

Geneva, September 26th, 1930.

LEAGUE OF NATIONS

COMMUNICATIONS OF IMPORTANCE TO THE LEAGUE OF
NATIONS AT TIMES OF EMERGENCY.

Facilities to be granted to Aircraft
and Motor Transport.

REPORT OF THE THIRD COMMITTEE TO THE ASSEMBLY.

Rapporteur : M. LANGE (Norway).

I. AIRCRAFT.

At its tenth session the Assembly adopted the following resolution :

“ The Assembly has noted the work undertaken by the International Air Navigation Commission with regard to the juridical status of aircraft utilised to ensure air communications of importance to the working of the League of Nations, and the facilities to be granted to these aircraft.

“ It trusts that this work will be completed as soon as possible, in order that the results may be submitted for the examination of Governments.

“ The Assembly accordingly requests the Council, as soon as the work of the International Air Navigation Commission is finished, to have a study made, possibly by the Committee on Arbitration and Security, of the requisite measures to ensure that aircraft engaged in transport of importance to the working of the League of Nations may be free in times of emergency to fly in such a way and over such territory as may be necessary for the carrying out of their mission, the Secretariat and the Governments having come to an agreement beforehand as to the rules to be observed and the normal routes to be followed, and as to any departures therefrom.”

The Third Committee has taken note of the proposals put forward by the Committee on Arbitration and Security. The latter had at its disposal the results of the work of the International Air Navigation Commission and the observations and suggestions of the Advisory and Technical Committee for Communications and Transit.

The Committee on Arbitration and Security agreed with the Advisory and Technical Committee for Communications and Transit in thinking that the measures to be considered for facilitating air communications of importance to the working of the League of Nations at times of emergency should be embodied in an Assembly resolution which would allow of the necessary negotiations being immediately begun between the Secretary-General and the Governments. The Third Committee supports this view. It is, moreover, clear that the adoption by the Assembly of a resolution on this subject does not affect the possibility of States subsequently undertaking a codification of the provisions adopted to facilitate air transport of importance to the League of Nations by inserting such stipulations as they may think useful in international Conventions dealing with questions of air transport. On the contrary, the Third Committee thinks that it would be advantageous if this codification could be pushed forward as rapidly as possible.

The draft resolution which the Third Committee submits to the Assembly for adoption aims, in the first place, at providing the measures necessary to assure aircraft carrying out transport duties of importance to the working of the League all the facilities necessary for the discharge of their mission ; and, in the second place, to provide full guarantees to States as regards their national security. Such guarantees in respect of national security are specially formulated in paragraphs 2 and 9 of the draft resolution. Paragraph 2 stipulates that the rules and routes to be normally followed by aircraft and the procedure contemplated for notifying the Secretary-General without delay of any changes in such rules and routes shall be fixed in advance. These rules may stipulate, in particular, the conditions under which a State will be able to insist on an aircraft landing for purposes of supervision ; and

the terms of paragraph 3 dealing with facilities in regard to supervision do not affect this right of States. In addition, paragraph 9 lays down that each State retains the right to prohibit the whole or part of its territory being crossed by aircraft registered in another State or manned by a crew of foreign nationality when such prohibition appears necessary for reasons of national safety. It also indicates the measures which in this case should be taken by the State in question to ensure the transfer of the passengers and the continuation of the air transport. All the measures, and particularly those in paragraph 1, in accordance with which the aircraft used for air communications of importance to the working of the League shall at no time be subject to any exceptional and temporary restrictions which may be imposed on air navigation, should be understood subject to the provisions contained in paragraphs 2 and 9 mentioned above. The Swiss delegation proposed that this reservation should be explicitly inserted in paragraph 1. The Committee thought it preferable to draw general attention to it in this report, since paragraph 1 is not the only paragraph to which it is applicable. Finally, it may be pointed out that, by paragraph 7 of the draft resolution, the Secretary-General of the League is bound to give the States flown over due notice by suitable means of the identification marks of the aircraft, of the route to be taken, and of the composition of the crew.

