
ICAO

International Civil Aviation Organization

COUNCIL — 197TH SESSION

Montréal, 29 October – 14 November 2012

SUMMARY MINUTES
WITH SUBJECT INDEX



2013

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COUNCIL — 197TH SESSION

SUMMARY MINUTES OF THE FIRST MEETING

(THE COUNCIL CHAMBER, MONDAY, 29 OCTOBER 2012, AT 1430 HOURS)

OPEN MEETING

President of the Council: Mr. Roberto Kobeh González

Secretary: Mr. Raymond Benjamin, Secretary General

PRESENT:

Argentina	— Mr. J. Gelso	Malaysia	— Mr. Y.-H. Lim
Australia	— Ms. K. Macaulay	Mexico	— Mr. D. Méndez Mayora
Belgium	— Mr. G. Robert	Morocco	— Mr. A. Boulmane
Brazil	— Mr. J. Taunay	Nigeria	— Dr. O.B. Aliu
Burkina Faso	— Mr. M. Dieguimde	Paraguay	— Mrs. A. Torres de Rodríguez
Cameroon	— Mr. E. Zoa Etundi	Peru	— Mrs. D.E. Sotomayor Yalán
Canada	— Mr. M. Allen	Republic of Korea	— Mr. Choi, D.
China	— Mr. Tao Ma	Russian Federation	— Mr. A.A. Novgorodov
Colombia	— Mr. A. Muñoz Gómez	Saudi Arabia	— Mr. T.M.B. Kabli
Cuba	— Mr. J.F. Castillo de la Paz	Singapore	— Mr. T.-C. Ng
Denmark	— Mr. K.L. Larsen	Slovenia	— Mr. A. Krapež
Egypt	— Mr. M.T. Elzanaty	South Africa	— Mr. L. Mabaso
France	— Mr. M. Wachenheim	Spain	— Mr. V.M. Aguado
Germany	— Mr. R. Monning (Alt.)	Swaziland	— Mr. D. Litchfield
Guatemala	— Mr. H.A. Rosales Salaverría	Uganda	— Mr. J. Twijuke
India	— Mr. P.N. Sukul	United Arab Emirates	— Mr. R. Al Kaabi (Alt.)
Italy	— Mr. E. Padula	United Kingdom	— Mr. M. Rodmell
Japan	— Mr. T. Koda	United States	— Mr. D. Woerth

ALSO PRESENT:

Dr. N. Luongo (Alt.)	— Argentina
Mr. J.C.F. da Silva (Alt.)	— Brazil
Mr. A. Rebouças (Alt.)	— Brazil
Mr. R. Oliveira de Carvalho (Alt.)	— Brazil
Mr. P. Pape (Alt.)	— France
Mr. A. Bardaro (Alt.)	— Italy
Mrs. D. Valle Álvarez (Alt.)	— Mexico
Mrs. L. Camacho Bueno (Alt.)	— Peru
Mr. Bae, J. (Alt.)	— Republic of Korea
Mr. J.L. Novak (Alt.)	— United States

SECRETARIAT:

Mr. D. Azema	— DC/OSG
*Mr. B. Djibo	— D/ATB
*Mr. R. Bhalla	— C/FIN
*Mr. J. Marriott	— C/AVSEC
*Mr. O. Myard	— C/EAO
*Mr. S. Berti	— C/SFP
*Mr. M. Siciliano	— SFP
*Mr. A. Doazan	— SFP
*Mr. D. Wilkinson	— ASA
Mr. A. Larcos	— ACS
Miss S. Black	— Précis-writer

Mr. J. Moor, Chairperson, EAAC

Mr. C. Ross, EU (Obs.)

*Part-time

Representatives to ICAO

Chile
Dominican Republic
Ethiopia
Greece
Iran (Islamic Republic of)
Lebanon
Turkey
Uruguay
Venezuela (Bolivarian
Republic of)

Minute of silence and condolences

1. The Council observed a minute of silence in memory of His Excellency John Evans Atta Mills, the President of Ghana, and His Excellency Meles Zenawi, the Prime Minister of Ethiopia, who had passed away on 24 July 2012 and 20 August 2012, respectively. It was noted that, on behalf of the Council and the ICAO Secretariat, the President of the Council and the Secretary General had sent letters of condolence to the Governments of Ghana and Ethiopia.

Welcome to new Representatives on the Council

2. The President of the Council extended a warm welcome to Mr. Alberto Muñoz Gómez, Mr. Héctor Augusto Rosales Salaverría, Mr. Prashant Narain Sukul, Mr. Enrico Padula and Mrs. Doris Elba Sotomayor Yalán, the newly-appointed Representatives of Colombia, Guatemala, India, Italy and Peru, respectively.

Subject No. 13: Work programmes of Council and its subsidiary bodies

Schedule for consideration of items during the 197th Session

3. The Council noted the meeting schedule for the 197th Session presented in the President's memorandum PRES RK/2088 Revised dated 17 August 2012, subject to the following changes:

- the addition of a meeting of the Committee on Unlawful Interference (UIC), which had taken place earlier in the day, i.e. on the morning of Monday, 29 October 2012;
- the addition of an informal briefing of the Finance Committee (FIC), to be convened on Tuesday, 30 October 2012 at 1000 hours; and
- the rescheduling of the informal briefing of the Council on a global market-based measures (MBM) scheme and framework from Tuesday, 30 October 2012 at 1430 hours to Friday, 2 November 2012 at 1500 hours (*cf.* PRES RK/2115 Revised dated 26 October 2012).

4. The Council also noted the schedule for the consideration of items during the 197th Session of the Council as set out in President's memorandum PRES RK/2108 dated 5 October 2012, on the understanding that:

- as indicated in Addendum No. 2 and Corrigendum to C-WP/13863 Revised, two supplementary items had been added to the Council's Work Programme for the 197th Session and would be tabled for consideration during the third week of the session (13 to 16 November 2012), *Amendment 13 to Annex 17 – Security* (C-WP/13917 Revision No. 2) and *Proposal for the establishment of a Standing Committee on Relations with the Host Country* (C-WP/13918), and one item had been deferred to the next (198th) session, *Report on the deliberations of the Tripartite Consultative Committee*; and

- the Secretary General will present an oral and not a written report on the status of negotiations on the Supplementary Agreement between ICAO and the Government of Canada regarding the Headquarters of ICAO.

Annual Report of the Evaluation and Audit Advisory Committee (EAAC)

5. The Council had for consideration: information paper C-WP/13888, in which the Chairperson of the Evaluation and Audit Advisory Committee (EAAC), Mr. J. Moor, presented the Committee's first Annual Report covering the period 2011-2012; and an oral report thereon by the Finance Committee (FIC).

6. The FIC had reviewed the Annual Report at its Second Meeting of the 197th Session on 27 September 2012. In his introduction thereof, the Chairperson of the EAAC had explained that the Annual Report included many issues already raised in the two interim reports submitted to the Council during the last year. The purpose of the present Annual Report was to highlight key observations made by the EAAC on which the Council could seek assurances from the Secretariat that the issues were being addressed. FIC Members had debated how best to take forward the various suggestions included in the Annual Report and invited the Council to make certain recommendations or decisions.

7. In endorsing the FIC's oral report, the Representative of Spain affirmed that the right procedure had been followed in tabling C-WP/13888 for discussion even though it was an information paper as the Annual Report contained a number of key points which necessitated action by the Council.

8. Referring to the FIC's recommendation that the Council consider whether the work of the Joint Inspection Unit (JIU) added value to ICAO, compared with the burden it represented for the Secretariat, the Representative of France averred that the latter was being treated as if it numbered 20 000 employees instead of about 700. In recognizing the burden that responding to all of the JIU reviews represented to the Secretariat, in particular the Finance Branch (FIN) and the Evaluation and Internal Audit Office (EAO), he expressed doubt that the benefits derived from the JIU's work were commensurate with the amount of time spent by the Secretariat.

9. In then noting the EAAC's Annual Report for 2011-2012 set forth in C-WP/13888 and the FIC's oral report thereon, the Council took the action proposed by the President of the Council in light of the FIC's recommendations and:

- a) requested the External Auditor to:
 - i) work together with the Secretariat to ensure that all issues, recommendations and actions raised in the said Annual Report were clearly understood and that, where a recommendation was agreed, clear, specific action steps were identified to address the audit finding and implemented as soon as possible; and
 - ii) prioritize his recommendations in future;
- b) requested the Secretary General to:
 - i) note the FIC's recommendations that consideration be given to whether the work of the Joint Inspection Unit (JIU) added value to ICAO, compared with the burden it represented for the Secretariat, and that he raise any general concerns

about the number of JIU studies carried out each year and whether the process was sufficiently flexible to deal with differences in United Nations (UN) bodies at an appropriate forum or body of the UN Chief Executives Board for Coordination (CEB); and

- ii) report to the Council in the event of any resultant change in the relations between ICAO and the JIU; and
- c) requested the Secretary General to develop adequately a risk management culture throughout the Organization as suggested in paragraph 5.1.1 of the Annual Report.

Subject No. 18.7: Appointment of External Auditor

Appointment of the External Auditor of ICAO for the financial years 2014, 2015 and 2016

10. The Council considered this subject on the basis of: C-WP/13898 presented by the Secretary General, which contained a draft State letter inviting Member States to nominate the Supreme Audit Institution of their country to be considered for appointment as the External Auditor of ICAO for the financial years 2014, 2015 and 2016 (*cf.* Appendix A), as well as the terms of reference for the proposed Council Working Group which would review the nominations (*cf.* Appendix B); and an oral report thereon by the Finance Committee (FIC). It was noted that the reference made to the Advisory Group on Evaluation and Audit in the last sentence of paragraph 2.2 of the paper should be changed to the Evaluation and Audit Advisory Committee (EAAC).

11. The Council agreed to the following changes to the draft State letter recommended by the FIC in light of its review of the paper during its Second Meeting of the 197th Session on 27 September 2012: that the date specified for the submission of nominations and their receipt by the Office of the Secretary General be advanced from 31 March 2013 to 15 March 2013; and that text be added specifying the role of the External Auditor concerning performance audits and indicating that the number of performance audits should not exceed two within a calendar year.

12. Referring to the latter change regarding performance audits, the Representative of Mexico emphasized the need to keep in mind Rule 13.5 of *The ICAO Financial Regulations* (Doc 7515), which stipulated that “The External Auditor shall be completely independent and solely responsible for the conduct of all the Organization’s accounts and Funds.”. Maintaining the External Auditor’s independence was of paramount importance for the Organization. While agreeing, the President of the Council underscored that the Council had the authority to request a limit on the number of performance audits.

13. With regard to the Committee’s recommendation that an additional paragraph be added stating: “To ensure rotation, a time limit has been set to the mandate of the External Auditor to a maximum of six years, comprised of an initial term of three years with the possibility of one extension. The initial term will commence with the financial year 2014.”, the Council agreed that, as suggested by the Representative of the United Kingdom, the new paragraph should instead reflect the expectation that the External Auditor would serve six years, subject to a communication, by 30 September of the second year of his mandate, of his intention to continue or withdraw his candidacy from the second three-year term and subject to a satisfactory performance assessment of his first term.

14. The Council further agreed to the FIC's recommendation that the fifth bullet of paragraph 2.4 of the terms of reference for the proposed Council Working Group (*cf.* Appendix B) be amended to read "Use of English language".

15. In taking the action indicated in the executive summary of C-WP/13898, as amended by the President of the Council in light of the discussion, the Council:

- a) approved the draft State letter inviting nominations from Member States for the position of External Auditor of ICAO for the financial years 2014, 2015 and 2016 set forth in Appendix A to the paper, subject to the amendments recorded in paragraphs 11 and 13 above;
- b) agreed that a Council Working Group comprised of up to five Members be established for the review of nominations as outlined in the terms of reference set forth in Appendix B to the paper and amended in paragraph 14 above;
- c) delegated the responsibility of establishing the Council Working Group to the President of the Council, who would determine its composition after the deadline of 15 March 2013 for the submission and receipt of nominations, taking into account the principle of equitable geographical representation, and inform Representatives thereof by e-mail;
- d) requested the Evaluation and Audit Advisory Committee (EAAC), in accordance with paragraph 5.2 of its Terms of Reference, to provide advice on the proposed fees, terms or budget of the External Auditor and the latter's appointment and remuneration; and
- e) requested the said Council Working Group to present its recommendation for the appointment of a new External Auditor of ICAO for the financial years 2014, 2015 and 2016 to the Council, through the FIC, during the 199th Session in May/June 2013 in a paper by the Secretary General which would also contain a draft Assembly working paper on the appointment.

Subject No. 52: Unlawful interference with international civil aviation and its facilities

**Outcome of the High-level Conference on Aviation Security (HLCAS)
(Montréal, 12 to 14 September 2012)**

16. The Council had for consideration: C-WP/13875, in which the Secretary General presented a summary of the key recommendations adopted by the High-level Conference on Aviation Security (HLCAS) and proposed follow-up actions for their implementation; and an oral report thereon by the Committee on Unlawful Interference (UIC).

17. During its review of the paper at its First Meeting of the 197th Session on 3 October 2012, the Committee had commended the work of the Secretariat in the organization of the HLCAS, which had led to the successful conclusion of the event and the achievement of the desired outcomes in enhancing global aviation security. A Committee Member had expressed some concern with regard to action paragraph b) of the executive summary of C-WP/13875, which acknowledged budgetary implications associated with implementing the HLCAS recommendations. In that regard, the Secretariat had clarified that no additional resources would be required in the current triennium. Any financial implications of

HLCAS recommendations for the next triennium would be addressed through the regular budget process for all ICAO Strategic Objectives, in collaboration with the Council. Accordingly, the Committee had agreed to recommend that action paragraph b) be amended by adding the phrase “in the context of the overall budget discussions” after the word “Council”.

18. In view of the HLCAS recommendations that the Council consider the expedited adoption of new and amended Standards and Recommended Practices (SARPs) in order to mitigate risks to air cargo and to address the insider threat, and in recognition that such SARPs were also deemed to be operationally urgent, the UIC had unanimously agreed to recommend that the Council consider adopting Amendment 13 to Annex 17 – *Security* during the current 197th Session, using the fast-track procedure, instead of during the 198th Session as indicated in the Appendix to the paper. It was noted that the said Annex amendment would now be tabled for adoption during the third week of the present session (*cf.* paragraph 4 above).

19. The Representative of France endorsed the UIC’s oral report. In commenting on C-WP/13875, he averred that the status accorded to the global Risk Context Statement (RCS) in the executive summary and body of the paper went beyond what had been decided by the HLCAS. The Representative of France emphasized that the RCS should be considered only as a methodology that would be made available to States for possible use in further developing their own national risk assessments. It had not been intended that ICAO issue and maintain the RCS for global assessment purposes as the results would be highly contestable. While noting that proposed follow-up action 1) for Agenda Item 1: ICAO global Risk Context Statement (RCS) (“Disseminate the RCS to States in an appropriate format;”) was prudently-worded, the Representative of France still had questions regarding ICAO’s role and urged utmost caution in using the methodology.

20. In reiterating the need to closely monitor the financial and other implications of the transition of the Universal Security Audit Programme (USAP) to a continuous monitoring approach (CMA) for Member States and the Organization, the Representative of France suggested that annual progress reports be given to the Council on the status of the transition. This was noted for consideration during the Council’s discussion, under the next item on the order of business, of C-WP/13876 [with Revision No. 1 (Russian only)] on the evolution of the USAP beyond 2013.

21. Observing that the executive summary of the paper referred to HLCAS recommendations “aimed at ensuring sustainability and passenger facilitation”, the Representative of France maintained that the recommendations went beyond facilitation, which was primarily of interest to airlines, and dealt with the physical and economic well-being of passengers. Respect for passengers’ dignity was a fundamental right. The Representative of France also underscored that it was imperative that the current search for new aviation security measures include a cost containment study. While aware that it had not been possible to mention all of the subjects addressed by the HLCAS in the executive summary, the Representative of France further emphasized that reference should have been made to the protection of the public areas of airports.

22. While commending proposed follow-up action 4) for Agenda Item 6: Ensuring the sustainability of aviation security measures – equivalence (“Issue a State letter communicating guiding principles for sustainable aviation security measures;”), the Representative of France stressed that the guiding principles should explicitly include respect for passengers and cost containment and suggested that follow-up action 4) be amended accordingly.

23. Drawing attention to proposed follow-up action 2) for Agenda Item 8: Driving technology developments and innovation, the Representative of France suggested that it be amended to indicate that the

Aviation Security Panel (AVSECP) and the Technical Advisory Group on Next Generation Screening should take into account the discussions of the envisaged Symposium on Innovation in Aviation Security in further reviewing the Component Research Roadmap and that the latter would be presented to the Council for further consideration. He also suggested that the reference to issuing an electronic bulletin providing information on a framework for the development of next generation passenger screening be deleted as the framework had not yet achieved a sufficient level of maturity.

24. While understanding why the Appendix to the paper contained only a summary of the key recommendations adopted by the HLCAS, the Representative of France underscored that information was sometimes lost in summarizing and suggested that action paragraph a) in the executive summary be amended to refer to approval of the recommendations contained in the Report of the HLCAS rather than in the Appendix to the paper. The Representative of the United States supported this proposal.

25. Noting that the Secretariat agreed on the need to exercise utmost caution with respect to the new RCS, the Chief of the Aviation Security Branch (C/AVSEC) stressed that every effort would be made to ensure its confidentiality and appropriate use as a form of guidance material. The Secretariat would be pleased to provide an annual progress report on the evolution of the next stage of the USAP and the transition to a CMA.

26. With respect to the possibility of a cost containment study for new aviation security measures, C/AVSEC recalled that costs were already included in the AVSECP's analysis of such measures, which in turn led to the Panel's recommendations to the UIC and the Council. The Secretariat would be pleased to highlight the Council's interest in understanding more of the potential financial impacts of new measures to the AVSECP. With regard to the point raised regarding the protection of the public area of airports, C/AVSEC noted that the issue had not been an Agenda Item, although it had formed part of the overall discussions, and that it was featured in the HLCAS Report.

27. In highlighting the important role played by the regional conferences on aviation security, the Representative of Cuba underscored that they had laid the groundwork for the HLCAS recommendations. Averring that there had not been sufficient time during the HLCAS for the necessary policy discussions of certain issues, he indicated that this was one of the lessons to be drawn from the Conference. The Representative of Cuba emphasized, in this regard, that when States made such tremendous efforts to take part in such an event, assisting in the preparatory work and allocating financial resources for participation, it would be worthwhile to allow them the requisite time for discussion.

28. While recalling that the proposal to convene the HLCAS had been the subject of lengthy Council discussions and that it had been decided that the Conference's programme and two-and-a-half-day duration were appropriate, C/AVSEC indicated, with the benefit of hindsight, that it would have been beneficial to have another day or half-day. He agreed that this could be taken as a lesson learned for future conferences of this sort.

29. Referring to Agenda Item 7: The role of the Machine Readable Travel Documents (MRTD) Programme, Advance Passenger Information (API), and Passenger Name Record (PNR), recommendation b) on ePassports and the Public Key Directory (PKD), the Representative of Uganda noted that it called for States to consider issuing ePassports when, in fact, many States were already doing so. The proposed follow-up action 2) a., for the short-term (implementation by end-2012), was to issue a State letter to communicate ePassport-related recommendations, and the proposed follow-up action 2) d., for the medium-term (implementation by the end of the 2011-2013 triennium), was to issue new/revised guidance material on the introduction of ePassports. He recalled that the HLCAS had stopped short of

endorsing the development of a Standard for ePassports as it was considered premature to do so: many States might be left behind as they might not be in a position to implement such a Standard. Noting that surveys had shown that many ePassports did not conform to ICAO's specifications and to the PKD's requirements, which necessitated immediate action, the Representative of Uganda queried whether the issuance of the envisaged guidance material could be expedited. He underscored that it would be extremely difficult for States to dismantle their very expensive, non-conforming ePassport systems after the guidance material had become available. Observing that ePassports were the travel documents of the future, the Representative of Cuba emphasized the importance of guidance material thereon.

30. C/AVSEC indicated that the Secretariat considered that the specifications contained in Doc 9303 – *Machine Readable Travel Documents* provided sufficient guidance material, from a technical perspective, to support States in producing ePassports. It was the Secretariat's understanding that the guidance material that States were most in need of at the present time was on the process to become part of the ICAO PKD. The Representative of Uganda emphasized the importance of ensuring that States were aware of, and fully understood, the specifications for ePassports set forth in Doc 9303.

31. While noting the clarification provided by C/AVSEC, the Representative of Nigeria stressed the need for the envisaged State letter to provide adequate information on ePassport readers. He underscored that if the latter did not meet the required specifications, then ePassports would not be useful. In then referring to action paragraph b) in the executive summary of C-WP/13875, to which the UIC had proposed an amendment, the Representative of Nigeria suggested that it be further amended by deleting the phrase "to determine the most appropriate method of presenting such information to the 38th Session of the Assembly" as a draft Budget of the Organization for the 2014-2015-2016 triennium would be presented to the said Assembly. The Representatives of Japan, the United States, and Spain endorsed this proposal.

32. Recalling the comments made regarding the RCS, the Representative of the United Kingdom noted that the latter had arisen from the very clear instructions of the 37th Session of the Assembly that the AVSECP identify and develop a risk assessment methodology for aviation security and include a risk-based assessment with any AVSECP recommendations for the adoption of new or amended aviation security measures in Annex 17 – *Security* or in any other ICAO document (*cf.* Assembly Resolution A37-17, Appendix C, Operative Clause 13). Underscoring that the RCS was appropriately qualified, he noted that it made it clear that it did not attempt to infringe on the rights of Member States when it came to intelligence matters. Furthermore, it explicitly stated that it did not seek to substitute for the process of national risk assessment. It was essential that the requisite analytical tools exist in order for proposals for aviation security measures to be formulated on a risk basis. While agreeing on the need to be cautious in the promulgation of the RCS, as in all matters relating to aviation security, the Representative of the United Kingdom emphasized that in making progress with caution, it was necessary to ensure that caution did not prevent progress from being made.

33. Observing that one of the more important outcomes of the HLCAS was the strong endorsement that work on next generation screening be taken forward on the basis of the Component Research Roadmap referred to in follow-up action 2) to Agenda Item 8, the Representative of the United Kingdom expressed the hope that this would be done quickly. While it was a matter for judgement whether the proposed electronic bulletin was the most appropriate way of making progress, the essential point was to make progress on the said Roadmap before the Symposium on Innovation in Aviation Security. Use should be made of whatever measures and actions were available to ensure that this happened and that the momentum of the HCLAS was not lost.

34. Noting that aviation security was the most primitive component of the highly-technological aviation system, the Representative of Spain cited bottlenecks and the lack of mutual recognition of equivalent security measures as some of the problems associated therewith. Affirming that technological advances and innovations in aviation security were therefore essential, he stressed that the fact that the timeframes for the proposed follow-up actions for Agenda Item 8 were for the medium-term (implementation by the end of the 2011-2013 triennium) and long-term (implementation in the 2014-2016 triennium) did not mean that such advances and innovations could not be made in the very short-term. Ideally, the Component Research Roadmap defining the new security process towards next generation screening would be issued as soon as possible, after being further reviewed in light of developments, including the results of the Symposium on Innovation in Aviation Security.

35. The Representative of Colombia endorsed the comments made by the Representative of France, particularly with regard to the said Component Research Roadmap. Noting that the importance of striking a balance between security and facilitation had been frequently mentioned during the HLCAS, he emphasized that it should have been reflected more in the HLCAS Report, for example, under Agenda Item 6. The Representative of Colombia therefore suggested that the words “security and facilitation” be included in the title of Agenda Item 6. He also suggested that recommendation a) 2. (“improved passenger satisfaction”) for that Agenda Item be amended to refer to respect for human rights, an issue which had also been raised often. Averring that the discussion, under Agenda Item 3, of the issue of combating the insider threat had not been properly reflected in the HLCAS conclusions, the Representative of Colombia emphasized the need to ensure that, in future, conferences’ conclusions as set forth in their reports more precisely reflected the views expressed and proposals made.

36. While agreeing with the Representative of Spain on the importance of technological advances in aviation security, the Representative of Brazil stressed the need to ensure that screening processes did not have any harmful effects on passengers and non-passengers. Recalling the comment made by the Representative of Cuba, he affirmed that the duration of the Conference had been sufficient due to the excellent advance preparations.

37. In then taking the action indicated in the executive summary of C-WP/13875, as amended by the UIC and by the President of the Council in light of the discussion, the Council:

- a) approved the recommendations contained in the Report of the High-level Conference on Aviation Security (HLCAS) and the Secretariat follow-up actions contained in the Appendix to the paper, which would be amended in accordance with the comments made by Representatives;
- b) requested that the Secretary General quantify the resources needed to implement all of the HLCAS recommendations that required action in the next triennium and to work with the Council in the context of the overall budget discussions; and
- c) requested that the Secretary General present annual reports on the status of implementation of the recommendations of the HLCAS.

Subject No. 52.1: Universal Security Audit Programme

Evolution of the Universal Security Audit Programme (USAP) beyond 2013

38. The Council considered this subject on the basis of: C-WP/13876 [with Revision No. 1 (Russian only)] presented by the Secretary General; and an oral report thereon by the Committee on Unlawful Interference (UIC). The paper provided additional information on the proposed methodology for the Universal Security Audit Programme continuous monitoring approach (USAP-CMA), the concept of which the Council had approved in principle during the previous session (196/2). It also included the expected impact on Member States and the Organization, as well as a suggested transition plan with timelines, with the objective of full implementation of the USAP-CMA beginning in 2015.

39. During its review of C-WP/13876 at its First Meeting of the 197th Session on 3 October 2012, the UIC had expressed its appreciation for the information provided in the paper and during an informal briefing held on 2 October 2012, and had been supportive of the Secretariat's work in developing the transition plan to a USAP-CMA.

40. To certain reservations expressed concerning the impact of a USAP-CMA on Member States and the Organization, the Secretariat had clarified that requirements for the submission of information by States under the USAP-CMA would be comparable to requirements under the current audit cycle, as would be the associated administrative responsibility of States. While the overall cost for the Organization of the full implementation of a USAP-CMA was expected to be similar initially to the current cost of the Programme, costs might decrease over time as more States were identified for documentation-based audits. The Secretariat had offered to work closely with Committee Members to address specific concerns regarding the USAP-CMA.

41. The UIC had considered the Secretariat's intention not to use an online information-reporting framework similar to that being used by the Universal Safety Oversight Audit Programme (USOAP). The Secretariat had advised the Committee that there would be significant technical and financial challenges relating to the secure electronic transmission of sensitive security information over the Internet. However, the Secretariat envisaged making use of the audit and analysis software and tools developed for the USOAP by customizing them for USAP purposes.

42. Given the broad support expressed for the USAP-CMA, the Committee had recommended that the Council take the actions contained in the paper, formally approving the transition to a USAP-CMA and the proposed transition plan, which would allow the Secretariat to proceed with the development of the associated methodology and framework.

43. During the ensuing discussion, the Representative of Brazil suggested, and it was agreed, that the last sentence of paragraph 2.6 of the paper be amended by deleting the words “, but not necessarily be limited to,”.

44. While endorsing the UIC's recommendations, the Representative of France stressed the need for caution as it was not known what resources the Secretariat would have at its disposal to implement the USAP-CMA transition plan set forth in Appendix A to the paper. Averting that the Secretariat might need some flexibility in meeting the timelines for the completion of the various phases of the transition, he expressed doubt that the Council should approve the fine details of the plan. To the Representative's request for confirmation that the timelines' implementation would be subject to the availability of resources, the

President of the Council assured him that the Secretary General would never propose action that would be impossible to carry out.

45. Observing, from the overview of estimated resource requirements for States and for the ICAO Secretariat under a USAP-CMA given in Appendix B to the paper, that the overall costs during the transition period would be lower than current costs, the Representative of Nigeria emphasized the need for that to be reflected in the Draft Budget of the Organization for 2014-2015-2016, to be considered by the Council during its next (198th) Session.

46. The Council then took the action indicated in the executive summary of C-WP/13876, as recommended by the UIC, and:

- a) formally approved the transition to a USAP-CMA;
- b) approved the proposed transition plan to a USAP-CMA as described in paragraph 3 of the paper and illustrated in Appendix A thereto; and
- c) requested the Secretary General to continue to build the methodology and framework for the implementation of a USAP-CMA and to provide annual updates to the Council.

Subject No. 52: Unlawful interference with international civil aviation and its facilities

**Organization and Agenda for the Twenty-fourth Meeting
of the Aviation Security Panel (AVSECP/24)**

47. The Council considered the above subject on the basis of: C-WP/13877, presented by the Secretary General; and an oral report thereon by the Committee on Unlawful Interference (UIC).

48. During the UIC's review of the paper at its First Meeting of the 197th Session on 3 October 2012, a Committee Member, recalling a decision made at the Twenty-third Meeting of the AVSEC Panel (AVSECP/23), had suggested including a briefing by the Working Group on Threat and Risk on the global risk posed by terrorists to international civil aviation in the Agenda for AVSECP/24. The UIC had supported the proposal and requested the Secretariat to amend accordingly Agenda Item 1: Developments in aviation security since AVSECP/23.

49. While the UIC had recognized the merits of the broad nature of the proposed Agenda Items, some Committee Members had suggested that the inclusion of specific deliverables in future agendas of the AVSECP would be of benefit. The Secretariat had agreed to take these suggestions into consideration when drafting agendas for future AVSECP meetings.

50. In conclusion, the Committee had recommended that the Council approve the convening of AVSECP/24 from 8 to 12 April 2013, including the proposed Agenda contained in the Appendix to C-WP/13877, with the above-mentioned amendment to Agenda Item 1.

51. Observing that, in the explanatory notes for some Agenda Items, it was indicated that the AVSECP "will be advised" of activities, the Representative of France averred that the Panel was being given too passive a role. Emphasizing that it was expected to make proposals, he suggested that the first sentence of the explanatory note for Agenda Item 1 be amended to indicate that the Panel would also

examine and propose concrete ways in which to implement the recommendations of the High-level Conference on Aviation Security (HLCAS).

52. In agreeing on the need to specify deliverables under each Agenda Item for AVSECP/24, the Representative of Spain underscored that it was likewise necessary to amplify the agendas of the Organization's other panels and working groups so that there would be a clear indication of what work would be done, by whom and when. Recalling the Council's earlier approval of the proposed follow-up actions on the HLCAS recommendations as set forth in the Appendix to C-WP/13875 [*cf.* paragraph 33 a) above], he suggested that the AVSECP/24 Agenda be amended to reflect that the Panel, as well as the Technical Advisory Group on Next Generation Screening, would further review the Component Research Roadmap for next generation screening processes [*cf.* C-WP/13875, Appendix, Agenda Item 8, follow-up action 2)].

53. To a query by the President of the Council, the Chief of the Aviation Security Branch (C/AVSEC) confirmed that the UIC's suggestions could be taken into account in the Agenda for the upcoming AVSECP/24.

54. In taking the action indicated in the executive summary of C-WP/13877, as amended by the UIC and by the President of the Council in light of the discussion, the Council:

- a) agreed to the convening of the Twenty-fourth Meeting of the Aviation Security Panel (AVSEP/24) at ICAO Headquarters in Montréal from 8 to 12 April 2013; and
- b) approved the draft Agenda presented in the Appendix to the paper, subject to specific deliverables being added for each Agenda Item, and to Agenda Item 1: Developments in aviation security since AVSECP/23 being amended to refer to a briefing by the Working Group on Threat and Risk on the global risk posed by terrorists to international civil aviation.

Subject No. 15.4: Facilitation

Report of ATC – Update on the Machine Readable Travel Documents (MRTD) Programme

55. In providing an oral report on this subject, the Chairperson of the Air Transport Committee (ATC) noted that the Director of the Air Transport Bureau (D/ATB) and the Chief of the Aviation Security Branch (C/AVSEC) had presented an oral update on the Machine Readable Travel Documents (MRTD) Programme to the Committee at its First Meeting of the 197th Session on 5 October 2012.

56. ATC Members had confirmed the ongoing importance of the MRTD Programme and had supported the Secretariat's intention to submit a proposal for a new MRTD strategy to the Committee and the Council during the next (198th) session for approval. However, some ATC Members had stressed that, in order to obtain the necessary approval, the proposed strategy would need to be precisely expressed, including with respect to the intended Programme outcomes and potential cost impacts. It had been suggested that the Secretariat might wish to conduct an informal briefing on the proposed strategy prior to consideration of the matter by the Council.

57. ATC Members had been briefed on the new electronic United Nations (UN) laissez-passer for the UN staff worldwide and the participation of the UN in the ICAO Public Key Directory (PKD). The

ATC had highlighted the importance of the Secretariat's efforts in promoting ePassport specifications, the relevance of using the ICAO PKD and the proper reading of ePassports at borders.

58. The Council noted the above oral report by the Chairperson of the ATC. It was understood that the informal briefing on the issue of MRTDs to be given during the Committee phase of the next (198th) session pursuant to the Council's earlier decision (196/8) would address, inter alia, ePassports and the proposal for a new MRTD strategy.

Any other business

Subject No. 50: Questions relating to the environment

Appointment of a new Member and a new Observer on the Committee on Aviation Environmental Protection (CAEP)

59. In the absence of comments by 3 July 2012 to the President of the Council's e-mail dated 21 June 2012, Ms. Shona Rosengren has been appointed as the new CAEP Member nominated by Australia to replace Mr. David Southgate with effect from 4 July 2012.

60. Furthermore, in the absence of comments by 27 July 2012 to the President of the Council's e-mail dated 3 July 2012, Mr. Eugene Hoeven has been appointed as the new CAEP Observer nominated by the Civil Air Navigation Services Organisation (CANSO) to replace Mr. Ian Jopson with effect from 28 July 2012.

Subject No. 6.3: Election of Chairmen and Members of subsidiary bodies of the Council

Appointments to the Air Transport, Joint Support, Finance, Unlawful Interference, Technical Co-operation and Human Resources Committees (ATC, JSC, FIC, UIC, TCC and HRC)

61. With reference to his e-mail dated 23 July 2012, and in accordance with the *Rules of Procedure for Standing Committees of the Council* (Doc 8146), the President of the Council has appointed Mr. Alberto Muñoz Gómez (Colombia) to succeed Mrs. Gilda Rueda de Higuera as a Member of the ATC with effect from 23 July 2012.

62. In addition, in the absence of comments by 20 August 2012 to the President of the Council's said e-mail, Mr. Muñoz Gómez has been appointed to succeed Mrs. Rueda de Higuera as a Member of the TCC with effect from 17 September 2012.

63. With regard to his e-mail dated 3 August 2012, and in accordance with the said Rules of Procedure, the President of the Council has appointed Mr. Claudio Alejandro Espinoza Burgos (Paraguay) to succeed Mrs. María Teresa Faúndez del Hoyo and Mr. Gonzalo Francisco Ugarte Rodríguez as Alternate to Mrs. Aurora Torres de Rodríguez on the ATC and the TCC with effect from 31 July 2012.

64. With reference to his e-mail dated 9 August 2012, and in accordance with the *Rules of Procedure for Standing Committees of the Council* (Doc 8146), the President of the Council has appointed Mr. Alexey Anatolievich Novgorodov (Russian Federation) to succeed Mr. Karl Tikhaze as a Member of the ATC, and Mrs. Nadezhda Malikova as his Alternate on that Committee with effect from 9 August 2012. In addition, the President has appointed Mrs. Malikova as Alternate to Mr. Novgorodov on the JSC, FIC,

UIC and HRC, and Mr. Dmitry V. Shiyan as his Alternate on the HRC, with effect from 17 September 2012.

65. Furthermore, in the absence of comments by 6 September 2012 to the President of the Council's said e-mail, Mr. Novgorodov has been appointed to succeed Mr. Tikhaze as a Member of the UIC with effect from 17 September 2012.

66. With reference to his e-mail dated 14 September 2012, and in accordance with the *Rules of Procedure for Standing Committees of the Council* (Doc 8146), the President of the Council has appointed Mr. Prashant Sukul (India) to succeed Mr. Arun Mishra as a Member of the ATC with effect from 14 September 2012.

67. In addition, in the absence of comments by 20 September 2012 to the President of the Council's said e-mail, Mr. Sukul has been appointed to succeed Mr. Mishra as a Member of the FIC and the TCC with effect from 17 September 2012.

Subject No. 14.1.1: International Standards and Recommended Practices (SARPs)

Council Decision 195/5, Adoption of Amendment 36 to Annex 6, Part I

68. In the absence of comments by 3 October 2012 to the President of the Council's memorandum PRES RK/2091 dated 5 September 2012 on the above subject, it is considered that revised Standard 4.3.6.5 to Annex 6 — *Operation of Aircraft, Part I — International Commercial Air Transport — Aeroplanes* presented in the attached memorandum dated 13 August 2012 from the President of the Air Navigation Commission (ANC) has been agreed to by the Council. The rectified text will be distributed to States and international organizations in the form of a corrigendum to State letter AN 11/1.3.25-12/10 dated 4 April 2012 on the adoption of Amendment 36 to Annex 6, Part I and will be reflected in the replacement pages incorporating Amendment 36 which will be sent to States.

Subject No. 24.2: Assembly agenda and documentation

Procedure for approval of Assembly documentation

69. In the absence of comments by 21 September 2012 to President's memorandum PRES RK/2100 dated 17 September 2012, it is considered that the Council wishes to process the papers for the 38th Session of the Assembly in the manner described therein.

Subject No. 16: Legal work of the Organization

**Fifth Meeting of the Commission of Experts of the
Supervisory Authority of the International Registry (CESAIR)**

70. In the absence of objections by 3 October 2012, the President of the Council will convene the Fifth Meeting of CESAIR at ICAO Headquarters from 17 to 18 December 2012 as proposed in President's memorandum PRES RK/2102 dated 5 September 2012. The meeting will be conducted in the official languages of ICAO, as required.

