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THE MULTILATERAL AGENCY --  
THE APPROACH, THE PERSPECTIVE  
AND THE MEANS

Dr. Assad Kotaite

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AERONAUTICS  
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FLIGHT TRANSPORTATION  
LABORATORY

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Lecture by Dr. Assad Kotaite, President of the  
Council of the International Civil Aviation  
Organization (ICAO), at the Massachusetts Institute  
of Technology (MIT)  
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"THE MULTILATERAL AGENCY -  
THE APPROACH, THE PERSPECTIVE AND THE MEANS"

I am delighted to have been asked to address this Summer Programme at the Massachusetts Institute of Technology Flight Transportation Laboratory. The Director of International Studies, Mr. Cary, when issuing his invitation to me was kind enough to send a copy of the booklet outlining this course and I noticed there was a listing of some of the speakers who preceded me as guest lecturers at this programme. I am honored to be joining this distinguished gathering. One of those earlier guest lecturers was Mr. L. Welch Pogue, who in 1944 was Chairman of the United States Civil Aeronautics Board and member of the United States delegation at the 1944 Chicago Conference of that year. That Conference gave birth to the International Civil Aviation Organization and the topic of his address to the Summer Programme was the 1944 Chicago Conference. Today I have been kindly given the opportunity to take this a step further and to discuss in some detail the nature of the institution itself. More specifically, I propose to address myself to the ICAO approach to international civil aviation problems and the means at its disposal for dealing with those problems. But firstly a short recapitulation of ICAO's origins, structure and its objectives.

In the early years of flight and prior to the First World War, the theory that airspace, like the high seas, should be free to navigation and commerce enjoyed a brief vogue. However the 1914 - 1918 war, which witnessed immense strides in the technical capabilities of fixed-wing aircraft, also saw the abandonment of this approach. Thereafter, state security and economic considerations ensured that national sovereignty of the airspace was the predominant principle. Throughout this period the need for uniform universal flight regulations was apparent and, whereas an initial attempt to reach international agreement in Paris in 1910 failed, another Paris meeting in 1919 was successful.

The International Conference for Air Navigation in that year adopted the Paris Air Convention relating to the regulation of Aerial Navigation. This instrument confirmed the notion of exclusive national sovereignty over airspace but confined itself mainly to the technical details of international flight, for which it established the International Commission for Air Navigation (ICAN). A total of thirty-three nations adhered to the Convention, but it was limited in scope and its implementation was not made any easier by the fact that a number of leading aviation powers of the 1920's and 1930's did not participate in the work of the organization. In any event, the international air route networks of that period were primarily regional and developing slowly.

The Second World War saw another acceleration in terms of technical advancement of aircraft design and capability and as thoughts turned to peace the political, legal, commercial and technical problems that would be facing international civil aviation demanded the urgent attention of governments. At the invitation of the United States

Government, fifty-two States met in Chicago in November 1944 and developed the Convention on International Civil Aviation. This instrument was a statement of principles and procedures to provide the institutional framework for international cooperation in the safe and orderly development of international civil aviation. In accordance with the Convention, the International Civil Aviation Organization formally came into being in April 1947 after an initial existence as the Provisional International Civil Aviation Organization. That same year it became a specialized agency of the United Nations system.

The aims and objectives of ICAO as set out in the Convention are to ensure the safe and orderly growth of international civil aviation, to encourage the arts of aircraft design and operation for peaceful purposes, to encourage the development of airways, airports and air navigation facilities for international civil aviation to meet the need for safe, regular, efficient and economical air transportation, to prevent economic waste caused by unreasonable competition, to ensure that States have a fair and equal opportunity to operate international airlines, to avoid discrimination between Contracting States, to promote the safety of international flight and to promote generally the development of all aspects of international civil aeronautics. To give effect to these objectives the Convention provided for a structure of a sovereign body, an Assembly, meeting at least once every three years and presently composed of 148 States; a governing body, the Council, elected by the Assembly, presently composed of Representatives from 33 Member States and having an elected President; and a Secretary General as Chief Executive Officer

and head of a Secretariat. Under the Council various subordinate bodies were to be formed including an Air Navigation Commission and an Air Transport Committee. The Council was given the task of directing the work of the Organization between Assembly Sessions.

