
ICAO

International Civil Aviation Organization

COUNCIL — 196TH SESSION

Montréal, 11–27 June 2012

SUMMARY MINUTES WITH SUBJECT INDEX



2012

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COUNCIL — 196TH SESSION**SUMMARY MINUTES OF THE FIRST MEETING****(THE COUNCIL CHAMBER, MONDAY, 11 JUNE 2012, AT 1430 HOURS)****OPEN MEETING**

Second Vice-President of the Council: Mr. Alexey A. Novgorodov (Russian Federation)

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. L. Camacho Bueno (Alt.)
Canada	— Mr. M. Allen	Republic of Korea	— Mr. Choi, D.
China	— Mr. Tao Ma	Saudi Arabia	— Mr. T.M.B. Kabli
Colombia	— Mrs. G. Rueda de Higuera	Singapore	— Mr. T.-C. Ng
Denmark	— Mr. K.L. Larsen	Slovenia	— Mr. A. Krapež
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. L.F. Carranza	United Arab Emirates	— Mr. R.A. Al Kaabi
India	— Mr. A. Mishra	United Kingdom	— Mr. M. Rodmell
Italy	— Mr. A. Bardaro (Alt.)	United States	— Mr. D. Woerth
Japan	— Mr. T. Koda		

ALSO PRESENT:

Mr. J.C.F. Silva (Alt.)	— Brazil
Mr. A. Rebouças (Alt.)	— Brazil
Mr. R. Carvalho (Alt.)	— Brazil
Mr. M. Delisle (Alt.)	— Canada
Mr. P. Pape (Alt.)	— France
Mrs. D. Valle Álvarez (Alt.)	— Mexico
Mr. Bae, J. (Alt.)	— Republic of Korea
Mr. Hwang, S.-Y. (Alt.)	— Republic of Korea

SECRETARIAT:

Mr. D. Azema	— DC/OSG
*Ms. N. Graham	— D/ANB
*Dr. Fang Liu	— D/ADB
*Mr. R. Bhalla	— C/FIN
*Mr. J. Marriott	— C/AVSEC
*Mrs. S. Dubois	— C/COM
*Mr. C. Gauthier	— Coordinator, JF
*Mrs. D. Rahmani	— C/DMO
*Mr. M. Leitgab	— ADADB
*Mr. R. Reynolds	— ICT
Miss S. Black	— Précis-writer

*Part-time

Representatives to ICAO

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

Minute of silence and condolences

1. The Council observed a minute of silence in memory of His Majesty King George Tupou V of Tonga and His Excellency Mr. Bingu wa Mutharika, President of the Republic of Malawi, who had passed away on 19 March 2012 and 5 April 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 Tonga and Malawi.

Welcome to new Representatives on the Council

2. The Second Vice-President of the Council extended a warm welcome to Mr. Ulrich Schwierczinski, Mr. Aziz Boulmane, Mrs. Lucia Trindade de Buitrón and Mr. Mark Rodmell, the newly-appointed Representatives of Germany, Morocco, Peru and the United Kingdom, respectively.

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

Schedule for consideration of items during the 196th Session

3. The Council noted the meeting schedule for the 196th Session presented in the President's memorandum PRES RK/2056 Revision No. 3 dated 26 April 2012, subject to the following changes:

- an informal briefing of the Council on the Evaluation of Options for a Global Market-based Measures (MBM) Scheme had been scheduled for Thursday, 14 June 2012 at 1430 hours in the Council Chamber, as communicated in President's memorandum PRES RK/2076 dated 18 May 2012; and
- an informal briefing of the Council by the Delegation of the Republic of Korea on the technical aspects of the GPS interference incidents described in C-WP/13872 (with Addendum No. 1) had been scheduled for Friday, 15 June 2012 at 1500 hours in Conference Room 6.

4. The Council also noted the schedule for the consideration of items during the 196th Session of the Council as set out in President's memorandum PRES RK/2073 dated 18 May 2012, on the understanding that, in the absence of comments to the President's e-mails dated 18 May 2012, the following two supplementary items would be added to the Council's work programme:

- *GPS Interference Incident and its Implications on the Safety and Security of International Civil Aviation* [C-WP/13872 (with Addendum No. 1), presented by the Republic of Korea and co-presented by Belgium, Denmark, Japan, Slovenia and the United States], to be considered on Monday, 18 June 2012; and
- *Report of the Human Resources Committee* on work undertaken during the 196th Session, to be presented orally by the Chairperson of the HRC during the second week of the Council (18 to 22 June 2012).

Subject No. 27: Convention on International Civil Aviation (Chicago Convention)**Celebration of International Civil Aviation Day**

5. Tabled for the Council's consideration was C-WP/13830, in which the Secretary General proposed a theme, *Aviation: Your Connection to the World*, and approaches for celebrating International Civil Aviation Day on 7 December 2012, the launch date of States' activities to take place in 2013. A listing of previous years' themes was set forth in the paper.

6. The Representative of Saudi Arabia expressed support for the paper, in particular, for the proposed theme.

7. Further to a suggestion by the Representative of Uganda that the said theme be amended by qualifying the word "connection" with either the adjective "dependable" or the adjective "reliable", the Secretary General indicated that he could accept the insertion of the qualifier "reliable" if Representatives agreed thereto. A suggestion was also made by the Representative of the Russian Federation that the theme for the current year's International Civil Aviation Day be incorporated in the blue banner appearing at the top of the ICAO public website's general page.

8. In taking the action indicated in the executive summary of C-WP/13830, as amended in light of the discussion, the Council:

- a) endorsed the revised theme *Aviation: Your Reliable Connection to the World* and the approaches proposed in the paper;
- b) requested the Secretary General to seek cooperation of States and appropriate international organizations in celebrating International Civil Aviation Day; and
- c) agreed that the theme for the current year's International Civil Aviation Day be incorporated in the blue banner appearing at the top of the ICAO public website's general page.

Subject No. 17.1: Joint Financing Agreement with Iceland**Subject No. 17.5: Joint Financing 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 196th Session**

9. This subject was considered on the basis of C-WP/13831, in which the Joint Support Committee, following its review of reference documents JS-WPs/1965, 1966, 1967 and 1968, invited the Council to approve: the upgrade of the air traffic simulator in the Reykjavik Oceanic Area Control Centre; additional Very High Frequency (VHF) Direct Controller-Pilot Communications (DCPC) frequencies in the East and South Sectors of Iceland; amendments to Annex III to the Danish Joint Financing Agreement; and amendments to Annexes II and III to the Icelandic Joint Financing Agreement.

