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THE LAW OF THE AIR

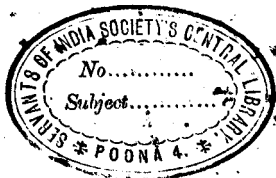
THE LAW OF THE AIR

(The Tagore Law Lectures of 1931)

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TO
WILLIAM WARWICK BUCKLAND

PREFACE

THE origin of this book is that in the year 1930 the Air Ministry, having been asked to find an English lawyer who would go to Chicago and deliver a course of lectures upon English Air Law at the Air Law Institute, which is located in and affiliated with the Northwestern University, Chicago, put forward my name. In due course I went and took part in a conference in which the law of the air was stated comparatively—the French and the international law by Captain Albert Roper, the General Secretary of the International Commission for Air Navigation; the American law by Mr. Louis G. Caldwell, Mr. George B. Logan, Professor Carl Zollmann, and Professor Fred D. Fagg, jun.; and the English law (at least, so I hope) by myself.

In 1931 an invitation to deliver the Tagore Law Lectures in the University of Calcutta afforded an opportunity of examining the law of the air in greater detail, and the obligation which rests upon the Tagore Law Professor to publish his lectures is now discharged by the publication of this volume—a task which will be primarily associated in my memory with much kindness received and many new friendships made in Chicago and in India.

In preparing my lectures I received help from several quarters. Major K. M. Beaumont, D.S.O., of Messrs. Beaumont & Son, the solicitors to Imperial Airways, Limited, Captain A. G. Lamplugh, F.R.Ae.S., Underwriter of the British Aviation Insurance Company, Limited, Mr. R. L. Megarry, O.B.E., legal adviser to the Air Ministry, Dr. J. M. Spaight, C.B.E., of the Air Ministry, and my brother, Mr. W. L. McNair, each read portions of my manuscript, and gave me much assistance by their comments upon it. To all of these

gentlemen I give my sincere thanks, but I cannot make it too clear that the responsibility for the contents of the volume is mine alone, and that none of them must be regarded as identified with any views which I have expressed in it.

Imperial Airways, Limited, as a member of the International Air Traffic Association, has been so good as to allow me to print in the Appendices the two sets of General Conditions which at present govern, and will for some considerable period in the future govern, the greater part of European international air transport.

To my friend, Dr. H. C. Gutteridge, K.C., Fellow of Trinity Hall, I am under a particular debt, for he has read the whole book in proof. Others who have been tempted by his unselfishness to avail themselves of his legal knowledge and judgment in this way, know how stimulating and profitable is his criticism, and how reassuring is his approval.

The scope of the volume is indicated in Chapter I.

A. D. McN.

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APPENDIX A

CONVENTION

RELATING TO THE REGULATION OF AERIAL NAVIGATION
DATED 13TH OCTOBER, 1919

Corrected text, as published by the International Commission for
Air Navigation and brought up to date ¹

CHAPTER I

GENERAL PRINCIPLES

ART. 1.—The High Contracting Parties recognize that every Power has complete and exclusive sovereignty over the air space above its territory.

For the purpose of the present Convention the territory of a State shall be understood as including the national territory, both that of the mother country and of the colonies, and the territorial waters adjacent thereto.

ART. 2.—Each contracting State undertakes in time of peace to accord freedom of innocent passage above its territory to the aircraft of the other contracting States, provided that the conditions laid down in the present Convention are observed.

Regulations made by a contracting State as to the admission over its territory of the aircraft of the other contracting States shall be applied without distinction of nationality.

ART. 3.—Each contracting State is entitled for military reasons or in the interest of public safety to prohibit the aircraft of the other contracting States, under the penalties *provided* by its legislation and subject to no distinction being made in this respect between its private aircraft and those of the other contracting States, from flying over certain areas of its territory.

In that case the locality and the extent of the prohibited areas shall be published and notified beforehand to the other contracting States.

¹ Only a few of the footnotes contained in the official edition of the Convention are reproduced here.

ART. 4.—Every aircraft which finds itself above a prohibited area shall, as soon as aware of the fact, give the signal of distress provided in paragraph 17 of Annex D and land as soon as possible outside the prohibited area at one of the nearest aerodromes of the State unlawfully flown over.

CHAPTER II

NATIONALITY OF AIRCRAFT

ART. 5.—No contracting State shall, except by a special and temporary authorization, permit the flight above its territory of an aircraft which does not possess the nationality of a contracting State unless ¹ it has concluded a special convention with the State in which the aircraft is registered. The stipulations of such special convention must not infringe the rights of the contracting Parties to the present Convention and must conform to the rules laid down by the said Convention and its Annexes. Such special convention shall be communicated to the International Commission for Air Navigation which will bring it to the knowledge of the other contracting States.

ART. 6.—Aircraft possess the nationality of the State on the register of which they are entered, in accordance with the provisions of Section I (c) of Annex A.

ART. 7.—No aircraft shall be entered on the register of one of the contracting States unless it belongs wholly to nationals of such State.

No incorporated company can be registered as the owner of an aircraft unless it possess the nationality of the State in which the aircraft is registered, unless the President or Chairman of the company and at least two-thirds of the directors possess such nationality, and unless the company fulfils all other conditions which may be prescribed by the laws of the said State.

ART. 8.—An aircraft cannot be validly registered in more than one State.

ART. 9.—The contracting States shall exchange every month among themselves and transmit to the International Commission for Air Navigation referred to in Article 34 copies of registrations and of cancellations of registrations which shall have been entered on their official registers during the preceding month.

¹ This Article was modified to read as above by a Protocol dated in London, October 27, 1922, which entered into force on December 14, 1926.

ART. 10.—All aircraft engaged in international navigation shall bear their nationality and registration marks as well as the name and residence of the owner in accordance with Annex A.

CHAPTER III

CERTIFICATES OF AIRWORTHINESS AND COMPETENCY

ART. 11.—Every aircraft engaged in international navigation shall, in accordance with the conditions laid down in Annex B, be provided with a certificate of airworthiness issued or rendered valid by the State whose nationality it possesses.

ART. 12.—The commanding officer, pilots, engineers and other members of the operating crew of every aircraft shall, in accordance with the conditions laid down in Annex E, be provided with certificates of competency and licences issued or rendered valid by the State whose nationality the aircraft possesses.

ART. 13.—Certificates of airworthiness and of competency and licences issued or rendered valid by the State whose nationality the aircraft possesses, in accordance with the regulations established by Annex B and Annex E and hereafter by the International Commission for Air Navigation, shall be recognized as valid by the other States.

Each State has the right to refuse to recognize for the purpose of flights within the limits of and above its own territory certificates of competency and licences granted to one of its nationals by another contracting State.

ART. 14.—No wireless apparatus shall be carried without a special licence issued by the State whose nationality the aircraft possesses. Such apparatus shall not be used except by members of the crew provided with a special licence for the *purpose*.

Every aircraft used in public transport and capable of carrying ten or more persons shall be equipped with sending and receiving wireless apparatus when the methods of employing such apparatus shall have been determined by the International Commission for Air Navigation.

This Commission may later extend the obligation of carrying wireless apparatus to all other classes of aircraft in the conditions and according to the methods which it may determine.

CHAPTER IV

ADMISSION TO AIR NAVIGATION ABOVE FOREIGN TERRITORY

ART. 15.—Every aircraft of a contracting State has the right to cross the air space of another State without landing. In this case it shall follow the route fixed by the State over which the flight takes place. However, for reasons of general security it will be obliged to land if ordered to do so by means of the signals provided in Annex D.

Every aircraft which passes from one State into another shall, if the regulations of the latter State require it, land in one of the aerodromes fixed by the latter. Notification of these aerodromes shall be given by the contracting States to the International Commission for Air Navigation and by it transmitted to all the contracting States.

The establishment of international airways shall be subject to the consent of the States flown over.

ART. 16.—Each contracting State shall have the right to establish reservations and restrictions in favour of its *national* aircraft in connection with the carriage of persons and goods for hire between two points on its territory.

Such reservations and restrictions shall be immediately published, and shall be communicated to the International Commission for Air Navigation, which shall notify them to the other contracting States.

ART. 17.—The aircraft of a contracting State which establishes reservations and restrictions in accordance with Article 16, may be subjected to the same reservations and restrictions in any other contracting State, even though the latter State does not itself impose the reservations and restrictions on other foreign aircraft.

ART. 18.—Every aircraft passing through the territory of a contracting State, including landing and stoppages reasonably necessary for the purpose of such transit, shall be exempt from any seizure on the ground of infringement of patent, design or model, subject to the deposit of security the amount of which in default of amicable agreement shall be fixed with the least possible delay by the competent authority of the place of seizure.

CHAPTER V

RULES TO BE OBSERVED ON DEPARTURE WHEN UNDER WAY
AND ON LANDING

ART. 19.—Every aircraft engaged in international navigation shall be provided with :

- (a) A certificate of registration in accordance with Annex A ;
- (b) A certificate of airworthiness in accordance with Annex B ;
- (c) Certificates and licences of the commanding officer, pilots, and crew in accordance with Annex E ;
- (d) If it carries passengers, a list of their names ;
- (e) If it carries freight, bills of lading and manifest ;
- (f) Log books in accordance with Annex C ;
- (g) If equipped with wireless, the special licence prescribed by Article 14.

ART. 20.—The log-books shall be kept for two years after the last entry.

ART. 21.—Upon the departure or landing of an aircraft, the authorities of the country shall have, in all cases, the right to visit the aircraft and to verify all the documents with which it must be provided.

ART. 22.—Aircraft of the contracting States shall be *entitled* to the same measures of assistance for landing, particularly in case of distress, as national aircraft.

ART. 23.—With regard to the salvage of aircraft wrecked at sea the principles of maritime law will apply, in the absence of any agreement to the contrary.

ART. 24.—Every aerodrome in a contracting State, which upon payment of charges is open to public use by its national aircraft, shall likewise be open to the aircraft of all the other contracting States.

In every such aerodrome there shall be a single tariff of charges for landing and length of stay applicable alike to national and foreign aircraft.

ART. 25.—Each contracting State undertakes to adopt measures to ensure that every aircraft flying above the limits of *its* territory and that every aircraft wherever it may be, carrying its nationality mark, shall comply with the regulations contained in Annex D.

Each of the contracting States undertakes to ensure the prosecution and punishment of all persons contravening these regulations.

CHAPTER VI

PROHIBITED TRANSPORT

ART. 26.—The carriage by aircraft of explosives and of arms and munitions of war is forbidden in international navigation. No foreign aircraft shall be permitted to carry such articles between any two points in the same contracting State.

ART. 27.—Each State may, in aerial navigation, prohibit or regulate the carriage or use of photographic apparatus. Any such regulations shall be at once notified to the International Commission for Air Navigation, which shall communicate this information to the other contracting States.

ART. 28.—As a measure of public safety, the carriage of objects other than those mentioned in Articles 26 and 27 may be subjected to restrictions by any contracting State. Any such regulations shall be at once notified to the International Commission for Air Navigation, which shall communicate this information to the other contracting States.

ART. 29.—All restrictions mentioned in Article 28 shall be applied equally to national and foreign aircraft.

CHAPTER VII

STATE AIRCRAFT

ART. 30.—The following shall be deemed to be State aircraft :

- (a) Military aircraft.
- (b) Aircraft exclusively employed in State service, such as posts, customs, police.

Every other aircraft shall be deemed to be a private aircraft.

All State aircraft other than military, customs, and police aircraft shall be treated as private aircraft and as such shall be subject to all the provisions of the present Convention.

ART. 31.—Every aircraft commanded by a person in military service detailed for the purpose shall be deemed to be a military aircraft.

ART. 32.—No military aircraft of a contracting State shall fly over the territory of another contracting State nor land thereon, without special authorization. In case of such *authorization* the military aircraft shall enjoy, in principle, in the absence of

special stipulation the privileges which are customarily accorded to foreign ships of war.

A military aircraft which is forced to land or which is requested or summoned to land shall by reason thereof acquire no right to the privileges referred to in the above paragraph.

ART. 33.—Special arrangements between the States concerned will determine in what cases police and customs aircraft may be authorized to cross the frontier. They shall in no case be entitled to the privileges referred to in Article 32.

CHAPTER VIII

INTERNATIONAL COMMISSION FOR AIR NAVIGATION

ART. 34.—There shall be instituted, under the name of the International Commission for Air Navigation, a permanent Commission placed under the direction of the League of Nations and composed of :

Two Representatives of each of the following States : The United States of America, France, Italy, and Japan ;

One Representative of Great Britain and one of each of the British Dominions and of India ;

One Representative of each of the other contracting States.

Each State represented on the Commission (Great Britain, the British Dominions, and India counting for this purpose as one State) *shall have one vote.*¹

The International Commission for Air Navigation shall determine the rules of its own procedure and the place of its permanent seat, but it shall be free to meet in such places as it may deem convenient. Its first meeting shall take place at Paris. This meeting shall be convened by the French Government, as soon as a majority of the signatory States shall have notified to it their ratification of the present Convention.

The duties of this Commission shall be :

- (a) To receive proposals from or to make proposals to any of the contracting States for the modification or amendment of the provisions of the present Convention, and to notify changes adopted ;
- (b) To carry out the duties imposed upon it by the present Article and by Articles 9, 13, 14, 15, 16, 27, 28, 36, and 37 of the present Convention ;

¹ This Article was modified to read as above by a Protocol dated in London June 30, 1923, which entered into force on December 14, 1926.

- (c) To amend the provisions of the Annexes A-G ;
- (d) To collect and communicate to the contracting States information of every kind concerning international air navigation ;
- (e) To collect and communicate to the contracting States all information relating to wireless telegraphy, meteorology, and medical science which may be of interest to air navigation ;
- (f) To ensure the publication of maps for air navigation in accordance with the provisions of Annex F ;
- (g) To give its opinion on questions which the States may submit for examination.

Any modification of the provisions of any one of the Annexes may be made by the International Commission for Air Navigation when such modification shall have been approved by three-fourths of the total possible votes which could be cast if all the States were represented : *this majority must, moreover, include at least three of the five following States : The United States of America, the British Empire, France, Italy, and Japan.*¹ Such modification shall become effective from the time when it shall have been notified by the International Commission for Air Navigation to all the contracting States.

Any proposed modification of the Articles of the present Convention shall be examined by the International Commission for Air Navigation, whether it originates with one of the contracting States or with the Commission itself. No such modification shall be proposed for adoption by the contracting States, unless it shall have been approved by at least two-thirds of the total possible votes.

All such modifications of the Articles of the Convention (but not of the provisions of the Annexes) must be formally adopted by the contracting States before they become effective.

The expenses of organization and operation of the International Commission for Air Navigation shall be borne by the contracting States ; *the total shall be allocated in the proportion of two shares each for the United States of America, the British Empire, France, Italy, and Japan, and one share each for all the other States.*²

The expenses occasioned by the sending of technical delegations will be borne by their respective States.

¹ See note to para. 5, *ante*, of Article 34.

² *Ibid.*

CHAPTER IX

FINAL PROVISIONS

ART. 35.—The High Contracting Parties undertake as far as they are respectively concerned to co-operate as far as possible in international measures concerning :

- (a) The collection and dissemination of statistical, current, and special meteorological information, in accordance with the provisions of Annex G ;
- (b) The publication of standard aeronautical maps, and the establishment of a uniform system of ground marks for flying, in accordance with the provisions of Annex F ;
- (c) The use of wireless telegraphy in air navigation, the establishment of the necessary wireless stations, and the observance of international wireless regulations.

ART. 36.—General provisions relative to customs in connection with international air navigation are the subject of a special agreement contained in Annex H to the present Convention.

Nothing in the present Convention shall be construed as preventing the contracting States from concluding, in conformity with its principles, special protocols as between State and State in respect of customs, police, posts, and other matters of common interest in connection with air navigation. Any such protocols shall be at once notified to the International Commission for Air Navigation which shall communicate this information to the other contracting States.

ART. 37.—In the case of a disagreement between two or more States relating to the interpretation of the present Convention, the question in dispute shall be determined by the Permanent Court of International Justice to be established by the League of Nations, and until its establishment by arbitration.

If the parties do not agree on the choice of the arbitrators, they shall proceed as follows :

Each of the parties shall name an arbitrator, and the arbitrators shall meet to name an umpire. If the arbitrators cannot agree, the parties shall each name a third State, and the third States so named shall proceed to designate the umpire, by agreement or by each proposing a name and then determining the choice by lot.

Disagreement relating to the technical regulations annexed to the present Convention shall be settled by the decision of the International Commission for Air Navigation by a majority of votes.

In case the difference involves the question whether the interpretation of the Convention or that of a regulation is concerned, final decision shall be made by arbitration as provided in the first paragraph of this Article.

ART. 38.—In case of war, the provisions of the present Convention shall not affect the freedom of action of the contracting States either as belligerents or as neutrals.

ART. 39.—The provisions of the present Convention are completed by the Annexes A to H which, subject to Article 34 (c), shall have the same effect and shall come into force at the same time as the Convention itself.

ART. 40.—The British Dominions and India shall be deemed to be States for the purposes of the present Convention.

