judges from political pressure, the lack of diversity in the judiciary, including on the SCC, has resulted in the SCC being viewed as isolated from the general concerns and realities of the population at large.

This is particularly so because, under the SCC Law, individuals have no direct access to the Court. Instead, only lower tribunals may refer a question concerning the constitutionality of a law to the SCC. The lower courts therefore function as gate-keepers to the SCC. As a result, this system is very much dependent on the willingness of lower courts to exercise their considerable discretion to raise constitutional questions. As a number of recent cases highlight,[14] lower courts have frequently proved reluctant to exercise their discretion to refer cases involving challenges of constitutionality of provisions alleged to violate human rights to the SCC.

In light of the above, the SCC Law should be amended to ensure that:

i. **There is a transparent and open procedure for the appointment of members of the SCC and members of the Commissioner's Board.**
ii. **The process for the appointment of members of the SCC and the Commissioner's Board is based on objective merit-based criteria and on redressing past discrimination.**
iii. **Any decrease in the number of SCC judges is only given prospective effect.**
iv. **Without prejudice to ex post review, the SCC has jurisdiction to review ex ante the constitutionality of laws and their compliance with international standards.**
v. **There is a clear and transparent procedure for bringing constitutional challenges before the SCC and that the standard applied by lower courts in referring cases is not unduly burdensome or restrictive.**
vi. **Any decision by a lower court not to refer a case is subject to review by an independent body, either by another court or a different panel of the same court.**
vii. **The law provides avenues for individuals to directly petition the SCC without having lower courts act as "gatekeepers".**
viii. **Individuals or organizations who are not parties may participate as interveners or amicus curiae, provided they show a sufficient expertise or interest in a legal issue before the court.**
ix. **The SCC is required to issue reasoned judgments in a timely manner.**

The Office of the Public Prosecutor

The independence and impartiality of the Office of the Public Prosecutor (OPP) is crucial to respect for the rule of law, the administration of justice and upholding human rights. Under international standards prosecutors are required to carry out their functions impartially, protect the public interest and not to initiate or continue prosecution, or to make every effort to stay proceedings, when an impartial investigation shows the charge to be unfounded. They are also under a duty to refuse to use evidence known or believed to have been obtained by recourse to torture and ill-treatment or other unlawful means and must take steps to ensure that persons responsible for the use of such unlawful means are brought to justice.

Prosecutors in Egypt are appointed by presidential decree upon the approval of the HJC. Aside from basic eligibility criteria, which broadly mirror those for judges, there is a lack of objective and merit-based criteria for prosecutors. The law is also silent as to the criteria and procedure for the promotion of prosecutors. This is inconsistent with international standards which require the selection and promotion of prosecutors to be based on objective criteria and fair and impartial procedures.

The 2014 Constitution marked a step forward by removing the President of the Republic's power to select the Prosecutor-General and transferring this to the HJC, which must select from among high-level judges and prosecutors. However, once again, no selection criteria are enshrined in law.

Under Egyptian law, prosecutors are considered part of the judicial corps. As with judges, there is no code of conduct for prosecutors upon which they can be held accountable to.

Organizationally, the OPP is part of the Ministry of Justice, which is responsible for the administrative

14 For example, the case of *Ahmed Maher, Ahmed Douma and Mohamed Adel* and the case of *Yara Sallam and 22 others*, detailed in Chapters One and Five.

supervision of the OPP and also retains ultimate control over all criminal investigations. In certain circumstances, the Ministry of Justice may remove investigations from the OPP. The Minister of Justice may also transfer prosecutors to other positions and can refer cases of allegations of misconduct against prosecutors to the Prosecutor-General to initiate disciplinary proceedings. Thus all aspects of the work of the OPP and conduct of prosecutors appears to be subject to the influence of the Executive. Such a system runs contrary to the requirement in international standards that the lines of authority for the prosecution service must be clear and transparent and that prosecutors should be impartial in carrying out their duties.

The lack of independence of the OPP from the Ministry of Justice has, for decades, resulted in a lack of investigations into serious human rights violations by law enforcement agents and the military. Despite the overthrow of former President Mubarak, officials suspected of involvement in serious human rights violations committed under the Mubarak regime and during the uprising, including unlawful killings of and injuries to protesters, have still not been investigated and prosecuted.

Since the ouster of President Morsi and the military-supported government that followed, little has been done to reform the OPP and to end subordination under Executive. The OPP has also systematically failed to effectively investigate and prosecute past and ongoing cases of serious human rights violations committed during the transition period and under the rule of President Sisi.