10. During its review of the proposed amendments to Annex III, Section I, paragraphs 4-I-1, 6.1 and 6.2, to the Icelandic Joint Financing Agreement in JS-WP/1968 (*cf.* paragraph 2.5 of C-WP/13831), the JSC had noted that, following a recommendation by the External Auditor, the allocation of costs between domestic and international traffic set in 1997 had been reviewed by the Icelandic authorities. The revised allocation, based on the average distance flown over the past four years, resulted in a ratio of 94 per cent to international traffic and would represent an annual increase in the costs allocable to

international civil aviation by approximately USD 1 million, which would be recovered through the user charge for the air traffic control services. While the Committee had noted that the experts in the Air Navigation Bureau (ANB) considered that the new allocation of costs was justified, it had requested that the users of the air navigation services under the Icelandic Joint Financing Agreement be consulted on this proposed amendment. The Committee had noted that the consultation of users was not mandatory under the said Agreement but that it was part of ICAO's policies and charges for air navigation services.

11. In providing additional information regarding this consultation with users, the Chairperson of the JSC indicated that the International Air Transport Association (IATA), as representative of the majority of the users, had had no objection to the revised allocation of costs between domestic and international traffic proposed by the Icelandic authorities but had suggested that that revised allocation take effect from 1 January 2013 instead of 1 January 2012. He had been informed that the Icelandic authorities agreed with the implementation of that specific amendment with effect from 1 January 2013. The action recommended by the Committee in the executive summary of C-WP/13831 had been revised accordingly.

12. In taking the action now recommended by the JSC, the Council:

- a) approved the action recommended in the executive summaries of reference documents JS-WPs/1965, 1966, 1967 and 1968, as indicated in paragraph 2 of C-WP/13831, with the exception of the proposed amendment to Annex I, Part I, to the Icelandic Joint Financing Agreement in JS-WP/1968 for which the request has been withdrawn by the Icelandic authorities; and
- b) approved the proposed amendments to Annexes II and III to the Icelandic Joint Financing Agreement presented in JS-WP/1968 with effect from 1 January 2012, with the exception of the proposed amendments to Annex III, Section I, paragraphs 4-I-1, 6.1 and 6.2, which would take effect from 1 January 2013.

13. It was noted that the Business Plans for the services under the Danish and Icelandic Joint Financing Agreements would be presented for the Council's consideration during the next (197th) session.

Subject No. 11.3: Sales, pricing and agency arrangements
Subject No. 20.3: Production, distribution and sale of ICAO publications

Report on publications for 2011

14. The Council considered this subject on the basis of: information paper C-WP/13839, in which the Secretary General reported on the translation, printing, distribution and sale of ICAO publications in 2011; and an oral report thereon by the Finance Committee (FIC).

15. At its Second Meeting on 17 May 2012, the Committee had considered the paper, which showed a decrease in translation demand and output, a considerable decrease in translation demand for deliberative bodies in comparison to 2010, an Assembly year, and a decrease in the number of saleable publications produced throughout the year.

16. During the discussions, a request had been made to obtain more information with regard to the growth of electronic publishing relative to printing. The Secretariat had confirmed that e-publishing had increased, and that it was the intention to further promote this publication method, in particular through the

introduction of an eCommerce platform. It had been agreed to provide statistics on electronic publishing to Council Members. This information had subsequently been posted on the Council website.

17. A concern had been raised regarding the declining provision and demand of language services for official meetings, which might lead to deteriorating quality of official documents in languages other than English. In response to this concern, the Secretariat had stressed the importance of languages for the Organization and had reiterated that the existing regulations were being followed, but that the provision of language services and the translation of documents had to be achieved within approved budget limitations. It had been further proposed to establish, at the earliest convenience, a joint group under the Council Working Group on Governance and Efficiency (WGGE) to facilitate coordination and better understanding of the needs and priorities of Member States.

18. Discussions had been held with regard to the accessibility of documents and statistical data in electronic format through the ICAO portal. The Secretariat had advised that each Member State received up to two hard-copies of all published documents free-of-charge, as per Doc 7231 (*ICAO Publications Regulations*). It had been agreed to consider the access rights for Member States to statistical data and additional products during future budget exercises, taking into consideration the important contribution of revenue-generating activities (RGA) to the regular programme budget of ICAO.

19. The Committee had discussed the revenues generated from publication sales and had observed a higher profit margin for saleable publications within the Ancillary Revenue Generation Fund (ARGF). It had been remarked that the number of saleable publications had fallen slightly from 2007 to 2011. In this connection, the Secretariat had stressed that new business opportunities were being developed in the framework of RGA to offset the decrease of saleable publications and declining revenues from printed publications. Furthermore, efforts were being intensified to enhance customer relations through an electronic platform.

20. During the discussions, the importance of all working languages of the Organization had been reiterated, and it had been requested that the timely distribution of documents in all working languages be enhanced. The Secretariat had commented that the existing backlog for publications had been cleared in 2011 and that documents submitted for translation would be translated within the foreseen timeframe. At times, non-simultaneous distribution of documents was approved in order to allow States and industry to obtain new information as quickly as possible.

21. Furthermore, comments had been made with regard to access to, and usability of, the public website and statistical databases. The Secretariat had confirmed that it would undertake further efforts to improve user-friendliness, including through the release of an updated public website by the end of 2012.

22. In supporting the proposed establishment of a joint group under the WGGE, the Representative of Spain indicated that it should address those language services issues that had previously been identified, such as the level and quality of outsourced translations and the determination of core language staff. He emphasized that it should be set up quickly so that it could present its conclusions by the end of the year, enabling them to be taken into consideration during the discussions of the Organization's budget for the next triennium.

23. Drawing attention to paragraphs 3.1 and 2.2 of Appendix B (Statistical Data) to C-WP/13839, the Representative of France observed that general distribution expenditures had increased

significantly, by some 21.6 per cent, from 2010 to 2011, while the revenue from ICAO publications had only increased some 7 per cent. While noting, from paragraph 4.1 of the paper, that the said increase in general distribution expenditures had been mainly due to increased charges for postal, shipping and express services, he underscored that Canadian postal rates had not increased substantially in 2011 and enquired as to other reasons therefor. The Director of the Bureau of Administration and Services (D/ADB) indicated that she would provide an explanation to the Representative after the meeting.

24. In then commenting on the *ICAO Journal*, the Representative of France emphasized that it was an excellent magazine containing high-quality, interesting articles. He noted, however, that whereas the English version was usually issued prior to an important event, such as a major conference or an Assembly, the French and other language versions were usually issued much later. This called for reflection on the usefulness of spending money to publish a magazine in different languages when it only appeared after the events covered therein. Although the Representative of France understood that the Secretariat was doing its job in publishing the *ICAO Journal* in the Organization's six official languages, he questioned whether there was not a part of that work that was useless. While he could, and did, read the English version of that magazine, that made it pointless to have a French version.

25. The Representative of the Russian Federation supported this intervention in terms of the necessity of a timely publication of the *ICAO Journal* in other languages at least in electronic form.

