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Membership Criteria for the ICAO Council: A Proposal for Reform

CHRISTOPHER T. TOURTELLOT*

I. INTRODUCTION

The International Civil Aviation Organization (ICAO) was established by the Chicago Convention of 1944.[1] Due partly to the inability of the participants in the Chicago Conference to reach a consensus on economic matters,[2] and partly to the absence of a number of important states,[3] the Conference produced an agreement involving technical and navigational issues rather than economic policy.[4] The ICAO is, however,

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1. Convention on International Civil Aviation, *opened for signature* Dec. 7, 1944, 61 Stat. 1180, pt. 2, T.I.A.S. No. 1591, 15 U.N.T.S. 295, *reprinted in* STAFF OF HOUSE COMM. ON SCIENCE AND ASTRONAUTICS, 87TH CONG., 1ST SESS., AIR LAWS AND TREATIES OF THE WORLD 1372 (Comm. Print 1961) [hereinafter cited as Chicago Convention]. "An organization to be named the International Civil Aviation Organization is formed by the Convention. It is made up of an Assembly, a Council, and such other bodies as may be necessary." *Id.* art. 43.

2. *See* T. BUERGENTHAL, LAW-MAKING IN THE INTERNATIONAL CIVIL AVIATION ORGANIZATION 4-5 (1969); A. THOMAS, ECONOMIC REGULATION OF SCHEDULED AIR TRANSPORT 198 (1951). The Chicago Convention did relatively little in the economic sphere. Its most significant contribution is article 5, which authorizes civil aircraft that are *not* engaged in scheduled traffic to transit and make stops in foreign states. Chicago Convention, *supra* note 1, art. 5. The analogue to these two rights in the scheduled context is contained in a separate agreement produced by the Chicago Conference. International Air Services Transit Agreement, *opened for signature* Dec. 7, 1944, 59 Stat. 1693, E.A.S. No. 487, art. I, § 1. This agreement limited stops to nontraffic purposes such as refueling and maintenance. Although it is now unusual for even long-range flights to make nontraffic stops, given the extended range of contemporary aircraft, this concession was significant in 1944. The two rights of transit and of nontraffic landing are known as the first two of the "Five Freedoms" of the air. *See* Lissitzyn, *Freedom of the Air: Scheduled and Non-Scheduled Air Services*, in THE FREEDOM OF THE AIR 89, 90 (E. McWhinney & M. Bradley eds. 1968) [hereinafter cited as FREEDOM]. The other three freedoms—carriage to and from a foreign state, and between one foreign state and another beyond it—were also cast in treaty form. International Air Transport Agreement, Dec. 7, 1944, 59 Stat. 1701, E.A.S. No. 488, *reprinted in* U.S. DEP'T OF STATE, PROCEEDINGS OF THE INTERNATIONAL CIVIL AVIATION CONFERENCE 179 [hereinafter cited as PROCEEDINGS]. Only eleven states still subscribe to that treaty, from which the United States withdrew in 1946. FREEDOM, *supra*, at 90. As the Conference did succeed in producing these agreements, blame for failure to take economic problems in hand must be laid upon individual states rather than the conferees.

3. *See* PROCEEDINGS, *supra* note 2, at 29-41 (list of delegates). Absentees included the Axis states and the Soviet Union.

4. Articles 17-21 concern registration and nationality of aircraft; articles 22-28 deal with

the primary international organization dealing with aviation, and in the unlikely event that a multilateral system of economic regulation should replace the present morass of bilateral agreements, the parties would almost certainly extend the ICAO's authority to include this area.[5]

The ICAO Council is the most powerful body of the organization, closely resembling the United Nations Security Council in this respect.[6] Its power has become particularly significant in recent years, as the ICAO Assembly (the universal body corresponding to the United Nations General Assembly) has met less and less regularly. The Assembly now meets routinely only once every three years, when its primary task is to elect a new Council.[7] The continuously operating Council has assumed the burden of both routine and extraordinary functions on behalf of the ICAO and, in this respect, it stands somewhat above corresponding bodies in other international organizations.[8]

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measures to facilitate navigation; articles 29-36 set out aircraft requirements; and articles 37-42 are devoted to dictating international standards. Chicago Convention, note 1 *supra*.

5. Multilateral control of economic issues is unlikely at best.

> [S]o far States have preferred a system of bilateral agreements to which are annexed lists of specific routes and supplemented, in some regions, by pooling arrangements between airlines. Air transport grows so rapidly that perhaps it would have been impossible, even with the utmost goodwill on the part of all governments, to devise a multilateral system flexible enough to cope with that growth.

Binaghi, *The Role of ICAO*, in FREEDOM, *supra* note 2, at 17, 21. The bleak outlook has been discussed by several commentators. *See, e.g.*, Deak, *The Balance-Sheet of Bilateralism*, in *id.* at 159; McWhinney, *International Law and the Freedom of the Air—the Chicago Convention and the Future*, 1 RUT.-CAM. L.J. 229 (1969).

6. The Convention sets out the basic characteristics of the Council in articles 50-55. Chicago Convention, note 1 *supra*. The term "Council" was suggested instead of the original "Board" when its size was expanded to 21 and it was placed in charge of the Air Transport Committee and the Air Navigation Committee. PROCEEDINGS, *supra* note 2, at 470.

7. In 1962, the fourteenth session of the Assembly elected the sixth ICAO Council.

> During the Rome Session the Assembly discussed the desirability of normalizing the situation which has existed for almost a decade, namely that triennial Assembly sessions take the place of annual sessions. Of a dozen delegations which spoke on the matter only one, that of Yugoslavia, proved [sic] against the proposal to meet regularly every third year only. Yugoslavia preferred biennial meetings.
>
> Intervening ordinary sessions may still be convened whenever necessary by decision of the Assembly or the Council.

17 ICAO BULL. 193 (Oct. 1962).

The Assembly met in two extraordinary sessions in 1971, when the eighteenth Assembly elected the tenth Council. The nineteenth Assembly met in the winter of 1973 to deal with various emergencies, including the election of three new Council members to reflect the increase in the Council's size from 27 to 30. The Netherlands and Pakistan were the only candidates for election in categories I and II, respectively. ICAO Assembly, 19th Sess., Doc. 9061 (A19-Res., Minutes), at 24-26 (1973) [hereinafter cited as 19th Minutes]. In category III, Trinidad and Tobago were elected over the Philippines. *Id.* at 27-29. The twentieth Assembly met to discuss revisions to the Chicago Convention in conjunction with efforts to curb aerial terrorism. *See* ICAO Assembly, 20th Sess., Doc. 9087 (A20-Res., Minutes) (1973).

8. *See* Chicago Convention, *supra* note 1, arts. 54 & 55 (duties and powers of Council). *See also* notes 96-125 *infra* and accompanying text (comparison of ICAO to IAEA, WHO,

The ICAO itself is an important international body simply on account of its subject matter. All international organizations, such as the ILO, the IAEA, and the FAO,[9] play important roles at the international level in the fields of labor, atomic energy, and agriculture, respectively. But aviation is more than one of many activities with international aspects. It is also a medium of diplomacy and international relations, as well as a vehicle of national prestige and sophistication. The scope of a state's airline operations indicates its technological status, its capital investment in airplanes, and its links to other nations by virtue of its bilateral agreements that establish its international routes.[10] For these reasons, states are particularly anxious to follow and to participate in the activities of ICAO and its Council.[11]

Given the above, membership in the ICAO Council is a prestigious position for most nations. Yet despite the radical changes in the size and composition of the international community that have occurred since the Chicago Convention of 1944, the criteria for membership in the ICAO Council have remained unchanged. These criteria, in order of importance and election, are: importance in aviation, importance in air navigation, and representation of geographical regions not adequately included in the first two categories.[12] The relative change in the importance of this last classification alone exemplifies the need for change in the criteria for election. In 1944, Africa—the continent least likely to be represented in categories I and II—contained a total of four sovereign states to justify its inclusion in category III.[13] Africa now includes a third of the world's nations and is one of the fastest growing regions in population. Africa's changed status alone is enough to justify a revision of Council membership criteria.

The same factors that require a change in this area also require that the changes not only meet today's needs, but also allow for the continuation of the emerging trends in international aviation: a trend toward mul-

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and U.N. Security Council).

9. *See* notes 96-125 *infra* and accompanying text.

10. *See* note 2 *supra*. Commentary on bilateral agreements is widespread. *See, e.g.*, Azzie, *Specific Problems Solved by the Negotiation of Bilateral Air Agreements*, 13 McGILL L.J. 303 (1967); Gertler, *Bilateral Air Transport Agreements: Non-Bermuda Reflections*, 42 J. AIR L. & COM. 779 (1976); Stoffel, *American Bilateral Air Transport Agreements on the Threshold of the Jet Transport Age*, 26 J. AIR L. & COM. 119 (1959).

11. So far 56 states have held Council seats at one time or another. *See* Appendix (table of states elected to various Councils).

12. Chicago Convention, *supra* note 1, art. 50(b). This section also states that the Council shall be composed of 21 states, thus requiring formal amendment procedures whenever the Council's size has been increased. *Id.* art. 50(a). *See* notes 126-132 *infra* and accompanying text for a discussion of ICAO's expansion of the Council. This requirement has led to certain constitutional problems when states that have not yet ratified an amendment increasing the Council's size wish to vote. *See* T. BUERGENTHAL, *supra* note 2, at 210-12.