In Egypt, the requisite safeguards for the functional independence and impartiality of the prosecutorial system are currently inconsistent with international standards. Reforms should be introduced, to the JAL and Code of Criminal Procedure, to:

- **i. Establish fair, clear and transparent procedures set out in law for the selection of prosecutors and remove the role of the Minister of Justice in setting and administering the exam for Assistant Prosecutors.**
- **ii. Establish additional merit-based criteria for the selection of prosecutors to ensure that individuals who are appointed have appropriate training and qualifications in law, ability, integrity and experience.**
- **iii. Ensure that selection criteria embody safeguards against appointments based on partiality or prejudice and that selections are free of discrimination on any ground.**
- **iv. Require appropriate training, including training on the rights of the suspect and the victim, and of human rights and fundamental freedoms enshrined in national and international law.**
- **v. Establish clear criteria for promotion based on objective merit-based factors, in particular professional qualifications, ability, experience and integrity.**
- **vi. Ensure that decisions on promotions are made the context of fair and impartial procedures by a branch of the HJC composed predominantly of prosecutors.**
- **vii. Ensure that prosecutors are able to perform their functions independently and objectively and are protected from intimidation, hindrance, harassment, and improper interference, including by:**
  - **a. Rescinding the authority of the Minister of Justice to remove investigations from the OPP and to request the Court of Appeal to assign an investigative judge;**
  - **b. Ensuring that the Minister of Justice has no authority to interfere with prosecutorial decision-making in individual cases;**
  - **c. Ensuring that the Minister of Justice has no role in investigating or disciplining of prosecutors; and**
  - **d. Ensuring the President of the Republic has no role in identifying and selecting prosecutors for secondment to foreign governments or international bodies;**
- **viii. Guarantee a clear separation of the prosecutorial function from that of judges and preserve the independence of prosecutors and investigative judges, including by:**
  - **a. Adopting clear and transparent criteria to define the circumstances in which the Prosecutor-General can request an investigative judge be assigned to any particular case or type of crimes;**

b. Amending Article 64 of the Code of Criminal Procedure to ensure that the decision to assign a particular investigative judge to a case is taken by the General Assembly of the Court; and

c. Removing the power of the Minister of Justice to temporarily assign Court of Appeal judges to the prosecution service.

ix. Ensure that any decision by a prosecutor not to prosecute or to close a criminal investigation may be challenged by an interested party before a court in the context of an independent and impartial judicial review.

x. Prohibit the use of illegally obtained evidence, including confessions obtained through illegal means, including torture or other ill-treatment or conduct that amounts to unlawful coercion.

In addition to the specific reforms to the JAL and the Code of Criminal Procedure, the Egyptian authorities should:

i. Ensure that clear and transparent prosecutorial guidelines are established that require prosecutors to give due attention to the prosecution of crimes committed by public officials, including corruption, human rights violations, and crimes under international law.

ii. Provide for the development and adoption of a code of conduct for prosecutors that is consistent with international standards, with the active participation of prosecutors themselves, as well as defence counsel and judges.

Military and Emergency Courts

Under international law, everyone has the right to be tried by an ordinary court and not an exceptional court.[15] Furthermore, the rights under Article 14 of the International Covenant on Civil and Political Rights (ICCPR), that are minimum requirements for fair trials that State's Parties to this treaty, such as Egypt, are required to respect and ensure, extend to all courts, including military and emergency courts.[16]

While Article 14 is not included in the list of non-derogable rights under the ICCPR, the Human Rights Committee has noted that the fundamental principles of fair trial, including the right to be tried by an independent and impartial court, may never be suspended and "guarantees of fair trial may never be made subject to measures of derogation that would circumvent the protection of non-derogable rights".[17]

Due to concerns that military courts frequently are not independent or impartial and that proceedings before them fail to respect fair trial guarantees that are applicable to criminal proceedings before all courts, there is a growing consensus that the jurisdiction of military courts should be limited to the trial of military personnel for military related offences, to the exclusion of human rights violations and other crimes under international law.[18]

Furthermore, there has been a push by some scholars and experts of international law to expand international standards to argue that that military courts should not have jurisdiction over civilians.[19]

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15 UN Basic Principles on the Independence of the Judiciary, Principle 5.