Subject No. 14.3.17: Carriage of dangerous goods by aircraft**Proposed amendments to the 2011-2012 Edition of the *Technical Instructions for the Safe Transport of Dangerous Goods by Air (Doc 9284)* and its Supplement (Doc 9284SU) with respect to the transport of lithium batteries contained in equipment in the mail**

71. In the absence, by 19 October 2012, of comments on the proposed amendments to the 2011-2012 Edition of the *Technical Instructions for the Safe Transport of Dangerous Goods by Air (Doc 9284)* and its Supplement (Doc 9284SU) with respect to the transport of lithium batteries contained in equipment being sent in the mail, which was presented in the attachments to President's memorandum PRES RK/2113 dated 4 October 2012, or in the absence of a request to bring the said amendments before the Council for formal action, it is considered that they are agreed by the Council.

Subject No. 10: ICAO relations with the United Nations, the Specialized Agencies and other international organizations**Request from the European Union (EU) to participate as Observer in closed meetings of the Council on aviation security**

72. In the absence of comments by 12 October 2012 to the President of the Council's e-mail dated 28 September 2012, Mr. Christopher Ross, Head of Office, Office of the European Union (EU) in Montréal, has been invited, in accordance with Rules 32 a) and 38 of the *Rules of Procedure for the Council (Doc 7559)*, to participate as Observer on behalf of the EU during the current (197th) Council's consideration, in closed session, of all items related to aviation security.

Council working papers presented for information

73. As the President of the Council has not received any requests to have the following information papers tabled for consideration, it is considered that the Council has noted the information provided therein:

- **C-WP/13909** — *Resolutions of the 66th Session of the United Nations General Assembly* — circulated under cover of PRES RK/2094 dated 31 July 2012 with a deadline of 28 August 2012 for comments
- **C-WP/13907** — *Financial situation of the Organization and Level of the Working Capital Fund* — circulated under cover of PRES RK/2105 dated 12 September 2012 with a deadline of 10 October 2012 for comments.

Free access to public parking at Montréal's Pierre Elliott Trudeau International Airport

74. The Secretary General reassured Representatives that they would continue to benefit from free access to public parking at Montréal's Pierre Elliott Trudeau International Airport after 1 November 2012, the date on which they were to have been required to pay the applicable parking rates pursuant to a Note dated 15 October 2012 issued by Aéroports de Montréal on behalf of the Official Visits Division of Foreign Affairs and International Trade Canada (DFAIT).

75. The Secretary General noted that ICAO had taken immediate action to address the situation by contacting the Deputy Chief of Protocol and Director Diplomatic Corps Services of the Government of Canada by a letter dated 22 October 2012 from the Acting Director of the Legal Affairs and External Relations Bureau (A/D/LEB), a copy of which had been sent to Representatives. In light of the short period in which to react to the Aéroports de Montréal's said Note, the Secretary General had contacted directly its President, whom he knew personally, and asked if there were any action that the latter could take to give ICAO more time. The Secretary General had subsequently appointed a Legal Officer from LEB to discuss this matter with the Aéroports de Montréal and would keep Representatives informed of any developments.

Subject No. 14: Subjects relating to air navigation

Endorsement by ICAO of Instrument Procedure Design Organizations

76. Further to questions raised by the Representative of Belgium regarding the endorsement by ICAO of Instrument Procedure Design Organizations announced at the recent Performance-based Navigation (PBN) Symposium (Montréal, 16-19 October 2012), the Secretary General indicated that he would post some information thereon on the Council website. A more detailed informal briefing on that issue would be given to the Council during the Committee phase of the next (198th) session.

Subject No. 50: Questions relating to the environment

Submission of an Action Plan on Emissions Reduction for Civil Aviation

77. It was noted that the Government of China had submitted its Action Plan on Emissions Reduction for Civil Aviation to ICAO, a copy of which would be provided to Council Members by the Representative of China.

Subject No. 18.14: Other finance matters for consideration by Council

Financial situation of the Organization

78. A suggestion by the Representative of Mexico that consideration be given to ways to reduce the incidence of late payment of assessed contributions by Council Member States was noted by the Secretary General. It was understood that updated information on the status of contributions to the ICAO Regular Budget was posted on the Council website.

79. The meeting adjourned at 1630 hours.

COUNCIL — 197TH SESSION

SUMMARY MINUTES OF THE SECOND MEETING

(THE COUNCIL CHAMBER, WEDNESDAY, 31 OCTOBER 2012, AT 1000 HOURS)

OPEN MEETING

President of the Council: Mr. Roberto Kobeh González

Secretary: Mr. Raymond Benjamin, Secretary General

PRESENT:

Argentina	— Mr. J. Gelso	Malaysia	— Mr. Y.-H. Lim
Australia	— Ms. K. Macaulay	Mexico	— Mr. D. Méndez Mayora
Belgium	— Mr. G. Robert	Morocco	— Mr. A. Boulmane
Brazil	— Mr. J. Taunay	Nigeria	— Dr. O.B. Aliu
Burkina Faso	— Mr. M. Dieguimde	Paraguay	— Mrs. A. Torres de Rodríguez
Cameroon	— Mr. E. Zoa Etundi	Peru	— Mrs. D.E. Sotomayor Yalán
Canada	— Mr. M. Allen	Republic of Korea	— Mr. Choi, D.
China	— Mr. Tao Ma	Russian Federation	— Mr. A.A. Novgorodov
Colombia	— Mr. A. Muñoz Gómez	Saudi Arabia	— Mr. T.M.B. Kabli
Cuba	— Mr. J.F. Castillo de la Paz	Singapore	— Mr. T.-C. Ng
Denmark	— Mr. K.L. Larsen	Slovenia	— Mr. A. Krapež
Egypt	— Mr. M.T. Elzanaty	South Africa	— Mr. L. Mabaso
France	— Mr. M. Wachenheim	Spain	— Mr. V.M. Aguado
Germany	— Mr. U. Schwierczinski	Swaziland	— Mr. D. Litchfield
Guatemala	— Mr. H.A. Rosales Salaverría	Uganda	— Mr. J. Twijuke
India	— Mr. P.N. Sukul	United Arab Emirates	— Mr. R.A. Al Kaabi (Alt.)
Italy	— Mr. E. Padula	United Kingdom	— Mr. M. Rodmell
Japan	— Mr. T. Koda	United States	— Mr. D. Woerth

ALSO PRESENT:

Mr. J.C.F. da Silva (Alt.)	— Brazil
Mr. A. Rebouças (Alt.)	— Brazil
Mr. R. Oliveira de Carvalho (Alt.)	— Brazil
Mrs. D. Valle Álvarez (Alt.)	— Mexico
Mrs. L. Camacho Bueno (Alt.)	— Peru
Mr. Bae, J. (Alt.)	— Republic of Korea
Mr. K. Ferjan (Alt.)	— Slovenia
Mr. J.L. Novak (Alt.)	— United States

SECRETARIAT:

Mr. D. Azema	— DC/OSG
*Ms. N. Graham	— D/ANB
*Mr. I. Galán	— D/TCB
Mr. R. Bhalla	— C/FIN
*Mr. P. Noad	— DD/TCB
*Mr O. Myard	— C/EAO
*Ms. A. Andrade	— ADTC
Mr. A. Larcos	— ACS
Miss S. Black	— Précis-writer

*Part-time

Representatives to ICAO

Chile
Dominican Republic
Ethiopia
Greece
Iran (Islamic Republic of)
Lebanon
Turkey
Uruguay
Venezuela (Bolivarian Republic of)

Subject No. 42: Technical cooperation

Management Plan for the Technical Co-operation Programme

1. The Council considered: information paper C-WP/13882, in which the Secretary General presented the Management Plan for the Technical Co-operation Programme for the period 2013-2015, including an update on the action taken to date to implement ongoing Action Plans; and an oral report thereon by the Technical Co-operation Committee (TCC).

2. The TCC had reviewed the paper during its First Meeting of the 197th Session of the Council on 21 September 2012. It had been recalled that, as an integral part of the ICAO Business Plan, the Management Plan for the Technical Co-operation Programme was aligned with the Rolling Business Plan process adopted for the Regular Programme, and that a Plan focusing on the next three years on a rolling basis was presented to the TCC for information during each Fall Session.

3. The Committee had been informed that, since its consideration of the 2012-2014 Management Plan (195/3), the Secretariat had undertaken an in-depth reassessment of all on-going Action Plans, including the actions planned to be taken within the next three years. Among several new initiatives reflected in the updated version of the Management Plan, the Secretary had highlighted the following as most relevant for the achievement of the objectives set for the triennium and the continuous quality improvement of the Technical Co-operation Bureau (TCB):

- a) central coordination of ICAO assistance activities, including the establishment of the Monitoring and Assistance Review Board (MARB);
- b) development of a management reporting system, including dashboards;
- c) establishment of a quality assurance mechanism for technical assistance projects;
- d) enhanced coordination between TCB and the Regular Programme;
- e) trend towards a reduction in costs funded by TCB's Administrative and Operational Services Cost (AOSC) Fund;
- f) introduction of an electronic centralized filing system, in connection with the ISO9001 implementation;
- g) development of a marketing plan for the Technical Co-operation Programme; and
- h) full implementation of the e-Recruiter System.

4. The Committee had reviewed the evolution of the Technical Co-operation Programme and AOSC Fund results of operations in the last ten years, which was depicted in Section 3 of the Management Plan, and had welcomed the signs of recovery, noting that an increased Programme volume in the order of USD 137.0 million was expected to be implemented in 2013. In this regard, it had been recalled that the Committee would consider, during the current session, a separate progress report on the development of the Technical Co-operation Programme, as well as an update of the AOSC budgetary estimates, in a joint meeting with the Finance Committee (FIC). The Secretary had confirmed that related dashboards were available on the Council secure portal.

5. Furthermore, the Committee had recalled that during this session, the Council was also expected to take a final decision on the issue of cross-funding between the AOSC Fund and the Regular Budget, which would impact on the Management Plan.

6. In conclusion, the Committee had expressed full support for the actions planned to be taken by TCB Management and had therefore invited the Council to endorse the Management Plan for the period 2013-2015. It was clarified by the President of the Council that as C-WP/13882 was an information paper, no such action was required on the part of the Council.

7. In the absence of further comments, the Council noted the information provided in C-WP/13882, as well as the oral report thereon by the TCC. The President of the Council expressed appreciation to the Committee for its good work.

Policy on technical assistance

8. The Council had for consideration: C-WP/13880, in which the Chair of the Council Working Group on Technical Assistance and Technical Co-operation reported on the Working Group's conclusions and recommendations arising from its meetings on 29 July 2012 and 7 September 2012; and an oral report thereon by the Technical Co-operation Committee (TCC). The Working Group had been established pursuant to the decision taken by the Council during its review (196/3) of C-WP/13850 (Policy on technical assistance) and mandated to review the definitions of the terms "technical assistance" and "technical cooperation" to draw a clear distinction between those activities and to establish a policy thereon, if necessary.

9. The TCC had reviewed C-WP/13880 at its First Meeting of the 197th Session of the Council on 21 September 2012. In considering the conclusions and recommendations put forward by the Working Group, the Committee had agreed that, overall, there was an evident need to clarify the lines of responsibility and coordination for ICAO's Programmes of Technical Assistance and Technical Co-operation and to distinguish between their respective funding mechanisms, which could only be achieved on the basis of commonly-agreed, unequivocal definitions for those activities. There had been general consensus on the appropriateness of the definitions proposed by the Working Group as expressed in paragraph 3.1 a) of the Report.

10. The Committee had concurred with the Working Group's recommendation that resource requirements for technical assistance must be established within the Regular Budget for the triennium, and supplemented by voluntary contributions from donors. In that regard, it had been the general view that the use of voluntary funds from Member States or other stakeholders should be governed by the principles established in the ICAO *Policy on Voluntary Contributions* adopted by the Council (192/5).

11. Above all, the Committee had agreed with the conclusion advanced by the Working Group as to the flexibility needed for the Secretary General to manage how assistance would be provided to States and organized within the Secretariat in order to achieve optimum results. Such flexibility would, however, be subject to the criteria for the allocation of funds recommended by the Working Group in Appendix A to the Report.

12. It had been pointed out, however, that the rectification of environmentally-related deficiencies should not be reflected as a criterion in paragraph c), given that environmental issues were not covered by ICAO audits. It had also been suggested that paragraph c) should refer simply to deficiencies

identified through any tool available to the Organization, such as the rectification of air navigation-related deficiencies identified through ICAO Planning and Implementation Regional Groups (PIRGs) and/or Regional Aviation Safety Groups (RASGs). As to the latter suggestion, the Secretary had pointed out that the expansion of the criteria to include air navigation-related issues would likely cause confusion over the delineation of technical cooperation and technical assistance activities. This view had been subsequently shared by the majority of the Committee Members. Following these discussions, the Committee had generally agreed with the proposed criteria as presented.

13. Regarding Appendix B, some Members would have been more comfortable with the alternative illustration of the lines of coordination and funding which had been proposed to the *Ad Hoc* Working Group by the Representative of Paraguay. Since the document had not been part of the Report tabled for consideration, the Committee had acknowledged that it was not in a position to decide on the issue.

14. In conclusion, the Committee had been satisfied with the recommended delineation between technical assistance and technical cooperation activities as expressed in the definitions tabled by the *Ad Hoc* Working Group and had further agreed that a new policy in that regard for adoption by the Assembly was not required.

15. On the basis of its deliberations, the Committee had invited the Council to review the Report of the *Ad Hoc* Working Group in C-WP/13880 and: agree with the conclusions of the Report as stated in its paragraph 2; agree on the definitions of the terms “technical assistance” and “technical cooperation” provided in paragraph 3.1 a) of the Report; and adopt the recommendations provided in paragraph 3 of the Report and its related Appendices A and B, subject to paragraph 3.1 d) being amended to read as follows: "the use of Voluntary Funds for technical assistance activities should be in accordance with the ICAO *Policy on Voluntary Contributions* and, where applicable, coordinated with and approved by a particular donor; and".

16. The Chair of the *Ad Hoc* Working Group, the Representative of Slovenia, endorsed the TCC's oral report, including the recommended amendment to paragraph 3.1 d). He noted that it had been agreed with the Representative of Paraguay that her alternative illustration could be posted on the relevant website for the Secretariat's information. Maintaining that there was no need to include PIRGs and RASGs in paragraph c) of the proposed criteria as their views were reflected by the Monitoring and Assistance Review Board (MARB) referred to in paragraph b), the Chair of the Working Group suggested that the criteria be adopted in the form presented in Appendix A to the paper.

17. In expressing appreciation for the Working Group's efforts, the Secretary General underscored that in only two meetings the latter had been able to arrive at a very workable conclusion that would provide him with the flexibility he required to carry out his mission. Affirming that the delineation between technical assistance and technical cooperation and the criteria for the allocation of resources for technical assistance activities were clearly set forth in the Working Group's report, he averred that Appendix B (Lines of coordination and financing for technical assistance and technical cooperation) was unnecessary and could be excluded from the Council's decision.

18. The Representatives of Uganda, the United States, Argentina, Australia, France and Cameroon were of the same view. Maintaining that Appendix B was very useful, the Representative of the Russian Federation voiced preference for retaining it as it would facilitate the understanding of the coordination and funding of technical assistance and technical cooperation by future Council Representatives and others who might be unfamiliar with the matter. The Representative of Colombia, on

the other hand, advocated including the Representative of Paraguay's alternative illustration in the Council's decision, while the Representatives of Mexico, Nigeria and Uganda spoke in favour of posting it on the relevant website for information purposes as indicated by the Chair of the Working Group.

19. The Representatives of the United States, Japan, Spain, Malaysia, Paraguay and France, endorsed the Working Group's recommendations as presented in C-WP/13880, with the Representative of Paraguay also endorsing the TCC's oral report.

20. While likewise voicing support for the Committee's oral report, the Representative of Mexico suggested that paragraph 3.1 d) of C-WP/13880 be further amended by deleting the phrase "and, where applicable, coordinated with and approved by a particular donor" as it was redundant, being already covered in paragraph 8.3 of the ICAO *Policy on Voluntary Contributions*. The Representatives of Nigeria, Uganda, Australia, Paraguay, Cameroon and the Russian Federation expressed support for this proposed change, which was then agreed by the Council.

21. The Representative of Nigeria recalled the suggestion made during the TCC's meeting that the criterion given in paragraph c) of Appendix A be amended to refer simply to deficiencies identified through any tool available to the Organization, such as the rectification of air navigation-related deficiencies identified through the ICAO PIRGs and/or RASGs. He underscored that the said groups addressed not only infrastructural deficiencies but also systemic deficiencies which gave rise to the three major classes of aviation accidents, namely, loss of control, controlled flight into terrain (CFIT) and runway safety. The Representative of Nigeria considered that rectifying such systemic deficiencies was more critical than remedying environmentally-related deficiencies as far as the provision of assistance to States was concerned. He emphasized that such assistance would often be provided not only through the Technical Cooperation Bureau (TCB) but also through the Air Navigation Bureau (ANB).

22. In averring that not so much focus should be placed on the method of identifying deficiencies, the Representative of Uganda maintained that any tool that could help determine what assistance was required should be acceptable. He noted that once a significant safety- or security-related deficiency was identified, whether through the USOAP, the USAP, a PIRG or a RASG, it was considered by the MARB, which was referred to in paragraph b) of Appendix A. Stressing the need to retain flexibility in the identification of deficiencies, the Representative of Uganda underscored that if they warranted the provision of technical assistance, then they should be considered irrespective of the means by which they were identified.

23. The Representative of the United States expressed confidence that, by following the proposed definitions of the terms "technical assistance" and "technical cooperation", the Secretariat would be able to distinguish between systemic deficiencies that necessitated technical assistance funded through the Regular Budget and Voluntary Funds and infrastructural deficiencies that necessitated technical cooperation funded by the recipient State and executed through the Technical Cooperation Programme.

24. The Representative of Spain emphasized the need for flexibility in determining technical assistance and technical cooperation projects. In also concurring that ICAO should assist States in rectifying the said systemic deficiencies which were the main causes of aviation accidents, he noted that the top criterion for the allocation of budgetary and voluntary funds for technical assistance activities was that the project fell within the framework of ICAO's Strategic Objectives, one of which was safety. ICAO was thus clearly able to provide technical assistance to States in addressing such causes of aviation accidents.

25. The Representative of Malaysia stressed the need for the Secretariat to have clear instructions if there was a requirement for technical assistance.

26. In agreeing with the Representatives of Nigeria and Uganda, *inter alia*, that information on safety- and security-related deficiencies could be obtained from sources other than ICAO's audit processes, the Representative of Australia indicated that there was scope to consider whether reference to those particular processes, USOAP and USAP, should continue to be mentioned in paragraph c) of Appendix A. She did not, however, have a strong view thereon.

27. Observing that PIRGs and RASGs continued to play an important role at the regional level in the implementation of Annex provisions, the Representative of Cameroon emphasized that it was only natural that those groups be cited in paragraph c) as sources of information on safety- and security-related deficiencies.

28. The Representatives of the Russian Federation and Colombia agreed that PIRGs and RASGs should be considered as sources of such information. The latter Representative underscored that reports from the ICAO Regional Offices should likewise be regarded as a source of information as the Regional Directors and Officers were the ones who attended the PIRG and RASG meetings and who were most familiar with the situation in the field.

29. Although he endorsed the Working Group's recommendations, the Representative of Argentina proposed that paragraph c) of Appendix A thereto be amended by deleting the words “, or environmentally-related deficiencies”. He reiterated the view that he had expressed during the TCC's meeting that the rectification of such deficiencies should not be reflected as a criterion as environmental issues were not covered by ICAO audits. While agreeing that currently such audits were carried out to identify only safety- and security-related deficiencies, the Representative of Denmark indicated that he could accept paragraph c) either in the form presented or as amended.

30. The Representative of Australia noted that if it was agreed that safety- and security-related information could be obtained from sources other than USOAP and USAP audits, then the argument for excluding environmentally-related deficiencies from the criteria was not as strong. While considering that such deficiencies were still worthy of being retained in the criteria, she underscored that the rectification of safety- and security-related deficiencies would take precedence over the rectification of environmentally-related ones.

31. It was agreed to amend paragraph c) of Appendix A as proposed by deleting the words “, or environmentally-related deficiencies”.

32. Noting that under Item 12 of the revised draft Provisional Agenda for the 38th Session of the Assembly (C-WP/13874), to be considered later in the current meeting, that the Council was to report on the agreed definitions for the terms “technical assistance” and “technical cooperation” within the context of the Organization, including the lines of responsibility, coordination and funding of those activities, the Representative of Spain affirmed that it would be good for all ICAO Member States to be informed of the progress made. In further observing that Assembly Resolution A36-17 (*Consolidated statement of ICAO policies on technical cooperation*) used the two terms interchangeably, he recommended that the Secretary General review it to determine if any changes were necessary in light of the agreed definitions which made a clear distinction between the two.

33. The Representatives of the Russian Federation and France supported this recommendation, with the latter underscoring that Assembly Resolution A36-17 made reference to the International Financial Facility for Aviation Safety (IFFAS), which had since been dissolved.

34. In then taking the action recommended by the TCC, as amended by the President of the Council in light of the discussion, the Council:

- a) agreed with the conclusions of the Council Working Group on Technical Assistance and Technical Co-operation as stated in paragraph 2 of C-WP/13880;
- b) agreed on the definitions of the terms “technical assistance” and “technical cooperation” recommended by the Council Working Group in paragraph 3.1 a) of the paper and reproduced below:
 - i) “technical assistance” is any assistance provided by ICAO to States, which is funded by the Regular Budget and/or Voluntary Funds, and implemented through any Bureau/Office depending on the nature and duration of the project;
 - ii) “technical cooperation” is any project requested and funded by States and/or organizations and implemented through the Technical Co-operation Bureau on a cost-recovery basis, where all the direct and indirect costs related to the project are recovered; and
- c) subject to the amendments recorded in paragraphs 20 and 31 above, adopted the Council Working Group’s other recommendations provided in paragraph 3.1 of C-WP/13880 and reproduced below and the criteria for the allocation of the approved Regular Budget for technical assistance and Voluntary Funds to ICAO technical assistance activities set forth in Appendix A thereto:
 - i) resource requirements for technical assistance should be established within the triennial Regular Budget approved by the Assembly and disbursed annually through the appropriate mechanism;
 - ii) the use of resources within the approved Regular Budget for technical assistance or Voluntary Funds in the development or implementation of technical assistance projects should be governed by the provisions in Appendix A to the paper, as amended;
 - iii) the use of Voluntary Funds for technical assistance activities should be in accordance with the ICAO *Policy on Voluntary Contributions*; and
 - iv) for governance purposes, detailed reports on the implementation of the ICAO Technical Assistance Programme should be presented to the Council during the Spring Session.

35. It was understood that the Secretary General would review Assembly Resolution A36-17 (*Consolidated statement of ICAO policies on technical cooperation*) in light of some editorial changes required and would inform the Council accordingly.

36. On behalf of the Council, the President commended the *Ad Hoc* Working Group and the TCC for their excellent work. In inviting States to provide voluntary contributions for ICAO's technical assistance activities, he expressed the hope that, with such generous contributions and the funds allocated from the Regular Budget, the Secretary General would be able to meet all of the States' requirements for technical assistance projects that fell within the framework of the Organization's Strategic Objectives.

Subject No. 18.14: Other finance matters for consideration by Council

Proposal for transfer of indirect costs

37. The Council considered: C-WP/13881, in which the Secretary General presented an analysis of possible alternatives for providing support services to the Technical Co-operation Bureau (TCB) through the outsourcing, insourcing or offshoring of service delivery, as well as an indication of the potential impact of those options on the Regular Programme staff currently providing such support services, the Regular Budget and the Administrative and Operational Services Cost (AOSC) Fund; and a joint oral report thereon by the Technical Co-operation Committee (TCC) and the Finance Committee (FIC).

38. The TCC and the FIC had reviewed the paper during their first joint meeting of the 197th Session of the Council on 26 September 2012. Their deliberations had been based on the underlying premises outlined in Section 1 of the report that the integration of the Technical Co-operation Bureau (TCB) into the Organization's structure had been a decision by the Assembly, and that in accordance with the Assembly's interpretation of the principle of cost-recovery, costs to be recovered by the Organization from projects must be directly related to the implementation of those projects.

39. From the outset, the Committees had agreed with the conclusions that outsourcing and offshoring were not viable alternatives to the in-house support services provided by Regular Programme staff to TCB. Discussions had therefore focused on the following options:

- a) the reverse-insourcing or reintegration of certain functions and costs into TCB as described in paragraph 2.4 of the report and depicted in its Appendix A; and
- b) the *status quo* scenario (i.e. same functional arrangement), whereby current support services would continue to be provided in-house by Regular Programme staff, as illustrated in its Appendix B.

40. Impacting on both options, the Committees had been informed that there had been a reduction of approximately CAD 237 000 in expenditures related to basic services, given that registry services were no longer provided to TCB since January 2012.

41. With regard to the reintegration option, the Committees had noted that it was expected that TCB would realize savings in expenditures in the order of CAD 695 000 with the transfer of certain Finance Branch (FIN) functions to TCB, including savings due to the discontinuation of registry services. That amount would be offset by expenditures of approximately CAD 265 000. In the end, TCB would incur net savings of CAD 430 000 on a yearly basis and the Regular Programme would recover, under current conditions, approximately CAD 980 000 from the AOSC Fund, compared to the previously-approved amount of CAD 1 675 000.

42. The Committees had then noted that under the *status quo* option in Appendix B, which was based on the results of the 2011 survey, costs to be recovered by the Regular Programme from the AOSC

Fund for support services directly related to project operations would amount to CAD 1.202 million, while costs for basic services in the order of CAD 236 000 would stay in the Regular Programme, and identified as technical cooperation costs.

43. While some Members of the Committees had considered the proposed reintegration of functions to be the preferable option for the cost-recovery issue, the Committees had concluded that the proposal would need further refining with a view to determining the timeframe required for its implementation and establishing, with more certitude, its impact on the Regular Budget, as well as on the Regular Programme staff currently providing these services in terms of reshuffling of duties or elimination of posts.

44. The Committees had therefore agreed that, in the meantime, it was in the best interest of the Organization as a whole that the Regular Programme continue to provide the current support services to TCB, and had recommended that the apportionment of costs between the Regular Budget and the AOSC Fund be determined in accordance with Appendix B.

45. The Committees had further agreed with the amount of CAD 1.2 million to be recovered annually by the Regular Programme from TCB for support services directly related to projects, which should be maintained for the remainder of the 2011-2013 triennium. However, given that those were variable indirect costs, the Committees had recommended that a mechanism be developed for the Council's consideration in 2013, establishing parameters to determine a methodology for updating or reconfirming the charges for the next triennium.

46. In the absence of comments, the Council took the action recommended by the TCC and the FIC and:

- a) agreed that support services to TCB continue to be provided in-house by the Regular Programme;
- b) agreed that the apportionment of costs between the Regular Budget and the AOSC Fund be determined in accordance with Appendix B (Cost recovery survey 2011) to C-WP/13881;
- c) approved the amount of CAD 1 202 117 to be recovered annually by the Regular Budget from the AOSC Fund for Regular Programme support directly related to projects for the remainder of the 2011-2013 triennium (i.e. 2012 and 2013), and the amount of CAD 235 678 to remain in the Regular Budget;
- d) requested the Secretary General to develop a methodology for updating the amount to be recovered from the AOSC Fund in the next triennium, and to report thereon in the Fall Session of 2013; and
- e) requested the Secretary General to consider further studying the option of reintegrating certain functions and costs into TCB as described in paragraph 2.4 of the paper and depicted in its Appendix A with a view to determining the timeframe required for its implementation and establishing its impact on the Regular Programme and Budget.

47. Noting that this decision constituted another big step forward in TCB's activities, the President of the Council thanked the Secretary General, the Secretariat, the TCC and the FIC for their efforts.

Subject No. 42: Technical cooperation

Report on Technical Co-operation Programme development and 2013 Administrative and Operational Services Cost (AOSC) budget estimates and update of the Budget for 2012

48. The Council considered information paper C-WP/13883, in which the Secretary General reported on the financial and operational performance results of the Technical Co-operation Programme for the period 1 January to 31 July 2012, the revised 2012 Programme forecast and the Administrative and Operational Services Cost (AOSC) Fund budgetary estimates, and the Programme and budgetary estimates for 2013; and a joint oral report thereon by the Technical Co-operation Committee (TCC) and the Finance Committee (FIC).

49. During their review of the paper at their first joint meeting of the 197th Session of the Council on 26 September 2012, the Committees had noted that the Technical Co-operation Programme had had a total implementation of USD 48.1 million as at 31 July 2012. Total AOSC income had amounted to CAD 4.21 million and expenditures to CAD 4.51 million, for a shortfall of income over expenditure of CAD 0.30 million.

50. Attention had been drawn to the significant variance between forecasted implementation in the preceding year and actuals shown in Table 1 of the Report, given that only one third of the projected Programme had been executed as at 31 July 2012. The Committees had been informed, however, that as at the most recent reporting period of 31 August 2012, the Technical Cooperation Bureau (TCB) had already equaled all of 2011's total implementation of USD 70.0 million with an estimated surplus of AOSC income over expenditure of CAD 0.30 million, and that the outlook for the remainder of the year remained positive.

51. With regard to the updated Programme forecast for 2012, it had been noted that USD 133.9 million was expected to be implemented out of a total Programme of USD 281.9 million. The Committees had been informed that while TCB's Programme or total portfolio of projects had increased, the implementation forecast for 2012 had remained relatively the same due to the insufficient time remaining in the year necessary to execute, at times, complex deliverables. It had also been clarified that a large portion of the Programme and the corresponding funds would be available and forwarded to the following year.

52. The Committees had noted that the updated AOSC Budget for 2012 showed an estimated surplus of CAD 101 000, with an estimated AOSC income of CAD 7.98 million against estimated expenditures of CAD 7.88 million.

53. It had also been noted that USD 137.2 million out of USD 245.0 million total Programme was expected to be implemented in 2013, with an estimated AOSC income of CAD 8.30 million and expenditures of CAD 8.27 million for a balanced budget.

54. In conclusion, the Committees had acknowledged that the measures put in place in 2011 to increase revenue while reducing expenditures had led the Secretariat to expect positive results that represented significant improvement from the year before.

55. Endorsing the above joint oral report, the Representative of Spain noted that the Technical Co-operation Programme was clearly on a positive trend for 2012 and that its prospects for 2013 were much more favourable than had been originally anticipated. He recalled that during the joint TCC/FIC meeting the Secretary General had been requested to include in his next report on this subject data on the Programme's backlog at the end of 2012, on hiring during that year and on the Programme's execution. Noting that the backlog might have originated in previous years and might continue into the coming years, the Representative of Spain emphasized that it would be beneficial for the Council to have a clearer picture thereof. The Representative of Morocco concurred.

56. Responding to a request by the Representative of Spain for updated information, the Chief of the Finance Branch (C/FIN) indicated that at the end of September 2012, total AOSC income was CAD 6.7 million against total AOSC expenditures of CAD 5.8 million, yielding a surplus of some CAD 400 000. Compared with the same period in 2011, AOSC income was CAD 1.8 million greater, and AOSC expenditures CAD 1.2 million less, with the surplus thus being some CAD 3 million greater than in the previous year. At the same time in 2011, an AOSC loss of CAD 2.6 million had been reported, compared to the current AOSC surplus of approximately CAD 400 000. The accumulated AOSC surplus at the end of September 2012 was CAD 1.2 million.

57. With regard to the Programme's backlog, C/FIN noted that it had been CAD 142 million as at 1 January 2012 and was approximately the same, CAD 140 million, as at the end of September 2012. He underscored that the backlog was dynamic, changing on a daily basis as projects were implemented and funds were received. It was projected that at the end of December 2012 the backlog would be approximately CAD 150 million, if the anticipated funds were received.

58. The Director of TCB (D/TCB) further indicated that implementation of the Programme as at 30 October 2012 was some USD 81 million, almost double what had been reported at the end of July 2012, USD 48.1 million. The projections made in the paper for the rest of the year remained valid.

59. The Representatives of Denmark, Brazil, Malaysia, Morocco, the United States, Slovenia and Saudi Arabia expressed appreciation to the Secretary General, TCB and FIN for their efforts to put the Programme on a more sustainable footing.

60. Referring to paragraph 2.1 of the paper, the Representative of Morocco noted that Programme delivery in the Americas was considerably higher than in other regions and sought information on Programme delivery in Africa. Stressing the need to ensure that there was no duplication in the execution of technical cooperation projects in a given State or region, he underscored that ICAO itself should audit their outcomes.

61. D/TCB clarified that the difference in regional programme delivery was due to the varying levels of States' interest in having ICAO execute their technical cooperation projects. He noted that since 2011 the Secretary General and TCB had focused efforts on increasing programme delivery over the medium-term in regions such as Africa.

62. The Representative of the United States recalled that for almost half a decade the AOSC accumulated surplus had dissipated. Following a loss of some CAD 2.8 million in 2011, the accumulated surplus had only been CAD 800 000 at the beginning of 2012, which had caused concern. That course had been unsustainable. Emphasizing that the turnaround had come just in time, the Representative of the United States noted that the perilously thin surplus of CAD 400 000 had resulted from efforts to control costs. He expressed the hope that this positive trend would continue.

63. The Council then noted the information provided C-WP/13883, as well as the joint TCC/FIC oral report thereon. In so doing, it also acknowledged, with satisfaction, that the measures put in place in 2011 to increase revenue while reducing expenditures had let the Secretariat to expect positive results that represented significant improvement from the year before.

Subject No. 24: Sessions of the Assembly

Revised draft Provisional Agenda for the 38th Session of the Assembly (2013)

64. The Council had for consideration: C-WP/13874, whereby the President of the Council and the Secretary General presented the revised draft Provisional Agenda for the 38th Session of the Assembly, which incorporated the comments of the Air Navigation Commission (ANC) and the Committees to which various Agenda Items had been referred during the Council's preliminary consideration of the draft Provisional Agenda (C-WP/13838; 196/3); and an oral report thereon by the Working Group on Governance and Efficiency (WGGE).

65. The WGGE, in expanded form, had reviewed the paper at its Second Meeting of the 197th Session of the Council on 24 October 2012. With regard to Item 20 (Proposal to hold Assembly sessions every two years) of the revised draft Provisional Agenda (Appendix A), the Working Group had recommended that the Council reaffirm its previous decision (187/3; C-WP/13344) not to recommend the holding of Assembly sessions every two years and the gradual adoption of a two-year budget and that the Assembly be informed accordingly.

66. With regard to Item 21 [Proposal to amend Article 50(a) of the Chicago Convention so as to increase the membership of the Council to 39], the Working Group had noted that any Contracting State had the right to make a proposal to the Council for the amendment of the Chicago Convention in accordance with the procedure set out in Operative Clause 8 of Assembly Resolution A4-3 (*Policy and programme with respect to the amendment of the Convention*) and Rule 10 d) of the Standing Rules of Procedure of the Assembly (Doc 7600).

67. The WGGE had recommended the following changes to the revised draft Provisional Agenda, to which the Council agreed:

- with regard to Item 28 (*Aviation Safety — Standardization*), that the last sentence of the first paragraph of the explanatory note be amended by replacing the words “anticipated amendments to the new Annex” with the words “future enhancements”;
- with regard to Item 29 (*Aviation Safety — Monitoring and Analysis*), that a fourth paragraph be added to the explanatory note stating that the Council will also present a progress report on the protection of safety information and the sharing of safety information;
- with regard to Item 31 (*Aviation Safety — Emerging Issues*), that the second sentence of the explanatory note be amended to read as follows: “These issues, such as increased automation in the cockpit and its effect on human performance are contributing factors to accident types accounting for a predominant percentage of fatalities over the past several years, for example, loss of control and controlled flight into terrain.”;

- that an acronym for “Global Air Navigation Plan” be provided wherever it appears more than once under Item 32 (*Air Navigation — Policy*) and Item 34 (*Air Navigation — Monitoring and Analysis*); and
- that the words “(AFI Plan)” be added at the end of the sentence of the explanatory note for Item 37 [*Progress on Implementation of the Comprehensive Regional Implementation Plan for Aviation Safety in Africa (AFI Plan)*].

68. The Council also endorsed the WGGE’s recommendation in respect of matters discussed in paragraphs 1.2 and 1.3 of the paper that the title of the Global Air Navigation Plan (GANP) be retained and not be changed to “Global Air Navigation Capacity and Efficiency Plan (GANCEP)” and that any changes be considered after the Twelfth Air Navigation Conference (AN-Conf/12) (Montréal, 19-30 November 2012).

69. Referring to Item 20, the Representative of Japan voiced support for the Council’s earlier decision (187/3) not to recommend the holding of Assembly sessions every two years and a gradual adoption of a two-year budget as they would place a big burden on both the ICAO Secretariat and Member States. He underscored that the Council’s report to the Assembly thereon, to be considered during the next (198th) Session, should reflect that decision.

70. With regard to Item 21, the Representative of Japan stressed that the Council should be cautious when it considered, during the upcoming session, the proposal to increase its membership to 39 as it was not only a political issue. It was an issue that would impact the Council’s efficiency, as well as the Regular Budget due to an increased demand on ICAO’s facilities and services. He emphasized the need to include realistic information on such impacts in the Council’s report to the Assembly.

71. Recalling the comments he had made during the Council’s earlier discussion of C-WP/13880 (Policy on technical assistance) (*cf.* paragraph 32 above), the Representative of Spain indicated that the explanatory note for Item 12 (*Technical Cooperation – Policy and activities on technical cooperation and assistance*) might have to be amended if the Secretary General determined that Assembly Resolution A36-17 (*Consolidated statement of ICAO policies on technical cooperation*) needed to be revised in light of the agreed definitions for the terms “technical assistance” and “technical cooperation”. Noting that the Council would be considering a policy document related to assistance to aircraft accident victims and their families during the next (198th) session, he indicated that it would be appropriate to inform the 38th Session of the Assembly thereof in light of Operative Clause 5 of Assembly Resolution A32-7 (*Harmonization of the regulations and programmes for dealing with assistance to victims of aviation accidents and their families*), in which the Council had been requested to report on the progress achieved to the next session of the Assembly.

72. The Representative of India agreed with the Representative of Japan that some of the proposals to be considered by the Executive Committee of the Assembly needed to be carefully considered by the Council beforehand. He expressed a wish for documents on other issues that were to be considered by the Economic Commission but which might come up before the Assembly in view of developments throughout the world, particularly in the areas of the economic development of air transport, the economic regulation of international air transport, the economics of airports and the very sustainability of the aviation sector. The Representative of India also emphasized the need to be prepared for the discussion, under

Item 17, of environmental protection, an issue which he considered would take on greater proportion than was reflected in the revised draft Provisional Agenda.