26. In fully agreeing with the comments made regarding the *ICAO Journal*, the Secretary General recalled that he had requested an in-depth review of the usefulness of conserving even the principle of an *ICAO Journal*. One of the questions that he had posed, and for which he wanted a quick answer, was should there be printed versions of the *ICAO Journal* if a decision were made to conserve it. Underscoring that it was a money-losing magazine, the Secretary General indicated that it was necessary to weigh the interest in the *ICAO Journal* against its cost to the Organization. Emphasizing that the magazine's cost would be even higher if it were published simultaneously in ICAO's six official languages, he noted that it was for that reason that the English version was published first and the other language versions later. Observing that even the English version was sometimes published after the events covered by the magazine's articles, the Secretary General indicated that very often 80 per cent of the articles were timeless in nature and did not tie in with recent events. He would soon present a proposal to the Council regarding the conservation or transformation of the *ICAO Journal*.

27. The Representative of Mexico endorsed the FIC's oral report. In associating himself with the concerns expressed by the Representative of France, he urged the Secretary General, in developing his proposal, to consider requesting the experts in the Revenue Generating Activities (RGA) Section to find ways to publicize the *ICAO Journal* more, to make it self-financing and to have it published simultaneously in all six ICAO languages.

28. In agreeing on the need to determine whether or not to continue with the printed versions of the *ICAO Journal*, the Representative of India suggested that a quick survey be done of Council Members and other users to obtain their views. He further suggested that, as a first step, an electronic version of the magazine be published, in order to gauge the response.

29. Affirming that these were good suggestions, the Second Vice-President of the Council underscored that money could be saved, and efficiencies effected, through the better distribution of information.

30. Referring to the FIC's comments regarding access to, and usability of, the public website and statistical databases, the Representative of Uganda queried if consideration could be given to conducting user surveys to determine what improvements were necessary to make them more effective and efficient. He further enquired as to what action the Secretariat could take to ensure that ICAO's information on States' aeronautical authorities remained current.

31. D/ADB indicated that such user surveys would be carried out of both Council Members and Member States as part of ongoing efforts to improve the user-friendliness of the public website and statistical databases. Responding to the second query, she noted that information on States' aeronautical authorities could be updated through consultations with Council Members and Member States.

32. Drawing attention to paragraph 3.2.1 of the paper, the Second Vice-President of the Council emphasized that the total amount of receipts for 2011 from the sale of publications, royalties for the reproduction by commercial publishers of ICAO publications in paper and electronic format, the sale of Annexes and related royalties was approximately USD 6.8 million. He noted that, although the paper's conclusion (*cf.* paragraph 7.1) was that there had been a reduced translation capacity in accordance with the budget for the triennium, there had been USD 42.5 million allocated for language services in the 2005-2007 triennium, CAD 44 million in the 2008-2010 triennium and CAD 39.2 million in the 2011-2013 triennium. The latter amount represented 14.4 per cent of the Organization's budget for the current triennium. In indicating that the proposed joint group of the WGGE should consider the issue of funding for language services, the Second Vice-President of the Council affirmed that there would be enough room to improve the efficiency of the provision of those services in ICAO while respecting the principle of zero nominal growth in the budget.

33. In then taking the action proposed by the FIC, the Council requested the WGGE to establish, at the earliest convenience, a joint group to facilitate coordination and better understanding of the needs and priorities of Member States with regard to language services. The said group was to be tasked with addressing those issues that had previously been identified, such as the level and quality of outsourced translations and the determination of core language staff, as well as those raised during the discussion, notably the enhancement of the efficiency of the provision of language services while respecting the principle of zero nominal growth in the budget, and was to present the results of its deliberations to the WGGE during the next (197th) Session. The WGGE would, in turn, report thereon to the Council.

Subject No. 18.1: Annual Budget

Subject No. 18.2: Transfers from one Major Programme of the Budget to another

Financial Year 2011 — Report on the carry over

34. The Council had for consideration information paper C-WP/13832, in which the Secretary General reported on the status of authorized appropriation of the Regular Budget for the financial year 2011, based on the audited expenditures for the year, and an oral report thereon by the Finance Committee (FIC).

35. During the FIC's examination of the paper during its Second Meeting on 17 May 2012, the Secretariat had provided a brief but detailed explanation of Table 1: Statement of appropriations by Strategic Objective and Supporting Implementation Strategies for the period ending 31 December 2011 of the paper and had clarified all questions raised. The Committee had noted that the transfers of appropriations between Strategic Objectives and Supporting Implementation Strategies and the carry-over of appropriations of CAD 2 410 000 from 2011 to 2012 fell within the authority of the Secretary

General pursuant to Financial Regulations 5.9 and 5.6 and that as C-WP/13832 was an information paper, no action was required by the Council.

36. The Council noted the FIC's oral report, as well as the information contained in C-WP/13832, which would be provided to the next ordinary session of the Assembly as required under Financial Regulation 5.9.

Any other business

Presentation on the new Council website and its functionality

37. The Director of the Bureau of Administration and Services (D/ADB) gave a presentation on the new Council website and its functionality, highlighting the shared folder on the Council webpage which would allow Representatives to upload working documents and collaborate thereon, including during meetings.

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

Appointment of a Member on the Air Transport, Joint Support, Finance and Unlawful Interference Committees (ATC, JSC, FIC and UIC)

38. It was noted that, in the absence of comments by 16 March 2012 to the President of the Council's e-mail dated 12 March 2012, Mr. Ulrich Schwierczinski (Germany) has been appointed to succeed Mr. Jörg Mendel as a Member of the JSC, FIC and UIC with effect from 1 May 2012. It was further noted that, in accordance with the *Rules of Procedure for Standing Committees of the Council* (Doc 8146), the President of the Council has appointed Mr. Schwierczinski to succeed Mr. Mendel as a Member of the ATC with effect from 1 May 2012.

Appointment of a Member on the Air Transport and Unlawful Interference Committees (ATC and UIC)

39. It was noted that, in the absence of comments by 4 May 2012 to the President of the Council's e-mail dated 30 April 2012, Mr. Luis Miguel Picardo Martínez (Peru) has been appointed as a Member of the UIC with effect from 27 April 2012. It was also noted that, in accordance with the *Rules of Procedure for Standing Committees of the Council* (Doc 8146), the President of the Council has appointed Mr. Picardo Martínez as a Member of the ATC with effect from 27 April 2012.

Subject No. 15.4: Facilitation

Public Key Directory (PKD) Membership

40. It was noted that, in the absence of comments by 11 May 2012 to the President of the Council's e-mail dated 17 April 2012, Ms. Rie Fujii (Japan) has been appointed as a Member of the PKD Board to replace Mr. Masashi Hirabayashi from April 2012 to November 2013.