The territories and nationals of Protectorates or of territories administered in the name of the League of Nations shall, for the purposes of the present Convention, be assimilated to the territory and nationals of the Protecting or Mandatory States.

ART. 41.—States which have not taken part in the war of 1914-1919 shall be permitted to adhere to the present Convention.

This adhesion shall be notified through the diplomatic channel to the Government of the French Republic, and by it to all the signatory or adhering States.

ART. 42.—A State which took part in the war of 1914-1919, but which is not a signatory of the present Convention, may adhere only if it is a member of the League of Nations or, until January 1, 1923, if its adhesion is approved by the Allied and Associated Powers signatories of the Treaty of Peace concluded with the said State. After January 1, 1923, this adhesion may be admitted if it is agreed to by at least three-fourths of the signatory and adhering States voting under the conditions provided by Article 34 of the present Convention.

Applications for adhesions shall be addressed to the Government of the French Republic, which will communicate them to the other contracting Powers. Unless the State applying is admitted *ipso facto* as a Member of the League of Nations, the French Government will receive the votes of the said Powers and will announce to them the result of the voting.

ART. 43.—The present Convention may not be denounced before January 1, 1922. In case of denunciation, notification thereof shall be made to the Government of the French Republic, which shall communicate it to the other contracting Parties. Such denunciation shall not take effect until at least one year

after the giving of notice, and shall take effect only with respect to the Power which has given notice.

THE PRESENT CONVENTION shall be ratified.

Each Power will address its ratification to the French Government, which will inform the other signatory Powers.

The ratifications will remain deposited in the archives of the French Government.

The present Convention will come into force for each signatory Power, in respect of other Powers which have already ratified, forty days from the date of the deposit of its ratification.

On the coming into force of the present Convention, the French Government will transmit a certified copy to the Powers which under the Treaties of Peace have undertaken to enforce rules of aerial navigation in conformity with those contained in it.

DONE at Paris, the thirteenth day of October nineteen hundred and nineteen in a single copy which shall remain deposited in the archives of the French Government, and of which duly authorized copies shall be sent to the contracting States.

The said copy, dated as above, may be signed until the twelfth day of April nineteen hundred and twenty inclusively.

IN FAITH WHEREOF the hereinafter-named Plenipotentiaries whose powers have been found in good and due form have signed the present Convention in the French, English, and Italian languages, which are equally authentic.

TITLES OF THE ANNEXES

(As amended up to date)

- ANNEX A. The Marking of Aircraft and Call Signs.
- ANNEX B. Certificates of Airworthiness.
- ANNEX C. Log-books.
- ANNEX D. Rules as to Lights and Signals. Rules for Air Traffic.
- ANNEX E. Minimum Qualifications Necessary for Obtaining Certificates and Licences as Pilots and Navigators.
- ANNEX F. International Aeronautical Maps and Ground Markings.
- ANNEX G. Collection and Dissemination of Meteorological Information.
- ANNEX H. Customs.

The Convention is now (March 31, 1932) in force between the following twenty-nine parties :

1. Australia.
2. Belgium.
3. Bulgaria.
4. Canada.
5. Chile.
6. Czecho-Slovakia.
7. Denmark.
8. Finland.
9. France.
10. Great Britain and Northern Ireland.
11. Greece.
12. Holland.
13. India.
14. Iraq.
15. Irish Free State.
16. Italy.
17. Japan.
18. New Zealand.
19. Norway.
20. Persia.
21. Poland.
22. Portugal.
23. Roumania.
24. Saar Territory.
25. Siam.
26. South Africa.
27. Sweden.
28. Uruguay.
29. Yugoslavia.

There are also two Protocols dated respectively June 15, 1929, and December 11, 1929, which modify certain of the Articles of the Convention of 1919, but which have not yet come into force (*see* Roper, pp. 374-379).

APPENDIX B

AIR NAVIGATION ACT, 1920

(10 & 11 Geo. 5, c. 80)

An Act to enable effect to be given to a Convention for regulating Air Navigation, and to make further provision for the control and regulation of aviation. [23rd December, 1920.]

WHEREAS the full and absolute sovereignty and rightful jurisdiction of His Majesty extends, and has always extended, over the air superincumbent on all parts of His Majesty's dominions and the territorial waters adjacent thereto :

And whereas a Convention (in this Act referred to as "the Convention") for determining by a common agreement certain uniform rules with respect to international air navigation, was signed on behalf of His Majesty in Paris on the thirteenth day of October, nineteen hundred and nineteen, and has been presented to Parliament :

And whereas it is expedient to make further provision for controlling and regulating the navigation of aircraft, whether British or foreign, within the limits of His Majesty's jurisdiction as aforesaid, and, in the case of British aircraft, for regulating the navigation thereof both within such jurisdiction and elsewhere :

And whereas it is also expedient that provision should be made by Parliament for enabling effect to be given to the Convention :

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

PART I

POWER TO APPLY CONVENTION

1. His Majesty may make such Orders in Council as appear to him necessary for carrying out the Convention and for giving

effect thereto or to any of the provisions thereof, or to any amendment which may be made under article thirty-four thereof.

2. His Majesty may, by Order in Council, direct that the provisions of the Convention for the time being in force, or any of them, and whether or not those provisions are limited to aircraft of any special description, or engaged in any special kind of navigation, shall apply to or in relation to any aircraft in or over the British Islands or the territorial waters adjacent thereto, and may make such consequential and supplementary provisions as appear necessary or expedient for the purpose of such application.

3. Without prejudice to the generality of the powers hereinbefore conferred, an Order in Council under this Part of this Act may make provision—

- (a) prescribing the authority by which any of the powers exercisable under the Convention by a contracting State, or by any authority therein, are to be exercised in the British Islands ;
- (b) for the licensing, inspection, and regulation of aerodromes, for access to aerodromes and places where aircraft have landed, for access to aircraft factories for the purpose of inspecting the work therein carried on, for prohibiting or regulating the use of unlicensed aerodromes, and for the licensing of personnel employed at aerodromes in the inspection or supervision of aircraft ;
- (c) as to the manner and conditions of the issue and renewal of any certificate or licence required by the Order or by the Convention, including the examinations and tests to be undergone, and the form, custody, production, cancellation, suspension, endorsement and surrender of any such certificate or licence ;
- (d) as to the keeping and form of the register of British aircraft ;
- (e) as to the conditions under which aircraft may be used for carrying goods, mails and passengers ;
- (f) as to the conditions under which aircraft may pass, or goods, mails or passengers may be conveyed by aircraft, into or from the British Islands, or from one British island to another ;
- (g) exempting from the provisions of the Order or of the Convention, or any of them, aircraft flown for experimental purposes, or any other aircraft or persons where it appears unnecessary that the same should apply ;

- (h) prescribing the scales of charges at licensed aerodromes ;
- (i) prescribing, subject to the consent of the Treasury, the fees to be paid in respect of the grant of any certificate or licence or otherwise for the purposes of the Order or the Convention ;
- (j) supplementing the Convention, in such manner as appears necessary or expedient, by general safety regulations ;
- (k) for the control and regulation of aerial lighthouses, and lights at or in the neighbourhood of aerodromes and aerial lighthouses ;
- (l) regulating the signals which may be made by aircraft and persons carried therein ; and
- (m) for the imposition of penalties (not exceeding imprisonment for a term of six months and a fine of two hundred pounds) to secure compliance with the Order or the Convention, and for the mode of enforcing such penalties, and authorizing any steps to be taken for preventing aircraft from flying over prohibited areas or entering the British Islands in contravention of the Order or the Convention which were authorized to be taken under section two of the Aerial Navigation Act, 1913, for the purposes of that section.

4.—(1) His Majesty may, by Order in Council, extend, with any necessary modifications and exceptions, any of the provisions of this Act to any British possessions other than those mentioned in the Schedule to this Act, and to any territory under His Majesty's protection :

Provided that the expression "territory under His Majesty's protection" shall not include any territory over which the Government of any part of His Majesty's Dominions mentioned in the Schedule to this Act exercises authority.

(2) His Majesty may, by any such Order in Council extending any provisions of this Act as aforesaid, or by any subsequent Order, make any provisions of an Order in Council made under sections one to three of this Act applicable to any such possessions or territories as aforesaid, and to registered aircraft being the property of British subjects resident or companies incorporated therein, with such modifications and extensions as shall appear necessary.

5. Any sums required for the contribution from the United Kingdom for the organization and operations of the international commission for air navigation set up under the Convention, or occasioned by the sending of technical delegations, shall be paid by the Secretary of State out of moneys provided by Parliament.

PART II

GENERAL

6. The purposes of the Air Council, established under the Air Force (Constitution) Act, 1917, shall extend so as to include all matters connected with air navigation.

7.—(1) In time of war, whether actual or imminent, or of great national emergency, the Secretary of State may, by order, regulate or prohibit, either absolutely or subject to such conditions as may be contained in the order, and notwithstanding the provisions of this Act or any Order or regulations made thereunder, the navigation of all or any descriptions of aircraft over the British Islands or any portion thereof, or the territorial waters adjacent thereto; and, without prejudice to the generality of this provision, any such order may provide for taking possession of and using for the purposes of His Majesty's naval, military or air forces any aerodrome or landing ground, or any aircraft, machinery, plant, material or things found therein or thereon, and for regulating or prohibiting the use, erection, building, maintenance or establishment of any aerodrome, flying school, or landing ground, or any class or description thereof.

(2) The order may provide for the imposition of penalties to secure compliance with the order, not exceeding those which may be imposed for contravention of an Order in Council under Part I of this Act, and may authorize such steps to be taken in order to secure such compliance as appear to the Secretary of State to be necessary.

(3) Any person who suffers direct injury or loss, owing to the operation of an order of the Secretary of State under this section, shall be entitled to receive compensation from the Secretary of State, the amount thereof to be fixed, in default of agreement, by an official arbitrator appointed under the Acquisition of Land (Assessment of Compensation) Act, 1919, the principles of that Act being applied, with the necessary modifications, where possession is taken of any land or premises:

Provided that no compensation shall be payable by reason of the operation of a general order under this section prohibiting flying in the British Islands or any part thereof.

(4) An order under this section may be revoked or varied by a subsequent order made by the Secretary of State.

8.—(1) The Air Council, and any local authority to which this section applies with the consent of the Air Council, and subject to such conditions as the Air Council may prescribe,

shall have power to establish and maintain aerodromes (including power to provide and maintain roads and approaches, buildings and other accommodation and apparatus and equipment for such aerodromes) and to acquire land for that purpose, by purchase or hire, in the case of a local authority by agreement, and in the case of the Air Council either by agreement or in accordance with the provisions of this Act as to the acquisition of land by the Air Council. Land may be acquired by a local authority under this section either within or without the area of the authority.

(2) A local authority providing an aerodrome under this section shall have power to carry on in connection therewith any subsidiary business certified by the Air Council to be ancillary to the carrying on of an aerodrome.

(3) The local authorities to which this section applies are the common council of the city of London, the councils of counties and county boroughs, and urban district councils, and the expenses of those councils under this section shall be defrayed, in the case of the common council of the city of London out of the general rate, in the case of a county council as expenses for general county purposes, and in the case of other councils as expenses incurred in the administration of the Public Health Acts, 1875 to 1908.

(4) A local authority may borrow for the purposes of this section, in the case of the common council of the city of London under the City of London Sewers Acts, 1848 to 1897, and in the case of a county council under section sixty-nine of the Local Government Act, 1888, as if those purposes were mentioned in that section, and in the case of the council of a county borough or urban district shall have the same power of borrowing under this section as they have under the Public Health Acts, 1875 to 1908, for the purpose of defraying any expenses incurred by them in the administration of those Acts, but money so borrowed shall not be reckoned as part of the debt of such local authority for the purposes of any enactment limiting the powers of borrowing by the authority.

(5) For the purpose of the purchase of land under this section by a local authority, the Lands Clauses Acts shall be incorporated with this Act except the provisions of those Acts with respect to the purchase and taking of land otherwise than by agreement.

9.—(1) No action shall lie in respect of trespass or in respect of nuisance, by reason only of the flight of aircraft over any property at a height above the ground, which, having regard to wind, weather, and all the circumstances of the case is reason-

able, or the ordinary incidents of such flight, so long as the provisions of this Act and any Order made thereunder and of the Convention are duly complied with; but where material damage or loss is caused by an aircraft in flight, taking off, or landing, or by any person in any such aircraft, or by any article falling from any such aircraft, to any person or property on land or water, damages shall be recoverable from the owner of the aircraft in respect of such damage or loss, without proof of negligence or intention or other cause of action, as though the same had been caused by his wilful act, neglect or default, except where the damage or loss was caused by or contributed to by the negligence of the person by whom the same was suffered:

Provided that, where any damages recovered from or paid by the owner of an aircraft under this section arose from damage or loss caused solely by the wrongful or negligent action or omission of any person other than the owner or some person in his employment, the owner shall be entitled to recover from that person the amount of such damages, and in any such proceedings against the owner the owner may, on making such application to the court and on giving such undertaking in costs as may be prescribed by rules of court, join any such person as aforesaid as a defendant, but where such person is not so joined he shall not in any subsequent proceedings taken against him by the owner be precluded from disputing the reasonableness of any damages recovered from or paid by the owner.

(2) Where any aircraft has been *bond fide* demised, let, or hired out for a period exceeding fourteen days to any other person by the owner thereof, and no pilot, commander, navigator, or operative member of the crew of the aircraft is in the employment of the owner, this section shall have effect as though for references to the owner there were substituted references to the person to whom the aircraft has been so demised, let, or hired out.

10.—(1) Where an aircraft is flown in such a manner as to be the cause of unnecessary danger to any person or property on land or water, the pilot or the person in charge of the aircraft, and also the owner thereof, unless he proves to the satisfaction of the court that the aircraft was so flown without his actual fault or privity, shall be liable on summary conviction to a fine not exceeding two hundred pounds, or to imprisonment with or without hard labour for a term not exceeding six months, or to both such imprisonment and fine.

For the purposes of this section, the expression "owner" in

relation to an aircraft includes any person by whom the aircraft is hired at the time of the offence.

(2) The provisions of this section shall be in addition to and not in derogation of any general safety or other regulations prescribed by Order in Council under Part I of this Act.

11. The law relating to wreck and to salvage of life or property, and to the duty of rendering assistance to vessels in distress (including the provisions of the Merchant Shipping Acts, 1894 to 1916, and any other Act relating to those subjects), shall apply to aircraft on or over the sea or tidal waters as it applies to vessels, and the owner of an aircraft shall be entitled to a reasonable reward for salvage services rendered by the aircraft to any property or persons in any case where the owner of a ship would be so entitled :

Provided that provision may be made by Order in Council for making modifications of and exemptions from the provisions of such law and Acts as aforesaid in their application to aircraft, to such extent and in such manner as appears necessary or expedient.

12.—(1) The Secretary of State may make regulations providing for the investigation of any accident arising out of or in the course of air navigation and occurring in or over the British Islands or the territorial waters adjacent thereto, or to British aircraft elsewhere.

(2) Without prejudice to the generality of the foregoing provision, regulations under this section may contain provisions—

- (a) requiring notice to be given of any such accident as aforesaid in such manner and by such persons as may be specified in the order ;
- (b) applying, with or without modification, for the purpose of investigations held with respect to any such accidents any of the provisions of section three of the Notice of Accidents Act, 1894 ;
- (c) prohibiting, pending investigation, access to or interference with aircraft to which an accident has occurred, and authorizing any person, so far as may be necessary for the purposes of an investigation, to have access to, examine, remove, take measures for the preservation of, or otherwise deal with any such aircraft ;
- (d) authorizing or requiring the cancellation, suspension, endorsement, or surrender of any licence or certificate granted under this Act or any order made thereunder, where it appears on an investigation that the licence

ought to be cancelled, suspended, endorsed, or surrendered, and for the production of any such licence for the purpose of being so dealt with :

Provided that nothing in the section shall limit the powers of any authority under sections five hundred and thirty to five hundred and thirty-seven inclusive of the Merchant Shipping Act, 1894, or any enactment (including this Act) amending those sections.

(3) If any person contravenes or fails to comply with any regulations under this section, he shall be liable on summary conviction to a fine not exceeding fifty pounds or to imprisonment with or without hard labour for a term not exceeding three months.

13.—(1) Where it is alleged by any person interested that a foreign aircraft making a passage through or over the British Islands infringes in itself or in any part of it any invention, design or model which is entitled to protection in the British Islands, it shall be lawful, subject to and in accordance with Rules of Court, to detain such aircraft until the owner thereof deposits or secures in respect of the alleged infringement a sum (in this section called the deposited sum), and thereupon the aircraft shall not, during the continuance or in the course of the passage, be subject to any lien, arrest, detention or prohibition, whether by order of a court or otherwise, in respect or on account of the alleged infringement.

(2) The deposited sum shall be such a sum as may be agreed between the parties interested, or in default of agreement shall be fixed by the Secretary of State or some person duly authorized on his behalf, and payment thereof shall be made or secured to him in such manner as he shall approve. The deposited sum shall be dealt with by such tribunal and in accordance with such procedure as may be prescribed by Rules of Court, and such rules may provide generally for carrying this section into effect.