73. The President of the Council noted that, while there was always the possibility of including new items in the said Provisional Agenda, it was difficult to decide, at the present time, on additional items such as assistance to aircraft accident victims and their families as work was still in progress and it was necessary to await the outcome in order to determine if the Assembly should be informed thereof. Any additional items or changes that were agreed by the Council in the future would be incorporated into the revised draft Provisional Agenda by means of an addendum/corrigendum.

74. Subject to the amendments recorded in paragraph 67 above, the Council then approved, for transmission to Member States, the revised draft Provisional Agenda for the 38th Session of the Assembly set forth in the Appendix to C-WP/13874.

Subject No. 13: Work programmes of Council and its subsidiary bodies

Work programme of the Evaluation and Internal Audit Office (EAO) for the year 2013

75. Tabled for the Council's consideration was C-WP/13887, in which the Secretary General presented the work programme of the Evaluation and Internal Audit Office (EAO) for the year 2013 and proposed amendments to the EAO Charter to reflect administrative changes which had occurred since the Council's approval of the latter in 2009 (187/11). The suggested amendments had been agreed with the Members of the Evaluation and Audit Advisory Committee (EAAC). A linguistic point raised by the Representative of Mexico regarding the Spanish translation of the phrase "misconduct of a financial nature" used in the second paragraph of Section C in paragraph 4 of the EAO Charter was noted for appropriate action.

76. Responding to a query by the Representative of Mexico regarding EAO's establishment, the Chief of EAO (C/EAO) clarified that a P-5 Senior Internal Audit Officer had been recruited in 2012 pursuant to the Council's earlier decision to reinforce EAO's resources. As that new post had been filled by an internal applicant from EAO, the P-4 post of Internal Audit Specialist had become vacant. The person who had subsequently been recruited to fill that post would not be available before February 2013, however. A P-4 Evaluations Specialist had joined EAO in mid-October 2012, filling a post recently established by the Secretary General.

77. To concern expressed by the Representative of Mexico that paragraph 27 of the revised EAO Charter no longer referred to an annual EAO status report to the Council on the progress made in implementing the External Auditor's agreed recommendations, C/EAO noted that whereas his Office had traditionally presented an annual report thereon to the Council, the current External Auditor had decided to report himself, beginning in June 2012 and ending in June 2013. It was for that reason that the formulation of paragraph 27 had been amended. If, however, the new External Auditor appointed for the 2014-2016 triennium were to decide to change his reporting activities, then EAO would resume its previous practice.

78. C/EAO recalled, in this context, that in July 2012 he had initiated quarterly bilateral meetings with the members of the Senior Management Group (SMG) to review all outstanding recommendations of the External Auditor and EAO and verify what action had been taken to implement them. He underscored that in that first round of meetings it had been possible to close 11 out of 25 outstanding recommendations of the External Auditor and 26 out of 72 outstanding EAO recommendations. Some progress could thus be made on a regular basis in implementing outstanding recommendations.

79. The Representatives of Spain and Nigeria shared the concern voiced by the Representative of Mexico, with the Representative of Spain emphasizing that if the responsibility for reporting annually on the implementation of the External Auditor's recommendations was being transferred from EAO to the latter, then it would have to be made explicit in the External Auditor's Letter of Engagement. The Representative of Brazil concurred. C/EAO considered, however, that it was implicit in the External Auditor's terms of reference. In underscoring the need for clarity in the terms of reference of both the External Auditor and EAO, the Representative of Nigeria stressed that they should not be changed based on the whims and caprices of either of those two Offices.

80. Referring to paragraph 3.2 of the paper on the areas selected for audit in 2013, the Representative of Belgium emphasized that the highest priority should be accorded to the compliance audit on the implementation of ICAO's *Policy on Contracts of Individual Consultants/Contractors* [*cf.* paragraph a)] given the increase in the number of consultants working for ICAO. He recalled, in this regard, the request made by the Human Resources Committee (HRC) (194/1) for a report on the implementation of that policy, including the results of the EAO annual audit thereof as well as a practical recommendation with regard to the maximum duration of contracts for individual consultants/contractors. Noting that the compliance audit had been included pursuant to the decision taken by the Council when reviewing EAO's work programme for the year 2012 (194/5; C-WP/13771), C/EAO confirmed that it was his Office's first priority for 2013.

81. The Representative of the Russian Federation observed that the said compliance audit intersected with the evaluation of ICAO's human resources (HR) succession planning process to be carried out in 2013 [*cf.* paragraph 4.2 b) of the paper]. He stressed the need for ICAO, as a Specialized Agency, to be governed by the best practices of the United Nations (UN) common system, particularly with regard to the use of consultants/contractors. Confirming that such best practices served as a benchmark for EAO audits and evaluations, C/EAO indicated that that was the reason why his Office participated in the meetings and working groups of other relevant UN bodies.

82. Affirming that the planned IT audit on Agresso security and access controls [*cf.* paragraph 3.2 d)] would be useful, the Representative of Spain enquired whether it would be carried out by external consultants given that it was a highly-specialized type of audit. C/EAO replied in the affirmative.

83. To a point then raised by the Representative of China, C/EAO indicated that as his Office sometimes had to call upon external consultants, it was necessary to have a budget for their stipends. For 2013, CAD 64 000 had been so budgeted (*cf.* paragraph 2.1 of the paper).

84. The Representative of China underscored that, while that was not a large sum of money for EAO consultancies, it was also necessary to pay the salaries of the seven EAO staff members, which required a substantial amount of resources. In addition, it was necessary to pay the External Auditor's total annual audit fee. The Representative of China stressed the need for a stricter policy governing the use of consultancy fees to ensure that Member States' financial contributions would be used more effectively in future.

85. The Representative of France shared this concern about the optimization of what were very limited resources.

86. C/EAO clarified, in this regard, that for the conduct of the said IT audit his Office had the choice of either recruiting a full-time professional, which seemed to be more than what was necessary, or using an external consultant on a case-by-case basis, due to the small size of the budget.

87. While noting the comments made by the Representatives of China and France, the Secretary General underscored that it was a matter of safeguarding a small amount of money in case it was necessary to hire external consultants for technical or otherwise specialized EAO audits and evaluations and that such funds would not necessarily be spent.

88. Responding to a question by the Representative of Nigeria regarding paragraph 20 of the revised EAO Charter, C/EAO indicated that the practice regarding individual internal audit reports had been more restrictive than that for evaluation reports to the extent that the Council had only received a summary thereof once a year. This had been due to the fact that internal audit reports were for the Secretary General, whereas evaluation reports were for the Council. It had been decided in 2012 to make the practice more flexible by making internal audit reports available to Council Representatives to consult on a read-only basis in EAO following receipt of a written request addressed to C/EAO. It would be sufficient for interested Council Representatives to contact him informally, by e-mail, to set up a meeting in EAO where they could read the relevant internal audit report and ask questions thereon. The Representative of Nigeria noted that this explanation suggested some sensitivity about Council Representatives having copies of internal audit reports. He underscored that whereas the EAAC, an advisory Committee of the Council, was provided with copies of all of EAO's reports pursuant to paragraph 7 of the revised EAO Charter, the Council was not.

89. A request by the Representative of Spain that a list of available internal audit reports and their dates be posted on the Council website was noted.

90. To further queries by the Representatives of Nigeria and Malaysia regarding paragraph 4, Section C. Investigations, of the revised EAO Charter, C/EAO recalled that until the end of 2011, his Office had been the only focal point for investigations. That had changed with the introduction of an Ethics Officer at the beginning of 2012. All allegations of misconduct were now systematically submitted to the Ethics Officer, who determined their nature and, in a report to the Secretary General, recommended a given body within ICAO for the conduct of the investigation. If the misconduct were of a financial nature, then EAO would be requested to carry out the investigation. C/EAO stressed that the proposed amendments to Section C did not change the scope of the investigations that could be conducted within ICAO.

91. Responding to a point raised by the Representative of France regarding the planned financial and compliance audit on the financial procedures, internal controls and business procedures in the Mexico Regional Office [*cf.* paragraph 3.2 c) of the paper] and possible overlap with the functions and activities of the External Auditor, C/EAO underscored that his Office coordinated its work programme with the latter's to avoid all duplication. EAO was required to audit the full complement of seven Regional Offices every four or five years. It thus visited one or two Regional Offices per year, coordinating with the External Auditor to avoid visiting the same ones. EAO had gone over the list of Regional Offices that had been reviewed in the last few years, as well as the External Auditor's work programme for the next year, and had observed that all of the Regional Offices had either been visited recently or would be visited in 2013 with the exception of the Mexico Regional Office. C/EAO underscored that his Office's reports were provided to the External Auditor, who took them into account.

92. To a question by the Representative of France regarding paragraph 10 of the revised EAO Charter relating to managerial interference, C/EAO emphasized that there were professional standards to be

complied with. In order to be a credible tool of internal audit for the Secretary General, EAO had to be completely independent in determining its work programme and in carrying out its work. That was what was meant by “EAO shall be free from managerial interference”. EAO established its work programme in a fully independent manner on the basis of its consultations with SMG members. EAO might, however, be asked to undertake additional activities. If it were not possible for EAO to carry out such activities without negatively impacting its established work programme, then it would request extra resources.

93. In light of the discussion, the President of the Council suggested that paragraph 27 of the revised EAO Charter be amended by adding, at the end, a phrase along the lines of: “and will present an annual report to the Council on the implementation of recommendations made by the External Auditor except if the latter has presented this information to the Council”. This was agreed.

94. The Council then took the action indicated in the executive summary of C-WP/13887 and:

- c) noted the work programme of EAO for the year 2013; and
- d) subject to the additional amendment recorded in paragraph 93 above, approved the revised EAO Charter set forth in the Appendix to the paper.

Any other business

Subject No. 6.3: Election of Chairmen and Members of subsidiary bodies of the Council

Appointment of an Alternate on the Air Transport, Joint Support and Unlawful Interference Committees (ATC, JSC and UIC)

95. As indicated in his e-mail dated 29 October 2012, and in accordance with the *Rules of Procedure for Standing Committees of the Council* (Doc 8146), the President of the Council has appointed Mr. Ronald Geirhovd (Denmark) to succeed Mr. Samuli Vuokila as Alternate to Mr. Kurt Lykstoft Larsen on the ATC, JSC and UIC with effect from 29 October 2012.

96. The meeting adjourned at 1300 hours.

COUNCIL — 197TH SESSION

SUMMARY MINUTES OF THE THIRD MEETING

(THE COUNCIL CHAMBER, FRIDAY, 2 NOVEMBER 2012, AT 1000 HOURS)

OPEN MEETING

President of the Council: Mr. Roberto Kobeh González

Secretary: Mr. Raymond Benjamin, Secretary General

PRESENT:

Argentina	— Mr. J. Gelso	Malaysia	— Mr. Y.-H. Lim
Australia	— Ms. K. Macaulay	Mexico	— Mr. D. Méndez Mayora
Belgium	— Mr. G. Robert	Morocco	— Mr. A. Boulmane
Brazil	— Mr. J. Taunay	Nigeria	— Dr. O.B. Aliu
Burkina Faso	— Mr. M. Dieguimde	Paraguay	— Mrs. A. Torres de Rodríguez
Cameroon	— Mr. E. Zoa Etundi	Peru	— Mrs. D.E. Sotomayor Yalán
Canada	— Mr. M. Allen	Republic of Korea	— Mr. Choi, D.
China	— Mr. Tao Ma	Russian Federation	— Mr. A.A. Novgorodov
Colombia	— Mr. A. Muñoz Gómez	Saudi Arabia	— Mr. T.M.B. Kabli
Cuba	— Mr. J.F. Castillo de la Paz	Singapore	— Mr. T.-C. Ng
Denmark	— Mr. K.L. Larsen	Slovenia	— Mr. A. Krapež
Egypt	— Mr. M.T. Elzanaty	South Africa	— Mr. L. Mabaso
France	— Mr. M. Wachenheim	Spain	— Mr. V.M. Aguado
Germany	— Mr. U. Schwierczinski	Swaziland	— Mr. D. Litchfield
Guatemala	— Mr. H.A. Rosales Salaverría	Uganda	— Mr. J. Twijuke
India	— Mr. P.N. Sukul	United Arab Emirates	— Miss A. AL Hamili
Italy	— Mr. E. Padula	United Kingdom	— Mr. M. Rodmell
Japan	— Mr. T. Koda	United States	— Mr. D. Woerth

ALSO PRESENT:

Dr. N. Luongo (Alt.)	— Argentina
Mr. J.C.F. da Silva (Alt.)	— Brazil
Mr. A. Rebouças (Alt.)	— Brazil
Mr. R. Oliveira de Carvalho (Alt.)	— Brazil
Mr. Chunyu Ding (Alt.)	— China
Mr. P. Pape (Alt.)	— France
Ms. M. Furuhata (Alt.)	— Japan
Mrs. D. Valle Álvarez (Alt.)	— Mexico
Mrs. L. Camacho Bueno (Alt.)	— Peru
Mr. Bae, J. (Alt.)	— Republic of Korea
Mr. K. Ferjan (Alt.)	— Slovenia
Mr. J.L. Novak (Alt.)	— United States

SECRETARIAT:

Mr. D. Azema	— DC/OSG
Dr. Fang Liu	— D/ADB
Mr. J. Wan	— DD/IAS-ADB
Dr. T. Abeyratne	— SLO
Mr. J.P. Mercier	— A/C/ICT
Mr. M. Leitgab	— AD/ADB
Ms. O. Bondareva	— LEB
Mr. A. Larcos	— ACS

*Dr. E.M.A. Ibrahim Commissioner,
Infrastructure and Energy, African
Union*

Representatives to ICAO

Chile

Dominican Republic

Ethiopia

Greece

Iran (Islamic Republic of)

Lebanon

Turkey

Uruguay

Venezuela (Bolivarian Republic of)

Welcome to the Commissioner of Infrastructure and Energy of the African Union (AU)

1. The President of the Council extended a warm welcome to Dr. Elham M. A. Ibrahim, the Commissioner of Infrastructure and Energy of the African Union (AU), who addressed the Council. In doing so, the Commissioner noted the need for coordinated global responses in civil aviation and thanked ICAO for its support in efforts aimed at improving aviation safety throughout Africa.

2. The President of the Council thanked the Commissioner for her statement and assured her of the continuing commitment by ICAO to cooperate with the AU and its Member States in efforts to improve safety and security for the sustainable development of air transport in Africa.

Subject No. 24: Sessions of the Assembly

Electronic voting system for the 38th Session of the Assembly

3. The Council noted C-WP/13916, an information paper in which the Secretary General presented the proposed electronic voting system (EVS) to be used for the election of the Council during the 38th Session of the Assembly. The information paper was accompanied by a PowerPoint presentation by the Director of the Bureau of Administration and Services (D/ADB), which was also followed by a demonstration of the proposed EVS.

4. D/ADB recalled that Assembly Resolution A37-WP/8, approved an amendment to Section IX of the *Standing Rules of Procedure of the Assembly of the International Civil Aviation Organization* (Doc 7600/6), to allow for the use of an electronic voting system for Council elections, with the understanding that manual votes would remain as a fall-back option. She also recalled that the Council had previously decided to use electronic voting for the Council elections (C-DEC 187/4 refers) as the basis for a more modern and efficient voting procedure during Assembly sessions.

5. In supplementing the information provided in C-WP/13916, D/ADB pointed out that at the 37th Session of the Assembly, a system used by the International Labour Organization (ILO) was trialled but that there had been certain limitations in terms of its applicability for ICAO purposes. Following extensive research of different options and consideration of best practices within the United Nations system for elections of governing bodies, the Secretariat had concluded that the EVS used by the World Meteorological Organization (WMO) would be more suitable for ICAO requirements. In particular, the EVS used by WMO fulfilled specific ICAO requirements pertaining to languages, anonymity, confidentiality, and reliability of results.

6. A demonstration of the proposed voting system then took place during which the Council was given the opportunity to hold a trial election process using specific-purpose tablets with a sample ballot and a confidential personal individual number (PIN).

7. The Representative of France welcomed the proposed EVS but suggested that consideration be given to utilising a more complex form of PIN during the election in order to strengthen the confidentiality aspects of the process.

8. The Representative of Saudi Arabia sought clarification on the differences between the ILO system and the WMO system. In response, D/ADB elaborated that one of key differences was that the proposed EVS, which is based on the WMO system, enables ballots to be displayed in all six United

Nations languages. She noted that this rectifies one of the deficiencies of the ILO system used at the 37th Session of the Assembly, which had been limited to only English language usage.

9. The Representative of Spain expressed concern that the EVS hardware might not be utilised between elections at the Assembly sessions, thus remaining idle for up to three years. The Representative also sought assurances about the confidentiality of the proposed EVS, particularly in relation to the software. In response, D/ADB indicated that once an election process was complete, the hardware would then be used by the Secretariat to replace equipment that was already scheduled for replacement thus minimising the impact on the information technology budget. Regarding the confidentiality aspects of the proposed EVS, it was explained that the PINs used during the demonstration had been extremely simple in order to facilitate the sample ballot process. However, it was foreshadowed that during the Assembly session, the PINs to be used by delegates would be far more elaborate and complex in order to strengthen the confidentiality aspects of the process.

10. The Acting Chief of the Information and Communication Technology Section (A/C/ICT) provided additional information on the confidentiality aspects of the system and indicated that in this connection, several national governments had on numerous occasions undertaken an audit of the proposed EVS. He also revealed that in relation to the confidentiality of this EVS, all ballots would be deleted as soon as the results were published so that it would not be possible to link individual ballots to a delegate or to a PIN. Moreover, A/C/ICT explained that during the election process, PINs would be randomly generated as well as randomly distributed thus providing an additional layer of security to the process.

11. In response to a supplementary question from the Representative of Spain concerning the confidentiality of the hardware system, A/C/ICT indicated that the vote would be hardware independent so that there could be no association between a specific device and a voter or a ballot being cast or a PIN being used.

12. The Representative of Uganda sought additional information on the length of the time taken between a ballot being submitted and the display of the results. A/C/ICT explained the existence of factors affecting the time involved in compiling and displaying the results. For the purposes of the demonstration ballot one factor related to the need to wait for delegates to submit their ballots before the votes could be tallied while the other related to the compilation process itself whereby ballots are processed anonymously to ensure there was no connection between a PIN and the ballot being submitted. The President of the Council also noted that there would be an additional factor involved since in accordance with the *Standing Rules of Procedure of the Assembly*, there was a requirement to wait for the President of the Assembly to receive the results of the ballot before they are displayed.

13. In response to a supplementary question from the Representative of Uganda concerning the external partner being used for the election process, A/C/ICT indicated that it was a specialist election company known as Everyone Counts.

14. The Representative of South Africa sought clarification on the whether the election process could be affected by the absence of delegates who were eligible to vote but who for whatever reason had chosen not to exercise their right in this regard. A/C/ICT explained that the system was based on the premise that it was conceivable not every eligible vote would be cast and it was therefore for this reason that the President of the Assembly would allocate adequate time for ballots to be submitted during the election process including numerous reminders to delegates. It was also explained that the President of the Assembly would give sufficient warning before the ballot were to be closed.

15. The Representative of Colombia cautioned that it would be necessary to ensure the security of the election process and that in this connection consideration might be given to supplementing the PIN with other measures to guarantee confidentiality. The Representative also noted that it would be essential to guarantee that a ballot being submitted could not be altered and that Member States were assured that their vote would be recorded correctly.

16. In response to a question from the Representative of Nigeria concerning the possibility of a delegate inadvertently using an incorrect PIN, A/C/ICT indicated that in consultation with the external partner consideration was being given to a range of options aimed at strengthening the confidentiality requirements of the process. These options included using a more complicated PIN system, strengthening the random allocation process of a PIN, and adding an additional step at the ballot submission stage to ensure a delegate confirmed the correct PIN.

17. The Representative of Cameroon wondered whether consideration could be given to the possibility of displaying the number of votes being cast throughout the voting process so that delegates would be aware of how the vote was progressing. The President of the Council stated that this had not been the case during the 37th Session of the Assembly but it would nevertheless be important to display the ballot results as soon as practicable.

18. The Representative of Malaysia suggested that the voting system include an option that offered delegates the ability to cast a spoiled ballot in the event that they wished to exercise this option. The President of the Council stated that delegates would have the option to submit a blank ballot or to not vote at all if they so chose.

19. The Representative of Italy sought clarification on the storage and accessibility of the submitted ballots as well as in relation to the security of the vote. In response, A/C/ICT explained that once the vote was completed and the results had been displayed, all submitted ballots would be deleted so there would be no record kept. The only remaining data would be the overall election result. He indicated that there was no link between the ballot submission and the PIN being used so that the whole process would deliver anonymity in this regard.

20. In concluding the discussion, the President of the Council expressed appreciation to Representatives for their interest and comments on this item. He also noted that at the Heads of Delegations meeting that was scheduled for the opening day of the Assembly session, a briefing would be provided on the proposed EVS so as to ensure delegations were familiar with the new process to be used for the election of the Council.

Subject No. 24.2: Assembly agenda and documentation

**Draft Assembly working paper – Supporting documentation for Assembly Agenda Item P5
(Election of Member States to be represented on the Council)**

21. The Council considered C-WP/13879, presented by the Secretary General, together with a draft Assembly working paper containing supporting information on the election of Member States to be represented on the Council. In presenting the documentation, the Secretary General noted the recommendation that the status quo be maintained so that the maximum number of States to be elected in the three parts would be set at eleven, twelve and thirteen respectively.

22. In accepting the recommendation, the Council approved the draft Assembly working paper attached to C-WP/13879 for transmission to States as documentation for the 38th Session of the Assembly.

Subject No. 16: Legal work of the Organization

General work programme of the Legal Committee

23. Tabled for the Council's consideration was C-WP/13886, in which the Secretary General presented the general work programme of the Legal Committee.

24. The Representative of Mexico enquired what the status was in relation to the Committee's consideration of the issue of unruly passengers. In response, the Acting Director of the Legal Affairs and External Relations Bureau (A/D/LEB) explained that this issue was covered by item 2 on the proposed work programme of the Legal Committee ("Acts or offences of concern to the international aviation community and not covered by existing air law instruments"). In addition, A/D/LEB noted that the sub-Committee tasked with consideration of this issue was scheduled to next meet at the beginning of December 2012, following which there would be a report presented to the Council at its next (198th) session. A/D/LEB further noted that a draft protocol had been disseminated to members of the sub-Committee that focussed on jurisdictional issues and also classification or listing of offences in the context of the *Convention on Offences and Certain Other Acts Committed on Board Aircraft of 1963* (Tokyo Convention).

25. The Representative of Mexico also sought additional information on the difficulties States had encountered in implementing Article 83 *bis* and how ICAO was assisting States to respond in such cases. A/D/LEB outlined the background to this issue and noted that there had been a need to facilitate the transfer between "State of Registry" and "State of the Operator" and that there was a recognition that Article 83 *bis* could not easily accommodate short-term leases. In this connection, the Legal Committee considered there were no legal aspects pertaining to the item listed as "safety aspects of economic liberalization and Article 83 *bis*". The Committee considered that this item related to the concept of "unique identifiers" for aircraft habitually involved in international civil aviation in the context of Article 1 of the *Convention on International Civil Aviation* (Chicago Convention).

26. The Representatives of Nigeria and South Africa expressed the view that there remained a number of outstanding issues that required further consideration in the context of the item "Safety aspects of economic liberalization and Article 83 *bis*", particularly in respect to its implementation and they urged that this item be given a higher priority on the work programme. Following further discussion, the Council agreed to raise this item from priority six to priority three of the general work programme of the Legal Committee.

27. In discussing communication, navigation and surveillance systems together with air traffic management systems (CNS/ATM), including global navigation satellite systems (GNSS), and the legal framework to cover these issues, the Representatives of Nigeria and Spain sought additional information on the work being done by the International Institute for the Unification of Private Law (UNIDROIT). In response, A/D/LEB noted that ICAO had been working for some years on this issue and that Assembly resolution A37-22, Appendix F, concluded there was no need to amend the Chicago Convention for the implementation of CNS/ATM systems. In providing additional background, A/D/LEB noted that Contracting States had been invited to consider using regional organizations to develop appropriate mechanisms to address any legal institutional issues. It was explained that the item had been

retained on the work programme by way of monitoring what other organizations were doing in this area, including UNIDROIT, which he understood had been examining a proposal in this regard.

Subject No. 17.1: Joint financing agreement with Iceland

Subject No. 17.5: Joint financial agreement with Denmark

Report of JSC – Recommendations of the Joint Support Committee related to items under the Danish and Icelandic Joint Financing Agreements reviewed during the 197th session

28. The Council had for consideration C-WP/13884, in which the Joint Support Committee presented recommendations on items under the Danish and Icelandic Joint Financing Agreements reviewed during the 197th Session.

29. The Council approved the action recommended in the Executive Summary of reference documents JS-WPs/1975, 1976, 1977, as indicated in C-WP/13884.

Subject No. 14.2.2: Implementation of Regional Plans

Cooperation with regional organizations and regional civil aviation bodies

30. Tabled for the Council's consideration was information paper C-WP/13885, in which the Secretary General provided a summary on progress made with regional organizations and regional civil aviation bodies in implementing the ICAO Policy on Regional Cooperation.

31. In providing additional background information, the Secretary General outlined how since the adoption of Assembly Resolution A37-21 on this subject, the ICAO Regional Offices had initiated several measures to ensure closer cooperation with regional organizations and regional civil aviation bodies. He also indicated that a draft Assembly Working Paper on this subject would be presented for Council consideration at the next (198th) session.

32. The Representative of Mexico welcomed the information provided by the Secretary General and sought clarification on whether it would be possible for ICAO to take into account the work programme of regional organizations as a means of enhancing cooperation on issues and potentially avoiding areas of duplication. However, the President of the Council cautioned that the ICAO Secretariat would not necessarily have the capacity to undertake this task and noted that there might be some sensitivity on the part of some regional organizations in sharing their work programmes with ICAO. Nevertheless, the President of the Council invited the Secretary General to ensure that all cooperation mechanisms with regional organizations are explored to ensure there were no duplication of efforts in this context.

Any other business

Expression of appreciation

33. On behalf of colleagues from the African Region, the Representative of Burkina Faso expressed appreciation to the Offices of the President of the Council and the Secretary General for accommodating the Commissioner of the African Union, who had delivered a statement at the opening of

the meeting. The Representative noted that in recognition of worldwide efforts aimed at strengthening civil aviation systems in Africa, there was an ongoing need for coordinated action between ICAO and the African Union Commission. The Representative invited Council Representatives to attend a luncheon at the conclusion of this meeting that was being hosted in honour of the visit by the Commissioner of the African Union.

34. The meeting adjourned at 1240 hours.

COUNCIL — 197TH SESSION

SUMMARY MINUTES OF THE FOURTH MEETING

(THE COUNCIL CHAMBER, MONDAY, 5 NOVEMBER 2012, AT 1430 HOURS)

CLOSED MEETING

President of the Council: Mr. Roberto Kobeh González

Secretary: Mr. Raymond Benjamin, Secretary General

PRESENT:

Argentina	— Mr. J. Gelso	Malaysia	— Mr. Y.-H. Lim
Australia	— Ms. K. Macaulay	Mexico	— Mr. D. Méndez Mayora
Belgium	— Mr. G. Robert	Morocco	— Mr. A. Boulmane
Brazil	— Mr. J. Taunay	Paraguay	— Mrs. A. Torres de Rodríguez
Burkina Faso	— Mr. M. Dieguimde	Peru	— Mrs. D.E. Sotomayor Yalán
Cameroon	— Mr. E. Zoa Etundi	Republic of Korea	— Mr. Choi, D.
Canada	— Mr. M. Allen	Russian Federation	— Mr. A.A. Novgorodov
China	— Mr. Tao Ma	Saudi Arabia	— Mr. A. Almoghraby (Alt.)
Colombia	— Mr. A. Muñoz Gómez	Singapore	— Mr. T.-C. Ng
Cuba	— Mr. J.F. Castillo de la Paz	Slovenia	— Mr. A. Krapež
Denmark	— Mr. K.L. Larsen	South Africa	— Mr. L. Mabaso
Egypt	— Mr. M.T. Elzanaty	Spain	— Mr. V.M. Aguado
France	— Mr. M. Wachenheim	Swaziland	— Mr. D. Litchfield
Germany	— Mr. U. Schwierczinski	Uganda	— Mr. J. Twijuke
Guatemala	— Mr. H.A. Rosales Salaverría	United Arab Emirates	— Miss A. AL Hamili
India	— Mr. P.N. Sukul	United Kingdom	— Mr. M. Rodmell
Italy	— Mr. E. Padula	United States	— Mr. D. Woerth
Japan	— Mr. T. Koda		

ALSO PRESENT:

Mr. C. Schleifer-Heingärtner	— President, ANC
Mr. J.C.F. da Silva (Alt.)	— Brazil
Mr. A. Rebouças (Alt.)	— Brazil
Mr. R. Oliveira de Carvalho (Alt.)	— Brazil
Mrs. L. Camacho Bueno (Alt.)	— Peru
Mr. Bae, J. (Alt.)	— Republic of Korea
Mr. K. Ferjan (Alt.)	— Slovenia
Mr. D. Behrens (Alt.)	— United States

SECRETARIAT:

Mr. D. Azema	— DC/OSG
Ms. N. Graham	— D/ANB
Mr. I. Galán	— D/TCB
Mr. B. Djibo	— D/ATB
Mr. M. Elamiri	— DD/SMM
Mr. V. Galotti	— DD/SSI
Mr. P. Noad	— DD/TCB
Mr. H. Gourджи	— C/CMO
Mr. A. Quiroz	— C/ASA
Mr. R. Lambo	— C/ISD-SAF
Mr. D. Wilkinson	— ASA
Mr. A. Larcos	— ACS
Ms. J. Blumenkron	— TO/SMM
Miss S. Black	— Précis-writer

Representatives to ICAO

Chile
Dominican Republic
Ethiopia
Greece
Iran (Islamic Republic of)
Lebanon
Turkey
Uruguay
Venezuela (Bolivarian
Republic of)

Subject No. 14.5: Safety oversight
Subject No. 52.1: Universal Security Audit Programme

Progress report of the Monitoring and Assistance Review Board (MARB)

1. Tabled for the Council's consideration was information paper C-WP/13889 Restricted, in which the Secretary General reported on the activities of the MARB since its Third Meeting on 1 May 2012.
2. In providing additional information, the Secretary General noted that the recent mission to Djibouti of the United Nations Counter-Terrorism Executive Directorate (CTED), in which ICAO had been represented, had resulted in the receipt by the Organization, on 25 October 2012, of that State's completed aviation security pre-audit questionnaire, which was currently being reviewed. He extended his sincere thanks to the Representative of Burkina Faso, the regional coordinator for African States, and to the African community, for having assisted in organizing the meeting with the President of the Civil Aviation Authority of Guinea-Bissau during the recent High-level Conference on Aviation Security (HLCAS) to provide guidance to that State in resolving its significant safety concerns (SSCs) and identified safety deficiencies.
3. The Secretary General informed the Council that on 1 October 2012 he had sent a letter to the European Commission encouraging the latter to recognize the improvements by Bangladesh, Mauritania, Mozambique and Sudan to their safety oversight systems, including the resolution of their SSCs and the overall attainment of a higher level of effective implementation of ICAO safety-related Standards and Recommended Practices (SARPs) and associated procedures. He had, in particular, encouraged the European Commission to recognize improvements in those areas when assessing States' safety oversight capabilities, especially in those States whose certified air carriers were included on the European air safety list of air carriers which were subject to an operating ban or operational restrictions within the European Union (EU). The Secretary General would review the Memorandum of Cooperation between ICAO and the European Commission to determine if progress made by States within the ICAO context was fully recognized by the European Commission.
4. The Secretary General had, in addition, personally communicated with States, through letters to high-level government officials and through meetings, to stress the importance of taking prompt and decisive action to resolve significant safety and security concerns. He cited, in this regard, the said meeting with the President of the Civil Aviation Authority of Guinea-Bissau and the one between the Secretariat, France and Member States of the *Agence pour la Sécurité de la Navigation Aérienne en Afrique et à Madagascar* (ASECNA), also held during the HLCAS (*cf.* paragraph 2.3.3 of the paper). Furthermore, the Secretary General had instructed the Aviation Security Branch (AVSEC) to focus available resources on States which had been assessed as a high priority under the Aviation Security Assistance Strategy and had demonstrated the political will to resolve their security deficiencies. As a result, three MARB-referred States would receive aviation security assistance before the end of 2012, as would two other States, although not referred to the MARB. ICAO, external stakeholders (France, Benin and Senegal) and a regional partner [the African Civil Aviation Commission (AFCAC)] would provide the required specialized assistance.
5. In noting that the MARB would continue to meet to coordinate safety and security monitoring and assistance activities to ensure that ICAO and States acted together to resolve deficiencies as quickly as possible, the Secretary General indicated that he would report regularly to the Council on those actions.

6. The Representative of Brazil expressed appreciation for the Secretary General's initiatives, which were highly important for ensuring the safety and security of civil aviation in those States which lacked the necessary resources to rectify their identified deficiencies. Noting, from paragraph 2.2.2 of the paper, that six States were making significant progress in addressing the reasons for their referral to the MARB and should be capable of achieving satisfactory full resolution within the next 12 months, he suggested that such States be mentioned by name in future reports as that would not only encourage them but also oblige them, indirectly, to fulfil the requirements.

7. In endorsing this proposal, the Representative of Uganda also commended the Secretary General's efforts, particularly the provision of funds for aviation security assistance projects, which would considerably improve the security situation in the States concerned. Drawing attention to paragraph 2.2.1 of the paper, he suggested that future reports indicate whether the removal of States from the MARB list was due to the elimination of the activity that had given rise to the deficiency or to capacity-building which had enabled the rectification of the deficiency. The Representative of Uganda emphasized that identifying States which had resolved their deficiencies through capacity-building would serve as an incentive to other MARB-referred States. These two suggestions were noted by the Secretary General.

8. Recalling that the case of Djibouti had been discussed during the Tenth Meeting of the AFI Plan Steering Committee (Montréal, 25 and 26 October 2012), the Representative of Uganda raised the possibility of a joint mission by ICAO and AFCAC to that State to meet with decision-makers and design a State-specific approach for resolving the reasons for its referral to the MARB. The Secretary General noted, in this regard, that the ICAO Regional Director of the Eastern and Southern Africa Office in Nairobi would soon go on mission to Djibouti to address the situation.

9. The Representative of Burkina Faso expressed gratitude to the Secretary General for mobilizing efforts to assist African States in resolving their significant safety and security concerns.

10. In the absence of further comments, the Council noted C-WP/13889 Restricted and the updated information provided orally by the Secretary General.

11. The Council reconvened in open session at 1445 hours to consider the remaining items on its order of business.

COUNCIL — 197TH SESSION

SUMMARY MINUTES OF THE FOURTH MEETING

(THE COUNCIL CHAMBER, MONDAY, 5 NOVEMBER 2012, AT 1445 HOURS)

OPEN MEETING

President of the Council: Mr. Roberto Kobeh González

Secretary: Mr. Raymond Benjamin, Secretary General

PRESENT:

Argentina	— Mr. J. Gelso	Malaysia	— Mr. Y.-H. Lim
Australia	— Ms. K. Macaulay	Mexico	— Mr. D. Méndez Mayora
Belgium	— Mr. G. Robert	Morocco	— Mr. A. Boulmane
Brazil	— Mr. J. Taunay	Paraguay	— Mrs. A. Torres de Rodríguez
Burkina Faso	— Mr. M. Dieguimde	Peru	— Mrs. D.E. Sotomayor Yalán
Cameroon	— Mr. E. Zoa Etundi	Republic of Korea	— Mr. Choi, D.
Canada	— Mr. M. Allen	Russian Federation	— Mr. A.A. Novgorodov
China	— Mr. Tao Ma	Saudi Arabia	— Mr. A. Almoghraby (Alt.)
Colombia	— Mr. A. Muñoz Gómez	Singapore	— Mr. T.-C. Ng
Cuba	— Mr. J.F. Castillo de la Paz	Slovenia	— Mr. A. Krapež
Denmark	— Mr. K.L. Larsen	South Africa	— Mr. L. Mabaso
Egypt	— Mr. M.T. Elzanaty	Spain	— Mr. V.M. Aguado
France	— Mr. M. Wachenheim	Swaziland	— Mr. D. Litchfield
Germany	— Mr. U. Schwierczinski	Uganda	— Mr. J. Twijuke
Guatemala	— Mr. H.A. Rosales Salaverría	United Arab Emirates	— Miss A. AL Hamili
India	— Mr. P.N. Sukul	United Kingdom	— Mr. M. Rodmell
Italy	— Mr. E. Padula	United States	— Mr. D. Woerth
Japan	— Mr. T. Koda		

ALSO PRESENT:

Mr. C. Schleifer-Heingärtner	— President, ANC
Mr. J.C.F. da Silva (Alt.)	— Brazil
Mr. A. Rebouças (Alt.)	— Brazil
Mr. R. Oliveira de Carvalho (Alt.)	— Brazil
Mrs. D. Valle Álvarez (Alt.)	— Mexico
Mrs. L. Camacho Bueno (Alt.)	— Peru
Mr. Bae, J. (Alt.)	— Republic of Korea
Mr. K. Ferjan (Alt.)	— Slovenia
Mr. D. Behrens (Alt.)	— United States

SECRETARIAT:

Mr. D. Azema	— DC/OSG
Ms. N. Graham	— D/ANB
Mr. M. Elamiri	— DD/SMM
Mr. V. Galotti	— DD/SSI
Mr. J. Augustin	— A/D/LEB
Mr. H. Gourdji	— C/CMO
Mr. A. Quiroz	— C/ASA
Mr. R. Lambo	— C/ISD-SAF
Mr. A. Larcos	— ACS
Miss S. Black	— Précis-writer

Representatives to ICAO

Chile
Dominican Republic
Ethiopia
Greece
Iran (Islamic Republic of)
Lebanon
Turkey
Uruguay
Venezuela (Bolivarian
Republic of)

1. In introducing “Safety Week”, the Director of the Air Navigation Bureau (D/ANB) highlighted the recent presentation of the World Food Programme’s Aviation Safety Advocacy Award to ICAO and the Flight Safety Foundation (FSF)-Boeing Aviation Safety Lifetime Achievement Award to the leadership team of the Regional Aviation Safety Group – Pan America (RASG-PA). She also provided further information regarding, *inter alia*, the upcoming Twelfth Air Navigation Conference (AN-Conf/12) and the establishment of the ICAO Flight Plan 2012 Coordination Centre. It was agreed that an informal briefing would be given to the Council on the organizational aspects of ANConf/12 prior to the Conference’s opening on 19 November 2012.

