

N° 2963.

ÉTATS-UNIS D'AMÉRIQUE,
RÉPUBLIQUE ARGENTINE,
BOLIVIE, BRÉSIL,
CHILI, COLOMBIE, etc.

Convention concernant l'aviation
commerciale. Signée à La Havane,
le 20 février 1928.

UNITED STATES OF AMERICA,
ARGENTINE REPUBLIC,
BOLIVIA, BRAZIL,
CHILE, COLOMBIA, etc.

Convention on Commercial Aviation.
Signed at Habana, February 20,
1928.

No. 2963. — CONVENTION¹ ON COMMERCIAL AVIATION. SIGNED
AT HABANA, FEBRUARY 20, 1928².

Spanish official text communicated by the Minister for Foreign Affairs of Nicaragua and the Secretary of State for Foreign Affairs of Guatemala. The registration of this Convention took place May 12, 1932.

This Convention was transmitted to the Secretariat by the Department of State of the Government of the United States of America, September 16, 1931.

THE GOVERNMENTS OF THE AMERICAN REPUBLICS, desirous of establishing the rules they should observe among themselves for aerial traffic, have decided to lay them down in a convention, and to that effect have appointed as their plenipotentiaries :

PERÚ :

Jesús Melquiades SALAZAR, Víctor MAÚRTUA, Enrique CASTRO OYANGUREN, Luis Ernesto DENEGRI.

URUGUAY :

Jacobo VARELA ACEVEDO, Juan José AMÉZAGA, Leonel AGUIRRE, Pedro Erasmo CALLORDA.

PANAMÁ :

Ricardo J. ALFARO, Eduardo CHIARI.

ECUADOR :

Gonzalo ZALDUMBIDE, Víctor ZEVALLOS, Colón Eloy ALFARO.

MEXICO :

Julio GARCÍA, Fernando GONZÁLEZ ROA, Salvador URBINA, Aquiles ELORDUY.

SALVADOR :

Gustavo GUERRERO, Héctor David CASTRO, Eduardo ALVAREZ.

GUATEMALA :

Carlos SALAZAR, Bernardo ALVARADO TELLO, Luis BELTRANENA, José AZURDIA.

NICARAGUA :

Carlos CUADRA PAZOS, Joaquín GÓMEZ, Máximo H. ZEPEDA.

¹ Deposit of ratifications at Habana :

MEXICO	April 24, 1929.
NICARAGUA	May 4, 1929.
PANAMA... ..	May 13, 1929.
GUATEMALA	December 28, 1929.
UNITED STATES OF AMERICA	July 17, 1931.

² Texte reproduit d'après le « Treaty Series » des Etats-Unis d'Amérique, N° 840 : 1931.

² The text is reprinted from the United States Treaty Series, No. 840 : 1931.

BOLIVIA :

José ANTEZANA, Adolfo COSTA DU RELS.

VENEZUELA :

Santiago KEY AYALA, Francisco Gerardo YANES, Rafael Angel ARRAIZ.

COLOMBIA :

Enrique OLAYA HERRERA, Jesús M. YEPES, Roberto URDANETA ARBELÁEZ, Ricardo GUTIÉRREZ LEE.

HONDURAS :

Fausto DÁVILA, Mariano VÁSQUEZ.

COSTA RICA :

Ricardo CASTRO BEECHE, J. Rafael OREAMUNO, Arturo TINOCO.

CHILE :

Alejandro LIRA, Alejandro ALVAREZ, Carlos SILVA VILDÓSOLA, Manuel BIANCHI.

BRAZIL :

Raúl FERNANDES, Lindolfo COLLOR, Alarico da SILVEIRA, Sampaio CORREA, Eduardo ESPÍNOLA.

ARGENTINA :

Honorio PUEYRREDÓN (Later resigned), Laurentino OLASCOAGA, Felipe A. ESPIL.

PARAGUAY :

Lisandro DÍAZ LEÓN.

HAITI :

Fernando DENNIS, Charles RIBOUL.

DOMINICAN REPUBLIC :

Francisco J. PEYNADO, Gustavo A. DÍAZ, Elías BRACHE, Angel MORALES, Tulio M. CESTEROS, Ricardo PÉREZ ALFONSECA, Jacinto R. DE CASTRO, Federico C. ALVAREZ.