16 Human Rights Committee, General Comment No. 32, Article 14: Right to equality before courts and tribunals and to a fair trial, UN Doc. CCPR/C/GC/32 (2007), para. 22.

17 Human Rights Committee, General Comment No. 32, Article 14: Right to equality before courts and tribunals and to a fair trial, UN Doc. CCPR/C/GC/32 (2007, para. 6.

18 Principles and Guidelines on the Right to Fair Trial and Legal Assistance in Africa, Principle L(a); IACHR Annual Report 1997, OAS Doc. OEA/Ser.L/V/II.98, doc. 6 rev., 13 April 1998, Ch. VII Recommendation I; Draft Principles Governing the Administration of Justice through Military Tribunals, UN Doc. E/CN.4/2006/58 (hereafter "Decaux Principles"), Principle 9.

19 Reports of the Special Rapporteur on the independence of judges and lawyers: UN Doc. A/68/285, para.54; and UN Doc. E/CN.4/1998/39/Add.1, paras. 78-79. See also, Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, Principle L(c); Decaux Principles, Principle 5. And see Human Rights Committee Concluding Observations: Slovakia, UN Doc. CCPR/C/79/Add.79 (1997), para. 20; see also Concluding Observations: Lebanon, UN Doc. CCPR/C/79/Add.78 (1997), para. 14; http://www.un.org/ga/search/view_doc.asp?symbol=CCPR/C/CHL/CO/5, (2007), para. 12; Tajikistan, UN Doc. CCPR/CO/84/TJK (2004), para. 18; Ecuador, UN Doc. CCPR/C/ECU/CO/5 (2009), para.5.

Special courts, including military and emergency courts have long-existed in Egypt and have been used by a succession of regimes as a means to evade many of the guarantees of due process applicable in the ordinary court system. The Military Justice Law and the Emergency Law provide for civilians to be tried by military or emergency courts in a wide variety of circumstances.

Although the Mubarak regime used military and emergency courts during the continuous state of emergency that characterized his rule, the use of military courts has actually increased after his relinquishment of power. Under the Supreme Council of Armed Forces (SCAF), nearly 12,000 civilians were tried in such courts in a seven-month period. Attempts under President Morsi to limit the use of military and emergency courts were largely ineffective. By Presidential Decree, President Sisi expanded the jurisdiction of military courts to encompass all crimes committed on public property or at public facilities resulting in the referral of thousands more civilians to military courts.

The military and state emergency courts are not independent and flout due process guarantees. Contrary to international standards safeguarding judicial independence, judges of these courts are subject to the control of either military authorities or the Executive. The guarantees of the right to defence are very limited and often include only a short notice period before the first trial hearing, which is far from meeting the right under international standards to adequate time and facilities to prepare and present a defence. In practice, confidential access to counsel is frequently denied and reliance on evidence obtained through torture and other ill-treatment is reported to be often used in obtaining convictions. Furthermore, the right to appeal is limited in military courts and is non-existent in state emergency courts.

In light of the above, Egyptian authorities should annul Presidential Decree No.136 of 2014 and amend the Military Judiciary law to ensure that:

- **i. The jurisdiction of military courts is limited to trials of military personnel only for breaches of military discipline.**
- **ii. Military courts do not have jurisdiction over crimes under international law or other human rights violations, such as torture or enforced disappearance or unlawful killing.**
- **iii. Military courts have no jurisdiction to try civilians, even where the victim is a member of the Armed Forces or equivalent body or the conduct is alleged to have occurred in territory controlled by the military.**
- **iv. The law safeguards the independence and impartiality of judges sitting on military courts, including by:**
  - **a. Establishing clear criteria for the selection of military judges to ensure that individuals who are appointed are chosen on the basis of legal training, qualifications, integrity and merit; and an open, fair and transparent appointment procedure;**
  - **b. Ensuring that they are outside the military chain of command and military authority in respect of matters concerning the exercise of their judicial functions; and**
  - **c. Ensuring that the procedures and criteria relating to the conditions of tenure and disciplining of military judges guarantee their statutory independence vis-à-vis the military hierarchy and avoid any direct or indirect subordination.**
- **v. Proceedings against all persons before military courts are carried out in a manner consistent with minimum guarantees of fair trial, including by:**
  - **a. Ensuring a person arrested or detained has immediate, regular and confidential access to and assistance of an independent and suitably qualified and experienced lawyer following arrest, during questioning, and prior to, during and following trial and appeal;**
  - **b. Ensuring and respecting the right to adequate time and facilities for the preparation of their defence; and**
  - **c. Ensuring that decisions limiting disclosure of "classified" information to the defence are made by a judge and that restrictions on disclosure are exceptional and do not unduly prejudice the rights of the defence or the**

overall fairness of the proceedings.