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

Memorandum of Cooperation (MoC) between ICAO and the Airports Council International (ACI) for Providing a Framework for Enhanced Cooperation to Improve Safety Standards at Airports Worldwide

41. It was noted that, as the President of the Council had not, by 11 May 2012, received any comments on the text of the draft MoC which ICAO had negotiated with ACI, circulated by President's memorandum PRES RK/2062 dated 16 April 2012, he would proceed to sign the MoC on behalf of ICAO on 15 June 2012 at ICAO Headquarters, together with the Director General of ACI, Angela Gittens.

Subject No. 50: Questions relating to the environment

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

42. It was noted that, in the absence of comments by 18 May 2012 to the President of the Council's e-mail dated 23 April 2012, Mr. Yusfandri Gona has been appointed as the CAEP Observer nominated by Indonesia with effect from 19 May 2012.

43. It was further noted that, in the absence of comments by 23 May 2012 and 4 June 2012 respectively, to the President of the Council's e-mails dated 26 April 2012 and 18 May 2012, Mr. Michael Lunter has been appointed as the new CAEP Member nominated by the Netherlands to replace Mr. Gerard Bekebrede with effect from 24 May 2012, and Mr. Lalit Gupta has been appointed as the new CAEP Member nominated by India to replace Mr. Indranil Chakraborty.

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

44. It was noted that, in the absence of comments by 23 May 2012 to the President of the Council's e-mail dated 10 May 2012, Mr. Peter Bombay, 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 (196th) Council's consideration, in closed session, of all items related to aviation security.

Council working papers presented for information

45. 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/13868** — *Report of the Joint Inspection Unit (JIU) entitled "South-South and Triangular Cooperation in the United Nations System"*— circulated under cover of

PRES RK/2064 dated 19 April 2012 with a deadline of 17 May 2012 for comments;
and

- **C-WP/13866** — *Information on large-scale technical cooperation projects*—
circulated under cover of PRES RK/2071 dated 9 May 2012 with a deadline of
23 May 2012 for comments.

46. The meeting adjourned at 1540 hours.

COUNCIL — 196TH SESSION

SUMMARY MINUTES OF THE SECOND MEETING

(THE COUNCIL CHAMBER, WEDNESDAY, 13 JUNE 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. L. Camacho Bueno (Alt.)
Canada	— Mr. M. Allen	Republic of Korea	— Mr. Choi, D.
China	— Mr. Tao Ma	Russian Federation	— Mr. A.A. Novgorodov
Colombia	— Mrs. G. Rueda de Higuera	Saudi Arabia	— Mr. T.M.B. Kabli
Denmark	— Mr. K.L. Larsen	Singapore	— Mr. T.-C. Ng
Egypt	— Mr. M.T. Elzanaty	Slovenia	— Mr. A. Krapež
France	— Mr. M. Wachenheim	South Africa	— Mr. L. Mabaso
Germany	— Mr. U. Schwierczinski	Spain	— Mr. V.M. Aguado
Guatemala	— Mr. L.F. Carranza	Swaziland	— Mr. D. Litchfield
India	— Mr. A. Mishra	Uganda	— Mr. J. Twijuke
Italy	— Mr. A. Bardaro (Alt.)	United Arab Emirates	— Mr. R.A. Al Kaabi (Alt)
Japan	— Mr. T. Koda	United Kingdom	— Mr. M. Rodmell
Malaysia	— Mr. Y.-H. Lim	United States	— Mr. D. Woerth

ALSO PRESENT:

Mr. J.C.F. Silva (Alt.)	— Brazil
Mr. A. Rebouças (Alt.)	— Brazil
Mr. R. Carvalho (Alt.)	— Brazil
Mr. M. Delisle	— Canada
Mr. P. Pape (Alt.)	— France
Mrs. D. Valle Álvarez (Alt.)	— Mexico
Mr. Bae, J. (Alt.)	— Republic of Korea
Mr. Hwang, S.-Y. (Alt.)	— Republic of Korea
Ms. M. Kehoe (Alt.)	— United States
Mr. P. Bombay (Obs.)	— European Union

SECRETARIAT:

Mr. D. Azema	— DC/OSG
Mr. B. Djibo	— D/ATB
Mr. J. Marriott	— C/AVSEC
Mr. A. Quiroz	— C/ASA
Mr. S. Berti	— C/SFP
Mr. A. Djojonegoro	— TO/SFP
Miss S. Black	— Précis-writer

Representatives to ICAO

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

Subject No. 24.3: Action on Assembly resolutions and decisions

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

**Mid-triennial review of implementation of resolutions and decisions
of the 37th Session of the Assembly — Security**

1. The Council considered: information paper C-WP/13833, in which the Secretary General presented a mid-triennial report on the progress made, as at 7 April 2012, in the implementation of resolutions and decisions of the 37th Session of the Assembly relating to security, which the Council had considered during the 192nd Session (192/4); and an oral report thereon by the Committee on Unlawful Interference (UIC). The Committee, at its First Meeting on 14 May 2012, had taken note of the information contained in the paper without comment.

2. Referring to the action being taken to implement that part of the Assembly's Declaration on Aviation Security (*cf.* Appendix, A37-WP/359, p. 13-4) that related to the screening of persons other than passengers, the Representative of Brazil queried if any Council Members knew of any ground personnel or crew member who had been involved in an act of terrorism against civil aviation or in a conspiracy to carry out such an act. He himself did not. The Representative of Brazil questioned what the practical use would be of screening all persons other than passengers when it was common knowledge, and common sense, that if a ground handler, baggage handler, caterer or other supplier wished to bring a prohibited article into an airport in order to perpetrate an act of terrorism, then he would do so at the crack of dawn, with an accomplice and through the back door, so that he could later breeze through the security checkpoint. In also enquiring as to the health implications of the screening of persons other than passengers, the Representative of Brazil noted that such persons, including pregnant women, might have to be x-rayed every day. While the x-rays were low in power and did not seem to pose a health threat, he still had his doubts. The Representative of Brazil queried whether it would not be better to enhance background checks of potential airport employees to avoid risks and abuses and to prevent incidents from occurring.

3. The Chief of the Aviation Security Branch (C/AVSEC) noted that there were many examples, over the course of time, of internal conspiracies that had been successful in carrying out acts of unlawful interference with civil aviation or that had been foiled as a result of security measures applied to detect persons employed in sensitive areas of airports who could participate in the execution of such acts. It was with that record in mind that the Aviation Security Panel (AVSECP) had been inspired to be very rigorous in its approach to ensuring that persons employed in airports were subject to security controls that were commensurate with the vulnerabilities and the threat that they might represent. This had been an issue of long-standing discussion and seemed to have come to conclusion, as would be seen when the Council considered, later during the meeting, in closed session, the Report of the Twenty-third Meeting of the AVSECP (C-WP/13837 Restricted).