A vital function of the Council is the adoption and, from time to time, the amendment of the international practices and procedures, called Standards and Recommended Practices, which are contained in Annexes. Over the years since its inception, the Council has developed a series of 18 Annexes to the Convention covering such diverse subjects as Rules of the Air, Airworthiness, Air Traffic Services, Aerodromes, Meteorology, Facilitation, Security, Protection of the Environment and Carriage of Dangerous Goods. They represent, in effect, a codification of technical practices and procedures which Member States should apply to ensure a measure of universality of national practices. With the exception of facilitation - which is mainly concerned with achieving smooth and expeditious clearance of passenger and freight traffic through international airports - and security, these Annexes are limited to the technical spheres and are concerned with the safety, regularity and efficiency of air navigation.

ICAO also plays the leading role in the field of development and codification of international air law, particularly in the establishment of international instruments covering such matters as the recognition of rights in aircraft, damage caused by foreign aircraft to third parties on the surface, Protocols to the Warsaw Convention on air carrier liability to passengers and consignors, and the more recent and very important conventions concerning security and unlawful interference. A permanent Legal Committee

closely monitors these and other legal matters and advises the Council and the Assembly.

Having focused first on the background and institutional aspects of ICAO and very briefly on the technical and legal areas, I would now like to focus attention on a limited but nevertheless very active role of ICAO, its economic mandate. As I indicated, some of the aims and objectives set out in the Chicago Convention are related to the regulatory/economic sphere of international civil aviation. The response of the Organization to these directives has, in terms of its thirty-four years of existence, evolved more slowly than the technical and legal roles on which ICAO concentrated during the earlier formative years of international civil aviation. However, this evolution has quickened in recent years at the request of Member States, as the industry has achieved greater maturity in the economic sense.

ICAO has of course long been involved in the compilation and dissemination of statistics and the publication of various economic studies. However, certain factors have been brought to bear on the economic side of international civil aviation and so have served to emphasize the importance of ICAO's role. First, in the 1960's and 1970's there was a rapid increase in ICAO's membership as newly independent States joined the United Nations family. Many of these new States inherited or quickly established international airlines to join the rapidly expanding international air route network. Secondly, there have been shifts in the traditional geo-political and

economic alliances amongst States, with consequences for trade and commerce and for international aviation links. Then there was the rapid escalation from 1973 - 1974 in energy costs, with implications for the world economy in general and for the economics of airlines in particular, which have yet to run their course. Against this background a certain regulatory dislocation has occurred in international air transport, a questioning of the existing regulatory arrangements found in the bilateral air transport agreements between States and of the multilateral machinery for the establishment of international fares and rates by the International Air Transport Association. In this environment a greater ICAO involvement in economic matters was perhaps inevitable since ICAO represents the international forum where the representatives of governments, the final arbiters of national air transport policy, can meet to exchange views on issues of interest and seek common policy grounds. As we have seen, the Chicago Convention was not silent on the economic side of international civil aviation and it was left open for Member States to determine the extent of that involvement.

Superimposed on these factors are the specific problems related to world economic conditions with which international civil aviation has had to contend in recent years. These problems are many and are well known, so I will refer only to some of the more pressing and urgent ones. Inflation and recession in most parts of the world have had an obvious detrimental impact on the operating costs and revenues of airlines which are locked in a cost-price spiral at a time when there are no such spectacular technical innovations in sight, such as the jet in the 1960's and wide-bodied aircraft in the 1970's, to provide airlines with a means to offset unfavourable