Subject No. 7: Organization and personnel
Subject No. 32: Premises

Selection of host State for the ICAO Regional Sub-Office in the Asia and Pacific Region

2. This subject was documented for the Council’s consideration in C-WP/13903, in which the Secretary General reported on: the findings of the onsite visits to the four proposed locations (China, India, the Republic of Korea and Singapore) of the premises of the ICAO Regional Sub-Office in the Asia and Pacific Region (APAC RSO); the secondment of professional staff and other voluntary contributions offered by prospective host States and other APAC States; the final assessments; and next steps to be taken to establish the APAC RSO. It was recommended that the APAC RSO be established in China (Beijing).

3. Following his introduction of the paper, the Secretary General expressed appreciation to the four short-listed candidate host States for all of the hospitality and assistance that they had provided to him and to the ICAO Regional Director of the Bangkok Office during their onsite visits. He also thanked all of the APAC States for the great interest that they had evinced in offering to host the RSO and/or in making voluntary contributions to ensure its successful operation, even if not selected or even if not a candidate. The Secretary General looked forward to continuing to work and to cooperate with the APAC States to ensure that a high quality product was delivered to meet the needs of the region.

4. During the ensuing discussion, the Representatives of Cuba, Singapore, the Republic of Korea, Argentina, Malaysia, India, Brazil, Paraguay, Japan, Burkina Faso, Uganda, the Russian Federation, Morocco, Spain and South Africa endorsed the Secretary General’s recommended choice of China as host State of the APAC RSO and his proposed next steps and congratulated China on its achievement.

5. The Representative of Cuba voiced appreciation to the APAC States for their common effort to voluntarily provide sufficient resources for the establishment and functioning of the RSO, including professionals having the necessary qualifications and competencies. He affirmed that the recommended host State, China, had continuously and consistently demonstrated its commitment to the spirit and letter of the Chicago Convention, as well as to the objectives of the Organization and of civil aviation in the region. Recalling a recent visit by some Representatives to China, the Representative of Cuba expressed gratitude for that excellent opportunity to learn more about that State’s aviation activities, as well as its culture. The Representative of Argentina echoed these comments.

6. The Representative of Singapore reiterated that, irrespective of the selection made for host State of the APAC RSO, the Secretary General had his Delegation’s support and cooperation in all his undertakings. Recalling that he had previously been involved in the provision of air navigation services in Singapore and had consequently worked extensively with other APAC States, he emphasized that the recommended choice of China to host the RSO was a win for the region. While congratulating China, the Representative of Singapore underscored that it was a very heavy responsibility that it would be assuming

and that much work needed to be done. He looked forward to working closely with the Bangkok Office, which was being enhanced with the RSO.

7. In commending the work done by the Secretariat for the selection of host State, the Representative of the Republic of Korea noted that it could not have been an easy decision for the Secretary General given the strong willingness of the four short-listed candidates, of which his State had been one. He understood the functional interdependence between the APAC RSO's air traffic management (ATM) functions and the performance-based navigation (PBN) functions of ICAO's Flight Procedure Programme (FPP), which was hosted by China in Beijing and considered that co-locating and integrating those functions would create a synergy that would help achieve the objectives of both the APAC RSO and the FPP. The Representative of the Republic of Korea firmly believed that the RSO would contribute to the APAC region by maximizing ATM performance. He underscored that his State would provide every support possible to ensure the RSO's success.

8. In affirming that all APAC States would do so, the Representative of Malaysia reiterated his State's offer to provide one P-4 ATM professional to the APAC RSO.

9. The Representative of Paraguay praised India, the Republic of Korea and Singapore for having offered to host the APAC RSO and congratulated China, which she had visited with other Representatives, for being the Secretary General's recommended choice.

10. The Representative of Japan noted that his State also hoped that the APAC RSO in Beijing would be successful and fulfil its purpose, under the good management of the Bangkok Office and in close coordination with Headquarters.

11. Observing that all of the APAC States represented on the Council accepted the recommended choice of China to host the RSO, the Representative of Burkina Faso, as well as the Representatives of Brazil and Morocco, commended the exemplary way in which they had dealt with this matter. The Representative of Morocco noted that this choice was a demonstration of the support being given by ICAO to aviation safety in the APAC region.

12. In thanking the Secretary General for the excellent work done in choosing the site of the APAC RSO, the Representative of the Russian Federation underscored that it was the culmination of lengthy undertakings by the Secretariat, as well as by the Council, which had approved the selection criteria. He indicated that, in light of the experience gained with the Beijing RSO, consideration could be given to establishing a RSO in the European and North Atlantic (EUR) Region.

13. The Representative of Spain congratulated China and all of the APAC States on this new adventure on which the Organization was embarking. He reiterated that its success would depend upon the RSO's relationship with the Bangkok Office and with Headquarters, and above all, on the clear identification of the work that the RSO was to perform. The Representative of Spain underscored that, if the APAC RSO succeeded, as he was sure it would, then it would serve as an example for the establishment of RSOs in other regions, as well as within the APAC region itself to cover other emerging fields of interest.

14. Responding to a point raised earlier by the Representative of India, the Secretary General indicated that, once the Council approved his proposal, it would be necessary to develop a rigorous action plan that would detail, month-by-month, all of the action to be taken between now and the opening of the Beijing RSO. As part of that effort, it would be necessary to determine the division of work between the RSO and the Bangkok Office. As the Council had already approved (194/6) the main mission of the RSO,

that would not be an entirely new undertaking. The Secretary General would report to the Council in the March-June 2013 timeframe on the respective missions of the Beijing RSO and the Bangkok Office.

15. The Council then took the action indicated in the executive summary of C-WP/13903 and:

- a) endorsed the recommendation of the Secretary General, in accordance with paragraphs 5.3 and 7.1 of the paper, that the APAC RSO be established in China (Beijing); and
- b) agreed on the next steps to be taken to establish the APAC RSO as presented in paragraphs 6.1 to 6.3 and 7.1 of the paper, namely: negotiations on the RSO Host State Agreement, which shall set out satisfactory arrangements for the APAC RSO, including its premises, facilities and staff, for the granting of the customary privileges and immunities of ICAO by the host State and the responsibility of the latter to meet all liabilities relating to the premises and operational costs in case of closure of the APAC RSO; the circulation of the draft RSO Host State Agreement to Representatives for approval under cover of a memorandum from the President of the Council; the issuance of a Vacancy Notice for the P-5 position of Chief of the APAC RSO and the interview and selection of Professional staff to be provided by the States; and upon completion of these activities, the opening of the APAC RSO, which was expected to occur between March and June 2013.

16. The Representative of China emphasized that his State would honour its commitment to do its utmost to make the Beijing RSO a great success in order to meet the rapid growth of civil aviation in the APAC region. He expressed deep gratitude to India, the Republic of Korea and Singapore, as well as to the other two candidate host States that had not been short-listed, Indonesia and Sri Lanka, whose efforts promised to give the RSO a bright future. The Representative of China also voiced appreciation to Japan and Malaysia for their offers to second professional staff. In concluding, he thanked all those who had supported China's bid to host the APAC RSO in Beijing and looked forward to seeing everyone at the inauguration ceremony.

17. In congratulating China, the President of the Council underscored that being the host of the APAC RSO was a big responsibility. He also expressed appreciation to all of the other candidate host States. Noting that the Beijing RSO was not solely for APAC States, the President of the Council emphasized that it was for all States whose airlines flew, or would be flying, in the APAC airspace. He further underscored that all States supported this effort to enhance ATM in such a rapidly-growing region.

Subject No. 14.5: Safety oversight

Significant Safety Concerns (SSCs) – A mechanism for the sharing of SSCs with the public

18. The Council returned (195/6; C-WP/13801) to this subject on the basis of: C-WP/13844 [with Revision (French, Spanish and Russian only)], presented by the Secretary General; and an oral report thereon by the Air Navigation Commission (ANC). The paper provided further information on the current process for dealing with Significant Safety Concerns (SSCs) and presented the following revised proposal for the sharing of unresolved SSCs with the public which took into account the discussions held during the 195th Session and the views expressed during the informal briefing on 4 October 2012 (*cf.* paragraph 4):

- that SSCs be made available on the ICAO public website commencing in January 2014;

- that for new SSCs identified after January 2014, there be a period of 90 days between the time an SSC is posted on the secure site for Member States and the time it is posted on the ICAO public website, in order to give an extra incentive to the State concerned to resolve the SSC quickly and to allow a window for assistance activities;
- that information on the existence and nature of an unresolved SSC be posted alongside the State-specific information already made available on the ICAO public website [formerly the Flight Safety Information Exchange (FSIX)] using a standardized wording. This would include the opportunity for the concerned State to comment and update its progress on the resolution of the SSC, subject, in due course, to validation by ICAO. It would also include links to “frequently asked questions” (FAQs) and a tutorial on the audit and SSC process; and
- that as information on SSCs would not be available on the ICAO public website until January 2014, the above-mentioned standardized wording and format would be put through a trial run on the secure website commencing in January 2013, allowing a one-year period for comments on the presentation of the information, with feedback received being taken into account by the Secretariat.

19. During its review of C-WP/13844 at the Seventh Meeting of its 191st Session on 30 October 2012, the ANC had noted, with pleasure, the proposed procedure for the sharing of unresolved SSCs with the public. It had emphasized the importance of an active review of States’ comments and feedback during the trial phase. The analysis needed to ensure that the information to be presented on SSCs on the public website would be clearly understood and interpreted by the public.

20. The Commission had proposed that there should be a timespan of 90 days between the time an SSC was identified and the time that it was posted on the ICAO public website so as to provide an added incentive to the State concerned to resolve the SSC quickly, and a window for assistance activities, if required.

21. With respect to the reference made in paragraph 4.1 a) of the paper to the safety targets adopted at the Abuja Ministerial Conference in July 2012, the Secretariat had clarified that it was not meant to imply that the existence of SSCs was limited to the African region but, rather, that African Ministers had taken the lead by having their region be the first to adopt such concrete aviation safety targets. It had been noted that other regions would be encouraged to do the same. The Secretariat had noted that future references to the Abuja Ministerial Conference should take the said possible confusion into account.

22. The Commission had not had any amendments to the wording it had proposed during its previous consideration of this matter to advise of the existence and nature of an SSC, as set forth in paragraph 2.3 of C-WP/13844. It had strongly supported the proposal to include links to FAQs that would help the reader more fully understand the information presented. In this context, the Commission had considered the different types of questions and issues that could be raised and it had been agreed that those would be addressed under the FAQs and in the development and structure of the website.

23. In concluding, the Commission had recommended that the website also reflect the positive removal of an SSC once it had been adequately addressed by the State concerned.

24. The Representative of Argentina agreed, in principle, to transparency and the procedure proposed in C-WP/13844 for the sharing of SSCs with the public. Furthermore, he had no difficulty with the suggested standardized wording set forth in paragraph 2.3 thereof. The Representative of Argentina emphasized, however, that the dissemination of such sensitive information on the ICAO public website had to be done within the framework of the Chicago Convention, Assembly Resolution A37-5 [*The Universal Safety Oversight Audit Programme (USOAP) continuous monitoring approach*] and the USOAP CMA Memorandum of Understanding (MoU) signed by ICAO and individual States; otherwise, it would not be possible to conduct safety oversight audits under the USOAP CMA or publish the findings without undermining the principle of State sovereignty enshrined in the Chicago Convention.

25. The Representative of Argentina noted that paragraph 28 of the USOAP CMA MoU clearly stated that “If an SSC is notified to State [abbreviated name] following a USOAP CMA on-site activity or at any other time, ICAO will provide State [abbreviated name] with a short timeframe to resolve the SSC through immediate corrective actions. If the SSC remains unresolved at the end of the prescribed timeframe, the SSC will be made available to all Member States of ICAO through the USOAP CMA online framework.”. He reiterated that it made no mention of ICAO’s public website, in accordance with Operative Clause 6 of Assembly Resolution A37-5, which directed the Secretary General “to make all safety oversight-related information generated by the CMA available to all Contracting States through the ICAO **restricted** website” (emphasis added). The Representative of Argentina underscored that paragraph 7 of the USOAP CMA MoU referred only to a standardized report approved by the Council on the level of effective implementation of the audited State’s safety oversight system being made available through the ICAO public website. If, in future, such a standardized report might contain information on the audited State’s SSCs, then it should be specifically mentioned in the MoU; otherwise, audited States might object.

26. The Director of the Air Navigation Bureau (D/ANB) recalled that, during the Council’s previous discussion of this subject, the Director of the Legal Affairs and External Relations Bureau (D/LEB) had “affirmed that paragraph 7 of the USOAP CMA MoU was sufficiently broad to allow the posting of SSCs on the ICAO public website as it provided for the standardized reports, of which SSCs were a part, to be made available through that website” (cf. C-MIN 195/6, paragraph 43). LEB was nonetheless open to an exchange of letters if so desired by any audited State which considered that its MoU with ICAO did not accommodate the posting of its SSCs on the Organization’s public website.

27. The Representative of Australia indicated that, notwithstanding her State’s concerns which she had raised during the Council’s earlier consideration of this matter, it was prepared to support the proposed action, including a one-year trial run, on the secure website, of the proposed standardized wording for posting SSCs on the public website. Australia looked forward to the results of the analysis of the feedback received during that trial run.

28. In likewise supporting the proposed trial run, the Representative of Cuba reiterated the need to ensure that the posted SSC-related information would be well-understood and correctly-interpreted by the public. He further underscored the importance of having an open and intensive exchange of views with those States which had SSCs, and of removing such SSCs from the ICAO public website once they were resolved. To an additional point raised by the Representative, the D/ANB clarified that whereas under the Secretary General’s proposal, SSCs would be posted on the ICAO public website 90 days after they were posted on the secure website, under the ANC’s proposal, SSCs would be posted on the ICAO public website 90 days following their identification. Either approach would be acceptable to the Secretariat.

29. While agreeing that the principle of transparency and the exchange of safety information were the pillars of a safe air transport system, the Representative of Cuba recognized the right of States to resolve their SSCs. He noted that at issue was whether ICAO or the States concerned should disseminate the SSC-related information. That, in turn, raised the questions of ICAO's role and for whom it was working, States or the public.

30. Referring to Operative Clause 5 of Assembly Resolution A37-5, the Representative of Cuba noted that many Representatives considered that it directed the Council to only assess, and not approve, ways in which the public could be informed of SSCs. In emphasizing the need for clarification, he observed that the action proposed in C-WP/13844 was based on the converse, namely, that the Council had been instructed to approve, and not merely assess, a procedure for the sharing of SSCs with the public.

31. In also voicing support for the principle of transparency, the Representative of the Russian Federation concurred that it served as an incentive to States to resolve their SSCs identified during USOAP audits. It was important for ICAO to ensure, however, that the SSC-related information posted on its public website was accurate. While the Representative of the Russian Federation had never been opposed to disseminating such information to other States, it had been intended for aviation professionals who were able to correctly interpret it. Although he had no comments on the proposed standardized wording, he stressed the need to carefully consider the feedback received during the trial run and to make an appropriate decision, bearing in mind the risk of misinterpretation of the wording and all the ways and means in which the SSC-related information might be utilized.

32. Endorsing the action proposed in the paper, the Representative of Mexico affirmed that the timeframes were reasonable and would enable States to take appropriate action to resolve their SSCs before they were posted on the ICAO public website. He also spoke in favour of the proposed one-year trial run for the standardized wording as it would enable any potential implementation problems to be identified and solved. The Representative of Mexico shared the views expressed by the ANC in the last two paragraphs of its oral report.

33. In reiterating that not all Representatives interpreted Assembly Resolution A37-5 in the same way, the Representative of South Africa maintained that Operative Clause 5 did not direct the Council to share information on SSCs with the public; rather, it directed the Council to assess how such information could be shared with the public in a form which would allow them to make an informed decision about the safety of air transportation. The paper under consideration was part of such an assessment. He averred that the proposed standardized wording for posting SSCs on the ICAO public website was unfortunately very far from the stated goal of presenting information on SSCs "in layman's terms that would be more easily understood by the general public" (*cf.* paragraph 2.3 of the paper). Referring to paragraph 4.1 c) ii), the Representative of South Africa emphasized that it was the Council, and not the Secretariat, that should make the final decision, after the trial run, on whether the information on SSCs was presented in the requisite manner as that was part of the whole assessment process.

34. Referring to points raised by the Representatives of Cuba and South Africa, the President of the Council recalled that Operative Clause 5 of Assembly Resolution A37-5 "*Directs* the Council to develop criteria for the sharing of SSCs with interested stakeholders **and assess how** the information on SSCs could be shared with the public in a form which would allow them to make an informed decision about the safety of air transportation;" (emphasis added). In noting that Operative Clause 15 thereof "*Directs* that the Council report to the next ordinary session of the Assembly on the overall implementation of the USOAP-CMA;" he underscored that the proposed procedure for the sharing of SSCs with the public was part of the CMA and that it was thus necessary to report thereon to the upcoming Assembly in

September/October 2013. The President of the Council recommended that the Council consider the paper as a possible report to the Assembly on how and when information on SSCs could be shared with the public. The proposed wording and format of the standardized text for the posting of SSCs on the ICAO public website could be improved in light of feedback received during the one-year trial run.

35. The Representative of Cameroon fully supported the principle of transparency, which would encourage those States with SSCs to resolve them as quickly as possible. While welcoming the said trial run, he emphasized that it was still not clear who would be providing feedback on the standardized text. Reference was made in the ANC's oral report to States' comments and feedback. If States' input were sought, then it would be aviation professionals, and not the public, who would be providing feedback, when the goal was to ensure that the public clearly understood and interpreted the SSC-related information presented in the standardized text, as indicated by the ANC.

36. The Representative of France recalled that the request for greater transparency had arisen following a number of aircraft accidents, when it had been discovered by some of the victims' families and by some members of the public that the States concerned had not disseminated relevant information. The proposed mechanism for the sharing of SSCs with the public had thus not originated in a desire to exert pressure on States to resolve their deficiencies and thereby enhance aviation safety, even though it was hoped that it would have that effect. The question to now be addressed was what was ICAO's role in ensuring such increased transparency. The Organization could only be requested to make transparent the findings and conclusions of its safety oversight audits, cognizant of the fact that that would require action on the part of the audited States and not only of ICAO. Affirming that any enhancement of the communication of SSC-related information to the public would be beneficial, the Representative of France endorsed all of the action proposed in C-WP/13844, subject to the further improvement of the wording and format of the standardized text advising the public of the existence and nature of an SSC. He also endorsed the comments made by the ANC in its oral report.

37. The Representative of Singapore supported the approach proposed in the paper as he considered that it was in line with Assembly Resolution A37-5. He expressed satisfaction that there would be an additional year of lead time for the posting of SSCs on the ICAO public website as that would give the States concerned sufficient time in which to resolve their SSCs. The Representative of Singapore was also in favour of the proposed trial run of the said standardized text, during which feedback from States and the Council would be received on how to fine-tune the information presented. He endorsed the ANC's recommendation that posted SSCs be removed from the ICAO public website once they had been adequately addressed by the State concerned. The Representative of Singapore underscored, however, that even when an SSC was resolved, much work still remained to be done by the State concerned to build up its safety oversight capabilities for the long-term, such as in the areas of primary aviation legislation, technical personnel qualification and training, and the certification process. He thus urged the Secretariat to continue to render assistance to such States for as long as was necessary.

38. The Representative of Denmark was in favour of as much transparency as possible, in as clear and detailed a manner as possible, so that the travelling public would have a solid basis on which to make well-informed decisions. He therefore considered that the sharing of SSCs with the public should be done in a more detailed way in future. While the Representative of Denmark would also wish to have SSC-related information disseminated as quickly as possible, in a spirit of global compromise, he could support the proposal in its current form.

39. While supporting, in principle, transparency and the sharing of SSCs with the public, the Representative of Uganda emphasized that some work remained to be done to address all of the issues

raised. Noting that he still had difficulty with the standardized text proposed in paragraph 2.3 of the paper, he averred that indicating that the State concerned was not providing sufficient safety oversight would have a negative impact on all of its operators, even if the deficiency had originated with only one operator. The public would have problems understanding the wording used, which would cause considerable harm to the aviation industry in his region. The Representative of Uganda underscored, in this regard, that aviation was a global industry that could not afford to leave any region behind as a result of incomprehensible language used in SSC postings on the ICAO public website.

40. In questioning how ICAO would be able to control the consumption of such SSC-related information through a media over which it had no control, the Representative of Uganda emphasized that States already had such information and could disseminate it to their own public in a controlled manner and so assist them in making informed decisions regarding air travel. Reiterating that Operative Clause 5 of Assembly Resolution A37-5 did not require ICAO to disclose to the public whatever SSCs were identified during its safety oversight audits, he stressed the need for caution. The Representative of Uganda underscored that once wording for the standardized text had been found that would be understood by the public and that would not cause more harm than the SSC that ICAO was trying to have resolved, then agreement could be reached on when such SSC-related information should be shared with the public. The Representative of Uganda considered that until such wording was found, the Council would not be in a position to report on this matter to the Assembly except to indicate that, due to its sensitive nature, work thereon was still ongoing. The Representative of Swaziland shared this view, as well as the view expressed by the Representative of South Africa.

41. Speaking on behalf of his State, as well as of all the other States of the AFI Group, the Representative of Burkina Faso suggested that the Council accept, in principle, the proposed procedure for the sharing of SSCs with the public and request that the wording and format of the standardized text for posting SSCs on the ICAO public website be fine-tuned in light of the feedback received during the trial run. The Representatives of Belgium and Morocco supported this suggestion.

42. In recalling Operative Clauses 5 and 6 of Assembly Resolution A37-5, the Representative of the Russian Federation endorsed the President of the Council's recommendation that the information contained in C-WP/13844 be presented in a report to the Assembly with a view to obtaining further directives. Agreeing that States should notify their citizens of potential dangers, he underscored that such information was presented in a balanced manner, having been prepared by specialists who were accustomed to dealing with mass media. The Representative of the Russian Federation averred that the public would not understand SSCs that were posted on the ICAO public website without any prior processing.

43. Referring to the concerns expressed about the proposed standardized text for posting SSCs on the ICAO public website, the Representative of the United States voiced scepticism that better language could be found and cautioned against allowing the perfect to be the enemy of the good. He advocated approving the "way forward" for the sharing of unresolved SSCs with the public presented in paragraph 4 of the paper and reflected in paragraph 18 above.

44. Sharing this view, as well as the view expressed by the Representative of France, the Representative of the United Kingdom underscored that it was never possible to achieve perfection when formulating texts on sensitive safety or security matters which were of immediate concern to the public. However, the resultant feeling of dissatisfaction was nothing in comparison to the uncomfortable feeling that came from the knowledge that one had been in the possession of information relevant to a safety or security incident and had not taken any action thereon. The Representative of the United Kingdom underscored that if ICAO were to find itself in such a position, then its credibility, and that of the Council,

would not be enhanced if it were explained that information on SSCs had not been shared with the public because it had not been possible, during the last triennium, to reach agreement on the wording and format of the standardized text for posting SSCs on the ICAO public website. He emphasized that the purpose of the trial run was to improve that standardized text.

45. In affirming that the principle of transparency was of paramount importance and that the public interest should therefore be accorded more priority, the Representative of Italy underscored that the problems highlighted by previous speakers could be dealt with in the coming year during the said trial run. He thus endorsed the action proposed in C-WP/13844 and the ANC's oral report, as did the Representative of Slovenia.

46. Observing that there was a considerable divergence of views, the Representative of India indicated that the Council should at least accept the principle of transparency. Thereafter, quick action should be taken to resolve the issues raised regarding the wording and format of the standardized text for posting SSCs on the ICAO public website.

47. In noting that Member States had a responsibility to protect their own public, the Representative of South Africa queried why ICAO should be made to post their SSCs on its public website. Member States understood their public better than ICAO did and would therefore be in a better position to formulate information on their SSCs that would be readily understandable. The Representative of South Africa could, nevertheless, endorse the President of the Council's recommendation regarding a report to the Assembly as the latter would only indicate the status of work at the time. If the work had not been finalized, then the Assembly could be informed accordingly.

48. The Representative of Spain observed that all Representatives who had taken the floor agreed on the principle of transparency. With regard to the next steps, he reiterated the need to report to the next Assembly in September/October 2013 pursuant to Operative Clause 15 of Assembly Resolution A37-5. Noting that the posting of SSCs on the ICAO public website was only to commence in January 2014, he underscored that the Assembly would have the opportunity to provide further guidance and directives in that regard. He agreed with the Representative of South Africa that the Council would have to decide, after the trial run, whether ICAO was in a position to proceed with the posting of SSCs on its public website using the refined standardized text.

49. In taking the action then proposed by the President of the Council in light of the discussion, the Council:

- a) approved, in principle, the "way forward" for the sharing of unresolved SSCs with the public set forth in paragraph 4 of C-WP/13844 and reflected in paragraph 18 above;
- b) invited those Representatives who had concerns regarding the proposed standardized wording to advise the public of the existence and nature of a SSC set forth in paragraph 2.3 of C-WP/13844 to notify their comments and suggested changes to the Secretariat; and
- c) requested the Secretary General to present, for the Council's consideration and approval during the next (198th) session, a draft report to the Assembly on this matter.

Report on the transition plan related to the ICAO Universal Safety Oversight Audit Programme Continuous Monitoring Approach (USOAP CMA)

50. The Council had for consideration: C-WP/13890, in which the Secretary General presented a consolidated progress report on the primary activities of the Universal Safety Oversight Audit Programme (USOAP) undertaken during the transition to a continuous monitoring approach (CMA), from its commencement in 2011 leading to the full-scale implementation of the USOAP CMA scheduled for January 2013; and an oral report thereon by the Air Navigation Commission (ANC). Updates to the information provided in paragraph 2.1 of the paper were noted, as was an editorial amendment to the name of the Flight Safety Foundation (FSF) given in item 5.1 of that paragraph.

51. During its review of the paper at the Second and Third Meetings of its 191st Session on 25 and 27 September 2012, the ANC had not raised any concern regarding the 2013 launch of the CMA USOAP. It had noted that the two-year transition period was coming to an end and had been assured that both ICAO and States were ready for the commencement of the CMA phase of USOAP. The Secretariat had presented a number of updates in a slide presentation and the Commission had suggested that this same presentation be provided to the Council, along with a summary table of statistical details to convey the state of readiness to fully launch CMA and a brief description of the next steps that would follow in January 2013.

52. The Commission had noted with satisfaction that as at 25 September 2012, 175 States had signed or were in the process of signing the Memorandum of Understanding (MoU) allowing for CMA activities. The Secretariat was in the process of engaging the remaining 16 States to do so.

53. To a question raised, the Secretariat had clarified that the Flight Safety Information Exchange (FSIX) would soon no longer be available; however, the same information would be relocated within the ICAO public website with safety audit results presented in an updated, more accessible format, while remaining in line with the main content approved by the Council. It had been noted that publically-available information on States' overall results was kept up-to-date and that 100 per cent of audited States had consented to the release of their information to the public.

54. The Secretariat had provided an oral update that 21 ICAO Coordinated Validation Mission (ICVMs) had been conducted to date, the purpose of which was to ascertain whether previously-identified safety deficiencies had been satisfactorily resolved. The Commission had noted, in this regard, that the results of the ICVMs had been very positive, with States making good progress in implementing their corrective action plans. It had been noted that a further 30 ICVMs were planned for 2013, along with 12 comprehensive system approach audits.

55. The Secretariat had explained that familiarization training, which provided an overview of CMA and its methodology, was available on the public website free-of-charge, in all ICAO languages. In addition, the computer-based training (CBT) used for auditors and ICVM experts was available to all State-nominated National Continuous Monitoring Coordinators (NCMCs) free-of-charge for Parts 1, 2 and 3 only, and to additional State personnel for a fee, if requested. In some cases, as identified by the Monitoring and Assistance Review Board (MARB), this CBT had been made available to States requiring assistance free-of-charge. With respect to in-house training, the Secretariat had confirmed that the intent was to provide USOAP CMA training to all appropriate Officers in the Regional Offices, in addition to those Regional Officers already trained at Headquarters.

56. The Commission had noted the agreements being entered into with relevant partners in order to foster coordination and cooperation in sharing safety information. The Secretariat had confirmed, in this regard, that the sharing of safety information was a two-way agreement. It had been further clarified that no other organization conducted audits on ICAO's behalf.

57. The Commission had noted with satisfaction that the Continuous Monitoring and Oversight Section (CMO) had expanded its quality management system to include the CMA and its documented processes and procedures, and had been recertified to the ISO-9001:2008 standard. The Secretariat had noted that feedback was being collected from States, such as through the workshops and seminars attended by the NCMCs, and that this was regularly taken into consideration to improve the quality and effectiveness of the CMA.

58. As suggested by the ANC, a PowerPoint presentation on the transition to the CMA and the next steps to be taken in January 2013 was then given by the Chief, CMO (C/CMO).

59. During the ensuing discussion, the Representatives of Japan, France and Uganda voiced support for the full launch of the USOAP CMA activities in January 2013. In so doing, the Representative of Japan emphasized the need for the Secretariat to continue to provide support and assistance to States in utilizing the CMA online framework by, for example, enhancing existing user guides and producing additional ones. Responding to a question raised by the Representative, C/CMO clarified that there were three modules of the CMA online framework that would only become active once the CMA activities were fully launched in the coming year. In noting that States would only be expected to complete the corresponding information at that time, he confirmed that the Secretariat would assist them, as necessary.

60. The Representatives of Cameroon and France expressed appreciation for the work done by the Secretariat during the transition to a CMA, with the former reiterating that it would greatly assist States in their implementation of ICAO safety-related Standards and Recommended Practices (SARPs). To a query by the Representative of Cameroon, C/CMO confirmed that interested Council Representatives could receive online training on the CMA.

61. Referring to item 5.1 of the table of primary activities undertaken during the transition phase of CMA set forth in paragraph 2.1 of the paper, the Representative of France sought information regarding the nature of the shared safety information, in particular, of that provided by ICAO to international entities. It was understood that the requested information would be provided after the meeting.

62. In then noting the ANC's oral report, the Council took the action indicated in the executive summary of C-WP/13890 and:

- a) noted the progress made in the transition phase to evolve the USOAP to a continuous monitoring approach (CMA); and
- b) approved the full launch of CMA activities for January 2013 as initially scheduled.

63. The President of the Council then drew attention to the draft Memorandum of Cooperation (MoC) between ICAO and the Flight Safety Foundation (FSF) for Providing a Framework for Enhanced Cooperation to Improve Safety Standards in Global Aviation which he had circulated to Representatives for comments, by 28 September 2012, under cover of memorandum PRES RK/2106 Confidential dated 17 September 2012. He noted that one Representative, the Representative of France, while not objecting to the MoC, had requested that a policy for cooperation with private entities be developed.

64. Taking the floor, the Representative of France observed that there had been a proliferation of such MoCs, citing, as an example, the draft Agreement of Cooperation between ICAO and the North Atlantic Treaty Organization (NATO) which would be considered by the Council later in the current session. While in favour of cooperation with organizations such as FSF, he emphasized the need for a policy framework as other similar organizations would be interested in concluding MoCs with ICAO.

65. Noting that he and the Secretary General had acceded to the request of the Representative of France, the President of the Council indicated that a draft policy for cooperation with private entities would be prepared by the Secretariat on the basis of Assembly Resolution A1-10 (*Relations with public international organizations*) and A1-11 (*Relations with private international organizations*). In view of the heavy workload associated with the upcoming Twelfth Air Navigation Conference (AN-Conf/12) and 38th Session of the Assembly, the said draft policy would only be presented to the Council for consideration after the latter meeting.

66. The Council then agreed to the MoC between ICAO and the FSF, which the President of the Council would proceed to sign, on behalf of the Organization.

67. The meeting adjourned at 1730 hours.

COUNCIL — 197TH SESSION

SUMMARY MINUTES OF THE FIFTH MEETING

(THE COUNCIL CHAMBER, WEDNESDAY, 7 NOVEMBER 2012, AT 1000 HOURS)

OPEN MEETING

President of the Council: Mr. Roberto Kobeh González

Secretary: Mr. Raymond Benjamin, Secretary General

PRESENT:

Argentina	— Mr. J. Gelso	Malaysia	— Mr. Y.-H. Lim
Australia	— Ms. K. Macaulay	Mexico	— Mr. D. Méndez Mayora
Belgium	— Mr. G. Robert	Morocco	— Mr. A. Boulmane
Brazil	— Mr. J. Taunay	Nigeria	— Dr. O.B. Aliu
Burkina Faso	— Mr. M. Dieguimde	Paraguay	— Mrs. A. Torres de Rodríguez
Cameroon	— Mr. E. Zoa Etundi	Peru	— Mrs. D.E. Sotomayor Yalán
Canada	— Mr. M. Allen	Republic of Korea	— Mr. Choi, D.
China	— Mr. Tao Ma	Russian Federation	— Mr. A.A. Novgorodov
Colombia	— Mr. A. Muñoz Gómez	Saudi Arabia	— Mr. A. Almoghraby (Alt.)
Cuba	— Mr. J.F. Castillo de la Paz	Singapore	— Mr. T.-C. Ng
Denmark	— Mr. K.L. Larsen	Slovenia	— Mr. A. Krapež
Egypt	— Mr. M.T. Elzanaty	South Africa	— Mr. L. Mabaso
France	— Mr. M. Wachenheim	Spain	— Mr. V.M. Aguado
Germany	— Mr. U. Schwierczinski	Swaziland	— Mr. D. Litchfield
Guatemala	— Mr. H.A. Rosales Salaverría	Uganda	— Mr. J. Twijuke
India	— Mr. P.N. Sukul	United Arab Emirates	— Miss A. AL Hamili
Italy	— Mr. E. Padula	United Kingdom	— Mr. M. Rodmell
Japan	— Mr. T. Koda	United States	— Mr. D. Woerth

ALSO PRESENT:

Mr. C. Schleifer-Heingärtner	— President, ANC
Mr. J.C.F. da Silva (Alt.)	— Brazil
Mr. A. Rebouças (Alt.)	— Brazil
Mr. R. Oliveira de Carvalho (Alt.)	— Brazil
Mr. Chunyu Ding (Alt.)	— China
Ms. M. Furuhata (Alt.)	— Japan
Mrs. D. Valle Álvarez (Alt.)	— Mexico
Mrs. L. Camacho Bueno (Alt.)	— Peru
Mr. Bae, J. (Alt.)	— Republic of Korea
Mr. A.A. Korsakov (Alt.)	— Russian Federation
Mr. J.L. Novak (Alt.)	— United States

Mr. Farid Shafiyev, Permanent Representative of the Republic of Azerbaijan to ICAO

SECRETARIAT:

Mr. D. Azema	— DC/OSG
Ms. N. Graham	— D/ANB
Mr. B. Djibo	— D/ATB
Mr. J.V. Augustin	— A/D/LEB
Mrs. J. Hupe	— C/ENV
Mr. O. Myard	— C/EAO
Mr. C. Dalton	— C/ATM
Mr. B. Verhaegen	— SELO
Mr. T. Tanaka	— ENV/ENC
Ms. S. Brand	— ENV/ENC
Mrs. D. Cooper	— PO/PW
Mr. A. Larcos	— ACS

Representatives to ICAO

Chile
Dominican Republic
Ethiopia
Greece
Iran (Islamic Republic of)
Lebanon
Turkey
Uruguay
Venezuela (Bolivarian Republic of)

Welcome to the Ambassador of Azerbaijan

1. The President of the Council extended a warm welcome to His Excellency, Mr. Farid Shafiyev, Ambassador of Azerbaijan and Representative of Azerbaijan to ICAO, who addressed the Council on the question of the legitimacy of operations at the Khojaly Airport in the Nagorno-Karabakh region.

2. The President of the Council thanked the Ambassador for his statement and reiterated to the Ambassador and to the Government of Azerbaijan as well as to the Government of Armenia that ICAO was ready to assist in ensuring the safety of flights in the region in accordance with its mandate as a United Nations specialized agency.

Subject No. 10: ICAO relations with the United Nations, the specialized agencies and other international organizations

Draft Agreement of Cooperation between ICAO and the North Atlantic Treaty Organization

3. This subject was documented for Council consideration in memorandum PRES RK/2070, dated 22 May 2012, in which a draft Agreement of Cooperation was circulated, in the form of an exchange of letters, proposed by the North Atlantic Treaty Organization (NATO). A number of Member States, including Argentina, China, Cuba, India and the Russian Federation, had specifically requested Council discussion of this item.

4. In supplementing the information already provided, the Director of the Air Navigation Bureau (D/ANB) outlined additional details on the nature of the proposed cooperation with NATO. In her remarks, D/ANB elaborated that ICAO currently cooperates with NATO in the context of air traffic management (ATM) systems and in an effort to ensure the swift and continuous movement of civil aviation around conflict zones.

5. The Representative of Brazil stated that in addition to the other Member States that had sought discussion of this item, he too had also sent a letter requesting that this issue be listed for Council consideration. The Representative commented on the evolving nature of NATO since its inception and observed that the proposed cooperation agreement might lead to ICAO being drawn into complex political issues that were beyond its mandate. On this basis the Representative cautioned against proceeding with the agreement since ICAO was a non-political forum for the consideration of technical civil aviation issues. The Representative conceded that in the context of United Nations Security Council resolutions relating to peacekeeping operations and no-fly zones, there might be a need for the sharing of technical information between ICAO and NATO but that current communication mechanisms were sufficient for this purpose.