UNITED STATES OF AMERICA :

Charles Evans HUGHES, Noble Brandon JUDAH, Henry P. FLETCHER, Oscar W. UNDERWOOD, Dwight W. MORROW, Morgan J. O'BRIEN, James BROWN SCOTT, Ray Lyman WILBUR, Leo S. ROWE.

CUBA :

Antonio S. DE BUSTAMANTE, Orestes FERRARA, Enrique HERNÁNDEZ CARTAYA, José Manuel CORTINA, Arístides AGÜERO, José B. ALEMÁN, Manuel MÁRQUEZ STERLING, Fernando ORTIZ, Néstor CARBONELL, Jesús María BARRAQUÉ.

Who, after having exchanged their respective full powers, which have been found to be in good and due form, have agreed upon the following :

Article I.

The high contracting parties recognize that every state has complete and exclusive sovereignty over the air space above its territory and territorial waters.

Article II.

The present convention applies exclusively to private aircraft.

Article III.

The following shall be deemed to be state aircraft :

- a) Military and naval aircraft ;
- b) Aircraft exclusively employed in state service, such as posts, customs, and police.

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

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

Article IV.

Each contracting state undertakes in time of peace to accord freedom of innocent passage above its territory to the private aircraft of the other contracting states, provided that the conditions laid down in the present convention are observed. The regulations established by a contracting state with regard to admission over its territory of aircraft of other contracting states shall be applied without distinction of nationality.

Article V.

Each contracting state has the right to prohibit, for reasons which it deems convenient in the public interest, the flight over fixed zones of its territory by the aircraft of the other contracting states and privately owned national aircraft employed in the service of international commercial aviation, with the reservation that no distinction shall be made in this respect between its own private aircraft engaged in international commerce and those of the other contracting states likewise engaged. Each contracting state may furthermore prescribe the route to be followed over its territory by the aircraft of the other states, except in cases of *force majeure* which shall be governed in accordance with the stipulations of Article XVIII of this convention. Each state shall publish in advance and notify the other contracting states of the fixation of the authorized routes and the situation and extension of the prohibited zones.

Article VI.

Every aircraft over a prohibited area shall be obliged, as soon as this fact is realized or upon being so notified by the signals agreed upon, to land as soon as possible outside of said area in the airdrome nearest the prohibited area over which it was improperly flying and which is considered as an international airport by the subjacent state.

Article VII.

Aircraft shall have the nationality of the state in which they are registered and cannot be validly registered in more than one state.

The registration entry and the certificate of registration shall contain a description of the aircraft and state, the number or other mark of identification given by the constructor of the

machine, the registry marks and nationality, the name of the airdrome or airport usually used by the aircraft, and the full name, nationality and domicile of the owner, as well as the date of registration.

Article VIII.

The registration of aircraft referred to in the preceding article shall be made in accordance with the laws and special provisions of each contracting state.

Article IX.

Every aircraft engaged in international navigation must carry a distinctive mark of its nationality, the nature of such distinctive mark to be agreed upon by the several contracting states. The distinctive marks adopted will be communicated to the Pan American Union and to the other contracting states.

Article X.

Every aircraft engaged in international navigation shall carry with it in the custody of the aircraft commander :

- a)* A certificate of registration, duly certified to according to the laws of the state in which it is registered ;
- b)* A certificate of airworthiness, as provided for in Article XII ;
- c)* The certificates of competency of the commander, pilots, engineers, and crew, as provided for in Article XIII ;
- d)* If carrying passengers, a list of their names, addresses and nationality ;
- e)* If carrying merchandise, the bills of lading and manifesting and all other documents required by customs laws and regulations of each country ;
- f)* Log books ;
- g)* If equipped with radiotelegraph apparatus, the corresponding license.

Article XI.

Each contracting state shall every month file with every other state party to this convention and with the Pan American Union, a copy of all registrations and cancellations of registrations of aircraft engaged in international navigation as between the several contracting states.

Article XII.

Every aircraft engaged in international navigation (between the several contracting states) shall be provided with a certificate of airworthiness issued by the state whose nationality it possesses.