vi. **All persons have the right to appeal a conviction and sentence on all grounds, both evidentiary and legal, to a higher independent and impartial civilian tribunal that has the power to reverse the conviction and sentence.**

In addition, given the documented flaws of the Emergency Law and the emergency state security courts, the Emergency Law should be amended to:

i. **Preclude the establishment of all types of emergency state security courts.**
ii. **Require that all civilians arrested during a state of emergency are tried before ordinary, independent and impartial courts in proceedings that meet international standards of fairness, including the right to appeal a conviction and sentence before a higher independent and impartial tribunal.**
iii. **Explicitly prohibit the use or reliance on statements or other evidence claimed to have been extracted under torture or other ill-treatment or duress, unless such allegations of ill-treatment or duress are proven not to be true.**

Annex 18

United Nations Office of the High Commissioner for Human Rights, *Egypt: Justice and reconciliation increasingly failing after second wave of mass death sentences* (15 May 2014), *available at* https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14596&LangID=E

Egypt: Justice and reconciliation increasingly failing after second wave of mass death sentences

Egypt: Justice and reconciliation increasingly failing after second wave of mass death sentences

BANJUL / GENEVA (15 May 2014) – A group of African and UN human rights experts* today called on the Egyptian authorities to bring its legal system into compliance with international and regional standards so as to ensure long-term justice and contribute to reconciliation efforts in Egypt.
The appeal by nine United Nations independent experts, together with the Chairperson of the Working Group on Death Penalty and Extrajudicial, Summary or Arbitrary Killings in Africa, comes after the second wave of mass death sentences pronounced in Egypt last month.

“Following the two mass trials, Egypt’s legal system is in critical need of being reformed, in line with international and regional standards,” the international experts stressed. “A failure to do so is likely to undermine any prospects for long-term reconciliation and justice in the country.”

On 28 April 2014, a group of 683 individuals were sentenced to death in Egypt, on charges related to the events in Al-Minya in August 2013. The verdicts were pronounced in the aftermath of a first round of mass death penalties imposed upon 529 individuals on 24 March 2014.

As in the previous case, the new death sentences were pronounced, reportedly under similar charges, after proceedings that seriously violated international standards of fair trial and ‘the most serious crimes’ provisions. Among them, reports indicate lack of clarity on the precise charges against each individual, conduct of the trials in the absence of the defendants and their lawyers, and mass sentencing.

“We are shocked at the extent to which the international and domestic outcries and calls following the first case were ignored by the authorities in Egypt,” the UN human rights experts said, recalling their previous statement of 31 March 2014 when they jointly urged for

the quashing of the 529 death sentences and for new and fair trials for all defendants.

“We stress once again that the imposition of these mass death sentences in both March and April for crimes that may not be punishable by death and after a grossly unfair trial is a staggering violation of international human rights law by Egypt,” they said.

“This is a continuing and unacceptable mockery of justice that casts a big shadow over the Egyptian legal system,” the UN independent experts reiterated.

The Chairperson of the Working Group on the Death Penalty and Extrajudicial, Summary or Arbitrary Killings in Africa, Ms. Sylvie Kayitesi Zaïnabo, noted with concern that the sentencing to death of the 529 people would constitute gross violation of the provisions of the African Charter, in particular Articles 4 and 5, as expressed in an urgent appeal sent by the African Commission on Human and Peoples’ Rights to the Government of Egypt in March 2014.

“The number of people allegedly sentenced to death is the highest recorded in the recent past from two mass trials,” Ms. Kayitesi Zaïnabo stated. “While there is a possibility of an appeal, it is highly unlikely that the mass trials observed the standards of a fair trial. The manner in which the death penalty was imposed may therefore violate international and regional standards.”

Noting that the matter is currently being considered by the African Commission and its earlier call that the 529 death sentences are suspended, the Commissioner urged the Egyptian authorities to fully investigate the circumstances under which the death sentences were imposed.

Ms. Kayitesi Zaïnabo also called on the Government “to take all necessary measures to implement the African Commission’s Resolution on a moratorium on the death penalty and to fully commit itself to upholding the rights in its own Constitution and its obligations under international human rights law.”