13. Ethiopia, Liberia, Egypt, and South Africa were the only independent African states at the end of World War II. South Africa has since been excluded from ICAO. *See* 29 ICAO BULL. 22 (May 1974).

tilateral rather than bilaterial economic agreements, use of longer range aircraft, and sophistication of air navigation facilities. The predominant factor, however, has been the replacement of the Cold War bifurcation of the world into East and West with a new division between North and South. The ICAO was originally the product of the "First World," the industrial nations of Western Europe and North America. Eastern Europe and China were not yet communist, and Russia did not participate in the Chicago Conference. At that time, the burning question was the eventual admission of the defeated Axis states.[14] Japan, Italy, East Germany and West Germany eventually became members, as did the Soviet Union and the Peoples Republic of China.[15] More significantly, seats in the first and second categories were tacitly conceded to these states in accordance with their aeronautical stature.[16] The criteria created by the

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14. Article 93 deals with the admission of enemy states:

> States other than those provided for [elsewhere] . . . may, subject to approval by any general international organization set up by the nations of the world to preserve peace, be admitted to participation in this Convention by means of a four-fifths vote of the Assembly and on such conditions as the Assembly may prescribe: provided that in each case the assent of any State invaded or attacked during the present war by the State seeking admission shall be necessary.

Chicago Convention, *supra* note 1, art. 93.

The earliest version of this article would have required admission by unanimous vote. PROCEEDINGS, *supra* note 2, at 645. A subsequent revision placed the figure at two-thirds. *Id.* at 646. This version followed a Canadian objection to the requirement of unanimity. *Id.* at 655. China and Denmark (which had been directly invaded and occupied by Axis powers) favored the strict requirement. Greece, with the support of France and Poland, suggested the 80% figure, and also proposed the requirement of assent by any invaded state. This motion was carried. *Id.*

Austria, Italy, and Finland were admitted in 1948 after the U.N. General Assembly approved their applications. ICAO MONTHLY BULL., Aug. 1948, at 3; *See also* T. BUERGENTHAL, *supra* note 2, at 19 n.29. Japan was not admitted until 1953. 8 ICAO BULL., Aug.-Oct. 1953, at 11. *See also* T. BUERGENTHAL, *supra* note 2, at 21 n.35. West Germany was admitted in 1955. *Id.* at 20.

15. Schenkman claims that shortly before the Kuomintang government denounced the Convention in 1950, the Communist regime demanded that the Kuomintang representatives be driven out. J. SCHENKMAN, THE INTERNATIONAL CIVIL AVIATION ORGANIZATION 131 (1955). Buergenthal disputes this information. T. BUERGENTHAL, *supra* note 2, at 37. The Peoples Republic of China did not take part in the Assembly until 1974, ICAO Assembly, 21st Sess., Doc. 9119 (A21-Minutes P/1-12), at 37 (1974) [hereinafter cited as 21st Minutes], although the seat was originally granted in November 1971. *Id.* at 65 (statement of Chief Delegate of the People's Republic of China). In this speech, the Chinese also criticized the lack of Third World representation on the Council. *Id.* at 66. China has held a category II Council seat since 1974. *See* Appendix.

The Soviet Union, absent by its own choice from the ICAO since the Chicago Conference, participated as an observer in 1965, 20 ICAO BULL. 3 (1965), but did not finally participate in the Council until 1971, the first election following its admission to the ICAO. *See* Appendix. Saudi Arabia was the only other state to decline the American invitation to participate in the Chicago Conference. PROCEEDINGS, *supra* note 2, at 13.

16. The Soviet Union has held a category I seat without interruption since its election. *See* Appendix. China has occupied a seat in category II for the last three elections. *See id.* Interestingly, the Kuomintang had held this status in 1947 when it still ruled a substantial

West also seemed to be suited for the East. The Third World, however, remained underrepresented on the Council, cheated by history in the first category and by geography in the second.[17] Regional representation has since become the sole criterion under which most of the world's states can aspire to a Council seat, and the election procedure has become bottom-heavy with states seeking appointment in the last round.[18]

After a brief review of the Council's duties, this Article next turns to earlier attempts to create international aeronautical bodies—interesting examples of roads not taken by ICAO to achieve the goal of fair representation. Then the problems that have emerged since the ICAO's conception will be considered. Finally, possible solutions to the problem will be explored, with a comprehensive proposal for a new article 50(b) to amend the Chicago Convention.

II. THE PROBLEM IN THEORY: THE COUNCIL AND THE CHICAGO CONVENTION

The ICAO Council is the governing body of the organization, currently comprised of 33 member states,[19] drawn from the 150 members of the ICAO and elected by its Assembly at three-year intervals.[20] Article 50(a) of the Chicago Convention provides that "[t]he Council shall be a permanent body responsible to the Assembly," thus preserving at least

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area of mainland China, but from 1950 onward never held a Council seat, in contrast to its tenure on the U.N. Security Council. *See id.*

17. *See* Appendix. Most Third World nations have the misfortune not only to be less advanced themselves, but also to be isolated from routes between more aeronautical nations. Exceptions are some of the southern states of Asia, and isolated cases like Senegal, which lies on the main routes from Europe to South America. Senegal has held a category III position since 1968. *See id.* Its candidacy for category II in the most recent election was unsuccessful. Report of the United States Delegation to the Twenty-third Session of the Assembly of the International Civil Aviation Organization, Montreal, Canada, (Sept. 16—Oct. 6, 1980), at 24-25 (1980) [hereinafter cited as 1980 Report].

18. In 1977 and 1980, only ten states sought election to the ten seats available in category I. ICAO Assembly, 22d Sess., Doc. 9216 (A22-Minutes P/1-13), at 121 (1977) [hereinafter cited as 22d Minutes]; 1980 Report, *supra* note 17, at 24. Although no real choice existed in 1977, Canada received 110 votes from the 119 states voting while Australia only got 93. 22d Minutes, *supra*, at 122. In 1980, the vote ranged from 122 of 127 votes for France to only 107 for the United States. 1980 Report, *supra* note 17, at 24. In the same year, 17 candidates competed for 11 category II seats, while 14 candidates sought the 12 available in category III. *Id.* at 24-25.

In 1977, 14 states vied for 10 seats in category II and 13 for the same number in category III. 22d Minutes, *supra*, at 123-27. In 1974, 11 states ran for 10 category I places, 12 for the 10 in category II, and 13 for the 10 in category III. 21st Minutes, *supra* note 15, at 93-99.

19. The membership has recently been increased from 30 to 33. *See* notes 129-31 *infra*.

20. "An election shall be held at the first meeting of the Assembly and thereafter every three years, and the members of the Council so elected shall hold office until the next following election." Chicago Convention, *supra* note 1, art. 50(a). In 1980, 134 of the 146 members attended the twenty-third Assembly. 1980 Report, *supra* note 17, at 1. As of December, 1981 the ICAO membership had increased to 150 members. 36 ICAO BULL. 34 (Nov. 1981).

the illusion of subordination to the universal body.[21] But the Convention itself, the actual Constitution of the ICAO, goes on to designate a number of critical duties that the Council either must or may perform.[22] In addition, because of the infrequent meetings of the Assembly, it has been necessary for the Council to assume routine and unusual functions that the Chicago conferees may not have intended without the direct supervision of the Assembly.[23] The Council's role combines executive, judicial, administrative, and even "legislative" elements to the extent possible under states' obligations to the ICAO. The executive role is laconically stated in article 54(b): to "[c]arry out the directions of the Assembly and discharge the duties and obligations which are laid on it by this Convention."[24] Other duties that might more logically have been granted to the Assembly are enumerated, such as the appointment of a Secretary-General[25] and the delegation of whatever duties it deems appropriate to the Air Navigation Commission, in addition to those established by the Convention.[26]

Such powers appear to reflect more than a mere executive authority. The ability to build directly upon the provisions of the Convention, without prior approval of the Assembly, especially suggests the Council's status as a primary rather than secondary source of authority. In addition to these functions, most routine procedures, such as the reporting and investigation of infractions of the Convention or of problems in international aviation, are in the Council's domain.[27] In the executive area, the Council adopts the international standards and recommended practices that are ICAO's primary product.[28] In its administrative capacity, it controls the finances of the organization.[29] Finally, it convenes the Assembly for both its routine meetings and any extraordinary sessions that may be required.[30]

The breadth of these powers is especially remarkable given the lack of success of international aeronautical bodies during the twenty-five years prior to the Chicago Convention. These bodies faced many of the representational problems confronted at Chicago, and their history demonstrates that the 1944 conference had little precedent to guide it in the attempt to create a global aeronautical agency.

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21. Chicago Convention, *supra* note 1, art. 50(a).

22. *Id.* arts. 54 & 55.

23. *See* T. BUERGENTHAL, *supra* note 2, at 184-97 for a description of adjudicatory activities. *See also* J. SCHENKMAN, *supra* note 15, at 159-62 for a description of powers.

24. Chicago Convention, *supra* note 1, art. 54(b).

25. *Id.* art. 54(h).

26. *Id.* art. 55(b).

27. *Id.* arts. 54(i)-(k), 55(e).

28. *Id.* art. 54(*l*).

29. *Id.* art. 54(f).

30. Standing Rules of Procedure of the Assembly of the International Civil Aviation Organization, Doc. 7600/3, Rules 1 & 2 (3d ed. 1977) [hereinafter cited as Assembly Procedure].

A. *Pre-War Aviation Organizations*

Within a generation of Kitty Hawk, aviation had developed to the point where nations saw the need for international cooperation in civil aeronautics. The necessary impetus developed in the wake of World War I, which had convincingly demonstrated the limitless future of the airplane. In 1919, the Aeronautical Commission of the Peace Conference of Paris produced the first major multilateral agreement on aviation, the Convention for the Regulation of Aerial Navigation.[31] This agreement created the interwar forerunner of PICAO and ICAO—the International Commission for Air Navigation—generally known as CINA from its French acronym.[32] The Aeronautical Commission, parent of CINA, reflected the division of power among the victorious allies: France, Italy, Japan, and the British Empire held two seats each while Belgium, Brazil, Cuba, Greece, Portugal, Romania, and Yugoslavia were accorded one each.[33] By 1929, however, the representation within CINA had been equalized, thus shedding the last vestiges of the Commission's influence.[34] India and the British Dominions acquired separate votes, and the four great powers on CINA (of which the United States was not a member) gradually lost their voting advantages.[35] Subsequent to that event, it appears that CINA functioned on a basis of uniform equality.