cost trends. Within the broader problem of economics of operation is the continually increasing cost element of fuel in the direct operating costs in recent years, a matter largely beyond the control of the airlines. Whereas fuel was once a minor part of costs it is now the major single component and airlines are under great pressure to achieve marginal economies through the disposal of less efficient aircraft in favor of a newer more efficient generation of jets, although this requires a mammoth capital outlay for the industry. Against these vagaries of operational economics, unanimity on fares and rates has proven to be especially difficult, and the users of international air transport have had to contend with a spectrum of increasingly complex and constantly shifting fares and rates. Furthermore, as mentioned earlier, the regulatory environment has become less stable and less predictable. The twin pillars of bilateralism between governments in the regulation of frequency of air services and capacity, and the role of IATA in the establishment of international fares and rates are today no longer taken for granted. Bilateralism continues to be the norm as the treaty basis for international air transport relations between States but the content of bilaterals is undergoing change, with more open provisions regarding designation, route awards and tariffs being favoured by some States and more restrictive provisions being supported by others. In both cases governments are taking greater initiatives in the tariffs field. In associated developments IATA has recently undertaken a major overhaul of its machinery in the face of an increasing resort to the use of bilateral and regional tariff setting mechanisms on many

major routes, and "open" rates situations on others. In addition, of course, there is the limitation on the applicability of IATA tariff coordination activities on the North Atlantic.

A major initiative taken by ICAO was the convening in 1977 of a worldwide Special Air Transport Conference. The idea had been mooted as early as 1965 in an ICAO Assembly Resolution which recognized the need to treat economic problems within ICAO on a worldwide basis. But until the mid 1970's the Council of ICAO had not found justification for convening such a meeting.

At the Assembly in 1974, it was considered that ICAO's programme of studies and workshops and the triennial deliberations of the Assembly were not adequate enough to provide the global assessment of problems that was felt to be required, and in response to another Assembly resolution the Council convened the 1977 Conference. This meeting was the first worldwide intergovernmental conference devoted exclusively to the broad range of regulatory and economic aspects of international civil aviation. The agenda covered tariff enforcement, policy concerning international non-scheduled air transport, the regulation of capacity in international air transportation services, and machinery for the establishment of international fares and rates. The result was a series of 19 Recommendations concerning future ICAO activities and action by States in these fields. The Special Air Transport Conference also anticipated the need for another air transport conference within three years to follow up the work it had initiated and, with the Assembly endorsing this view, a Second Air Transport Conference was held in 1980. Some 31 Recommendations on the regulation of international air transport services and international air transport fares and rates addressed to States, to the Council, to the airlines and airline organizations were adopted at the second conference and were subsequently endorsed by the Assembly. The Assembly left to the Council the timing of a further Conference of this type depending upon future developments.

From this short account of the ICAO response to current economic problems in international air transport it can be seen that there is a general acceptance that problems cannot be overcome by unilateral action - if solutions are to be found or difficulties mitigated a multilateral approach or consensus is required.

I have dwelt on the worldwide air transport conferences which ICAO has convened in recent years to consider broad problem areas. In fact ICAO has, since the early years, conducted periodic worldwide conferences on more specific subjects such as facilitation, the aviation statistics programme and airport and route facility economics. These meetings are held at intervals of approximately 6 or 7 years for each subject and in practical terms result in revision of the Annex on facilitation, adjustment of ICAO's statistics programme to meet current requirements, and revision of the Council policy guidance to Contracting States on charges for airports and route air navigation facilities.

A further level of the ICAO perspective is provided by the use of Panels of Experts drawn from Contracting States to examine and report on specific matters to the Air Transport Committee and Council. For example, Panels were established on origin and destination statistics, on airport signs, on the economics of route air navigation facilities, on route facility cost accounting and cost allocation, on the design of a passport card for universal adoption and on the ICAO statistics programme. Only the last of these continues in existence, because the statistics programme is an on-going one and problems arise requiring the attention of specialists in the States on a periodic basis. For the most part, however, these Panels are established for particular tasks with specific terms of reference and are dissolved when their tasks are completed.

