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INTERNATIONAL AIR TRANSPORT POLICY

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CIVIL AERONAUTICS BOARD

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I. SUMMARY OF CONCLUSIONS

A. OPERATING RIGHTS FOR INTERNATIONAL AIR TRANSPORTATION
(Discussion, Part III, page 8)

1. The right of aircraft of one nation engaged in commercial air transportation and other civil operations to fly across the territory of any other nation without landing should be exchanged on a reciprocal basis by general agreement to which as many nations as possible should be parties.

2. The right of commercial aircraft of one nation to land for technical purposes, such as refueling (without the right to discharge or take on passengers or cargo), at any landing area authorized for public use in the territory of other nations should be exchanged on a reciprocal basis by general agreement to which as many nations as possible should be parties.

3. (a) The establishment and operation of air carrier services for the commercial transportation of passengers and property between points in two nations should continue to be arranged for by inter-governmental agreement. With the consent of its government, it should be possible for private air carrier enterprises to negotiate directly with foreign governments relative to operating rights.

(b) Inter-governmental agreements under paragraph (a) should include the following terms:

(1) Agreements should be of indefinite duration subject to termination by any party on two years' notice to the other parties, such notice to be given only after a period of 60 days during which discussions could be had.

(2) Agreements should not condition the inauguration or expansion of operations upon similar action or readiness to take such action on the part of any other nation or its nationals.

(3) Each nation obtaining operating rights for the pick up and discharge of traffic should be left free to assign them to operating enterprises without obtaining the other parties' approval of such enterprises before assignment: Provided, That this principle should be subject to the condition that such operating rights granted to a nation must be assigned by it only to enterprises fully controlled by its nationals or by nationals of the nation granting the rights.

(4) Agreements should place no limitation on the total volume of operations on particular routes agreed upon.

4. Each nation agreeing to the principles of non-stop transit and technical stop set out in paragraphs 1 to 3 should be asked to agree not to make any arrangement for the use by it of the air space of any other nation to the exclusion of any other nation agreeing to those principles.

5. Each nation should be free to establish reasonable prohibited areas from which the flight of aircraft may be excluded; but such prohibited areas should apply equally to national and foreign aircraft.

6. The rights of non-stop passage and technical stop and operating rights involving the taking on and discharge of traffic should be granted subject to compliance with regulations for the control of air traffic and laws relating to public health, immigration and customs, of the nation whose territory is involved. A nation granting such rights should be permitted to reserve the privilege of prescribing special operating rules and procedures of local effect to be observed in the interest of safety by aircraft engaged in air transport operations in its territory. Each air carrier conducting operations under an international agreement should be obligated to put into force appropriate measures to insure that its navigating personnel will be adequately familiar with the air traffic rules and operating procedures in effect in the foreign territory in which they fly.

7. The United States should grant to foreign air carriers operating rights involving the taking on and discharge of traffic only where the extension of that privilege is required in order to permit the establishment of air services by United States carriers, the inauguration of which is required by our national interest. In determining the point in the United States at which a particular foreign air carrier shall be permitted to take on and discharge traffic there must be considered, on the one hand, the desirability of avoiding to the maximum extent possible diversion of traffic from our own domestic airlines, and, on the other hand, the desirability in some cases of authorizing such a commercial entry at a given point if necessary to obtain a valuable right for the United States elsewhere in the world.

B. AIRPORTS AND FACILITIES
(Discussion Part IV, page 22)

1. International agreements should provide that landing areas and facilities constructed wholly or in part at the expense of the United States shall remain available for public use and open to United States air carriers and air carriers of other nations in the exercise of the right to make technical stops and of other operating rights which may be granted to them.

2. International agreements should provide that communications, meteorological, and similar facilities, in so far as under the control of the government concerned, shall be available for use by United States air carriers.

3. International agreements should provide that navigation aids shall be available for the use of the air carriers of all nations without charge, except for airport charges and such charges as may be made for the transmittal of communications and other special services.

4. International agreements should extend to United States air carriers the right to establish, maintain, and operate communications, meteorological, and similar facilities and navigation aids in foreign territories to the extent that facilities fully adequate for the operation of our international air transportation system are not available through the local government.

5. International agreements should provide for equality of treatment between air carriers of different nationalities in the use of, and with respect to fees and charges for the use of, landing areas and other facilities.

6. The development and maintenance of necessary landing areas and facilities in territories whose governments are unwilling or unable to do so, should be undertaken by international agencies, either directly representative of the various participating governments or in the form of an international corporation.

C. ECONOMIC REGULATION
(Discussion Part V, page 27)

1. International agreements should not prescribe limitations on the volume of service or formulae for the division of competitive traffic.

2. The United States must remain free to subsidize its international air transportation services where considerations of national policy require it.

3. There is no practical method of directly controlling, as between nations, direct government aid to international air transportation, but inter-governmental agreements should call for complete frankness between nations as to the amounts of subsidies and other assistance extended by the respective governments to their air carriers.

4. International joint action, cooperation, and consultation with respect to subsidies, rates, and other competitive practices of common interest to nations is essential.

a. International agreements should make it the general obligation of the nations concerned to endeavor to prevent the development of wasteful and unethical competitive practices.

b. International agreements should contain provisions requiring the aeronautical authorities of the countries concerned to consult with each other for the purpose of reaching mutual understandings as to the handling of particular controversies and problems arising with respect to rates and other competitive practices.

5. In order to implement the above recommendations, the Government should be authorized to regulate the level of rates and volume of service of United States air carriers engaged in international air transportation.

D. SAFETY REGULATION
(Discussion Part VI, page 34)

1. International agreements should require compliance with air traffic rules, air traffic control procedures, and similar safety regulations of the nation whose territory is flown over.

2. Steps should be taken to secure the imposition of adequate safety standards by all nations and the establishment of uniform standards in some fields of safety.

3. Provision should be made for immediate and extensive discussions among the technicians of the major nations, with a view to determining the extent of their agreement upon the desirable nature of postwar systems of air navigation facilities, communications facilities, and air traffic control; the definition of the specific questions with respect to which there is important disagreement among the technicians of various countries; and the presentation of recommendations for any cooperative studies which would assist in resolving the issues with respect to such disputed points.

E. INTERNATIONAL ADMINISTRATIVE ORGANIZATION
(Discussion Part VII, page 35)

1. An International Aviation Agency should be established. The Agency should (a) study procedures, practices, laws and international agreements, and conventions applicable to international aviation with respect to matters both of public and private law; (b) make comparative studies of accounting, subsidies, rates, unfair competitive practices and discriminatory actions by governments; (c) in the safety field, study national airworthiness requirements, operational standards, and methods of accident investigation and the standardization and coordination of air navigation aids and communication facilities; and (d) make recommendations for appropriate action by interested governments and organizations. It should be authorized to prescribe the air traffic rules to be observed in international operations. The Agency should also be authorized to consider and decide economic questions when referred to it by all the interested nations and its decisions on such matters should be binding.

F. RELATIONS WITH THE BRITISH COMMONWEALTH
(Discussion Part VIII, page 37)

1. The general principles set out in subdivision A of this Summary of Conclusions should be supported by the United States only if they are accepted by the British Commonwealth or at the very least by the United Kingdom for itself and all Colonial territories, and by Canada.

2. The United States should secure for United States air carriers, as a minimum, rights to pick up and discharge traffic in each of the British Dominions, in India, and in the United Kingdom, and also in Bermuda, the British West Indies, British Guiana, and Newfoundland; and the agreement of the appropriate units of the British Commonwealth to this general condition should be obtained.

3. The United States should be prepared to grant reciprocal privileges for British carriers for services between the United Kingdom and the United States and any of its possessions, and between each of the Dominions and the United States, but should resist any claim for British reciprocal services between the British colonies and the United States.

4. Subject to the principles set out in paragraphs 2 and 3, the specific points of entry to be used and routes to be operated by United States and British air carriers where rights to pick up and discharge traffic are involved should be established by arrangements between the aeronautical authorities of the respective countries.

5. Air traffic between the United Kingdom, India, and the Dominions should not be treated as cabotage, but should be open to United States air carriers having the appropriate operating rights.

6. The United States should oppose any arrangements which would exclude United States air carriers from major cities in the interior of continental Europe or which would reserve traffic between European countries exclusively to carriers of European nationality.

G. CONCLUSION

1. The detailed proposals outlined in this report are to be considered as a whole and our conclusions as to the desirability of individual principles assume that the United States will be able to make over-all satisfactory arrangements with other nations.

II. BASIC APPROACH

Much has been said and written, particularly in recent months, concerning the changes which aviation is making in the political, social, and economic patterns of world affairs. The importance of aviation in the future cannot be overemphasized.

Today distance in terms of miles is not controlling. No two important points on the globe are farther apart in time by air than are New York and San Francisco by train. Substantially every nation on earth is less than sixty hours by air from any other nation. Travelling at 300 miles per hour, a cruising speed which transport planes may approach shortly after the war, it would take about the same time to go from New York to Moscow as it takes to go by train from New York to Chicago.

Oceans, shore lines, mountains, and deserts present no barriers to air transport. Strategic ports and channels, determinators of world power and commerce in the past, are losing much of their significance. Any place on earth which has the resources to originate or attract traffic is a potential port of the air. A potential air trade route is simply the shortest air track between such ports.

New trade routes and the development of trade and travel to new areas are assured. Air commerce will ultimately influence the building of new cities and a shifting in the relative size and importance of old cities. Already new industries and new settlements are being established in remote areas of the world as the result of air transportation. The people of every part of the world are now potentially neighbors to the people of all other

countries and a market for commerce.

The increased personal contacts and exchange of ideas between the peoples of the different nations of the world made possible by air transportation may be made a significant force for bringing about international understanding.

The constructive benefits of international air transportation will not be secured automatically. Intelligent action by the United States and all other great nations of the world will be necessary. Careful consideration now of the policies which should be followed by the United States in the future with respect to international air transportation is essential in order that this country may be prepared to work out with other nations the rules, conditions, and procedures which will be applied to international air transportation. It is for the purpose of facilitating this consideration that the Civil Aeronautics Board has prepared this report.

Policies on this subject should be designed to promote the utilization of international air transportation as a means of rendering a public service to the largest possible number of people by facilitating the movement of persons, mail, and goods, and by opening up regions now inaccessible. This objective is consonant with and can be promotive of the development of a strong United States international air transportation system.

III. OPERATING RIGHTS FOR INTERNATIONAL AIR TRANSPORTATION

International air transportation has been carried on in the past under the principles established by the International Convention for Air Navigation, signed by twenty-six countries, including the United States. The Convention was opened for signature on October 13, 1919 at Paris, and became effective on July 11, 1922. It was not ratified by the United States, but our own practices in many major respects have paralleled those of the ratifying countries.