6. The Representative of Cuba endorsed the comments of the Representative of Brazil and emphasized the political sensitivity arising from any proposed agreement between ICAO and NATO. The Representative underlined the need to proceed with caution especially if the proposed agreement had not been vetted by the Legal Affairs and External Relations Bureau and if did not accord with the protocols and practices of ICAO. He stated that in the context of cooperation on civil military aviation issues, there was a need to coordinate global ATM systems with military authorities so as to optimize cooperation in the management of air space. In this connection, cooperation on civil and military aviation issues should be dealt with between States since States are responsible for managing sovereign airspace. The

Representative stated that ICAO could not replace the State in fulfilling this role. According to his understanding, Assembly Resolution A1-10, which concerns relations with international organizations, authorises the Council to establish informal working arrangements rather than formal agreements of the nature proposed and to do so only in accordance with the *Convention on International Civil Aviation* (Chicago Convention) and existing Assembly resolutions. On this basis, the Representative concluded that the proposed agreement between ICAO and NATO was both inadvisable and unnecessary.

7. The Representative of Argentina endorsed the comments of the Representatives of Brazil and Cuba and emphasized that it was important for any proposed agreement between ICAO and NATO to be subject to review and ratification by the Member States. The Representative referred to United Nations Security Council resolutions concerning military operations and stated that ICAO was not in a position to interpret the mandate that is derived from such resolutions especially also since it was only States that were able to do so. He concluded that it was inappropriate for ICAO to undertake the proposed agreement with NATO and that in future all such proposed agreements ought to be subject to review by the ICAO Member States.

8. In drawing attention to Assembly Resolution A1-10, which concerns ICAO relations with international organizations, the Representative of the Russian Federation stated that the Resolution contains no reference to formal agreements between ICAO and military entities such as NATO. He added that Appendix O to Assembly Resolution A37-15, concerning the coordination and cooperation of civil and military air traffic, recognised that States had the lead role in air traffic operations. The United Nations was the appropriate forum to represent all States on such matters whereas NATO is a military alliance limited to a certain number of States. The Representative expressed concern that a formal arrangement with a military entity such as NATO might represent a conflict with the Chicago Convention, which in the preamble refers to the pursuit of peace. The Representative questioned the need for a formal arrangement given that the present informal arrangement between ICAO and NATO had been serving well. Since ICAO was a non-political entity with responsibility for civil aviation matters, issues outside of this mandate should be dealt with between States. The Representative concluded that the proposed agreement was unnecessary.

9. The Representative of India recalled that a similar proposal to formalize the relationship between the United Nations and NATO was currently being dealt with by States via their diplomatic missions in New York. The Representative stated that the proposed formal agreement between ICAO and NATO was unnecessary and that the existing mechanisms were adequate. He cautioned against proceeding with a formal arrangement with a military entity such as NATO that had a limited membership. In referring to the letter from the President of the Council dated 22 May 2012, that informed of this issue, the Representative requested that in future more time be allocated for Council Representatives to consult with the relevant ministries in their States especially in matters containing political sensitivities such as this item.

10. The Representative of the United States welcomed the preceding comments from other Representatives and recognized that there existed differing viewpoints. His understanding was that the proposed agreement merely sought to strengthen the role of ICAO as the pre-eminent international authority in civil aviation matters and that this had been the purpose in seeking to formalize an agreement with NATO.

11. The Representative of China endorsed the preceding comments by the Representatives of Brazil, Cuba, Argentina, Russian Federation and India and in doing so he emphasized that since ICAO was primarily concerned with civil aviation matters, it should avoid entering into formal arrangements

with military entities such as NATO. He stated that the current informal arrangement was entirely adequate.

12. The Representative of Mexico endorsed the comments of the Representative of the United States and expressed the view that given the nature of the civil aviation activities to be covered by the proposed agreement there was a need to formalize the existing arrangement between ICAO and NATO. He stated that in formalizing the cooperation it would help to clarify the relationship between the two whereas without it, there might be risks for ICAO in carrying out its activities.

13. The President of the Council thanked Representatives for their views and recalled that there had been a long history of cooperation between ICAO and NATO. He clarified that this arrangement had been informal and noted that cooperation was primarily for humanitarian purposes and to ensure the safety of airspace. He emphasized the importance of ICAO working with States and other organizations, including military entities, to ensure effective cooperation of air traffic management systems. In this connection, it was noted that ICAO could continue without a formal agreement. He also confirmed that the proposed agreement had been circulated only after it had been reviewed by the Legal Affairs and External Relations Bureau. In relation to the time allocated for Member States to consider the item following its circulation to Representatives, the President of the Council stated that one month was sufficient for consultative purposes but he undertook to reconsider this in the future depending on the issue arising.

14. The Representative of France sought clarification on whether in light of the preceding discussion, the Secretariat would consider developing a formal policy on cooperation with other organizations. The President of the Council confirmed that following the 38th Session of the Assembly it was intended to develop a draft paper for further consideration on this issue.

Subject No. 13: Work programme of Council and its subsidiary bodies

Report of ANC – ANC work programme for the 192nd Session

15. The Council had for review C-WP/13891, in which the Air Navigation Commission (ANC) presented its proposed work programme for the 192nd Session, for approval, and its proposed work programmes for the 193rd and 194th, for information.

16. Observing that the proposed work programme contained a comprehensive list of items, the President of the Air Navigation Commission (P/ANC) indicated that there might be a need to prioritise or defer some of the items in the event that there was insufficient time or resources to complete the work programme. P/ANC indicated that the Commission would soon undertake a review of the new safety management annex (Annex 19), which would take into account comments from Member States and international organizations as well as the outcomes of the Twelfth Air Navigation Conference (ANConf/12) that was scheduled to take place from 19 to 30 November 2012. The intention was for the ANC to present a report to the Council on the new Annex 19 at the next (198th) Session.

17. In welcoming the report of P/ANC, the Representative of Australia observed that the ANC had an ambitious work programme that might result in some items being deferred. In this connection, the Representative indicated her willingness for the Council to consider providing the ANC with the necessary support and guidance as required.

18. The Council then approved the ANC work programme for the 192nd Session, as contained in Appendix A to C-WP/13891.

Subject No. 15.2: Regulation of international air transport services

**Report on the preparatory work for the
Sixth Worldwide Air Transport Conference (ATConf/6)**

19. The Council noted information paper C-WP/13878 [with Corrigendum (French only)], presented by the Secretary General, on the preparatory work for the Sixth Worldwide Air Transport Conference (ATConf/6), to be held at ICAO Headquarters in Montréal, Canada, from 18 to 22 March 2013, and an oral report thereon by the Air Transport Committee (ATC).

20. In its report, the ATC had revealed that an informal briefing of the Council would take place prior to the Conference and that a report to the next (198th) Session would contain further information on the provisional agenda for the pre-conference Symposium that was being hosted in cooperation with industry stakeholders; feedback from the ATConf/6 regional preparatory seminars; and an assessment of the potential impact of the conclusions and recommendations arising from the High Level Conference on Aviation Security (HLCAS) as well as ANConf/12.

21. In relation to the economic aspects of future air navigation systems, the Representative of France sought clarification on how ICAO would deal with this issue given its significance to worldwide implementation objectives. He observed that it would be necessary for ICAO to provide some guidance as to the economic aspects, but noted that there were other related issues that would need to be taken into account such as financial engineering and cost/benefit analyses of future systems.

22. In response, the Director of the Air Transport Bureau (D/ATB) explained that this issue would be covered by item 2.7 of the agenda of ATConf/6. It was acknowledged that the Secretariat was currently working with relevant stakeholders to determine more clearly the cost implications arising from this issue and to identify suitable policy response options.

Subject No. 50: Questions relating to the environment

Environmental Protection – Recent developments in ICAO

23. The Council noted information paper C-WP/13892, in which the Secretary General reported on recent developments and future actions to be undertaken by ICAO on key areas of work identified as priorities by the Council related to international aviation and climate change, namely States' action plans and assistance to States, sustainable alternative fuels for aviation, and global aspirational goals, as well as outreach activities.

24. In its report, the ATC had welcomed the efforts of the Secretariat in providing support to States in the development and submission of action plans. It was clarified that submission of a joint action plan by a group of States could be considered and that this option was indeed currently being pursued. Regarding confidentiality, it was explained that States that had submitted action plans were being consulted on their readiness to showcase the plans. Only when a State agreed, would the action plan be listed on the ICAO website. Concerning the progress of work related to paragraph 22 of ICAO Assembly Resolution A37-19, the Secretariat had in the first instance been assisting States with the development of their action plans. Regarding the development of alternative aviation fuels, an ongoing

challenge was the establishment of sustainable criteria, as well as costs for the production and distribution of such fuels. These issues were currently being considered by an Expert Group.

25. In updating the information in the report of the ATC, the Secretary General elaborated that with regard to States' action plans and assistance to States, 53 Member States, representing 75 per cent of global international traffic had submitted action plans. Based on current expectations, ICAO would achieve coverage of 85 per cent of international revenue tonne kilometres (RTK) by the end of 2012. In relation to the ICAO "Assistance for Action – Aviation and Climate Change" seminar, which took place from 23 to 24 October 2012, the Secretary General noted that this had drawn more than 160 participants representing 47 Member States and 19 international organizations. The seminar had highlighted the milestones achieved during the first phase of the States' action plans, including the reduction of carbon emissions resulting from aviation and States' support for the initiative. The seminar had also further facilitated the constructive engagement between ICAO, its Member States, stakeholders and other international organizations, toward the development and implementation of the action plans.

26. Referring to the active participation of other organizations at the seminar, the Secretary General noted the positive contribution made to issues under consideration by the World Bank, United Nations Development Programme, Global Environment Facility, Asian Development Bank, African Development Bank and Inter-American Bank, which had all offered options in supporting States to develop and submit their action plans.

27. In addition to supporting States in the development of action plans, the Secretary General explained that ICAO was also moving onto a second phase that involved assisting in the review of a State action plan and in the implementation of actions identified in an action plan. It was intended that there would be an overarching strategy to assist States in this regard.

28. In relation to alternative fuels for aviation, it was indicated that an Expert Group was currently developing a set of policy recommendations, including on sustainability criteria, life cycle analysis, and incentives to promote the development of alternative fuels. It was intended that the Expert Group would report to the CAEP/9 meeting that was scheduled to take place in February 2013.

29. The Representative of the United States welcomed the ongoing focus by ICAO on these environmental issues and noted the importance of seeking practical options to reduce emissions in aviation. In relation to the forthcoming seminar, he noted the constructive discussions that had taken place and the progress that had been made in identifying and sharing best practices among States. He commended ICAO for its leadership and efforts in this regard and expressed the hope that global coordinated efforts would help deliver carbon neutrality by 2020.

30. The Representative of Spain observed that a multidisciplinary approach was necessary on environmental issues. He agreed that the action plans were important in informing on global efforts by the aviation sector so in this connection it was essential to ensure the quality of the information in the action plans in order to derive a clear picture of the environmental impact. In relation to the work of the Expert Group and its report to CAEP/9, the Representative welcomed the fact that the Council would be given an opportunity to consider this information, which would facilitate a subsequent report to the Assembly.

31. The Representative of Mexico endorsed the comments of the Representatives of the United States and Spain and emphasized the importance of verifying the information contained in the States' action plans as a means of ensuring its effectiveness. In relation to the issue of alternative fuels, it would be helpful if ICAO were to provide some policy guidance to States on the implications vis-à-vis

the practicalities arising from the production and distribution of alternative fuels. In response, the President of the Council acknowledged this would indeed be an important area to examine in the future.

32. The Representative of Burkina Faso (speaking on behalf of the AFI Group) expressed appreciation to the President of the Council and the Secretary General for agreeing that the next ICAO “Assistance for Action – Aviation and Climate Change” seminar would take place in Africa. He undertook, with his colleagues, to work closely with the Secretary General in helping to facilitate participation at the seminar and in coordinating with relevant authorities across Africa to ensure the finalization and submission of States’ action plans.

Subject No. 50: Questions relating to the environment

Environmental Protection – Recent developments in other United Nations bodies and international organizations

33. The Council considered this item on the basis of: information paper C-WP/13893, in which the Secretary General reported on developments with respect to environmental protection activities at the recent climate change conferences held under the auspices of the United Nations Framework Convention on Climate Change (UNFCCC) in Bonn, Germany (14 to 25 May 2012) and Bangkok, Thailand (30 August to 5 September 2012); updated information provided orally by the Secretariat; and an oral report from the Air Transport Committee (ATC).

34. In its report, the ATC had stressed the ongoing need for ICAO to liaise with other relevant United Nations bodies and international organizations and to demonstrate the ICAO commitment to tackling climate change. With respect to the mobilization of revenue for climate finance and the use of international aviation as a potential source of such revenue, it would be necessary for ICAO and its Member States to ensure that international aviation was not specifically targeted in a disproportionate manner within the UNFCCC process.

35. Additional information was provided orally by the Chief, Environment Branch (C/ENV) regarding issues under consideration by other United Nations bodies. This included the 64th session of the Maritime Environmental Protection Committee that was hosted by the International Maritime Organization (IMO) and which focused on a draft resolution concerning technical cooperation and technology transfer to facilitate the implementation of technical and operational measures for international shipping. It was stated that consensus had not yet been achieved on the adoption of the proposed resolution.

36. With respect to the Rio+20 Conference, it was revealed that the United Nations Secretary-General had issued an implementation framework that outlines initiatives and actions arising from the event in various areas including sustainable energy and transport. The next related event would be the 18th session of the Conference of the Parties (COP/18) to the UNFCCC, which would take place from 26 November to 7 December 2012 in Doha, Qatar. It was understood that the efforts of ICAO and its Member States in addressing emissions from international aviation would be highlighted at a side event scheduled for 20 November 2012.

37. The Council then noted information paper C-WP/13893, as well as the oral report and the additional information provided thereon.

Subject No. 50: Questions relating to the environment

**Results of the Committee on Aviation Environmental Protection (CAEP)
Steering Group (SG) meeting**

38. The Council noted information paper C-WP/13896, in which the Secretary General presented the results of the annual CAEP Steering Group (SG) meeting, held in St. Petersburg, Russian Federation, from 9 to 13 July 2012. The meeting had reviewed the activities of the CAEP Working Groups since the previous meeting of the Steering Group (Beijing, China, 12 to 16 September 2011), and provided guidance with respect to preparations for the Ninth Meeting of CAEP (CAEP/9), scheduled for Montréal, Canada, from 4 to 15 February 2013.

39. In supplementary information provided thereon, C/ENV indicated that the main issue on the SG agenda was the development of the Aircraft CO₂ Emissions Standard. In September 2012, the SG had informally briefed the Air Navigation Commission (ANC) on progress achieved. More recently the Annex 16, Volume III certification requirement was finalized and is to be presented to CAEP/9 in February 2013. The SG decided that in order to deal with the challenges of delivering the full CO₂ Standard, including the stringency setting exercise, it would establish a coordination and project management team, which in coordination with the CAEP Working Groups, would develop a more detailed proposal.

40. In reference to the delivery of the certification requirement in 2013, the CAEP/10 cycle would be required to progress the stringency setting exercise, including the environmental benefit and cost effectiveness modelling analyses. It was understood that the Council would be kept informed of developments in this regard.

41. Another new standard being developed by CAEP relates to particulate matter (PM). As a result of the continued prioritization of the work on the CO₂ Standard, only limited resources had been made available for this work. The funding difficulties encountered in the development of the PM measurement technique to support a future certification requirement, as reported to the Council last year, had not been resolved. While this is a significant issue, it was noted that progress had been made on the applicability of the future PM Standard. This work would continue into the CAEP/10 cycle, though funding would likely to continue to be an issue.

42. In relation to aircraft noise, work has continued on environmental benefit and cost effectiveness assessments of various noise stringency options. This would be presented to CAEP/9, which would facilitate a decision on a new stringency aimed at reducing aircraft noise. Work was also continuing on aircraft noise technology-related topics and it was noted that the Noise Technology Independent Experts Panel, which had assessed future aircraft noise reduction technologies, would also present a report to the CAEP/9 meeting.

43. Regarding aircraft operations, progress was noted towards the completion of the manual that would substitute Circular 303 (*Operational Opportunities to Minimize Fuel Use and Reduce Emissions*), and the guidance paper *Environmental Assessment Guidance for Proposed Air Traffic Management Operational Changes*. The Independent Experts on Operational Goals Group had also progressed its work and this would be presented to CAEP/9 for consideration.

44. Concerning the need to quantify the environmental benefits of implementing Aviation System Block Upgrades (ASBUs), a CAEP group had been formed to determine the requirements of an environmental benefits analysis task and work in this area was ongoing.

45. Finally, it was stated that the CAEP had undertaken a significant amount of work in the past year and thus would deliver a comprehensive report to CAEP/9. Future work options would be discussed at CAEP/9 and would thereafter be presented to the Council. In this regard, there would be a debriefing session at CAEP/9, where Council Representatives and ANC Members would be informed on the progress made. This debriefing was tentatively scheduled for the afternoon of Friday, 15 February 2013.

46. In relation to the issue of alternative fuels, the Representative of the Russian Federation stated that the legal implications arising needed to be considered in conjunction with the economic impacts. He observed that there existed the possibility that this issue could impact on a nation's aspirational goals so that further study of the issue, including cost benefit analyses would be vital. On this basis, alternative fuels was something ICAO should be prepared to undertake further study and analysis.

47. The Representative of Spain referred to ABSUs and the identification of environmental benefits. He stated that this would require quantification of the benefits in terms of safety, economics and environment. On this basis it would also be necessary to ensure that environmental benefits were reflected in global air navigation plans (GANPs). He suggested that the CAEP could address this issue so that an outline of the proposed environmental benefits could be considered before the next Assembly session.

48. In commending the CAEP for the way it dealt with the impressive workload and progress achieved on a number of issues, the Representative of Denmark noted that the SG was composed of 132 experts, which represented a challenge in seeking to achieve consensus with such a large number of people so this might necessitate a tighter focus in the work programme. He expressed the hope that the draft Assembly resolution that would be presented to the Council in 2013, would cover as many environmental issues as possible.

49. The Representative of the United States emphasized the difficulties of the work being undertaken by CAEP given the highly technical nature of some of the issues under consideration. In this connection, the work on the CO₂ standard metric was especially challenging, since it required a particular focus given global expectations of an agreed outcome. In relation to alternative fuels, he observed that having access to available and adequate sources would be crucial. It had been demonstrated that alternative fuels are technically possible but it would be necessary for governments to ensure the available infrastructure in terms of production and distribution. Concerning the ICAO road map, he observed that this placed a greater reliance on alternative fuels as from 2025, so therefore the lead-up years were essential in establishing the appropriate production and distribution systems.

Subject No. 4: Appointment of the Secretary General

Response from the Secretary General to the Charter Letter

50. The Council noted information paper C-WP/13902, in which the Secretary General provided details on how he would address the challenges identified in the Charter Letter for his second term, as contained in the Memorandum from the President of the Council (PRES RK/2059) dated 23 March 2012.

51. In his supplementary remarks, the Secretary General assured the Council that he would continue to pursue his mandate with the welcome guidance of Council Representatives and in accordance with the principles of good governance and management of the financial and human resources of ICAO. He also undertook to deliver a progress report at each session of the Council on the status of key deliverables and timelines for each of the Strategic Objectives using the ICAO Knowledge Sharing Network (IKSN) online tool, including a midterm report at the first session of the Council in 2014, and an end-of-term report.

Any other business

Subject 15.4: Facilitation

Public Key Directory (PKD) membership

52. In the absence of comments by 6 November 2012 to the President of the Council's e-mail message dated 16 October 2012, Ms. Heather Richardson (Canada) has been appointed as a Member of the PKD Board to replace Ms. Leslie Crone from October 2012 to November 2013.

Council working papers presented for information

53. As the President of the Council did not receive any requests to have the following information papers tabled for consideration, it is considered that the Council has noted the information provided therein:

- **C-WP/13910** — *The status of implementation of recommendations of the Joint Inspection Unit (JIU)* — circulated under cover of PRES RK/2117 dated 17 October 2012 with a deadline of 2 November 2012 for comments;
- **C-WP/13911** — *Report of the Joint Inspection Unit for 2011 and Programme of Work for 2012* — circulated under cover of PRES RK/2116 dated 15 October 2012 with a deadline of 2 November 2012 for comments;
- **C-WP/13912** — *Report of the Joint Inspection Unit (JIU) entitled "Review of the Medical Service in the United Nations System". (JIU/REP/2011/1)* — circulated under cover of PRES RK/2119 dated 22 October 2012 with a deadline of 2 November 2012 for comments;
- **C-WP/13913** — *Report of the Joint Inspection Unit (JIU) entitled "Information and Communication Technology (ICT) Governance in the United Nations System Organizations" (JIU/REP/2011/9)* — circulated under cover of PRES RK/2118 dated 18 October 2012 with a deadline of 2 November 2012 for comments; and
- **C-WP/13915** — *Report of the JIU entitled "The Investigation Function in the United Nations System" (JIU/REP/2011/7)* — circulated under cover of PRES RK/2121 dated 24 October 2012 with a deadline of 2 November 2012 for comments.

Farewell to Mr. Mahmoud Taha Elzanaty, Representative of Egypt

54. The Council bade farewell to Mr. Mahmoud Taha Elzanaty, the Representative of Egypt.
55. The meeting adjourned at 1300

COUNCIL — 197TH SESSION

SUMMARY MINUTES OF THE SIXTH MEETING

(THE COUNCIL CHAMBER, FRIDAY, 9 NOVEMBER 2012, AT 1000 HOURS)

OPEN MEETING

President of the Council: Mr. Roberto Kobeh González

Secretary: Mr. Raymond Benjamin, Secretary General

PRESENT:

Argentina	— Mr. J. Gelso	Mexico	— Mr. D. Méndez Mayora
Australia	— Ms. K. Macaulay	Morocco	— Mr. A. Boulmane
Belgium	— Mr. G. Robert	Nigeria	— Dr. O.B. Aliu
Brazil	— Mr. J. Taunay	Paraguay	— Mrs. A. Torres de Rodríguez
Burkina Faso	— Mr. M. Dieguimde	Peru	— Mrs. D.E. Sotomayor Yalán
Cameroon	— Mr. E. Zoa Etundi	Republic of Korea	— Mr. Choi, D.
Canada	— Mr. M. Allen	Russian Federation	— Mr. A.A. Novgorodov
China	— Mr. Tao Ma	Saudi Arabia	— Mr. A. Almoghraby (Alt.)
Colombia	— Mr. A. Muñoz Gómez	Singapore	— Mr. T.-C. Ng
Cuba	— Mr. J.F. Castillo de la Paz	Slovenia	— Mr. A. Krapež
Denmark	— Mr. K.L. Larsen	South Africa	— Mr. L. Mabaso
France	— Mr. M. Wachenheim	Spain	— Mr. V.M. Aguado
Germany	— Mr. U. Schwierczinski	Swaziland	— Mr. D. Litchfield
Guatemala	— Mr. H.A. Rosales Salaverría	Uganda	— Mr. J. Twijuke
India	— Mr. P.N. Sukul	United Arab Emirates	— Miss A. AL Hamili
Italy	— Mr. E. Padula	United Kingdom	— Mr. M. Rodmell
Japan	— Mr. T. Koda	United States	— Mr. D. Woerth
Malaysia	— Mr. Y.-H. Lim		

ALSO PRESENT:

Mr. J.C.F. da Silva (Alt.)	— Brazil
Mr. A. Rebouças (Alt.)	— Brazil
Mr. R. Oliveira de Carvalho (Alt.)	— Brazil
Mr. S. Vuokila (Alt.)	— Denmark
Mr. P. Pape (Alt.)	— France
Mrs. D. Valle Álvarez (Alt.)	— Mexico
Mrs. L. Camacho Bueno (Alt.)	— Peru
Mr. Bae, J. (Alt.)	— Republic of Korea
Mr. D.C. Behrens (Alt.)	— United States

SECRETARIAT:

Mr. D. Azema	— DC/OSG
Mr. B. Djibo	— D/ATB
Mr. J. Begin	— PO/SP
Mrs. J. Hupe	— C/ENV
Mr. T. Tanaka	— ENV/ENC
Ms. S. Brand	— ENV/ENC
Mr. A. Larcos	— ACS
Miss S. Black	— Précis-writer

Representatives to ICAO

Chile
Dominican Republic
Ethiopia
Greece
Iran (Islamic Republic of)
Lebanon
Turkey
Uruguay
Venezuela (Bolivarian
Republic of)

Subject No. 50: Questions relating to the environment

**Market-based measures (MBMs) – Evaluation of options for a global MBM scheme
Framework for market-based measures (MBMs)**

1. The Council considered the above subjects on the basis of: C-WP/13894 and C-WP/13895, presented by the Secretary General; and oral reports by the Air Transport Committee (ATC). In C-WP/13894, the Secretary General reported on the results of the continued evaluation, in a qualitative and quantitative manner, by the Secretariat, with the support of the Experts on Market-based Measures (MBMs), of the three options for a global MBM scheme [Global Mandatory Offsetting, Global Mandatory Offsetting complemented by a revenue generation mechanism and Global Emissions Trading (Cap & Trade System)], which included: the assessment of the overall feasibility and advantages and disadvantages of the said three options; recommendations on the choices for design features; the results of the quantitative analysis of the three options; specific areas where policy guidance and decision would be required by the Council and a recommended process forward; and technical issues that needed further analysis. In C-WP/13895, the Secretary General reported on the progress of evolving from the concept of a framework for MBMs (*cf.* C-WP/13861, Appendix D; 196/7) to developing a preliminary design and identifying further work to be performed in order to complete the development. In both papers the Secretary General proposed that the policy process be launched as soon as possible by the establishment of a high-level group composed of senior government officials nominated by their administrations, ensuring geographical representation and taking into account levels of international civil aviation activities. The composition of that group would be proposed by the President of the Council.

2. The ATC had heard oral progress reports on the said evaluation of options for a global MBM scheme and development of a framework for MBMs during its First Meeting of the 197th Session on 5 October 2012. It had welcomed the progress of the qualitative and quantitative analysis of the above-mentioned three options for a global MBM scheme, which had shown that all of them were technically feasible and had the capacity to contribute to achieving ICAO's environmental goals. The ATC had also made suggestions regarding the final report to the Council (C-WP/13894), including that it identify specific areas where political guidance would be required. In order to provide any necessary political guidance, the Committee had agreed that C-WP/13894 should include a commitment by ICAO to pursue suitable mechanisms to facilitate that guidance as quickly as possible. Several Committee Members had been of the view that areas where political guidance was needed would include, but not be limited to, the consideration of practical ways to accommodate the special circumstances and respective capabilities of States.

3. The ATC had likewise made suggestions regarding the final report to the Council on the development of a framework for MBMs (C-WP/13895). In noting that the technical work supported by the Experts was maturing to the extent that underlying policy issues might soon need some political guidance, the Committee had similarly agreed that C-WP/13895 should include a commitment by ICAO to pursue suitable mechanisms to facilitate that guidance as quickly as possible. Noting that the work on the framework for MBMs was essential, the ATC had requested the Secretariat to further accelerate it.

4. Observing that there was a significant amount of technical work to be accomplished in the coming months, the Secretary General acknowledged the valuable contribution made by the Experts thus far and asked the nominating States for their continued support in progressing this important work.

5. During the discussion which followed, all Representatives who took the floor commended the work done by the Secretariat and the Experts.

6. The Representatives of Saudi Arabia, Italy, Mexico, Belgium, the Republic of Korea and Germany endorsed the action proposed in the two papers. In noting that his State did not support that action as it referred to the Appendices to C-WP/13894, the contents of which it was not in full agreement with, the Representative of the United States indicated that it trusted that the President of the Council would suggest action that was more concise and less prescriptive.

7. The Representatives of Saudi Arabia, the United States, Denmark, Italy, Mexico, Nigeria, Australia, the United Kingdom, Slovenia, Malaysia, Japan, the Russian Federation, India, Canada, Belgium, Singapore, Guatemala, China, Brazil, Uganda, Burkina Faso, the Republic of Korea, France, Paraguay, Germany, South Africa, Peru, Cameroon, Spain and Morocco voiced support for the proposed establishment of a high-level group.

8. While welcoming the work undertaken to address the special circumstances and respective capabilities of developing countries, the Representative of Saudi Arabia emphasized the need for possible approaches to be further developed and elaborated upon. He suggested that the Council give a clear mandate to the high-level group for such additional work.

9. Noting that his State was very focused on the upcoming 38th Session of the Assembly, the Representative of the United States underscored that it was intent on the successful development of a framework for MBMs in international aviation and conclusions regarding the feasibility of a global MBM scheme in order to fully meet the Council's obligations under Operative Clauses 13 and 18 of Assembly Resolution A37-19 (*Consolidated statement of continuing ICAO policies and practices related to environmental protection – Climate change*). He affirmed that the proposed creation of a high-level group was necessary to advance the work and ensure that the policy considerations were refined so that the Council could make fully-developed recommendations to the Assembly. While the United States supported a broad mandate for the high-level group that recognized all of the elements of the basket of mitigation measures, it emphasized the need for the group to spend sufficient time on the development of a framework for MBMs and on guidance on the way forward with regard to a global MBM scheme. The Representative of Singapore shared this view.

10. In reiterating that it was crucial to deliver results to the next Assembly in September/October 2013, the Representative of Denmark referred to the open letter dated 7 November 2012 to the Secretary General, the President of the Council and Representatives from a number of non-governmental organizations (NGOs) which called for the redoubling of ICAO's efforts to develop a proposal for a global aviation MBM delivering meaningful emissions reductions for adoption by the Assembly. He underscored that Denmark, as a Member of the European Union (EU), fully supported the swift creation of a high-level group to deal with the issues raised, and recommendations made, in C-WP/13894 and C-WP/13895, as well as with any other issues that could form a basis for an Assembly Resolution. The Representative of Denmark stressed the need for the framework for MBMs to be addressed with high priority by the said group in order to enable the finalization of the Council's work thereon and the adoption of the framework by the Assembly. It was important to also encourage work on a global MBM scheme, the ultimate goal, to which the framework was a stepping-stone. The Representative of Denmark emphasized the need for the Assembly to demonstrate progress in relation to a global MBM scheme and to endorse a timetable and road map for further work on its development, particularly with respect to its basis and core design features, and implementation.

11. The Representative of Italy noted that, as indicated in his State's submitted Action Plan, the Italian aviation industry, over the last few years, had been committed to improving its CO₂ emissions

through: the introduction of innovations; the enhancement of the efficiency of operations of manufacturers, air navigation services providers and airports and of the provision of air navigation assistance; and the use of sustainable alternative fuels, all of which were tools envisaged in Assembly Resolution A37-19. MBMs remained, however, a very important part of the action that had to be taken in order to tackle climate issues, which were of paramount importance to humanity. The need for such MBMs had been demonstrated, during the recent informal briefing of the Council, by the Observer from the International Air Transport Association (IATA), who represented the industry that theoretically would be most affected by such measures.

12. The Representative of Italy agreed that the policy issues identified in the two papers should be dealt with by the proposed high-level group, which he suggested be chaired by the President of the Council. The Secretariat and the Experts should support the group in its work. In underscoring that the framework for MBMs would be a tool with which to unify MBMs implemented by States from now until 2020 and that the global MBM scheme would be the final uniform standard for the international aviation community, he emphasized the need to address the outstanding technical and policy issues in time to present proposals to the Assembly and suggested that a timetable be prepared.

13. The Representatives of Mexico, Australia, the United Kingdom, Slovenia, Malaysia, Japan, the Russian Federation, Belgium, Guatemala, Brazil, Uganda, Burkina Faso, France, Paraguay, Germany, Cameroon, Spain and Morocco agreed that the President of the Council should chair the high-level group, which should have clear terms of reference.

14. In so doing, the Representative of Mexico reiterated the need for the group to focus on the Assembly's instructions as set forth in Operative Clauses 13 and 18 of Assembly Resolution A37-19 and the issues raised in the two papers. He underscored that those issues referred to in paragraph 4.2 d) and f) of C-WP/13894 should be examined in greater detail by the Experts and eventually by the high-level group. In agreeing that the latter should have a broad, flexible mandate, the Representative of Mexico emphasized that the Council should also provide it with guidance.

15. The Representative of Colombia recalled that Assembly Resolution A37-19 envisaged other measures with which to reduce aviation emissions, such as operational measures, the use of sustainable alternative fuels and fleet improvements. He underscored that MBMs did not, in and of themselves, reduce emissions but instead prompted other measures to be taken to that end. In applauding the implementation of national Action Plans to reduce aviation emissions, the Representative of Colombia noted that his State was working on the enhancement of air traffic management, the use of more direct routes, and fleet renewals, which required considerable resources. Emphasizing that ICAO was the forum in which to discuss MBMs, he stressed the need for the Assembly to adopt a global framework for MBMs and a global MBM scheme at the same time in order to achieve the Organization's environmental goals. The Representative of Colombia underscored, in this regard, that there was consensus on many issues, such as the use of revenue generated from MBMs to mitigate the environmental impact of aircraft engine emissions and of incentives to reduce such emissions. He also considered that it was possible to reconcile the principle of common but differentiated responsibilities (CBDR) embodied in the United Nations Framework Convention on Climate Change (UNFCCC) and its Kyoto Protocol and the principle of non-discrimination embodied in the Chicago Convention, taking into account States' historical responsibilities. It was his hope that the next Assembly would reach an agreement on MBMs that: contained some prescriptive elements and not merely guidance; was binding in some way; and would serve to generate ICAO Standards and Recommended Practices (SARPs) on certain technical aspects of a global MBM scheme or an international convention for the implementation of such a scheme. The Representative of Colombia stressed that it was an urgent matter for all humanity.

16. In endorsing the proposal to create a high-level group and to delegate authority to the President of the Council to determine its composition, the Representative of Nigeria emphasized that the President should provide the group with clear terms of reference, in particular with respect to: timelines to accomplish the requisite work between now and the 38th Session of the Assembly; the expected deliverables in accordance with Assembly Resolution A37-19; a draft Assembly Resolution; the outcomes expected from the next Assembly; and the process and scope of work thereafter. He supported having the high-level group work simultaneously on a framework for MBMs and a global MBM scheme.

17. While noting, with appreciation, the work done by the Experts, the Representative of Nigeria indicated that there were still some outstanding issues on which work should continue, such as: the use of the grandfathering approach for the distribution of aviation emissions allowances; the impact of MBMs on developing countries and the ability of the latter to absorb that impact; and the issue of the special circumstances and respective capabilities of States. He suggested that the action indicated in the executive summary of C-WP/13894 be expanded to include a request that the President of the Council establish the high-level group and give clear guidance to the latter on how to proceed. The Representative of Morocco was of the same view.

18. The Representative of Australia observed that the current discussion provided a timely reminder of the commitments all ICAO Member States had made toward addressing the growing greenhouse gas (GHG) emissions from international aviation. In concurring that it was important to recall and reaffirm Assembly Resolution A37-19, she emphasized that progress had been made in its implementation, as built upon by the Secretary General's climate change road map. The aviation industry was vigorously pursuing substantial operational efficiencies and Member States had individually, and through ICAO, progressed a range of actions. In that regard, the Representative of Australia was pleased to inform the Council that her State's national Action Plan, entitled "Managing the carbon footprint of Australian aviation", would be released by the Australian Government in the coming days. Australia supported, in principle, the initiatives of the Council to establish a clear way forward in developing an agreed set of policy recommendations for consideration at the 38th Session of the Assembly. It also agreed that the formation, as soon possible, of an appropriately-balanced high-level policy group was now warranted as the technical Experts' work on MBMs for international aviation had raised a number of important policy and political issues. While the high-level group should work through those issues as its primary focus, it should also, as part of its broader task, work to bring together a package of global action for consideration at the Assembly in September/October 2013. Underscoring that her State stood ready to contribute, the Representative of Australia indicated that an early priority for the high-level group might be the identification of key milestones, including a report on the development of the framework for MBMs at the 198th and 199th Sessions to enable the Council to finalize its policy recommendations in time for the 2013 Assembly. Australia supported a role for the President of the Council in chairing the high-level group. There would still be important contributions to be made by the Secretariat, with the assistance of technical Experts, and those contributions should be identified and requested by the high-level group.

19. The Representative of Australia noted that, in addition to MBMs, her State supported continued work on a broad range of measures that would deliver operational efficiencies and emissions reductions, including an ICAO CO₂ certification Standard for aircraft, air traffic management (ATM) improvements, sustainable alternative fuels for aviation and other activities detailed in States' Action Plans. In that respect, it was important that appropriate linkages between external policy processes and the work by the ICAO Council be maintained and that there be continuing engagement with the industry in the policy dialogue. The actions being considered by the Council during the present meeting provided

confidence that commitment existed within ICAO to make substantial progress towards the objective of addressing emissions from international aviation. Australia looked forward to that commitment from the ICAO Council translating into constructive engagement in the high-level policy group and to Member States' refraining from unilateral action. A multilaterally-endorsed global framework was the best way to ensure that international aviation contributed its fair share in reducing global GHG emissions.

20. The Representative of the United Kingdom concurred that while the development of a framework for MBMs and a global MBM scheme should be the key elements of the high-level group's mandate and be given the appropriate level of importance, they should not be the exclusive elements. The mandate should provide context for that work as part of the creation of a credible work programme and timescale. He reiterated the importance of giving the group clear terms of reference with milestones and reporting points to ensure that the essential goal of finalizing the Council's recommendations to the Assembly was met. The high-level group needed a degree of flexibility, however, in order to find its way to making its own recommendations to the Council.

21. Agreeing on the need for such terms of reference and timelines, the Representative of Slovenia indicated that it was his deepest wish to have the Council present to the next Assembly a complete proposal for a framework for MBMs and, to the extent possible, elements of a global MBM scheme.

22. In underscoring that a framework for MBMs should be based on the principles and spirit of Assembly Resolution A37-19, the Representative of Malaysia stressed that it should be simple, effective and non-discriminatory and that, above all, it should not cause market distortion. It should be applied consistently across the board to domestic, regional and international aviation to meet the fundamental objective of achieving carbon neutral growth by 2020. The Representative of Malaysia emphasized the importance of clear terms of reference and a firm legal basis to ensure that the MBM framework would be implemented without any complications.

