ADMINISTRATIVE TRIBUNAL

Judgement No. 441

Case No. 454: SHAABAN

Against: The Secretary-General of the International Civil Aviation Organization

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,

Composed of Mr. Arnold Kean, President; Mr. Jerome Ackerman, Vice-President; Mr. Ioan Voicu;

Whereas, on 20 January 1988, Othman Mustafa Shaaban, a staff member of the International Civil Aviation Organization, hereinafter called ICAO, filed an application the pleas of which read in part:

"...

b.1 The Applicant contests the decision by ICAO to deny reimbursement of income tax imposed by U.S. authorities on his ICAO income.

...

d.1 The Applicant seeks only to recover from ICAO an amount of $2,793 US, being the income tax levied by and paid to U.S. authorities in respect of 1986 ICAO income, and, to the extent he is able to demonstrate by the presentation of appropriate documents, subsequent income tax imposed by U.S. authorities on ICAO staff assessed income."

Whereas the Respondent filed his answer on 5 May 1988;

Whereas the Applicant filed written observations on 16 June 1988;

Whereas the Respondent filed comments on the Applicant's written observations on 18 August 1988;

Whereas the Applicant filed observations on those comments on 24 August 1988;

Whereas, on 4 October 1988, the President of the Tribunal put questions to the Respondent under article 10 of the Rules of the Tribunal and, on 14 October 1988, the Respondent provided answers thereto;

Whereas the Applicant submitted additional documents on 8 October 1988;

Whereas, on 14 November 1988, the Executive Secretary of the Tribunal informed the Applicant that the Tribunal had decided to adjourn its consideration of the case until its Spring session to be held in Geneva in May 1989;

Whereas, on 14 November 1988, the Tribunal put questions to the Respondent and, on 26 January 1989, the Respondent provided answers thereto;

Whereas the facts in the case are as follows:

The Applicant, a Lebanese national, served as a Manpower and Training Officer in the ICAO African Office, Dakar, from 20 August 1973 to 19 August 1974. On 18 November 1977 he was again recruited as an Airworthiness Officer in a Technical Assistance project in Jordan. On 4 December 1979 the Applicant was appointed as a Projects Implementation Officer in the Technical Assistance Bureau at Headquarters for three years. On 4 December 1982 his appointment was renewed for two years as a Field Operations Officer in that Bureau and on 12 March 1984 it was superseded by a permanent appointment.

On 27 May 1986 the Applicant informed the Chief of the Personnel Branch that the Government of the United States had granted permanent resident status to himself and to members of his immediate family. On 2 January 1987 the Applicant, who had established his residence in Plattsburgh, New York, submitted to ICAO a "Request for advance to pay estimated income tax on ICAO income". His request was granted and an advance of US$3,000 was

paid to him. In an inter-office memorandum dated 30 January 1987, the Chief of the Administrative Services Branch enquired whether the Applicant was entitled to the reimbursement of United States income tax on his salary; he drew attention to the following circumstances of the case:

> "...
>
> The situation in this case is unusual in that the claimant is not a citizen of U.S.A. but states that he resides in the U.S.A. and commutes to work in Montreal on a daily basis. He is not, therefore, eligible to claim the Foreign Earnings Exclusion on his tax return which would otherwise reduce tax on ICAO income to nil.
>
> A cash advance of U.S. $3,000.00 has been paid by ICAO against a probable tax liability of $3,500.00 for the taxation year 1986. It is estimated that the tax for 1987 could be $7,000.00 on the staff member's ICAO income. There is no longer an agreement in force between ICAO and the United States Government for the recovery of taxes paid to staff members."

On 20 February 1987 the Chief of the Personnel Branch provided the following advice in a memorandum to the Chief of the Finance Branch:

> "...
>
> As this matter will constitute a precedent with serious implications for the future, I have carefully considered it in consultation with LEB [Legal Bureau] and following the guidelines/principles below:
>
> (a) The nationality of a staff member, his 'home' place, and his duty station constitute the basis for the determination of many entitlements and benefits prescribed by ICAO rules and regulations, e.g. appointment and repatriation travel, home leave, education travel of children, post adjustment, reimbursement of national income tax, etc. Mr. Shaaban's nationality has been recognized by the Organization as Lebanese. His contract of employment states his 'home' place as Beirut, Lebanon and his duty station as Montreal, Canada.
>
> (b) A staff member is free to live at any place he likes. The Organization would be concerned only if and when his daily commuting to work affects his attendance and

> punctuality. However, if, for personal reasons he elects to live in a country other than that of the duty station, he cannot claim any additional benefit or entitlement beyond or in excess of what is normally given to staff members living at the country of the duty station.
>
> In view of the above, I regret to inform you that the Organization has no obligation to reimburse to Mr. Shaaban any income taxes levied by the USA authorities on his ICAO salary and emoluments."