CINA was concerned essentially with "public" international air law—the rights and duties of states to one another—and thus played a role roughly analogous to the present ICAO. In 1926, an organization concerned with international aspects of private air law was created: the Comité International Technique d'Experts Juridiques Aériens, more conveniently known as CITEJA.[36] CITEJA was not private in the sense that it was composed of private members, as is the modern International Air Transport Association (IATA), whose parent organization existed alongside CINA and CITEJA.[37] Rather, it resembled a kind of specialized international American Law Institute composed of experts in the field representing governments in an effort to harmonize private air law.[38] Although CINA was certainly the more important organization, CITEJA's membership included such states as China, Egypt, Germany, Turkey, the

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31. *Done at* Paris, Oct. 13, 1919, *entered into force* July 11, 1922, SEN. COMM. ON FOREIGN RELATIONS, 3 TREATIES, CONVENTIONS, INTERNATIONAL ACTS, PROTOCOLS, AND AGREEMENTS BETWEEN THE UNITED STATES AND OTHER POWERS, 1910-1923, Sen. Res. 130, 67th Cong., 2d Sess. 3768 (C.F. Redmond comp. 1923) [hereinafter cited as III Redmond], 11 L.N.T.S. 173 (1920). *See also* K. COLEGROVE, INTERNATIONAL CONTROL OF AVIATION 55-65 (1930); L. TOMBS, INTERNATIONAL ORGANIZATION IN EUROPEAN AIR TRANSPORT 42-43 (1936); J. SCHENKMAN, *supra* note 15, at 39.

32. K. COLEGROVE, *supra* note 31, at 66; L. TOMBS, *supra* note 31, at 43-45.

33. L. TOMBS, *supra* note 31, at 42 n.1.

34. *Id.* at 47.

35. *Id.* at 48.

36. *Id.* at 125; K. COLEGROVE, *supra* note 31, at 98-104.

37. *See* J. SCHENKMAN, *supra* note 15, at 51.

38. K. COLEGROVE, *supra* note 31, at 98; L. TOMBS, *supra* note 31, at 125-26.

United States, and the Soviet Union, whose absence from CINA prevented that organization from transcending an essentially local European status.[39]

Neither CINA nor CITEJA, however, achieved the ICAO's level of universality or its problems of intra-organizational representation. The goals of the interwar organizations, while broad in rhetoric, lacked the immediate and practical scope of ICAO's purpose. Several major states were absent from one or the other body, depriving them of even a semblance of universality. Perhaps most importantly, CITEJA and CINA did not have to accomodate the emerging nations of the South. The few developing countries that achieved independence before World War II were tacitly expected to identify with basically European goals and procedures, as if this adjustment were the axiomatic price of autonomy. This has proven to be a basic rift between the North and the South, and it will continue to trouble the ICAO as long as representational criteria remain as originally drafted in 1944.

B. *The Chicago Convention*

Despite their apparent failure to allow for the future expansion of the organization's membership, the negotiators in Chicago devoted a considerable amount of time to the question of representation on the Council.[40] Three questions were involved: the number of states to be elected to the Council, the definition of the categories in which they were to be elected, and the division of the elected states among the categories. Although the Convention ultimately produced a figure of twenty-one for the total,[41] the Canadian delegation suggested as few as twelve—eight from among the most important aeronautical states and four elected from other regions by the Assembly.[42] The American proposal set the figure at fifteen.[43]

The breakdown of the categories and the number of seats allotted to each were also discussed. Article 50(b) of the Chicago Convention now reads:

> In electing the members of the Council, the Assembly shall give adequate representation to (1) the States of chief importance in air transport; (2) the States not otherwise included which make the largest contribution to the provision of facilities for international civil air navigation; and (3) the States not otherwise included whose designation will insure that all the major geographic areas of the world are represented on the Council.[44]

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39. L. TOMBS, *supra* note 31, at 43-52.

40. *See* PROCEEDINGS, *supra* note 2, at 102-06, 132-37, 469-70, 1298-1349, 1388-89.

41. Chicago Convention, *supra* note 1, art. 50(a). *See* Appendix where the total members of each Council is listed.

42. PROCEEDINGS, *supra* note 2, at 67.

43. *Id.* at 562. *See also id.* at 1317.

44. Chicago Convention, *supra* note 1, art. 50(b).

The language of this section invites numerous constructions, particularly in the first category. Does "chief importance" imply the most far-flung airlines, the greatest numbers of international passengers, or the largest manufacturing industries? Apparently the conferees relied on the redundancy of most of these criteria to avoid confusion, and on the electors themselves to decide appropriate interpretations. Most states in category I have always been in that class, and have always been elected to the Council. These include Brazil, Canada, France, the United Kingdom, the United States, and since its admission to the ICAO, the Soviet Union.[45] All but the U.S.S.R. participated in the Chicago Conference and were members of the Interim Council of the Provisional International Civil Aviation Organization (PICAO).[46] While these six states include those whose international airlines are among the world's largest, the most striking common characteristic is their domination of the commercial aircraft market. West Germany, which has held a category I seat in the last five Councils, also seems to have joined this elite group.[47] The only other states to have been elected in the first round have been other Western European countries, Australia, and Japan.[48] Category I, except for Brazil and the Soviet Union, has remained the exclusive domain of the First World.

It is doubtful that the conferees intended to concentrate power irrevocably in the industrialized West. It was logical that the states of "chief importance" be represented on the Council. Yet the formal recognition of this elite group raises one of the fundamental dilemmas facing all international representative bodies: the conflict between the realities of the international scene and the sovereign equality of states. The problem is less acute in generalized bodies like the United Nations, where representational equality is a more practical standard, given the broad spectrum of issues that such organizations must confront. But Burundi or Guyana will never wield the aeronautical might of the United Kingdom or the Soviet Union. The present structure of article 50(b) attempts a compromise between the elements of eminence and equality, but the compromise no longer seems feasible in light of the new political influence of the South.

Even in 1944, states perceived that a separate designation of the most important states could eventually breed resentment. Portugal proposed the intriguing definition of states "which have attained the largest development in civil aviation." This could be interpreted to refer to the greatest relative progress rather than to the most advanced absolute status.[49] Cuba and Mexico advocated a fifteen-member Council elected simply with "adequate representation" to the most developed states and to

45. *See* Appendix.

46. PICAO MONTHLY BULL., Nov. 1, 1946, at 3.

47. *See* Appendix.

48. *Id.*

49. PROCEEDINGS, *supra* note 2, at 469-70.

regional diversity.[50] The U.S. proposal attempted to sidestep the problem of establishing categories while committing the Council to permanent great power representation. The fifteen members would be selected strictly on a regional or national basis: two each from the United States, the Soviet Union, and the British Commonwealth; one each from Brazil, China, and France; three from Europe, two from Latin America, and one from Africa and Asia together.[51] Even given that the proportions would obviously have been changed in view of the newly independent countries, the proposed system would have been unduly discriminatory and restrictive.

One of the most thoughtful proposals of the Chicago Conference was sponsored by Australia. Australia and New Zealand together championed the radical step of placing all international aviation under communal international ownership and operation.[52] While more visionary than practical, this suggestion reflected the enlightened attitude of two small states active in the aviation field. Australia set out five criteria for Council membership, further refining the classifications presently in article 50(b). While ignoring the need for geographic diversity, the proposal broke category I into four elements: the largest operators, the "users," the "countries which have pioneered in the aviation field," and countries contributing to aviation design and engineering.[53] Even though the latter two seem to overlap, the final element neatly isolates the power that has lurked behind the thrones of the perennial first-class states: the manufacturers and designers. Thus under the Australian plan, the separate pigeon-holing of these elite states would have conceivably freed other category I seats for a wider spectrum of members, both in absolute numbers and in "upward mobility" like that enjoyed by West Germany and Japan.[54]

Ultimately, however, the twenty-one member, three-category plan was adopted.[55] It was then necessary to determine how the seats were to be apportioned among the three categories. Initially, the Executive Committee unanimously established an 8:5:8 ratio.[56] This was later changed to an 8:7:6 apportionment, resulting in an apparent loss in regional diversity.[57] It is important to remember that these divisions have two effects: one on the ultimate composition of the Council, and the other upon the order in which states may run for election. Thus, a shrinking number of seats actually affords category III states the opportunity to run three

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50. *Id.* at 1337.

51. *Id.* at 562.

52. *Id.* at 79-83.

53. *Id.* at 1345.

54. Movements of states between different categories may be determined from the table of Council membership. *See* Appendix.

55. PROCEEDINGS, *supra* note 2, at 1348.

56. *Id.* at 102.

57. ICAO Assembly, 1st Sess., Doc. 4259 (A1-P/29) (1947). This suggestion by the first Commission was adopted by the Assembly. ICAO Assembly, 1st Sess., Doc. 4346 (P.M.5 Minutes) (1947).

times, with the final election held between the losers in the first two rounds.[58] Relatively few Third World states have pitted themselves against the aeronautical superpowers in category I, but a number run in both second and third races. It is interesting to see just how much states have found themselves forced to adopt tactics that were clearly not envisaged by the drafters of the Convention, in order to gain a Council seat.

