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UNITED NATIONS CONFERENCE ON
INTERNATIONAL TRAVEL AND TOURISM

Item 7 of the provisional agenda

DEFINITION OF "TOURIST" OR "TEMPORARY VISITOR"

This document reproduces a report submitted by the International Civil Aviation Organization (ICAO) on its work on the definition of the above terms to be applied in Annex 9 to its Convention.

REPORT ON THE WORK OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION
RE: DEFINING "TOURIST" OR "TEMPORARY VISITOR" FOR APPLICABILITY IN
ICAO'S ANNEX 9 TO ITS CONVENTION

(Presented by the International Civil Aviation Organization)

Introduction

It will be recalled that the Economic and Social Council, in its Resolution 870 (XXXIII) requested, inter alia, that pertinent material be circulated concerning the deliberations of the 6th Session of ICAO's Facilitation Division; and in the annotated provisional agenda for the Conference (E/CONF.47/2) attention is drawn to the "International Standards and Recommended Practices on Facilitation" which, pursuant to Article 37 of the Convention on International Civil Aviation (Chicago, 1944), constitute Annex 9 to ICAO's Convention. It is therefore believed that, under agenda item 7*, the following information will prove of interest to Delegates.

Definition of the term "tourist" contained in the 4th Edition of Annex 9

The 4th Edition of Annex 9 contains the following definition:

"Tourist. Any person, without distinction as to race, sex, language or religion, who enters the territory of a Contracting State other than that in which that person normally resides and remains there for not less than twenty-four hours and not more than six months in the course of any twelve-month period, for legitimate non-immigrant purposes, such as touring, recreation, sports, health, family reasons, study, religious pilgrimages, or business."

This definition has been recognized for some years by ICAO as not being completely satisfactory for Facilitation purposes and a few years ago the subject was discussed at some length by the ICAO Air Transport Committee. The Committee decided early in 1960 not to make any change at that time, but to seek the expert advice of the ICAO Facilitation Division at the next opportunity. As a result, the Committee decided to inform all ICAO Contracting States of its discussions on the subject and to notify them that the matter would be placed on the Agenda of the Sixth Session of the Facilitation Division.

* A separate paper is presented in connexion with Agenda Items 8 and 9 (b) (i).

Deliberations of the 6th Session of ICAO's Facilitation Division

The Division discussed various proposals for a revision of the definition of the word "tourist" in Chapter 1 of the existing Annex. The present definition was extracted from the 1954 UN Convention concerning Customs Facilities for Touring and experience has shown that such a definition is not entirely suitable for immigration purposes in all countries. It is too restrictive in one sense because the requirement for a minimum stay of 24 hours may prevent certain visitors from being granted the facilitation measures of the Annex, and is too broad in another sense because the maximum allowed stay of 6 months may discourage certain States from waiving visa and other requirements for visitors who may remain in their territory for such a long period. Furthermore, the word "business" at the end of the definition is not qualified, while some States wish to exclude from the definition and its related facilitation provisions those visitors who take up a gainful occupation during their stay in the territory visited. The Division revised the definition in such a way as to remove all these obstacles to its wider application, although as regards the last difficulty mentioned a minority was of the opinion that the word "business" need not and could not be properly qualified. It was agreed that the main purpose in revising the definition was to arrive at a practical definition which would be acceptable to Customs and Immigration authorities on the widest possible basis, i.e., to agree on the categories of travellers to be included under the facilitation measures of the Annex and on the maximum duration to be allowed for their stay. The title to be given to such travellers was not considered of paramount importance and since the definition includes the word "business" which, to some Delegates to the Division, seemed incompatible with the idea of tourism and since the different concepts in the UN Customs Convention and Annex 9 call for different words, the Division decided to replace in Chapter 1 the term "tourist" by the phrase "temporary visitor". A consequential amendment was made to all provisions of Chapter 3 of Annex 9 where the phrase "tourists and other temporary visitors" is used. The Division accordingly recommended the following:

Recommendation No. A-8

Delete in Chapter 1. - Definitions and Applicability, the definition of "tourist" and insert the following new definition:

Temporary visitor. Any person without distinction as to race, sex, language or religion, who disembarks and enters the territory of a Contracting State other than that in which that person normally resides; remains there for not more than three months for legitimate non-immigrant purposes, such as touring, recreation, sports, health, family reasons, study, religious pilgrimages, or business; and does not take up any gainful occupation during his stay in the territory visited.

Delete, in all existing provisions of Chapter 3 of Annex 9 where the phrase "tourists and other temporary visitors" is used, the words "tourists and other".

The Conference will presumably be adopting recommendations designed to promote tourist travel and, in so far as Facilitation is concerned, it would seem logical that delegates representing immigration, consular and customs authorities will need to agree, at the outset, on the categories of travellers to whom the Facilitation recommendations are intended to apply. For this reason, the Conference may find it necessary to define, at least for Facilitation purposes, the term "tourist" or "temporary visitor" and, unless such a definition is a practical and durable one, acceptable to those national control authorities, the recommendations adopted by the Conference may not receive the desired degree of application.