The Paris Convention rejected the doctrine of freedom of the air, which had been advocated by many before World War I on the analogy of the doctrine of freedom of the seas. While some controversy has existed in the past concerning the precise meaning of the Convention as it applies to commercial air transportation routes, it is now established that commercial services may not be operated over a country without its express consent.

The result of this restriction is that the establishment of air transportation services by the nationals of one country into or over the territory of another has necessarily been preceded by the negotiation of bilateral agreements between the countries or agreements between the air carrier and the country concerned. The necessity of procuring the consent of the government whose air space is involved to the establishment of a foreign air service gives it an opportunity, (1) to deny the rights of operation sought where, for example, its own nationals operating similar services would meet competition or where political hostility exists; and

(2) to insist upon a variety of restrictive conditions, if operating rights are granted, such as delay in the inauguration of services until its own nationals are in a position to operate similar services.

A few examples of the pitfalls present in the field of international air transportation diplomacy are illuminating:

"Iran (Persia), which denounced the Convention only in 1933, interpreted Article 15 (Paris Convention) so strictly that the operation of the proposed British line from Cairo to Karachi was held up for over two years. A three years' authorization to fly along the Persian coast, subject to certain restrictions, was given in 1929. The Persian proposal to extend the authorization included a provision that Imperial Airways should use, in place of the coast route, an air corridor which the Shah's government proposed to establish through the mountainous heart of the country. This proposal was not accepted by the British, for purely practical reasons. In October, 1932, Imperial Airways shifted its route to the Arabian coast of the Persian Gulf. Turkey has consistently declined to authorize international air lines to cross its Asiatic territory. In 1929, Imperial Airways instituted the London-Cairo service, later extended to India. The projected route was via Genoa-Naples-Corfu-Alexandria. Some years earlier, Great Britain had refused permission for an Italian company to fly over Egyptian territory. The Italian government would not permit Imperial Airways to enter Italy by sea from France although French and, later, Dutch aircraft were using this particular air route. The section between Basel and Genoa had, therefore, to be effected by train. The British accepted the Italian proposal that the former's line, after leaving Corfu, should touch at Tobruk in the Italian possession, Cyrenaica, before proceeding to Alexandria, and that an Italian company should fly along this route in the middle of the week, leaving the weekend services for the British. This established a less direct route with a loss of half a day at Tobruk. After nearly a year's operation, the Italians proposed a pooling arrangement, which Imperial Airways did not accept. Consequently, the route was hurriedly shifted to Cologne-Nuremberg-Vienna-Belgrade-Skoplje-Salonika-Athens-Alexandria. Apart from the inconvenience of a total change of route, conditions were hazardous in the mountains between Skoplje and Salonika, necessitating a train instead of an air service during the winter.

"Under an Anglo-Italian Convention relating to the establishment of air transport lines, signed on May 16, 1931, and ratified on December 30, 1932, Imperial Airways was authorized to revert to

the Genoa-Naples-Corfu route for one year and thereafter to operate with aeroplanes from Milan to Brindisi, thence across to Athens by flying boats, without having to call at Tobruk. Imperial Airways reverted to the former route from Genoa for a short period before deciding to use the thirty-four-hour train journey for its passengers, freight, and mail between Paris and Brindisi, realizing that it would be obliged to shift the Italian air route again the following year and that 'the winter weather round Milan is bad, fog being very prevalent, and, in any case, the aeroplanes operating the Milan-Brindisi sector would be flying uneconomically.' By a provisional agreement concluded on February 1, 1934, between the British and the Italian authorities, Imperial Airways received permission to fly down the coast to Naples, thence to Brindisi. Thus the French section remained the last link to be completed before the journey between Croydon and Capetown, or to and from the Far East, might be effected wholly by air. The negotiations between Great Britain and France were the thorniest. The following account was given in The Times (London), on August 16, 1934, of the inconclusive negotiations between the British and French authorities:

"'It is understood that difficulties have arisen over the conditions on which the French Air Ministry would be prepared to allow British use of the Paris-Marseille route. The British request for unrestricted use of the airway was based on the analogy of the arrangement which allows Air France to fly without conditions over the British air route across India on the way to Saigon.

'The British representatives demurred on principle to a proposal for mutual prohibition of the carrying of French passengers by Imperial Airways and of British passengers by Air France. On the French side it was then suggested that a pool of passenger receipts between Paris and Marseille should be established and divided in fixed proportions, 60 per cent to be allotted to Air France and 40 per cent to Imperial Airways; with a similar pooling of Paris-London receipts in the proportion of 40 per cent for Air France and 60 per cent for Imperial Airways.

'In support of this plan the French representatives pointed to the acceptance by the Dutch air lines of a similar arrangement on the East India route. They suggested also that in return for British acceptance of their proposals they should concede unrestricted passage across Indo-China to Imperial Airways for the extension to Hong Kong. It was agreed that at least 80 per cent of the traffic over the Paris-Marseille section is now British.'"[1/]

It is true that even under such a regime several great international air transportation systems were placed in operation before the war. Nevertheless, those systems were not established without difficulty; and received

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1/ International Organization in European Transport, Laurence C. Tombs (1936), pp. 63-66.

substantial support from their governments. Much of the success in securing extensive rights to operate was due to the fact that few nations were interested at the time in operating their own international services.

Conditions have changed, however. Nations are much more aware now than before the war of the significance of air transportation. They recognize the importance of maintaining and developing an air transportation system of their own if they can afford it. The apparent value of their air space has increased in terms of the measure of what they can demand from other nations in exchange for conceding operating rights. World air transport development, and the expansion of United States air transportation, can be interminably delayed if, on the occasion of each forward step, special arrangements must be made by the government or its carriers with every nation whose air space is involved.

These considerations suggest that our national best interests require careful study of the possibility of securing for air transportation greater freedom from international bargaining whether it be in the form of intergovernmental negotiation or the seeking of concessions by carriers.

Operating rights involved in such consideration may be divided into three classes: (1) the right of non-stop passage; (2) the right to make landings for technical purposes; and (3) the right to pick up and discharge traffic.

It is likely that the greatest volume of world air transport would be secured by a policy which permitted the operation of air transportation services without regard to national boundaries, i.e., without the special consent of the nations whose territories were flown over, and with complete

freedom of landing not only for technical purposes but also for the taking on and discharge of passengers and cargo. The adoption of such a policy, however, might result in economic chaos and endanger the development of a strong United States air transportation system, an eventuality which we cannot afford to risk.

The United States should possess an extensive and strong international air transportation system. Whether this country would be able to develop and maintain such a system under a principle permitting universal and unlimited freedom of operation, would depend primarily upon its ability to compete with air services of other nations. The United States will have certain competitive advantages in the immediate postwar period. These initial competitive advantages, however, may not last long.

The experience of the United States in the shipping field, heretofore the only form of transportation subject to important international competition, has not been encouraging. Since the decline of our merchant marine during the Civil War, the United States has not been able to maintain, except for a brief interval under the spur of the first World War, a merchant fleet commensurate with its position in world commerce. Experts appear to differ as to the principal cause of this. It has been attributed to our failure to maintain a consistent and vigorous national policy in support of the merchant marine, to extravagance and mismanagement, to the generally high wage level in the United States, to our failure adequately to meet subsidies and discriminatory tactics by foreign countries in favor of their own carriers, to the waning of our sea-going tradition and the disposition of youth to prefer opportunities ashore. Whatever may have

been the primary cause, it would appear to be the opinion of most, if not all, informed persons that substantial cost differentials exist between United States and foreign operations. In its "Economic Survey of The American Merchant Marine" the U. S. Maritime Commission said (page 54); "* * * The Commission has come to the conclusion that the majority of our lines simply cannot compete in international trade without substantial subsidization by the American Government. Although there is considerable diversity of opinion about the exact differential between American and foreign operating costs, there is no doubt that American costs are much higher than those of our principal competitors. * * * The American builder and American operator have not been able to duplicate the success of our mass production industries in meeting the low wage competition of other nations."

If, as many contend, similar differentials in operating costs are to be expected in air transportation, they may be of such importance that their effect upon the ability of United States air carriers to compete with foreign carriers will be substantial.

A further consideration in this connection is the matter of subsidy. It has been stated that over 100 different types of government aid have been used in the past by various countries with respect to merchant shipping. Such aids have a substantial effect on competitive positions and, as we point out in more detail later, they can take so many hidden forms that there seems little prospect of evolving any practicable means for their direct control. It would not, in any event, be compatible with the interests of the United States to join in any general compact of simple prohibition of subsidy, for subsidy may be the only means open to us of equalizing

actual differentials of operating cost. This point is further discussed in Part IV.

In the light of these considerations, prudence and sound economics require that the right to pick up and discharge traffic continue to be granted by specific consent of the government whose territory is involved. Under this procedure the United States would retain the right to say what carriers should participate in traffic to and from points in its territories and compete with its own carriers. It does not follow, however, that we should support a similar policy with respect to non-stop passage and technical stops in commercial air transportation. We believe that a substantial liberalization of existing international procedures relating to the latter rights is both feasible and desirable.

It would be a substantial advantage to the United States to secure from as many nations as possible the general right to fly over their territories and to make technical stops in commercial air transportation. The shortest airline routes between the United States and many of the major traffic areas of the world require flight over the territories of other nations.

The shortest route between the United States and the British Isles requires flights over Canadian and United Kingdom territory, Ireland and possibly Greenland and Iceland, as is also the case with the routes between the United States, Scandinavian countries, and Moscow. The most direct route between the United States and Moscow requires passage over the same territories and Norway and Sweden. A United States service to points in Central Europe would require operations over British Commonwealth territory, Denmark, the Netherlands or France, and, if it proceeded on into the Balkans,

would require operations over a number of other countries. A similar state of facts exists with respect to flights into the Mediterranean area and on through to Tehran and beyond. The Great Circle routes to Asia through Alaska, as well as service to Alaska itself, involves flights over Canadian territory in the Western Hemisphere and that of other nations in Asia.

If consent to the establishment of each United States route must be obtained separately in each case from each of the nations whose territory is flown over, it is apparent that this country is faced with a complicated chain of negotiations. On the other hand, if consent to the establishment of specific air transportation operations need be obtained only from those nations in whose territories traffic is to be taken on or discharged, the procedures preliminary to the inauguration of new United States services would be considerably simplified. It seems clear that such simplication would facilitate the expansion of our air transportation system by reducing the number of nations who must be dealt with on each occasion.

While the range and load capacity of aircraft are increasing, the right to make stops for technical purposes remains important. While that right might not be absolutely necessary in order to permit the operation of inter-continental routes, it would in most cases increase the capacity and, therefore, the efficiency and economy of air transportation operations.