On 10 March 1987 the Chief of the Finance Branch sent a copy of that memorandum to the Applicant and asked him to repay the cash advance paid to him in January 1987.

On 19 March 1987 the Applicant requested the Chief of the Personnel Branch to reconsider his ruling in a memorandum reading in part:

> "...
>
> As was explained to you, I had decided as long ago as 1963 that the interests of my family would best be served by emigration from Lebanon, the country of my birth. At that time I applied for and was granted Permanent Resident Status in the U.S.A. - a necessary first step in the process of attaining U.S. citizenship. Unfortunately, this status was forfeited, as between application and approval - it is a lengthy process - I had accepted a commitment to the establishment and operation of the UNDP/ICAO supported Civil Aviation Safety Centre in Beirut. This commitment precluded the mandatory residence in the U.S.A. required to maintain the validity of Permanent Resident Status.
>
> More recently, well publicised events in Lebanon strongly reinforce my conclusion that the well-being and future of my family would best be assured by emigration from Lebanon. In 1980, therefore, I re-applied for Permanent Resident Status in the U.S.A. with the long-term objective of obtaining citizenship. Ultimately, on May 13, 1986, Permanent Resident Status was granted to me and the members of my immediate family.
>
> You will perhaps understand the dilemma that confronted me. On the one hand, the long-sought U.S. Permanent Resident Status was, as previously, conditional upon actual residence in the U.S.A. On the other, my ICAO duties had to be performed at Headquarters in Montreal. The problem appeared insoluble.

> However, there was no apparent obligation under my contract, or the Service Code and Staff Rules which govern them, to reside in Canada. In the absence of mention in the Service Code or Staff Rules of the status of income tax obligations, and in awareness of precedents for the treatment of U.S.-levied income tax on ICAO earnings of HQ staff, it was my understanding that the provisions of the Circular Memorandum of September 26, 1983 ..., would be applied as might be required. Accordingly, in the belief that there would be no adverse consequences, other than the not inconsiderable costs and inconvenience, I decided to sell my house in suburban Montreal, purchase and live in a house in Plattsburgh, New York State, and commute from there to my work in Montreal.
>
> The supposition of the preceding paragraph, i.e., that the provisions of the U.S. Tax Circular Memorandum of September 26, 1983, would be applied to my circumstances, was, I had believed, confirmed by the absence of response by the Organisation to my advice of residency in Plattsburgh ... . Specifically, I had believed it was a reasonable and reliable assumption that, had there been any question of my ineligibility for the provisions defined by the Circular Memorandum, I would have been so warned in response to my letter.
>
> Furthermore, my belief in eligibility for tax reimbursement under the terms of the Circular Memorandum was confirmed and reinforced when, having been authoritatively informed of my tax obligations in the U.S.A., application was made on 2 January 1987 and approved shortly thereafter for an advance on the 'estimate of income tax on income from ICAO' in accordance with para. 12 of the Circular Memorandum.
>
> In summary, in the absence of ICAO rules and regulations to the contrary, and because of the precedent application to HQ staff of the same or comparable prior provisions of the Circular Memorandum, and with particular reference to Clause (f) of FSSR [Field Service staff rule] 3.14 referred to by para. 9 of the Circular Memorandum, I had no reason to believe that the Organisation would refuse reimbursement of income tax that might be levied by the U.S. authorities on ICAO earnings. Indeed, the contrary was the case. This belief was confirmed, tacitly at least, by the absence of response to my letter of May 27, 1986, and by approval without question of the requested advance for estimated 1986 tax obligations. ..."