III. THE PROBLEM IN PRACTICE: THE EXPERIENCE OF THE COUNCIL

Within the nearly forty years since the Chicago Conference, there have been twelve Council elections. During this period there has been a substantial expansion of the international community. While the admission of the defeated Axis powers to the ICAO and later to the Council did not create any serious problems,[59] problems have arisen regarding the accomodation of the newly established states. Many of these states have little to qualify them for Council membership other than their sovereignty. Nevertheless, this additional pressure has affected some of the older states. Dispossessed older states join underrepresented new nations in their dissatisfaction with the system.

A. *Which Class to Fly: Uncertainty in the North*

In an ideal system, any given state should logically be eligible to contend in the same category from one election to the next. This principle naturally ignores both the imperfections of any functioning electoral process and the necessity for flexibility in view of changing circumstances. For these reasons a loser in one round is specifically entitled to run in the next.[60] But over the long run, a state should find itself elected in the same category with relatively little variation, and in most cases this has happened. Several states, however, have not enjoyed such consistency, and the reasons reflect both the changed electorate and the growing inadequacy of the current electoral criteria.

Czechoslovakia has one of the poorer records in its attempts to gain election to the Council. Prior to 1965 it had been seated only once.[61] In 1962, it failed in attempts for both category I and II seats.[62] In 1965, 1968, and 1977, Czechoslovakia ran in category II, but was unsuccessful.[63] Only in 1974 did Czechoslovakia succeed in shedding its category III sta-

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58. Assembly Procedure, *supra* note 30, rule 59.

59. *See* note 14 *supra*.

60. *See* Assembly Procedure, *supra* note 30, rule 57(c), which states that losers in first round may run in second. Similarly, rule 59 permits losers in either of first two rounds to run in the third.

61. *See* Appendix.

62. ICAO Assembly, 14th Sess., Doc. 8269 (A14-Minutes P/5), at 92 (1962) [hereinafter cited as 14th Minutes].

63. ICAO Assembly, 15th Sess., Doc. 8516 (A15-Minutes P/5), at 113, 116 (1965) [hereinafter cited as 15th Minutes]; ICAO Assembly, 16th Sess., Doc. 8775 (A16-Minutes P/1-9), at 76, 77 (1968) [hereinafter cited as 16th Minutes]; 22d Minutes, *supra* note 18, at 123.

tus with its election in the second round.[64] In 1977, in an unsuccessful bid to retain this hard-won position, Czechoslovakia declared its intention to run in category II, stating that

> as one of the founding States of the Organization and a Member of the Council for severial triennia, [Czechoslovakia] has a moral right to present its candidacy . . . . We believe that the results achieved by Czechoslovak civil aviation also justify our candidature: . . . [as] a producer of aircraft technology and equipment for the provision of air traffic services . . . .[65]

The first part of this claim apparently just alleges general contribution to aviation technology, but the second hints at direct qualification for category II: "provision of facilities for international civil aviation." Yet one wonders how many more aircraft visit Prague than Budapest, Vienna, or Bucharest. In fact, Czechoslovakia is buried in the heart of a continent whose major airports are far more essential to international aviation than any Czech facility, even if category I states are omitted. It would also seem that geography should block Czechoslovakia from category III because Europe is the last region to merit further representation for its own sake.[66]

Czechoslovakia's recent tenure has been determined by geopolitical rather than strictly geographical criteria. Although one of many European states, Czechoslovakia is the only eastern European nation, aside from the U.S.S.R., to have ever held a Council seat.[67] The eastern European group is by far the least numerous region of all the U.N. aggregations, but it apparently is regarded as deserving more than a single representative on the Council. Thus Czechoslovakia, situated amid the most sophisticated aeronautical region in the world, has retained a Council seat on grounds of geopolitical diversity.

Although Australia has also shifted between categories, its career demonstrates a different aspect of the representation problem. Aside from the second and third Councils, whose membership was elected in a single pro forma procedure because there were as many seats as candidates,[68] Australia has always held a seat in either category I or II.[69] If

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64. 21st Minutes, *supra* note 15, at 95.

65. *Id.* at 20.

66. In the early years of the organization, the argument for regional diversity was more valid because so few African and Asian states were members. The limited number of category III positions permitted more representation from the Americas and Europe. From 1956 to 1959, the eve of widespread Third World independence, three European countries held seats in category III. Two elections later, in 1962, no European countries held category III seats. *See* Appendix.

67. Yugoslavia was represented in category III in 1974 and 1977, but is not a member of the Eastern European bloc. *See id.* Poland ran for election in category II unsuccessfully in 1980, but declined to run in category III. 1980 Report, *supra* note 17, at 24-25.

68. *See* ICAO Assembly, 4th Sess., Doc. 7016-3 (A4-Minutes P/2-3), at 73 (1950) [hereinafter cited as 4th Minutes]; ICAO Assembly, 7th Sess., Doc. 7409 (A7-Minutes P/2), at 58 (1953) [hereinafter cited as 7th Minutes]. *See also* Appendix.

unsuccessful in its bid for a seat in category I or II, Australia would be virtually guaranteed a seat in category III on geographical, not geopolitical, grounds.[70] Australia has been elected in category I for all but two full elections, when it was the closest runnerup.[71] Why is Australia a state of "chief importance" in the aeronautical world? Its manufacturing capacity is negligible. Its population is comparable to that of Czechoslovakia or Kenya. Its airline is global, but carries fewer passengers on fewer aircraft than most western European systems. It lies well off the world's major air routes; few visitors to Australia are merely in transit to other points, unlike established category II states such as India and Lebanon. Wherein lies Australia's aeronautical importance?

Foremost, of course, is the isolated continent's size and location. Few states are so remote from the rest of the world, and yet manage to maintain such close contact with it, largely via aircraft. Similar dependence upon and commitment to aviation characterize internal Australian transportation. But the bond between Australia and the other pioneers of aviation goes somewhat deeper—back to the original PICAO, when Australia, as one of the victorious Allies, participated extensively in the establishment of the organization.[72] It is remarkable that the great influx of Third World states into the Assembly electorate has not yet resulted in Australia's demotion from category I, in favor of some state less closely identifiable with the goals of the North, such as China.

Both the Czech and Australian examples indicate certain failings of the present electoral criteria. Geopolitical rather than strictly geographical determinants are most appropriate in achieving the goal of diversity. Also, elements other than those enumerated in the Convention apparently enter into decisions to elect states like Australia to category I—elements that either should be formally sanctioned or eliminated altogether. The greatest problem, however, still lies in the undue burden on the few category III seats to provide representation of most of the planet's nations.

B. *Filling Third Class: North vs. South*

The Scandinavian nations long ago perceived that they were unlikely to win election to the Council individually, except perhaps in category III, and then only sporadically. Therefore, since the days of PICAO, they have been joined in a coalition to be represented by a single Council seat.

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69. *See* Appendix.

70. Australia would almost certainly be excluded on geopolitical grounds since it is a member of the predominant Western coalition.

71. The two elections when Australia failed to make category I were in 1947 and 1971—the first and ninth Councils. ICAO Assembly, 1st Sess., Doc. 4351 (A1-Minutes P/39), at 2 (1947) [hereinafter cited as 1st Minutes]; ICAO Assembly, 18th Sess., Doc. 8963 (A18-Min. P/1-16), at 89 (1971) [hereinafter cited as 18th Minutes].

72. *See, e.g.*, PROCEEDINGS, *supra* note 2, at 1345 (Australian proposal for category I criteria). *See also* notes 52-54 *supra* and accompanying text.

Except for the 1977-1980 term, Denmark, Sweden, and Norway have rotated the post.[73] In 1977, the cycle was expanded with the election of Finland—formerly an "enemy state" and not a participant in the original Conference—to hold what has apparently become a traditional seat.[74]

Similar trends toward regional coalitions have since appeared elsewhere. In 1977, Honduras announced that it would run for a Council seat as a representative of the Central American states.[75] "As a Council member it would carry out the directives given to it by the Central American States, at the same time, of course, maintaining good relations with [the] ICAO."[76] Since 1959, all eight Councils have included a Central American country, but the region's cohesiveness seems to have been less convincing to the electorate than the Scandinavian coalition.[77] Yet the Central American states, none of which ran for seats until 1959, have at least avoided the obvious dangers of running against one another for a precious category III seat.[78]

Under another subregional arrangement, Jamaica successfully ran for a category III seat as successor to Trinidad and Tobago in 1977, and retained the seat in 1980.[79] In 1974 and 1977, Morocco was elected as a representative of "the Arab states of the Mahgreb."[80] Algeria succeeded it in 1980 "under an agreed rotational scheme."[81] Even the Benelux countries, which among themselves have held nineteen seats on thirteen Councils, have found it necessary to band together formally.[82] In 1977, the Netherlands announced that

> [l]ike other states before us, we have agreed on a rotation scheme covering membership in the Council and other standing bodies of the Organization. We shall establish a common representation at ICAO Headquarters. Thus we intend to contribute to ICAO the pooled experience of three countries . . . . Other States presenting much the same characteristics already have expressed their interest in this cooperation and may join at a later stage.[83]

Surprisingly, the Dutch then announced that the group would await the

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73. *See* Appendix.

74. *See id.*

75. 22d Minutes, *supra* note 18, at 28.

76. *Id.*

77. *See* Appendix.

78. *See id.*; 1980 Report, *supra* note 17, at 24-25 (El Salvador the only Central American candidate in 1980); 22d Minutes, *supra* note 18, at 126 (Honduras in 1977); 21st Minutes, *supra* note 15, at 98 (Costa Rica in 1974); 18th Minutes, *supra* note 71, at 92 (Nicaragua in 1971); 16th Minutes, *supra* note 63, at 77 (Guatemala in 1968).

79. 22d Minutes, *supra* note 18, at 77; 1980 Report, *supra* note 17, at 25.