In order to secure the general rights of freedom of transit and technical stop from other nations, it is to be expected that the United States would be required to grant to such nations similar general rights with respect to United States territories. The right to land in the Hawaiian Islands, and the right to cross over and land in Alaska are keys to the

operation of many important trans-Pacific routes. It is doubtful, however, whether the United States could continue to deny access to the Hawaiian Islands and Alaska without undergoing substantial retaliation by other countries, even though rights of transit and technical stop were not generally exchanged. From a more realistic point of view, the advantages which we might yield would be compensated by those gained. The balance of interests for the United States appears clearly to be in favor of securing as broad an exchange as possible of general rights of transit and technical stop with other nations.

It may be urged that we cannot permit planes of foreign nations to fly over our territory for reasons of military security. The opportunity of seeing and photographing our entire country with all of its military and defense establishments is raised as an objection. However, our own domestic airlines, covering many more routes than would ever be operated by foreign carriers under general transit rights, are always available to any person, American or foreign, who might be interested in a bird's-eye view of our country. The argument also overlooks the fact that, if spying is to be done, it can much more easily be accomplished by renting within this country a small private plane which is not required to maintain a fixed route or course. It seems absurd to expect that effective espionage will be conducted through the windows of any airliner, or even from the cockpit. This problem can be solved more effectively if each nation reserves the right to prohibit air traffic over designated areas for reasons of national security. In order to insure that these prohibited areas will be established only for legitimate security reasons, they should be

applicable alike to national and foreign aircraft.

Another argument made against the adoption of the policy of permitting foreign airlines to stop at points within this country for technical purposes is that such stops would result in a public demand for the rendering of commercial service by such airlines which would be so strong that commercial rights would have to be granted. This argument appears to be so highly speculative as to be unworthy of any concern. While at the present time there is not adequate service by American carriers to meet the public demand, it can be anticipated that whenever equipment becomes available ample service will be provided by American air carriers — service which, if the past is a guide, will be at least equal in safety and comfort to that provided by any foreign carrier.

The most important thing which we would give up if we agreed to the principle of non-stop passage and technical stop for commercial airlines is the right to make air use agreements with other nations whereby all but commercial aircraft operated by United States lines would be excluded from the air space of such nations. There might be cases where that would be mutually agreeable to ourselves and the nations concerned. However, it is very doubtful if the United States would ever be satisfied with this sort of a world-wide program. Surely if we undertake to make such exclusive arrangements, other countries would, in self defense, try to follow the same procedure in other parts of the world. The prospect of the world being divided up into zones of influence, created by exclusive air use agreements, is one which we believe is not attractive to the United States.

We propose the adoption of principles recognizing rights of non-stop passage and technical stop because it appears to be in the best interests of the United States and to provide the greatest freedom for the development of international air transportation consistent with the maintenance of a sound United States system. Moreover, it appears that the question as to the world-wide adoption of these principles should not be the sole subject of any international conference at which it is discussed, for many nations might not feel that the advantage to them of the adoption of these principles would be equal to the advantage they might secure by maintaining the present severe restrictions upon international operation. This question must be one of many open for discussion in order that through the interplay of various interests the principles will have the maximum possibility of adoption.

We propose that the establishment of air carrier services be arranged for through the negotiation of specific inter-governmental agreements with the nations in whose territories traffic is taken on or discharged. In following this plan, it is important that such agreements recognize certain principles.

The agreements should insure that rights to pick up and discharge traffic will be valid for a sufficiently long period of time to encourage the maximum efforts toward development by the operator and to avoid too frequent bickerings over existing rights. For this reason, it is suggested that agreements with respect to such rights should be of indefinite duration subject to termination at any time by any party on two years' notice with provision for a period for discussion where the desire to cancel

arises from a disagreement.

While we have indicated that rights to pick up and discharge traffic should be arranged by the governments concerned, there will be occasions on which a government may believe it desirable to permit one of its air carriers to negotiate for such rights. Any government should be free, therefore, to permit enterprises of its nationality to negotiate for operating rights directly with another government or a foreign enterprise authorized to deal by its own government.

One additional qualification with respect to inter-governmental agreements on air transportation should be noted. It may prove desirable in particular cases to have the governments fix upon the specific rights to be exchanged by consultation and agreement between their respective aeronautical authorities — rather than to include the specific routes in a formal inter-governmental agreement. In Part VII of this report, for example, is a case where it is recommended that this machinery be adopted.

As we have pointed out earlier, a nation may refuse to permit a carrier of another country to enter its territories until its own carriers are actually ready to inaugurate a reciprocal service. Such conditions can seriously retard the development of air transportation. The United States should resist their inclusion in agreements.

Each government should be free to determine for itself what enterprises are to operate its international air transportation services. The United States, for example, should be left free to assign operating rights obtained by it from other countries to any United States carrier or carriers which this Government believes the public interest requires to operate the service.

However, this principle should be subject to the condition that operating rights granted to a nation must be assigned by it only to enterprises fully controlled by its nationals or by nationals of the nation granting the rights.

Another undesirable feature of prewar international agreements was the tendency to prescribe specific limitations on the volume of operations. Such limitations may be set so low as to handicap substantially the development of the services. Future agreements should avoid prescribing any limitation of this kind.

In the interest of safety, agreements should provide that aircraft engaged in air transportation operations comply with the regulations of the territory in which they fly relating to the control of air traffic, and should reserve to the nation granting operating rights the privilege of prescribing operating rules and procedures to be observed in the interest of safety by aircraft of other nations engaged in air transportation operations in its territory. These provisions would be subject to the power to prescribe traffic rules which we suggest in Part VII be vested in an International Aviation Agency. Each air carrier conducting operations under an international agreement should be obligated to put into force appropriate measures to insure that its navigating personnel will be adequately familiar with the air traffic rules and operating procedures in effect in the foreign territory into which they fly. Agreements also should require compliance with laws relating to entry and clearance, immigration, passports, quarantine and customs. The purposes of such provisions should be confined to legitimate ones, and the application of national rules to foreign operators

should be limited to the inescapable minimum.

It seems clear that in securing rights to pick up and discharge traffic for its own nationals the United States will find it necessary to grant similar rights to foreign air carriers. Many nations, of course, will have neither the financial ability nor the technical skill, and some will lack the desire, to maintain their own international air services. Many, however, will wish to do so. All countries, small or large, except the Axis nations, must continue to have the right to admit or exclude foreign air transport services in accordance with their own best interests. The process of granting or denying applications for the establishment of foreign air services will constitute the most effective, and perhaps the only effective, means of controlling the extent of the foreign competition to which our own carriers will be subjected. The Board feels, therefore, that reciprocity should be granted only in those instances where extension of that privilege is required in order to permit the establishment of United States air services, the inauguration of which is required by our own national interest. In determining the point in the United States at which a particular foreign air carrier shall be permitted to take on and discharge traffic, the public convenience and necessity must be carefully considered in each case. This concept will, of course, include a consideration of the desirability of avoiding, to the maximum extent possible, diversion of traffic from our own domestic airlines on the one hand and the desirability in some cases of authorizing such a commercial entry at a given point, if necessary, to obtain a valuable right for this country elsewhere in the world.

IV. AIRPORTS AND FACILITIES

Landing areas, air navigation aids, refueling, maintenance, and similar facilities, communications channels, and meteorological information are essential to the operation of an air transportation system. The United States can maintain worldwide operations only if adequate rights are secured from foreign countries or their nationals for United States carriers to use such facilities as exist in foreign territory, or to construct, operate, and maintain their own facilities.

With respect to landing areas, it has already been suggested in Part III of this report that there should be recognized a general right to make technical stops in international air transportation at any landing area "authorized for public civil use." This would effectively open up to our carriers for technical stops those airports in foreign countries which are used by their own civil aircraft operations. The right to pick up and discharge traffic is one which we have recommended should be dependent upon consent to the particular service by the nation whose territory is involved, and the availability of airports for this purpose must depend upon securing such consent.

The United States during the war has constructed at its own expense, or has contributed to the construction of, a large number of landing areas and related facilities in various foreign territories for military use. In some instances existing facilities have been extended and improved. In many cases no formal agreements exist with respect to the use or eventual disposition of those facilities. Some of these landing areas and facilities will be of importance for post-war use by our international commercial air

transportation services. It is believed that any long-range agreements relating to landing areas and facilities useful to our commercial air transportation should uniformly provide that these shall remain open for public civil use. This will make them available for use by United States air carriers and carriers of other nations in the exercise of the right of technical stop referred to in Part III of this report. Such an obligation would also assure that, in so far as these facilities are located at points where the handling of traffic by United States carriers is desirable, they will be available for use if the necessary rights to pick up and discharge traffic can be secured.

Facilities other than landing areas, such as communications and meteorological services and navigation aids, present special problems for international air transportation.

Safe and efficient air transportation depends heavily upon an adequate communications system. Such a system is the basis for traffic control, navigation assistance, the interchange of weather and flight information, reservations control, and numerous other items that are essential phases of air transportation. There are many detailed problems involved in this subject, such as the allocation of frequencies and the standardization of equipment, communication procedures, and radio operator requirements. Presumably, these will have to be dealt with by international agreement after thorough study. We are concerned now, however, simply with the availability to United States air carriers of the necessary communications facilities.

As a step in securing adequate communications, international agreements should provide that in so far as communications facilities are under the control of the government concerned it shall make them available for use by the air carriers of all reciprocating nations. In many areas, however, these facilities may not be adequate, or the government involved may not find it feasible to support their fully effective operation. Provisions should be included in international agreements, therefore, which would give United States air carriers the right to establish, maintain, and operate communication systems in foreign territories to the extent that facilities fully adequate for the operation of our international air transportation system are not made available through the local government.

Meteorological services involve two primary phases: (1) The collection of weather observations, and (2) the interpretation of weather data in various forms, such as weather forecasts. The basic systems of weather observation and forecasting are normally maintained as governmental functions in all major countries. Communication provides the basis for the interchange of weather information between the national meteorological systems and also provides for the dissemination of it and of forecast material to interested air carriers.

Much remains to be done in many parts of the world with respect to improving the coverage and quality of weather reporting and forecasting services if they are to be adequate for future developments in international air transportation. United States carriers should have the right to maintain their own observation and forecasting stations in areas where local facilities are inadequate, and to arrange for the distribution of the resultant data by wire or radio.

International agreements should continue to provide that meteorological information should be freely interchanged between national meteorological organizations and made available to all air carriers, in accordance with standard practices and codes of transmission to be developed by discussions among the meteorological authorities.