Directly related to the work of the Air Transport Conferences are two other Panels of Experts, one dealing with fares and rates matters and

the other in the regulation of air transport. The Fares and Rates Panel pre-dated the 1977 Special Air Transport Conference, having been established pursuant to a 1974 Assembly Resolution. However, since its first meeting its work has been determined by the results of the two Air Transport Conferences, both of which called for specific studies to be undertaken on various aspects of fares and rates. The Air Transport Regulations Panel, established by the Air Transport Committee following Recommendations of the 1977 Conference has the task of examining certain regulatory issues and some relevant articles of the Chicago Convention concerning commercial rights.

I have taken some time to outline ICAO's consultative process through conferences, meetings and panels because these bodies are charged in the first instance with formulating recommendations on policies and guidelines which are then subject to examination and review by the Council, and in some cases the Assembly, before finding their way into ICAO policy guidance material, into an Annex, or into the Secretariat's work programme. In this way ICAO develops its perspective on the general and particular problems of international civil aviation.

I turn now to the means by which ICAO carries out its charter as reflected in the work programme approved at each triennial session of the Assembly and again I limit my comments to air transport although most of the means used there are also used in the air navigation field. It may first be instructive to spend a little time examining some individual items in the work programme.

Over the years, the Secretariat has been called on to undertake a broad range of air transport studies. These are an effective way of

collecting and disseminating information and for laying the groundwork for substantive discussions of policy objectives. For example, studies have been undertaken on certain multilateral air transport arrangements, on the administrative, capacity and tariff clauses in bilateral air transport agreements, on the regulation of capacity, on policy concerning non-scheduled air transport, on air transport operating costs, on air mail, and on tariff enforcement. A continuing exercise in recent years has been the series of regional air transport studies. These are produced and published at the rate of approximately one per annum and are comprehensive studies of air passenger and freight transport in individual regions of the world. They represent a major multi-disciplinary effort by the Secretariat and are designed to assist States by providing current information on trends and developments, indicating obstacles to further development and measures which might assist to overcome these obstacles. They serve as primary reference material for any party interested in air transport developments and problems in a regional context. The Assembly has considered the studies to be useful publications in helping to further the efficiency and economic development of international air transport services in connexion with the growth of tourism and trade. Future studies are likely to pay greater attention to the specific needs and problems of smaller groups of States in developing regions and subregions.

ICAO also devotes considerable effort to monitoring and reporting on developments in international civil aviation. For instance, the Secretary General presents to each regular triennial session of the Assembly

a review of the economic situation of air transport covering the previous ten years. This publication examines worldwide developments in airline fleets, operators, personnel and productivity and highlights the traffic and financial trends of international airlines. It also includes a series of passenger and traffic forecasts for the coming decade. We believe this has over the years become a useful and informative exercise. Furthermore, the Annual Report of the Council, which is presented to the Assembly by the President of the Council, covers all fields of ICAO activity and is also regarded as a basic source document on developments in international civil aviation.

Another area in which ICAO conducts continuing studies and provides regular reports to the industry is the area of air transport fares and rates. For some time, through its triennial economic review of the previous decade's developments as well as in the Annual Reports, ICAO had monitored trends in international fares and rates. However, in 1971 the Assembly directed Council to examine the feasibility of ICAO undertaking more detailed studies of international air transport fares and rates and the Council subsequently decided to proceed with an initial study. This study, published in 1974, compared the levels, increases and availability of various types of fares in selected international route groups in effect in September 1973.

On the basis of this experience, the Assembly directed that ICAO issue such a survey on an annual basis and, in addition, undertake analyses of the degree to which regional differences in fares and variations in fares with distance and other traffic variables reflect corresponding variations in operating costs. The latter undertaking has resulted in the annual publication entitled Regional Differences in Fares, Rates and Costs for International Air Transport.

These studies contain conclusions on the main causes of regional differences in fares and costs and suggest remedial measures that might be taken to reduce such differences. In addition to this general guidance the studies provide basic data on airline yields and costs in different parts of the world against which individual airline performance can be assessed. In this way the studies can be of real and practical value as was intended by the relevant 1971 and 1974 resolutions.