Paragraph 4 of the draft resolution defines the aircraft which should be considered as used for air communications of importance to the working of the League of Nations. These aircraft are such as are used for conveying League correspondence, agents of the League, or persons entrusted by the League with a special mission, official representatives, etc. It is clear that persons entrusted by the League with a special mission should include the members of the various advisory committees of the League, irrespective of the authority by whom they were appointed.

The Swiss delegation proposed to omit from paragraph 6 the words “ and not registered in any State ”, since the aim of this proposal was not to prejudge in any way questions relating to the registration of aircraft assigned exclusively to the service of the League of Nations. The Committee preferred to retain the text adopted by the Committee on Arbitration and Security, holding that, in view of paragraph 11, it in no way prejudices any measures which might be taken in respect of such aircraft.

In conformity with paragraph 10, the measures prescribed in the draft resolution will be defined during negotiations between the Secretary-General and the Governments concerned. The object of those negotiations will be the application of the rules laid down in the draft resolution, and there is no doubt that the Members of the League, who are under obligation to facilitate the working of the League by all means in their power, will consider themselves bound by this obligation to grant such facilities as the Assembly may deem indispensable to the means of air transport necessary for the working of the League at times of emergency.

II. MOTOR TRANSPORT.

The Third Committee also considered the results of the work of the Advisory and Technical Committee for Communications and Transit on the similar question of motor transport. It submits a draft resolution to the Assembly on this subject, also, the general arrangement of this draft being adapted to that of the draft resolution on the facilities to be granted to aircraft.

The observations made in the first chapter of the present report on the subject of aircraft thus also apply, *mutatis mutandis*, to motor transport.

The draft resolution concerning motor transport provides that the Secretary-General of the League shall inform by telegram the Government of the country to be traversed of the place where the frontier is to be crossed by a motor vehicle and the place of destination. Naturally, if, in the course of the negotiations provided for between the Secretary-General and the Governments, certain Governments should agree that these communications should be made to them either by the Secretary-General or by the Government of the country from which the car starts, the text should not be interpreted as opposing such an arrangement, which would be more elastic than that laid down in the draft resolution.

Draft Resolution concerning the Regime applicable to Aircraft.

“ The Assembly :

“ Recalling that the Members of the League of Nations are under the obligation to facilitate by all means in their power the working of the League ;

“ Considering that the use of air transport may be necessary in times of emergency to enable the League to take rapid action to safeguard the peace ;

“ Adopts the following resolution :

“ 1. It is necessary that the Members of the League, in order to discharge this obligation, should grant to aircraft used for air communications of importance for the working of the League all facilities for navigation and passage involved in the discharge of their missions. Such aircraft should enjoy all the rights granted by the most favourable conventional regime to Government aircraft other than military, Customs or police aircraft, and should at no time be subject to any exceptional and temporary restrictions that might be imposed on air navigation.

“ 2. The conditions on which the various Governments will grant the facilities mentioned in the previous paragraph shall be laid down in advance by each of the Governments concerned after consulting the Secretary-General of the League. In particular, the rules and routes to be normally followed by aircraft and the procedure contemplated for notifying the Secretary-General without delay of any changes in such rules and routes should be fixed in advance.

“ 3. Aircraft used for communications of importance to the working of the League shall enjoy all facilities in regard both to supervision and to the routes to be followed.

“ 4. Aircraft used for communication of importance to the working of the League within the meaning of the present resolution are aircraft permanently or temporarily engaged in conveying agents of the League or persons entrusted by the League with a special mission, or League correspondence, or official representatives of States Members of the League, or delegations to the Council, to the Assemblies and Conferences of the League, and the correspondence of such representatives or delegations.

“ 5. The Secretary-General shall keep a list of the aircraft referred to in the foregoing article ; he shall communicate this list to all the States Members of the League of Nations, with any modifications which may occur in this list.

“ In urgent cases, these communications would be telegraphed to the States concerned.