Radio navigation systems as presently used both in this country and abroad are of three kinds. The first is the radio range system set up on our domestic airways; the second makes use of direction finding equipment installed in aircraft and using either specially established ground radio stations or commercial broadcasting radio stations; and the third depends on direction finding stations on the ground determining the position of the aircraft and advising the pilot of it. Developments in the field of air navigation during the war have been far-reaching. They will have their effect upon the type of navigation aids used and operations procedures in the future. Still further development seems certain. Air transport agreements should provide that navigation aids in foreign territories, in so far as under the control of the country concerned, shall be available for use by the air carriers of all nations without charge, except for airport charges and such charges as may be made for the transmittal of communications and other special services. Undoubtedly in some cases United States carriers will find it necessary to have available navigation aids in addition to those which they may find in foreign countries. Many countries will not provide adequate navigation aids within their territories. Agreements with such countries should give the United States and its carriers the right to establish, maintain, and operate such navigation aids as are

necessary to make up for the lack of local facilities. In addition, efficient and safe operations will require that a procedure be established through which standardization of navigation aids and the methods of using such aids may be brought about. A more detailed suggestion on this latter subject is found hereinafter in Part VII.

Assurance that airports and facilities will be available to our air carriers, however, is not enough. In the maritime field discriminatory port fees, dock charges, and similar practices have frequently been used as the means of promoting one country's shipping over that of other nations. Most international air navigation agreements in the past have called for equality of treatment in the use of landing areas and other facilities open to the public. This principle is an important one, and future international agreements should guarantee equality of treatment in the use of landing areas and facilities without discrimination as to fees and charges between air carriers of different nationalities.

In our discussion of facilities, we have emphasized up to this point the methods of initially securing the facilities needed for United States air carriers. However, the problem with respect to facilities is considerably broader than this. It can be expected that a number of other nations will be operating extensive international air services which will serve the same routes or points served by United States operations and likewise will need communication and other facilities. To the extent that carriers independently secure their own facilities, there will result substantial duplications, as well as conflict in operations. In addition, particularly with reference to landing areas used simply as staging points, facilities will

often be necessary in the territory of a country which has no interest in seeing that they are maintained. These factors suggest the desirability of working out a plan for the common ownership and operation by nations interested in their maintenance of facilities in areas whose governments are not willing or able to maintain the facilities.

One method of accomplishing such result would be to establish an international corporation owned and controlled by the countries of the world which desired to participate. The corporation's ownership of airports would make it more difficult for one nation to withdraw such facilities arbitrarily from international use. This is of special importance if the landing areas to be held by the corporation are selected with due regard to the importance of keeping each important trade area of the world open to foreign air transportation. Operating rights for air transportation services would, of course, be secured through negotiations with the country concerned. Obviously, the working out of the details of such an organization would be difficult. We believe, however, that the potential benefits of the plan make it desirable that a serious effort be made to work out such a program.

V. ECONOMIC REGULATION

The experience of the United States has demonstrated that a plan of sound regulation is essential to the full development of air transportation. Economic regulation provides (1) the basic financial stability which will permit the rendering of adequate and efficient service, (2) protection against practices which are adverse to the public interest, and (3) governmental action to require, so far as possible, the maintenance of adequate standards of service.

The Civil Aeronautics Act of 1938 provides rather comprehensive regulation of United States international air transportation services, and also includes the regulation of certain phases of the operations of foreign air carriers touching the United States territory.

In its annual report for 1942, the Board recommended several amendments to the Act with respect to international air transportation. National legislation alone, however, cannot cope with all of the economic problems of international air transport. It does not seem practicable to anticipate that international routes can be so established as to avoid a considerable amount of competition, even if that were desired. Several nations are bound to insist upon the right to have their carriers operate over each of the major trade routes. The result is that destructive competition between air carriers of different nationalities and subsidy "races" between nations can be expected to develop, unless appropriate controls are imposed. National legislation cannot provide the necessary restraining influence. Schedule frequencies may be increased by one carrier far beyond the needs of traffic in order to capture traffic from competing carriers, safety standards may be lowered by one nation to permit its carriers to operate at lower costs and lower rates, unreasonably low rates may be put into effect, and many other unfair practices may be resorted to. While we, for example, might prescribe reasonable rates to be charged by United States air carriers and prevent them from engaging in unfair competitive practices, this accomplishes little if competing foreign carriers are free to cut rates below a reasonable level and engage in practices which have been forbidden to our own carriers. Similarly, we may refrain from subsidization or keep it to a minimum, but

other nations may not do so. National legislation must be supplemented by international joint action, cooperation, and consultation in these fields of regulation and national policy which are of common interest to nations.

Subsidy is a major factor in competitive relationships in international air transportation. So far as the United States is concerned, it has been its policy under the Civil Aeronautics Act to subsidize air transport, but to reduce subsidies as commercial revenues increase. Some important international routes now are approaching a non-subsidy basis. It obviously would be desirable to maintain the operations required by our national interests without government financial support. Nevertheless, the United States must remain free to subsidize its international air transportation.

The United States may desire the operation by its air carriers of some routes which are inherently incapable of producing sufficient traffic to meet expenses or to yield a profit, no matter how restricted the volume of operations. In such cases, subsidies would have to be paid.

There is also the problem of cost differentials between United States and foreign air carrier operations. It was pointed out earlier in this report that the United States Maritime Commission has reached the conclusion that substantial cost differentials exist between United States and foreign shipping operations and that the majority of United States shipping lines could not compete with foreign lines in international trade without substantial subsidies. To the extent that cost differentials exist in air transportation, the United States must seek some means to offset them. Subsidy is one method.

It appears, therefore, that the United States must remain free to subsidize its international air carriers where that course appears desirable. Other nations may also subsidize their carriers. Unless there can be control through international agreement and cooperation, a subsidy race is possible.

Unfortunately, however, there appears to be no practicable method of controlling directly the element of government aid itself. Such aids may be of all degrees of indirectness. They may be so hidden as to escape notice by other countries. Some may be evaluated in monetary terms, while the benefits derived from others are not susceptible to such conversion. Maritime experience in this connection has been referred to earlier in this report. In addition to numerous forms of financial contribution, aid to shipping has frequently been extended through numerous devices imposing discrimination upon foreign competitors. A country may require its shippers to utilize national lines, or attempt to secure the agreement of other nations to use its carriers. It may permit discriminatory taxes and other charges and fees against foreign carriers, or provide for hidden rebates of such charges in favor of its own carriers. Government aids, which take so many guises that it is virtually impossible to discover their extent, have a substantial effect on competitive positions.

There is no reason to believe that this pattern will not repeat itself in air transport, perhaps in an aggravated form, from our viewpoint, in that some foreign carriers are likely to be directly owned by governments, and subsidies in such cases are still more difficult to identify. Under present circumstances, any agreement directly limiting the amounts or types of subsidy could be too easily evaded to be relied on.

Some progress might be made by including in inter-governmental agreements provisions calling for complete frankness between nations as to the amounts of subsidies and other assistance being extended by each to its carriers. The United States can also express its willingness to approach with an open mind any proposals for means whereby participation by all nations in a policy of minimizing subsidy and avoiding subsidy races could be assured, even though the difficulties in the way of reducing such a policy to formal international agreement may now appear to us likely to be insuperable.

Expression of doubt on this point should not be taken to mean, however, that the final answer to the problems of competition is "chaos". Controls of competitive practices can be provided to keep competition within reasonable bounds and also to counteract unreasonable subsidies. These controls are essentially administrative devices.

In the past, international agreements authorizing the establishment of air transportation services frequently have prescribed the number of schedules to be operated by the respective nationals of the countries concerned. While this permits control of competition, it also unduly hampers the expansion of air transportation services. It tends to keep the total volume of capacity operated at a level substantially equivalent to the traffic currently available and to force an equal division of this volume between the carriers involved, regardless of the relative merits of their services and the preferences of the patrons. Total capacity operated will normally be greater than available traffic. A load factor of approximately 65 per cent, for example, in our domestic operations is normal. As long as

total capacity is greater than available traffic, the carrier presenting the most attractive service will probably fill its planes fuller than other carriers. This may lead other carriers to demand that the total schedules of the successful carrier be further reduced to such an extent that traffic in sufficient amount will be forced to use their service to give them what they regard as their fair share. The limitation of volume also is necessarily somewhat inflexible since modification of the limit requires the concurrence of two nations. It also tends to prevent any addition to the volume of one carrier until the competing carrier of the other nation is ready to meet this increase. It presumably would limit United States carriers to the operation of a volume equal to that of foreign carriers, since the determination of satisfactory formulae for division on any other basis does not appear practicable.

For these reasons we do not believe that the establishment of rigid limits on the volume of service or the adoption of formulae for the division of traffic provide satisfactory means of regulating competition.

The possibility of assigning certain functions in this connection to an international agency is discussed in Part VII. In the absence of any such agency, control of rates and other competitive practices would have to rest to a considerable extent upon the willingness and ability of the nations concerned to cooperate in preventing competition from developing on unfair and unsound lines. The United States should make it clear that it is prepared to cooperate in this respect to the fullest extent possible. International agreements should provide for consultation between the aeronautical authorities of the countries concerned for the purpose of reaching

mutual understandings as to the handling of particular controversies or problems with respect to competitive practices which may arise from time to time. To such a provision might be added the general understanding that all parties will endeavor to prevent the development of wasteful and unethical competitive practices. These suggestions may seem very vague and unsatisfying. We are confident, however, that they can accomplish much if there is a general sincere desire to keep competition in air transportation on a sound basis. If any country by its action demonstrates that it does not have that desire, we may be obliged to terminate our agreement with that country and make a new one in light of the facts then known.

In this connection it should again be noted that the Civil Aeronautics Act does not now authorize the Board to regulate the level of the rates or volume of service of United States air carriers engaged in international air transport. The amendment of the Act to provide for such authority would be a necessary implementing step to any plan for international governmental cooperation with respect to rates and volume of service.

VI. SAFETY REGULATION

The Civil Aeronautics Act now authorizes rather comprehensive safety regulation of United States aircraft, airmen, and international air transportation operations. In the past international agreements have provided for mutual recognition of airman and aircraft certificates issued by different nations and have required compliance with air traffic rules, air traffic control procedures, and similar safety regulations of the nation whose territory is flown over. These practices should be continued. It is important that steps be taken to secure the imposition of adequate safety standards by all nations and the establishment of uniform standards at least in some fields. The exchange of rights of transit and technical stop will require a suitable program of traffic control for foreign aircraft. It will be desirable, however, to avoid any escapable duplication of control, such as the imposition of domestic airworthiness requirements on foreign aircraft. The United States should take the lead in setting up safety regulations for its own carriers in the expectation that such regulations may in many cases become the basis for regulations adopted by other countries for their carriers operating abroad. In the same way, the safety rules we adopt to regulate foreign carriers flying over or landing on American soil may become the basis for restrictions imposed on our carriers by other nations.