On 31 March 1987 the Chief of the Personnel Branch, after consultation with the competent staff in the different services

concerned, advised the Applicant that he saw no possibility of reimbursing him the tax that might be levied on his income as a result of his relocation of residence in Plattsburgh; he stated inter alia:

> "...
>
> The absence of response by the then C/PER [Chief, Personnel Branch] to your memorandum of 27 May 1986 cannot be construed as a confirmation of an entitlement to income tax reimbursement. In your memorandum you merely advised PER that you and your family had been granted Permanent Resident status by the Government of the USA and that in your view this would not have any consequences relative to your service with ICAO except that there might be ramifications arising from the United States income tax obligations on your ICAO earnings. However, your memorandum did not contain any indication that you had in fact established residence in the USA. In fact both the May and November 1986 issues of the ICAO Directory give an address in Montreal as your residence. It was not until your request for advance payment of estimated US income tax was received by FIN [Finance] that we learned of your apparent move to Plattsburgh. In the light of the existing 'Foreign Earned Income Exclusion' which US citizens and resident aliens could claim, there was then no reason to respond to your memorandum of 27 May 1986.
>
> The Circular Memorandum of 26 September 1983 by C/FIN [Chief, Finance Branch] to which you refer was expressly addressed to 'US Citizen Technical Assistance Field Experts of ICAO'. As you are not a field expert, it does not apply to you. However, even if one assumes that the principles of tax reimbursement would be the same for regular staff, your claim could not be accepted. Paragraph 10 requires the claimant to avail himself of all legal deductions and exemptions and to take every legitimate step to minimize the tax payable. Staff members of ICAO who are US citizens or resident aliens are normally not paying US income tax under the afore-mentioned 'Foreign Earned Income Exclusion' if they are bona fide residents of a foreign country. Hence it follows, that the granting of Permanent Resident status by the US Government would not in itself have given rise to tax liability in the US under current provisions if you had not decided to declare Plattsburgh as your residence.
>
> As you indicated in your letter the sole reason for changing your residence was to obtain US citizenship and that it is your intention to re-establish residency in Montreal as soon as you have achieved this objective. This, of course, is your

personal privilege. However, as a result of your personal choice the Organization cannot assume an additional liability which, I have been told, would be in the region of US $58,000 for a five-year period, and which would not have arisen had you retained your declared residence in Montreal."

On 10 April 1987 the Applicant requested the Secretary-General to review the decision conveyed to the Applicant on 10 March 1987 and confirmed on 31 March 1987. On 26 May 1987 the Secretary-General confirmed that decision and on 5 June 1987 the Applicant lodged an appeal with the Advisory Joint Appeals Board of ICAO. The Board issued its Opinion (No. 82) on 21 October 1987. The Board's conclusions and recommendations read as follows:

"CONCLUSIONS AND RECOMMENDATIONS

43. The Board concludes that the Secretary General's decision not to reimburse the Appellant was proper in that he had no authority to do so. Therefore, the Board unanimously recommends that the Appeal be rejected.

44. However, the Board believes that the Appellant, on the basis of erroneous advice given by ICAO officials, had created, in good faith but without careful consideration of the consequences, for his personal goals and unrelated to his work with ICAO, a situation under which he might be subject to income tax on his ICAO earnings in the United States. The Board recommends that the Secretary General grant assistance to the Appellant, in co-operation with the appropriate authorities of the United States, in an attempt to find a legitimate solution, if such exists, under which the Appellant would not jeopardize his aspiration to qualify for US citizenship in due course and without being subject to income tax on his ICAO earnings in the United States.

45. With regard to the advance erroneously paid to the Appellant, and in case a legitimate solution in accordance with paragraph 44 cannot be found, the Board recommends that the Appellant be granted the amount paid so far for income tax purposes as a one-time ex-gratia payment. If a legitimate solution can be found, the Appellant should be required to reimburse to ICAO any amounts he may be able to recuperate retroactively from the United States authorities on taxes covered by the erroneous advance."

On 5 November 1987 the Applicant was advised that on 4 November 1987

the Secretary-General had taken the following decision with regard to his appeal:

> "...
>
> I accept the main conclusion of the Board (paragraph 43); indeed, the applicable regulations, rules, the established administrative practice and the budgetary appropriations approved by the Assembly do not give me any authority to reimburse the Appellant for income tax to which he may be subjected by the authorities of the United States of America; consequently, the Appellant's claim has no basis in facts and in law.
>
> With regard to the Board's recommendation in paragraph 44, I am prepared to assist the Appellant, at his request, by issuing factual certificates concerning his employment with the Organization, his duty station, salary and emoluments, etc.; however, any dealings with the authorities of the United States of America concerning the Appellant's right of residence and the conditions thereof and his aspirations to qualify for US citizenship are strictly his personal matters unrelated to his performance of duties and the Appellant must assume full responsibility for his acts.
>
> With regard to the advance for income tax paid to the Appellant by error (paragraph 45), I recognized that an error was committed by the appropriate services, although I am not convinced that any prejudice was thereby caused to the Appellant. In the interests of equity and without prejudice to the main conclusion above I accept, in part, the recommendation of the Board and I grant the Appellant an ex gratia payment in the amount of $500.00 (five hundred), the maximum I am allowed to grant under the ICAO financial regulation 11.3 a). The remainder of the erroneous advance is to be repaid by the Appellant in equal monthly installments, beginning in January 1988, over the period of 24 months without interest.
>
> The Appeal is rejected."

On 20 January 1988 the Applicant filed with the Tribunal the application referred to earlier.

Whereas the Applicant's principal contentions are:

1. ICAO and its Member States constitutionally acknowledge principles of independence and equality of remuneration for equal

work relative to its officials. This acknowledgement implies, essentially, guaranteed receipt of net staff-assessed salaries.

2. Whereas that guarantee is most frequently documented by formal adherence to the privileges and immunities convention exempting ICAO earnings from income tax, the United States Government has chosen, as an alternative means of guarantee, formal arrangements with ICAO to repay to the Organization reimbursements made to staff in respect of tax levied on their ICAO salaries.

3. Through 31 December 1982, ICAO has reimbursed, to Regular Programme staff, income tax levied by United States authorities on ICAO-earned income.

4. As of 1 January 1983, ICAO undertook to make reimbursements of tax levied by the United States Government on ICAO income against the procedural provisions promulgated by a Circular Memorandum of 26 September 1983. Reimbursements were made to Regular Programme staff in accordance with that Circular Memorandum.

5. The United States Government, when notifying the termination effective 31 December 1982 of the then current agreement, acknowledged that there would be a continuing requirement to repay to ICAO taxes levied on ICAO earnings and reimbursed by the Organization.

6. The Circular Memorandum of 26 September 1983 was designed to reflect ICAO's historic readiness to reimburse taxes imposed on ICAO earnings to ensure equality of treatment of peers. The Circular Memorandum is binding on ICAO, in both equity and law. Under its terms, reimbursements must by made to the Applicant in respect of taxes legally levied by United States authorities on his ICAO earnings.

7. The Applicant is guaranteed the net staff assessed salary appropriate to his classification and family circumstances by the principles constitutionally approved by the Organization and its Member States, including the Government of the United States.

Whereas the Respondent's principle contentions are:

1. Neither the terms of the Applicant's letter of appointment nor the ICAO Staff Regulations and Rules applicable to regular staff members give rise to any right to reimbursement of United States taxes levied upon his ICAO emoluments and thus do not authorize the Secretary-General to reimburse such taxes.

2. Although the ICAO Field Service Staff Rules are not applicable to the Applicant, even an analogous application of rule 3.14 would not establish any legal claim for reimbursement of taxes levied under United States Federal or State laws on his ICAO income since those taxes are not levied by the authorities of the country of which he is a national.

3. The Circular Memorandum of 26 September 1983 is not applicable to the Applicant since he is neither a United States citizen nor a Technical Assistance field expert. Not did that Circular Memorandum establish an administrative practice according to which regular staff members of ICAO should be entitled to reimbursement of taxes levied by United States authorities on their ICAO emoluments. Nor can an erroneous application of the Circular Memorandum to the case of the Applicant by a junior officer establish a legitimate administrative practice which would be binding upon the Administration.

4. The Circular Memoranda issued between 1977 and 1982 ceased to be legally relevant when the income tax reimbursement agreement between ICAO and the United States Government was terminated.

5. The individual cases relied on by the Applicant where ICAO employees were reimbursed for United States taxes levied on their ICAO income after the termination of the agreement were factually different from his own.

6. The Applicant has not been denied freedom of movement and residence. Nor was his change of residence necessary to ensure the safety and well-being of his family.