(3) For the purposes of this section, the expression "owner" shall include the actual owner of an aircraft, and any person claiming through or under him, and the expression "passage" shall include all reasonable landings and stoppages in the course or the purpose of a passage.

14.—(1) Any offence under this Act or under an Order in Council or regulations made thereunder, and any offence whatever committed on a British aircraft, shall, for the purpose of conferring jurisdiction, be deemed to have been committed in any place where the offender may for the time being be.

(2) His Majesty may, by Order in Council, make provision as to the courts in which proceedings may be taken for enforcing any claim under this Act, or any other claim in respect of aircraft, and in particular may provide for conferring jurisdiction in any such proceedings on any court exercising Admiralty jurisdiction and applying to such proceedings any rules of practice or procedure applicable to proceedings in Admiralty.

(3) Section six hundred and ninety-two of the Merchant Shipping Act, 1894, shall, with the necessary modifications, and in particular with the substitution of the Air Council for the Board of Trade, apply to the detention of any aircraft under this Act or any orders or regulations made thereunder as it applies to the detention of a ship under that Act.

15. The power of a Secretary of State to acquire land under the Military Lands Acts, 1892 to 1903, shall include power to acquire land for the purposes of this Act and generally for the purposes of civil aviation, and those Acts shall have effect accordingly with the necessary modifications, and in particular as though references to a military purpose included references to any such purposes as aforesaid.

16. Any expenses incurred by a Secretary of State or the Air Council in the exercise of their powers under this Act, including the expenses of any investigation under this Act, shall be paid out of moneys provided by Parliament.

17.—(1) An Order in Council under this Act may be made applicable to any aircraft in or over the British Islands or the territorial waters adjacent thereto, and to British aircraft wherever they may be.

(2) An Order in Council under this Act may be revoked or varied by a subsequent Order in Council.

(3) Any Order in Council made under this Act shall be laid before each House of Parliament forthwith, and, if an Address is presented to His Majesty by either House of Parliament within the next subsequent twenty-one days on which that House has sat next after any such Order is laid before it praying that the Order or any provision thereof may be annulled, His Majesty in Council may annul the Order or provision, and it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder.

18.—(1) This Act shall not apply to aircraft belonging to or exclusively employed in the service of His Majesty :

Provided that His Majesty may, by Order in Council, apply to any such aircraft, with or without modification, any of the

provisions of this Act or of any orders or regulations made thereunder.

(2) Nothing in this Act, or in any orders or regulations thereunder, shall prejudice or affect the rights, powers, or privileges of any general or local lighthouse authority.

19.—(1) This Act shall apply to Scotland subject to the following modifications :—

Sub-sections (3) and (4) of the section of this Act relating to establishment of aerodromes by the Air Council and local authorities shall not apply, and in lieu thereof—

- (a) the local authorities to which the said section shall apply shall be county councils and town councils, and the expenses of county councils under the said section shall be defrayed out of the general purposes rate, provided that notwithstanding anything in the Local Government (Scotland) Act, 1889, the ratepayers of any police burgh, which shall have established an aerodrome in virtue of the powers conferred by the said section, shall not be assessed by the county council for any such expenses, and the expenses of town councils under the said section shall be defrayed out of the public health general assessment, provided that such expenses shall not be reckoned in any calculation as to the statutory limit of that assessment ;
- (b) a county council may borrow for the purposes of the said section on the security of the general purposes rate in the manner and subject to the conditions prescribed by the Local Government (Scotland) Act, 1889, and a town council may borrow for the purposes of the said section on the security of the public health general assessment in like manner and subject to the like conditions as they may borrow for the purpose of the provision of hospitals.

(2) This Act shall apply to Ireland subject to the following modifications :—

References to the Public Health (Ireland) Acts, 1878 to 1919, shall be substituted for references to the Public Health Acts, 1875 to 1908, and a reference to Article 22 of the Schedule to the Local Government (Application of Enactments) Order, 1898, shall be substituted for the references to section sixty-nine of the Local Government Act, 1888.

20.—(1) This Act may be cited as the Air Navigation Act, 1920.

(2) *The Air Navigation Acts, 1911 to 1919, are hereby repealed :*

Provided that any certificate or licence issued under those Acts or under any order made thereunder shall remain in force as though the same had been issued under this Act, and that any orders made by the Secretary of State under those Acts, and in force at the date of the passing of this Act, shall continue in force until revoked or superseded by an Order in Council under this Act, and whilst in force shall have effect as though those Acts were still in force.¹

SCHEDULE

The Dominion of Canada.
The Commonwealth of Australia (including Norfolk Island and Papua).
The Dominion of New Zealand.
The Union of South Africa.
Newfoundland.
India.

¹ Sub-section (2) of section 20 was repealed by the Statute Law Revision Act, 1927.

APPENDIX C

GENERAL TRANSPORT CONDITIONS OF THE INTER- - NATIONAL AIR TRANSPORT ASSOCIATION

(Now in force, March, 1932)

I. AS TO PASSENGERS AND BAGGAGE

GENERAL TRANSPORT CONDITIONS FOR PASSENGER AIR SERVICES

(Not applicable to the Egypt to India Air Service)¹

Air Traffic Companies accept passengers and luggage for carriage only upon the following conditions :

1. Every passenger must be in possession of a valid ticket and if a flight to a foreign country is involved, of a regular passport containing the required visa(s) without air traffic companies being under any obligation to attend to the existence or correctness of passports and visas.

This ticket is valid only for the flight, day, person, and the regular service specified therein, unless a special aeroplane is chartered by the Passenger. The ticket is transferable only with the approval of the air traffic company performing the flight specified therein.

Return tickets are valid for the period mentioned thereon. Reservations in connection with return tickets must be booked in the same way as those with single tickets.

2. Passengers must arrive at the aerodrome of departure early enough before the scheduled time of departure to enable passport, customs and luggage formalities to be completed.

¹ These conditions are only applicable to European services. Another series of conditions is used for inter-continental services.

3. The following are precluded from carriage by air :
- (a) Persons of unsound mind and those suffering from contagious or infectious diseases ; or persons under the influence of drink or drugs :
 - (b) Arms, ammunition, explosives, and corrosives and such other things as are liable to catch fire or otherwise to endanger the aeroplane, passengers or goods :
 - (c) Prohibited imports or things the transport of which is officially prohibited above one of the countries flown over :
 - (d) Things which may cause annoyance to passengers or which—on account of their size, weight, or other conditions—are not suitable for transport by the aircraft of one of the companies co-operating in the transport. Livestock can only be carried by special arrangement.

4. Children under three years accompanied by adults are carried free of charge ; for children from three to seven years half fare shall be paid. Minors will only be carried when they are in the possession of a declaration of their legal guardian consenting to the flight upon these conditions of carriage. Air traffic companies are not compelled to require production of this declaration or to examine.

5. Air traffic companies reserve to themselves the right to refuse to carry any passenger or luggage on any service or flight. If a passenger holding one ticket travels over the lines of several air traffic companies, each company shall be considered the contracting party for its own line.

No claim for repayment of the fare can be considered if the passenger does not arrive or arrives late for the flight booked. If a passage is cancelled before the flight and if the fare paid is not more than the equivalent of 100 gold francs, the fare (less 10 per cent. for cancelling charges and the cost of telegrams and/or telephone calls in connection with cancellation) will be refunded provided that the air traffic company is notified not later than twenty-four hours before the scheduled time of departure. If the fare paid exceeds the equivalent of 100 gold francs then refund on cancellation (less 10 per cent. and the cost of telegrams and/or telephone calls in connection with cancellation) will be made only if the Company is notified not later than forty-eight hours prior to the scheduled time of departure. No refund will be made if a passage is cancelled later than as specified above unless the reservation has been resold. If a flight is cancelled by

the Company on account of weather or for traffic or other reasons or if an aeroplane returns from a flight without interruption to the aerodrome of departure the passenger shall be entitled to repayment of the whole fare. If the flight is uncompleted the passenger shall be entitled to repayment of the fare for the non-flown mileage. Claims for repayment must be lodged within four weeks from the date of the ticket.

6. The air-traffic companies, their employees, sub-contractors and ticket agencies accept no responsibility in connection with the carriage of passengers or luggage. By accepting a ticket or taking a flight the passenger renounces for himself and other individuals who might otherwise be entitled to claim on his behalf all claims for compensation for any damage that may occur to him or his luggage directly or indirectly and however caused while using an aeroplane or otherwise in connection with a flight.¹

Especially, in the case of being excluded from a flight or in the case of cancellation, delay, or interruption of a flight the passenger shall have no claim to compensation.

7. Passengers are required to comply with all orders given by the officials of the air traffic companies referring to the air service. Any passenger not complying with such orders or the transport regulations is liable for any damage resulting therefrom.

No person is allowed on the aerodrome or near an aeroplane without special permit. Passengers must not enter or leave an aeroplane without instructions from an official of the air traffic company.

The cabin doors must not be opened by the passengers. It is forbidden to throw anything out of the aeroplane on account of the danger to persons and property below.

Unless forbidden by Government regulations smoking or lighting matches in the aeroplane is permitted only if all passengers have agreed to it and no orders to the contrary have been given by the company's officials, either verbally or by notice posted in the aeroplane.

8. Luggage in excess of the free allowance is carried and charged for in accordance with the tariff. Luggage is accepted on the aerodrome. Luggage weighing over 44 lbs. (20 kg.) will be accepted for carriage if space allows, but arrangements for its carriage should be made in advance. Luggage checks are given for each parcel.

Although passengers have no right to require this luggage

¹ A number of Continental decisions upon a similar clause are reported from time to time in the (*American Journal of Air Law*).

will be carried in the same aeroplane as the passenger if possible and when the load of the aeroplane is within the permissible load. Luggage may be forwarded as air freight.

The agents and officials of the air traffic companies will give information regarding the regulations for the carriage of luggage by all means of transport which are in force in the different countries.

9. Complaints should be made in writing to the head office of the air traffic company performing the carriage. No action for damage can be brought by passengers after the termination of six months from the date of arrival at destination or of the conclusion of the flight.

No claim in respect of luggage can be made or considered unless lodged in writing at the head office of the Company concerned within three days from the time when the luggage should have been delivered at the aerodrome of destination. Claims in respect of passengers must be lodged in the same manner within ten days.

If the transport contract is carried out by several companies the passenger or other individuals entitled to claim on his behalf can proceed only against the company which was engaged in the transport at the time of the event upon which the claim is based.

10. The competent court for decision of all law suits in connection with Passenger Air Services shall be that of the country in which the head office of the air transport company concerned is situated.

Where there exist in any country compulsory legal conditions or regulations with which these transport conditions conflict, such compulsory legal conditions shall apply; but the transport conditions herein contained shall remain effective in so far as they are not expressly overridden by any such compulsory legal conditions.

II. AS TO GOODS.

GENERAL TRANSPORT CONDITIONS FOR AIR FREIGHT SERVICES

(Not applicable to Egypt-India Service)

Sphere of Validity.

-1. The conditions for air freight services apply to all goods which are accepted by an air traffic company for transport by air

accompanied by a consignment note of the International Air Traffic Association. The air traffic companies reserve the right to stipulate separate conditions for special lines.

2. The conditions do not apply to the carriage of goods in a country where goods are subject to compulsory postal regulations.

The air traffic companies reserve the right to refuse to accept any goods for carriage.

3. The following are precluded from carriage by air :

- (a) Arms, ammunition, explosives, corrosives, or such objects as are liable to catch fire or otherwise to endanger aircraft, goods or passengers :
- (b) Prohibited imports or things the transport of which is officially prohibited above one of the countries flown over :
- (c) Objects which may cause annoyance to passengers or which—on account of their size, weight or other conditions—are not suitable for transport by the aircraft of any one of the companies co-operating in the transport. Livestock can only be carried by special arrangement.

Weight, Size, Mark, Manner of Packing.

4. Normally the dimensions of air goods must not exceed 3 ft. 4 in. \times 1 ft. 8 in. \times 1 ft. 8 in. (100 \times 50 \times 50 cm.). Air transport of goods of larger dimensions must be the subject of special arrangements to be made in advance with the air transport companies.

NOTE.—For carriage on routes operated by Imperial Airways, Ltd., cases are accepted without special arrangements up to 3 ft. 6 in. \times 2 ft. 6 in. \times 2 ft. 3 in.

5. Goods must conform to general requirements as to fitness for transport. All goods must bear the addresses of both the consignor and consignee written legibly in Latin characters in a durable manner.

Consignment Note.

6. Every consignment must be accompanied by a consignment note of the International Air Traffic Association completed in all parts.

The consignor or his representative must sign the consignment note. The consignor guarantees the correctness of all declarations contained in the consignment note.

Every consignment note must be completed by the consignor in triplicate at least. The consignor is entitled to add a fourth copy which the air traffic company will return to him countersigned.

The validity of the contract shall not be affected if the consignment note is not made out or if it is incorrectly made out or lost.

Documents Attached.

7. The consignor shall annex to the consignment note all such documents as are required to comply with all existing customs—fiscal—or police regulations before delivery to the consignee. The consignor shall indemnify the air transport company against all consequences resulting from the absence of these documents or their being inaccurate or not complying with the regulations. It is not the duty of the air transport company to examine the correctness or completeness of the documents.

Payment of Freight.

8. Goods are carried at the published rates. Freight and other charges for transport may either be prepaid by the consignor or paid for on delivery by the consignee. The Companies however reserve the right to demand prepayment of all charges for any consignment. Sender's C.O.D.'s will be collected.

Liability ; Insurance.

9. The air traffic companies, their employees and the undertakings and individuals which the air traffic companies employ in the performance of their obligations, accept freight for carriage only at the risk of the senders or their authorized agents. No responsibility is accepted for loss, damage or delay caused directly or indirectly during the conveyance by aeroplane or otherwise in connection therewith. This refers to all obligations of the company either in respect of carriage, storage or any other operations in connection with goods.

If the consignor declares an insurance value, it shall be taken as a request to the company by the consignor that the company will, at the consignor's expense and as agent for the consignor, insure the goods for the declared value. The consignor is offered facilities to insure against transport risks including cartage at both departure and arrival stations.

10. Air traffic companies accept no responsibility for delivering goods within a certain time or for carrying goods by a certain aircraft, even if special instructions have been given.

In the case of emergency landings and longer interruptions, or if for any reason any companies cannot transport or forward goods by air, the companies are entitled to hand over the goods to another transport organization for forwarding, and no claim for refund of charges paid can be admitted.

Delivery of Goods.

11. In so far as no other arrangements have been made, the arrival of goods will be advised by telephone or by letter to the consignee. The consignee is entitled to collect the consignment. If he does not collect the consignment it will be delivered to him against payment of the costs.

Claims.

12. If goods are accepted by the consignee without reservation, no claim can be brought forward subsequently. The consignee, however, may lodge a claim within three days with the delivering company or its agents in so far as concerns defects which could not have been discovered at the time of delivery. All claims must be endorsed on the consignment note or delivered in writing to the company or its agents. The company shall be entitled to immediate inspection of goods in respect of which a claim is made.

Refusal by Consignee.

13. If for any reason whatsoever goods cannot be delivered the consignor shall indemnify the companies against all expenses resulting therefrom including any ultimate return charges. If the goods are perishable or if it is impossible to return them, air transport companies and their agents are entitled to sell the goods forthwith without notice in order to recover any outstanding expenses.

Reforwarding.

14. If, after carriage by air, goods are to be reforwarded by other means (for example by railway) the consignor shall insert in the consignment note the name and address of the agent or person to which the goods are to be delivered for reforwarding. The agent or person so designated shall be considered to be the consignee for all purposes so far as concerns the air transport company. The air transport companies will, on request, undertake responsibility for handing the goods to other means of transport for forwarding. The companies reserve to themselves the right of employing a shipping and forwarding agent.

Actions.

15. No action against air traffic companies can be commenced after six months calculated from the date of arrival of goods at the place of destination or other termination of the transport. If the air traffic contract is performed by several air traffic companies, only the company which was carrying the goods at the time when the accident or other incident occurred on which the claim is based can be sued. If the claimant does not know the name of this company, and if the address of this company is not given within four weeks after application by registered letter addressed to the first or the last air traffic company which participated in the transport, the sender is authorized to sue the first, and the person entitled to receive the goods is authorized to sue the last of the air traffic companies concerned.

The competent court for decision of all lawsuits shall be that of the country in which the head office of the air transport company concerned is situated.

Legal Regulations.

16. So far as there exist in any country compulsory legal conditions or regulations with which the present forwarding conditions conflict such compulsory legal conditions shall apply ; but the transport conditions herein contained shall remain effective in so far as they are not expressly overridden by such compulsory legal conditions.