Possible measures for promoting international standardization in such matters are discussed hereinafter in Part VII. However, as it will be a matter of immediate post-war urgency, especially as between the United States, Canada, the major countries of the Caribbean and South America,

and Great Britain and other countries of Western Europe, the initiation of serious study should not wait upon the establishment of an International Agency such as is suggested in Part VII. Provision should be made for immediate and extensive discussions among the technicians of the major nations, with a view to determining the extent of their agreement upon the desirable nature of post-war systems of air navigation facilities, communications facilities, and air traffic control; the definition of the specific questions with respect to which there is important disagreement among the technicians of various countries, and the presentation of recommendations for any cooperative studies which would assist in resolving the issues with respect to such disputed points.

VII. INTERNATIONAL ADMINISTRATIVE ORGANIZATION

In our discussion of economic regulation, we have suggested that the necessary international cooperation be secured by consultation between the aeronautical authorities of the nations concerned with various problems. The Board believes that it is practicable to secure certain advantages by creating an International Aviation Agency with certain limited functions.

The functions which we would prescribe for the Agency would consist of three general categories, namely, (1) the study of problems relating to aviation, (2) the prescribing of air traffic rules, and (3) the determination of economic questions arising between member states when referred to the Agency by the interested nations.

Under the first class of activities mentioned it would be the function of the Agency (a) to study procedures, practices, laws, and international

agreements and conventions applicable to international aviation; (b) to make comparative studies of accounting, subsidies, unfair competitive practices, and discriminatory actions by governments; (c) in the safety field, to compare and interpret national airworthiness requirements, operational standards, and methods of accident investigation and the standardization and coordination of air navigation aids and communication facilities; and (d) to make recommendations for appropriate action by interested governments and organizations to eliminate discriminatory and unfair practices and to secure the closest possible approach to uniformity in regulatory standards. In addition to these matters of public law, there is a broad field of private law which is of considerable importance to international aviation. International conventions exist relating to such matters as liability and insurance, public health, and salvage at sea. Considerable study had also been given before the war by various international organizations to other phases of private air law. However, much remains to be done, and the function of studying and making recommendations on matters in this field also should be vested in the International Agency, within the framework of which panels of experts in various economic, technical, and legal specialties may be convened.

The second category of functions would vest in the Agency the power to prescribe the air traffic rules to be observed in international operations.

Finally, the Agency would be authorized, when all the nations interested in a particular matter agreed to submit it to the Agency, to consider and decide economic questions arising in connection with international air

transportation. The Agency's decision when rendered should be binding on the parties concerned. The nations joining in the creation of the Agency should also agree to make their national governmental agencies and courts available for the enforcement of the Agency's decisions in cases referred to it.

VIII. RELATIONS WITH THE BRITISH COMMONWEALTH

The British Commonwealth of Nations holds an important strategic position with respect to post-war aviation. Its territories are located in all parts of the world, and at one point or another are on all important trade routes. Next to the United States, it represents the greatest potential source of international air traffic. For these reasons, if any proposed new international principles for air transportation are to be generally successful in their operation, they must be accepted by substantially all the units of the British Commonwealth. Our conclusions as to the desirability of the principles outlined above in Part III are conditioned, therefore, upon the general acceptance of those principles by the British Commonwealth, or at the very least by the United Kingdom for itself and all Colonial territories, and by Canada.

The approach taken by the United States to post-war aviation problems also depends upon its ability to secure satisfactory agreements with the British Commonwealth as to rights to pick up and discharge traffic. Unless such agreements are secured, we might find ourselves possessing very limited rights to tap the major traffic areas of the British Commonwealth and excluded from many of the world's major trade routes. To be satisfactory,

such agreements should (1) grant to the United States air transport entry into the major traffic areas of the Commonwealth, and (2) insure that traffic between certain units of the Commonwealth will not be treated as cabotage.

With respect to the first point, the United States should secure the right to pick up and discharge traffic on commercial air transportation services in each of the British Dominions, in India, and in the United Kingdom, and also in Bermuda, the British West Indies, British Guiana, and Newfoundland. The specific points of entry to be used and the routes to be operated may be authorized by arrangement between the appropriate aeronautical authorities of the respective countries; but the United States should secure an initial general agreement to the principle that it is entitled to rights of entry into the areas specified above. Rights for United States carriers to carry traffic into and out of other units of the British Commonwealth may also be desirable. We do not intend by the above specification to exclude the possibility of securing such rights. The rights specifically mentioned rather are to be regarded as minimums for which the United States should press. The United States will, of course, receive requests for reciprocal rights for British carriers; and should be prepared to grant reciprocal privileges between the United Kingdom and the United States and any of its possessions, and between each of the Dominions and the United States, but should resist any claim for British reciprocal services between the British Colonies and the United States.

In this connection the North Atlantic services present an important problem in our relationships with the British Commonwealth. The North Atlantic trade route between the United States, the United Kingdom, and

northern and central European points will undoubtedly produce a very substantial volume of air traffic. It will be necessary to keep in mind in the discussion of North Atlantic services that the United States may wish to permit reciprocal services on that route by some nations in addition to Great Britain.

Current indications of British opinion tend to suggest that Great Britain may seek an agreement with the United States which would provide for some rigid and permanent formula for division of traffic and schedules on North Atlantic services and other routes where United States and British services are competitive. For the reasons outlined earlier in this report, it is believed that the United States should oppose such proposals.

There is also some possibility that the British will seek agreement with the governments of continental Europe that all trans-Atlantic services should terminate at coastal points, the distribution of traffic within Europe being handled entirely by carriers of European nationality. The recognition of any such principle would tend to prevent the establishment of United States services to the major cities of the continent and to terminate United States services in the British Isles and perhaps Portugal and France. We believe that the United States should oppose this and any similar arrangements between any two nations which would exclude the carriers of a third nation from any particular areas.

It is also possible that efforts will be made simply to reserve traffic between European countries exclusively to European carriers. Such a reservation while it would, for example, permit United States carriers to serve Athens, would not allow them to pick up any traffic destined for Athens at

other points in Europe. The United States will wish to operate services into interior points in continental Europe. Many segments of such services would be operated, however, with prohibitively low load factors if traffic was confined to through traffic to and from the United States. It will be important, therefore, that our carriers have the right to carry this intra-European traffic if operations to interior points in Europe are to be economically sound. The United States should oppose any such reservation of intra-European traffic.

There has been some suggestion from British sources that traffic between various parts of the British Commonwealth should be treated as cabotage and reserved exclusively to British Commonwealth carriers. In view of the importance of this trade, this would have the effect of excluding other nations from some of the most substantial traffic flows in the world. Since British dominions and possessions are strategically located throughout the world, the reservation of such traffic to British carriers would provide them with a guaranteed basic business over most of the logical trade routes. Operators of other nations would be forced to rely entirely upon free international commerce and to derive sufficient revenues from the trade between non-British nations to offset the competitive disadvantages under which they would be placed with respect to British carriers in the lucrative intra-Empire services. In view of the wide geographical separation of many units of the Commonwealth and their comparative political independence, the United States should make every effort to establish the principle that air traffic, at least between the United Kingdom, India, and the Dominions, should not be treated as cabotage but as international traffic which should be open to United States

air carriers having the necessary rights of commercial entry.

IX. CONCLUSION

As this is written, it is impossible to foresee when the war may end. Whenever it may be, however, there will be an immediate need for a volume of international air transportation operations greatly in excess of the commercial operations which existed prior to the war. There will also be a tremendous urge on the part of all nations to inaugurate air transportation operations wherever they can afford it, with all possible speed. The negotiations necessary to formulate post-war international air transportation policies should not be postponed to the close of the war. In the atmosphere of frantic scrambling for position in post-war air routes which is then bound to exist, it will be extremely difficult to work out the sound approach to air transportation necessary for the welfare of the world. The time to institute the necessary negotiations is now.

The detailed proposals outlined in this report are to be considered as a whole and our conclusions as to the desirability of individual principles assume that the United States will be able to make over-all satisfactory arrangements with other nations.

Finally, it must be kept in mind that any pattern of policy laid down now should not be a rigid one. Aviation developments will occur which can not now be foreseen. New problems will arise. The approach of the United States to international affairs will be changed by changing world conditions and thought. Present policies at best can be but an initial approach adapted to the presently foreseeable developments of the immediate future.

PSF Aviation

[redacted]

[redacted]

By Authority of
The Commanding General
Army Air Forces
APR 29 1944
Date Initials

POLICY

OF THE

WAR DEPARTMENT

IN REGARD TO

POST-WAR INTERNATIONAL CIVIL AVIATION

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DOD DIR. 5200.9 (9/27/58)
Date- 3-19-59
Signature- Carl S. Spicer

AFAEP
20 April 1944

[redacted]

#-390

POLICY
OF THE WAR DEPARTMENT
IN REGARD TO
POST-WAR INTERNATIONAL CIVIL AVIATION

1. National security is of first importance and the national policy in regard to civil aviation must be in accord with the military requirements of national defense.

2. A powerful air force is a prerequisite of adequate national defense.

3. A primary essential to a powerful air force is the existence, in time of peace, of several strong aircraft, aircraft engine, and accessory manufacturing companies, together with progressive and competitive engineering and research associated therewith.

4. A strong air transport system together with its aircraft, air bases and airway facilities -- readily adaptable to military use, and the principal non-military support of the peacetime aviation manufacturing industry -- is vital to the nation's air power.

5. Competitive airline operation would stimulate technical advancement and contribute to the peacetime maintenance of the aircraft manufacturing industry.

6. Therefore, the War Department, believing that its primary interest, the national security, is best served by that policy of

civil aviation affording the maximum contribution to the fundamentals of air power, subscribes to a policy of regulated and supervised competition in international commercial aviation.

7. Since maximum expansion and extension of United States air commerce thus contribute through augmented air power to the national security, the War Department advocates United States adherence to an international civil aviation policy which would embrace:

a. Freedom of air transit - reasonably regulated and including the right of technical stop at designated airports.

b. The right of commercial stop - at designated airports, appropriate controls to be agreed between the governments concerned. This right of commercial stop, so far as it applies to United States airports, should exclude the right of foreign carriers to engage in the domestic commerce of the United States and its possessions (cabotage).

c. The designation of airports of entry - not limited in location to national frontiers.

d. The establishment of an International Civil Aviation Authority empowered to standardize and supervise international civil air traffic procedures, including communications, navigation aids, traffic controls, safety requirements, et cetera.

e. Control of airports by the sovereign power except where international operation is necessary or advantageous and then only with such power's agreement.

f. Exclusion of the enemy nations and their nationals from participation in any form of aviation, until the United Nations agree that they have become law abiding members of the family of nations. Such air transport as they meanwhile require will be provided by one or more of the United Nations under agreement among themselves.