The African and UN human rights experts further called upon Egypt’s authorities to commit immediately that all the death sentences will be quashed and new and fair trials will be given to all defendants.

(*) The experts: Ms. Sylvie Kayitesi Zaïnabo, Chairperson of the Working Group on the **Death Penalty and Extrajudicial, Summary or Arbitrary Killings in Africa**; Mr. Chaloka Beyani, Chair of the **Coordination Committee** of the United Nations Special Procedures and United Nations Special Rapporteur on the Human Rights of **Internally Displaced Persons**; Mr. Christof Heyns, United Nations Special Rapporteur on **extrajudicial, summary or arbitrary executions**; Ms. Gabriela Knaul, United Nations Special Rapporteur on the **independence of judges and lawyers**; Mr. Juan Méndez, United Nations Special Rapporteur on **torture** and other cruel, inhuman or degrading treatment or punishment;

Mr. Pablo de Greiff, United Nations Special Rapporteur on the **promotion of truth, justice, reparation and guarantees of non-recurrence**; Mr. Mads Andenas, Chair-Rapporteur of the United Nations Working Group on **Arbitrary Detention**; Mr. Maina Kiai, United Nations Special Rapporteur on the rights to **freedom of peaceful assembly and of association**; Mr. Frank La Rue, United Nations Special Rapporteur on the promotion and protection of the right to **freedom of opinion and expression**; Mr. Ben Emmerson, United Nations Special Rapporteur on the promotion and protection of **human rights while countering terrorism**.

ENDS

The United Nations human rights experts are part of what it is known as the Special Procedures of the Human Rights Council. Special Procedures, the largest body of independent experts in the UN Human Rights, is the general name of the independent fact-finding and monitoring mechanisms of the Human Rights Council that address either specific country situations or thematic issues in all parts of the world. Learn more, log on to: http://www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx

The African Charter established the African Commission on Human and Peoples' Rights. The Commission was inaugurated on 2 November 1987 in Addis Ababa, Ethiopia. The Commission's Secretariat has subsequently been located in Banjul, The Gambia.
The Commission is officially charged, among other things, with the protection and promotion of human and peoples' rights, and the interpretation of the African Charter on Human and Peoples' Rights. Learn more, long on to: http://www.achpr.org/

UN Human Rights, country page – Egypt:
http://www.ohchr.org/EN/Countries/MENARegion/Pages/EGIndex.aspx

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Watch Navi Pillay's Human Rights Day message: http://youtu.be/dhX-KbVbEQ0

Annex 19

"Libya detention centre airstrike could amount to a war crime says UN, as Guterres calls for independent investigation", *UN News* (3 July 2019), *available at* https://news.un.org/en/story/2019/07/1041792

Libya detention centre airstrike could amount to a war crime says UN, as Guterres calls for independent investigation

IOM/Moad Laswed | The aftermath of the devastating airstrike on the Tajoura Detention Centre, in the suburbs of the Libyan capital, Tripoli, on 2 July.

3 July 2019 | Peace and Security (/en/news/topic/peace-and-security)

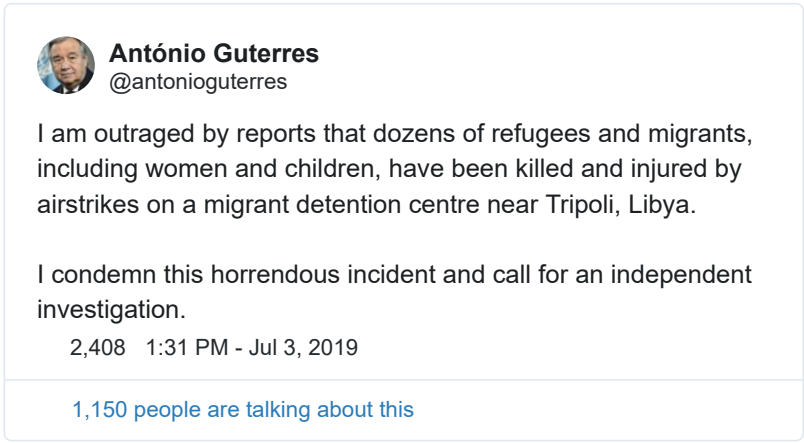
An airstrike on a detention centre in Tripoli that killed scores of migrants and refugees "deserves more than condemnation", UN agencies said on Wednesday, as both the UN High Commissioner for Human Rights and the head of the UN mission in Libya (UNSMIL (https://unsmil.unmissions.org/)), insisted that it may amount to a war crime.