4. With respect to the health implications of the screening of persons other than passengers, C/AVSEC suggested that they were no different than the health implications for persons who travelled as passengers and who went through security screening or for persons who were employed in the operation of screening equipment. He underscored that the approach being proposed did not require that all persons other than passengers be subject to 100 per cent screening; rather, it presented a variety of approaches that could be adopted by States. With regard to screening potential airport employees during the recruitment process, C/AVSEC noted that while that was part of the standard security process, concern had been expressed that that was not sufficient to successfully manage the level of risk.

5. Drawing attention to the action being taken to implement Assembly Resolution A37-17, Appendix C, Resolving Clause 12, and that part of the said Declaration on Aviation Security relating to the development and maintenance of security guidance material, the Representative of France stressed that it was unacceptable that, six months after the publication (in January 2012) of the English version of the Eighth Edition of the *Aviation Security Manual* (Doc 8973), it was indicated that the other ICAO language versions were “due” for publication in the course of the year, given that aviation security was one of the Organization’s priorities. Noting that manuals defined the modalities for implementation of the Organization’s decisions and Standards and Recommended Practices (SARPs), he emphasized that they were important, especially when it came to aviation security. The Representative of France underscored that when a manual was not translated and was published only in one language, then only some States would be able to implement ICAO’s decisions and SARPs. He urged that the translation of manuals be expedited and that, if the Eighth Edition of the *Aviation Security Manual* (Doc 8973) had not yet been translated into the other ICAO language versions, then the Secretariat make that a priority.

6. In endorsing these comments, the Representative of the Russian Federation underscored that many delays in the translation of ICAO documents were still being encountered.

7. Sharing the views expressed by the Representatives of France and the Russian Federation, the Representative of Saudi Arabia reiterated the importance of prompt translation of ICAO manuals.

8. Responding to these concerns, the Secretary General committed to dedicating the requisite resources to ensure that the Eighth Edition of the *Aviation Security Manual* (Doc 8973) would be available in all ICAO languages in 2012. Underscoring that the considerable backlog in translation that had existed when he had assumed office had been eliminated following the allocation of an enormous amount of resources, the Secretary General indicated that it was inevitable that a delay would occur in the translation of a given ICAO document into all language versions.

9. The Council then noted information paper C-WP/13833, as well as the UIC’s oral report thereon.

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

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

10. The Council had for consideration information paper C-WP/13869, in which the Secretary General provided an update on the preparations for the HLCAS, including information on the key outcomes of the regional conferences on aviation security convened under ICAO auspices in 2011 and 2012, the expected outcomes of the HLCAS and the preparation of Conference documentation; and an oral report thereon by the Committee on Unlawful Interference (UIC). Appendix A to the paper contained a draft Programme for the Conference and Appendix B, a list of international organizations invited to attend the HLCAS.

11. The UIC had generally supported the paper, which it had reviewed during its First Meeting on 14 May 2012. In response to a number of comments and questions, the Secretariat had offered the following additional information:

- a) cargo security and the insider threat issue would be reflected as separate items in the Conference orders of business;
- b) the Conference Programme item on disclosure of results stemming from the Universal Security Audit Programme (USAP) audits was intended to address the sharing of information on a confidential basis to facilitate the provision and targeting of capacity-building assistance, and not lead to the public disclosure of audit information; and
- c) a second State letter was in preparation, which would urge ministerial-level participation. The State letter would also provide additional details on the structure and conduct of the meeting, as well as on arrangements for the submission of working/information papers.

12. A Committee Member had stressed that the HLCAS would present an exceptional opportunity for addressing key aviation security priorities and had emphasized the need to ensure that a high level of ambition be attributed to the Conference, in order to ensure the best possible outcome. This view had been widely supported by the Committee.

13. It was noted that the second State letter referred to in the UIC's oral report had since been issued by the Secretary General on 31 May 2012 (*cf.* State letter SD 39/1-12/27).

14. The Director of the Air Transport Bureau (D/ATB) thanked the Government of Saudi Arabia for sponsoring the HLCAS and thanked, in advance, those other Governments that would also be sponsoring the Conference.

15. In endorsing the Committee's oral report, the Representative of Mexico emphasized the need to clarify that the sharing of USAP audit results on a confidential basis was to be done among States only. The President of the Council affirmed that that would be made clear.

16. Underscoring that his State supported the paper and the convening of the HLCAS, the Representative of the United States noted that, as indicated in its reply to State letter SD 39/1-12/27, the Secretary of the Department of Homeland Security, Janet Napolitano, planned to attend and to lead the United States' delegation, which would comprise senior officials. The United States placed a high value on the Conference and wished it every success.

17. In observing that his State also endorsed the paper, the Representative of Saudi Arabia indicated that it would likewise be represented at the HLCAS at the highest level in order to facilitate the Conference's work and to ensure its success.

18. Noting that it was expected that many States would participate in the HLCAS at the ministerial level, the President of the Council recalled that, during his recent mission to several States, he had invited the relevant Ministers to attend as the Conference was very important for the future of aviation security.

19. To a question raised by the Representative of Uganda regarding the holding of an exhibition of modern security screening technologies in conjunction with the HLCAS, the Secretary General clarified that although such an exhibition would be a way of generating additional financial

resources, one was not being organized as the Conference was of very short duration and was addressed mainly to Governments, represented at the ministerial level, that would take policy decisions. Furthermore, an exhibition would distract attention away from the HLCAS and would have to be organized well in advance as the voluminous security screening equipment required shipping.

20. During the discussion of the expected outcomes of the HLCAS (*cf.* paragraph 2.2 of the paper), a suggestion was made by the Representative of Uganda and supported by the Representative of France that an additional action proposal be developed for the issue of combating the insider threat. In the course of the review of the draft Programme at Appendix A to the paper, a further suggestion was made by the Representative of Nigeria that the second sentence of the explanatory note for the item “Enhancing air cargo security and combating the insider threat” be amended to indicate that the Conference would decide and affirm, rather than take note of, the consensus reached on strengthening Standard 4.2.6 of Annex 17 — *Security* to address the insider threat. On the understanding that these suggestions would be taken into account in revising the Conference Programme, the Council noted the information provided in C-WP/13869 and the UIC’s related oral report.

Subject No. 52.1: Universal Security Audit Programme

Report on the implementation of the Universal Security Audit Programme (USAP)

21. The Council noted: information paper C-WP/13834, in which the Secretary General provided the status of implementation of the USAP, a summary of key audit findings as at 29 February 2012, and updated information on the implementation of the mechanism to deal with Significant Security Concerns (SSeCs) introduced in October 2010; and an oral report thereon by the Committee on Unlawful Interference (UIC). During its consideration of the paper at its First Meeting on 14 May 2012, the UIC had thanked the Secretariat for the work done in implementing the USAP and had noted that States were responding positively to the said SSeC mechanism. It had also noted that SSeCs were not identified in all States with high levels of lack of effective implementation (LEI) of the critical elements of an aviation security oversight system but rather were only identified when ICAO audit teams encountered situations that posed an immediate security risk to international civil aviation.