8. Within the framework of the foregoing international policy, the War Department advocates a national policy which would include:

a. Maximum encouragement to the development of private competitive enterprise in United States international airline operation subject to reasonable regulation.

b. Ownership and operation of the communications system serving United States controlled portions of international airways beyond the continental limits of the United States by a single agency owned or closely supervised by the government in such manner as to enable instant assumption of control by the Secretary of War in an emergency. Such communications system includes navigational aids, identification and instrument landing systems, dissemination of weather information, control tower operations, et cetera. It does not include communications systems needed by commercial air lines in the conduct of company business. These are essential and may be permitted to operate independently.

c. The obligation on any United States international operator who may acquire rights to construct landing fields or other

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facilities in foreign territory, first to submit his plans in confidence to the Civil Aeronautics Authority for approval.*

9. To integrate the interests and responsibilities in respect to domestic and international civil aviation of the various governmental agencies concerned, the War Department advocates the establishment of a permanent National Aviation Council to formulate national policy in respect to civil aviation, to advise the President on matters pertaining to such policy and to coordinate the activities of all executive agencies in implementation thereof. The membership of such council should comprise high-ranking representatives of the State, War, Navy and Commerce Departments, the Civil Aeronautics Board, and advisory representatives from the air transport and aviation manufacturing industries. The War Department representation should be from the Army Air Forces.

APPROVED - 20 April 1944

/s/ HENRY L. STIMSON
Secretary of War

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*NOTE: The Civil Aeronautics Authority would in turn submit these plans to the War Department for approval, thus to assure coordination with general policies of national security and specific military requirements. However, this step should not be publicized lest the relationship of the operator to a foreign government be thereby adversely affected.

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By Authority of
The Commanding General
Army Air Forces
APR 3 1944
Date Initials

POLICY

OF THE ARMY AIR FORCES

IN REGARD TO

POST-WAR INTERNATIONAL CIVIL AVIATION

CLS, 3-19-59

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ARMY AIR FORCES POLICY

IN REGARD TO

POST WAR INTERNATIONAL CIVIL AVIATION

3 April 1944

I. PROBLEM

1. To prepare general recommendations and observations on international post war civil aviation from the military point of view, stressing particularly those topics where the military interests may not coincide with the commercial.

2. To draft and recommend the policy which the Army Air Forces should adopt in regard thereto.

II. DISCUSSION

1. Although this discussion concerns itself principally with commercial aviation, the policy herein advocated is designed to cover international civil aviation as a whole and to apply to both commercial and non-commercial civil aviation.

2. In the preparation of this study, the following and other pertinent data have been examined because of their direct bearing on the establishment of United States policy:

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CLS, 3-19-59

a. The report of the Interdepartmental Committee on International Aviation (31 August 1943) together with much of the documentation on which the report was founded.

b. Memorandum giving informal minutes of a meeting held at the White House on 11 November 1943 at which the President outlined what he believes the United States policy toward international civil aviation should be.

c. The Civil Aeronautics Act of 1938.

d. Digests of policy trends in foreign countries as indicated by published reports.

e. Correspondence and testimony of various aviation companies and individuals in response to the Civil Aeronautics Board's questionnaire on the subject of United States Aviation Policy.

3. United States policy has not yet been clearly defined in respect to many aspects of post war international civil aviation and for that reason it is not possible to base this study on positive assumptions. The rapid development of aviation under wartime stimuli clearly necessitates reconsideration of existing policy and its extension to cover new problems that can now be foreseen. However, common prudence compels continued adherence to the historic principle that national security is of first importance and therefore the national policy in regard to international civil aviation must be in accord with the requirements of national defense.

4. It is now generally recognized that air power is essential to national defense. The air power of a nation is expressed not only in terms of its strictly military air forces, but also in terms of:

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a. the system of strategic air bases from which the Air Forces may be required to operate;

b. the airways and airway facilities linking those bases to each other and to the home land;

c. the size and capabilities of the nation's civil air transport fleets available in time of emergency;

d. the capacity of the nation's aviation manufacturing industry;

e. the technical skill and scientific advancement attained in all phases of its aviation industry, including research, engineering, design, manufacturing, operation and maintenance;

f. the nation's capacity to produce and train the skilled personnel needed to man both the Air Forces and the industry which supports them and

g. the nation's ability to expand its Air Forces sufficiently to meet any emergency incident to war or peace.

5. Because the contribution of civil aviation to all these factors becomes greater as the nation's air commerce is expanded, it follows that, in expanding its international air commerce, the nation will increase its air power. Furthermore, to the extent that the nation's commercial aviation becomes economically self-supporting, its contribution to the nation's air power will be realized without cost to the taxpayers.

6. The Army Air Forces, therefore, have a real and continuing interest in the planning and development of international civil aviation in the world at large but more specifically in the manner and extent of United States participation, for air power is the business

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of the Army Air Forces: in war to exert it, and in peace to develop it for the national defense or as an instrumentality for enforcing the peace.

7. The direct interest of the Army Air Forces in all major aspects of international civil aviation is further established by the following:

a. Axis air power was developed under the guise of civil aviation during those years after World War I when peace terms forbade any German military air activity. The initial successes of the Axis in the present war were due largely to the air power thus developed. Similarly, the ultimate ability of the Allies to crush the Axis forces will also be attributable in great measure to air power. It is therefore reasonable to suppose that the people of the United States will expect all efforts to develop and maintain our air strength -- both military and civil -- to be coordinated.

b. At the close of the war, the United States Air Forces will be the largest and most extensive in the world. The deployment, utilization, demobilization, or disposal of Air Forces personnel, aircraft, and facilities will have a direct bearing upon, and should be closely coordinated with, international civil aviation plans and activities.

c. Also, at the end of the war, the Army Air Forces will be the most experienced international air operator in the world. For the sake of sound planning and efficient operations, full use should be made of this invaluable experience.

d. The Air Forces should benefit from the operating experience which will be gained by agencies engaged in post-war international civil aviation.

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8. Granted that the Army Air Forces' interest in international civil aviation warrants participation in its planning and development, there remains the question of determining the best means for voicing that interest and for effecting such participation. Before examining the machinery needed for implementing the Air Forces' policy in respect to this subject, the points of the policy itself will be discussed.

9. In general, it is to the advantage of military aviation that international air commerce be permitted and encouraged to expand under the minimum of constraints compatible with a reasonable interpretation of national security requirements, because:

a. In the fullest development of air commerce as a whole lies one of the most potent single factors conducive to harmonious international relations and the maintenance of world peace.

(1) Air transport is characterized by its great speed and its ability to overcome obstacles inherent in other forms of transportation. It is believed, therefore, that international air commerce, if permitted to expand to the ultimate under stimuli of economic forces and public interest, will tend to draw nations closer in understanding and common interest by facilitating travel and trade and the interchange of knowledge throughout the world.

(2) Its potential benefit to world peace and prosperity will not be realized if cutthroat competition and disastrous rate wars are tolerated, or if international rivalry and jealousy are permitted to result in exclusion of air services, or if old fears persist that foreign civil aircraft are potentially hostile and dangerous to the nation over which they fly and therefore should not be

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allowed to cross the border. International agreement can prevent cutthroat competition and disastrous rate wars; common understanding can mitigate national jealousies, and practical safeguards such as the designation of routes and airports of entry can go far toward obviating fear of foreign civil aircraft.

b. From the expansion of this country's international air transport operations will come improvements in the technical development of long range aircraft and broader knowledge of operations which will be of material benefit to our military aviation.

(1) To an increasing degree, aircraft used in long range transport operations tend to become specialized and to differ in design from military combat types. The transport airplane emphasizes bulk load -- passenger and cargo capacity -- whereas the bomber is essentially a weight carrier, with emphasis on bomb load and on fields of fire for defensive weapons. The civil air lines of the United States have been largely responsible for the development of the transport type aircraft used by the Army Air Forces in the present war, and for developing the techniques of efficient air line operations and long distance air navigation. While fundamental aviation engineering has generally received its principal impetus from military aviation, commercial aviation has supplied an important stimulus to technical development of transport type aircraft and has made substantial contributions in the betterment of aircraft accessories and operational facilities.

(2) The attrition rate of aircraft in time of war is so high, and the vastly accelerated technical developments render initial equipment obsolete so rapidly, that military air power is peculiarly dependent on the productive capacity and technical proficiency of the manufacturing industry. Hence, the existence of a strong domestic aircraft manufacturing industry is essential to a powerful air force and, consequently, to national security. It is doubtful whether the peacetime demands of the military air forces alone will support an aircraft industry of requisite strength. A strong and extensive commercial air transport system will add materially to the requirement for a more productive and technically pre-eminent manufacturing industry, thereby helping to sustain this prime factor of air power.

c. With the expansion of commercial aviation throughout the world, the American aircraft manufacturing industry will find new and broader markets, not only with our own domestic and international air transport operators, but also with those of foreign nations, particularly in those countries having a limited aviation industry. Diversified markets generate demands for different types of aircraft, designed and equipped for operation under various conditions.

d. International civil aviation will provide a valuable field of opportunity to many of our military airmen whom the post war Air Forces cannot absorb, and conversely will provide a reservoir of trained personnel with broad experience of international routes and foreign countries in support of the Air Forces' regular establishment.

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e. It will help to maintain overseas airdromes and facilities potentially useful to any military air effort required in extinquishing a threat to world peace.

f. A world wide, well managed system of United States civil air lines will constitute a potent instrument of United States foreign policy -- military, diplomatic, and economic.

10. Security considerations dictate the barring of the Axis powers and their satellites from participation in any form of aviation in the post-war period, the ban to be lifted only when the United Nations agree that such powers have ceased to be an international menace and have become law abiding members of the family of nations.

11. The problems to be solved in arriving at a national policy or in reaching an international accord relate to certain specific topics. These are taken up one by one in the following paragraphs together with whatever military implications appear:

a. Freedom of the air.

(1) This, as applied to aviation, means the unrestricted and unlimited right of flight of aircraft regardless of nationality. The term has taken on many erroneous meanings which in turn have lead to unnecessary confusion. In its broadest meaning, freedom of the air is the antithesis of air sovereignty. The latter has become such a basic principle of international law that it would not appear wise or necessary to contemplate changing it. Moreover, it is doubtful whether the United States, or any other nation, would readily give up the principle of absolute air sovereignty, particularly since the development of international civil aviation does not so require.