" All goods subject to the General Transport Conditions for Air Freight Services set out above which are received by or in the custody of Messrs. Imperial Airways, Limited (who are not Common Carriers and do not accept the obligations or liability of Common Carriers) or their agents for carriage or otherwise, are subject, *in England*, to a particular and general lien for all moneys due in respect of the said goods or on a general account with the Consignor or Consignee. If sums due to Messrs. Imperial Airways, Limited, are not paid within 14 days after notice requiring payment is given to the party chargeable, the goods may be sold without further notice to Consignor or Consignee, and the net proceeds of the sale thereof retained in satisfaction or part satisfaction (as the case may be) of the debt in respect of which Messrs. Imperial Airways, Limited, had a lien. Such goods may be sold by auction or otherwise, in the discretion of Messrs. Imperial Airways, Limited."

AUTHOR'S NOTES

A few remarks may be made upon some of the clauses in the freight contract.

(a) In the first place we must take note of the emphatic and repeated repudiation of any suggestion that the companies are or accept the obligations of common carriers, which is implicit in clause 2 above, and express in the final clause above which applies to England and appears on the Consignment Note used by Imperial Airways, Ltd. For the reasons mentioned above I think that these expressions must suffice to exclude both the common law obligation to carry for all and sundry, and the common law liability as an "insurer," so that an air carrier in this position is an ordinary bailee, and the basis of his liability is negligence.

(b) Clause 9, it is submitted, illustrates the difficulty of attempting to achieve international uniformity in a matter which is governed by the laws of different countries. It may afford in other countries the protection which it is evidently designed to achieve, but for English purposes it leaves much to be desired. There is no question that the carrier by air is, as a matter of public policy, permitted by law to protect himself completely against all claims for loss or damage. The only question is whether by this clause he has done it. Words must be construed in the light of their context, and accordingly actual expressions which have formed the subject-matter of litigation must be regarded as illustrations rather than as precedents. On the one hand, we find a series of decisions in which "omnibus" words have sufficed to protect carriers of various kinds: "under any circumstances whatsoever,"¹ or "in any circumstances,"² or "under any circumstances"³ (all occurring in bills of lading), or "any injury, delay, loss, or damage, however caused,"⁴ occurring in a free pass for a passenger by rail and steamer combined, or "not responsible for any damage to goods however caused which can be covered by insurance"⁴ occurring in a lighterman's contract. On the other hand, there are decisions of the type of *Steinman v. Angier Line* and *Price v. Union Lighterage Co.*, which have been referred to earlier (on pp. 117-119). The unsatisfactory state of the English authorities upon the subject is illustrated by Lord Justice Scrutton in the work

¹ *Taubman v. Pacific Steam Navigation Co.* (1872) 26 L. T. (N.S.) 704.

² *Thompson v. Royal Mail Steam Packet Co.* (1875) 5 Aspinal's *Maritime Law Cases*, 190 n.

³ *Haigh v. Royal Mail Steam Packet Co.* (1883) 52 L. J. (Q.B.) 640.

⁴ *The Stella* [1900] P. 161.

above quoted where he points out¹ the result of the authorities to be "that the words 'not responsible for damage capable of being covered by insurance'² do *not* protect a shipowner from liability for negligence, while the words 'not responsible for damage, however caused, which is capable of being covered by insurance'³ do so protect him. The reason given is that the latter words direct attention to causation and the former do not."

The expression "only at the risk of the senders or their authorized agents" is reminiscent of expressions which have been litigated upon many times. In the first place, it is somewhat strange that an attempt should be made to place the risk of transit upon the consignors or their agents instead of the owners or their agents (who would usually include the consignors). The property in the goods while in transit is frequently in the consignee whose agent the consignor is for the purpose of making the contract of carriage. That is, however, merely incidental. It would not be profitable to examine the numerous cases in which expressions such as "owner's risk," "merchant's risk," etc., have occurred, because such decisions depend upon the whole circumstances of the case. It is, however, pertinent to refer to the discussion of these cases by the late Judge Carver in the work quoted above,⁴ and to point out that a number of decisions show that these words cannot be taken at their face value.

If the view suggested above⁵ is correct, namely, that a carrier by air who has effectively repudiated any obligation to carry for all and sundry is an ordinary bailee and his liability is based on negligence, then his position is stronger than that of most shipowners carrying under bills of lading, and there are doubtless clauses which would not suffice to protect the latter but would suffice to protect the former. Such an air carrier remains, however, subject to the rule that an ambiguous document will not protect the person who puts it forward as the basis of the contract with those who deal with him. The opinion which I am inclined, though with diffidence, to submit is that the air carrier who carries upon the basis of the "General Transport Conditions" examined above, supplemented by the express repudiation of the status and liability of a common carrier quoted above, is merely an ordinary bailee, and in construing his special contracts we must seek for analogy not in the case of the shipowner or bargeowner or land carrier, but in such cases as *Rutter*

¹ Article 89.

² Which is substantially the clause in *Price v. Union Lighterage Co.*, *supra*.

³ *Joseph Travers & Sons v. Cooper* [1915] 1 K. B. 73.

⁴ *Carriage by Sea* (7th ed., 1925), sect. 103.

⁵ On pp. 117-119.

v. *Palmer, Turner v. Civil Service Supply Association*, and *Fagan v. Green and Edwards, Ltd.*¹ At the same time the carrier by air is under a duty, unless he qualifies it by special contract, to furnish a vehicle which is as fit as human skill and care can make it, and this duty is probably not excluded by the use of expressions which can receive adequate effect by being applied to the conduct of the voyage. One of the best illustrations of this principle is to be found in *The West Cock*,² where the Court of Appeal held that whether the contract of a tug-owner in supplying a tug for the towage of a vessel is subject to a warranty of fitness akin to the shipowner's warranty of seaworthiness, or merely to "an implied obligation to provide a tug in a fit and efficient condition so far as skill and care can discover its condition," he is not protected by a clause the terms of which may reasonably be construed as applying "to circumstances occurring after the commencement of, and during, the towage and not to the state of things existing before the towage began." I submit that the adequacy of these General Transport Conditions, regarded as a protection for the carrier, is open to serious question from this point of view.³

(c) In spite of the repudiation of liability contained in clauses 9 and 10, there are two clauses, 12 and 15, which regulate the making of claims and the bringing of actions. Similar clauses have occurred in bills of lading and railway consignment notes, and it is relevant to notice the policy of the courts in giving effect to them. There is nothing contrary to public policy as interpreted by the common law in a clause which limits the time within which a claim must be made or an action brought, and such clauses are constantly enforced. But two points must be noted. (1) Such clauses must be free from ambiguity, and, if ambiguous, are construed against the carrier who puts them forward. (2) In the case of carriage by sea such clauses afford no protection if the warranty of seaworthiness, that is, the absolute duty to provide a seaworthy ship, is broken. It remains to be seen whether, in a case such as carriage by air where there is believed to be no warranty, no absolute duty, but merely a duty to furnish a vehicle as fit as human skill and care can make it, a breach of that duty equally entails the forfeiture of the protection stipulated for by similar clauses. A discussion of the relevant principles in the case of a bill of lading will be found in *Bank of Australia v. Clan Line Steamers, Ltd.*,⁴ where, however, it will be noted, the warranty of seaworthiness was express and not implied.

¹ *Supra*, p. 118.

² [1911] P. 23, 208.

³ See Scrutton, L.J., in *Kidston v. Deutsche Luft Hansa A.-G.* (1930) 38 Lloyd's List Law Reports, at p. 2 (first column) and p. 3 (first column).

⁴ [1916] 1 K. B. 39.

APPENDIX D

THE WARSAW CONVENTION OF OCTOBER 12, 1929

(Not yet in force, March, 1932)

POUR L'UNIFICATION DE CERTAINES RÈGLES RELATIVES AU
TRANSPORT AÉRIEN INTERNATIONAL ¹

Le Président du Reich Allemand, le Président Fédéral de la République d'Autriche, sa Majesté le Roi des Belges, le Président des États-Unis du Brésil, sa Majesté le Roi des Bulgares, le Président du Gouvernement Nationaliste de Chine, sa Majesté le Roi de Danemark et d'Islande, sa Majesté le Roi d'Égypte, sa Majesté le Roi d'Espagne, le Chef d'État de la République d'Estonie, le Président de la République de Finlande, le Président de la République Française, sa Majesté le Roi de Grande-Bretagne, d'Irlande et des Territoires Britanniques au delà des Mers, Empereur des Indes, le Président de la République Hellénique, son Altesse Sérénissime le Régent du Royaume de Hongrie, sa Majesté le Roi d'Italie, sa Majesté l'Empereur du Japon, le Président de la République de Lettonie, son Altesse Royale la Grande Duchesse de Luxembourg, le Président des États-Unis du Mexique, sa Majesté le Roi de Norvège, sa Majesté la Reine des Pays-Bas, le Président de la République de Pologne, sa Majesté le Roi de Roumanie, sa Majesté le Roi de Suède, le Conseil Fédéral Suisse, le Président de la République Tchèqueoslovaque, le Comité Central Exécutif de l'Union des Républiques Soviétistes Socialistes, le Président des États-Unis du Vénézuéla, sa Majesté le Roi de Yougoslavie,

ayant reconnu l'utilité de régler d'une manière uniforme les conditions du transport aérien international en ce qui concerne les documents utilisés pour ce transport et la responsabilité du transporteur,

à cet effet ont nommé leurs Plénipotentiaires respectifs lesquels, dûment autorisés, ont conclu et signé la Convention suivante :

¹ There is no official English text.

CHAPITRE PREMIER

OBJET—DÉFINITIONS

Article Premier

(1) La présente Convention s'applique à tout transport international de personnes, bagages ou marchandises, effectué par aéronef contre rémunération. Elle s'applique également aux transports gratuits effectués par aéronef par une entreprise de transports aériens.

(2) Est qualifié "transport international," au sens de la présente Convention, tout transport dans lequel, d'après les stipulations des parties, le point de départ et le point de destination, qu'il y ait ou non interruption de transport ou transbordement, sont situés soit sur le territoire de deux Hautes Parties Contractantes, soit sur le territoire d'une seule Haute Partie Contractante, si une escale est prévue dans un territoire soumis à la souveraineté, à la suzeraineté, au mandat ou à l'autorité d'une autre Puissance même non Contractante. Le transport sans une telle escale entre les territoires soumis à la souveraineté, à la suzeraineté, au mandat ou à l'autorité de la même Haute Partie Contractante n'est pas considéré comme international au sens de la présente Convention.

(3) Le transport à exécuter par plusieurs transporteurs par air successifs est censé constituer pour l'application de cette Convention un transport unique lorsqu'il a été envisagé par les parties comme une seule opération, qu'il ait été conclu sous la forme d'un seul contrat ou d'une série de contrats et il ne perd pas son caractère international par le fait qu'un seul contrat ou une série de contrats doivent être exécutés intégralement dans un territoire soumis à la souveraineté, à la suzeraineté, au mandat ou à l'autorité d'une même Haute Partie Contractante.

Article 2

(1) La Convention s'applique aux transports effectués par l'État ou les autres personnes juridiques de droit public, dans les conditions prévues à l'article 1^{er}.

(2) Sont exceptés de l'application de la présente Convention les transports effectués sous l'empire de conventions postales internationales.

CHAPITRE II

TITRES DE TRANSPORT

*Section I.—Billet de Passage**Article 3*

(1) Dans le transport de voyageurs, le transporteur est tenu de délivrer un billet de passage qui doit contenir les mentions suivantes :

- (a) le lieu et la date de l'émission ;
- (b) les points de départ et de destination ;
- (c) les arrêts prévus, sous réserve de la faculté pour le transporteur de stipuler qu'il pourra les modifier en cas de nécessité et sans que cette modification puisse faire perdre au transport son caractère international ;
- (d) le nom et l'adresse du ou des transporteurs ;
- (e) l'indication que le transport est soumis au régime de la responsabilité établi par la présente Convention.

(2) L'absence, l'irrégularité ou la perte du billet n'affecte ni l'existence, ni la validité du contrat de transport, qui n'en sera pas moins soumis aux règles de la présente Convention. Toutefois si le transporteur accepte le voyageur sans qu'il ait été délivré un billet de passage, il n'aura pas le droit de se prévaloir des dispositions de cette Convention qui excluent ou limitent sa responsabilité.

*Section II.—Bulletin de Bagages**Article 4*

(1) Dans le transport de bagages, autres que les menus objets personnels dont le voyageur conserve la garde, le transporteur est tenu de délivrer un bulletin de bagages.

(2) Le bulletin de bagages est établi en deux exemplaires, l'un pour le voyageur, l'autre pour le transporteur.

(3) Il doit contenir les mentions suivantes :

- (a) le lieu et la date de l'émission ;
- (b) les points de départ et de destination ;
- (c) le nom et l'adresse du ou des transporteurs ;
- (d) le numéro du billet de passage ;
- (e) l'indication que la livraison des bagages est faite au porteur du bulletin ;
- (f) le nombre et le poids des colis ;

- (g) le montant de la valeur déclarée conformément à l'article 22 alinéa 2 ;
 (h) l'indication que le transport est soumis au régime de la responsabilité établi par la présente Convention.

(4) L'absence, l'irrégularité ou la perte du bulletin n'affecte ni l'existence, ni la validité du contrat de transport qui n'en sera pas moins soumis aux règles de la présente Convention. Toutefois si le transporteur accepte les bagages sans qu'il ait été délivré un bulletin ou si le bulletin ne contient pas les mentions indiquées sous les lettres (d), (f), (h), le transporteur n'aura pas le droit de se prévaloir des dispositions de cette Convention qui excluent ou limitent sa responsabilité.

Section III.—Lettre de Transport Aérien

Article 5

(1) Tout transporteur de marchandises a le droit de demander à l'expéditeur l'établissement et la remise d'un titre appelé : " lettre de transport aérien " ; tout expéditeur a le droit de demander au transporteur l'acceptation de ce document.

(2) Toutefois, l'absence, l'irrégularité ou la perte de ce titre n'affecte ni l'existence, ni la validité du contrat de transport qui n'en sera pas moins soumis aux règles de la présente Convention, sous réserve des dispositions de l'article 9.

Article 6

(1) La lettre de transport aérien est établie par l'expéditeur en trois exemplaires originaux et remise avec la marchandise.

(2) Le premier exemplaire porte la mention " pour le transporteur " ; il est signé par l'expéditeur. Le deuxième exemplaire porte la mention " pour le destinataire " ; il est signé par l'expéditeur et le transporteur et il accompagne la marchandise. Le troisième exemplaire est signé par le transporteur et remis par lui à l'expéditeur après acceptation de la marchandise.

(3) La signature du transporteur doit être apposée dès l'acceptation de la marchandise.

(4) La signature du transporteur peut être remplacée par un timbre ; celle de l'expéditeur peut être imprimée ou remplacée par un timbre.

(5) Si, à la demande de l'expéditeur, le transporteur établit la lettre de transport aérien, il est considéré jusqu'à preuve contraire, comme agissant pour le compte de l'expéditeur.

Article 7

Le transporteur de marchandises a le droit de demander à l'expéditeur l'établissement de lettres de transport aérien différentes lorsqu'il y a plusieurs colis.

Article 8

La lettre de transport aérien doit contenir les mentions suivantes :

- (a) le lieu où le document a été créé et la date à laquelle il a été établi ;
- (b) les points de départ et de destination ;
- (c) les arrêts prévus, sous réserve de la faculté, pour le transporteur, de stipuler qu'il pourra les modifier en cas de nécessité et sans que cette modification puisse faire perdre au transport son caractère international ;
- (d) le nom et l'adresse de l'expéditeur ;
- (e) le nom et l'adresse du premier transporteur ;
- (f) le nom et l'adresse du destinataire, s'il y a lieu ;
- (g) la nature de la marchandise ;
- (h) le nombre, le mode d'emballage, les marques particulières ou les numéros des colis ;
- (i) le poids, la quantité, le volume ou les dimensions de la marchandise ;
- (j) l'état apparent de la marchandise et de l'emballage ;
- (k) le prix du transport, s'il est stipulé, la date et le lieu de paiement et la personne qui doit payer ;
- (l) si l'envoi est fait contre remboursement, le prix des marchandises et, éventuellement, le montant des frais ;
- (m) le montant de la valeur déclarée conformément à l'article 22, alinéa 2 ;
- (n) le nombre d'exemplaires de la lettre de transport aérien ;
- (o) les documents transmis au transporteur pour accompagner la lettre de transport aérien ;
- (p) le délai de transport et indication sommaire de la voie à suivre (*via*) s'ils ont été stipulés ;
- (q) l'indication que le transport est soumis au régime de la responsabilité établi par la présente Convention.

Article 9

Si le transporteur accepte des marchandises sans qu'il ait été établi une lettre de transport aérien, ou si celle-ci ne contient pas toutes les mentions indiquées par l'article 8 [(a) à (i) inclusive-

ment et (q)], le transporteur n'aura pas le droit de se prévaloir des dispositions de cette Convention qui excluent ou limitent sa responsabilité.

Article 10

(1) L'expéditeur est responsable de l'exactitude des indications et déclarations concernant la marchandise qu'il inscrit dans la lettre de transport aérien.

(2) Il supportera la responsabilité de tout dommage subi par le transporteur ou toute autre personne à raison de ses indications et déclarations irrégulières, inexactes ou incomplètes.