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

22. The Council considered this subject on the basis of: C-WP/13835, in which the Secretary General presented the Secretariat’s recommendation, endorsed by the Twenty-third Meeting of the Aviation Security Panel (AVSECP/23), that a continuous monitoring approach specific for aviation security (USAP-CMA), be adopted, incorporating elements of both a continuous monitoring and a risk-based approach; and an oral report thereon by the Committee on Unlawful Interference (UIC).

23. During its consideration of C-WP/13835 at its First Meeting on 14 May 2012, the UIC had thanked the Secretariat for the paper and had supported the move towards a more cost-effective and efficient approach to the conduct of Universal Security Audit Programme (USAP) audits. It had noted that the AVSECP/23 had unanimously supported the concept of a USAP that combined a risk-based approach with continuous monitoring to audit States, as indicated in paragraph 7.2.5 of its Report. The UIC had also noted the Panel’s conclusion in paragraph 7.3.1 b) thereof that the USAP should move from cyclical audits to a USAP-CMA combining elements of a risk-based and continuous monitoring approach to auditing.

24. The Committee had emphasized the importance of ensuring that a USAP-CMA incorporated risk-based elements. The Secretariat had assured the Committee that this was the intention and that the title “USAP-CMA” reflected the fact that this approach would be specific to aviation security and would utilize risk indicators to determine the most appropriate monitoring activity for individual States. Different activities would be used in order to reflect audit results obtained from the first and second cycles of the USAP, which clearly demonstrated significant variations between States in levels of effective implementation of the critical elements of an aviation security oversight system and compliance with relevant international Standards.

25. Recognizing that the Secretariat required Council approval of the concept in principle in order to begin more detailed work in developing a USAP-CMA, the Committee had recommended, with regard to the action proposed in paragraph a) of the executive summary of C-WP/13835, that the Council approve the concept of a USAP-CMA in principle, with more information on exactly how that approach would be implemented to be provided to a future session of the Council. It had also recommended that the Council request the Secretariat: to begin the work of developing the associated methodology and framework for the implementation of a USAP-CMA, while providing regular updates to the Council; and to develop a detailed plan for the transition to a USAP-CMA, for the approval of the Council during its 197th Session [*cf.* action paragraphs b) and c) of the paper].

26. The Representative of the United States noted that his State strongly endorsed the way forward to a risk-based USAP-CMA as set forth in the paper, as well as the UIC’s conclusions.

27. The Representative of Belgium voiced full support for the principle of a USAP-CMA, with a risk-based approach and a differentiation between the aviation security audits which enable greater efficiency and effectiveness. Observing that three years will have elapsed between the decision, fully supported by the 2010 High-Level Safety Conference (HLSC), to establish a continuous monitoring approach to audits conducted under the Universal Safety Oversight Audit Programme (USOAP) and the implementation of the USOAP CMA in January 2013, he enquired as to how long it would be before ICAO Member States would be ready to move to a USAP-CMA and how long the transition period would be.

28. The Chief of the Aviation Security Branch (C/AVSEC) averred that it would be premature to give a definitive answer at this point in time. The message being received was that there was certainly a strong desire to move toward the new USAP-CMA and the Secretariat looked forward to working with States in making the smoothest transition happen as quickly as possible. C/AVSEC stressed that it was imperative, at the present time, to focus energies on developing the methodology for a USAP-CMA and on developing, in parallel, the transition plan in order to move from the second cycle of USAP audits into the next phase of the audit programme. He emphasized that, in carrying out that transition, it would be essential to both engage State experts in aviation security to help validate the approach to be used in a USAP-CMA and to educate States about how the USAP will be different in its next phase. C/AVSEC underscored that the sharing of information would be critical in order to assist States in preparing for a USAP-CMA.

29. Recalling that he had been closely involved in this work through his previous involvement in the AVSECP, the Representative of the United Kingdom noted that he had sometimes been impatient for more rapid and more ambitious progress. He therefore very much welcomed the paper and the progress that had been made. The Representative of the United Kingdom observed that the first principles of a USAP-CMA that were put together in the paper drew very effectively on some good USOAP CMA principles while respecting the particular requirements of USAP audits. Underscoring that there would be a difficult balance to be devised in the development of a USAP-CMA methodology, he indicated that the Council should encourage the Secretariat to continue the work on this creative hybrid solution which

combined a continuous monitoring approach and a risk-based audit approach and to turn it into a practical reality as soon as possible.

30. In expressing support for the UIC's proposals, in particular, that the Council approve the concept of a USAP-CMA in principle, the Representative of France reiterated his earlier request that a study be done of the resources required to implement a USAP-CMA and the corresponding costs for States before a final decision be taken thereon. He suggested that action paragraph b) in the executive summary of the paper be amended to refer not only to the associated methodology and framework for the implementation of a USAP-CMA but also to the resources required and corresponding costs for States and that the reference to beginning the work be deleted.

31. Voicing approval of the paper, the Representative of Brazil commended the USAP-CMA initiative as a great step forward. While sharing the concerns expressed regarding its implementation costs, which might be greater than the implementation costs of the existing approach to USAP audits as it would involve a continuous activity, he emphasized that the Council would cross that bridge when it got to it.

32. The Representative of the Russian Federation endorsed the transition to a USAP-CMA. In supporting the comments made by the Representative of France, he recalled that the UIC had called for more information to be provided to a future session of the Council on exactly how that approach would be implemented. To a point raised by the Representative regarding paragraph 4.2 of the paper, the President of the Council clarified that the information to be posted on the USAP secure website would be limited to the results of the USAP-CMA activities.

33. In endorsing the comments made by the previous speakers regarding a USAP-CMA, the Representative of Australia noted that the informal briefings and meetings on that subject had given Representatives a greater level of confidence in how that Programme would move forward, in particular, that it would follow a multi-pronged approach, which seemed to be the most pragmatic one. Recalling that the UIC had previously acknowledged the need to take a more cautious approach towards progressing the aspect of information-sharing under a USAP-CMA and had fully agreed that the latter would not necessarily be a clone of the USAP CMA, she stressed that much consideration was required of how that aspect would be developed.

34. While supporting the paper, the Representative of India reiterated the need for caution in addressing that aspect. Recalling that regional workshops had been held on the transition to a USAP CMA, he suggested that the Secretariat start developing such workshops for the transition to a USAP-CMA in order to bring stakeholders up-to-date on the new approach.

35. In likewise endorsing the paper, the Representative of Paraguay agreed on the need to train the relevant personnel in each Member State through seminars and workshops organized by ICAO's regional offices to enable them to participate in the transition to a USAP-CMA and to prepare them for that new auditing methodology.