80. 22d Minutes, *supra* note 18, at 53. "Mahgreb" is an Arab geographic term, referring to Muslim North Africa, the usage of which predates the present day nation states of the area. For the purposes of this paper, the Mahgreb loosely includes Morocco, Algeria, Tunisia, and perhaps Mauritania.

81. 1980 Report, *supra* note 17, at 25.

82. These figures include the PICAO Council. *See* Appendix.

83. 22d Minutes, *supra* note 18, at 56.

imminent establishment of three extra Council seats before submitting their candidacy.[84] Despite these modest words, however, the Low Countries' fear was apparent. With category III seats drifting inevitably to the South, a Scandinavian-type coalition was necessary. Nor would it be difficult to predict the identity of the other interested states: Switzerland, a partner in the KSSU consortium[85]; or possibly Greece, Austria, or Portugal—all small states with large airlines and a commensurate interest in aviation.[86]

From the above coalitions a clear trend can be discerned. Obviously, states no longer feel that category III affords an adequate guarantee of representation. The formation of the coalitions was necessary to guarantee states with similar interests adequate representation now that an increasing number of states are seeking category III seats.

This phenomenon has both advantages and disadvantages. International cooperation at the local level is obviously desirable from both practical and diplomatic viewpoints, but the formalization of subregional representation presents some quasi-constitutional problems. The Chicago Convention makes no allowance for such arrangements, except in the oblique terms of article 50(b), and it would probably be stretching the intentions of the Chicago conferees to sanction subregional candidacies by that language. The prearranged candidacies remove the opportunity for the general electorate to determine which states are most suited for filling the Council's needs. Thus, the agreements arguably sidestep the spirit of the Convention by usurping a function of the electoral process. States voting against such candidacies may also fear to offend an entire group of states, despite the secrecy of the balloting. Such an onus, even self-imposed, represents a threat to the principles of representation, both as embodied in article 50(b) and as furthering the Council's work.

Most of the more recent coalitions have taken a significant step beyond the Scandinavian model, in that several national airlines are involved. Scandinavia operates a single airline (SAS) out of Norway, Denmark, and Sweden. The combined resources of these three countries has enabled them to operate an international carrier capable of competing with much larger countries.[87] But the Scandinavian group now includes Finland, which operates its own international airline, Finnair. The Central American, North African, and Benelux nations all maintain separate national airlines, often directly competing in certain markets. Neverthe-

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84. *Id.*

85. The KSSU consortium includes KLM (Netherlands), Swissair, SAS (Denmark, Sweden, and Norway), and UTA (France). P. EDDY, E. POTTER, & B. PAGE, DESTINATION DISASTER 112 (1976).

86. The inclusion of one of these states would create an interesting example of a geographically divided coalition. Greece may be a likely candidate in view of its recent admission to the EEC.

87. SAS pioneered the polar route and nonstop flights from Europe to Alaska, thus cutting travel time to Japan significantly.

less, the countries involved have been able to form effective coalitions for the purposes of the ICAO. Such cooperation is remarkable and demonstrates the common fear of underrepresentation among smaller states.

This concern of underrepresentation ironically is shared by smaller states in both the industrialized North and the developing South. To the smaller countries of the North, the voting power in world organizations has been transferred to the newly independent South, giving rise to what disgruntled Northerners call the "mechanical majority": a teeming, depressingly uniform array of African, Asian, and even Latin American states. In the ICAO Council, the effect has been to absorb most of the category III seats that might otherwise have gone to the small states already long established.[88]

Conversely, in an organization where the voting procedures for Council elections already are weighted in favor of the developed countries (by virtue of the first two categories), the newer nations perceived the formation of coalitions as necessary to obtain a category III seat and thus gain a say in the affairs of the Council. Actually, Third World states are beginning to make inroads upon category II. Both Pakistan and Nigeria have recently reached category II, and as air traffic and facilities increase in the South, others will doubtless follow.[89] While this may reduce the race for category III seats to some extent, it still provides additional impetus to combine into subregional coalitions.

Perhaps the most uncertain effect of the trend toward group representation will be on the present political partition of the international community along regional lines. The Mahgreb group provides an interesting example of a subregion eclipsing a regional association for the purpose of obtaining a Council seat. The conflict among the Mahgreb states, traditionally an extremely bitter conflict, was apparently put aside long enough to insure representation. Yet conceivably, such action could represent a direct threat to other associated states who also sought category III election. For example, among the Arab League, Iraq and Saudi Arabia both competed with Algeria in 1980. The Saudis failed to win election, even after three ballots.[90] Morocco and Algeria have also directly competed with other African states. Both Madagascar and Senegal also succeeded in 1977 and 1980, but the advantage the Mahgreb states possessed was obviously evidenced by the voting record. In 1980, Algeria topped the list with 110 votes, versus 77 for Madagascar and 76 for Senegal.[91] In 1977, Morocco won 104 votes to Madagascar's 81 and Senegal's 76.[92] Surely Senegal's proximity to the Mahgreb states played a part in per-

88. *See* Appendix.

89. *See id.*

90. 1980 Report, *supra* note 17, at 25. In 1977, Morocco was the only Arab League candidate in the third round. 22d Minutes, *supra* note 18, at 121-27. Lebanon and Egypt were both elected in category II in both years. *See* Appendix.

91. 1980 Report, *supra* note 17, at 25.

92. 22d Minutes, *supra* note 18, at 126.

suading relatively few non-African states to vote for both.[93]

Although no clear trend can yet be defined, it is possible that subregional associations will eventually undermine unanimous regional action. If this does occur, the less developed South will suffer the most in their category III representation. The EEC can afford to tolerate collusion among its smaller members since its larger nations are likely to be elected in categories I and II. The same is true to a certain extent of the Central and South Americans.[94] Africa, however, will face the dilemma of a multitude of states with only one or two guaranteed standard bearers.[95] Thus, the use of subregional alliances to gain better representation would seem to be a logical development.

The above developments indicate that membership criteria and the election process in the ICAO no longer function satisfactorily. Group representation is becoming increasingly popular and necessary among the African nations. The experiences of such diverse states as Australia, Czechoslovakia, the Scandinavian countries, and the various LDC's suggest that only a half dozen or so dominant world states can ever be certain of a Council seat. It remains to be seen what revisions of the electoral criteria are in order.

IV. REVISING ARTICLE 50(B): TOWARDS A NEW SEATING CONFIGURATION

Two approaches to the problem are possible: treating the symptoms, which have been described, and borrowing from the other international organizations. Comparisons with other contemporary specialized agencies should provide some perspective on how ICAO's criteria might be changed. But an examination of an admittedly limited cross section of other organizations shows that their provisions either improve little on the present ICAO system or are impractical for other reasons. The analysis here briefly deals with four other institutions: the U.N. Security Council, the International Atomic Energy Agency, the International Labor Organization, and the World Health Organization.

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93. Senegal had an advantage, however, in that Dakar's airport is much more critical to world aviation than any in the Mahgreb. The African group is apparently trying to reduce the disruptive effect of subregional alliances. In 1980, a paper was circulated listing five states, including Uganda, as the group's candidates. 1980 Report, *supra* note 17, at 24-25. Tanzania then announced that it remained a candidate. After the first ballot, in which both it and Uganda lost, it offered to share its seat with its East African colleague. *Id.* at 25.

94. Brazil, Mexico, Argentina, and, lately, Colombia, have all held Council seats for unbroken periods. *See* Appendix.

95. Nigeria and Egypt, the two largest African states, have both held seats since independence. Ethiopia and Zaire, however, the two next largest, have never sat on the Council. *See* Appendix.

A. *Contemporary International Organizations*

1. *U.N. Security Council*

The most obvious and prominent subject of comparison is the U.N. Security Council. Even though it retains certain archaic characteristics, the Security Council is probably the most powerful international body in scope of subject matter and delegated power.[96] Like the ICAO, the United Nations and particularly the Security Council were the products of a wartime environment—a situation in which a few states were in control of the general state of international affairs.[97] These states, specifically the Soviet Union, the United Kingdom, the United States, France, and China, were granted permanent seats on the Security Council.[98] In practical terms, the permanence of most category I states in the ICAO Council is not unlike these permanent Security Council seats. The formal quality of the permanent U.N. seats, however, has been reinforced enormously by the veto power vested in each one, probably the greatest single source of resentment among the other members of the United Nations.[99] The omnipotence of these five, albeit now under attack from many quarters, makes the Securty Council a somewhat static body—an unhealthy characteristic that would certainly be inappropriate in the rapidly changing field of international aviation. No source of reformation can be identified here.

The other criteria for membership on the Security Council, spelled out in article 23 of the Charter,[100] are remarkably similar to those in article 50(b) of the Chicago Convention. Instead of a category for states contributing to international civil air navigation, the Charter requires that regard be "specially paid, in the first instance to the contribution of Members . . . to the maintenance of international peace and security and to the other purposes of the Organization . . . ."[101] This proviso certainly contains elements of category I as well as category II, but the basic purpose more closely resembles the latter's—to buttress a hard core of powerful states with lesser nations whose contributions are still significant. The same article also requires attention to "equitable geographical distribution."[102] Although more concisely phrased, the obvious purpose is similar to the provision for category III.

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96. The nature and powers of the Security Council are set out in the U.N. CHARTER, articles 23 to 32. The Security Council's power is distinctive in that it includes the right to employ armed force. *Id.* art. 42.

97. The meetings that started the process culminating in the foundation of the United Nations took place among the Allies even before Pearl Harbor, beginning with the Inter-Allied Declaration, signed June 12, 1941. U.N. OFFICE OF INFORMATION, EVERYMAN'S UNITED NATIONS 4 (8th ed. 1968). The history of the movement is summarized in *id.* at 4-10.