These have not been the only developments as far as ICAO's role in this subject is concerned. The 1974 resolution which established the two studies as a regular function in the work programme also directed Council to undertake an exploration of the feasibility and relative benefits of an international ICAO standard tariff clause and, in addition, established the Panel of Experts on Fares and Rates to examine the machinery for the establishment of international fares and rates and make recommendations to Council for submission to the Assembly concerning possible improvements of that machinery. Pursuant to the first directive, the Council subsequently approved a standard bilateral tariff clause to be viewed as a guidance only, that is, for optional use by States and adaptation to their particular situations. With regard to the Fares and Rates Panel, we have already seen that the Panel's work has become closely related to that of the Air Transport Conferences and has covered a wide range of fares and rates matters as they impinge on States' responsibilities and the principles and practices by which airlines establish fares and rates. For example, the 1980 Conference recommended that the Panel conduct a general review of the rules and conditions associated with international fares and rates, a major endeavor to which the Panel will turn its attention at its next meeting.

Finally, in this particular area of ICAO's work, I should refer to the task of monitoring IATA Traffic Conferences. This emanated from a Recommendation of the Special Air Transport Conference, the objective being to prepare reports on attendance by an ICAO observer so that Member States could be objectively informed of the deliberations

and results of IATA Traffic Conferences and to assist them in assessing the tariff submissions of their airlines. In all these developments concerning fares and rates, as in other matters, ICAO has always experienced the cooperation of IATA and other airline organizations, which has proved to be an important ingredient in the accomplishment of its tasks.

The price and availability of aviation fuel have been matters of concern and keen interest to the airline community, and to governments, since 1973. At the 1977 ICAO Assembly the governments of the world aviation community considered it timely and appropriate for ICAO to examine the future availability of aviation fuel and it adopted a resolution to give effect to this decision. The result was a report to the 1980 Assembly containing an assessment of the outlook for the supply of fuel to meet civil aviation needs to the year two thousand. The material and information on which the report was based were drawn from a variety of sources, governmental and non-governmental, published and non-published. The report, which has been widely distributed, found that while civil aviation presently accounts for only four percent of total oil consumption this share will probably increase since no alternative aviation fuel is expected to become available in the foreseeable future. The report suggested that supplies of aviation fuel appear to be reasonably well assured. The 1980 Assembly, however, cautioned against too optimistic a view and directed the ICAO Council to continue to monitor

the availability, distribution and price of aviation fuel with a view to providing further guidance to States in developing their fuel policies.

Another of the means by which ICAO carries out its work programme in the economic field is through the development and issuance of guidance material and the conducting of informal regional workshops. Guidance material covers the whole range of ICAO economic activities: statistics, facilitation, route facility economics, forecasting and now fares and rates. To take just one example, the ICAO Manual on the Statistical Programme summarizes the ICAO statistics programme and provides detailed guidance, with examples, for the completion of the many reporting forms. The requirement to file statistical information is an obligation imposed on Member States by the Chicago Convention and this manual performs an important function in ensuring the accurate and correct completion of the forms. This and the other manuals are updated from time to time, and as with manuals in the Air Navigation field are utilized extensively by States. The manuals also serve as documentation for a series of informal workshops and area meetings conducted by Headquarters personnel in the regions at the rate of two per year for each of the above subject matters. States in the region as well as international airline and airport associations are invited to these workshops. They provide a limited informal forum for a discussion of local problems and an exchange of information between officials and with ICAO.

Lastly, I should mention that the ICAO Regional Offices in Mexico City, Lima, Dakar, Paris, Cairo and Bangkok carry on a continuous programme of personal contact in the air navigation, air transport and technical assistance fields through missions to States in their respective regions.