23. While welcoming the significant progress made, and the outcomes achieved, the Representative of Japan recognized the need to establish a high-level group to provide suitable policy guidance to the Experts, the Secretariat and the Council for the further advancement of a global MBM scheme and a framework for MBMs. It was expected, however, that as MBMs were only one element of the basket of measures with which to achieve the global mitigation of aviation GHG emissions, the group would also discuss the other elements thereof.

24. As regional coordinator for the Asia and Pacific region, the Representative of Japan emphasized that the composition of the high-level group should take into account levels of international civil aviation activities in addition to geographical representation, as proposed. He underscored that, according to the statistical data on international aviation traffic expressed in Revenue Tonne Kilometres (RTK) contained in the *ICAO Environmental Report 2010: Aviation and Climate Change*, all seven Council Member States from the Asia and Pacific region were ranked among the top 22 States. Recalling, from the Council's earlier discussion (197/5) of C-WP/13892 (Environmental protection – Recent developments in ICAO) that the corresponding percentage of global international air traffic was cited when referring to the number of Member States that had submitted Action Plans, the Representative of Japan affirmed that international aviation traffic data was an important element to be considered in the field of aviation environment. He therefore requested that the President of the Council take that into account and choose a suitable number of Members from the Asia and Pacific region when establishing the composition of the high-level group. Noting that his State hoped to join the group, the Representative of Japan emphasized that it wished to contribute to its deliberations in order to reach a global solution going towards the next Assembly.

25. Concurring that the high-level group should consider not only MBMs but also the other elements of the basket of mitigation measures, the Representative of the Russian Federation underscored that the main objective of ICAO's work was aviation emissions reduction and not only to explore the feasibility of establishing a global emissions trading system. He also noted that revenue generated through the MBMs should be invested in fleet renewal and other technologies that would reduce aviation emissions. The Representative of the Russian Federation suggested that the Secretary General inform the international community about the progress made by ICAO in addressing aviation emissions and the decision taken by the Council at the present meeting.

26. Indicating that it was predictable that, in such a matter as MBMs, there were political questions that would have to be answered by a high-level group, the Representative of India underscored that the group would not be able to disassociate the matter from developments in the UNFCCC as aviation represented only 2 per cent of global GHG emissions and responsibility for the remaining 98 per cent lay elsewhere. The European Union's Emissions Trading Scheme (EU ETS) would figure in any discussion thereof. The high-level group would address the entire gamut of measures that went into the rubric of reduction of aviation CO₂ emissions, with references being made to the special circumstances and respective capabilities of States, the principle of CBDR, and the provision of technical, financial and capacity-building assistance envisaged in Assembly Resolution A37-19. In the interim, the Eighteenth Session of the Conference of the Parties of the UNFCCC (COP/18) would be convened in Doha, Qatar, where further discussions of the Durban Platform for Enhanced Action would take place.

27. Emphasizing that the inclusion of international aviation in the EU ETS could not be ignored, the Representative of India averred that most of the world was against that unilateral measure. Efforts had been made since 30 September 2011 to assist the EU in reconsidering its position but no indication had yet been given as to the EU's intentions. There was a fear, in certain capitals, that the high-level group would become a leveraging exercise and that, without a caveat as to the EU's position, it would predictably encounter difficulties. There was apprehension that, as had been experienced in the UNFCCC, the product would be sold twice: first, it would be adopted by the high-level group without an agreed *quid pro quo* assurances or even a sense of direction from the EU; and secondly, it would force timelines in return for the sequencing of the withdrawal of international aviation from the EU ETS. Stressing that those were genuine fears that needed to be addressed, the Representative of India requested that the high-level group's terms of reference encompass certain realities, namely, the application of the EU ETS to international aviation, the continuance of which would undermine ICAO, the Council, the high-level group and eventually the EU itself. He emphasized the need for reasonable assurances that there would be progress on that front, apart from progress made in ICAO. Underscoring that it was undesirable to have that matter come in the way of progress in ICAO or in the UNFCCC, the Representative of India indicated that the EU might wish to address the matter at COP/18.

28. While congratulating the Secretariat and the Experts on their diligent efforts, the Representative of Canada emphasized that more work was required on the framework for MBMs. His State considered that such a framework should support the development of a global MBM scheme. In agreeing to the establishment of a high-level group, Canada was of the view that the latter's mandate should be to address the outstanding policy issues identified in the two papers. Its terms of reference should be very specific given the time constraints and the fact that the workload could be substantial. Canada also considered that further quantitative analysis of the three options for a global MBM scheme was necessary, which would require decisions on key design elements so as to allow for better differentiation between each option. The high-level group could also be mandated to develop a draft Resolution for consideration at the 2013 Assembly. In completing that task, the high-level group should not be limited to considering only

MBMs; rather, it should consider the full basket of mitigation measures to address GHG emissions from international aviation.

29. Underscoring that the high-level group would need sufficient time for deliberations, the Representative of Canada indicated that although completing its work might not be feasible by the next (198th) session of the Council in February/March 2013, a progress report could be made at that time. Following further deliberations, a report containing a draft Assembly Resolution could be presented to the 199th Session of the Council in May/June 2013.

30. Recalling that his State had, in the past, played a substantive role in ICAO's work in addressing aviation emissions through its participation in, inter alia, the Group on International Aviation and Climate Change (GIACC) and the informal group created by the President of the Council in the run up to the last Assembly, the Representative of Canada requested that it be represented on the envisaged high-level group so that it could continue to participate in a meaningful way in this valuable work. Canada looked forward to its continued engagement in this very important process.

31. Observing that less than eleventh months remained before the start of the 2013 Assembly, the Representative of Belgium stressed the need to continue efforts at a sustained pace and to proceed in stages in order to be able to present a balanced draft Resolution for its adoption. In underscoring that the draft Resolution should not be limited to a framework for MBMs and a global MBM scheme, he indicated that it should also encompass the other important pillars of ICAO's work to address international aviation and climate change, including States' Action Plans and assistance to States, sustainable alternative fuels for aviation and global aspirational goals, on which work was advancing positively and should continue. The Representative of Belgium was not opposed to the high-level group considering those other pillars in order to have a holistic view. Its focus should, however, be on the policy issues identified in the two papers as resolution thereof was a condition for future progress and was indispensable for obtaining satisfactory results for all States at the 2013 Assembly. Affirming that he had every confidence in the President of the Council in deciding on the composition of the high-level group and in presiding over its deliberations, the Representative of Belgium indicated that he was at his disposal.

32. The Representative of Singapore reiterated that the high-level group should consider the wide basket of mitigation measures and not be restricted to any one element thereof as any policy decisions could cut across the various elements. Noting that its work would, to a large extent, be predicated upon the work done thus far by the Secretariat and the Experts, he stressed the need for the group to be apprised of the underlying assumptions so as to ensure a solid foundation. Indicating that it was his understanding that there had not been consensus on all of the said assumptions, the Representative of Singapore suggested that, if that were the case, then any such assumptions should be brought to the group's attention so that policy guidance could be sought. He noted that, in his view, the level of economic development, i.e. gross domestic product (GDP) per capita, inflated the index and required further review and discussion. The Representative of Singapore agreed with the Representative of Japan that the composition of the high-level group needed to take into account levels of international civil aviation activities. His State stood ready to contribute to the group's work.

33. Endorsing the comments made by the Representative of India, the Representative of China underscored that the establishment of a framework for MBMs should be put in a broader context and that consideration should be given to the principle of CBDR. He emphasized that the high-level group should consider, in addition to a framework for MBMs, the development of processes and mechanisms to facilitate the provision of technical, financial and capacity-building assistance to developing countries as called for in Operative Clause 22 of Assembly Resolution A37-19.

34. In welcoming the position expressed by the Representative of India concerning the EU ETS, the Representative of Brazil indicated that assurances by the EU that there would be progress on that front would be a positive development and a show of good faith that would greatly enhance the spirit of cooperation that must preside over the high-level group. He recalled that the principle of CBDR was enshrined not only in the global climate change regime and in the Declaration adopted at the United Nations Conference on Environment and Development [UNCED, referred to as the Earth Summit (Rio de Janeiro, Brazil, 3 to 14 June 1992)], but also in the document entitled “The future we want”, recently adopted by the United Nations Conference on Sustainable Development [UNCSD, referred to as the Rio+20 Conference (Rio de Janeiro, Brazil, 20 to 22 June 2012)]. Brazil considered that the principle of CBDR was of pivotal importance in the treatment of climate change and that ICAO, being part of the United Nations (UN) system, should not be an exception in that regard. Much to the contrary, CBDR was bound to retain its status as a guiding principle for all involved in the negotiation process, above all for the second period of the Kyoto Protocol, which was to begin in January 2013, and during the discussions on the Durban Platform for Extended Action, which was to be concluded in 2015 and was expected to yield its first results by 2020. It was therefore with great concern that Brazil saw that the Secretariat and the Experts had given only marginal attention to that topic when focussing on proposals for global MBM mechanisms that did not have, as a basis, a clear distinction of obligations as determined in Annexes I and II of the UNFCCC.

35. Another key issue was that the Council was being asked to give political guidance based on initial information as no detailed impact studies done by the specialists had yet been presented for its consideration. According to the decisions taken at the 37th Session of the Assembly and those taken at the Sixteenth and Seventeenth Conferences of the Parties of the UNFCCC (COP/16 and COP/17) in Cancún, Mexico and Durban, South Africa, consideration must be given to the environmental, economic and social impacts of climate mitigation initiatives on developing nations.

36. For all of these reasons, Brazil considered that the Secretariat and the Experts should start working with a new perspective and deepen their work on evaluating the possible impacts of the proposals presented before any conclusions were drawn by the Council. The same was true for the high-level group. It was also important to rethink the focus which had been placed on mitigation measures of uniform and universal application without due distinction between developed and developing nations, an approach that was not supported by the UNFCCC.

37. The Representative of Uganda maintained that the composition of the high-level group should be determined in such a manner as to ensure regional representation and that it should not take into account levels of international civil aviation activities. He concurred that it should have a broad, flexible mandate that encompassed the entire basket of mitigation measures as each such measure had particular linkages with other measures. The Representative of Uganda emphasized that the framework for MBMs should be based on the principles and spirit of Assembly Resolution A37-19, as well as on the principle of CBDR as indicated by the Representatives of India, China and Brazil.

38. Endorsing these comments, the Representative of Burkina Faso emphasized that this was a global problem that would require all stakeholders to work together to achieve a result that would enable further progress.

39. In welcoming the generally positive outcome of the evaluation of the three options for a global MBM scheme, the Representative of the Republic of Korea agreed that it was now time to intensify the political discussion. Supporting the suggested establishment of a high-level group, he reiterated the importance of its close collaboration with the Secretariat and the Experts. Recalling that it

was ultimately the duty of the Council to put forward a recommendation to the Assembly, the Representative of the Republic of Korea stressed that the Council should therefore be constantly informed and consulted throughout the process.

40. While supporting the action proposed in both papers, the Representative of the Republic of Korea emphasized that further studies were needed regarding the special circumstances and respective capabilities of States, a delicate issue which deserved to be treated with utmost care and priority. He considered that it was sensible, at this moment, to keep the multiple options for a global MBM scheme open and to carefully review each of them in order to strike an equitable balance and, at the same time, to minimize any potential market distortion. The Representative of the Republic of Korea remained open on the question of whether the participants should be States or operators. He nonetheless stressed that priority should be placed on the efficiency and originality of the global MBM scheme, regardless of the final choice that was made. Furthermore, special consideration could be given to developing countries so as to optimize the global MBM scheme's acceptability.

41. With regard to the question of the legal instruments to implement a global MBM scheme, the Representative of the Republic of Korea preferred an international convention as it offered a formal and indisputable basis. It would, however, take several years to negotiate and finalize, depending on its complexity and detail, and require the ratification of ICAO's 191 Member States in order for the MBM scheme to be truly global in nature. He therefore considered that a creative approach should be explored, including a combination of legal instruments under an umbrella convention which delegated details to some of the legal instruments.

42. The Representative of the Republic of Korea expected the Secretariat and the Experts to conduct an in-depth qualitative analysis of the issues requiring policy guidance and decision, which would include prioritizing them, setting out options for each of them, and envisaging the impact each option would have on country groups. He was confident that such efforts would assist the Council and the high-level group by facilitating their discussions for equitable and efficient MBM formulations. The Representative of the Republic of Korea hoped that the final product would provide a solid foundation on which the next concrete steps for a global MBM scheme could be taken with a clear sense of direction, thereby vindicating ICAO as the leader in this field.

43. The Representative of France noted that his State's priority was for ICAO's work to continue effectively so that constructive proposals could be presented to the next Assembly in accordance with the requests made by the 37th Session of the Assembly. It was clear that such proposals should cover all of the elements in the basket of mitigation measures. He underscored that, while significant progress was being made in certain areas, such as the development of States' Action Plans and of a CO₂ certification Standard for aircraft, work on MBMs was advancing more slowly as the Secretariat and the Experts required policy guidance. The establishment of a high-level group was the appropriate solution. While the Representative of France considered that its mandate should cover a framework for MBMs and a global MBM scheme, he would have no objections if it were expanded to include other elements. It would be more important for progress to be made on the difficult MBM issues, however. The Experts would continue to work on the technical issues identified in the two papers.

44. Referring to comments made regarding the EU ETS, the Representative of France indicated that his State expected ICAO to confirm its willingness to make progress and achieve a clear outcome. If that were the case, then France would not be opposed to the EU, for its part, giving positive signals to third countries that were requesting such signals. It was clear that this was a global debate and the EU would take into account the results of the present meeting.

45. In sharing the concern expressed regarding the composition of the high-level group, the Representative of Paraguay reiterated that it should take into consideration not only levels of international civil aviation activities but also geographical representation. She recalled, in this context, that ICAO comprised not only developed countries but also developing countries which also wished to be represented on the high-level group. The Representative of Paraguay also underscored that the envisaged further quantitative analysis of the three options for a global MBM scheme should take into account their potential economic, social and environmental impacts to ensure that the outcome would be widely-acceptable.

46. Agreeing, the Representative of Peru expressed the hope that a global MBM scheme would be equitable. In reiterating that the high-level group should consider not only MBMs but also the other elements of the basket of mitigation measures, she stressed that they were also very important for achieving ICAO's environmental goals. The Representative of Peru underscored the need to take into account the position expressed by the Representative of the Republic of Korea and to be creative in developing efficient mitigation measures. It was also necessary to take an integrated approach and to consider the needs of all States in the international community.

47. The Representative of Germany indicated that while he would prefer that the high-level group's mandate be focused on a framework for MBMs and a global MBM scheme since policy guidance thereon had been sought, other issues raised during the discussion also needed to be addressed, such as CBDR and the special circumstances and respective capabilities of States. He stressed the importance, for his State, of clear timelines and tangible results that would enable the next Assembly to make a decision on a framework for MBMs and a global MBM scheme.

48. The Representative of South Africa stressed the need to define the term "high-level" as Representatives had different understandings of its meaning. He also emphasized the importance of having an objective, diverse group whose Members had a reasonable understanding of the policy issues involving world demographics.

49. In noting that his priority was the completion of the work requested of ICAO in Assembly Resolution A37-19, for which little time remained, the Representative of Cameroon voiced support for the establishment of a high-level group that would be chaired by the President of the Council and would have an expanded mandate as proposed by the Representative of the United States, among others. In echoing the concerns voiced by the Representatives of Uganda, Burkina Faso and South Africa regarding its composition, he underscored that all of the work undertaken by the high-level group should be based on common interest, that of international civil aviation. The Representative of Morocco shared this view, as well as the views expressed by the said Representatives.

50. The Representative of Cuba indicated that he unfortunately had not been in a position to explain to his capital why a high-level group, composed of senior government officials nominated by their administrations, and not the Council itself, would provide the requisite policy guidance on MBMs, or to answer its questions regarding the group's mandate and timetable and the costs involved for participating States. It seemed, from the discussion, that the mandate would go beyond the definition of MBM policy and would be broader and more flexible. The Representative of Cuba endorsed the comments made by the Representatives of India, China, Brazil and Peru regarding the need to consider the essential element of CBDR and to take action to facilitate the provision of technical and financial assistance to developing countries, as well as to facilitate their access to existing and new financial resources, technology transfer and capacity-building. He averred, in this regard, that the mandate given to the Council in Assembly Resolution A37-19 had not been fully addressed.

51. With reference to the high-level group's composition, the Representative of Cuba cautioned that if geographical representation were the only criterion, then there would be a risk that not all of the various schools of thought regarding MBMs would be taken into account by the group in formulating its conclusions and recommendations. He therefore suggested that that additional criterion be taken into consideration when establishing the group's membership. The Representative of Cuba indicated that, if there were consensus to create the high-level group, then he would support the comments made by the Representative of Mexico with regard to its functioning, its focus on Assembly Resolution A37-19 and the issues raised in the two papers, and the provision of guidance by the Council, as well as the suggestion made by the Representative of Italy that the group be chaired by the President of the Council.

52. While aware that much more work remained to be done to address the complex issue of international aviation and climate change, the Representative of Spain noted that ICAO had never shied away from taking action on the basket of mitigation measures that included, inter alia, technological and operational measures, sustainable alternative fuels for aviation and States' Action Plans. It was an issue that required flexibility on the part of all stakeholders. Underscoring that ICAO and the aviation sector were not operating in isolation, the Representative of Spain stressed the need to constantly monitor developments in the UNFCCC and other forums.

53. In agreeing that a high-level group should be established to solve the outstanding policy issues, the Representative of Spain underscored that it should have a clear road map and a broad but specific mandate which covered all of the issues raised, including a framework for MBMs and a global MBM scheme. Recalling the comments made by the Representative of France, the Representative of Spain underscored that the EU was putting its trust in a multilateral global process at ICAO that would lead to a universal solution. Measures that could be implemented at a regional level should lead to a global MBM scheme that all could be part of.

54. Indicating that it was gratifying to hear the responses by the Representatives of France and Spain, who represented two of Europe's largest States, the Representative of India affirmed that they would set the trend and pace at which the high-level group would be able to function. His State would have a positive contribution to make to the group's work, if selected as a Member.

55. In then taking the action proposed by the President of the Council in light of the discussion of C-WP/13894 and C-WP/13895, the Council:

- a) recognized that the results of the qualitative and quantitative analysis of the three options for a global MBM scheme evaluated by the Secretariat with the support of the Experts demonstrated that all three options were technically feasible and had the capacity to contribute to achieving ICAO's environmental goals, and acknowledged the technical advantages and disadvantages of the three options, as contained in paragraph 2 of C-WP/13894;
- b) took note of the recommendations of the Secretariat with the support of the Experts on the choices for design features (participants; special circumstances and respective capabilities of States; legal instruments; distribution of obligations; and emissions data management/monitoring, reporting and verification), as contained in paragraph 3 and Appendix A of C-WP/13894;

- c) requested the President of the Council to establish, as soon as possible, a Council High-level Group composed of senior government officials nominated by their administrations, ensuring geographical representation and taking into account levels of international civil aviation activities with the mandate to develop policy recommendations for the Council in accordance with Operative Clauses 13, 18, 22 and any other provisions of Assembly Resolution A37-19 regarding elements for the 2013 Assembly Resolution, including with respect to, inter alia, the development of a MBM framework, the feasibility of a global MBM scheme, the development of processes and mechanisms to facilitate the provision of assistance to developing countries, national Action Plans, a global CO₂ Standard and the development of sustainable alternative fuels taking into account, inter alia, the technical work of the Secretariat supported by the Experts;
- d) agreed that further quantitative analysis of the three options needed to be undertaken to develop more robust and concrete conclusions, building on the results contained in paragraph 4 and Appendix B of C-WP/13894, and taking into account guidance from the Council High-level Group; and
- e) requested the Council High-level Group to report to the 198th and 199th Sessions of the Council on its progress concerning a proposal for an Assembly Resolution to be considered by the Council for submission to the 38th Session of the Assembly.

56. It was noted that the President of the Council would consult with the regional coordinators on the Council and with other Representatives regarding the composition of the Council High-level Group. It was further noted that, once established, the Council High-level Group would appoint its Chairperson, taking into account the Council's recommendation that its President serve in that capacity.

57. The meeting adjourned at 1300 hours.

COUNCIL — 197TH SESSION

SUMMARY MINUTES OF THE SEVENTH MEETING

(THE COUNCIL CHAMBER, TUESDAY, 13 NOVEMBER 2012, AT 1430 HOURS)

OPEN MEETING

President of the Council: Mr. Roberto Kobeh González

Secretary: Mr. Raymond Benjamin, Secretary General

PRESENT:

Argentina	— Dr. N. Luongo (Alt.)	Mexico	— Mr. D. Méndez Mayora
Australia	— Ms. K. Macaulay	Morocco	— Mr. A. Boulmane
Belgium	— Mr. G. Robert	Nigeria	— Dr. O.B. Aliu
Brazil	— Mr. J. Taunay	Paraguay	— Mrs. A. Torres de Rodríguez
Burkina Faso	— Mr. M. Dieguimde	Peru	— Mrs. D.E. Sotomayor Yalán
Cameroon	— Mr. E. Zoa Etundi	Republic of Korea	— Mr. Choi, D.
Canada	— Mr. M. Allen	Russian Federation	— Mr. A.A. Novgorodov
China	— Mr. Tao Ma	Saudi Arabia	— Mr. T.M.B. Kabli
Colombia	— Mr. A. Muñoz Gómez	Singapore	— Mr. T.-C. Ng
Cuba	— Mr. J.F. Castillo de la Paz	Slovenia	— Mr. A. Krapež
Denmark	— Mr. K.L. Larsen	South Africa	— Mr. L. Mabaso
Egypt	— Mr. A. Mahmoud	Spain	— Mr. V.M. Aguado
France	— Mr. M. Wachenheim	Swaziland	— Mr. D. Litchfield
Germany	— Mr. U. Schwierczinski	Uganda	— Mr. J. Twijuke
Guatemala	— Mr. H.A. Rosales Salaverría	United Arab Emirates	— Miss A. AL Hamili
Italy	— Mr. E. Padula	United Kingdom	— Mr. M. Rodmell
Japan	— Mr. T. Koda	United States	— Mr. D. Woerth
Malaysia	— Mr. Y.-H. Lim		

ALSO PRESENT:

Mr. J.C.F. da Silva (Alt.)	— Brazil
Mr. R. Oliveira de Carvalho (Alt.)	— Brazil
Mr. M. Delisle (Alt.)	— Canada
Mrs. D. Valle Álvarez (Alt.)	— Mexico
Mrs. L. Camacho Bueno (Alt.)	— Peru
Mr. Bae, J. (Alt.)	— Republic of Korea
Mr. J.L. Novak (Alt.)	— United States

SECRETARIAT:

Mr. D. Azema	— DC/OSG
*Ms. N. Graham	— D/ANB
*Dr. Fang Liu	— D/ADB
*Mr. I. Galán	— D/TCB
*Mr. B. Djibo	— D/ATB
*Mr. R. Bhalla	— C/FIN
*Mr. J. Augustin	— A/D/LEB
*Mr. J. Marriott	— C/AVSEC
*Mr. S. Berti	— C/SFP
*Mr. J. Huang	— SLO
*Mr. A. Djojonegoro	— SFP
*Miss L. Lim	— FSV/FSC
*Mr. M. Leitgab	— ADADB
Mr. A. Larcos	— ACS
Miss S. Black	— Précis-writer

* Part time

Representatives to ICAO

Chile
Dominican Republic
Ethiopia
Greece
Iran (Islamic Republic of)
Lebanon
Turkey
Uruguay
Venezuela (Bolivarian
Republic of)

Welcome to new Representative on the Council

1. The President of the Council extended a warm welcome to Mr. Abdallah Ibrahim Hamed Mahmoud, the newly-appointed Representative of Egypt.

Subject No. 52: Unlawful interference with international civil aviation and its facilities

Adoption of Amendment 13 to Annex 17 – Security

2. The Council had for consideration: C-WP/13917 Revision No. 2, in which the Secretary General presented a proposal for Amendment 13 to Annex 17 – *Security* relating to the screening of persons other than passengers and air cargo security, for adoption using the fast-track procedure; and an oral report thereon by the Committee on Unlawful Interference (UIC).

3. The UIC had reviewed the paper during its Second Meeting of the 197th Session of the Council on 29 October 2012. Noting the endorsement by the Aviation Security Panel (AVSECP) and the recommendations of the High-level Conference on Aviation Security (HLCAS), the UIC had widely supported the Amendment 13 proposals, which appropriately addressed urgent matters related to the insider threat and air cargo and mail security, and had confirmed that the fast-track procedure should be applied. The request by a Committee Member to remove the air cargo security-related amendments from the fast-track procedure or extend their applicability date had not been supported.

4. The Secretariat had advised the Committee that neither the proposed Amendment 13 provisions nor the current Annex 17 Standards and Recommended Practices (SARPs) referred to transit cargo and mail and that therefore the proposal to define the term “transit cargo and mail” was not needed in Amendment 13. In order to ensure consistency within Annex 17, the UIC had agreed that such a definition should not be included in Amendment 13 but should instead be included in the ICAO *Aviation Security Manual* (Doc 8973 Restricted).

5. The UIC had further agreed to recommend that the Preambular Clause of the draft Resolution of Adoption set forth in Appendix B to the paper and the sources listed in the amendment to the Foreword to Annex 17 set forth in Appendix C be amended to read as follows to reflect the recommendations of the HLCAS to expedite the adoption of SARPs related to the insider threat and air cargo and mail security:

Appendix B – Preambular Clause: “Acting in accordance with the *Convention on International Civil Aviation*, particularly with the provisions of Articles 37, 54 and 90 thereof, and taking into consideration the recommendations of the High-level Conference on Aviation Security held in Montréal, from 12 to 14 September 2012,”;

Appendix C – Source(s): “Proposals of the Committee on Unlawful Interference with the assistance of the Aviation Security Panel (AVSECP), the recommendations of the 2012 High-level Conference on Aviation Security, and Council action in pursuance of Assembly Resolution A37-17.”.

6. The Committee had stressed, however, that recommendations of bodies such as High-level Conferences should not be a precondition for the consideration of fast-track amendments by the Council.

7. In light of concerns expressed by several Committee Members about the implementation of Amendment 13, the Secretariat had assured the Committee that guidance material would be made available in good time to assist Member States in the application of the SARPs contained in Amendment 13.

8. Subject to the above proposed changes, the UIC recommended that the Council adopt Amendment 13 to Annex 17 using the fast-track procedure and with an applicability date of 15 July 2013. The Committee further recommended that the definition of the term “transit cargo and mail” not be included in Amendment 13.

9. The Representative of Japan noted that at the said UIC meeting his State had requested that the applicability date for the new SARPs relating to air cargo security be extended out of concern that there would be insufficient time for States to prepare for the implementation of compliant measures. He had subsequently strongly encouraged his capital to reconsider its position and was very pleased to inform the Council that Japan now supported not only the proposed Annex amendment but also its proposed applicability date of 15 July 2013. Japan would make every effort to prepare for the said new SARPs by that date. The Representative of Japan emphasized that his State was ready to continue to contribute, and hopefully to contribute more, to the work of each working group in which detailed implementation matters would be discussed in the coming months.

10. The Representative of South Africa, referring to his e-mail of 6 November 2012 on the Annex amendment proposal set forth in Appendix A to the paper, suggested that the proposed definition of the term “high-risk cargo or mail” be deleted therefrom and that some of its elements instead be incorporated into proposed Standard 4.6.3 *bis* so that it would read along the following lines: “Each Contracting State shall ensure that enhanced security measures apply to appropriately mitigate the threats associated with cargo or mail if: a) States’ specific intelligence indicates that the cargo or mail poses a threat to civil aviation; or b) the cargo or mail shows signs of tampering or anomalies that give rise to suspicion; or the nature of the cargo or mail is such that baseline security measures alone are unlikely to detect prohibited items that could endanger the aircraft.”. The Representative of South Africa averred that the proposed definition introduced substantive provisions, contrary to the purpose of a definition, and was confusing. His suggested changes rendered proposed Standard 4.6.3 *bis* clearer and therefore easier to implement.

11. Supporting this proposal, the Representative of Uganda underscored that as it did not refer to “high risk”, it was unnecessary to have a corresponding definition of the term “high-risk cargo or mail”. Emphasizing that the definition was unclear, he maintained that it stated the opposite of what was intended: cargo or mail presented by an unknown entity or showing signs of tampering shall be considered high risk if, in addition, it met one of three criteria. Thus if cargo or mail was from an unknown entity but did not meet any of the criteria, or if it showed signs of tampering but did not meet any of the criteria, then it did not need to be treated as high risk. In his opinion, each of those cases would qualify for elaborate security screening.

12. The Representative of the United Kingdom noted that the proposed definition of the term “high-risk cargo or mail” was slightly innovative in that it took a risk-based approach to the handling, identification and securing of cargo and mail, as requested by the Assembly. As a result, it appeared to be unlike other definitions in that it explained a difficult concept and provided criteria. He underscored that the envisaged guidance material, which followed a flow chart approach, should, however, facilitate understanding of the definition.

13. Indicating that he had some sympathy for the position expressed by the Representative of South Africa, the Representative of the United Kingdom recalled that previously, when he had been a Member of the AVSECP’s Cargo Working Group, he and others had also attempted to have a single

provision on high-risk cargo and mail rather than a separate definition and Standard. They had been persuaded by the AVSECP that that was not the correct approach, however. He noted that the resultant Annex amendment proposal had subsequently been reviewed by the regulatory authorities of the States concerned.

14. The Representative of the United Kingdom indicated that if it were simply a matter of re-ordering the words of proposed Standard 4.6.3 *bis*, then consideration could be given to the Representative of South Africa's suggestion. However, the latter appeared to exclude the concept of known and unknown entity, which substantially changed the Annex amendment proposal. It would mean that all cargo that was not subject to being identified by baseline screening would become high-risk cargo, whether it originated from a consignor that had its own security processes or not. That would make an enormous difference to the burden placed on industry. The support that the Annex amendment proposal had received from industry representatives had been very much based on the said concept.

15. The Representative of the United Kingdom indicated that even if the Representative of South Africa's suggested text for Standard 4.6.3 *bis* included the said concept of known and unknown entity, he would still question if it was safe and sensible for the Council to change the wording of an Annex amendment proposal that had been reviewed at more than one AVSECP meeting, by several of the Panel's Working Groups, including the Working Group on Annex 17, which was the custodian of good drafting, and by many regulatory authorities. He emphasized that if the Council were to change the wording at the last minute, and it were discovered afterwards that what it had done was incorrect, then it would be subject to much criticism. In also underscoring that the adoption of the Annex amendment proposal should not be delayed, the Representative of the United Kingdom recalled that the HLCAS had confirmed that the fast-track procedure should be applied given the urgent nature of the subject matter. If that procedure were to be used, then it was necessary to ensure that the proposal that was being fast-tracked was agreed and had been considered by the relevant experts. The Representative of the United Kingdom therefore considered that the Council should adopt the Annex amendment proposal in the form presented in Appendix A to C-WP/13917 Revision No. 2.

16. Voicing agreement, the Representative of the United States stressed that political consensus on the Annex amendment proposal had already been achieved, including at the HLCAS. While the Council had full authority to make changes thereto, the first rule in modifying proposed text was "do no harm". The Representative of the United States noted, in this regard, that the Representative of South Africa's suggested text omitted the reference to unknown entities and the sentence "Regardless of whether the cargo or mail comes from a known or unknown entity, a State's specific intelligence about a consignment may render it as high risk". He was therefore reluctant to amend the proposed definition of the term "high-risk cargo or mail" which had been meticulously reviewed by the AVSECP with key States, shippers and industry.

17. Observing that the challenge being faced was the new way of drafting definitions, the Representative of Nigeria noted that the proposed definition of the term "high-risk cargo or mail" used the phrase "shall be considered", which was the language used in Standards. He considered that, with the exception of the concept of known or unknown entity, the Representative of South Africa's suggestion aptly captured the essence of what it was intended to say in Standard 4.6.3 *bis* itself, without the definition. In underscoring that any definition or Standard should be easily understood in order to enhance implementation, the Representative of Nigeria emphasized the need to find a solution that would be acceptable to all States.

18. While the Representative of France preferred the Annex amendment proposal as presented in Appendix A to the paper, he could accept the proposed transfer of the text of the definition of the term “high-risk cargo or mail” to Standard 4.6.3 *bis* if it were transferred in its entirety and if the word “State’s” were deleted from sub-paragraph a), as it was not part of the original text. Sharing this view, the Representative of Spain suggested that the Council approve the Annex amendment proposal in its current form and refer the concerns expressed by the Representatives of South Africa, Uganda and Nigeria to the AVSECP for consideration with a view to consolidating the said definition and Standard.

19. While appreciating that the Council’s role allowed it full scope to modify any Annex amendment proposal, the Representative of Australia reiterated concern about the risks associated with last minute changes to proposed SARPs. She underscored that Representatives were not technical experts, which was why there was an AVSECP. The Representative of Australia noted that other Annexes contained complex definitions along the lines of the proposed definition of the term “high-risk cargo or mail”, and that the envisaged guidance material would cover all of the various elements of the new SARPs, as well as any definitions. The Representative of Australia preferred retaining the Annex amendment proposal in its present form, for the reasons she and the Representatives of the United Kingdom and the United States had cited.

20. The Chief of the Aviation Security Branch (C/AVSEC) highlighted that in its work to help address, in the most effective and efficient manner possible, the extraordinary threats targeting aviation, the AVSECP had recognized that the amount of air cargo circulating in the world represented some 30 per cent of the value of all international trade, regardless of mode of transport. It was therefore necessary to focus enhanced security measures on a very precisely defined class of air cargo and mail. It was with that in mind that the AVSECP had produced the proposed definition of the term “high-risk cargo or mail”. He would not try to convince Representatives that it did not require careful examination in order to be fully understood as therein lay the importance of the definition: it circumscribed a very carefully chosen category of air cargo and mail to receive enhanced security measures. The definition highlighted that cargo presented by an unknown entity or cargo that showed signs of tampering must be considered high risk if it met any of the three specified criteria. C/AVSEC underscored that the value in having the said definition was that it provided a practical benefit to the aviation security community by singling out a category of cargo called “high risk cargo” that was subject to enhanced security measures. His concern with moving away from the proposed precise definition was that the importance of the term “high risk cargo” would become lost. In losing that term, those who were responsible for the practical implementation of security measures would lose something that was of substantial value to them in carrying out security measures.

21. C/AVSEC emphasized that the Secretariat would go to great lengths to provide greater clarity through the production of guidance material, as well as through the holding of training courses and awareness seminars, that would enable the community of AVSEC experts to best and fully understand the application of, *inter alia*, Standard 4.6.3 *bis* and the definition of the term “high-risk cargo or mail”.

22. Referring to the comments made earlier by the Representative of Uganda, C/AVSEC underscored that the Annex amendment proposal was to be considered as a total package, in combination with the established SARPs dealing with air cargo and mail security. He clarified that, under the said definition, cargo from an unknown entity would not automatically qualify as high risk. It would nevertheless be subject to security measures appropriate for unknown cargo. In indicating that cargo that showed signs of tampering would not automatically be considered high risk, C/AVSEC noted that there was cargo in the air transport system every day that could, upon initial review, be considered to have been tampered with as there was something out of the ordinary with it: perhaps there was a fluid that had

stained the outside of the package or perhaps the packaging had been torn through normal handling. While not all cargo that showed signs of tampering would necessarily be high risk, it would still be subject to appropriate security measures.

23. Responding to an additional query by the Representative of Uganda, C/AVSEC recalled that, by virtue of being an Annex to the *Convention on International Civil Aviation*, Annex 17 was intended to apply to international civil aviation operations. This was reflected in Standard 2.2.1. There was, however, a complementary Standard 2.2.2, adopted after the events of 11 September 2001, which extended the application of Annex 17 SARPs to domestic operations by stipulating that “Each Contracting State shall ensure that measures designed to safeguard against acts of unlawful interference are applied to domestic operations to the extent practicable, based upon a security risk assessment carried out by the relevant national authorities.”. C/AVSEC emphasized that, regardless of whether the word “international” was used in Annex 17 SARPs, the latter were aimed principally at international air services.

24. The Representative of South Africa indicated that, if Representatives felt strongly about the concept of a known or unknown entity, then it could be incorporated into his proposed text for Standard 4.6.3 *bis*. He failed to understand, however, why the origin should be a factor in determining if cargo or mail that showed signs of tampering was high risk. Averring that the originator would not tamper with its own cargo or mail, the Representative of South Africa emphasized that it was the fact that cargo or mail had been tampered with that gave rise to suspicion. Referring to the definition of the term “high-risk cargo or mail”, he underscored that by using the phrase “shall be considered” it mandated States to consider certain cargo or mail as high-risk. Furthermore, under the definition, cargo or mail from a known entity might not be regarded as high risk even it had been tampered with in a situation that gave rise to suspicion. The Representative of South Africa maintained that the sentence “Regardless of whether the cargo or mail comes from a known or unknown entity, a State’s specific intelligence about a consignment may render it as high risk” only created confusion.

25. In then proposing that new Standard 4.6.7 requiring security status indicators for cargo and mail be changed to a Recommended Practice, the Representative of China emphasized that a secure supply chain involved many parties, not necessarily from the aviation sector. Moreover, implementation of the Standard would require considerable resources, including human resources, and time was needed to mobilize them. The Council did not support this proposal.

26. In light of the fact that guidance material for the implementation of the SARPs contained in Amendment 13 to Annex 17 would be made available before the amendment’s proposed applicability date of 15 July 2013, the President of the Council suggested, and the Council agreed: to proceed with the adoption of Amendment 13 to Annex 17 as presented in C-WP/13917 Revision No. 2, taking into consideration the changes recommended by the UIC; and to request the AVSECP to review Standard 4.6.3 *bis* and the definition of the term “high-risk cargo or mail” contained in Appendix A to that paper taking into account the above proposal by the Representative of South Africa as part of its ongoing review of Annex 17 in order to ensure clarity and consistency of SARPs.