Article 11

(1) La lettre de transport aérien fait foi, jusqu'à preuve contraire, de la conclusion du contrat, de la réception de la marchandise et des conditions du transport.

(2) Les énonciations de la lettre de transport aérien, relatives au poids, aux dimensions et à l'emballage de la marchandise ainsi qu'au nombre des colis font foi jusqu'à preuve contraire; celles relatives à la quantité, au volume et à l'état de la marchandise ne font preuve contre le transporteur qu'autant que la vérification en a été faite par lui en présence de l'expéditeur, et constatée sur la lettre de transport aérien, ou qu'il s'agit d'énonciations relatives à l'état apparent de la marchandise.

Article 12

(1) L'expéditeur a le droit sous la condition d'exécuter toutes les obligations résultant du contrat de transport, de disposer de la marchandise, soit en la retirant à l'aérodrome de départ ou de destination, soit en l'arrêtant en cours de route lors d'un atterrissage, soit en la faisant délivrer au lieu de destination ou en cours de route à une personne autre que le destinataire indiqué sur la lettre de transport aérien, soit en demandant son retour à l'aérodrome de départ, pour autant que l'exercice de ce droit ne porte préjudice ni au transporteur, ni aux autres expéditeurs et avec l'obligation de rembourser les frais qui en résultent.

(2) Dans le cas où l'exécution des ordres de l'expéditeur est impossible, le transporteur doit l'en aviser immédiatement.

(3) Si le transporteur se conforme aux ordres de disposition de l'expéditeur, sans exiger la production de l'exemplaire de la lettre de transport aérien délivré à celui-ci, il sera responsable, sauf son recours contre l'expéditeur, du préjudice qui pourrait

être causé par ce fait à celui qui est régulièrement en possession de la lettre de transport aérien.

(4) Le droit de l'expéditeur cesse au moment où celui du destinataire commence, conformément à l'article 13 ci-dessous. Toutefois, si le destinataire refuse la lettre de transport ou la marchandise, ou s'il ne peut être atteint, l'expéditeur reprend son droit de disposition.

Article 13

(1) Sauf dans les cas indiqués à l'article précédent, le destinataire a le droit, dès l'arrivée de la marchandise au point de destination, de demander au transporteur de lui remettre la lettre de transport aérien et de lui livrer la marchandise contre le paiement du montant des créances et contre l'exécution des conditions de transport indiquées dans la lettre de transport aérien.

(2) Sauf stipulation contraire, le transporteur doit aviser le destinataire dès l'arrivée de la marchandise.

(3) Si la perte de la marchandise est reconnue par le transporteur ou si, à l'expiration d'un délai de sept jours après qu'elle aurait dû arriver, la marchandise n'est pas arrivée, le destinataire est autorisé à faire valoir vis-à-vis du transporteur les droits résultant du contrat de transport.

Article 14

L'expéditeur et le destinataire peuvent faire valoir tous les droits qui leur sont respectivement conférés par les articles 12 et 13, chacun en son propre nom, qu'il agisse dans son propre intérêt ou dans l'intérêt d'autrui, à condition d'exécuter les obligations que le contrat impose.

Article 15

(1) Les articles 12, 13, et 14 ne portent aucun préjudice ni aux rapports de l'expéditeur et du destinataire entre eux, ni aux rapports des tiers dont les droits proviennent, soit du transporteur, soit du destinataire.

(2) Toute clause dérogeant aux stipulations des articles 12, 13 et 14 doit être inscrite dans la lettre de transport aérien.

Article 16

(1) L'expéditeur est tenu de fournir les renseignements et de joindre à la lettre de transport aérien les documents qui, avant

la remise de la marchandise au destinataire, sont nécessaires à l'accomplissement des formalités de douane, d'octroi ou de police. L'expéditeur est responsable envers le transporteur de tous dommages qui pourraient résulter de l'absence, de l'insuffisance ou de l'irrégularité de ces renseignements et pièces, sauf le cas de faute de la part du transporteur ou de ses préposés.

(2) Le transporteur n'est pas tenu d'examiner si ces renseignements et documents sont exacts ou suffisants.

CHAPITRE III

RESPONSABILITÉ DU TRANSPORTEUR

Article 17

Le transporteur est responsable du dommage survenu en cas de mort, de blessure ou de toute autre lésion corporelle subie par un voyageur lorsque l'accident qui a causé le dommage s'est produit à bord de l'aéronef ou au cours de toutes opérations d'embarquement et de débarquement.

Article 18

(1) Le transporteur est responsable du dommage survenu en cas de destruction, perte ou avarie de bagages enregistrés ou de marchandises lorsque l'événement qui a causé le dommage s'est produit pendant le transport aérien.

(2) Le transport aérien, au sens de l'alinéa précédent, comprend la période pendant laquelle les bagages ou marchandises se trouvent sous la garde du transporteur, que ce soit dans un aéroport ou à bord d'un aéronef ou dans un lieu quelconque en cas d'atterrissage en dehors d'un aéroport.

(3) La période du transport aérien ne couvre aucun transport terrestre, maritime ou fluvial effectué en dehors d'un aéroport. Toutefois lorsqu'un tel transport est effectué dans l'exécution du contrat de transport aérien en vue du chargement, de la livraison ou du transbordement, tout dommage est présumé, sauf preuve contraire, résulter d'un événement survenu pendant le transport aérien.

Article 19

Le transporteur est responsable du dommage résultant d'un retard dans le transport aérien de voyageurs, bagages ou marchandises.

Article 20

(1) Le transporteur n'est pas responsable s'il prouve que lui et ses préposés ont pris toutes les mesures nécessaires pour éviter le dommage ou qu'il leur était impossible de les prendre.

(2) Dans les transports de marchandises et de bagages, le transporteur n'est pas responsable, s'il prouve que le dommage provient d'une faute de pilotage, de conduite de l'aéronef ou de navigation, et que, à tous autres égards, lui et ses préposés ont pris toutes les mesures nécessaires pour éviter le dommage.

Article 21.

(1) Dans le cas où le transporteur fait la preuve que la faute de la personne lésée a causé le dommage ou y a contribué, le tribunal pourra, conformément aux dispositions de sa propre loi, écarter ou atténuer la responsabilité du transporteur.

Article 22

(1) Dans le transport des personnes, la responsabilité du transporteur envers chaque voyageur est limitée à la somme de cent vingt-cinq mille francs. Dans le cas où, d'après la loi du tribunal saisi, l'indemnité peut être fixée sous forme de rente, le capital de la rente ne peut dépasser cette limite. Toutefois par une convention spéciale avec le transporteur, le voyageur pourra fixer une limite de responsabilité plus élevée.

(2) Dans le transport de bagages enregistrés et de marchandises, la responsabilité du transporteur est limitée à la somme de deux cent cinquante francs par kilogramme, sauf déclaration spéciale d'intérêt à la livraison faite par l'expéditeur au moment de la remise du colis au transporteur et moyennant le paiement d'une taxe supplémentaire éventuelle. Dans ce cas, le transporteur sera tenu de payer jusqu'à concurrence de la somme déclarée, à moins qu'il ne prouve qu'elle est supérieure à l'intérêt réel de l'expéditeur à la livraison.

(3) En ce qui concerne les objets dont le voyageur conserve la garde, la responsabilité du transporteur est limitée à cinq mille francs par voyageur.

(4) Les sommes indiquées ci-dessus sont considérées comme se rapportant au franc français constitué par soixante-cinq, et demie milligrammes d'or au titre de neuf cents millièmes de fin. Elles pourront être converties dans chaque monnaie nationale en chiffres ronds.

Article 23

(1) Toute clause tendant à exonérer le transporteur de sa responsabilité ou à établir une limite inférieure à celle qui est fixée dans la présente Convention est nulle et de nul effet, mais la nullité de cette clause n'entraîne pas la nullité du contrat qui reste soumis aux dispositions de la présente Convention.

Article 24

(1) Dans les cas prévus aux articles 18 et 19 toute action en responsabilité, à quelque titre que ce soit, ne peut être exercée que dans les conditions et limites prévues par la présente Convention.

(2) Dans les cas prévus à l'article 17, s'appliquent également les dispositions de l'alinéa précédent, sans préjudice de la détermination des personnes qui ont le droit d'agir et de leurs droits respectifs.

Article 25

(1) Le transporteur n'aura pas le droit de se prévaloir des dispositions de la présente Convention qui excluent ou limitent sa responsabilité, si le dommage provient de son dol ou d'une faute qui, d'après la loi du tribunal saisi, est considérée comme équivalente au dol.

(2) Ce droit lui sera également refusé si le dommage a été causé dans les mêmes conditions par un de ses préposés agissant dans l'exercice de ses fonctions.

Article 26

(1) La réception des bagages et marchandises sans protestation par le destinataire constituera présomption, sauf preuve contraire, que les marchandises ont été livrées en bon état et conformément au titre de transport.

(2) En cas d'avarie le destinataire doit adresser au transporteur une protestation immédiatement après la découverte de l'avarie et, au plus tard, dans un délai de trois jours pour les bagages et de sept jours pour les marchandises à dater de leur réception. En cas de retard la protestation devra être faite au plus tard dans les quatorze jours à dater du jour où le bagage ou la marchandise auront été mis à sa disposition.

(3) Toute protestation doit être faite par réserve inscrite sur le titre de transport ou par un autre écrit expédié dans le délai prévu pour cette protestation.

(4) A défaut de protestation dans les délais prévus, toutes actions contre le transporteur sont irrecevables, sauf le cas de fraude de celui-ci.

Article 27

En cas de décès du débiteur, l'action en responsabilité, dans les limites prévues par la présente Convention, s'exerce contre ses ayant-droits.

Article 28

(1) L'action en responsabilité devra être portée, au choix du demandeur, dans le territoire d'une des Hautes Parties Contractantes, soit devant le tribunal du domicile du transporteur, du siège principal de son exploitation ou du lieu où il possède un établissement par le soin duquel le contrat a été conclu, soit devant le tribunal du lieu de destination.

(2) La procédure sera réglée par la loi du tribunal saisi.

Article 29

(1) L'action en responsabilité doit être intentée, sous peine de déchéance, dans le délai de deux ans à compter de l'arrivée à destination ou du jour où l'aéronef aurait dû arriver, ou de l'arrêt du transport.

(2) Le mode du calcul du délai est déterminé par la loi du tribunal saisi.

Article 30

(1) Dans les cas de transport régis, par la définition du troisième alinéa de l'article premier, à exécuter par divers transporteurs successifs, chaque transporteur acceptant des voyageurs, des bagages ou des marchandises est soumis aux règles établies par cette Convention, et est censé être une des parties contractantes du contrat de transport, pour autant que ce contrat ait trait à la partie du transport effectuée sous son contrôle.

(2) Au cas d'un tel transport, le voyageur ou ses ayants-droits ne pourront recourir que contre le transporteur ayant effectué le transport au cours duquel l'accident ou le retard s'est produit, sauf dans le cas où, par stipulation expresse, le premier transporteur aura assuré la responsabilité pour tout le voyage.

(3) S'il s'agit de bagages ou de marchandises, l'expéditeur aura recours contre le premier transporteur et le destinataire qui a le droit à la délivrance contre le dernier, et l'un et l'autre pourront, en outre, agir contre le transporteur ayant effectué le transport au cours duquel la destruction, la perte, l'avarie ou le retard se sont produits. Ces transporteurs seront solidairement responsables envers l'expéditeur et le destinataire.

CHAPITRE IV

DISPOSITIONS RELATIVES AUX TRANSPORTS COMBINÉS

Article 31

(1) Dans le cas de transports combinés effectués en partie par air et en partie par tout autre moyen de transport, les stipulations de la présente Convention ne s'appliquent qu'au transport aérien et si celui-ci répond aux conditions de l'article premier.

(2) Rien dans la présente Convention n'empêche les parties, dans le cas de transports combinés, d'insérer dans le titre de transport aérien des conditions relatives à d'autres modes de transport, à condition que les stipulations de la présente Convention soient respectées en ce qui concerne le transport par air.

CHAPITRE V

DISPOSITIONS GÉNÉRALES ET FINALES

Article 32

(1) Sont nulles toutes clauses du contrat de transport et toutes conventions particulières antérieures au dommage par lesquelles les parties dérogeraient aux règles de la présente Convention soit par une détermination de la loi applicable, soit par une modification des règles de compétence. Toutefois, dans le transport des marchandises, les clauses d'arbitrage sont admises, dans les limites de la présente Convention, lorsque l'arbitrage doit s'effectuer dans les lieux de compétence des tribunaux prévus à l'article 28 alinéa 1.

Article 33

Rien dans la présente Convention ne peut empêcher un transporteur de refuser la conclusion d'un contrat de transport ou de formuler des règlements qui ne sont pas en contradiction avec les dispositions de la présente Convention.

Article 34

La présente Convention n'est applicable ni aux transports aériens internationaux exécutés à titre de premiers essais par des entreprises de navigation aérienne en vue de l'établissement de lignes régulières de navigation aérienne ni aux transports effectués dans des circonstances extraordinaires en dehors de toute opération normale de l'exploitation aérienne.

Article 35

Lorsque dans la présente Convention il est question de jours, il s'agit de jours courants et non de jours ouvrables.

Article 36

La présente Convention est rédigée en français en un seul exemplaire qui restera déposé aux archives du Ministère des Affaires Étrangères de Pologne, et dont une copie certifiée conforme sera transmise par les soins du Gouvernement Polonais au Gouvernement de chacune des Hautes Parties Contractantes.

Article 37

(1) La présente Convention sera ratifiée. Les instruments de ratification seront déposés aux archives du Ministère des Affaires Étrangères de Pologne, qui en notifiera le dépôt au Gouvernement de chacune des Hautes Parties Contractantes.

(2) Dès que la présente Convention aura été ratifiée par cinq des Hautes Parties Contractantes, elle entrera en vigueur entre Elles le quatre-vingt-dixième jour après le dépôt de la cinquième ratification. Ultérieurement elle entrera en vigueur entre les Hautes Parties Contractantes qui l'auront ratifiée et la Haute Partie Contractante qui déposera son instrument de ratification le quatre-vingt-dixième jour après son dépôt.

(3) Il appartiendra au Gouvernement de la République de Pologne de notifier au Gouvernement de chacune des Hautes Parties Contractantes la date de l'entrée en vigueur de la présente Convention ainsi que la date du dépôt de chaque ratification.

Article 38

(1) La présente Convention, après son entrée en vigueur, restera ouverte à l'adhésion de tous les États.

(2) L'adhésion sera effectuée par une notification adressée au Gouvernement de la République de Pologne, qui en fera part au Gouvernement de chacune des Hautes Parties Contractantes.

(3) L'adhésion produira ses effets à partir du quatre-vingt-dixième jour après la notification faite au Gouvernement de la République de Pologne.

Article 39

(1) Chacune des Hautes Parties Contractantes pourra dénoncer la présente Convention par une notification faite au Gouvernement

de la République de Pologne, qui en avisera immédiatement le Gouvernement de chacune des Hautes Parties Contractantes.

(2) La dénonciation produira ses effets six mois après la notification de la dénonciation et seulement à l'égard de la Partie qui y aura procédé.

Article 40

(1) Les Hautes Parties Contractantes pourront, au moment de la signature, du dépôt des ratifications, ou de leur adhésion, déclarer que l'acceptation qu'Elles donnent à la présente Convention ne s'applique pas à tout ou partie de leurs colonies, protectorats, territoires sous mandat, ou tout autre territoire soumis à leur souveraineté ou à leur autorité, ou à tout autre territoire sous suzeraineté.

(2) En conséquence Elles pourront ultérieurement adhérer séparément au nom de tout ou partie de leurs colonies, protectorats, territoire sous mandat, ou tout autre territoire soumis à leur souveraineté ou à leur autorité, ou tout territoire sous suzeraineté ainsi exclus de leur déclaration originelle.

(3) Elles pourront aussi, en se conformant à ses dispositions, dénoncer la présente Convention séparément ou pour tout ou partie de leurs colonies, protectorats, territoires sous mandat, ou tout autre territoire soumis à leur souveraineté ou à leur autorité, ou tout autre territoire sous suzeraineté.

Article 41

Chacune des Hautes Parties Contractantes aura la faculté au plus tôt deux ans après la mise en vigueur de la présente Convention de provoquer la réunion d'une nouvelle Conférence Internationale dans le but de rechercher les améliorations qui pourraient être apportées à la présente Convention. Elle s'adressera dans ce but au Gouvernement de la République Française qui prendra les mesures nécessaires pour préparer cette Conférence.

La présente Convention, faite à Varsovie le 12 Octobre 1929 restera ouverte à la signature jusqu'au 31 Janvier 1930.

NOTE.—The signatures are omitted. Up to March 1, 1932, twenty-three countries (including Great Britain) have signed and four (not including Great Britain) have ratified. It comes into force, so far as concerns each State which may ratify it, ninety days after deposit of its ratification, a minimum of five ratifications being necessary to bring it into force (see Article 37). If and

when it is ratified by Great Britain and comes into force, certain very considerable changes in the English law of carriage will have to be made by the legislature, and the Government will doubtless, in accordance with the usual practice, before ratification either procure a bill to be passed by Parliament making the necessary changes in the law or obtain from Parliament an assurance that such a bill will be passed.