98. U.N. CHARTER, art. 23, para. 1.

99. *Id.* art. 27, para. 3.

100. *Id.* art. 23, para. 1.

101. *Id.*

102. *Id.*

Aside from the rigid preservation of the great nations' power, the Security Council differs markedly in its procedures from the ICAO Council. Rather than stipulating separate elections in specific order, article 23 simply provides two elements for consideration in filling the remaining seats.[103] This has two salutary effects that would make it a good practice for the ICAO. First, it prevents regimentation of states in particular categories, thus preventing them from becoming associated with a single distinctive quality. While it is true that a certain degree of upward mobility in the Council has been demonstrated by such states as Nigeria, Spain, and Lebanon, there seems to be no reason to impede the process at all as the present ICAO system does.[104] Second, the Security Council scheme avoids the ICAO problem of strict apportionment of a certain number of seats to each category, which has led to unnecessary animosity between states in the various categories in the ICAO. Also, the United Nations permits greater latitude in election: rather than having to fit a specific category, a concept that the ICAO electorate has been forced to interpret rather broadly, the Security Council provision merely indicates appropriate considerations. The ICAO would be well advised to borrow this feature of the article 23 process.

2. *International Atomic Energy Agency*

The International Atomic Energy Agency (IAEA) includes a Board of Governors whose status is roughly comparable to the ICAO Council.[105] While the two bodies differ in the frequency of their meetings and the size of the chief groups in each,[106] the IAEA and the ICAO share the common characteristic of being dominated by a small number of states, even though all nations have an interest in the activities of the respective organizations. Therefore, the problems of apportioning seats on the Board between the few powerful states and the remaining states should be similar to those faced by the ICAO Council.

The IAEA's version of category I is detailed and relatively unambiguous. The Statute provides for the five "members most advanced in the technology of atomic energy including the production of source materials . . . ."[107] Thus, even though their nuclear technology is less developed

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103. *Id.*

104. *See* Appendix.

105. STATUTE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY, *opened for signature* Oct. 26, 1956, 8 U.S.T. 1093, T.I.A.S. No. 3873, 276 U.N.T.S. 3, art. 6 [hereinafter cited as IAEA STATUTE].

106. *Id. See* Von Mehren, *The International Atomic Energy Agency: Challenge and Opportunity*, 13 N.Y.B.A. REC. 56 (1958) where it states that there should be no more than 25 members. A variable number of member states, presently about 35, is discussed in F. KIRGIS, INTERNATIONAL ORGANIZATIONS IN THEIR LEGAL SETTING 14 (1977). In 1958 the ICAO Council had 21 members; presently it has 33. *See* Appendix.

107. IAEA STATUTE, art. 6, para. A-1. An interesting example of a proposed international body whose function would directly reflect geographical factors is the International Seabed Resource Authority, suggested in the August 3, 1970 United States Draft Conven-

than that of other states, Canada and Niger are presumably potential members of this group because of their high production of uranium. The IAEA then proceeds to combine elements of expertise and geography, by providing that "the member most advanced in the technology . . . in each of the following areas not represented by the aforesaid five" shall be appointed, listing various regions.[108] This list roughly conforms to the general U.N. divisions, but includes some interesting variations. Parts of Asia are included in four of the eight groups: Africa and the Middle East, South Asia, Southeast Asia and the Pacific, and the Far East.[109] Thus South Asia, by process of elimination, basically consists of the Indian subcontinent; and within this region, it is virtually certain that India would fill the seat.

After these sections establish the inner circle of nuclear powers, the Statute becomes much more intricate. The next part grants the smaller states of Europe, important technologically, a special means of representation. Although rather poorly phrased, this section allows "two members from among the following other producers of source materials: Belgium, Czechoslovakia, Poland, and Portugal; and [the previous Board] shall also designate for membership on the Board one other member as a supplier of technical assistance."[110] These provisions seem rather artificial, as if established either to rectify some problem with the basic system or as the result of successful lobbying by the states favored. It is, of course, no coincidence that two of the states are from the Communist bloc and the other two are from Western Europe. Perhaps the greatest virtue of article 6, paragraph A-2 lies in the fact that it guarantees a certain minimal degree of representation by the two opposing factions of the developed world.[111]

The next section departs from the tenor of the first two, in which the Board designated its successors.[112] This third section provides that "[t]he General Conference [IAEA's Assembly] shall elect ten members . . . with due regard to equitable representation on the Board as a whole of the members of the areas listed . . . so that the Board shall at all times in-

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tion on the International Seabed Area, *reprinted in* SENATE INTERIOR COMM., 91ST CONG., 2D SESS., REPORT ON THE OUTER CONTINENTAL SHELF, part III, at 71 (1970). Article 36 of this convention would establish a council of 24 contracting states, of which 6 would be the "most industrially advanced" and 12 of the remaining 18 would be "developing countries." *See* L. JUDA, OCEAN SPACE RIGHTS 217 (1975) for the text of the American proposal. The usual "need for equitable geographical distribution" is noted, but a unique provision would require at least 2 of the 24 to be "landlocked or shelf-locked countries." *Id.* Apparently, the geographical character of the Authority would remove the need for specifically defined geographic representation beyond these skeletal provisions, at least from the viewpoint of the United States.

108. IAEA STATUTE, art. 6, para. A-1.

109. *Id.*

110. *Id.* art. 6, para. A-2.

111. This provision has the effect of perpetuating an East-West rather than North-South orientation.

112. IAEA STATUTE, art. 6, para. A.

clude in this category a representative of each of those areas except North America."[113] At first a conventional geographical category like ICAO's category III, this section takes a truly bizarre final twist. It reflects the fact that under the IAEA's rather awkward regional partition of the world, there are no other major North American states besides the United States and Canada, both of whom will already have been designated as members of the Council.[114] In this section, the Statute openly discriminates against a region that should not have been defined as such in the first place. It further complicates an already labyrinthine process. Finally, as if painfully aware of the inadequacies of this procedure, the Statute forbids the consecutive reelection of any state in the geographical category.[115]

The IAEA system must rank as the most convoluted and unwieldy of all. In an apparent effort to insure fair representation in an organization concerned with this most volatile of issues, the IAEA overshoots its goal considerably. Its best features, and those which the ICAO might adopt, consist of omissions rather than innovations. The most prominent is the lack of a category II, which the Security Council and the ICAO Council both include, comprised of states halfway between important and representative. It is difficult enough to harmonize these two elements without fostering a third intermediate rank, and even the drafters of the IAEA Statute seemed to perceive this.

3. *International Labor Organization*

One of the oldest and most distinctively composed organizations is the International Labor Organization (ILO). The Constitution of the ILO calls for a Governing Body of thirty-two members, roughly the same as the IAEA or ICAO, but there the resemblance ends.[116] The 32 are broken down between governments (16), employers (8), and workers (8)—an arrangement required by the character of the organization.[117] But within each of these groups, familiar criteria are found. In the governmental delegation, logically the most appropriate for comparison to the Council, eight are from "the Members of chief industrial importance" and eight are elected by the Conference.[118] The only geographical criterion is the startlingly lax limitation on concentration in one area—no more than ten of the sixteen may be European.[119] Theoretically this means that Europe alone could hold an absolute majority of government seats. The section

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113. *Id.* art. 6, para. A-3.

114. The U.N. organizations have solved this problem by placing Canada and the United States with Western Europe, Australia, and New Zealand.

115. IAEA STATUTE, art. 6, para. A-3.

116. CONSTITUTION OF THE ILO, art. 7, *entered into force* Apr. 20, 1948, 62 Stat. 3485, T.I.A.S. No. 1868, 15 U.N.T.S. 35 [hereinafter cited as ILO CONSTITUTION].

117. *Id.* art. 7, para. 1.

118. *Id.* art. 7, para. 2.

119. *Id.*

regarding employers and workers is even more lenient: only two of each eight members need come from outside Europe.[120] These minimums do not set any upper limit to the number of non-European representatives, and it is safe to assume that the electorate would take appropriate notice of geopolitical considerations in the absence of any contrary restraint.[121]

The ILO comparison is also helpful because the ILO is a hybrid organization with a number of nongovernmental activities represented. If the ICAO and IATA ever merged into a single organization, the resulting entity might be similar. But since the Chicago Convention kept the administration of safety and technology separate from economic matters, the latter have remained the subject of bilateral negotiations between states.[122] Nevertheless, to a certain degree private entities such as IATA, the Airport Associations Coordinating Council, and the International Council of Aircraft Owner and Pilot Associations (IAOPA), do participate in ICAO affairs as nonvoting observers.[123] The problems of accommodating such agencies in an organization comprised of sovereign states would outweigh the benefits of their participation, at least until a radical change in the economics of international aviation occurs.

The ILO's lack of geographical strictures would not be a helpful innovation for the ICAO. In the ICAO context, the representation of states by geographical region is and should continue to be fulfilled by electoral action rather than by allocation of seats to geographical areas. In this respect, both the ILO and ICAO contrast with the IAEA, but the ILO can contribute nothing new to the ICAO system.

4. *World Health Organization*

Election to the Executive Board of the World Health Organization (WHO) is determined by probably the loosest criteria of all international

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120. *Id.* art. 7, para. 4. This heavy concentration on Europe can be attributed to several factors. When the ILO was founded, well before World War II, all the states of major industrial significance were European, except the United States. In terms of population involved in industry this is still somewhat true, although Japan, Brazil, and the Old Commonwealth are rapidly developing working masses similar to those in Europe and the United States.

121. *See* ILO CONSTITUTION, art. 7, para. 4 which sets out the election procedure to be followed.

122. *See* note 2 *supra*.