27. The Council then, by 32 votes in favour, none against and three abstentions (one Representative being absent), adopted, as Amendment 13 to Annex 17, with an applicability date of 15 July 2013, the amendment to the SARPs as contained in Appendix A to C-WP/13917 Revision No. 2, subject to the deletion of the definition of the term “transit cargo and mail” as recommended by the UIC. The Council also approved the draft Resolution of Adoption in Appendix B to the paper, subject to the change recorded in paragraph 5 above and to the insertion of the words “and security” after the word “safety” in Operative Clause 4 c) as suggested by the Representative of Uganda. In addition, the Council approved,

as part of the said amendment, the amendment to the Foreword to Annex 17 as contained in Appendix C to the paper, subject to the change recorded in paragraph 5 above.

Subject No. 18.14: Other finance matters for consideration by Council

Draft Business Plan proposal

28. The Council considered: C-WP/13899 (Revised Russian only), in which the Secretary General presented a draft Business Plan proposal for the Organization for 2014-2015-2016; and an oral report thereon by the Finance Committee (FIC). The paper set forth the following four potential budget scenarios for the next triennium and their potential impact: Scenario 1 – Zero Real Growth (ZRG) (CAD 307 million), which was built off of the final year of the 2013 Regular Programme Budget and added 2.4 per cent to each year in recognition of annual cost increases; Scenario 2 – Zero Nominal Growth (ZNG) (CAD 294 million), which was built off of the final year of the 2013 Regular Programme Budget and multiplied it by three; Scenario 3 – Small Decrease (CAD 288 million), which reflected a reduction of 2 per cent from the final year of the 2013 Regular Programme Budget and multiplied it by three; and Scenario 4 – Small Increase (CAD 313 million), which reflected an increase of 2 per cent from each corresponding year in the ZRG scenario. It was proposed that the preparation of the Regular Programme Budget for 2014-2015-2016 be based on the draft Business Plan proposal at the ZRG budgetary level of CAD 307 million.

29. The FIC had examined the paper during its Third Meeting of the 197th Session of the Council on 28 September 2012. The Committee had been informed of the timeline: the first draft of the budget must be submitted to the Committee and the Council for approval in the next Council Session (198th Session) and consequently the draft Assembly Working Paper on the budget estimates would be presented to the Committee and Council for approval in the following 199th Session.

30. Accordingly, the Chairperson of the FIC, in his opening remarks, had proposed a working methodology in two phases: a) during the 197th Session, adoption of a budget scenario together with different orientations for the Secretariat, aimed at limiting the staff costs and increases in other expenses; b) during the 198th Session, discussion on the apportionment of this budget to different Strategic Objectives and functions, according to priorities, on the basis of the draft budget which will be prepared by the Secretariat in between sessions. The Committee had agreed on this process. Some Committee Members had requested a comprehensive presentation, including all activities financed either by assessments on States, or surplus from the Ancillary Revenue Generation Fund (ARGF), or other miscellaneous income.

31. Some Committee Members had considered the ZRG scenario figure of CAD 307 million to be the preferable option in order to retain the *status quo* and perhaps even accommodate the incremental activities required by the Council as stated in Appendix A to C-WP/13899. A few Members had considered a net decrease scenario as a possibility. A larger part was in favour of the ZNG scenario, or had not yet taken a position. After the discussion, the Committee had concluded that the ZNG scenario of CAD 294 million should be the scenario on which the draft budget should be prepared by the Secretariat, and proposed that the Council adopt that decision.

32. The Committee had agreed that by choosing a scenario, it was only deciding on a starting point for the preparation of the upcoming Regular Programme Budget estimates, and that the final budget would evolve through subsequent discussions.

33. As requested by the Chairperson of the Committee, and to answer the many questions raised by the Members, the Secretariat provided an informal briefing on Tuesday, 30 October 2012 to which all Council Members had been invited.

34. During the informal briefing, detailed information had been provided to the Members on the following issues:

- a) basis of computation of the figures of the four scenarios;
- b) States' contributions – ZRG and ZNG scenarios;
- c) explanation on why Scenario 2 (ZNG) would use the 2013 budgeted figure;
- d) explanation of the 2.4 per cent cost increase factor;
- e) components of staff costs;
- f) other financing sources – voluntary contributions, Incentive Fund, carry forward to 2014;
- g) salary policy – the United Nations (UN) system and the International Civil Service Commission (ICSC);
- h) information on headcounts (staff, consultants, gratis personnel, secondees), including projected retirements;
- i) Professional to General Service ratio, including benchmarking data;
- j) possibility of cost reduction – travel costs;
- k) language services – current structure/demand; increasing productivity for translation; options for savings with reduction of interpretation and translation demand;
- l) ICT services – current model; future improvement and actions; and
- m) revenue generating activities (RGA) – 9 months' results; ARGF-funded posts; efficiencies, opportunities and expectations.

35. To help reduce the budget requirements for the next triennium, the following cost-cutting measures were suggested by the FIC:

- a) reduction of interpretation demand – transform six posts from interpretation to translator/interpreter to enhance quality management and to do more translations in-house;
- b) reduction of both interpretation and translation demand – eliminate six interpreter posts altogether;
- c) no translation and interpretation services for category 3 (panels, committees and groups) and category 4 (seminars and symposia) meetings (approximate annual savings: translation – CAD 418 000, interpretation – CAD 595 000);
- d) conducting Council briefings in English only (approximate annual savings in interpretation – CAD 73 000);
- e) conducting Air Navigation Commission (ANC) briefings in English only (approximate annual savings in interpretation – CAD 86 000);
- f) provision of interpretation for ANC meetings only when draft Council reports were discussed (approximate annual savings in interpretation – CAD 278 000);
- g) discontinuing non-English versions of the *ICAO Journal* (would reduce ARGF costs by CAD 140 000 per year);
- h) reduction of 10 per cent of travel costs. Based on 2011 actual expenses for non-audit/Regional Office travel, this reduction would amount to CAD 167 000 a year;

- i) review of posts through upcoming retirements for possibility of changes in staffing levels; and
- j) eliminating monthly air cargo and distributing publications and State letters electronically to Member States (would reduce ARGF costs by CAD 300 000 per year).

36. The Secretary General had assured the Members that the Secretariat would prepare its budget requirements for the next triennium taking into consideration all possible efficiency gains but that the Council needed to make policy decisions, in due course, on key issues such as (but not only) language requirements, and on programme priorities.

37. The Committee recommended that the Council:

- a) request the Secretary General to prepare a comprehensive first draft of the budget estimates of the Organization for the next triennium using the ZNG scenario of CAD 294 million, covering the key activities described in Appendix A to C-WP/13899, according to Strategic Objectives/functions and with the priorities arising from past Council and Assembly decisions;
- b) provide some guidelines to the Secretary General on the following issues, upon which the Regular Programme budget for the next triennium can be built:
 - i) language requirements [*cf.* paragraph 35 a) to g) above]; and
 - ii) other management issues [*cf.* paragraph 35 h) to j) above]; and
- c) request the Secretary General to propose to the Council any other appropriate decisions related to priorities or improvement of the financial performance of the Organization.

38. While supporting the above recommended action, the Representative of Mexico emphasized the need for the Secretary General to be cautious when reviewing the issues of language requirements and other management issues and to consider them from the point of view of cost efficiency rather than simply from the point of view of cost reductions as the latter could have negative impacts on the efficiency of the Organization and its governing bodies. He underscored that a holistic approach should be taken when considering the ten cost-cutting measures suggested by the FIC, one that would take into account their anticipated impacts on the fulfilment of the Organization's Strategic Objectives and would evaluate their advantages/disadvantages, including potential cost-savings. The Representative of Mexico stressed that the goal was not only to cut costs but also to achieve a more efficient and effective Organization that would better meet the expectations of its Member States. Recalling that language services had already experienced cutbacks in the last triennium, he emphasized the need to be very careful in making further reductions thereto which could negatively affect the activities of the Organization as a whole.

39. The Representative of the Russian Federation noted that, although he was a Member of the FIC, he did not share all of the views expressed in the Committee's oral report. In particular, he did not accept the suggested cost-cutting measures and the recommended action, which in his opinion did not reflect the FIC's deliberations. The Representative of the Russian Federation considered that the recommended ZNG scenario (Scenario 2), with the associated drastic cost-cutting measures (*cf.* Appendix B), to be unacceptable. He cited, as examples of the latter, not performing the full roll-out of the new Safety Annex (Annex 19), the curtailment of activities to address the issue of the jamming of GNSS

signals, the 19 per cent reduction in the staff of the Air Navigation Bureau (ANB) and the cuts to all of the other Bureaux and their activities. In advocating a ZRG approach (Scenario 1), he questioned whether the FIC had agreed with the ZNG scenario or with the corresponding budgetary figure. In his opinion, the Committee had agreed to the figure of CAD 294 million but not to the ZNG scenario. The Representative of the Russian Federation emphasized that the budget exercise should begin, not with a figure, but rather with consideration of the Organization's priorities. He endorsed the comments made by the Representative of Mexico regarding the FIC's said ten suggested cost-cutting measures, eight of which related to language services.

40. The Representative of Japan noted that, while a majority of FIC Members may have agreed to the Chairperson's proposal that a ZNG scenario of CAD 294 million be the starting point for the preparation of the budget estimates for the next triennium, his position remained unchanged, namely, that the starting point should be the current triennium figure of CAD 281 million, taking into account the current severe economic situation of Japan and some of the other major contributors.

41. Having attended the said informal briefing on the draft budget, the Representative of Japan understood why the Secretariat considered that the ZNG should be calculated on the basis of the highest amount of the budget in the final year of the 2013 Regular Programme budget and multiplied by three, which resulted in a budgetary figure of CAD 294 million. His Government was concerned, however, that the first discussion's starting point was already higher than the corresponding starting point three years ago. The Representative of Japan indicated that it would have to consider whether Japan's assessed contribution would increase or decrease under the proposed draft budget for the next triennium. He underscored that if the Council agreed to a new methodology to be used in calculating the scales of assessment, and if major contributors, including Japan, would not be required thereunder to pay higher assessed contributions, then it might be easier for his Government to accept the figure of CAD 294 million. However, in the current situation, and without such information, it was too early for Japan to endorse that figure as the preferable budgetary figure for the 2014-2015-2016 triennium. The Representative of Japan emphasized that, even if the majority supported the figure of CAD 294 million as the starting point for the preparation of the next triennium's budget estimates, his State requested that that figure be discussed again by the Council once it had been provided with further information on various issues, including the ones that he had mentioned. He noted, from the FIC's oral report, that subsequent discussions of the budget were envisaged.

42. The Representative of Japan requested that the Secretariat examine, and prioritize, ICAO's Strategic Objectives and Business Plan from the point of view of urgency, necessity and importance, and continue examining, and exploring, the allocation and integration of posts to seek greater efficiency when considering the next triennium's budgetary figure for staffing.

43. The Representative of Nigeria noted, from the FIC's oral report, that the Small Decrease scenario (Scenario 3) and the Small Increase scenario (Scenario 4) had not received much support in the Committee. A qualified majority of FIC Members had considered that focus should be on sustaining, and carrying out as efficiently as possible, the Organization's current activities. For quite a number of Members, if that meant being able to do so for the budgetary figure of CAD 294 million, which corresponded to the ZNG scenario, then that would be good. However, as indicated by the Representatives of Mexico and the Russian Federation, sustaining the Organization's activities was of key importance in enabling ICAO to respond to the needs and expectations of its Member States. The Representative of Nigeria therefore suggested that the Council request the Secretary General, in preparing the first draft of the budget estimates for the next triennium, to try to sustain the Organization's current activities, as well as accommodate the newer activities that had been added to Appendix A to the paper, while noting that many Representatives would wish to have a scenario that was closer in cost to ZNG. By implication, the Secretary General would

seek efficiencies. He would then make proposals to the Council whereby the activities listed in Appendix A could be carried out but not at the corresponding budgetary figure.

44. In agreeing with the Representative of Japan that ZNG seemed to be defined differently than in the past, the Representative of the United States voiced preference for the traditional way of calculating it. He noted that he would only be able to convey his Government's position regarding the budget for the next triennium once it had resolved the difficult financial issues it was currently facing.

45. The Representative of Spain agreed, in principle, with the action recommended by the FIC in paragraph 37 a) and c) above. With regard to sub-paragraph a), he emphasized that the envisaged first draft of the budget would only be the point of departure and not the final destination. The Representative of Spain recalled that the budget was financed by several sources: States' assessed contributions, transfers from the ARGF surplus, miscellaneous income, reimbursements from the Technical Cooperation Administrative and Operational Services Costs (AOSC) Fund and transfers from the Incentive Scheme for Long-outstanding arrears account. There were, in addition, voluntary contributions, which had been in the order of CAD 5 to 7 million in 2011, and secondments. Thus while States' assessed contributions were an important part of the budget, they were not the only part. The Representative of Spain underscored that if the other said budgetary components developed as they had during the current triennium, then the budget would increase by some 6.3 per cent, even if States' assessed contributions were maintained at the current level. He therefore considered that there was some room in which to manoeuvre if not only reductions in costs but also increases in revenue were taken into account.

46. With regard to the action recommended by the FIC in paragraph 37 b) above, the Representative of Spain emphasized that while there were certain cost-cutting measures on which the Council would have to take a decision, such as those relating to the policy on language services, there were others in which it would not have to be involved, such as the reduction of travel costs and the review of posts through upcoming retirements for possible changes in staffing levels. To avoid micromanaging, the Council could request the Secretary General to effect economies representing a certain amount or percentage of the budget, such as 2.5 per cent, and to present a first draft of the budget for the next triennium that would accommodate all of the Organization's activities in a sustainable manner.

47. While endorsing the FIC's recommendation in paragraph 37 a) above that the ZNG scenario be used as the starting point for the next budget, the Representative of Belgium emphasized that it was only a point of departure. It did not mean that he supported the scenario in Appendix B to the paper. He noted that whereas the rolling Business Plan had been developed on the basis of Programmes and activities, the new budget was being established on the basis of Strategic Objectives/functions, to avoid falling into the same traps. In sharing the view expressed by the Representative of Spain regarding the suggested cost-cutting measures, the Representative of Belgium reiterated the need to avoid micromanaging and repeating the mistakes that had been made during the current triennium, such as the headcount freeze, an ineffective measure which had not afforded the Secretariat much flexibility.

48. The Representative of Germany noted that he was among the clear minority who seriously believed that, given the extremely difficult economic circumstances more or less everywhere in the world, ICAO was well-advised to start with a very conservative approach in preparing the forthcoming budget for the next triennium, namely Scenario 3 – ZNG with a Small Decrease (2 per cent). Affirming that that scenario was not the end of the world, he noted that there would still be more money per year than there was in the 2012 budget and that there was nearly the same amount of money as there was for the 2013 budget.

49. Observing that the Secretary General had shown, over the past three years, that he knew very well where he could achieve efficiencies in the Organization, the Representative of Germany expressed confidence that he would continue to identify further efficiency gains for the forthcoming budget. It was for that reason that he favoured Scenario 3 as a starting point. The Representative of Germany underscored that he was willing to accept and to support the Secretary General's hard decisions if they were unavoidable and justified. He also did not wish the Council to be drawn into micromanaging decisions of the Secretary General. The Representative of Germany emphasized that ICAO was a large Organization and that there were ample opportunities to achieve savings on a day-to-day basis, whether CAD 10 000, CAD 50 000 or merely CAD 100. The individual amounts did not matter. What counted was how much savings had accrued by the end of the day and how they could be utilized. That was something that only the Secretary General and the Bureau Directors could decide on a daily basis. The Council could not do so unless it was necessary to take policy decisions, such as on language services, an issue on which his Delegation, by its nature, was very flexible.

50. Reiterating that he could accept proceeding on the basis of Scenario 3, the Representative of Germany emphasized that he would oppose all attempts at increasing the corresponding budgetary figure of CAD 288 million. He therefore urged the Secretary General to develop such a proposal, which would probably find more support in the forthcoming months than it now appeared.

51. The Representative of Malaysia stressed that whichever scenario was proposed in the draft budget, ZRG or ZNG, it should not harm ICAO's activities. Furthermore, it should ensure increased efficiency in the Organization's operations. In commending the FIC for having identified ways to increase revenues, cut costs and increase efficiency, the Representative of Malaysia affirmed that they would assist the Secretary General in developing a good budget for the next triennium.

52. Concurring with previous speakers that it was not for the Council to micromanage, the Representative of Italy underscored that the Secretary General was in the best position to decide on management issues, big and small. If the Council were to do so, then it would risk becoming bogged down in very lengthy and probably not very useful discussions. In also agreeing that there were areas where more efficiency could be attained in the work of the Organization, the Representative of Italy voiced support for ZNG (Scenario 2). He nevertheless considered that the point raised by the Representative of Japan should be taken into account.

53. The Representative of Argentina endorsed the comment made by the Representative of Spain regarding the FIC's suggested cost-cutting measures. He also agreed with the Representatives of Mexico and Nigeria that it was necessary to have a budget that would enable the Organization to carry out its activities and meet States' needs and expectations. In echoing the concern expressed by the Representative of the Russian Federation regarding the number of proposed cost-cutting measures relating to language services, the Representative of Argentina averred that if they were implemented, then ICAO would not satisfy States' expectations regarding the smooth functioning of the Organization.

54. The Secretary General recalled that the Charter Letter that he had been given by the President, on behalf of the Council, for his first term (*cf.* President's memorandum PRES RK/1664 dated 27 March 2009) had made a clear reference to developing a draft budget proposal for the 2011-2012-2013 triennium on the basis on ZNG. However, following the Council's consideration of the draft budget, it had become ZRG, as the Council had been convinced that that would provide the funds required to deliver the Organization's entire work programme. In the Charter Letter that the Secretary General had been given for his second term (*cf.* President's memorandum PRES RK/2059 dated 23 March 2012) there was no reference to ZNG or to any other budget scenario. The Secretary General noted that the FIC was proposing

a scenario of ZNG of CAD 294 million as a starting point for the preparation of the budget estimates for the next triennium. He further noted that there was a clear indication from the Council that it was necessary for ICAO to deliver the whole of its work programme and that no cuts should be made thereto.

55. In disagreeing with the comments made that he would be able to effect economies in the order of 2.5 per cent of the budget, the Secretary General underscored that he would only be able to do so if he, and not the Council, were responsible for making policy decisions. Referring to the FIC's suggested cost-cutting measures, he indicated that those that were within his authority to take would amount to some CAD 600 000. The remaining measures were not for his decision and related mainly to language services, as indicated by the Representative of the Russian Federation.

56. The Secretary General recalled that, during the current triennium, either through his said Charter Letters or through decisions of the Council, several posts for which funds had not been allocated in the Regular Programme Budget for 2011-2012-2013 (Doc 9955) had been financed, to the amount of some CAD 8 million. The post of Ethics Officer had been funded, as had an increase in the number of staff in the Evaluation and Internal Audit Office (EAO) and the strengthening of the Regional Offices through the addition of Technical Assistance Officers and Aviation Security Officers (in five of the seven Regional Offices). As the Secretary General had decided to fund those posts, he could now decide to cut them and save CAD 8 million. He could, for instance, re-allocate the ethics-related functions and duties to existing staff. The Council had clearly indicated, however, that programmes should not be cut, and security and technical assistance were part of the Organization's Strategic Objectives. In noting that there were nevertheless cost-savings, economies of scale and efficiencies that could be effected under his authority, the Secretary General indicated that they would be listed in his draft budget for the 2014-2015-2016 triennium, to be presented to the Council during the next (198th) session. He emphasized that it would also be necessary for the Council to decide on cost-cutting measures that were within its authority as it would not be possible to identify CAD 13 million in savings (the difference between ZRG and ZNG) solely through cost-cutting measures that were within his authority to institute.

57. The Chairperson of the FIC underscored that it was not possible to discuss in detail and four years in advance ICAO's work programme for the next triennium. Proof of the limits of this exercise was the implementation of the Organization's current work programme: although the Council had given it serious, in-depth consideration, only part of the approved work programme was being implemented as initially decided; another part was being implemented at a slower pace; some elements had been abandoned; and some unforeseen elements had been introduced. The Chairperson of the FIC reiterated that no definitive decisions were being taken at this time regarding the budget for the next triennium.

58. Referring to Appendices A and B to the paper, the Chairperson of the FIC emphasized that they were not to be interpreted as corresponding exactly to ZRG (Scenario 1) or ZNG (Scenario 2) as they did not take into account a number of elements, such as those mentioned in the Committee's oral report relating to economies and enhanced performance in certain areas. The Secretary General could not take everything into consideration as he had not been given guidance. Although the Chairperson of the FIC agreed that the Council should not micromanage, he stressed that it nevertheless had to provide such guidance. While the FIC's oral report might have focused too much on cost-cutting measures relating to language services, it did identify other areas where cost-savings could be effected (*cf.* paragraph 35 above). He cited, in this context, the review of posts through upcoming retirements for possibility of changes in staffing levels [*cf.* paragraph 35 i) above]. This was a source of considerable savings, as with a large proportion of the Secretariat retiring in the next triennium, the opportunity could be seized to adjust staffing levels and better deploy staff members. While that was for the Secretary General's decision, it was for the Council to give him guidance, such as to replace each retiree with another staff member, or to replace only

two out of every three retirees, or only three out of every four retirees, *etc.* Thereafter it was for the Secretary General to do what had to be done. The Chairperson of the FIC underscored that it was not possible for the Council to indicate that all of the Organization's work programme for the next triennium should be carried out, and with fewer funds, without giving the Secretary General guidance.

59. Drawing attention to the action proposed by the FIC in its oral report (*cf.* paragraph 37 above), the Chairperson of the FIC indicated that it was possible to not discuss sub-paragraph b) in detail during the present meeting and to instead merge that sub-paragraph and sub-paragraph c) and thereby request the Secretary General to propose to the Council, in his draft budget for the next triennium to be considered during the next (198th) session in February/March 2013, any other appropriate decisions that were within its authority relating to improving efficiency and performance. The Council would thereafter take the necessary decisions.

60. In emphasizing the importance of additional sources of revenue, a point raised by the Representative of Spain which perhaps had not been sufficiently covered in the Committee's oral report, the Chairperson of the FIC underscored that they should be highlighted in the Secretary General's envisaged paper on the draft budget.

61. Recalling his experience in managing scarce resources, which was essentially the problem facing ICAO, the Representative of Colombia cautioned that it could end up being more costly to cut some of the Organization's functions and programmes than to cut States' assessed contributions. He therefore supported ZRG (Scenario 1). As a number of Representatives had pointed out, certain of the decisions to be taken were within the Secretary General's authority, and certain others, with the Council's authority. The Representative of Colombia underscored that if the Council wished to do more than seek efficiencies and economies in ICAO, in particular, in the Technical Co-operation Bureau (TCB), then it would be necessary to come up with new ideas and to accept what traditionally had been unacceptable.

62. Observing that translation was one of the main problems, the Representative of Colombia noted that while it was important for facilitating the participation of Member States in the Organization's work, it was also very costly. Underscoring that it would be necessary to make a substantial investment in order to have better translation services, he indicated that collaboration could be sought with academia or other sectors. With regard to travel, the Representative of Colombia suggested that consideration be given in future to developing a strategy whereby contributions of airplane tickets could be accepted as long as ICAO's independence was not compromised. In emphasizing the importance of travelling to Member States and the various regions, the Representative of Colombia stressed that sometimes cost-cutting measures negatively affected the Organization's efficiency and effectiveness.

63. Agreeing on the need to seek new sources of revenue, the Representative of Colombia suggested that consideration be given to the action being taken in that regard by other aviation organizations. He noted that, in some cases, changes had been made to the percentage of revenue from States. The Representative of Colombia cited, as another example, the idea of the International Air Transport Association (IATA) and Airports Council International (ACI) to establish a large school, which was not only a major source of revenue but also a way for them to attain their goals. In concluding, he stressed the need to start thinking differently in order to manage the budget and to not simply implement cost-cutting measures. It was more important to support the sustainable development of air transport.

64. Noting that it was the sixth budget exercise that he had been involved in since joining the Organization in 1998, the President of the Council emphasized that it was not a question of States being unwilling to pay more but rather of States not wanting to finance inefficiencies. All were agreed on that

point, including the Secretary General. He underscored that the efficiency of the Secretariat, and of the Organization as a whole, had considerably increased in recent years.

65. While noting that paragraph 1.4 of the paper and sub-paragraph b) of the action recommended by the FIC in its oral report [*cf.* paragraph 37 b) above] referred to the provision of guidance to the Secretary General, the President of the Council averred that the latter did not need more guidance at the present time. The guidance provided by the Committee and the guidance provided by Representatives in their comments were sufficient. The Secretary General confirmed that he did not require further guidance.

66. In supporting the Secretary General's earlier comments, the Representative of the Russian Federation emphasized that it was inappropriate to leave the budget at its former level when there were constantly new activities that required funding. Referring to sub-paragraph a) of the FIC's recommended action [*cf.* paragraph 37 a) above], he reiterated that it was contradictory as it referred to using the ZNG scenario of CAD 294 million and to also covering key activities described in Appendix A to C-WP/13899. The said ZNG scenario as set forth in Appendix B would result in, *inter alia*, either the outright elimination or further reduction of the key activities listed in Appendix A (ZRG scenario). The Representative of the Russian Federation thus agreed with the figure of CAD 294 million but not with the ZNG scenario and affirmed that all of the said key activities should be covered.

67. Recalling his previous statement, the Representative of Nigeria stressed the need to separate the budgetary figure from the activities to be carried out. It was his understanding of the FIC's discussion that no Committee Members had been opposed to the Organization carrying out all of the key activities listed in Appendix A. Many Members, however, had wanted them to be carried out at less cost. If that were the case, then it would be clearer to request the Secretary General to prepare a draft budget that would cover the said activities listed in Appendix A and to propose efficiency measures that would enable them to be carried out for less than CAD 307 million, the budgetary figure for the ZRG scenario to which Appendix A related. The Representatives of the Russian Federation and Cuba were of the same view.

68. The Chairperson of the FIC affirmed that that was what the FIC had recommended in sub-paragraph a): that the Secretary General undertake the budget exercise on the basis of a budget of CAD 294 million, which was the budgetary figure for the ZNG scenario, covering the key activities described in Appendix A. The difference in approach was that several FIC Members considered that that result could be achieved through economies and improvements in the area of support activities. The FIC was not proposing that the Organization's programmes be cut. That was out of the question and his State, France, would oppose it. The Chairperson of the FIC underscored that support activities encompassed more than language services. He then suggested the following action, which was in line with that proposed by the Representative of Nigeria: that sub-paragraph b) of the Committee's recommended action be set aside as the Council did not have time to discuss it and that sub-paragraph c) be retained but amended to indicate that the Secretary General was requested to propose to the Council any other appropriate decisions related to priorities or improvement of financial performance of the Organization, including those listed in paragraph 35 above. Observing that the Council was thus affording the Secretary General the opportunity to make any proposals that he considered useful to attain the objective, a budgetary figure of CAD 294 million, the Chairperson of the FIC affirmed that it was the opposite of micromanagement on the part of the Council.

69. The Representative of Paraguay reiterated that all wanted ICAO's programmes and activities to continue and to not be drastically reduced in such a way that would harm the work of the Organization and consequently the work of its Member States. She nevertheless suggested that the Secretary General be requested to quantify the various budget scenarios so that the Council would have a better understanding of the impact of any possible reductions. With regard to language services, which had

been dramatically cut by the last Assembly, the Representative of Paraguay underscored that a heavy price had been paid as it had become more difficult for States to implement ICAO's Standards and Recommended Practices (SARPs) due to the resultant delays in the issuance of the related guidance material. Noting that the provision of translation and interpretation services for category 3 and 4 meetings facilitated States' participation in the discussions, she expressed concern at the FIC's suggestion that such services be cut in order to achieve annual savings of some CAD 1.013 million. The Representative of Paraguay agreed with the Representatives of Mexico and Nigeria on the importance of taking such aspects into consideration in preparing the draft budget for the 2014-2015-2016 triennium.

70. Referring to sub-paragraph a) of the FIC's recommended action [*cf.* paragraph 37 a) above], the Representative of Spain indicated that it was implicit that economies would have to be made. Observing that they would need to be in the order of CAD 13 million, the difference between the ZRG scenario and the ZNG scenario, he underscored that some CAD 4 million a year was not so much in terms of cuts, increased revenue and increased voluntary contributions. It was only a narrow gap that needed to be bridged. The Representative of Spain underscored that the budget exercise that the Secretary General would now undertake on the basis of the guidance provided would assist the Council in its discussion of the draft budget during the next (198th) session.

71. The Representative of Uganda indicated that it was his understanding that the figure recommended by the FIC, CAD 294 million, was a form of guideline for the Secretary General within which to work in preparing the draft budget, and that the Secretary General had the flexibility to make additional proposals.

72. The Representative of Denmark looked forward to seeing how the Secretary General would prioritize the budget and which cost-savings he would propose in order to achieve a budgetary figure of CAD 294 million.

73. The Secretary General understood, from the views expressed, that none of the activities that were essential to the Organization should be cut in the next triennium. ICAO's entire work programme had to be implemented in accordance with the Organization's Strategic Objectives and priorities. At the next (198th) session, the Secretary General would present a first draft of the budget for the 2014-2015-2016 triennium that would indicate a number of efficiencies and economies, some of which had already been identified, and a first budgetary figure which would not necessarily be CAD 294 million. In addition, informal briefings could be held so that he could receive guidelines from Representatives regarding the said draft budget.

74. The Council then took the action proposed by the President of the Council in light of the discussion and requested the Secretary General to: prepare a comprehensive first draft of the budget estimates of the Organization for the 2014-2015-2016 triennium indicating the funding required to cover the key activities described in Appendix A to C-WP/13899, according to Strategic Objectives/functions and with the priorities arising from past Council and Assembly decisions, and taking into account the comments made; and to present it to the Council, through the FIC, for consideration during the next (198th) Session.

Subject No. 14: Subjects relating to air navigation**Outcome of the Tenth Meeting of the AFI Comprehensive Implementation Plan for Aviation Safety in Africa (AFI Plan) Steering Committee (Montréal, 25 and 26 October 2012)**

75. In presenting an oral report on the outcome of the Tenth Meeting of the AFI Plan Steering Committee (Montréal, 25 and 26 October 2012), the Chairperson of the AFI Plan Steering Committee, Dr. O.B. Aliu, who was also the Representative of Nigeria, recalled that it had been opened by the Secretary General and attended by 35 participants.

76. The Steering Committee had reviewed the actions taken by ICAO to implement the decisions of the previous meeting, as endorsed by the Council (196/4). Progress had been noted on assistance provided to States in establishing and maintaining effective and sustainable safety oversight systems, the harmonization of training and the delivery of seminars, workshops and courses across the region, and the direct support provided to assist States – especially those with significant safety concerns (SSCs) and also referred to the Monitoring and Assistance Review Board (MARB) – in resolving safety deficiencies through Regional Office Safety Team (ROST) missions, the ICAO Plans of Action and the deployment of the AFI Cooperative Inspectorate Scheme (AFI-CIS).

77. The Steering Committee had further noted the Declaration and aviation safety targets adopted during the Ministerial Conference on Aviation Safety in Africa, held in Abuja, Nigeria, in July 2012, which would be submitted to the next African Union (AU) Assembly of African Heads of States and Government in January 2013. The Steering Committee had also noted, with appreciation, the participation of the President of the Council, as well as the active involvement of the ICAO Secretariat, in the development of the Declaration and establishment of the said targets.

78. The Steering Committee had reviewed and amended the AFI Plan work programme for the year 2013 to reflect new developments, as well as the conclusions and recommendations made during the meeting.

79. In noting the above oral report, the Council endorsed the following conclusions and recommendations of the AFI Plan Steering Committee's Tenth Meeting:

- a) the African Group, supported by the ICAO Secretariat, would identify States that are either already members or requesting to be members of more than one Regional Safety Oversight Organization (RSOO) and develop a strategy to sensitize the identified States on the policy that ICAO developed on this matter.
- b) the development and long-term implementation of a work tracking system for safety oversight activities in African States was considered a priority and the United States would look into possible funding to support the development of the project into an Internet-based system.
- c) European Union (EU) assistance projects to be implemented through the European Aviation Safety Agency (EASA) for the establishment of a RSOO in the *Communauté Économique et Monétaire de l'Afrique Centrale* (CEMAC), as well as assistance to be delivered in Africa, would be developed and implemented in coordination with ICAO. Likewise, projects to be financed through the African Development Bank (ADB) would be closely coordinated with ICAO and relevant stakeholders.

- d) resources allocated for the establishment of the regional organizations for CEMAC, the *Union Économique et Monétaire Ouest-Africaine* (UEMOA) and Southern African Development Community (SADC) regions should be redirected towards the implementation of the ICAO Plans of Action until Member States from each region agree on a way forward for their establishment. All transformation processes of Co-operative Development of Operational Safety and Continuing Airworthiness Programmes (COSCAPs) into RSOOs shall be harmonized, including the documentation developed to support their transition.
- e) ICAO would train African Civil Aviation Commission (AFCAC) staff to deliver European Coordination Centre for Accident and Incident Reporting Systems (ECCAIRS) training courses in Africa.
- f) ICAO should provide technical assistance for the preparation of AFI-CIS missions for 2013 and the Regional Office in Dakar should continue to coordinate the programme with AFCAC. The annual allocation of funding for the AFI-CIS programme should be planned by AFCAC and States shall be encouraged to contribute towards the cost of the missions. States should also establish a working group to monitor the implementation of recommendations and to provide timely feedback on the missions conducted.
- g) the development of the Government Safety Inspector (GSI) training material in the French language should be accelerated and at least two AFI-CIS training courses should be conducted in 2013.
- h) close coordination between ICAO, RSOOs and COSCAPs should be made to facilitate assistance activities and to align the ICAO Coordinated Validation Mission (ICVM) schedules and other audits planned in the region.
- i) AFCAC in coordination with ICAO should engage Djibouti to establish close and effective communication with ICAO in order to address its safety deficiencies.
- j) ICAO Regional Directors should take proactive actions to incorporate the safety targets adopted during the African Ministerial Conference on Aviation Safety held in Abuja, Nigeria from 16 to 20 July 2012 into the ICAO Plans of Action.
- k) African States, ICAO, AFCAC, the African Airlines Association (AFRAA), the International Air Transport Association (IATA) and relevant stakeholders should vigorously pursue the implementation of the safety targets in conformity with the set timelines and identified strategies. A joint review mechanism should be established by AFCAC and ICAO to monitor the implementation of the safety targets and adherence to the applicable timelines, which range from 2013 to 2017.
- l) the AFI Plan Programme of Activities for 2013 and beyond shall be aligned with the Ministerial Declaration and agreed safety targets. The scope of the AFI Plan should be revised as may be necessary to include the technical areas of air navigation services, aerodromes, and accident and incident investigation, while maintaining the primary focus on personnel licensing, aircraft operations and airworthiness. To this end, the

Steering Committee requested that the ICAO Secretariat propose a budget and that the ICAO Secretary General allocate adequate resources to meet the AFI Plan Programme of Activities for the next triennium (2014-2016).

- m) the meeting agreed to tentatively schedule the Eleventh AFI Plan Steering Committee Meeting from 14 to 15 March 2013, back-to-back with the Sixth Worldwide Air Transport Conference (ATConf/6) (18 to 22 March 2013).

80. The Secretary General noted the Steering Committee's request [*cf.* sub-paragraph l) above] that adequate resources to meet the AFI Plan Programme of Activities for the next triennium be allocated in the draft Budget of the Organization for 2014-2015-2016. It was understood that, further to a point raised by the Representative of Spain, the Chairperson of the AFI Plan Steering Committee would circulate to Representatives the texts of the said Ministerial Declaration and agreed safety targets. Following approval thereof by the said AU Assembly of African Heads of States and Government in January 2013, consideration would be given to transmitting the safety targets to the Air Navigation Commission (ANC).

Subject No. 11.5: Documentation policy and practices

Report of the Working Group on Governance and Efficiency (WGGE) Subgroup on Language Services

81. This subject was documented for the Council's consideration in C-WP/13897, presented by the Chairperson of the Working Group on Governance and Efficiency (WGGE), Dr. O.B. Aliu, the Representative of Nigeria. The paper reported on the deliberations of the Committee's Subgroup on Language Services, established pursuant to the decision taken by the Council when reviewing the Report on publications for 2011 (C-WP/13839; 196/1), and presented the WGGE's twelve budget-neutral recommendations. Those recommendations were noted by the Secretary General.

82. Noting that the report was the result of serious, in-depth analysis of the issues relating to language services, the Representative of the Russian Federation expressed the hope that the Council would endorse all of the WGGE's recommendations contained therein.

83. The Representative of France indicated that he had reservations regarding certain recommendations, in particular, the one set forth in paragraph 4.1 of the paper on the setting of a maximum level of outsourcing as an element of the ICAO policy on language services, taking into account best practices within the United Nations (UN) system. Averting that that was not a valid criterion for judging quality, he underscored that there were international organizations which outsourced up to 80 per cent of their translation work and which nonetheless produced good work. Referring to the recommendation contained in paragraph 4.6 that the Secretariat be requested to provide appropriate means in order to be able to raise progressively the target for average translated words per day, in conformity to the UN average, while maintaining quality of outputs, the Representative of France emphasized that he would have preferred a precise target, it being understood that at issue was not the quality of the translators but of the Organization itself, and the regularization of the workflow of documents to be translated.

84. In agreeing that the recommendation contained in paragraph 4.1 was overly restrictive, the Representative of the United States indicated that he was indifferent as to the way in which ICAO documents were translated as long as it resulted in the desired product with the desired quality and quantity.

85. Concurring that there was no need, at least at the present time, for a maximum level of outsourcing, the Representative of Denmark indicated that he would be able to accept a proposal that no translation be outsourced. With regard to the recommendation set forth in paragraph 4.6, he recalled that the Director of the Bureau of Administration and Services (D/ADB) had previously indicated, during the Council's consideration (193/6) of C-WP/13733 [Progress report on the status of the Budget (Annex 5)], that ICAO's productivity standard for translation of four TPUs per day would be aligned with the UN productivity standard of 1500 words per day in 2013. Noting that that represented an increase of only three or four translated words a minute by professional translators, the Representative of Denmark averred that the main reason for the current translation rate was not that the latter were working too slowly but rather the organization of their work.

86. Endorsing the comments made by the three previous speakers, the Representative of the United Kingdom reiterated the need to concentrate on the output rather than on the means by which it was achieved. He also underscored the need for a more specific target for average translated words per day.