This document shall certify to the states in which the aircraft is to operate, that, according to the opinion of the authority that issues it, such aircraft complies with the airworthiness requirements of each of the states named in said certificate.

The aircraft commander shall at all times hold the certificate in his custody and shall deliver it for inspection and verification to the authorized representatives of the state which said aircraft visits.

Each contracting state shall communicate to the other states parties to this convention and to the Pan American Union its regulations governing the rating of its aircraft as to airworthiness and shall similarly communicate any changes made therein.

While the states affirm the principle that the aircraft of each contracting state shall have the liberty of engaging in air commerce with the other contracting states without being subjected to the licensing system of any state with which such commerce is carried on, each and every contracting state mentioned in the certificate of airworthiness reserves the right to refuse to recognize as valid the certificate of airworthiness of any foreign aircraft where inspection by a duly authorized commission of such state shows that the aircraft is not, at the time of inspection, reasonably airworthy in accordance with the normal requirements of the laws and regulations of such state concerning the public safety.

In such cases said state may refuse to permit further transit by the aircraft through its air space until such time as it, with due regard to the public safety, is satisfied as to the airworthiness of the aircraft, and shall immediately notify the state whose nationality the aircraft possesses and the Pan American Union of the action taken.

Article XIII.

The aircraft commander, pilots, engineers, and other members of the operating crew of every aircraft engaged in international navigation between the several contracting states shall, in accordance with the laws of each state, be provided with a certificate of competency by the contracting state whose nationality the aircraft possesses.

Such certificate or certificates shall set forth that each pilot, in addition to having fulfilled the requirements of the state issuing the same has passed a satisfactory examination with regard to the traffic rules existing in the other contracting states over which he desires to fly. The requirements of form of said documents shall be uniform throughout all the contracting states and shall be drafted in the language of all of them, and for this purpose the Pan American Union is charged with making the necessary arrangements amongst the contracting states.

Such certificate or certificates shall be held in the possession of the aircraft commander as long as the pilots, engineers and other members of the operating crew concerned continue to be employed on the aircraft. Upon the return of such certificate an authenticated copy thereof shall be retained in the files of the aircraft.

Such certificate or certificates shall be open at all times to the inspection of the duly authorized representatives of any state visited.

Each contracting state shall communicate to the other states parties to this convention and to the Pan American Union its regulations governing the issuance of such certificates and shall from time to time communicate any changes made therein.

Article XIV.

Each and every contracting state shall recognize as valid, certificates of competency of the aircraft commander, pilots, engineers and other members of the operating crew of an aircraft, issued in accordance with the laws and regulations of other contracting states.

Article XV.

The carriage by aircraft of explosives, arms and munitions of war is prohibited in international aerial navigation. Therefore, no foreign or native aircraft authorized for international traffic shall be permitted to transport articles of this nature, either between points situated within the territory of any of the contracting states or through the same even though simply in transit.

Article XVI.

Each state may prohibit or regulate the carriage or use, by aircraft possessing the nationality of other contracting states, of photographic apparatus. Such regulations as may be adopted by each state concerning this matter shall be communicated to each other contracting state and to the Pan American Union.

Article XVII.

As a measure of public safety or because of lawful prohibitions, the transportation of articles in international navigation other than those mentioned in Articles 15 and 16 may be restricted by any contracting state. Such restrictions shall be immediately communicated to the other contracting states and to the Pan American Union.

All restrictions mentioned in this article shall apply equally to foreign and national aircraft employed in international traffic.

Article XVIII.

Every aircraft engaged in international traffic which enters the air space of a contracting state with the intention of landing in said state shall do so in the corresponding customs airdrome, except in the cases mentioned in Article XIX and in case of *force majeure*, which must be proved.

Every aircraft engaged in international navigation, prior to its departure from the territorial jurisdiction of a contracting state in which it has landed, shall obtain such clearance as is required by the laws of such state at a port designated as point of departure by such state.

Each and every contracting state shall notify every other state party to this convention and the Pan American Union of such airports as shall be designated by such state as ports of entry and departure.