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(2) From a military point of view, it is unwise to consider relinquishing the absolute right of a sovereign nation to control the air space above its territory.

b. Freedom of air transit, meaning, as used in this study, the right of passage for the aircraft of any nation in non-stop flight over the territory of any other nation, subject to the latter's right reasonably to establish prohibited areas, control of routes, flight regulations, identification, et cetera.

(1) Itinerant civil aircraft have in the past enjoyed freedom of air transit as one of the privileges of "the right of innocent passage" accorded them under the Paris Convention and other international agreements. It appears probable that the principle of freedom of air transit, to include commercial aircraft engaged in scheduled operations, will be incorporated in any post war international civil aviation agreement.

(2) There are definite military implications inherent in the right of air transit inasmuch as it permits foreign aircraft and personnel to traverse a nation's sovereign territory with the self-evident facility for photography, espionage, et cetera.

(3) This means of espionage is already available to the itinerant civil airplane. Also, there are many other means of espionage available to foreigners and foreign sympathizers already within the country, including both scheduled and unscheduled flights in domestic aircraft. Certainly, the prohibiting of all foreign civil aircraft from Hawaii did not prevent Japan from delivering an effective attack on Pearl Harbor. It therefore appears that denial of

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the right of freedom of air transit can have little actual effect on the total risk of exposure to peace time espionage.

(4) The benefits to be gained through the enjoyment of this right by our own commerical aircraft, together with the important contribution to world peace and the advances in aviation which may be expected to result from more widely developed international air commerce — both of which have military significance — are believed to outweigh the military risk involved in granting freedom of air transit, provided it is properly regulated and reasonable controls are established and strictly enforced.

c. The right of technical stop, meaning the right of aircraft, while exercising the right of air transit, to land at designated airports for service or refueling but without the right to take on or put off passengers or cargo.

(1) It is axiomatic that this right should be concomitant with freedom of air transit. No apparent advantage would derive from limiting the right of freedom of air transit to those aircraft capable of crossing national territory non-stop. In fact, to invite or to make such stop obligatory might provide a valuable measure of control.

(2) The military implications incident to the exercise of this right are similar to those arising from freedom of air transit.

d. The right of commercial stop, meaning the right of foreign commercial aircraft to land at designated airports to load or unload passengers and cargo for foreign destination or of foreign origin. It does not include "cabotage", i.e., it does not extend to foreign carriers the right to engage in the domestic commerce of another nation.

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(1) The right of commercial stop is fundamental to the development of international air commerce. The United States and most, if not all, other nations favor the granting of this right on some basis of reciprocity. It is generally recognized that in order to protect national interests, avoid abuses and prevent harmful competition, the exercise of such reciprocal rights must be subject to reasonable control.

(2) There is no apparent military implication in the right of commercial stop that is not covered by the previously emphasized requirement for strict control.

g. Airports of entry, meaning those airports designated as first points of landing and clearance points of departure for foreign and domestic aircraft engaged in international commerce.

(1) It does not appear of great military consequence whether such airports of entry be restricted to the seacoast or located in the interior, provided that foreign aircraft reach the designated port of entry over a prescribed route. Granted the right of air transit and assuming that it is not more difficult to establish the required agencies such as customs, immigration, public health, et cetera, at an inland point than at the border, it would seem that adequate control over airports and routes could be so efficiently exercised as to satisfy defense precautions.

(2) Again, the indirect military advantage of fullest development of air commerce recommends against restriction of one of its greatest assets, namely the fact that the "air-ocean" recog-

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nises no coast line and permits traffic originating at any point on the earth's surface to be carried to any other point without transshipment.

(3) It is recognized that controversy is to be expected on this point inasmuch as domestic airlines would prefer to handle traffic from interior points to the national boundary. Such controversy is of purely commercial significance and no military implication is apparent.

(4) Security dictates that the location of such airports of entry and the specification of routes of approach should be established in consulation with military authorities.

f. The juxtaposition or joint use of commercial and military airdromes.

(1) It appears inevitable that there will be certain areas in which the United States military requirement and the exigencies of international civil aviation will require identical or closely proximate airdrome facilities for both civil and military aircraft. Natal, Brazil and Honolulu, Hawaii are two cases in point. While a certain degree of conflict would appear unavoidable, it is questioned whether any military consideration exists strong enough to warrant exclusion of civil air commerce from such areas. Adequately security can be assured by the proper exercise of controls over routes, communications, etc., in addition to the defenses normally maintained by any military airbase.

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g. An International Civil Aviation Authority (I.C.A.A.)

(1) This name is a suggested designation of an international regulatory body deriving its authority from the United Nations (and all other eligible nations subscribing to an international civil aviation agreement) with power to standardize and supervise such matters as communications, aids to navigation, air traffic rules, traffic controls, airmen competency, aircraft airworthiness, safety requirements, et cetera.

(2) It is believed that the establishment of such a body is favored by the United States in preference to regulation under the conference system or individual bi-lateral agreements whether between governments or between individual airlines and the governments concerned.

(3) From a military aspect, some such regulatory body, with requisite authority to enforce its regulations, would apprear advantageous in the exercise of those controls previously mentioned.

(4) Effective enforcement could be achieved through sanctions, forfeiture of rights, et cetera and does not necessarily imply the establishment of an international police force.

(5) In the last analysis, military air power represents the final enforcement agency in assuring full use of agreed rights to national operators and preventing abuse of agreed rights by foreign operators. There is, therefore, indirect military implication in the establishment of this International Civil Aviation Authority.

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h. The control of airports available to international air commerce.

(1) There has been much discussion on the advisability of placing the control of airports available to international commerce in the hands of an international body such as the I.C.A.A. mentioned above or some other agency.

(2) While no direct military implication is involved, it is believed that individual national control is generally to be preferred. The United States would not welcome having an international agency control any of its airports and cannot very well expect other nations to feel otherwise. If the United States can exert full control over its own airports and can be assured that foreign controlled airports will be efficiently operated in accord with internationally agreed regulations, the desired aim will be achieved.

(3) Undoubtedly there will be cases where an airport will be required on the territory of a sovereign nation unable to assure adequate control or in isolated areas in countries unwilling or unable to meet required standards. In this event international airports might have to be provided and administered through some form of international trusteeship. Such international control should result only from international agreement and with the consent of the nation concerned.

(4) It is felt that the proposed I.C.A.A. discussed above should not be charged with control or administration of airports but should be a purely regulatory body engaged in promoting the

safety and efficiency of air traffic under terms derived from and authority delegated by international agreements.

i. Operation and control of airways communications systems, meaning communications used to control and facilitate air traffic on international airways in the interest of flight safety, aircraft identification and location, and general efficiency in airways flying. It includes transmission of weather information, flight conditions reports and aircraft movements reports, radio aids to navigation, instrument landing systems, airport control tower operation, et cetera.

(1) Maximum development of international air commerce will directly depend on the efficiency in operation and maintenance of the interconnecting airways communications systems and their equal availability to all authorized users. Similarly, the efficiency and ultimate control of such systems must always be a military consideration of highest importance if the operation of long-range military aircraft is not to be handicapped.

(2) This military importance suggests the advisability of governmental control over such systems wherever practicable. It would appear entirely feasible for the United States to own or control the airways communications system linking any bases owned or controlled by the United States. It does not appear material whether such control be exercised by the Civil Aeronautics Administration or by a single public or private agency established for the purpose provided that the contingency of immediate military operation be properly protected. In the event of attack or emergency, the Air Forces must

be able to assume instant operating control of the airways communications system essential to its primary mission of national defense.

(3) It is suggested that the Civil Aeronautics Administration (C.A.A.), which already serves our domestic civil airways in this manner, might logically be the agency charged with installing, maintaining and operating a communications system serving the civil airways which link the continental United States with its overseas possessions and serving also all those portions of international civil airways for which the United States has responsibility. For this purpose, an overseas and foreign airways division could be organized distinct from, but cooperating with, the domestic airways division. If all the personnel of the C.A.A. overseas division were enrolled in the Air Force Reserve and earmarked for assignment in the Army Airways Communications System (A.A.C.S.), it would be a simple matter for the Air Forces at the outbreak of war to assume control over the overseas and foreign civil airways communications system by incorporating this entire division into the A.A.C.S., with minumum distrubance to the domestic set up, just as the United States Coast Guard was brought under Navy control at the start of the present war.

(4) It is assumed that the Army Airways Communications System will continue to function in the post-war period along airways linking military airbases or serving the Air Transport Command. It is suggested that the A.A.C.S. be responsible, in time of peace, for coordinating the Air Forces' communications with the civil airways systems both international and domestic, governmental and private.

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(5) To avoid unnecessary duplication and to simplify methods, international agreements will be needed to effect standardization of equipment and procedure on an airway linking two or more countries. Otherwise, an aircraft might need to carry additional radio sets or a different set of instrument landing equipment for each country it enters or, alternatively, additional equipment might need to be installed on the airway to accomodate the aircraft of different nationalities. The measures necessary to make such standardized equipment of maximum usefulness to United States military aircraft in peace or war, and to deny such aid to our enemies, will be a matter of interest to the Army Air Forces as a matter of national security.

(6) Privately-owned and operated airways communications systems in addition to the one owned or controlled by the government may be needed by the commercial airlines in the conduct of their company business. Whether the various air transport companies operate their own communications services, lease facilities or buy service from one or more private companies engaged in such business, has little military significance. These services are essential and it would not be good policy to exclude them.

j. Ownership or participation by the United States Government in international civil airlines.

(1) This controversial point has little or no military implication.

(2) It can be argued that the ownership (government or private) of United States international airlines might be of military

significance in time of war on the ground that government ownership would facilitate control. However, assuming this to be true, any advantages thus gained are likely to be outweighed by the disadvantages of government ownership. These include loss of incentive to rapid development, and some restriction on activities which, for military reasons, it might be desirable to undertake in foreign countries in time of war.

(3) It appears, therefore, that the necessary degree of government control over our international civil air transport lines should be attained in other ways than through government ownership, in order to preserve the vitality of private enterprise and a means of obtaining facilities which would be more difficult -- or even impossible -- for the United States Government or one of its agencies to obtain.

(4) Although it appears that private ownership may be preferable from a military viewpoint, the military implications of government versus private ownership of civil air lines are so heavily outweighed by the political and economic considerations involved, that the Army Air Forces should refrain from taking any position on this issue.

k. <u>Single company (chosen instrument) versus regulated multi-company competition</u>.

(1) The military significance of this problem lies in the premise that competitive private enterprise in the business world generally encourages technical advancement. It also generally results

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in extension of commerce and hence of the facilities serving that commerce. Both of these factors are important to military aviation.