87. The Representative of the Russian Federation recalled that the Council had previously agreed (181/19) on a translation outsourcing target of up to 60 per cent. Currently some 42 per cent of ICAO translation was outsourced, which placed the Organization above other Specialized Agencies, which outsourced only 25 per cent to 30 per cent of their translation. He cautioned that, if ICAO increased its level of translation outsourcing, then it would encounter further problems with quality control. Maintaining that the UN productivity standard for translation of 1500 words per day was not a realistic indicator, the Representative of the Russian Federation emphasized that the translation rate depended on the difficulty of the text. He further underscored that utilization of computer-assisted translation tools (CATS) would not substantially increase productivity given the complexity of some of the texts.

88. The Representative of Japan observed that for some States, including his, whose native language was not one of ICAO's working languages and which consequently had difficulty in communicating and in understanding the Organizations' activities, the issue of language services seemed to be a luxury. While he had no objection to seeking high quality language services, he was unsure whether the current level of funding for the provision of language services, 14.4 per cent of the approved budget of the Organization for the 2011-2012-2013 triennium, would still be considered appropriate when the Council discussed the draft budget for the 2014-2015-2016 triennium and the priority and urgency of many important and strategic activities. Although aware that the paper included recommendations to seek efficiencies and reduce the cost of language services, which had also been mentioned during the recent informal briefing on the said draft budget, the Representative of Japan hoped that the Secretariat would make good, courageous and concrete proposals on which all Representatives could agree and compromise in line with the current severe budget exercise.

89. The Chairperson of the WGGE recalled that the Working Group had agreed that its recommendations would be budget-neutral. As such, they would not place an increased demand on the budget; rather, they would lead to a more efficient use of resources. In underscoring that the recommendations had been reached by the Subgroup and the WGGE on the basis of consensus, he urged the Council to take the action proposed in the executive summary of the paper and request the Secretariat and the various Committees of the Council to make concrete proposals, as applicable, for the optimal utilization of language services, for the Council's consideration at its next (198th) session, within the context of the existing rules and regulations and in line with the current budget exercise.

90. Drawing attention to paragraph 3.3 of the paper on the recruitment process for language professionals, the Representative of Morocco underscored that it would take the latter less time to

assimilate aviation terminology than it would aviation professionals. He then sought clarification regarding the recommendation contained in paragraph 4.2 that the Secretariat be requested to formalize procedures and criteria for the selection of linguistic staff, both internal and external, including the creation of a roster of ICAO linguistic contractors. Referring to paragraph 4.5, the Representative of Morocco enquired as to accreditation, standardization and funding of centres for the translation of ICAO publications established by States representing ICAO's working languages pursuant to Operative Clause 10 of Assembly Resolution A37-25 (*ICAO policy on the language services*).

91. Observing that the WGGE's report brought together the Members' divergent views on many issues relating to language services, the Representative of Mexico affirmed that it represented the most acceptable solution at the present time. Being thus unwilling to re-open the debate on the Working Group's recommendations, the Representative of Mexico advocated taking the action proposed in the executive summary of the paper.

92. Endorsing these comments, the Representative of Cuba reiterated that WGGE's report was balanced and voiced support for its recommendations.

93. In then taking the action proposed by the President of the Council in light of the discussion, the Council:

- a) while respecting Assembly Resolutions A22-29 and A37-25, requested the various Council Committees and the Air Navigation Commission (ANC) to: review their need, and the need of their working groups and panels, for interpretation and translation services, taking into consideration the relevant rules and regulations and the current budget exercise; and present concrete proposals, as applicable, for the optimal utilization of those language services for the Council's consideration during its next (198th) Session; and
- b) requested the Secretary General to: review the management of the simultaneous distribution of all language versions of ICAO documents, taking into account the possibility of publishing the English version of certain documents first and other language versions later, within an acceptable and reasonable timeframe, in order to respond to the needs of all Member States; and present a concrete proposal thereon to the Council during the next (198th) Session.

94. On behalf of the Council, the President expressed appreciation to the Chairperson of the Subgroup on Language Services, Mr. M. Delisle, the Alternate Representative of Canada, and to the Subgroup's Members, as well as to the Chairperson and Members of the WGGE, for their efforts.

Any other business

Council working papers presented for information

95. As the President of the Council has not received any requests to have the following information papers tabled for consideration, it is considered that the Council has noted the information provided therein:

- **C-WP/13906** — *Report on activities during the recess* — circulated under cover of PRES RK/2123 dated 30 October 2012 with a deadline of 7 November 2012 for comments

- **C-WP/13908** — *Report on the results of the International Telecommunication Union (ITU) World Radiocommunication Conference (2012) (WRC-12)* — circulated under cover of PRES RK/2125 dated 2 November 2012 with a deadline of 7 November 2012 for comments.

96. The meeting adjourned at 1730 hours.

COUNCIL — 197TH SESSION

SUMMARY MINUTES OF THE EIGHTH MEETING

(THE COUNCIL CHAMBER, WEDNESDAY, 14 NOVEMBER 2012, AT 1000 HOURS)

OPEN MEETING

President of the Council: Mr. Roberto Kobeh González

Secretary: Mr. Raymond Benjamin, Secretary General

PRESENT:

Argentina	— Dr. N. Luongo (Alt.)	Mexico	— Mr. D. Méndez Mayora
Australia	— Ms. K. Macaulay	Morocco	— Mr. A. Boulmane
Belgium	— Mr. G. Robert	Nigeria	— Dr. O.B. Aliu
Brazil	— Mr. J. Taunay	Paraguay	— Mrs. A. Torres de Rodríguez
Burkina Faso	— Mr. M. Dieguimde	Peru	— Mrs. D.E. Sotomayor Yalán
Cameroon	— Mr. E. Zoa Etundi	Republic of Korea	— Mr. Choi, D.
Canada	— Mr. M. Allen	Russian Federation	— Mr. A.A. Novgorodov
China	— Mr. Tao Ma	Saudi Arabia	— Mr. T.M.B. Kabli
Colombia	— Mr. A. Muñoz Gómez	Singapore	— Mr. T.-C. Ng
Cuba	— Mr. J.F. Castillo de la Paz	Slovenia	— Mr. A. Krapež
Denmark	— Mr. K.L. Larsen	South Africa	— Mr. L. Mabaso
Egypt	— Mr. A. Mahmoud	Spain	— Mr. V.M. Aguado
France	— Mr. M. Wachenheim	Swaziland	— Mr. D. Litchfield
Germany	— Mr. U. Schwierczinski	Uganda	— Mr. J. Twijuke
Guatemala	— Mr. H.A. Rosales Salaverría	United Arab Emirates	— Miss A. AL Hamili
Italy	— Mr. E. Padula	United Kingdom	— Mr. M. Rodmell
Japan	— Mr. T. Koda	United States	— Mr. J.L. Novak (Alt.)
Malaysia	— Mr. Y.-H. Lim		

ALSO PRESENT:

Mr. J.C.F. da Silva (Alt.)	— Brazil
Mr. R. Oliveira de Carvalho(Alt.)	— Brazil
Mrs. D. Valle Álvarez (Alt.)	— Mexico
Mrs. L. Camacho Bueno (Alt.)	— Peru
Mr. Bae, J. (Alt.)	— Republic of Korea

SECRETARIAT:

Mr. D. Azema	— DC/OSG
Ms. N. Graham	— D/ANB
Dr. Fang Liu	— D/ADB
Mr. L. Cherif	— C/LPB
Mr. J. Augustin	— A/D/LEB
Mr. O. Myard	— C/EAO
Mrs. H. Jackson	— EAO
Mrs. D. Rahmani	— DMO
Mr. M. Leitgab	— ADADB
Mr. A. Larcos	— ACS

Representatives to ICAO

Chile

Dominican Republic

Ethiopia

Greece

Iran (Islamic Republic of)

Lebanon

Turkey

Uruguay

Venezuela (Bolivarian Republic of)

Subject No. 10: ICAO relations with the United Nations, the specialized agencies and other international organizations

Subject No. 23: Languages in ICAO

Report of the Joint Inspection Unit (JIU) entitled “Multilingualism in the United Nations System Organizations: Status of Implementation”

1. The Council had for consideration: C-WP/13914, presented by the Secretary General, which contained a summary of the findings of the report of the JIU entitled “Multilingualism in the United Nations System Organizations” (JIU/REP/2011/4), the related comments of the United Nations System Chief Executives Board for Coordination (CEB) and the ICAO Secretariat response to the JIU report. Of the fifteen recommendations contained in the report, twelve are directed at ICAO, nine of which are fully implemented, one is supported, one is in progress and one concerning the provision of conference services and budgetary resources when creating new institutional bodies (recommendation 6) was subject to Council approval.
2. In his supplementary comments, the Secretary General indicated that in relation to recommendation 6 of the JIU Report, which was the only recommendation subject to Council approval, he would undertake to inform the Council on any cost implications arising in the event of the creation of new institutional bodies.
3. Referring to the overall theme of the JIU report, the Representative of the Russian Federation emphasized the importance of ICAO appointing a senior official with responsibility for multilingualism. He expressed some concern that the Secretariat response to this particular issue in the report (recommendation 1) could be seen as insufficient. Likewise in relation to the issue of monitoring the equitable use of languages in accordance with the needs of users, he underlined the need to strengthen the consultation process with Member States.
4. In relation to the availability of official ICAO documentation in all six official languages, he also expressed concern that there were numerous examples where this was not the case. The certification manual was cited as an example of a document that was unavailable in all official languages. In this connection, he reminded the Council that Assembly resolution A37-25 noted the importance of ensuring parity and quality in the provision of a language service in all six official languages.
5. Referring to the provision of interpretation services during ICAO meetings, he stated that it would be unacceptable to his delegation if as a cost-cutting measure, this service would no longer be available for category 3 and category 4 events, which would affect meetings of panels and committees, as well as seminars and symposiums.
6. Turning to the recommendation concerning effective succession planning within the Secretariat, he observed that ICAO still had much work to do in this area and that an additional management effort in this regard was required to facilitate progress. On a related theme he proposed that in relation to the language services, particular attention was needed to address the staff selection and recruitment process, as well as the provision of relevant career development programmes in accordance with the best practices in the United Nations system. He expressed concern that on some aspects ICAO was not in accordance with the United Nations system and he cited staff selection and recruitment practices as an example.

7. Finally, the Representative observed that depending on the paper being translated, it is possible that from 60 to 70 per cent of confidential documents are being outsourced to external translators. He expressed concern that if further cuts to the staffing levels in ICAO language services were implemented this would mean even more documentation would have to be translated via outsourcing.

8. In referring to recommendation 6 of the JIU report, the Representative of Japan observed that the creation of new institutional bodies would carry certain resource implications in the provision of translation and interpretation services and that this should be taken into account when making any such decision.

9. The Representative of France expressed concern that recommendation 6 went too far and was therefore inappropriate for an organization such as ICAO. He stated that he could not support the recommendation since the creation of new institutional bodies should in the first instance always be subject to the consideration of budgetary implications.

10. In relation to recommendation 1 concerning multilingualism, he understood that the Secretariat response to date had been sufficient and that it should not be necessary to create focal points for all such issues since this would undoubtedly carry implications vis-à-vis overall staff levels. On the matter of staff language ability, he stressed that it was important to facilitate and encourage staff to develop an ability in at least two of the official United Nations languages, particularly at the Director level. Concerning Professional-level staff working in the provision of language services, he suggested there was a need to review recruitment and employment policies to ensure there were no discrepancies in existing practices.

11. In responding to the issues raised, the Secretary General explained that although the recommendations contained in JIU reports can be wide-ranging, it did not necessarily mean that these would be applicable to all United Nations specialized agencies in the same way. Some recommendations, he noted would indeed have minimal applicability for ICAO. In relation to the translation of documentation in all official languages, he revealed that the Secretariat had implemented improvements so that the current situation was better than it had been in past years. He understood the concern over budgetary implications for the language services, but he indicated that no decisions had yet been made and that he would not wish to sacrifice posts or the principle of multilingualism. On the latter he confirmed that when recruiting for advertised vacancies, emphasis is placed on the desirability of candidates having an ability in a second official language.

12. The Council then noted recommendation 6 of the JIU report and in doing so agreed that it would be consulted by the Secretary General prior to any action being taken in relation to the creation of new institutional bodies and that such information would contain an outline of cost implications as appropriate.

Subject No. 6.3: Election of Chairmen and Members of subsidiary bodies of the Council

Appointment of the President of the Air Navigation Commission

13. This subject was documented for the Council's consideration in C-WP/13901, presented by the President of the Council.

14. In accordance with Rule 16 c) of the *Rules of Procedure for the Council* (Doc. 7559), the President of the Council had invited Members of the Air Navigation Commission (ANC), under cover of

PRES RK/2092 dated 1 August 2012, to present to him in writing before the close of business on 5 October 2012 their candidatures for the post of the President of the Commission. By the close of business on 5 October 2012, Mr. Christian Schleifer-Heingärtner had presented his candidature for the post for another year. Mr. Schleifer-Heingärtner's updated curriculum vitae was reproduced, in English only, in Appendix A to C-WP/13901.

15. In his introductory comments, the President of the Council reminded the Council that the main qualities needed by a President of the ANC, which remained valid for the current triennium (2011-2013), were contained in C-WP/13659 as amended on 15 November 2010 (C-MIN 191/1 refers) to reflect in paragraph 3.1 c) of the paper that the President of the Commission should also have the capacity to lead, to take initiatives, to innovate and to communicate effectively with other aviation-related bodies and organizations and should be sensitive to the needs and concerns of the Council, the governing body of the Organization.

16. Pursuant to Appendix D to the *Rules of Procedure for the Council*, concerning the appointment of the President of the ANC, and with the unanimous agreement of the Members present, the Council proceeded by acclamation to re-appoint Mr. Schleifer-Heingärtner to the position of President of the ANC for a period of one year starting on 1 January 2013.

17. The President of the Council congratulated Mr. Schleifer-Heingärtner on his re-appointment and indicated that the Secretariat would in due course issue a media release informing of the Council decision in this regard.

18. The Representatives of Australia, Burkina Faso, Saudi Arabia, Spain and Uganda congratulated the newly re-appointed President of the ANC and commended him for the role he had been performing. In so doing, the Representative of Spain underscored the importance of the President of the ANC having the power to lead, take initiatives, innovate and to communicate effectively with aviation-related entities especially given the current ANC workload, which include the process of developing Annex 19.

Subject No. 6: Establishment of subsidiary bodies of the Council

**Proposal for the establishment of a Standing Committee
on Relations with the Host Country**

19. The Council had for consideration C-WP/13918, a paper presented by Argentina, Brazil, Colombia, Cuba, Guatemala, Mexico, Paraguay and Peru, concerning a proposal for the establishment of a Standing Committee on Relations with the Host Country, which would aim to provide a forum for consultation on issues related to the privileges and immunities of the diplomatic community accredited to ICAO. Among other matters, the paper outlined the issues to be dealt with as well as legal basis of the proposed Standing Committee.

20. Speaking on behalf of the members of the Latin American and Caribbean Regional Group on the Council, the Representative of Mexico, explained that the proposal for a Standing Committee on Relations with the Host Country was intended to establish a consultative forum for discussion on items that have an impact on the diplomatic community accredited to ICAO. He indicated that the proposal took into account the recommendations of the JIU as outlined in the report concerning the implementation of headquarters agreements concluded by United Nations system organizations such

as ILO and FAO (JIU/REP/2006/4 refers). He outlined how in addition to New York and Geneva, similar committees had also been established in other United Nations centres such as Vienna and Nairobi.

21. In outlining how the proposed Standing Committee would function, he indicated that it would meet only when there were issues requiring attention and that the meetings would be held exclusively in English so as to minimise cost implications for ICAO. The Working Group on Governance and Efficiency (WGGE) was invited to consider the proposal with a view to identifying options for addressing the expectations and needs of the diplomatic community as these relate to privileges, immunities, prerogatives and facilities, and the most ideal way in which these could be dealt with in the context of a consultative forum involving Canada as the Host Country. The Tripartite Consultative Committee was commended for the work done to date but the view was expressed that the Standing Committee being proposed would represent an effective supplementary option to deal with issues arising.

22. In his capacity as Chair of the WGGE, the Representative of Nigeria noted that the Tripartite Consultative Committee was due to report to the next (198th) Session. On this basis he suggested that in light of the report from the Tripartite Consultative Committee, one option could be for the WGGE to subsequently consider the proposal for a Standing Committee and then report to the 199th Session.

23. The Representative of Canada affirmed that Canada as the Host Country is committed to an open dialogue with Member States in order to facilitate their work. It was explained how the Tripartite Consultative Committee had been established in 2011 so as to address issues associated with diplomatic privileges and immunities, other courtesies and access to services. All Member States have been invited to participate in its regular meetings and preparatory sessions. The Committee brings together relevant partners including the Government of Quebec and the City of Montreal. It was indicated that Canada believes this mechanism provides the best basis for addressing these issues and achieving practical results.

24. In outlining its results to date, it was explained that the Committee has overseen a reduction in tax reimbursement processing times from 16 to 8 weeks, and the provision of more accurate notations in identity documents, as well as the production of an English language information guide on accessing the Quebec healthcare system in addition to addressing a range of other issues. A more detailed oral report would be provided at the next (198th) session of the Council on all the progress achieved as well as the issues that remain to be resolved.

25. The next meeting of the Tripartite Consultative Committee would take place in January 2013 and all Council members would be invited to participate in a discussion about how the existing structure is functioning and serving the needs of the participants as well as what improvements could be made. He indicated that Canada would welcome an opportunity to reflect on the operation of the existing mechanism and that it was committed to make changes if these were warranted. Given the ongoing work of the Tripartite Consultative Committee, he expressed concern that there might be an overlap with the proposed Standing Committee.

26. He also observed that there might be significant procedural, legal and other substantive concerns including resource requirements in the event of the Standing Committee being established. In this connection, his concern was that the creation of a duplicate mechanism might exclude certain people and this could be counter to the flexibility of the existing structure in which representatives of various levels of government were available to respond to issues raised. He invited the Council to work with the Tripartite Consultative Committee to enhance its inclusivity and effectiveness.

27. The Representative of the United Kingdom wondered whether there had been sufficient opportunity to focus on the ability or otherwise of the Tripartite Consultative Committee to deal with issues of concern to the diplomatic community. It was important to consider best practices within the United Nations system and in this connection, reference was made to the International Maritime Organization (IMO), which is based in the United Kingdom and which does not have a Standing Committee of the kind being proposed. He expressed the view that it did not necessarily mean that such a Standing Committee was essential to solve issues. Since the Tripartite Consultative Committee was due to report to next (198th) Session, he suggested that this should be the occasion for the Council to identify more clearly whether outstanding problems were being adequately dealt with and if they were not, what other options might be available. For that reason, awaiting the report of the Tripartite Consultative Committee would be more appropriate before further proceeding with the Standing Committee proposal.

28. In expressing support for the proposal to establish a Standing Committee, the Representative of Brazil stated that this would help to minimize problems with the Host Country in relation to privileges and immunities. He indicated that having represented his country in other duty stations, he had been aware of problems arising and that it was necessary to provide a consultative forum of the type being proposed so that issues were adequately dealt with.

29. The Representative of France raised the need to make a clear distinction between issues that fall within the purview of applicable rules, which apply to the ICAO diplomatic community, the difficulties inherent in the implementation of these rules, and rules that are derived from the Headquarters Agreement. He indicated that France places a high emphasis on ensuring that Permanent Representatives and their families are afforded the same privileges and immunities enjoyed by diplomats and their families in Canada, since this delivers equality of status for diplomats who are representing their country at ICAO. It was therefore important to consider difficulties involved with implementation of rules that affected representation, which are covered in Articles 13 and 14 of the *ICAO Headquarters Agreement*. Although some rules applicable to diplomats are negotiated in bilateral agreements between countries, it was nevertheless the case that problems would sometimes arise in the implementation of these rules. On this basis it was important to provide mechanisms to adequately resolve issues.

30. He noted that the Tripartite Consultative Committee currently provided an avenue for the consideration and resolution of issues of concern to the diplomatic community. He therefore supported the suggestion made by the Representative of Nigeria to await the report of the Tripartite Consultative Committee to the next (198th) Session before deciding what further measures need to be adopted. On this basis he expressed the view that it would at this stage be premature to establish the Standing Committee being proposed but that this could be reconsidered in the future.

31. The Representative of the United States endorsed the comments of the Representative of Canada and commended the Government of Canada for the way it had as the Host Country served ICAO and the diplomatic community. He expressed support for the proposal outlined by the Representative of Canada that the Council await the report of the Tripartite Consultative Committee to the next (198th) Session before taking further action on this item.

32. The Representative of the Russian Federation emphasized the importance of responding to issues of concern being raised by the diplomatic community and noted that the Tripartite Consultative Committee provided an opportunity for Representatives to engage with relevant officials of the Governments of Canada and Quebec, as well as the City of Montreal. The question of how long the Tripartite Committee should continue its work should be considered along with its terms of reference and

in that connection he suggested that the WGGE be tasked with this responsibility. He also expressed support for the idea of the WGGE further developing, with the assistance of the Secretariat, the contents of the working paper.

33. In agreeing with the suggestion of the Representative of Nigeria to await the report of Tripartite Consultative Committee to the next (198th) Session, the Representative of Australia expressed support for allowing the Council an opportunity to consider the mandate and future of the committee, as well as to explore possible improvements to the process. She suggested that following the report of the Tripartite Consultative Committee, it might be appropriate to refer further consideration of the item to the WGGE. At this stage she was not convinced that the current arrangement was inadequate although there might be room for improvement, in which case the terms of reference of the Tripartite Consultative Committee could be reviewed.

34. The Representative of Belgium cautioned against rushing a decision in such matters. He stated that it was important to consider what procedures had been followed elsewhere in the United Nations system to identify best practices although he recalled that United Nations General Assembly resolution 2819 in which the Committee on Relations with the Host Country was established, dealt exclusively with security issues concerning staff and missions. He considers the Tripartite Consultative Committee to be a flexible mechanism that means it is possible to arrive at solutions to certain problems and he commended Canada for their commitment in this regard. He supported the suggestion by the Representative of Nigeria to refer this item to the WGGE for further consideration and report to the Council.

35. In expressing support for the existing arrangement, the Representative of Burkina Faso noted that the Tripartite Consultative Committee had not been in existence for long and therefore it would be appropriate to allow it more time to deal with the issues that had been raised by the diplomatic community. He noted that the provision of privileges and immunities was a highly sensitive matter, which was one factor that gave rise to *Vienna Convention on Diplomatic Relations*. He welcomed the efforts of the Secretariat to assist Representatives and to facilitate solutions to the issues that had been raised over the years, but that nevertheless there might be areas for improvement. He supported the suggestion that the WGGE be tasked with giving further consideration to the matter and thereafter reporting to Council.

36. The Representative of South Africa also expressed support for allowing the Tripartite Consultative Committee more time to carry out its responsibilities before consideration was given to ways to address any shortcomings in the current arrangement. He agreed with the suggestion that the WGGE report on this item at a subsequent Council session.

37. In emphasizing the importance of ensuring an adequate consultative mechanism to strengthen cooperation and the relationship between the diplomatic community and the Host Country, the Representative of Singapore observed that there is a considerable range of issues being brought to the Tripartite Consultative Committee and that some of these matters did not necessarily require a formal structure to be dealt with but could be addressed through informal channels. In this connection, he noted that informal channels such as taking up a matter directly with the Secretariat, would sometimes prove to be more efficient. He also agreed with the suggestion of awaiting the report from the Tripartite Consultative Committee before considering any changes to the current arrangement.

38. The Representative of China highlighted the necessity of ensuring a suitable consultative mechanism between the diplomatic community and the Host Country that was able to address issues raised. In this connection, he welcomed the success that the Tripartite Consultative Committee had

already achieved on issues such as the tax refund process. He expressed the view that further consideration of this item should be postponed until more time had elapsed in considering the adequacy of the Tripartite Consultative Committee as a consultative mechanism for the ICAO diplomatic community.

39. In drawing some conclusions from the Council debate thus far, the Representative of Spain observed that there are several problems and sensitivities that needed to be addressed in a consultative mechanism between the diplomatic community and the Host Country. He welcomed the efforts by Canada as the Host Country to deal with the issues arising and he expressed the view that more time was needed to consider whether the current arrangement was adequate. He supported the suggestion that the WGGE be tasked with giving further consideration to the item and reporting to the Council at a subsequent session.

40. The Representative of Japan welcomed the efforts by Canada as the Host Country to address issues that had been raised by the diplomatic community and encouraged it to be open to the potential to implement improvements to current arrangements as the need arises. He agreed that this item should be revisited in 2013 during a subsequent Council session when more time had elapsed in considering the adequacy of the existing arrangements.

41. The Representatives of Cameroon, Malaysia, Morocco, Saudi Arabia, and Swaziland all noted that the Tripartite Consultative Committee would meet again in January 2013 and agreed with the suggestion that the Council request the WGGE to undertake further work on this item, before giving further consideration to the adequacy of the existing arrangement at a subsequent Council session.

42. In welcoming the range of views expressed in the debate, the Representative of Argentina expressed appreciation to those countries that had prepared the proposal for a Standing Committee. He doubted that the creation of a Standing Committee would pose difficulties for the work of the Tripartite Consultative Committee since it was not intended to replace it. In this connection, he declared that the Standing Committee could provide an additional level of consultation that would be useful. He recalled that a similar committee exists at the IMO and that this had been beneficial to enhancing cooperation between the diplomatic community and the Host Country. Although he remained committed to the establishment of the Standing Committee as proposed, he nevertheless agreed with the suggestion to request the WGGE to undertake further study of the issue and report to a subsequent Council session.

43. As the Coordinator of the Tripartite Consultative Committee, the Representative of Uganda indicated that Canada as the Host Country had been extremely supportive of this recently established mechanism and that it had helped to resolve several issues that had been raised to date by the diplomatic community. He hoped that the next meeting of the Committee in January 2013 would be an opportunity to identify options to progress outstanding issues and that once more time had been given to this mechanism the Council would be in a better position to assess the adequacy of this arrangement.

44. In summarizing the discussions that had taken place, the President of the Council reiterated that Member States were on the whole satisfied with the manner in which Canada as Host Country undertook its responsibilities to the diplomatic community. In this connection, the Tripartite Consultative Committee provided a forum to address certain issues of concern as they arose. In the past, some of these issues had been brought to the Council for resolution, which was not the best use of Council's time so the Tripartite Consultative Committee was a welcome development in this regard. Since the Committee was still relatively new and was not due to meet again until January 2013, the President concurred with the suggestion of requesting the WGGE to give further consideration to any

outstanding issues and to report to a subsequent Council session. He thanked the Council for their suggestions and support in this matter.

45. In then taking the action proposed by the President of the Council on the basis of the proposal in C-WP/13918, as well as taking into account the ensuing discussion, the Council:

a) noted the contents of C-WP/13918; and

b) requested the Working Group on Governance and Efficiency (WGGE), to study and further develop, in consultation with relevant representatives of the Government of Canada, and with the assistance of the Secretariat, the contents of paragraphs 2 and 3 in C-WP/13918, as well as any other related topics, including existing practices, and to submit a report on this issue during the 199th Session of the Council.

46. The Representative of Canada thanked the Council for its consideration of this item and reaffirmed the commitment of the Host Country to the process under way via the Tripartite Consultative Committee.

Subject 32.1: Headquarters premises

**Status of negotiations on the Supplementary Agreement between
ICAO and the Government of Canada regarding the Headquarters of ICAO**

47. The Council noted an oral report by the Secretary General, in which an update was presented on the status of negotiations with the Government of Canada for a new Supplementary Headquarters Agreement.

48. In his oral report to the Council, the Secretary General recalled that C-WP/13855, which had been considered during the 196th Session of the Council, had contained an overview of the negotiations with the Government of Canada concerning aspects of building ownership and usage, operation and maintenance, capital reinvestment, space optimization, and compliance with safety-related legislation, among other related issues.

49. He detailed how progress had been achieved in the interim in the consideration of outstanding issues so that the parties were now much closer to finalizing an agreement on the final text to be presented to the Council for endorsement. In relation to the duration of the Agreement, there is now agreement on a term of 20 years. For the use and occupancy of the building, ICAO would continue to be solely responsible, within the limits of the objectives, purposes and functions of the Organization. On governance aspects of the building, there is agreement on the establishment of a Property Management Committee, which would facilitate coordination and consultation as is the current practice. Further discussions will however be required to finalize the structure and functioning of the Committee.

50. In relation to the federal, provincial and local laws and regulations, the Secretary General indicated that there is agreement that the concept of reasonable application of safety-related laws and regulations, which derives from the main Headquarters Agreement, served well and would be maintained. Discussions are still to take place on whether this should deserve further detailing in the new Supplementary Headquarters Agreement.

51. Concerning the security of the building, it was confirmed that ICAO is to be in charge of the administration of internal security, while the associated costs would be co-financed by Canada through a voluntary contribution as is presently the case, as part of the costs for operations and maintenance of the building. The Secretary General explained that this is significant as currently the costs of internal security are to be borne by ICAO but due to the positive and cooperative attitude of Canada, costs are shared between ICAO and Canada. In this connection, the commitment on the part of Canada to co-finance this cost was particularly welcome.

52. Liability and insurance pertaining to the building, its occupancy and its use are technically complex matters for which ICAO has made proposals that are being examined by representatives of the Government of Canada. This would require further consultation but there was optimism on both sides that an agreement would be reached.

53. It was understood that a report on this item would be presented for consideration at the next (198th) Session of the Council.

54. In confirming the progress that had been achieved to date, the Representative of Canada noted the positive spirit of engagement between the parties. He confirmed that only certain points of detail on some outstanding issues remained to be resolved and that otherwise the parties were close to finalization. He thanked the Council for its patience in this process.

55. The Representative of Spain sought clarification on the use of the term "committee" in relation to the proposal to establish a Property Management Committee. He stated that "committee" carried a certain elevated connotation and expressed concern that ICAO was being inconsistent in applying the term "committee" to bodies where "ad hoc group" or "consultative group" might be more appropriate. He also sought clarification in relation to the issue of the proposed co-financing by Canada and sought an indication of the time period that this would apply to.

56. The Secretary General acknowledged the concerns in relation to the term "committee" but since the membership of the Property Management Committee would comprise only representatives of the Government of Canada and the ICAO Secretariat and since it would meet on a bilateral basis, he explained that there should not be any confusion about the nature of the entity.

57. On the question of the co-financing, the Secretary General indicated that since the previous Supplementary Agreement was signed, ICAO was obliged to finance the internal security of the building although in practice Canada contributes to 75 per cent of the costs involved. Over the years Canada has taken a number of decisions on the internal security of the building, which they had paid for. It was understood that Canada would not change the text of the next agreement while taking voluntary responsibility for the sharing of costs resulting from internal security requirements and that this would apply for the next 20 years since this would be the duration of the agreement. In general terms, it was accepted by all concerned that ICAO should manage the internal security of the building rather than viewing this as a responsibility of Canada.

58. The Representative of Nigeria asked whether the arrangements relating to the operations and maintenance would be affected and who would be the focal point in dealing with national delegations on their building maintenance requirements.

59. In responding to this question, the Secretary General explained that Canada would effectively be the owner of the building but that ICAO would have responsibility for the day-to-day

management and upkeep vis-à-vis the requirements of national delegations. However, significant or major building issues such as an overhaul of the façade of the building for example, would remain the responsibility of the Government of Canada.

60. The Representative of Mexico sought confirmation that the integrity of ICAO and its privileged position was being guaranteed throughout the whole process of negotiating a new Supplementary Agreement.

61. The Secretary General assured the Council that the proposed agreement would not be brought forward for consideration until all outstanding matters had been satisfactorily addressed. On behalf of the Council, he was committed to delivering the best outcome for ICAO. He was conscious of the approaching time constraints but he believed that final agreement was close and that the new Supplementary Agreement would be brought to the Council for consideration at the next (198th) Session.

Subject No.13: Work Programme of the Council and its subsidiary bodies

Work Programme of the Council and its Committees for the 198th Session

62. The Council considered this subject on the basis of C-WP/13905, presented by the President of the Council and the Secretary General, and an oral report thereon by the Working Group on Governance and Efficiency (WGGE).

63. In the course of the deliberations on the Work Programme of the Council for the 198th Session, the Representative of Spain observed that the timetable for the consideration of the environment related issues, including the MBMs framework would pose a challenge. He suggested that in order to accelerate examination of the issues arising, consideration could be given to scheduling two meetings of the newly established High level Group on Aviation and Climate Change (HGCC) in January 2013. He also observed that in relation to the proposed informal briefings to the Council, additional briefings might be required on issues relating to the environment as well as the budget given the priority need to achieve consensus in these areas.

64. In relation to the reports of the Planning and Implementation Regional Groups (PIRGs), and the Regional Aviation Safety Groups (RASGs), the Representative of Nigeria, speaking in his capacity as Chair of the WGGE, explained that the reason this had been brought forward at this time was due to a sense that these required more attention by the Council especially given the relevance of the project items being implemented by Member States.

65. The Representative of Colombia also emphasized the importance of the issues under consideration by the PIRGs and the RASGs. He stated that focal points within Member States have responsibility to coordinate implementation of the SARPs. Since the focal points are represented by the PIRGs and the RASGs, the issues being raised in the reports are important to Member States and therefore it is necessary for the Council to consider problems arising from the implementation of SARPs. To that end he wondered if the Council could at its next (198th) Session give more active consideration to these reports.

66. In providing additional elaboration on this point, the Secretary General explained that the Council was appraised through the ANC in one annual summary report the issues arising from the PIRGs, and it had been agreed by the Council since 2008 that this was more efficient than receiving separate individual reports. His understanding was that in doing so, the Council did not diminish the individual reports but the presentation in a consolidated version was simpler and more efficient for the Council.

67. The Council then agreed to the following actions recommended by the WGGE relating to the Work Programme of the Council and its Committees for the 198th Session:

- Item 43 [Market-based measures (MBMs) – Evaluation of options for a global MBM scheme] and item 44 [Framework for market-based measures (MBMs)] in the Council Work Programme (Appendix A) would be considered and reported on as one combined item
- Item 7 (Market-based measures (MBMs) – Evaluation of options for a global MBM scheme), and item 8 (Framework for market-based measures (MBMs)), would be considered and reported on as one combined item in the Work Programme of Air Transport Committee (Appendix B)

68. With regard to item 7 in Appendix B (Market-based measures (MBMs) – Evaluation of Options for a global MBM scheme) and item 8 (Framework for market-based measures (MBMs)), the Council noted the recommendation from the WGGE that there be a Working Paper presented to the Air Transport Committee on these items.

69. With regard to the WGGE reference to the reports of the Planning and Implementation Regional Groups (PIRGs), it was noted that a combined summary report to the Council that would also incorporate information on the Regional Aviation Safety Groups (RASGs) could be brought to the Council for consideration. It was recalled that in the past this information had been incorporated within annual air navigation and safety reports to the Council.

70. The Council noted that the following additional items would be added to its Work Programme for the 198th Session as a result of the decisions that it had taken during the current Session and that the consequent changes would be made to the Work Programmes of the relevant Committees:

- a draft Assembly Working Paper on the USOAP CMA, which will cover, inter alia, a mechanism for the sharing of Significant Safety Concerns (SSCs) with the public (*cf.* C-DEC 197/4, paragraph 7 c)
- an oral interim report on the outcome of the Ninth Meeting of the Committee on Aviation Environmental Protection (CAEP/9), which is scheduled to take place in Montréal from 4 to 15 February 2013 (*cf.* C-DEC 197/5, paragraph 12)
- a report by the Council High-level Group and an oral report by the ATC on the work being undertaken with regard to the framework for MBMs and the evaluation of the options for a global MBM scheme (*cf.* C-DEC 197/6, paragraph 2 e)
- a report by Council Committees and the ANC on the results of the review of their requirements, and the need of their working groups and panels, for interpretation and translation services (*cf.* C-DEC 197/7, paragraph 16 a)
- a report by the Secretary General on the management of simultaneous distribution of all language versions of ICAO documents (*cf.* C-DEC 197/7, paragraph 16 a)

71. Subject to the changes recorded in paragraphs 67 and 70 above, the Council approved the Work Programme for the 198th Session set forth in Appendix A to C-WP/13905.

72. The Council then approved the Work Programmes for the 198th Session of the Air Transport Committee (ATC), Joint Support Committee (JSC), Finance Committee (FIC), Committee on Unlawful Interference (UIC), Technical Co-operation Committee (TCC) and Human Resources Committee (HRC) as set forth in Appendices B (as amended above), C, D, E, F and G of the paper.

73. It was understood that a revised version of C-WP/13905 would be issued reflecting amendments made in accordance with the accepted recommendations of the WGGE and the Council's deliberations.

Any other business

Subject No. 15.4: Facilitation

Public Key Directory (PKD) Membership

74. In the absence of comments by 6 November 2012 to the e-mail message from the President of the Council dated 16 October 2012, Ms. Heather Richardson (Canada) has been appointed as a Member of the PKD Board to replace Ms. Leslie Crone from October 2012 to November 2013.

International Civil Aviation Day

75. The Representative of Saudi Arabia indicated that on 7 December 2012, the international community would be celebrating the anniversary of ICAO along with International Civil Aviation Day. The Representative of Saudi Arabia wished to take this opportunity to praise ICAO for its role in consolidating and strengthening the safety of international civil aviation, for promoting friendly relations among the peoples of the world, and for enhancing cooperation among Member States in order to establish and sustain a suitable regulatory framework that would enable the world to benefit from civil aviation. He reiterated the high priority that Saudi Arabia placed on the mandate held by ICAO and confirmed his country's commitment to the furthering of the Organization's achievements.

76. The Representative of Saudi Arabia had circulated gifts to the Council, in the form of a computer mouse pad and coaster inscribed with good wishes for cooperation in globally sustainable air transport in the lead up to the ICAO Air Services Negotiation Conference, which was scheduled to take place in Jeddah from 8 to 12 December 2012. In doing so, the Representative of Saudi Arabia revealed that more than 500 participants had registered to attend this event representing more than 70 countries. He hoped that the Conference would facilitate improvements in air service agreements for the benefit of the global aviation sector.

77. The meeting adjourned at 1315 hours.

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