The Tribunal, having deliberated on 8 November 1988 in New York and from 16 to 18 May 1989 in Geneva, now pronounces the following

judgement:

I. The application in this case challenges the acceptance by the Secretary-General of ICAO dated 4 November 1987 of the unanimous recommendation of the Advisory Joint Appeals Board (AJAB) that the Applicant's appeal be rejected. The question before the Tribunal is whether the Applicant, a Lebanese staff member, is entitled to reimbursement of U.S. income taxes imposed on his ICAO emoluments as a result of his personal decision to seek U.S. citizenship. That personal decision necessitated relocation of his residence from Montreal, Canada, his duty station, where he has not been subject to Canadian taxation on his ICAO income, to Plattsburgh, New York, just below the Canadian border, where he became subject to U.S. and state income taxes on his ICAO income.

II. In 1980, the Applicant was living in Montreal and serving as a staff member of ICAO under a three-year appointment when he decided to apply for permanent resident status in the United States. In view of his employment status with ICAO, he plainly had no contractual assurance at that time that he would still be in the employ of ICAO in Canada if and when U.S. permanent resident status was granted to him. Nor did he have assurance that such status would be granted. Hence in 1980 he could not reasonably have relied on the situation at that time with respect to reimbursement of U.S. income taxes by ICAO.

III. In March 1984, the Applicant's term appointment (which had previously been extended) was superseded by a permanent appointment. In 1986, his 1980 request for permanent resident status in the U.S. was approved for himself and his family. To take advantage of this, the Applicant had to establish a permanent residence in the United States. He was free to do so and to commute to work since there was no obligation that he live in Canada in order to work for ICAO at its Headquarters in Montreal.

IV. Prior to 1983, ICAO staff members who were subject to U.S. income taxes were eligible for reimbursement under the employment conditions then in effect at ICAO. This was the consequence of agreements between the United States and ICAO under which the United States reimbursed ICAO for such income taxes paid by ICAO staff members. However, because of changes in U.S. tax laws with reference to U.S. citizens working and deriving employment income abroad, the United States discontinued its reimbursement arrangement with ICAO. In consequence, ICAO changed its reimbursement conditions in 1983 by discontinuing the former practice with respect to reimbursement of U.S. income taxes. On 26 September 1983, ICAO, by a circular memorandum, announced a policy with respect to reimbursement of U.S. income taxes paid by U.S. citizens employed by ICAO in its technical assistance field staff. That circular memorandum has continued to represent ICAO's policy. Although nothing in the circular memorandum applies mandatorily to persons who are not U.S. citizens or persons who are not members of the technical assistance field staff, the Applicant nevertheless relies heavily on it as justifying his claim for reimbursement.

V. The Applicant's contention is that when he made inquiries about his eligibility for reimbursement of U.S. income taxes, he was told unofficially that the circular memorandum dated 26 September 1983 was applicable to him and that there was an established administrative practice at ICAO to reimburse the payment of U.S. income taxes regardless of whether the staff member was part of the technical assistance field staff or the Regular Programme staff. Indeed, when the Applicant first applied for reimbursement, his request was approved and he received $3,000. Shortly thereafter, he was informed that the $3,000 had been paid to him erroneously and that since he was not entitled to it, he was required to return it.

VI. The Tribunal believes that the question whether the Applicant

is entitled to the tax reimbursement he sought from ICAO depends entirely on whether anything in his contract of employment or the ICAO Service Code provides for this or on whether ICAO's refusal to reimburse him for U.S. income taxes represents an unjustified discriminatory departure from an established administrative practice of different treatment accorded to other similarly situated staff

members. In agreement with the findings and conclusions reached by the AJAB, the Tribunal finds that the Applicant is not entitled to reimbursement of U.S. income taxes from ICAO.

VII. The situation regarding tax reimbursement prior to 1983, and in particular prior to the circular memorandum dated 26 September 1983, has no bearing on the issue in this case. The Applicant's entitlement or non- entitlement is governed by his letter of appointment dated 11 April 1984, which makes no reference to any reimbursement of national income taxes. And although his appointment is subject to the provisions of the ICAO Service Code in force, as amended from time to time, neither the ICAO Staff Regulations nor its Staff Rules, as amended, provided for reimbursement of the Applicant's U.S. income taxes. In that respect and in others, such as the nonexistence of an ICAO tax equalization fund, ICAO has stated that its policies and practices with regard to income taxes payable by its Regular Programme staff are very different from those of the United Nations.