36. In voicing support for the paper, the Representative of Saudi Arabia associated himself with the positions expressed by the Representatives of the United States, the Russian Federation, Australia, Brazil and India regarding the said transition to a USAP-CMA. He emphasized that such a transition should take into account the technologies available to developing countries.

37. Although the Representative of Slovenia had no problem with the paper, he questioned the value of adding the words “in principle” to action paragraph a) as recommended by the UIC. He could, however, accept that change if the other Representatives agreed thereto.

38. The Representative of Mexico noted that the Council’s approval, in principle, of the concept of a USAP-CMA would enable the Secretariat to advance as much as it could, with the resources available, in the development of a USAP-CMA pending the resolution of the outstanding issue of the sharing and protection of audit information, in particular in light of the conclusions and recommendations of the upcoming High-level Conference on Aviation Security (HLCAS) (Montréal, 12 to 14 September 2012).

39. The Representative of Spain supported a USAP-CMA, as well as the UIC’s report and recommended action.

40. While also supporting a continuous monitoring approach to security management, the Representative of Uganda agreed on the need for caution in addressing the aspect of information-sharing. He also agreed that, given the sensitive nature of aviation security, there was a need for training to increase awareness in the various regions of the USAP-CMA so that they could be fully involved in that Programme. The Representative of Uganda endorsed the suggested changes to the action proposed in the executive summary of the paper.

41. Responding to comments made with regard to information-sharing under a USAP-CMA, C/AVSEC underscored that that was a central issue for the Programme’s future and its usefulness to both States and ICAO in the targeting of capacity-building and other kinds of assistance. Noting that the HLCAS would be considering, *inter alia*, the issue of disclosure, *i.e.* the transparency of USAP audit results, he indicated that the Secretariat looked forward to the outcome of the Conference’s deliberations thereon. Recalling the sensitivities around the sharing of enough information *versus* the sharing of too much information on USAP audit results, C/AVSEC observed that the Secretariat also looked forward to seeing whether the threshold of tolerance for the disclosure of such information could be moved any further along.

42. With respect to training, C/AVSEC emphasized that the Secretariat would be engaged in an aggressive global programme to help States understand the future of the USAP under a CMA. In recalling that the Secretariat was in the final stages of completing the staffing of Regional Officer, Aviation Security, positions in all ICAO regions, he stressed that the presence of those professionals would greatly help in ensuring that there was a broad and consistent understanding of the USAP as it evolved.

43. In then taking the action proposed in the executive summary of C-WP/13835, as amended by the President of the Council in light of the UIC’s oral report and the discussion, the Council:

- a) approved, in principle, the concept of a USAP-CMA;
- b) requested the Secretary General to develop the associated methodology, framework and financial implications for States and the Organization for the implementation of a USAP-CMA and provide regular updates to the Council; and
- c) requested the Secretary General to develop a transition plan for the move to a USAP-CMA, for the approval of the Council during its next (197th) Session.

44. The Council went into closed session at 1200 hours to consider the remaining items on its order of business.

COUNCIL — 196TH SESSION

SUMMARY MINUTES OF THE SECOND MEETING

(THE COUNCIL CHAMBER, WEDNESDAY, 13 JUNE 2012, AT 1200 HOURS)

CLOSED 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. L. Camacho Bueno (Alt.)
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Colombia	— Mrs. G. Rueda de Higuera	Saudi Arabia	— Mr. T.M.B. Kabli
Denmark	— Mr. K.L. Larsen	Singapore	— Mr. T.-C. Ng
Egypt	— Mr. M.T. Elzanaty	Slovenia	— Mr. A. Krapež
France	— Mr. M. Wachenheim	South Africa	— Mr. L. Mabaso
Germany	— Mr. U. Schwierczinski	Spain	— Mr. V.M. Aguado
Guatemala	— Mr. L.F. Carranza	Swaziland	— Mr. D. Litchfield
India	— Mr. A. Mishra	Uganda	— Mr. J. Twijuke
Italy	— Mr. A. Bardaro (Alt.)	United Arab Emirates	— Mr. R.A. Al Kaabi (Alt.)
Japan	— Mr. T. Koda	United Kingdom	— Mr. M. Rodmell
Malaysia	— Mr. Y.-H. Lim	United States	— Mr. D. Woerth

ALSO PRESENT:

Mr. C. Schleifer	President, ANC
Mr. J.C.F. Silva (Alt.)	— Brazil
Mr. A. Rebouças (Alt.)	— Brazil
Mr. R. Carvalho (Alt.)	— Brazil
Mr. P. Pape (Alt.)	— France
Mrs. D. Valle Álvarez (Alt.)	— Mexico
Mr. Bae, J. (Alt.)	— Republic of Korea
Mr. Hwang, S.-Y. (Alt.)	— Republic of Korea
Ms. M. Kehoe (Alt.)	— United States
Mr. P. Bombay (Obs.)	— European Union

SECRETARIAT:

Mr. D. Azema	— DC/OSG
*Ms. N. Graham	— D/ANB
*Mr. I. Galán	— D/TCB
*Mr. B. Djibo	— D/ATB
*Mr. J. Marriott	— C/AVSEC
*Mr. A. Quiroz	— C/ASA
*Mr. R. Lambo	— C/ISD-SAF
*Mr. S. Berti	— C/SFP
Dr. K. Rooney	— A/C/DGS
Mr. H. Defalque	— TO/OPS
*Mr. A. Djojonegoro	— TO/SFP
Miss S. Black	— Précis-writer