When the laws or regulations of any contracting state so require, no aircraft shall legally enter into or depart from its territory through places other than those previously authorized by such state as international airports, and the landing therein shall be obligatory unless a special permit, which has been previously communicated to the authorities of said airport, is obtained from the competent authorities of said state, in which permit shall be clearly expressed the distinctive marks which the aircraft is obliged to make visible whenever requested to do so in the manner previously agreed upon in said permit.

In the event that for any reason, after entering the territorial jurisdiction of a contracting state, aircraft of another contracting state should land at a point other than an airport designated as a port of entry in that state, the aircraft commander shall immediately notify the nearest competent authority and hold himself, crew, passengers and cargo at the point of landing until proper entry has been granted by such competent authority, unless communication therewith is impracticable within twenty-four hours.

Aircraft of one of the contracting states which flies over the territory of another contracting state shall be obliged to land as soon as ordered to do so by means of the regulation signals, when for any reason this may be necessary.

In the cases provided for in this article, the aircraft, aircraft commander, crew, passengers and cargo shall be subject to such immigration, emigration, customs, police, quarantine or sanitary inspection as the duly authorized representatives of the subjacent state may make in accordance with its laws.

Article XIX.

As an exception to the general rules, postal aircraft and aircraft belonging to aerial transport companies regularly constituted and authorized may be exempted, at the option of the subjacent

state, from the obligation of landing at an airdrome designated as a port of entry and authorized to land at certain inland airdromes, designated by the customs and police administration of such state, at which customs formalities shall be complied with. The departure of such aircraft from the state visited may be regulated in a similar manner.

However, such aircraft shall follow the normal air route, and make their identity known by signals agreed upon as they fly across the frontier.

Article XX.

From the time of landing of a foreign aircraft at any point whatever until its departure the authorities of the state visited shall have, in all cases, the right to visit and examine the aircraft and to verify all documents with which it must be provided, in order to determine that all the laws, rules and regulations of such states and all the provisions of this convention are complied with.

Article XXI.

The aircraft of a contracting state engaged in international air commerce shall be permitted to discharge passengers and a part of its cargo at one of the airports designated as a port of entry of any other contracting state, and to proceed to any other airport or airports in such state for the purpose of discharging the remaining passengers and portions of such cargo and in like manner to take on passengers and load cargo destined for a foreign state or states, provided that they comply with the legal requirements of the country over which they fly, which legal requirements shall be the same for native and foreign aircraft engaged in international traffic and shall be communicated in due course to the contracting states and to the Pan American Union.

Article XXII.

Each contracting state shall have the right to establish reservations and restrictions in favor of its own national aircraft in regard to the commercial transportation of passengers and merchandise between two or more points in its territory, and to other remunerated aeronautical operations wholly within its territory. Such reservations and restrictions shall be immediately published and communicated to the other contracting states and to the Pan American Union.

Article XXIII.

The establishment and operation of airdromes will be regulated by the legislation of each country, equality of treatment being observed.

Article XXIV.

The aircraft of one contracting state engaged in international commerce with another contracting state shall not be compelled to pay other or higher charges in airports or airdromes open to the public than would be paid by national aircraft of the state visited, likewise engaged in international commerce.

Article XXV.

So long as a contracting state shall not have established appropriate regulations, the commander of an aircraft shall have rights and duties analogous to those of the captain of a merchant steamer, according to the respective laws of each state.

Article XXVI.

The salvage of aircraft lost at sea shall be regulated, in the absence of any agreement to the contrary, by the principles of maritime law.

Article XXVII.

The aircraft of all states shall have the right, in cases of danger, to all possible aid.

Article XXVIII.

Reparations for damages caused to persons or property located in the subjacent territory shall be governed by the laws of each state.

Article XXIX.

In case of war the stipulations of the present convention shall not affect the freedom of action of the contracting states either as belligerents or as neutrals.

Article XXX.

The right of any of the contracting states to enter into any convention or special agreement with any other state or states concerning international aerial navigation is recognized, so long as such convention or special agreement shall not impair the rights or obligations of any of the states parties to this convention, acquired or imposed herein ; provided, however, that two or more states, for reasons of reciprocal convenience and interest may agree upon appropriate regulations pertaining to the operation of aircraft and the fixing of specified routes. These regulations shall in no case prevent the establishment and operation of practicable inter-American aerial lines and terminals. These regulations shall guarantee equality of treatment of the aircraft of each and every one of the contracting states and shall be subject to the same conditions as are set forth in Article V of this convention with respect to prohibited areas within the territory of a particular state.