I have devoted most of my time and imposed on your attention to explain the ICAO perspective on the economic problems of international air transport and the means by which it carries out its regular work programme. However, before attempting to draw some of these threads together and conclude this address I would like to elaborate on another important field of ICAO's work that I referred to a moment ago, technical assistance. Aviation is recognized by many developing countries to be an essential and integral element in the nation building and developmental process. However, at the same time, it is by its very nature a highly technological industry where advances are rapid and technical standards are subject to the need for constant review and adjustment. This places particular demand on the utilization of modern facilities and equipment and on the availability of trained manpower. Clearly, where financial and manpower resources are scarce and the competing demands for them are keen, as in developing countries, some assistance is required if these States are to meet their obligations under the Convention and comply with the Standards and Recommended Practices in the Annexes as well as the requirements of the Regional Air Navigation Plans. Funding for

this assistance comes in various forms but primarily from the United Nations Development Programme and from national trust funds. The UNDP delegates to ICAO the task of executing its civil aviation technical assistance programmes. Technical assistance, while not part of the regular work programme of ICAO, has a direct and visible impact since its basic components are the provision of experts, fellowships and equipment.

The formulation of individual projects is a process involving the identification of the requirements for technical assistance and the means to fulfil those requirements. This identification may come from any of several sources. A government may, within the framework of its national development plans and objectives, determine a particular need for improving its civil aviation infrastructure. Alternatively, ICAO may, within the continuous dialogue that takes place through regular missions by ICAO Headquarters and Regional Office personnel, meetings and correspondence, recognize a specific civil aviation need that will enable a government to comply with an ICAO Annex or meet a requirement of an ICAO Regional Air Navigation Plan, which sets out the facilities and services necessary for an integrated international air navigation system. Multi-country requirements may be pointed out by surveys such as the ones conducted by ICAO on manpower and Training in Africa and Asia. But however they arise, technical assistance requirements, once identified, must be endorsed by the government or governments concerned and must be quantified in terms of the type of assistance needed,

their cost and their duration. In making such determinations an order of magnitude is normally agreed in advance between the government and ICAO and, in the case of UNDP funding, will depend on the availability of funds as well as the UNDP funding limitations for that country. However, I should stress that it is for a government to decide on the degree of priority to be accorded to civil aviation vis à vis other assistance requirements within that limitation; the UNDP itself imposes no restrictions on how recipient governments may utilize their respective UNDP entitlements. Clearly governments will have differing perceptions as to what their assistance priorities should be. Thus we see that technical assistance project formulation requires considerable consultation between ICAO and the country concerned but with the decision to request assistance and the request itself coming from the government of that country.

As projects will usually be aimed at developing the civil aviation organization and infrastructure, the range of projects can be as broad as the needs. For example, a project may involve the establishment of a new civil aviation training centre, specific equipment needs, or a study to suggest ways in which civil aviation can make a more effective contribution to the development of the national economy of a State or group of States. Some large scale projects encompass several activities and require a multi-disciplinary approach.

In absolute terms, the growth of this programme has been dramatic, increasing from U.S. \$6 000 000 in 1972 to U.S. \$53 000 000

in 1980 and to an expected U.S. \$100 000 000 in 1984. In the last three years, over 50 large scale projects were either initiated or extended, each involving a financial input of at least \$500 000. And when it is realized that more than 110 States have directly benefited from technical assistance provided by ICAO, it is quite apparent that this function of ICAO in promoting and encouraging the development of civil aviation is a most vital one.

With your indulgence, I have attempted to take you on a journey through the world of ICAO; to show how ICAO views its responsibilities and how it attempts to carry them out. I believe this brief examination has underlined the fact that ICAO, in the past 34 years, has been a responsive and adaptive multilateral agency. As an intergovernmental body, it is naturally subjected to the differing philosophies and attitudes of States who determine what it does and this political factor cannot be overlooked. Nevertheless, I would submit that the collective will of States, as expressed through ICAO decisions and resolutions, has proven faithful to the ideals on which the Organization was founded. We have seen, for example, the evolving interest of ICAO in the economic sphere and this is a reflection of the desire of States to come together and seek a multilateral approach to the economic problems faced by international civil aviation. While the wisdom of such a multilateral approach in the economic domain may be something for history to judge, I would venture to suggest from this vantage point that it positively contributes to the orderly growth and development of international civil aviation, the original purpose for which ICAO was established.