“ 6. All detailed regulations regarding conditions of registration, communication of entries and cancellation of entries, identification marks on aircraft showing that they are on the service of the League, certificates and licences for the crew and other documents generally laid down by international Conventions shall be laid down by the Council of the League of Nations after consulting the competent bodies, it being understood that the certificates of airworthiness and of competency and licences for the personnel on board and other documents generally prescribed shall be issued or rendered valid by a State in accordance with its law. The same shall apply, in cases in which the Council recognises this to be necessary, in regard to all provisions relating to aircraft assigned to the exclusive service of the League and not registered in any State.

“ 7. Should aircraft used for communications of importance to the working of the League be required to fly over a State, the Secretary-General of the League will give that State due notice by suitable means of the identification marks of the aircraft, of the route to be taken and of the composition of the crew, and, whenever possible, will communicate in advance the names of the person on board — the crew and the passengers to be provided with documents certifying their status and mission.

“ 8. In the event of the aircraft mentioned above being in difficulties, the States whose territory is crossed will assist the crew and persons on board, if possible, to complete the journey by air, and, in any case, to carry out their mission as quickly as possible.

“ 9. Each State shall retain the right to prohibit the whole or part of its territory being crossed by aircraft registered in another State or manned by a crew of foreign nationality, when such prohibition appears necessary for reasons of national safety. In such case, the State in question should do everything to ensure the transfer of the passengers as quickly as possible to an aerodrome or frontier point and the continuation of air transport under conditions to be determined by the negotiations referred to below.

“ 10. With a view to the application of the foregoing provisions, the Secretary-General of the League of Nations will immediately undertake the negotiations which may be necessary with the Governments of the States Members of the League, and will report to the next Assembly on the steps taken to ensure the execution of this resolution.

“ 11. The present resolution should not be regarded as in any way prejudging the question of the advisability of the League of Nations having aircraft of its own at its disposal.”

Draft Resolution concerning the Regime of Motor Transport.

“ The Assembly :

“ Recalling that the Members of the League of Nations are under an obligation to facilitate by all the means in their power the working of the League ;

“ Adopts the following resolution :

“ 1. It is necessary that Members of the League, in order to discharge the above-mentioned obligation, should afford all facilities for the circulation of motor vehicles effecting transport of importance to the working of the League of Nations in times of emergency by placing at their disposal, as far as possible, an official representative of the country, with powers to facilitate the journey, the final choice of the route to lie with authorities of the country traversed.

“ 2. Motor vehicles effecting transport of importance to the working of the League of Nations are motor vehicles used to convey agents of the League or persons entrusted by the League with a special mission, or League correspondence, or official representatives of States Members of the League, or delegations to the Council, Assemblies and Conferences of the League, and the correspondence of such representatives or delegations.

“ 3. The motor vehicles defined above shall bear a distinctive identification mark, either a plate marked ‘S.D.N.’ or a flag. The driver and the persons conveyed must be in possession of official documents indicating their status and mission and signed by or on behalf of the Secretary-General of the League, or by or on behalf of the Minister for Foreign Affairs of the country sending the mission. The driver shall also be provided with a document furnished by the authorities of the country from which the vehicle starts, indicating the destination of the vehicle and the proposed route.

“ 4. The Secretary-General of the League shall inform by telegram the Government of the country to be traversed of the place where the frontier is to be crossed and the place of destination, and will endeavour to indicate the time when the frontier will be crossed and the names of the driver and persons conveyed.

“ 5. Should the motor vehicle find difficulty in continuing its journey as the result of an accident or an incident on the road, or should the journey by car be begun after the persons concerned have entered the country by some other means of transport, the Governments must endeavour to place at the disposal of the missions a suitable vehicle and the necessary drivers, this vehicle to be regarded, from the time it is placed at the disposal of such a mission, as effecting transport of importance to the League of Nations.

“ 6. The above-mentioned vehicles must be provided with the regular road-traffic documents. Governments shall, nevertheless, be requested to allow them free passage even in the absence of Customs documents.

“ 7. With a view to the application of the foregoing provisions, the Secretary-General of the League of Nations shall immediately undertake the negotiations which may be necessary with the Governments of the States Members of the League, and shall report to the next Assembly on the steps taken to ensure the execution of the present resolution.”