The Convention applies to all international carriage (as therein defined) by aircraft of persons, luggage, and goods for valuable consideration, including gratuitous carriage by any person engaged in the business of an air carrier. It prescribes the contents of the Passenger Ticket, the Luggage Ticket, and the Air Consignment Note.

The intention of the members of the International Air Traffic Association is that, if and when this Convention enters into force, the General Transport Conditions contained in Appendix C shall be replaced by those contained in Appendix E.

There is also a Protocole Additionel which is as follows :

Ad Article 2

Les Hautes Parties Contractantes se réservent le droit de déclarer au moment de la ratification ou de l'adhésion que l'article 2 alinéa premier de la présente Convention ne s'appliquera pas aux transports internationaux aériens effectués directement par l'État, ses colonies, protectorats, territoires sous mandats ou tout autre territoire sous la souveraineté, sa suzeraineté ou son autorité.

APPENDIX E

GENERAL CONDITIONS OF CARRIAGE OF PAS- SENGERS AND BAGGAGE

(Due to come into force on the same day as the Warsaw
Convention)

CHAPTER I

SCOPE—DEFINITIONS

*Article 1.—Undertakings and Carriage to which these Conditions
are Applicable*

Para. 1.—These Conditions are applicable to all carriage (internal and international) of persons (passengers) and baggage performed by an air transport undertaking (carrier) which is a member of the International Air Traffic Association. Nevertheless the special provisions referred to in paragraph 2, sub-paragraph 1, of this Article are only applicable to the special categories of international carriage defined in paragraph 2, sub-paragraph 2, of this Article.

Para. 2.—(1) The provisions of Article 2 paragraph 3 sub-paragraphs 2 and 3 and paragraph 6 (second sentence), Article 9 paragraph 2 sub-paragraph 2 and paragraph 3 (second sentence), Article 12 paragraph 4 sub-paragraph 1 (third sentence), Article 19 paragraph 1 sub-paragraph 2, Article 22 paragraph 4 sub-paragraph 2 and Article 23 paragraph 1 sub-paragraph 1 are applicable only to the special categories of international carriage defined in sub-paragraph 2 of this paragraph.

(2) The special categories of international carriage referred to in sub-paragraph 1 of this paragraph include all carriage by air in which, according to the contract made by the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transshipment, are situated either within the territories of two High Contracting Parties to the Convention of Warsaw for the unification of certain rules relating to International Air Transport of October 12, 1929,

upon which these Conditions are based, or within the territory of a single High Contracting Party if there is an agreed stopping place within a territory subject to the sovereignty, suzerainty, mandate or authority of another Power, even though that Power is a non-contracting Power.

(3) A carriage to be performed by several successive air carriers is deemed, for the purpose of sub-paragraph 2 above, to be one undivided carriage, if it has been regarded by the parties as a single operation, whether it has been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character within the meaning of sub-paragraph 2 above merely because one contract or a series of contracts is to be performed entirely within a territory subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party.

Para. 3.—In the case of combined carriage performed partly by air and partly by any other mode of carriage (combined transport) these Conditions apply only to the carriage by air, unless other terms have been agreed and provided such other terms comply with the provisions of paragraphs 1 or 2 above.

Para. 4.—The Carriers reserve the right to make additional Conditions for special lines or for carriage privately arranged.

CHAPTER II

CARRIAGE OF PASSENGERS

Article 2.—Passenger Tickets

Para. 1.—Before he begins his journey the passenger must be provided with a passenger ticket.

Para. 2.—The passenger is bound to retain his ticket throughout the journey. He must when required produce it to any official in charge and surrender it at the end of the journey.

Para. 3.—(1) The passenger ticket shall contain the following particulars:

- (a) The place and date of issue;
- (b) The places of departure and destination;
- (c) The name and address of the carrier or carriers.

The passenger ticket shall contain also the name of the passenger and the amount of the fare.

- (2) So far as concerns international carriage, as defined by

Article 1 paragraph 2, the passenger ticket shall contain in addition the following particulars :

(d) The agreed stopping places, for which summarized descriptions published by the carrier may be used :

(e) A statement that the carriage is subject to the rules relating to liability set out in the Convention of Warsaw of October 12, 1929, upon which these Conditions are based.

(3) The carrier has the right to alter the agreed stopping places in case of necessity without any such alteration having the effect of depriving international carriage, as defined by Article 1, paragraph 2, of its international character within the meaning of this provision.

Para. 4.—(1) The passenger ticket is valid only for the date and service specified thereon and for the party named. A special aircraft can only be provided by special agreement.

(2) The passenger ticket is not transferable.

Para. 5.—Return tickets are valid only for the period specified thereon. If no period is specified they are valid for a maximum period of three months from the date of issue. They are subject to the same regulations as single tickets.

Para. 6.—The absence, irregularity or loss of the ticket does not affect the existence or the validity of the contract of carriage, which shall none the less be subject to these Conditions. If the carrier accepts a passenger for international carriage, as defined by Article 1, paragraph 2, without a ticket having been delivered the carrier shall not be entitled to avail himself of those provisions of Article 19 paragraph 1 sub-paragraph 3 and paragraph 2 sub-paragraph 1 which exclude or limit his liability.

Article 3.—Carriage of Minors

Para. 1.—Up to three years of age, children, when accompanied by an adult and when no separate seat is required for them, are carried at a charge equivalent to 10 per cent. of the normal rate for passengers.

Para. 2.—Children aged more than three years and less than seven years, and younger children for whom a separate seat is required, are carried at a reduced price representing one-half of the normal rate.

Article 4.—Allocation and Distribution of Seats

Subject to the provisions of Article 1, paragraphs 3 and 4, the allocation and distribution of seats is governed by the regulations

in force with the individual carriers, which apply both to single and return tickets.

Article 5.—Persons excluded from Flights or accepted Conditionally

Para. 1.—In every case the following are excluded from carriage :

- (a) Persons under the influence of drink or drugs or other narcotics, and those who conduct themselves in an improper manner or who do not observe the instructions of any authorized official ;
- (b) Persons of unsound mind and those afflicted with a contagious disease or who, because of illness or for any other reason, might inconvenience other passengers.

Para. 2.—The persons referred to in paragraph 1 above are not entitled to repayment of the fare paid.

Article 6.—Articles which Passengers are Forbidden to take with them into an Aircraft

Para. 1.—Passengers are forbidden to take with them into an aircraft :

- (a) Articles which according to the regulations of the carrier must be carried in the baggage compartment ;
- (b) Dangerous articles, especially arms, munitions, explosives, corrosives and articles which are easily ignited ; things which are offensive or evil-smelling, and other articles of a character likely to inconvenience passengers or which are dangerous to aircraft, passengers or goods ;
- (c) Photographic apparatus, carrier pigeons, wireless apparatus and other articles the carriage of which by aircraft is prohibited by law or other authority.

Para. 2.—Passengers are permitted, unless prohibited by law or other authority, to take with them arms and ammunition forming part of hunting or sporting equipment on condition that the arms and ammunition are packed in such a manner as to cause no danger to persons or things. Firearms must be unloaded and dismantled as much as possible or at any rate carried in a case.

Para. 3.—The carriers' employees are authorized to verify, in the presence of the passenger, the nature of articles introduced into an aircraft.

Para. 4.—Any person contravening the provisions of paragraphs 1 and 2 of this Article is liable for all damage resulting from such contravention, and is also subject to the penalties, if any, imposed by the regulations of the carrier.

Para. 5.—The passenger is entirely responsible for the supervision of articles which he takes charge of himself. The carrier accepts no responsibility for the supervision of such articles even if his employees assist in loading, unloading or transhipping them.

Article 7

Para. 1.—(1) Passengers must observe the instructions of the officials of the carriers concerning all matters connected with the air service.

(2) Furthermore they must obey instructions posted in the offices and aircraft of the carrier.

Para. 2.—(1) The presence of passengers upon the area of departure or near aircraft is forbidden without the express permission of the officials of the carrier.

(2) Passengers must only enter or leave aircraft at the request of such officials. Passengers are forbidden to open exterior doors during flight ; when the aircraft is on the ground passengers are only permitted to open these doors in case of danger. It is also forbidden to throw articles from aircraft.

Para. 3.—Smoking and lighting matches in aircraft is prohibited unless and except as provided by regulations to the contrary posted therein.

Para. 4.—Any person contravening these regulations is responsible for all damage resulting from such contravention. He may be excluded from carriage, and in this event he shall not be entitled to repayment of the fare paid.

CHAPTER III

CARRIAGE OF BAGGAGE

Article 8.—Articles Excluded from Carriage

Para. 1.—The following are excluded from carriage as baggage :

- (a) The articles enumerated in Article 6 paragraph 1 (b) and (c) in so far as exceptions are not permitted under the provisions of paragraph 3 of this Article ;

- (b) Articles which, owing to their dimensions, their weight or their character, are in the opinion of the carrier unsuitable for carriage in the aircraft of any of the carriers concerned ;
- (c) Goods (merchandise).

Para. 2.—Live animals can only be carried by special arrangement.

Para. 3.—Arms can only be carried as baggage in exceptional cases. In such cases they must be packed in such a manner as to cause no danger to any one ; firearms must be unloaded and dismantled as much as possible. In so far as photographic apparatus, carrier pigeons and wireless apparatus are accepted as baggage, they must be packed in such a way as to prevent their being used during flight.

Para. 4.—Baggage will be carried when possible in the same aircraft as the passenger, if the load of the aircraft permits, without the carrier being under any obligation in this respect.

Article 9.—Registration. Baggage Check

Para. 1.—(1) When baggage is registered the carrier will furnish a baggage check.

(2) One copy of this check will be delivered to the passenger and another will be retained by the carrier.

Para. 2.—(1) The baggage check shall contain the following particulars :

- (a) The number of the passenger ticket (or the number of the ticket folder when this contains more than a single passenger ticket) ;
 - (b) The number and weight of the packages ;
 - (c) The name and address of the carrier or carriers ;
 - (d) The places of departure and of destination ;
 - (e) Where required, the amount of the sum representing the declared value at delivery in conformity with Article 19 paragraph 2 sub-paragraph 2 ;
 - (f) Where required, the amount of the value specially declared for insurance by the carrier in conformity with Article 14 paragraph 2 ;
 - (g) The place and date of issue ;
 - (h) A statement that delivery of the baggage will be made to the bearer of the baggage check.
- (2) So far as concerns international carriage, as defined by

Article 1 paragraph 2, the baggage check shall contain in addition :

- (i) A statement that the carriage is subject to the rules relating to liability set out in the Convention of Warsaw of October 12, 1929, upon which these Conditions are based.

Para. 3.—The absence, irregularity or loss of the baggage check does not affect the existence or the validity of the contract of carriage which shall none the less be subject to these Conditions. If the carrier accepts baggage for international carriage, as defined by Article 1 paragraph 2, without a baggage check having been delivered, or if, under similar circumstances, this does not contain all the particulars set out in paragraph 2 (a), (b) and (i), the carrier shall not be entitled to avail himself of those provisions of Article 19 paragraph 1 sub-paragraph 3 and paragraph 2 sub-paragraph 2 which exclude or limit his liability.

Article 10.—Liability of the Passenger concerning his Baggage

Para. 1.—The bearer of the baggage check must observe the provisions of Article 8. He is responsible for all the consequences of non-observance of these provisions.

Para. 2.—If any contravention is suspected, the carrier has the right to verify if the contents of packages comply with the regulations. The bearer of the baggage check will be called to assist at such verification. If he does not attend or if he cannot be found, verification can be effected by officials of the carrier alone. If a contravention is proved, the cost of verification must be paid by the bearer of the baggage check.

Para. 3.—In the case of a breach of the conditions of Article 8, the bearer of the baggage check shall pay an extra charge (surtaxe) without prejudice to the supplementary charge (supplément de taxe) and compensation for damage ; also penalties, if required.

Article 11.—Packing and Condition of Baggage

Para. 1.—Baggage unsatisfactorily packed or defective in condition may be refused, but if it is accepted the carrier shall have the right to specify its condition on the baggage check.

Para. 2.—The carrier may require that packages shall bear in Latin characters on durable labels the name and address of the passenger and the airport of destination.

Para. 3.—The carrier may require that old labels, addresses, or other particulars concerning former journeys shall be removed by the passenger. The carrier has the right to remove them himself.

Article 12.—Delivery

Para. 1.—Delivery of baggage will be made to the bearer of the baggage check against delivery of the baggage check. The carrier is not bound to verify if the bearer of the check is entitled to take delivery.

Para. 2.—Failing presentation of the baggage check, the carrier is only bound to deliver the baggage if the claimant establishes his right; if such right appears to be insufficiently established the carrier may require security.

Para. 3.—Baggage will be delivered at the place of destination to which it is registered. Nevertheless, at the request of the bearer of the baggage check, if made in sufficient time and if circumstances permit, baggage can be delivered at the place of departure or at a stopping place against delivery of the baggage check (without any liability to refund the cost of carriage paid) provided this is not precluded by regulations of the Customs, Revenue (octroi), Fiscal, Police or other administrative authorities.

Para. 4.—(1) The receipt without complaint of baggage by the bearer of the baggage check or other party entitled is *prima facie* evidence that the baggage has been delivered in good condition and in accordance with the contract of carriage. In case of damage the passenger must complain to the carrier forthwith after discovery of the damage, and at the latest within three days from the date of receipt of the baggage. So far as concerns international carriage within the meaning of Article 1 paragraph 2, in case of delay the complaint must be made at the latest within fourteen days from the date on which the baggage has been placed at his disposal. Every complaint must be made in writing upon the baggage check or by separate notice in writing despatched within the times aforesaid. Failing complaint within the times aforesaid no action shall lie against the carrier save in the case of fraud on his part.

(2) The expression "days" when used in these Conditions means current days, not working days.

CHAPTER IV

PROVISIONS APPLICABLE TO THE CARRIAGE OF BOTH PASSENGERS AND BAGGAGE

Article 13.—Conclusion of the Contract of Carriage

Para. 1.—Except as provided by Article 2 paragraph 6 and Article 9 paragraph 3, the contract of carriage is made effective immediately on acceptance by the passenger of the passenger ticket, and, so far as concerns the carriage of baggage, the baggage check.

Para. 2.—The carrier reserves the right to refuse to enter into a contract of carriage without giving any reason.

Para. 3.—If there is any question of an aircraft being overloaded the parties authorized by the carrier to supervise the loading of aircraft shall decide which persons or articles shall be carried.

Para. 4.—In the event of a passenger or any baggage being excluded from a flight under the provisions of paragraph 3 above the passenger has the right only to repayment of the total sum paid by him for the carriage.

Article 14.—Basis of Calculation of Charges for Carriage. Tariffs. Insurance

Para. 1.—The charges for carriage are calculated according to the published tariffs.

Para. 2.—The carriers offer facilities to passengers for the insurance of themselves against accident under special conditions and at special rates; they also offer facilities for the insurance of their baggage under special conditions and at special rates.

Article 15.—Formalities required by Customs, Revenue (octroi), Fiscal, Police and other Administrative Authorities

Para. 1.—The passenger must observe the regulations prescribed by the Customs, Revenue (octroi), Fiscal, Police and other administrative authorities concerning himself, his registered baggage and his hand luggage. He must attend the inspection of his registered baggage and of his hand luggage if required. The carrier accepts no responsibility towards the passenger in the event of the latter failing to observe these regulations. In the event of a passenger causing damage to a carrier by non-observance of these regulations the passenger must compensate the carrier.

Para. 2.—The passenger must attend at the airport or elsewhere as prescribed by the carrier sufficiently in advance of the time of departure to enable the formalities mentioned in paragraph 1 above to be complied with before departure. If the carrier has specified a certain time for this purpose the passenger must arrive at or before such time.

Article 16.—Refunds

Para. 1.—No claim for refund of the fare paid for carriage can be entertained when a traveller does not arrive or arrives late for a journey for which a reservation has been made.

Para. 2.—If a flight is cancelled owing to meteorological conditions or for any other reason, or if the aircraft returns to the airport of departure with the passenger, the latter shall be entitled to the return of the fare paid for the carriage of himself and his baggage.

Para. 3.—In the event of a flight being interrupted the passenger is entitled to the return of a proportion of the fare paid for himself and his baggage corresponding with the non-flown mileage, unless the carrier completes the carriage by other means or makes himself responsible for the cost of forwarding by another means of transport. In such event he shall only be liable to refund the difference in fare, if any.

Para. 4.—All rights to refund are extinguished unless a claim is made within a period of three weeks from the date fixed for the journey.

Article 17.—Disputes

Disputes between passengers and carriers' employees are provisionally settled at airports by the official in charge, and in the course of flight by the commander of the aircraft or by the person specially designated by the carrier.

CHAPTER V

LIABILITY OF CARRIERS. ACTIONS

Article 18.—General Provisions. Periods of Liability

Para. 1.—In the case of carriage to be performed by various successive carriers, each carrier who accepts passengers or baggage is deemed to be one of the contracting parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under his supervision.