(2) It has already been observed that one of the fundamentals of a powerful Air Force, and hence of national security, is the existence of a strong aviation industry. Essential to this is the retention and maintenance of several strong aircraft manufacturing companies, aircraft engine companies and the engineering staffs associated with them.

(3) In the case of a business monopoly it is always the tendency to standardize equipment, which generally means procurement from one supplier. One of the reasons for favoring the theory of competitive commercial airline operation is to help support several aircraft manufacturing companies during peace times and so assure the maximum contribution to the fundamentals of air power -- effective experimental and research activities and a strong manufacturing industry.

(4) The pre-war experience of foreign nations which employed the "chosen instrument" policy in their air commerce, when compared to that of the United States, generally demonstrates the soundness of the American practice of fostering regulated competitive private enterprise in commercial air transport. In fostering technical development and progress toward economic self-sufficiency the American method has proven superior. The policy of regulated competition was extended to international civil airlines of the United States by the Civil Aeronautics Act of 1938, but its implementation in that field was interrupted by the War.

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l. United States policy toward foreign government owned or subsidized operations.

No military implication can be discovered in this topic, provided that foreign governments are not allowed to make use of their civil airlines operating to this country as a cloak for unfriendly activities or to use government subsidy to support a rate cutting war in an endeavor to weaken United States air lines.

m. United States policy toward ownership or control of foreign airlines.

(1) It is desirable from the standpoint of national security that the government know at all times the true character of ownership or control of foreign airlines entering the United States. This is desirable as a practical measure in order to be forewarned of any attempt to use international air transport operations as a cloak to activities unfriendly to this nation or threatening world peace.

(2) It must be assumed that the barring of enemy nations from participation in any form of aviation will specifically exclude their nationals from owning a substantial share in or controlling an aviation enterprise in any other country. If this is not accomplished by United Nations agreement, then the United States should deny entry into this country to any air transport operation substantial ownership or control of which is vested in nationals of an enemy country. Similarly, such an operation should be denied the use of any United States controlled airport on foreign soil.

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(3) Except as noted above, there does not appear to be any military implication in this topic.

n. Status of military transport service.

(1) Although a large amount of the transportation now provided by the Air Transport Command will presumably be absorbed by commercial airlines, it would appear essential to the post-war military establishment for the Air Forces to continue to operate an air transport service. This service would presumably operate into areas not reached by commercial air lines and would provide transportation for military personnel and supplies wherever else military requirements may dictate. This military service should operate in peace time in conformity with internationally established air traffic regulations.

12. a. It is important that overseas civil airdromes and airway facilities, owned or controlled by agencies or nationals of the United States, which are potentially useful to the Air Forces, be constructed, equipped and maintained wherever practicable in a manner best suited to such potential use. It is desirable, therefore, that each United States international air transport operator who may acquire rights to construct or modify landing fields or other aviation facilities in foreign territory be required first to submit his plans in confidence to the Civil Aeronautics Administration for transmission to the War Department. This would enable coordination with general policies of national security and current military requirements.

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b. Approval by the United States Government of such plans prior to construction should not be required in cases where resulting delay would impose hardship or loss to the operator.

c. It is important that no mention of this policy be made public, nor should mention be made, without due consideration, of any arrangement linking the War Department with United States civil aviation enterprises on foreign soil, lest their activities be restricted by foreign governments on that account.

d. Similarly, in cases where added expense is imposed on an airline operator by the War Department in connection with confidential requirements for construction or maintenance of facilities for military purposes, the employment of representatives of the armed forces, or the furnishing of intelligence, et cetera, provision should be made for payment of compensation for such services on a basis which will not reveal secret military activities.

13. Negotiations for rights of entry by a United States air carrier into a foreign country or for expansion of routes therein, or for other rights pertaining to civil aviation, should be conducted by the United States Government or, where it appears more advantageous, by the private company with full knowledge of the government and subject to the government's right to order discontinuance of any negotiations which may be contrary to national policy.

14. It would be mutually advantageous to our military and civil aviation if the War Department and State Department should take advantage of every opportunity to obtain post-war civil rights in connec-

tion with war time acquisition of present or future military rights on foreign soil or through air space under foreign sovereignty; provided, no additional commitments are involved which would be prejudicial to the conduct of the war.

15. It would likewise be advantageous for the United States, subject to the same proviso, to take immediate steps toward assisting smaller nations, notably those in this hemisphere, to construct airfields and install modern airways equipment, including night lighting, as a means of advancing their air transport and communications systems, of strengthening the integrity of their governments, and of binding them more effectively into the worldwide network of air transportation. Moreover, to do so would provide for possible future military need of the United States for airfields in areas which may be strategically important.

16. Recognizing the responsibility and interest of the Army Air Forces in international civil aviation, there remains to be decided what means will best serve to evidence that interest and responsibility so as to exert an appropriate influence in its planning and development.

a. There are at present a number of interdepartmental and other committees variously dealing with post-war aviation. The magnitude and the time-importance of the subject make desirable a consolidation of these separate efforts by the establishment of a single agency responsible for all aspects of the problem. The creation is suggested of a body, which might be called the "National Aviation

Council", to serve in an advisory capacity to the President, formulate national policy and coordinate the functions of the executive agencies in respect to civil aviation.

b. Such a council, if and when formed, would presumably include high-ranking representatives of the State, War, Navy and Commerce Departments, the Civil Aeronautics Board and advisory representatives of the aviation transport and manufacturing industries.

c. To achieve the most effective War Department representation on such a council, a staff agency will be needed within the Air Forces charged with the responsibility for studying and coordinating all matters of Army interest pertaining to civil aviation. This staff agency also would inform and advise the Commanding General, Army Air Forces, and the War Department on the military aspects of these matters and initiate recommendations whenever action by the Army Air Forces or War Department might be required.

d. Since the necessity for such staff guidance and coordination exists today and will be increasingly important whether the National Aviation Council take form or not, it would appear advisable to create the necessary staff agency in the Headquarters, Army Air Forces, without delay and thus inaugurate the centralization within the Air Staff of all the civil aviation matters.

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III. RECOMMENDATIONS

It is recommended that:

1. The statement of policy set forth in Annex "A" be approved by the Commanding General, Army Air Forces, and established as "The Policy of the Army Air Forces in regard to Post-War International Civil Aviation".

2. Said statement of policy be submitted to the War Department for concurrence and adoption as the policy of the War Department in regard to international civil aviation or, alternatively, that

3. The statement of policy be submitted for approval of the Joint Chiefs of Staff as setting forth the international civil aviation policy of the United States Armed Forces.

4. The approved policy of the War Department or the Joint Chiefs of Staff, whichever is decided, be transmitted to the State Department for guidance in such international agreements as may be sought by the United States.

5. An appropriate staff organization be established forthwith in Headquarters, Army Air Forces, whose duty it will be to advise the Commanding General, Army Air Forces, and the War Department on military aspects of matters pertaining to civil aviation and, in respect thereto, to be responsible for furnishing such representation to or liaison with the State Department, Civil Aeronautics Board, Civil Aeronautics Administration and other appropriate agencies as the Army Air Forces or the War Department may require.

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ANNEX "A"

POLICY

OF THE ARMY AIR FORCES

IN REGARD TO

POST-WAR INTERNATIONAL CIVIL AVIATION

1. National security is of first importance and the national policy in regard to civil aviation must be in accord with the military requirements of national defense.

2. A powerful air force is a prerequisite of adequate national defense.

3. A primary essential to a powerful air force is the existence, in time of peace, of several strong aircraft, aircraft engine, and accessory manufacturing companies, together with progressive and competitive engineering and research associated therewith.

4. A strong air transport system together with its aircraft, air bases and airway facilities -- readily adaptable to military use, and the principal non-military support of the peacetime aviation manufacturing industry -- is vital to the nation's air power.

5. Competitive airline operation would stimulate technical advancement and, by providing a plurality of customers, the peacetime maintenance of the aircraft manufacturing industry.

6. Therefore, the Army Air Forces, believing that their own primary interest, the national security, is best served by that

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policy of civil aviation affording the maximum contribution to the fundamentals of air power, subscribe to a policy of regulated and supervised competition in international commercial aviation.

7. Since maximum expansion and extension of United States air commerce thus contribute through augmented air power to the national security, the Army Air Forces advocate United States adherence to an international civil aviation policy which would embrace:

a. Freedom of air transit - reasonably regulated and including the right of technical stop at designated airports.

b. The right of commercial stop - at designated airports, appropriate controls to be agreed between the governments concerned. This right of commercial stop, so far as it applies to United States airports, should exclude the right of foreign carriers to engage in the domestic commerce of the United States and its possessions (cabotage).

c. The designation of airports of entry - not limited in location to national frontiers.

d. The establishment of an International Civil Aviation Authority empowered to standardize and supervise international civil air traffic, including communications, navigation aids, traffic controls, safety requirements, et cetera.

e. Control of airports by the sovereign power except where international operation is necessary or advantageous and then only with such power's agreement.

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f. Exclusion of the enemy nations and their nationals from participation in any form of aviation, until the United Nations agree that they have become law abiding members of the family of nations. Such air transport as they meanwhile require will be provided by one or more of the United Nations under agreement among themselves.

8. Within the framework of the foregoing international policy, the Army Air Forces advocate a national policy which would include:

a. Maximum encouragement to the development of private competitive enterprise in United States international airline operation subject to reasonable regulation.

b. Ownership and operation of the communications system serving United States controlled portions of international airways beyond the continental limits of the United States by a single agency owned or closely supervised by the government in such manner as to enable instant assumption of control by the Army Air Forces in an emergency. Such communications system includes navigational aids, identification and instrument landing systems, dissemination of weather information, control tower operations, et cetera. It does not include communications systems needed by commercial air lines in the conduct of company business. These are essential and may be permitted to operate independently.

c. The obligation on any United States international operator who may acquire rights to constuct landing fields or other

facilities in foreign territory, first to submit his plans in confidence to the Civil Aeronautics Authority for approval.*

9. To integrate the interests and responsibilities in respect to domestic and international civil aviation of the various governmental agencies concerned, the Army Air Forces advocate the establishment of a permanent National Aviation Council to formulate national policy in respect to civil aviation, to advise the President on matters pertaining to such policy and to coordinate the activities of all executive agencies in implementation thereof. The membership of such council should comprise high-ranking representatives of the State, War, Navy and Commerce Departments, the Civil Aeronautics Board, and advisory representatives from the air transport and aviation manufacturing industries. The War Department representative should be an officer of the Army Air Forces.

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*NOTE: The Civil Aeronautics Authority would in turn submit these plans to the Army Air Forces for approval, thus to assure coordination with general policies of national security and specific military requirements. However, this step should not be publicized lest the relationship of the operator to a foreign government be thereby adversely affected.

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