Nothing contained in this convention shall affect the rights and obligations established by existing treaties.

Article XXXI.

The contracting states obligate themselves in so far as possible to cooperate in inter-American measures relative to :

- a)* The centralization and distribution of meteorological information, whether statistical, current or special ;
- b)* The publication of uniform aeronautical charts, as well as the establishment of a uniform system of signals ;
- c)* The use of radiotelegraph in aerial navigation, the establishment of the necessary radiotelegraph stations and the observance of the inter-American and international radiotelegraph regulations or conventions at present existing or which may come into existence.

Article XXXII.

The contracting states shall procure as far as possible uniformity of laws and regulations governing aerial navigation. The Pan American Union shall cooperate with the governments of the contracting states to attain the desired uniformity of laws and regulations for aerial navigation in the states parties to this convention.

Each contracting state shall exchange with every other contracting state within three months after the date of ratification of this convention copies of its air-traffic rules and requirements as to competency for aircraft commanders, pilots, engineers, and other members of the operating crew, and the requirements for airworthiness of aircraft intended to engage in international commerce.

Each contracting state shall deposit with every other state party to this convention and with the Pan American Union three months prior to the date proposed for their enforcement any additions to or amendments of the regulations referred to in the last preceding paragraph.

Article XXXIII.

Each contracting state shall deposit its ratification with the Cuban Government, which shall thereupon inform the other contracting states. Such ratification shall remain deposited in the archives of the Cuban Government.

Article XXXIV.

The present convention will come into force for each signatory state ratifying it in respect to other states which have already ratified, forty days from the date of deposit of its ratification.

Article XXXV.

Any state may adhere to this convention by giving notice thereof to the Cuban Government, and such adherence shall be effective forty days thereafter. The Cuban Government shall inform the other signatory states of such adherence.

Article XXXVI.

In case of disagreement between two contracting states regarding the interpretation or execution of the present convention the question shall, on the request of one of the governments in disagreement, be submitted to arbitration as hereinafter provided. Each of the governments involved in the disagreement shall choose another government not interested in the question at issue and the government so chosen shall arbitrate the dispute. In the event the two arbitrators cannot reach an agreement they shall appoint another disinterested government as additional arbitrator. If the two arbitrators cannot agree upon the choice of this third government, each arbitrator shall propose a government not interested in the dispute and lots shall be drawn between the two governments proposed. The drawing shall devolve upon the Governing Board of the Pan American Union.

The decision of the arbitrators shall be by majority vote.

Article XXXVII.

Any contracting state may denounce this convention at any time by transmitting notification thereof to the Cuban Government, which shall communicate it to the other states parties to this

convention. Such denunciation shall not take effect until six months after notification thereof to the Cuban Government, and shall take effect only with respect to the state making the denunciation.

In witness whereof, the above-named plenipotentiaries have signed this convention and the seal of the Sixth International Conference of American States has been hereto affixed.

Jesús Melquiades SALAZAR, Víctor MAÚRTUA, Enrique CASTRO OYANGUREN, Luis Ernesto DENEGRÍ.

Jacobo VARELA ACEVEDO, Juan José AMÉZAGA, Leonel AGUIRRE, Pedro Erasmo CALLORDA.

Ricardo J. ALFARO, Eduardo CHIARI.

Gonzalo ZALDUMBIDE, Víctor ZEVALLOS, Colón Eloy ALFARO.

Julio GARCÍA, Fernando GONZÁLEZ ROA, Salvador URBINA, Aquiles ELORDUY.

Gustavo GUERRERO, Héctor David CASTRO, Eduardo ALVAREZ.

Carlos SALAZAR, Bernardo ALVARADO TELLO, Luis BELTRANENA, José AZURDIA.

Carlos CUADRA PAZOS, Joaquin GÓMEZ, Máximo H. ZEPEDA.