In a joint call for an investigation to bring those responsible to justice, UN migration agency, IOM (https://www.iom.int/) , and UNHCR (http://www.unhcr.org/) , the UN refugee agency, spoke of the “appalling toll” caused by Tuesday’s reported airstrike on the Tajoura Detention Centre in a suburb of the Libyan capital.

Secretary-General António Guterres, said in a statement (https://www.un.org/sg/en/content/sg/statement/2019-07-03/statement-attributable-the-spokesman-for-the-secretary-general-libya) that he was "outraged by reports that at least 44 migrants and refugees, including women and children, have been killed and more than 130 injured". He condemned "this horrendous incident in the strongest terms", and expressed his deepest condolences to the families of the victims, wishing the injured a speedy recovery.

“The airstrike that left scores dead, also left dozens injured,” IOM and UNHCR said, noting that they expected the final death toll to include many more victims.

“Such an attack deserves more than condemnation,” both agencies added, in an appeal for a probe “to determine how this happened and who was responsible, and to bring those individuals to account”.



According to one report, a cell was hit containing more than 120 people, some of the more than 600 men, women and children being held at the centre.

This is despite the fact that the coordinates of this detention facility “and the knowledge that it housed civilians had been communicated to the parties to the conflict”, the UN’s top human rights official, Michelle Bachelet, said (https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24784&LangID=E), in reference to ongoing clashes between the UN-recognised Government and forces loyal to Khalifa Haftar.

“(This) indicates that this attack may, depending on the precise circumstances, amount to a war crime,” she insisted, before urging all parties to the conflict “to abide by their obligations under international humanitarian law, and to take all possible measures to protect civilians and civilian infrastructure, including schools, hospitals and detention facilities”.

Also noting the exact coordinates had been given, the UN chief called for an independent investigation, "to ensure that the perpetrators are brought to justice".

"The Secretary-General further reminds all parties of their obligations under international humanitarian law to take all feasible precautions to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects, and to refrain from directing attacks against civilians", said the UN chief's statement. "This incident underscores the urgency to provide all refugees and migrants with safe shelter until their asylum claims can be processed or they can be safely repatriated."

Ghassan Salamé, head of the UN Support Mission in Libya (UNSMIL (https://unsmil.unmissions.org/)) and Special Representative of the Secretary-General, echoed the High Commissioner's assessment of the attack, describing it as a "cowardly act".

He added: "This attack clearly could constitute a war crime, as it killed by surprise innocent people whose dire conditions forced them to be in that shelter."

He said that "the absurdity of this ongoing war today has led this bloody carnage to its most hideous and most tragic consequences", calling on the international community to denounce the crime and pursue justice for the victims, mostly believed to be migrants - men, women and children - from other African nations, hoping to reach Europe.

Around 3,300 migrants, refugees, remain arbitrarily detained

In addition to the detainees at Tajoura, some 3,300 migrants and refugees remain arbitrarily detained inside and around Tripoli, according to IOM and UNHCR.

They are held in "in conditions that can only be described as inhumane", the agencies said, while highlighting the dangers posed by intensifying clashes nearby.

Echoing their call for these centres to be closed, UN High Commissioner Michelle Bachelet explained that UN staff have documented severe overcrowding, torture, ill-treatment, forced labour, rape and acute malnutrition in the troubled country's facilities.

"I also repeat my call for the release of detained migrants and refugees as a matter of urgency, and for their access to humanitarian protection, collective shelters or other safe places, well away from areas that are likely to be affected by the hostilities," she said.

According to the World Health Organization (WHO (http://www.who.int/en/)), intensified airstrikes and heavy shelling in and around Tripoli have displaced at least 104,000 people.

For the past several months, the forces of the self-styled Libyan National Army, which holds sway in eastern and parts of the country, have laid siege to the outskirts of the Libyan capital, where the UN-recognized Government of National Accord under Prime Minister Fayez al-Sarraj is based.

According to news reports, the forces loyal to LNA Commander Haftar, threatened new air strikes on Tripoli in recent days, after their advance stalled, although the LNA has reportedly denied responsibility for the direct airstrike on the centre.

Military targets have included Mitiga airport – targeted with shelling four times since the latest escalation began, while field ambulance and field hospital teams continue to be hampered by "continuous shelling and armed clashes".