VIII. The Applicant relies, as noted above, on an alleged established administrative practice which he believes requires ICAO to reimburse his U.S. income taxes. In this regard, the Applicant points to the 26 September 1983 circular memorandum and ICAO Field Service staff rule 3.14. Neither the circular memorandum nor the Staff Rule supports the Applicant's position. The circular memorandum, on its face, applies to U.S. citizens who are members of the technical assistance field staff. The Applicant is neither a U.S. citizen nor a member of the technical assistance field staff. He is a Lebanese national who is a member of the ICAO Regular Programme staff. Moreover, Field Service staff rule 3.14 makes it clear that the reimbursement it contemplates is limited to taxes levied by a national authority. In context, this latter term plainly refers to taxes levied by the country of which the staff member is a national. Subsection (f) of Field Service staff

rule 3.14 provides an entirely different discretionary treatment with respect to reimbursement of income taxes levied by a country in which a technical assistance staff member is not a national but has acquired permanent resident status.

IX. The only evidence of reimbursement of U.S. income taxes paid by Regular Programme staff members subsequent to 1982 fails to establish an administrative practice which would support a finding of unlawful discrimination in the Secretary-General's refusal to reimburse the Applicant. The evidence showed that in three instances U.S. citizens who were given short fixed-term appointments as Regular Programme staff members had their U.S. income taxes reimbursed pursuant to the terms of their employment agreements. The reason for this, which has no application at all to the Applicant's situation, was that the service of the individuals involved was required for a short term. They were to be employed outside the United States but not for long enough to entitle them to a tax exemption under U.S. law. And the Secretary-General determined that it was in the interests of the Organization to employ them on those terms. That the Secretary-General offered these individuals, because of the special circumstances, conditions which would not normally be available to permanent Regular Programme staff members does not show either an established administrative practice or unlawful discrimination against the Applicant.The Tribunal has been informed by the Respondent that, as things turned out, one of the three became eligible for the tax exemption because of extensions of his contract, and he repaid to ICAO the amount he had previously received from it as tax reimbursement.

X. To be sure, the Applicant doubtless relied in good faith on the erroneous informal advice he received regarding tax reimbursement. This is unfortunate. But it imposes no obligation on ICAO. As the Tribunal has had occasion to point out in another case, when a staff member is about to embark on a course of conduct based on a

questionable interpretation of an official pronouncement, such as the circular memorandum in this case, it is incumbent on the staff member to seek and obtain a written authorized confirmation from an appropriate official of the Organization before acting in reliance on his or her own view even if the latter is supported by informal advice. See Judgement No. 410, Noll-Wagenfeld (1988). Otherwise the staff member acts at his or her own risk. In this case, moreover, the Secretary-General accepted in part a recommendation by the AJAB that the Applicant be granted an ex gratia payment by awarding him $500, the maximum allowable under the applicable ICAO regulation. In the Tribunal's view this was entirely adequate under the circumstances.

XI. The Tribunal observes that once the Applicant has completed his five-year residence requirement for U.S. citizenship and has become a U.S. citizen, there will apparently be no barrier to the Applicant moving back to Montreal, as he seems to intend. Should he do so, he would then become eligible for whatever tax exemption applies to all U.S. citizens in the employ of ICAO or other organizations that are part of the common system outside of the United States.

XII. The Applicant has argued that he was exercising a basic human right in accordance with the Universal Declaration of Human Rights when he decided to move to the United States in order to become a citizen and to change his nationality from Lebanese to American. ICAO did not question this right, which is, in any event, irrelevant to the case. The Tribunal finds, as it did in Judgement No. 326, Fischman (1984), paragraph IV, that

> "the Applicant's allegation concerning the infringement of his rights under the Universal Declaration of Human Rights is unfounded and that he 'confused general human rights with particular conditions of service which govern his employment contract' (Judgement No. 66: Khavkine)".

XIII. In keeping with the AJAB recommendation in paragraph 44 of

its report, with which the Tribunal is in sympathy, ICAO may wish to reconsider discussing with appropriate U.S. officials the circumstances of this case with the object of seeking reimbursement from U.S. jurisdictions of the taxes paid by the Applicant so that they might be returned to him by ICAO. Otherwise it seems clear that the Applicant will find himself in the unfortunate position of, in effect, being taxed twice on the same income unlike his colleagues.

XIV. The application is rejected in its entirety.

(Signatures)

Arnold KEAN
President

Jerome ACKERMAN
Vice-President

Ioan VOICU
Member

Geneva, 18 May 1989

Jean HARDY
Acting Executive Secretary