Para. 2.—The liability of carriers under the provisions of Article 19 paragraph 1 sub-paragraph 1 (a) applies to accidents occurring on board the aircraft or in the course of any of the operations of embarking or disembarking.

Para. 3.—The liability of carriers under the provisions of Article 19 paragraph 1 sub-paragraph 1 (b) covers the period during which the baggage is in charge of the carrier, whether in an airport or on board an aircraft or, in the case of a landing outside an airport, in any place whatsoever. It does not extend to any carriage by land, by sea or by river performed outside an airport. Nevertheless, if such a carriage as last aforesaid takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transshipment, any damage is presumed, subject to proof to the contrary, to have been the result of an occurrence which took place during the carriage by air.

Para. 4.—The liability of carriers under the provisions of Article 19 paragraph 1 sub-paragraph 2 covers the period of carriage by air.

Para. 5.—Passengers and baggage are accepted for carriage only upon condition that, except in so far as liability is expressly provided for in these Conditions of Carriage, no liability whatsoever is accepted by the carriers, or their employees, or parties or undertakings employed by them in connection with their obligations, or their authorized agents, and upon condition that (except in so far as liability is expressly provided for in these Conditions) the passenger renounces for himself and his representatives all claims for compensation for damage in connection with the carriage, caused directly or indirectly to passengers or their belongings, or to persons who, except for this provision, might have been entitled to make a claim, and especially in connection with surface transport at departure and destination, whatever may be the legal grounds upon which any claim concerning any such liability may be based.

Article 19.—Extent of Liability

Para. 1.—(1) Within the limits prescribed by Article 18 carriers are liable for damage sustained during the period of the carriage as defined in Article 18 paragraphs 2 and 3 :

- (a) In the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger ;
- (b) In the event of destruction or loss of or damage to registered baggage.

(2) So far as concerns international carriage, as defined by Article 1 paragraph 2, the carriers are likewise liable, within the same limits, for damage sustained during the period of the carriage as defined by Article 18 paragraph 4 in case of delay of passengers and baggage.

The time-tables of carriers furnish indications of average times without these being in any way guaranteed. The carrier reserves the right to decide if the meteorological and other conditions for the normal performance of a flight are suitable, if especially the times of departure and arrival should be modified and if a departure or landing should not be made at all at any particular time or place. In addition the carrier reserves the right to arrange at landing places such periods of stoppage as may be necessary to ensure connections, the maximum duration of which periods of stoppage will be mentioned in the time-tables ; no responsibility concerning the making of connections can be accepted.

(3) Carriers are not liable if they prove that they and their agents have taken all necessary measures to avoid the damage, or that it was impossible for them to take such measures. In the carriage of baggage the carriers are not liable if they prove that the damage was occasioned by negligent pilotage or negligence in the handling of the aircraft or in navigation, and that, in all other respects, they and their agents have taken all necessary measures to avoid the damage.

(4) If the carrier proves that the damage was caused by or contributed to by the negligence of the injured person, the court may, in accordance with the provisions of its own law, exonerate the carrier wholly or partly from his liability.

Para. 2.—(1) In the carriage of passengers the liability of carriers for each passenger is limited to the sum of 125,000 francs unless a larger sum has been agreed upon. Where, in accordance with the law of the court seised of the case, damages may be awarded in the form of periodical payments, the equivalent capital value of the said payments shall not exceed 125,000 francs.

(2) In the carriage of registered baggage the liability of carriers is limited to the sum of 250 francs per kilogram, unless the passenger has made, at the time when the baggage was handed over to the carrier, a special declaration of the value at delivery and has paid such supplementary charge as is required. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the actual value to the passenger at delivery.

(3) As regards articles of which the passenger takes charge himself, the liability of the carrier is limited to 5,000 francs per passenger.

(4) The sums mentioned above shall be taken to refer to the French franc consisting of sixty-five and a half milligrams gold of millesimal fineness.

Article 20.—Claims

Para. 1.—Claims must be addressed in writing to the carriers referred to in Article 22.

Para. 2.—The right to make a claim belongs to the parties who have the right to bring an action against the carriers under the provisions of Article 21.

Para. 3.—(1) The originals or duly authenticated copies of tickets, baggage checks and other documents which the party entitled deems it advisable to attach to his claim must be produced.

(2) When a claim is settled the carrier can require the return to him of the tickets and baggage checks.

Article 21.—Persons who are Entitled to bring Actions

Only the party who produces the ticket or baggage check as the case may be, or who in default of production establishes his right, is entitled to bring an action arising out of the contract of carriage against the carrier.

Article 22.—Undertakings against which Action can be Taken.
Jurisdiction

Para. 1.—An action for the return of a sum paid under the provisions of a contract of carriage can only be brought against the undertaking which received the sum.

Para. 2.—In the case of the carriage of passengers, the passenger or his representatives can take action only against the carrier who performed the carriage during which the event giving rise to the action occurred, save in the case where, by express agreement in writing, the first carrier has assumed liability for the whole journey.

Para. 3.—In the case of the carriage of baggage, except so far as concerns actions under the provisions of paragraph 1 above, the party entitled will have a right of action against the first or the last carrier, and in addition, so far as concerns actions

arising under Article 19, against the carrier who performed the carriage during which the event giving rise to the action took place. For actions arising under the provisions of Article 19 these carriers will be jointly and severally responsible to the party entitled.

Para. 4.—(1) Actions must be brought before the court of the carrier's principal place of business. The national law of the court seised of the case shall apply.

(2) Nevertheless actions arising under the provisions of Article 19, in connection with Article 1 paragraph 2, must be brought, at the option of the plaintiff, in the territory of a State which is a contracting party to the Convention of Warsaw, either

(a) before the court having jurisdiction where the carrier is ordinarily resident, or has his principal place of business, or has an establishment by which the contract has been made; or

(b) before the court having jurisdiction at the place of destination.

(3) Questions of procedure shall be governed by the law of the court seised of the case.

Article 23.—Limitation of Actions

Para. 1.—(1) The right to damages arising under the provisions of Article 19, in connection with Article 1 paragraph 2, shall be extinguished if an action is not brought within two years, which may be reckoned either from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.

(2) All other rights to damages arising out of the contract of carriage shall be extinguished if an action is not brought within a period of six months.

Para. 2.—The method of calculating the period of limitation, as well as the grounds for suspension or interruption of the period of limitation, shall be determined by the law of the court seised of the case.

Article 24.—Legislative Provisions

Where in any country legislative provisions conflict with these Conditions of Carriage, the latter shall be applicable only in so far as they do not conflict with such legislative provisions.

GENERAL CONDITIONS OF CARRIAGE OF GOODS

(Due to come into force on the same day as the Warsaw Convention)

CHAPTER I

SCOPE—DEFINITIONS

Article 1.—Transport Undertakings and Consignments to which these Conditions are Applicable

Para. 1.—These Conditions are applicable to all carriage (internal and international) of goods performed by an air transport undertaking (carrier) which is a member of the International Air Traffic Association. Nevertheless the special provisions referred to in paragraph 2 sub-paragraph 1 of this Article are only applicable to the special categories of international carriage defined in paragraph 2 sub-paragraph 2 of this Article.

Para. 2.—(1) The provisions of Article 4 paragraph 4 sub-paragraph 5, Article 7 paragraph 3 (second sentence), Article 8 paragraph 4 sub-paragraph 4, Article 13 paragraph 4 sub-paragraph 1 (third sentence), Article 20 paragraph 1 sub-paragraph 2, Article 22 paragraph 4 sub-paragraph 2, and Article 23 paragraph 1 sub-paragraph 1 are applicable only to the special categories of international carriage defined in sub-paragraph 2 of this paragraph.

(2) The special categories of international carriage referred to in sub-paragraph 1 of this paragraph include all carriage by air in which, according to the contract made by the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transhipment, are situated either within the territories of two High Contracting Parties to the Convention of Warsaw for the unification of certain rules relating to International Air Transport of October 12, 1929, upon which these Conditions are based, or within the territory of a Single Contracting Party if there is an agreed stopping place within a territory subject to the sovereignty, suzerainty, mandate or authority of another Power, even though that Power is a non-contracting Power.

(3) A carriage to be performed by several successive air carriers is deemed, for the purpose of sub-paragraph 2 above, to be one undivided carriage, if it has been regarded by the parties as a single operation, whether it has been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character within the meaning of sub-paragraph 2 above merely because one contract or a series of contracts is to

be performed entirely within a territory subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party.

Para. 3.—In the case of combined carriage performed partly by air and partly by any other mode of carriage (combined transport) these Conditions apply only to the carriage by air, unless other terms have been agreed and provided such other terms comply with the provisions of paragraphs 1 or 2 above.

Para. 4.—These Conditions are not applicable to the carriage of articles controlled by the Postal Administrations of any of the territories to be traversed.

Para. 5.—The carriers reserve the right to publish additional conditions for special lines or for carriage privately arranged.

Article 2.—Articles Excluded from Carriage

Para. 1.—The following are excluded from carriage :

- (1) Articles which owing to their dimensions, their weight or their character are in the opinion of the carriers unsuitable for carriage, either in the aircraft itself or in any other means of transport connected with the carriage of any of the carriers concerned, or which are unsuited to any accommodation involved ;
- (2) Articles the importation, exportation, or carriage of which is prohibited by the laws or regulations of any of the States the territory of which is to be crossed ;
- (3) Dangerous articles, especially arms, munitions, explosives, corrosives and articles which are easily ignited ; things which are offensive or evil-smelling or other articles of a character likely to inconvenience passengers or which are dangerous to aircraft, passengers or goods.

Para. 2.—The responsibility for the non-observance of these provisions and all consequences of such non-observance rests entirely with the consignor.

Article 3.—Articles Accepted for Carriage Subject to Certain Conditions

The following are accepted for carriage only subject to the conditions which appear below :

- (1) Live animals can only be carried by special arrangement with the first carrier.

- (2) Gold, platinum, and all articles the value of which exceeds 1500 French francs per kilogram only under the following conditions :
- (a) The articles must be well and strongly packed and furnished with a substantial fastening ;
 - (b) Their value must be inserted in the air consignment note under the heading " Quantity and Nature of Goods."

CHAPTER II

CONTRACT OF CARRIAGE

Article 4.—Scope and Form of the Air Consignment Note

Para. 1.—(1) The consignor must make out an air consignment note in three original parts, according to the form prescribed by the carrier, and hand them over with the goods. The first part is marked " For the Carrier " ; it shall be signed by the consignor. The second part is marked " For the Consignee " ; it shall be signed by the consignor and by the carrier or their respective agents, and shall accompany the goods. The third part is marked " For the Consignor " ; it shall be signed by the carrier or his agent and be handed by him to the consignor after the goods have been accepted by the carrier. The carrier shall sign on acceptance of the goods. The carrier may sign by means of a stamp ; the signature of the consignor may be in print or by stamp.

(2) Nevertheless carriers reserve the right to require extra copies of the air consignment note from the consignor.

(3) Carriers have the right to require the consignor to make out separate air consignment notes when there is more than one package.

(4) It is forbidden to include in the same air consignment note articles which cannot be loaded together without inconvenience and without breach of any regulations of the Customs, Revenue (octroi), Fiscal, Police and other Administrative Authorities.

Para. 2.—(1) The form of the air consignment note must be printed in one of the official languages of the country of departure, and also in one of the following languages, namely, English, French or German. It may include also every translation into other languages which is deemed advisable.

(2) The portions of the Consignment Note to be completed by the consignor must be filled up in one of the official languages of the country of departure in so far as no special descriptions have been allowed for by the carrier. The first carrier has the right to decide whether a translation must be added and which.

Para. 3.—Air consignment notes the writing on which is interlined or erased are not accepted. Alterations are permitted only on condition that the consignor signifies his approval of them by his initials, and that he inscribes in words the altered quantities and values when the alteration concerns the number, weight or value of packages or other particulars given in figures.

Para. 4.—(1) The particulars inscribed on the air consignment note must be written or printed in indelible characters.

(2) The air consignment note must contain in Latin characters the following particulars inserted by the consignor :

- (a) The place and date where and when the document was completed ;
- (b) The place of departure and of destination ;
- (c) The name and address of the consignor and of the consignee ;
- (d) The number of packages, the method of packing, and the particular marks or numbers upon the packages ;
- (e) The nature of the goods, the weight, the quantity, and the volume or dimensions of the goods ; also, where articles referred to in Article 3 sub-paragraph 2 above are concerned, the value of such articles, which must be inserted under the heading " Quantity and Nature of Goods " ;
- (f) The party who is liable for payment of the freight and of the Customs and all other charges ;
- (g) If goods are sent for payment on delivery, the price of the goods, and, if necessary, the amount of the expenses incurred, the whole in one single sum ; the amount payable on delivery must not exceed the last-mentioned sum ; it must be expressed in the currency of the country of departure except in so far as exceptions are provided for in the tariff ; conversion must be effected at the rates of exchange published by the carriers ; failing such published rates conversion will be effected at the official rates of exchange ;
- (h) Where required, the amount of the sum representing the declared value at delivery in conformity with Article 20 paragraph 2 sub-paragraph 1.

- (i) Where required, the amount of the value specially declared for insurance by the carrier in conformity with Article 8 paragraph 3 ;
- (j) The number of parts of the air consignment note ;
- (k) A detailed list of the documents handed to the carrier to accompany the air consignment note required by the Customs, Revenue (octroi), Fiscal, Police and other administrative authorities, and of all other documents ;
- (l) The time fixed for completion of the carriage and a summary of the route to be followed (this latter being inscribed under the heading " Route ") if a fixed time for completion of the carriage or the route to be followed have been specially agreed ;
- (m) The value for Customs purposes in so far as this is obligatory for any country concerned.

The particulars required under (g), (h), and (i) must be written in words and figures.

(3) The carrier can also require that the apparent condition of the goods, and of the packing, shall be inserted by the consignor. In default of the consignor inserting these particulars the carrier may insert them himself. In the event of the apparent condition of the goods, the packing or the nature of the goods not corresponding, either at the time of acceptance or in the course of carriage, with the particulars inscribed in the air consignment note, the carriers may notify the fact on the air consignment note.

(4) The air consignment note must contain also the following particulars inserted by the carrier :

- (a) The name and address of the first carrier who accepts the consignment for carriage ;
- (b) The freight agreed and the incidental expenses, as well as the date and place of payment.

(5) So far as concerns international carriage, as defined by Article 1 paragraph 2, the air consignment note shall contain in addition the following particulars inserted by the carrier :

- (a) The agreed stopping places, for which summarized descriptions published by the carrier may be used ;
- (b) A statement that the carriage is subject to the rules relating to liability set out in the Convention of Warsaw of October 12, 1929, upon which these Conditions are based.

Para. 5.—(1) If at the request of the consignor the carrier makes out the air consignment note, he shall be deemed, in default

of proof to the contrary, to have acted for and on behalf of the consignor.

(2) If the air consignment note handed over with the goods does not contain all the required particulars, the carrier is entitled to complete it to the best of his ability, but without being under any obligation to do so.

Article 5.—Liability Arising out of the Particulars Inserted in the Air Consignment Note

(1) The consignor is responsible for the correctness and completeness of the particulars and statements which he inserts in the air consignment note.

(2) The consignor will be liable for all damage suffered by the carrier or any other person by reason of the irregularity, incorrectness, or incompleteness of the said particulars and statements, or by reason of their being inserted otherwise than in the appropriate places reserved for them.

(3) When the carrier makes out or completes the air consignment note on behalf of the consignor under the provisions of Article 4 paragraph 5, the consignor shall be liable for all the consequences which may result, without being entitled to any recourse whatsoever against the carrier for any damage which may arise therefrom.

Article 6.—Right of Refusal

Carriers reserve the right to refuse to enter into any contract of carriage without giving a reason.

Article 7.—Conclusion of the Contract of Carriage

Para. 1.—(1) The contract of carriage is made effective, without prejudice to the provisions of paragraph 3 of this Article, when a carrier has accepted goods for carriage with the air consignment note.

(2) The carrier signifies acceptance by signing the air consignment note or impressing his stamp upon it.

Para. 2.—The air consignment note so completed is *primâ facie* evidence of the conclusion of the contract, of the receipt of the goods and of the Conditions of carriage. The statements in the air consignment note relating to the weight, dimensions and packing of the goods, as well as those relating to the number of packages, are *primâ facie* evidence of the facts stated; those relating to the quantity, volume and condition of the goods do

not constitute evidence against the carriers, except so far as they both have been and are stated in the air consignment note to have been checked by them in the presence of the consignor, or relate to the apparent condition of the goods.

Para. 3.—The absence, irregularity, or loss of the air consignment note does not affect the existence or validity of the contract of carriage, which shall none the less be subject to these Conditions. If the carrier accepts goods for international carriage, as defined by Article 1 paragraph 2, without an air consignment note having been made out, or if the consignment note for such carriage does not contain all the particulars set out in Article 4 paragraph 4 sub-paragraph 2 (a) to (f) and sub-paragraphs 4 and 5, the carrier shall not be entitled to avail himself of those provisions of Article 20 paragraph 1 sub-paragraphs 1 and 3 and paragraph 2 sub-paragraph 1 which exclude or limit his liability. This provision does not apply to the regulations prescribed by Article 4 paragraph 4 sub-paragraph 2 (e) and (f) so far as concerns particulars of value and Customs and other charges except freight.