123. At the 1980 Assembly, 17 international organizations were represented by observers. Six were regional aviation bodies: the Arab Civil Aviation Council (ACAC), the African Civil Aviation Commission (AFCAC), the Agency for the Security of Aerial Navigation in Africa and Madagascar (ASECNA), the Central American Air Safety Services Corporation (COCESNA), the European Civil Aviation Conference (ECAC), and the Latin American Civil Aviation Commission (LACAC). Labor organizations included the International Federation of Air Line Pilots' Associations (IFALPA), the ILO; and the International Transport Workers' Federation (ITF). Other aeronautical groups were the Airport Associations Coordinating Council (AACC), the International Aeronautical Federation (FAI), the International Air Carrier Association (IACA), the International Air Transport Association (IATA), and the Institute of Air Transport (ITA). Also present were the Organization of African Unity and the Palestine Liberation Organization. 1980 Report, *supra* note 17, at 3.

organizations. The Constitution of the WHO requires only that "the Health Assembly, taking into account reasonable geographical distribution, shall elect the Members entitled to designate a person to serve on the Board."[124] There are no limits on geographical distribution, reelection, technology, or eminence in the area of medicine or public health. The individuals (as opposed to their sponsor states) need only be "technically qualified in the field of health."[125]

The WHO system is certainly the simplest of the international organizations examined. It shows a faith in the lack of political manipulation or prejudice that logically should attend deliberations in its area, thus eliminating the need for representational safeguards. The universal international interest in the world's health should override such considerations. Whether this trust is justified is not at issue here. Such trust would certainly be unjustified in the ICAO's case. Unlike the health area, aviation is an arena in which nations compete for economic and nationalistic purposes, and in such an environment, guarantees of fair representation are essential. The utopian model of the WHO system may be the object of envy, but hardly of emulation.

Many other organizations might be examined, and this selection is far from being even representative. But this brief overview does provide a sketchy picture in which organizations are either struggling with the same problems as the ICAO, or are not valid subjects of imitation because of their composition or subject matter. The Security Council and a few other bodies dispense with the ICAO's intermediate category II. An analysis of the ICAO's own affairs would also lead to the conclusion that this class is now unnecessary. For the ICAO, improvements must spring more from the organization's own experience than borrowed wholesale from other entities.

B. *ICAO Action*

The ICAO Council and Assembly themselves have not failed to perceive the inadequacies of the original composition of the Council, but their efforts to improve the situation have been too superficial to fill the need. As it now exists, revisions can be made at two levels. Relatively minor changes of a procedural nature can be achieved within the organization through the Assembly's Rules of Procedure.[126] Such action requires no ratification because it is within the authority delegated under the Chicago Convention.[127] More fundamental changes which actually alter the Convention are necessarily treated as minute conventions in their own

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124. CONSTITUTION OF THE WORLD HEALTH ORGANIZATION, art. 24, *opened for signature* July 22, 1946, 62 Stat. 2679, T.I.A.S. No. 1808, 14 U.N.T.S. 185 [hereinafter cited as WHO CONSTITUTION].

125. *Id.*

126. Assembly Procedure, *supra* note 30, rule 67.

127. *Id.* The Assembly is authorized to control its procedures. Chicago Convention, *supra* note 1, art. 49(d).

right. These require the tedious process of Assembly vote (by a two-thirds majority) and subsequent ratification by a sufficient number of states.[128]

At this level, the ICAO has enlarged the Council occasionally in a haphazard attempt to keep up with the expanding membership. This expansion has not been sufficient to maintain the original ratio of Council seats to member states. In 1944, the Convention established 21 seats on the Council; 52 states participated in the Conference.[129] In 1980, the last year in which a Council was elected, 33 seats were filled by 133 voting states.[130] While the organization has more than doubled in size, the Council has grown by only 57%.[131]

Increases in absolute size, while logical to preserve a reasonable ratio, are fraught with other risks. Beyond a certain limit, which the Council is rapidly reaching, such a body begins to lose its character as a small, executive, efficient entity, and starts to resemble unwieldy universal bodies like the various assemblies. Further increases will detract from the Council's streamlined character, while significantly improving the representational ratio. The original ratio of Council seats to member states was 2:5, the high proportion reflecting the low number of sovereign states at that time. To achieve the same ratio now would require a Council of nearly fifty, comparable to the original size of the Assembly.[132] The answer to improving the Council's representative quality does not lie in trying to regain the original ratio of members to Council seats, but rather in revising the methods of filling the existing positions.

Modest increases in size and revisions of the number of seats in each category—the two tactics the ICAO has attempted thus far—have failed to solve the problem. Instead, a wholesale revision of article 50(b) of the Chicago Convention should be adopted, one that would alter the electoral system permanently to deal with any foreseeable changes in the international community.

V. AN ALTERNATIVE APPROACH AND RECOMMENDATIONS

The three basic aspects of the representation problem remain the same as in 1944: how many states, in what categories, and according to

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128. Chicago Convention, *supra* note 1, art. 94.

129. *See* PROCEEDINGS, *supra* note 2, at 29-41 for a list of participating delegates.

130. 1980 Report, *supra* note 17, at 25. One hundred thirty-three states voted in the third category, 126 in the second, and 127 in the first. *Id.* at 24-25.

131. The first increase took place at the first extraordinary session of the Assembly ever to be held, in June 1961. 16 ICAO BULL. 99-102 (May 1961). There was at first some argument over whether the new figure should be 25 or 27, but the higher number won greater support. *Id.* at 101. The measure was ratified by enough states to elect a 27-member Council in 1962. 17 ICAO BULL. 193 (Oct. 1962). The second increase was accomplished in 1973. *See* note 7 *supra*. The third increase, from 30 to 33, was not reflected in a full Council election until 1980, but was approved at the 1974 Assembly meeting. 21st Minutes, *supra* note 15, at 125-28. *See* Appendix where the totals for each Council are listed.

132. *See* text accompanying note 128 *supra*. When the 1980 Assembly convened, there were 146 contracting states. 1980 Report, *supra* note 17, at 1.

which ratio. The solution to the first problem is perhaps the simplest of all. The most appropriate device for determining the number of Council seats is a simple percentage of the total number of member states, with a ceiling if the number should grow too large. A ratio like the original 40% would be too large; a level of 20% would be optimum, particularly with a large number of sovereign states to ensure a Council of at least twenty or twenty-five nations. This arrangement would reduce the present Council to its pre-1980 size of about thirty, if all the world's sovereign states were members. The loss of three or more seats added in past years would be more than offset by other measures designed to improve Third World representation.

If few dependent areas remain to swell the ranks of nations, this provision would seem tardy and superfluous. But it is entirely possible that yet another generation of states may acquire sovereign status, particularly under pressures from the South for universal autonomy. At least fifty more potential "microstates" exist, scattered across the Caribbean, Indian, and Pacific regions.[133] The growth of vociferous minorities in many larger countries—the Kurds, Basques, Croats, and Eritreans of the world—also suggests another potential source of third-generation states. Even states the size of Pitcairn Island, whose population would fit comfortably on two city buses, have been seriously proposed as candidates for independence.[134]

The unpredictability of these factors requires both a percentile formula for representation and an absolute ceiling upon the total that may be reached. Specific limitations upon microstate representation would be politically unacceptable as a rejection of the principle of equality of states. Placing a ceiling on Council membership as a whole would have the effect of reducing the numerical influence of microstates to reasonable proportions, without actually designating them as third-class nations.[135] The most suitable ceiling figure should fall in the neighborhood of thirty-five. This size avoids the creation of too large a body while still allowing for future expansion of the international community. A limit of thirty-five would allow about three dozen more states to join ICAO without eroding the ratio of 20%. An increase beyond 175 would then be equally absorbed by existing states.

The next question is the division of seats by category. The most nec-

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133. These microstates may arguably have a disproportionately large interest in aviation, as the primary means of communication and transportation. Those already independent have not hesitated to participate in ICAO. 1980 Report, *supra* note 17, at 1-2 lists the following states: Barbados, Cape Verde, Fiji, Maldives, Nauru, Saint Lucia, São Tome and Principe, and Seychelles. *See generally* E. PLISCHKE, MICROSTATES IN WORLD AFFAIRS (1977).

134. Many Pacific Islands have achieved a degree of autonomy consistent with their size and interests, and it seems doubtful that such areas will campaign hard for full independence. *See* 1980 Report, *supra* note 17 at 37-38, 37 n.25.

135. Presumably undue numerical influence would be reflected in the votes of other states.

essary revision should abolish the category II states "which make the largest contribution to the provision of facilities for international civil air navigation."[136] Several factors justify this adjustment. Most obviously, aircraft are now sufficiently advanced that, with very few exceptions, airlines do not stop at points merely to refuel or otherwise break their journeys.[137] Even the transit function, by which points serve as connections between flights, is becoming less significant as airlines provide more direct service. Navigational equipment is no longer a major problem in the expansion of the industry and in the maintenance of flight safety. To the degree that these factors still justify representation on the Council, states should be able to win election in either category I or III. Category II has become unnecessary.

The abolition of the seats in category II provides much more room for representation in the other two categories, without increasing the size of the Council. Category I should remain more or less as it is, except that two subdivisions should be established: one comprising states preeminent in the technology and manufacture of aeronautical products, and the other comprising states prominent in the air transport area.[138] The size of the category should be expanded to 40% of the total Council membership, which would produce a category of twelve seats. Six would inevitably and necessarily go to the great aviation powers, but the other six would afford an opportunity for emergent aviation states to gain representation in this class. For example, India, an undeviating category II state so far, could well aspire to such a position.[139]

The most delicate question of all is still the representation of the Third World states. If the size of the Council remains at about thirty, approximately eighteen seats will be filled from the remaining nations of the world. A single election is still in order, but with two stipulations. Geographic diversity should remain a general criterion regardless of which states have been elected in category I, thus avoiding discrimination against the smaller states of Europe and North America.[140] Electing countries should, however, enjoy the discretion to determine appropriate proportions, without the strictures of a specific regional breakdown as found in the IAEA.[141] Second, for purposes of election to the Council only, coalitions of states should be recognized as single states, as long as the coali-

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136. *See* Chicago Convention, *supra* note 1, art. 50(b).

