

216. An important exemption from the provisions of the Convention relating to airworthiness standards and related performance standards of aircraft is imposed in Article 41 of the Convention, which reads as follows :—

The provisions of this Chapter shall not apply to aircraft and aircraft equipment of types of which the prototype is submitted to the appropriate national authorities for certification prior to a date three years after the date of adoption of an international standard of airworthiness for such equipment.

While there has been disagreement respecting the meaning of this Article, and while its content is at present subject to review, it is generally held to mean that all aircraft at present in operation, together with all subsequent aircraft which may be produced of similar types, as well as all aircraft of types which are produced and certificated within three years of the date of adoption of the Airworthiness and OPS Standards by the Council of I.C.A.O., need not comply with such standards. No AIR or OPS Standards have yet been adopted by the Council, and it is uncertain when they will be, since important provisions in the present drafts are the subject of current and proposed reviews. This subject of the performance standards for aircraft is dealt with in chapter 17.

217. There is a similar provision in Article 42 giving delayed effect to the application of international standards of qualification to personnel holding licences at the date of adoption of the Standards, but this Article has not so far raised any such problem as is raised by Article 41.

218. There has been doubt and perhaps some misinterpretation in the drafting of some standards which appear to impose an obligation on contracting States to provide particular facilities for air navigation, involving perhaps considerable cost. An example is in the draft COT Standards. These prescribe that I.L.S. (radio instrument landing systems) shall be provided at every international airport. The implication of adopting any such provision as a standard would go beyond the provisions of the Convention, in that it seems to place an unqualified obligation on contracting States to provide I.L.S. at every international airport within their territories. This is inconsistent with Articles 28 and 71 of the Convention :—

Article 28

Each contracting State undertakes, *so far as it may find practicable* to :

(a) Provide, in its territory, airports, radio services, meteorological services and other air navigation facilities to facilitate international air navigation, in accordance with the standards and practices recommended or established from time to time, pursuant to this Convention.

Article 71

If a contracting State so requests, the Council may agree to provide, man, maintain, and administer any or all of the airports and other air navigation facilities, including radio and meteorological services, required in its territory for the safe, regular, efficient and economical operation of the international air services of the other contracting States, and may specify just and reasonable charges for the use of the facilities provided.