José ANTEZANA, Adolfo COSTA DU RELS.

Santiago KEY AYALA, Francisco Gerardo YANES, Rafael Angel ARRAIZ.

Enrique OLAYA HERRERA, Jesús M. YEPES, Roberto URDANETA ARBELÁEZ, Ricardo GUTIÉRREZ LEE.

Fausto DÁVILA, Mariano VÁSQUEZ.

Ricardo CASTRO BEECHE, J. Rafael OREAMUNO, Arturo TINOCO.

Alejandro LIRA, Alejandro ALVAREZ, Carlos SILVA VILDÓSOLA, Manuel BIANCHI.

Raúl FERNÁNDES, Lindolfo COLLOR, Alarico DA SILVEIRA, Sampaio CORREA, Eduardo ESPÍNOLA.

Honorio PUEYRRERÓN (later resigned), Laurentino OLASCOAGA, Felipe A. ESPIL.

Lisandro DÍAZ LEÓN.

Fernando DENNIS, Charles RIBOUL.

The delegation of the Dominican Republic records, as an explanation of its vote, that upon signing the present convention it does not understand that the Dominican Republic dissociates itself from conventions it has already ratified and which are in force.

Francisco J. PEYNADO, Gustavo A. DÍAZ, Elias BRACHE, Angel MORALES, Tulio M. CESTEROS, Ricardo PÉREZ ALFONSECA, Jacinto R. DE CASTRO, Federico C. ALVAREZ.

Charles Evans HUGHES, Noble Brandon JUDAH, Henry P. FLETCHER, Oscar W. UNDERWOOD, Dwight W. MORROW, Mortan J. O'BRIEN, James BROWN SCOTT, Ray Lyman WILBUR, Leo S. ROWE.

Antonio S. DE BUSTAMANTE, Orestes FERRARA, Enrique HERNÁNDEZ CARTAYA, José Manuel CORTINA, Aristides AGÜERO, José B. ALEMÁN, Manuel MÁRQUEZ STERLING, Fernando ORTIZ, Nestor CARBONELL, Jesús María BARRAQUÉ.

Certified to be the English text of the convention on commercial aviation as contained in the final act signed, February 20, 1928, at the closing session of the Sixth International Conference of American States.

Henry L. Stimson,
Secretary of State of the United States of America.

N^o 2963. — CONVENTION CONCERNANT L'AVIATION COMMERCIALE.
SIGNÉE A LA HAVANE, LE 20 FÉVRIER 1928 ¹.

LES GOUVERNEMENTS DES ETATS DE L'AMÉRIQUE, désireux de fixer les règles qu'ils doivent observer entre eux pour le commerce aérien ont décidé de les établir dans une convention et, à cet effet, ils ont nommé comme plénipotentiaires :

PÉROU :

Jesús Melquiades SALAZAR, Víctor MAÚRTUA, Enrique CASTRO OYANGUREN, Luis Ernesto DENEGRI.

URUGUAY :

Jacobo VARELA ACEVEDO, Juan José AMÉZAGA, Leonel AGUIRRE, Pedro Erasmo CALLORDA.

PANAMA :

Ricardo J. ALFARO, Eduardo CHIARI.

EQUATEUR :

Gonzalo ZALDUMBIDE, Víctor ZEVALLOS, Colón Eloy ALFARO.

MEXIQUE :

Julio GARCÍA, Fernando GONZÁLEZ ROA, Salvador URBINA, Aquiles ELORDUY.

SALVADOR :

Gustavo GUERRERO, Héctor David CASTRO, Eduardo ALVAREZ.

GUATÉMALA :

Carlos SALAZAR, Bernardo ALVARADO TELLO, Luis BELTRANENA, José AZURDIA.

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Santiago KEY AYALA, Francisco Gerardo YANES, Rafael Angel ARRAIZ.

COLOMBIE :

Enrique OLAYA HERRERA, Jesús M. YEPES, Roberto URDANETA ARBELÁEZ, Ricardo GUTIÉRREZ LEE.

HONDURAS :

Fausto DÁVILA, Mariano VÁZQUEZ.

¹ The text is reprinted from the Final Act of the Sixth International Conference of American States.