137. The advent of the Boeing 747-SP, which is capable of nonstop flight from New York to Tokyo or New Delhi, seems to mark the end of the era of significant range restrictions on commercial aviation.

138. This arrangement borrows somewhat from the Australian proposal at Chicago. *See* note 53 *supra* and accompanying text.

139. It might seem that it would be simpler to designate the second part of category I as category II. However, the two parts should share both a common goal and a single election, as well as a small total number of seats compared to the remaining class.

140. Thus, geopolitical regions would be represented wholly within the remaining category.

141. *See* notes 104-12 *supra* and accompanying text.

tion presents a single face to the world in the form of a single primary international carrier. Thus, Denmark, Sweden, and Norway may be treated as a single nation because they maintain a common airline. The Central American group, however, should be elected individually as representatives of single states. If a group wishes to function on the Council with a single voice, the maintenance of an international airline should constitute evidence of that unity. Other nations should not be allowed to take advantage of the coalition tactic in order to outstrip their colleagues.

If amended to incorporate these revisions, article 50(b) would read approximately like this:[142]

> In electing the members of the Council, the Assembly shall give adequate representation to (1) the states of chief importance in [air transport] *the furtherance and maintenance of aviation technology, and in the service of international civil aviation*; [(2) the States not otherwise included which make the largest contribution to the provision of facilities for international civil air navigation;] and *(2)* [(3)] the States not otherwise included whose designation will *reflect an even and fair distribution within Category II among* [insure that] all the major *regions* [geographic areas] of the world [are represented on the Council]. Any vacancy on the Council shall be filled by the Assembly as soon as possible; and contracting State [sic] so elected to the Council shall hold office for the unexpired portion of its predecessor's term of office.

To reflect the terms and spirit of these changes, the Assembly must amend rule 56 of its rules of procedure to produce this version:

> a) The election of the Council shall be so conducted as to enable adequate representation on the Council to be given to the Contracting States described in Article 50(b) of the Convention and shall be held in *two* [three] parts as follows:
> i)The first part [election of States of chief importance in air transport] shall be held within four days of the opening of the session. *The total number to be elected in this category shall be the nearest whole number to forty (40) per centum of the entire Council, to be divided equally among states as specified in Article 50(b)(1) and to be elected simultaneously but separately in the first election. If the total to be elected in this category is an odd number, the second subcategory shall be the larger.*
> [ii)] [deleted]
> *iii)*[iii)] The *second* [third] part—election of States not elected in [either] the first [or the second] part, whether or not they were candidates in *that* [either of those] part[s], and whose designation will *reflect an even and fair distribution within category II among* [ensure that] all the major *regions* [geographic areas] of the world [are represented on the Council]—shall be held as soon as possible after the expiry of twenty-four hours following the publication of the list of

142. Existing words to be retained are shown in roman type, with new provisions in italics and deleted parts in brackets.

candidates mentioned in rule 59(b).[143]

b)*The number of States to be elected to the Council shall be the lesser of (1) the nearest whole number to twenty (20) per centum of the number of Contracting States in good standing or (2) thirty-five (35).* As early as possible after the opening of the Session the Assembly [shall fix the maximum number of Contracting States to be elected in each part of the election] *shall* fix [also] the day on which the first [two] part[s] of the election shall be held.

c)*For purposes of this Rule, a State may run for election as a representative of a group of States only if that group shares a single international carrier responsible for at least two-thirds of all international traffic carried by carriers based in that group.*[144]

This plan maintains the three present levels of authority. These are the Convention (reflecting the will of the Contracting States), the Rules of Procedure (reflecting the will of the Assembly), and the electoral process itself (reflecting the will of individual voting states). The discretion of the latter is conceded in the phrase "even and fair distribution," permitting the vote to determine the precise geopolitical composition of the new category II.

Contracting states should adopt and ratify these revisions to article 50(b) with relatively little trouble. The amendments are favorable to the smaller and less frequently represented states that by now make up the great majority of the Assembly. Category I states are also unlikely to suffer by the changes. Category II members like India, Lebanon, Egypt, and Spain are likely either to be promoted to first class or to be assured of a seat in third class. No easily identifiable class of states should find it necessary to oppose these revisions.

The ICAO performs a vital function in establishing uniform safety standards and by providing a forum for the debate of aeronautical issues. It is essential that the composition of the Council reflect the swiftly changing world of international aviation. Simplification of the Council's election procedure and increased attention to the needs of less industrial states would represent a useful step in this direction. It is incumbent upon the contracting states of ICAO, now that other efforts have failed, to ratify the necessary amendments to article 50(b) of the Chicago Convention.

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143. Rule 59(b) provides for the publication of a list of candidates for category III elections following the first two votes. Assembly Procedure, *supra* note 30, rule 59(b).

144. The two-thirds figure is relatively arbitrary. The determinant should be established at more than half to ensure a majority of traffic on one carrier, and yet not so high as to prevent other international operations. For example, Finnair's modest international traffic should not prevent a Scandinavian coalition centered on SAS.

APPENDIX:
ICAO COUNCIL MEMBERSHIP

Council Year of Election	PICAO 1944	I 47	II 50	III 53	IV 56	V 59	VI 62	VII 65	VIII 68	IX 71	X 74	XI 77	XII 80
Algeria (NE Afr)													3
Argentina		2	x	x	2	2	2	2	2	2	2	2	2
Australia	*	2	x	x	1	1	1	1	1	2	1	1	1
Belgium	*	1	x	x	2		2	2	2	2	(2,3)		
Brazil	*	1	x	x	1	1	1	1	1	1	1	1	1
Cameroon													3
Canada (host)	*	1	x	x	1	1	1	1	1	1	1	1	1
Chile	*	3			(3)								
China	*	2					(3)				2	2	2
Colombia	*						3	3	3	3	3	3	3
Congo		d	d	d	d	d	3	3	3	3			
Costa Rica (CA)								3			3		
Czechoslovakia	*	3					(2,3)	3(2)	3(2)	3	2	3	3
Denmark (Scand)			x			1			2				2
El Salvador (CA)	*												3
Egypt	*	2	x	x	2	2	2	2	2	2	2	2	2
Finland (Scand)												2	
France	*	1	x	x	1	1	1	1	1	1	1	1	1
Greece													(2)
Guatemala (CA)						3			3				
Honduras (CA)												3	
India	*	2	x	x	2	2	2	2	2	2	2	2	2
Indonesia		d					3		3	3	3	3	3
Iraq	*	3	x										3
Ireland	*	2	x	x	3								
Israel		d					(3)						
Italy			x	x	2	2	1	1	1	1	1	1	1
Jamaica		d	d	d	d	d	d					3	3
Japan					2	2	2	2	1	1	1	1	1
Kenya		d	d	d	d	d	d	3			3		
Lebanon				x	3	3	2	2	2	2	2	2	2
Madagascar		d	d	d	d	d	3	3			3	3	3
Mexico	*	1	x	x	2		2	2	2	2	2	2	2
Morocco (NE Afr)		d	d	d	d						3	3	
Netherlands	*	1	x	x	1	1	1	2	2	(2)			2
Nicaragua (CA)							3			3			
Nigeria		d	d	d	d	d	3	3	3	3	3	2	2
Norway (Scand)	*			x			1			2			
Pakistan								(3)		(3)	2	2	(2)3
Peru	*	3											
Philippines			x	x	(1)	3	3	3	(3)	(3)			
Poland													(2)
Portugal		2	x	x	3	3							

IACO COUNCIL MEMBERSHIP (cont.)

Council Year of Election	PICAO 1944	I 47	II 50	III 53	IV 56	V 59	VI 62	VII 65	VIII 68	IX 71	X 74	XI 77	XII 80
Saudi Arabia													(2,3)
Senegral		d	d	d	d				3	3	3	3	(2)3
South Africa			x	x	3	3	3						
Spain			p	x	3	3	2	2	2	2	2	2	2
Sweden (Scand)		3			1			1			2		
Tanzania		d	d	d	d	d	d		3			3	(3)
Trinidad & Tobago		d	d	d	d	d	d				3		
Tunisa (NE Afr)		d	d	d	d		3	3	3	3			
Turkey	*	3										(2,3)	(2)
Uganda		d	d	d	d	d	d			3			3
U.S.S.R.										1	1	1	1
United Kingdom	*	1	x	x	1	1	1	1	1	1	1	1	1
United States	*	1	x	x	1	1	1	1	1	1	1	1	1
Venezuela			x	x	3	2							2
West Germany						2	2	1	1	1	1	1	1
Yugoslavia											3	3	
Zaire		d	d	d	d	d					(3)]		
TOTAL MEMBERS	21	21	21	21	21	21	27	27	27	27	30	30	33

LEGEND

Categories

1 Elected in Category I - states important to aviation

2 Elected in Category II - states important to air navigation

3 Elected in Category III - states to represent otherwise underrepresented areas

d Dependency of Council member

x State elected without designation of cateogry

p State serving only part of term

( ) Unsuccessful candidate in category indicated (selected listings)

Regional Groups

CA Central America: Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama

Scand Scandinavia: Denmark, Finland, Norway, Sweden

NE Afr Northeast Africa (Mahgreb): Algeria, Mauritania, Morocco, Tunisia