Article 8.—Tariffs, Insurance, Routes, and Method of Carriage

Para. 1.—The charges for carriage and incidental expenses are calculated in accordance with the published tariffs.

Para. 2.—In addition to the charges for carriage and various incidental expenses provided for by the tariffs, carriers only charge for their own reimbursement sums they actually expend, such as import and export dues, costs of haulage (camionnage), cost of repairs, to packing of goods necessary to safeguard their preservation, and other similar expenses.

Para. 3.—Carriers offer their clients facilities for the insurance of goods at the expense of the consignor under special conditions and at special rates. If the consignor wishes to insure the goods in this way he must insert the sum to be insured under the heading "Special Declaration of Value for Insurance by the Carrier" in the air consignment note. If the consignor does not complete the air consignment note, the first carrier will at the request of the consignor insert the necessary particulars.

Para. 4.—(1) Goods will be despatched according to the instructions of the consignor contained in the air consignment note. Carriers do not, however (in default of express agreement), undertake any responsibility for carriage by any particular transport company, service or route or by any particular aircraft.

(2) Furthermore despatch is only undertaken by means of aircraft normally employed. A special aircraft can only be demanded if an express agreement to this effect has been entered into.

(3) If there is any question of an aircraft being overloaded the parties authorized to supervise the loading of aircraft shall decide which articles shall be carried.

(4) In case of necessity the carrier who accepts goods for carriage has the right to alter the route, even if this has been specially agreed, and the agreed stopping places, without any such alteration having the effect of depriving the carriage of its international character within the meaning of Article 1 paragraph 2.

(5) In the case of a forced landing, or if for any other reason the carrier cannot despatch or carry a consignment in accordance with the presumed intentions of the consignor, he shall be entitled to hand over the consignment for despatch to another transport undertaking. If carriers are in doubt as to the intentions of the consignor they are entitled to ask for the instructions of the latter by telephone, telegraph or otherwise through the airport of departure. Any expense so incurred attaches to the goods.

Article 9.—Time for Delivery

Carriers do not guarantee the carriage or delivery of goods within a definite time except by special agreement incorporated in the air consignment note under the provisions of Article 4 paragraph 4 sub-paragraph 2 (f).

Article 10.—Condition of Goods and Packing

Para. 1.—Goods must be packed in such a way that they cannot, before arrival at destination, deteriorate or cause other goods to deteriorate.

Para. 2.—All goods must be furnished with a durable inscription, written legibly in Latin characters, firmly attached and giving the names of the consignor and consignee, the name of the airport of destination, and the instructions "Delivery to Domicile" or "For Collection by Consignee."

Para. 3.—C.O.D. consignments must be distinguished by a red label, in accordance with the form prescribed by the carrier, bearing the letters "C.O.D."

Article 11.—Documents Annexed and Customs Seals

Para. 1.—The consignor must furnish such information and attach to the air consignment note such documents as are necessary to meet the formalities of Customs, Revenue (octroi), Fiscal, Police and other administrative authorities before the goods can be delivered to the consignee. The provisions of Article 5 sub-paragraph 2 shall apply if need be.

Para. 2.—The carrier is under no obligation to inquire into the correctness or sufficiency of such information or documents.

Para. 3.—The consignor is bound to observe the Customs regulations concerning the packing of goods. Goods which are required to be delivered under Customs seal cannot be accepted when the seal is damaged or missing.

Article 12.—Formalities required by Customs, Revenue (octroi), Fiscal, Police and other Administrative Authorities

Para. 1.—The formalities required by Customs, Revenue (octroi), Fiscal, Police and other administrative authorities must be complied with, before delivery for carriage by the consignor, *en route* by the carrier and at the place of destination by the consignee. The carrier also is entitled to comply with these formalities at the place of destination for and on behalf of the consignee or of the consignor, unless instructions to the contrary have been given by these parties. In such a case the carrier assumes the character of an agent. The carrier may also entrust the completion of these formalities to an agent.

Para. 2.—The consignor may, so far as permitted by regulations of the Customs authorities, require that imported goods shall be delivered for compliance with Customs formalities, either during the course of the journey at one of the airports which is an agreed stopping place, or at the Customs office of the airport of destination. Nevertheless the carriers are entitled to disregard such instructions if it appears to be necessary.

Para. 3.—The consignor is not entitled to give other instructions concerning the place where Customs formalities, etc., are to be complied with.

Article 13.—Delivery

Para. 1.—(1) The carrier is obliged, upon arrival of the goods at the place of destination, to deliver the air consignment note and the goods to the consignee against a receipt, subject to the payment of all sums due and to compliance with the other

conditions of carriage. If re-forwarding of packages, after the termination of the air carriage, has to be performed by some other means of carriage, the consignor must indicate on the air consignment note the name and address of the party or agent to whom the goods must be handed for re-forwarding. The carriers undertake upon request the delivery of consignments to other means of transport. They reserve the right to employ a shipping or forwarding agent.

(2) In cases where no shipping or forwarding agent has been indicated, the one with whom the air carrier has made arrangements for re-forwarding shall be deemed to be the one chosen by the consignor.

Para. 2.—(1) After arrival of the goods, in default of any special arrangement made by the consignor or the consignee, the carrier is bound to notify the consignee in the manner which he considers is most appropriate.

(2) The carrier is bound to make delivery to the domicile of the consignee, against payment of the expenses involved, if this method of delivery is prescribed by the consignor or desired by the consignee; otherwise, or if there is no organized service of delivery to domicile at the place of destination, the consignee must collect and accept delivery of goods at the airport of destination or other place indicated by the carrier.

Para. 3.—If delivery of the consignment is delayed by circumstances for which the carrier is not responsible, the latter is entitled to make charges for storage.

Para. 4.—(1) Receipt by the consignee of goods without complaint is *prima facie* evidence that the same have been delivered in good condition and in accordance with the air consignment note. In the case of damage the consignee must complain to the carrier forthwith after discovery of the damage and at the latest within seven days from the date of receipt of the goods. So far as concerns international carriage, within the meaning of Article 1 paragraph 2, in case of delay the complaint must be made at the latest within fourteen days from the date on which the goods should have been placed at his disposal. Every complaint must be made in writing upon the air consignment note or by separate notice in writing despatched within the times aforesaid. Failing complaint within the times aforesaid no action shall lie against the carrier, save in the case of fraud on his part.

(2) The expression "days" when used in these conditions means current days not working days.

Article 14.—Payment of Charges for Carriage

Para. 1.—The consignor may undertake the payment wholly or partially of, or make the consignee liable for, the charges for carriage, the customs charges, the incidental expenses, the disbursements, and the charges of haulage (camionnage). The charges undertaken by the consignor must be inserted in the air consignment note in the appropriate place. All charges which are not assumed by the consignor are considered to be a liability of the consignee.

Para. 2.—The carriers reserve the right to demand from the consignor the payment of all charges, incidental expenses and disbursements before despatch.

Para. 3.—If the expenses cannot be determined exactly at the time when goods are handed over for carriage, the carrier may demand by way of guarantee the deposit of a sum representing approximately the various expenses. An exact account will be furnished when the airport of destination has communicated to the place of departure the exact amount of the expenses.

Article 15.—Discrepancies in the Payment of Tariff Charges

The payment to the carrier of the difference between a sum actually paid and the sum which should have been paid is a matter for the consignor to settle if the consignment has not been accepted by the consignee. When the consignment has been accepted by the consignee the consignor is not liable for the payment of any difference between the amount actually paid and the amount which should have been paid beyond the amount (if any) for which he is liable under the provisions of an arrangement for repayment made by him and referred to in the air consignment note; beyond such an amount any difference is a matter for the consignee to settle.

Article 16.—Consignor's Right of Disposition

Para. 1.—(1) The consignor has the right to dispose of the goods either:

- (a) By withdrawing them at the airport of departure or of destination; or
- (b) By stopping them in the course of the journey on any landing; or
- (c) By calling for them to be delivered at the place of destination or in the course of the journey to a person other than the consignee named in the air consignment note; or

(d) By requiring them to be returned to the airport of departure ; Provided that this right of disposition shall not be exercised in such a way as to prejudice the carrier or other consignors.

(2) In addition to the obligations resulting for him out of the contract of carriage the consignor must repay any expenses occasioned by the exercise of his right of disposition.

Para. 2.—Every exercise of the right of disposition must be made through the party who booked the goods for carriage and must be applicable to the whole consignment. The carrier is entitled to require that instructions as to disposition shall be given by means of a special form prescribed by him.

Para. 3.—The right of disposition over the goods can only be exercised if the consignor produces the part of the air consignment note which was delivered to him. Instructions as to disposition must also be written on this document which will be returned to the consignor.

Para. 4.—If a carrier obeys the orders of the consignor for disposition of the goods without requiring production of the part of the air consignment note delivered to the latter, he will be liable, without prejudice to his right of recovery against the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air consignment note.

Para. 5.—If it is impossible to carry out the orders of the consignor, the carrier must so inform him forthwith by telephone or telegraph or otherwise through the airport of departure. The cost of so doing attaches to the goods.

Para. 6.—The right of disposition conferred on the consignor ceases, even if he retains the copy of the consignment note which was handed to him, as soon as the air consignment note has been handed to the consignee or the latter has exercised his rights under Article 13, paragraph 1, or Article 17, paragraph 6. Nevertheless, if the consignee declines to accept the air consignment note or the goods, or if he cannot be communicated with, the consignor resumes his right of disposition.

Para. 7.—Except in cases where the consignor decides otherwise, the carrier may, in the case of goods returned, adopt the route agreed and indicated for the original journey.

Article 17.—Impediments to Delivery

Para. 1.—When impediments occur in connection with the delivery of goods, the last carrier should without delay notify the consignor by telephone or telegraph or otherwise through the airport of departure and ask for instructions. The expense of such notification shall attach to the goods.

Para. 2.—In case of prevention of delivery of the consignment for any reason whatsoever (other than the fault of the carrier) the consignor is liable for all the expenses involved, or which ultimately result, including if necessary the cost of returning the consignment. Where perishable goods are concerned, or in case of impossibility of return, the carriers or their representatives are entitled to sell the consignment by auction, in order to reimburse costs incurred and not provided for, in accordance with the laws and regulations to which the carrier responsible for delivery is subject.

Para. 3.—The carrier who has the consignment in his charge is entitled to recover the expenses of storage, for the duration of such storage, when the impediment to delivery does not arise through his fault.

Para. 4.—If the consignor is notified in accordance with the provisions of paragraph 1 above, and does not make immediate arrangements, the goods may at his risk and cost be stored with a shipping or forwarding agent or in a depository in accordance with the laws and regulations in force locally.

Para. 5.—If on the sale of undelivered goods the proceeds are insufficient to cover the freight charges, expenses, and other disbursements, the party who has the right of disposition over the goods is liable for the payment of any balance.

Para. 6.—If the carrier admits the loss of the goods, or if the goods have not arrived at the expiration of seven days after the date on which they ought to have arrived, the consignee is entitled to put into force against the carrier the rights which flow from the contract of carriage.

Article 18.—Carriers Right of Lien

Para. 1.—Carriers have the rights of a creditor secured by lien over the goods for all sums due under the provisions of the contract of carriage. These rights remain as long as the goods are in the possession of a carrier or of a third party who retains them on his behalf.

Para. 2.—The effect of the right of lien is governed by the provisions of the laws of the State where the right of lien is exercised.

CHAPTER III

LIABILITY OF CARRIERS—ACTIONS

Article 19.—General Provisions. Periods of Liability

Para. 1.—In the case of carriage to be performed by various successive carriers, each carrier who accepts goods is deemed to be one of the contracting parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under his supervision.

Para. 2.—The liability of the carriers under the provisions of Article 20 paragraph 1 sub-paragraph 1 continues during such time as the goods are in charge of the carrier whether in an airport or on board an aircraft or, in the case of a landing outside an airport, in any place whatsoever. It does not extend to any carriage by land, by sea or by river performed outside an airport. If however such carriage as last aforesaid takes place in the performance of a contract for carriage by air for the purposes of loading, transshipment or delivery any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air.

Para. 3.—The liability of carriers under the provisions of Article 20 paragraph 1 sub-paragraph 2 covers the period of carriage by air.

Para. 4.—Goods are accepted for carriage only upon condition that, except in so far as liability is expressly provided for in these Conditions of Carriage, no liability whatsoever is accepted by the carriers, or their employees, or parties or undertakings employed by them in connection with their obligations, or their authorized agents, and upon condition that (except in so far as liability is expressly provided for in these Conditions) the consignor renounces for himself and his representatives all claims for compensation for damage in connection with the carriage caused directly or indirectly to goods, or to persons who, except for this provision, might have been entitled to make a claim, and especially in connection with surface transport at departure and destination, whatever may be the legal grounds upon which any claim concerning any such liability may be based.

Article 20.—Extent of Liability

Para. 1.—(1) Within the limits provided by Article 19 paragraph 1, the carriers are liable for all damage arising during the period of the carriage as defined in Article 19 paragraph 2, in the event of destruction or loss of or damage to goods.

(2) So far as concerns international carriage, as defined by Article 1 paragraph 2, the carriers are likewise liable, within the same limits, for damage sustained during the period of the carriage, as defined by Article 19 paragraph 3, in case of delay of goods.

The time-tables of the carriers furnish indications of average times without being in any way guaranteed. The carrier reserves the right to decide if the meteorological and other conditions for the normal performance of flights are suitable, if especially the times of departure and arrival should be modified and if a departure or landing should not be made at all at any particular time or place. In addition the carrier reserves the right to arrange, at landing places, such periods of stoppage as may be necessary to ensure connections, the maximum duration of which periods of stoppage will be mentioned in the time-tables; no responsibility concerning the making of connections can be accepted.

(3) Carriers are not liable if they prove that they and their agents have taken all necessary measures to avoid the damage or that it was impossible for them to take such measures. They are not liable if they prove that the damage was occasioned by negligent pilotage or negligence in the handling of the aircraft or in navigation, and that, in all other respects, they and their agents have taken all necessary measures to avoid the damage.

(4) If the carrier proves that the damage was caused or contributed to by the negligence of the party suffering damage, the court may, in accordance with the provisions of its own law, exonerate the carrier wholly or partly from his liability.

Para. 2.—(1) The liability of carriers is limited to the sum of 250 francs per kilogram, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of the value at delivery and has paid such supplementary charge as is required.

(2) In that case the carrier will be liable to pay a sum not exceeding the declared value, unless he proves that that sum is greater than the actual value to the consignor at delivery.

(3) The sum mentioned above shall be deemed to refer to the French franc consisting of sixty-five and a half milligrams of gold of millesimal fineness.

Article 21.—Claims

Claims must be addressed in writing to the carriers referred to in Article 22.

*Article 22.—Undertakings against which Action can be Taken.
Jurisdiction*

Para. 1.—An action for return of a sum paid under the provisions of a contract of carriage can only be brought against the undertaking which received the sum.

Para. 2.—An action for payment concerning a C.O.D. consignment can only be brought against the first carrier.

Para. 3.—In the case of other actions arising under the contract of carriage the consignor having the right of disposition will have a right of action against the first carrier and the consignee who is entitled to delivery will have a right of action against the last carrier and further each party having the right of disposition may take action, under the provisions of Article 20, against the carrier who performed the carriage during which the event giving rise to the action took place. Once action has been taken the option concerning the party to be sued is extinguished. For actions arising under the provisions of Article 20 these carriers will be jointly and severally responsible to the consignor and consignee respectively.

Para. 4.—(1) Actions must be brought before the Court of the carrier's principal place of business. The national law of the court seized of the case shall apply.

(2) Nevertheless, actions arising under the provisions of Article 20, in connection with Article 1 paragraph 2, must be brought, at the option of the plaintiff, in the territory of a State which is a contracting party to the Convention of Warsaw, either

(a) before the court having jurisdiction where the carrier is ordinarily resident, or has his principal place of business, or has an establishment by which the contract has been made; or

(b) before the court having jurisdiction at the place of destination.

(3) Questions of procedure shall be governed by the law of the Court seized of the case.

Article 23.—Limitation of Actions

Para. 1.—(1) The right to damages arising under the provisions of Article 20, in connection with Article 1 paragraph 2, shall be extinguished if an action is not brought within two years, which may be reckoned either from the date of arrival, or from the date on which the carriage stopped.

(2) All other rights arising out of the contract of carriage shall be extinguished if an action is not brought within a period of six months.

Para. 2.—The method of calculating the period of limitation, as well as the reasons for suspension or interruption of the period of limitation, shall be determined by the law of the court seised of the case.

Article 24.—Legislative Provisions

Where in any country legislative provisions conflict with these Conditions of Carriage, the latter shall be applicable only in so far as they do not conflict with such legislative provisions.

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