*Part-time

Representatives to ICAO

Chile
Dominican Republic
Ethiopia
Greece
Iran (Islamic Republic of)
Lebanon
Philippines
Turkey
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/13846 Restricted, in which the Secretary General reported on the activities of the MARB since its second meeting on 30 January 2012, as well as on the actions that had been taken to provide assistance to States referred to the MARB and to other States referred to the former Audit Results Review Board (ARRB)
2. In providing updated information regarding the status of certain States referred to the MARB (*cf.* paragraph 2.2), the Secretary General indicated that since the Board's most recent meeting on 1 May 2012, Sudan had positively responded and resolved its significant safety concern (SSC) and Mozambique had submitted an acceptable corrective action plan to resolve its deficiencies. The total number of States referred to the MARB had thus decreased from 20 to 18. Referring to paragraph 2.2.2 of the paper on the division of referred States into three groups for the purpose of prioritizing assistance activities, the Secretary General noted that it was expected that up to seven (and not eight as indicated) of the States in the first group would be able to resolve the reasons for their referral to the MARB within the next twelve months. A further ten States were making progress in addressing the reasons for their referral but were expected to take longer to fully resolve the relevant concerns.
3. Drawing attention to paragraph 2.2.3, in which it was stated that Djibouti and Guinea-Bissau had made very little or no progress, the Secretary General noted that it should be amended in light of additional information received since the issuance of the paper. In the case of Djibouti, ICAO had signed an action plan with that State and the latter's Civil Aviation Law had been promulgated as a consequence, which was a significant step in the right direction. The Organization would continue to follow the situation in Djibouti and provide it with assistance, given the very positive signals that had recently been received. In the case of Guinea-Bissau, thanks to the collaborative efforts of the Representative of Burkina Faso, who was also the Coordinator of the African Group, and the African community, a working visit was being organized between the ICAO Secretariat and the President of Civil Aviation of Guinea-Bissau, which would serve as a first step in guiding that State's efforts in resolving its SSCs and safety-related deficiencies.
4. In concluding, the Secretary General emphasized that the MARB continued to stress the alignment of serious safety and security deficiencies with assistance actions in order to contribute to sustainable solutions, as well as to strengthen internal coordination of ICAO's activities.
5. Observing that the paper only named those States that had made very little or no progress in rectifying their safety and/or security deficiencies (group three) and not those States in the first two groups that were making progress, the Representative of Brazil suggested that the latter also be identified by name, out of fairness. He underscored that for such poor States to make progress required sophisticated technology, considerable effort, policy decision-making, political will and often, much money, despite the assistance provided by ICAO.
6. The Representatives of Swaziland, Belgium, Slovenia endorsed this proposal. In so doing, the Representative of Swaziland noted with satisfaction the information provided by the Secretary General regarding Mozambique, which had expended much effort in improving its safety situation. Recalling that since the establishment of the Universal Safety Oversight Audit Programme (USOAP) States had been concerned that ICAO missions were focussed only on audits, he indicated that they were pleased that such

missions were now focussed on assistance. In emphasizing the importance of the provision of such assistance by ICAO, the Representative of Swaziland underscored that States very much appreciated it.

7. The Representative of Slovenia expressed pleasure that Djibouti and Guinea-Bissau were evincing much more interest in eliminating their deficiencies.

8. Indicating that he would have no difficulty with also naming those States that had made progress in rectifying their deficiencies (first and second groups) in the interest of transparency, the Secretary General emphasized that ICAO wished to highlight and not hide their efforts. He recalled, in this regard, that in the European Union (EU), whenever a State made progress in rectifying its deficiencies, a full report thereon was made so that it could benefit from its efforts and be removed from the relevant lists.

9. Expressing support for the paper, the Representative of Denmark noted, from Electronic Bulletin EB 2012/28 dated 11 June 2012, that Sudan had demonstrated that corrective actions had been implemented to resolve its SSC relating to its certification process for the issuance of air operator certificates and underscored that that State should also be removed from paragraph 2.2.1 of the paper. In further noting that EB 2012/28 named those States which still had unresolved SSCs, he indicated that it was a simple matter of deduction to determine those States which had significant security concerns (SSeCs). The Representative of Denmark therefore suggested that future reports contain two separate lists of States referred to the MARB, one of States with safety-related deficiencies and one of States with security-related deficiencies. The Representatives of Belgium and Slovenia supported this suggestion.

10. In endorsing the comments made by previous speakers, the Representative of Burkina Faso welcomed the combined efforts being made to have States resolve their SSCs and SSeCs. He commended the openness of the Secretariat, which encouraged such States to seek ICAO's expert assistance.

11. Referring to the information provided by the Secretary General regarding Djibouti, the Representative of South Africa averred that there was a missing link in the communication between ICAO and that State to the extent that the development, over a long period of time, of the recently-promulgated Civil Aviation Law had not been notified earlier. He suggested that verification be done of how the ICAO Regional Offices communicated with the States to which they were accredited.

12. The President of the Council recalled, in this regard, that when he had met the Minister of Transport of Djibouti during the recent Second Session of the African Union (AU) Conference of Ministers responsible for Transport (Luanda, Angola, 21-25 November 2011), he had not received any information regarding the development and promulgation of Djibouti's Civil Aviation Law. He agreed on the need to determine how to improve communications with States in order to receive more information in a timely manner.

13. While understanding the desire to have a clearer picture of those States with safety- and/or security-related deficiencies, the Representative of the Russian Federation, emphasizing the need to proceed very cautiously with regard to the latter, indicated that future MARB reports containing the requested names of States should be circulated to Representatives in hard copy, in sealed envelopes.

14. Responding to questions raised by the Representatives of Belgium and Slovenia regarding paragraph 2.3.1, which stated that "Failure by a State to provide a deliverable within the agreed timeframe could lead to its [Technical Cooperation Bureau (TCB) assistance project] being suspended or cancelled.", the Secretary General stressed that it did not indicate that the projects would be suspended or cancelled. In

emphasizing the need to carefully utilize the Organization's resources, he underscored that if no results were achieved within a certain timeframe, and after reiterating the importance of the State concerned making its own efforts, then a decision would have to be taken by ICAO regarding the State's TCB assistance project. The Secretary General emphasized that if a State, for the first time, missed a deadline for a deliverable by one week, then its project would not be suspended or cancelled.

15. The President of the Council underscored that suspension or cancellation of a project was also related to protecting the good name of ICAO and not having it associated with a project that was not progressing and to which the State concerned was not committed and for which it was not paying.

16. The President of the Council also stressed the need to respect the decision taken earlier by the Council (191/2) on an oral report of the former Audit Results Review Board (ARRB), in which it was indicated that the Council had "... understood that although the ARRB may, as an internal mechanism, continue to assign categories to the States referred to it to prioritize monitoring and follow-up activities, the ARRB's reports to Council would no longer make reference to these categories". Recalling that the Council had also agreed (186/7) that States referred to the ARRB under the USOAP would be presented to the Council orally and in a closed session, the President of the Council emphasized the need to give careful consideration to the desired level of transparency of MARB reports, mainly the division between safety- and security-related deficiencies, which were more sensitive in nature.

17. The Secretary General reaffirmed that the purpose of dividing the States referred to the MARB into three groups had not been to create categories but to determine where the Organization could achieve the best results for its money. He noted the above-mentioned suggestions that future reports contain two separate lists of States referred to the MARB, one of States with safety-related deficiencies and one of States with security-related deficiencies, and identify the States in each of the three groups that had been created for prioritization purposes for further consideration, taking into account previous relevant Council decisions, notably the said Council decision regarding the categorization of States (C-DEC 191/2). Comments made were also noted.

18. In concluding its discussion of this item, the Council noted information paper C-WP/13846 Restricted and the updated information provided orally by the Secretary General.

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

**Review of the Report of the Twenty-third Meeting of the Aviation Security Panel (AVSECP/23)
(Montréal, 26 to 30 March 2012)**

19. The Council considered the above subject on the basis of: C-WP/13837 Restricted, in which the Secretary General presented the conclusions and recommendations of AVSECP/23, together with the Secretariat's comments; and oral reports thereon by the Committee on Unlawful Interference (UIC) and the Air Navigation Commission (ANC).

20. The UIC had considered the paper at its First Meeting of the 196th Session of the Council on 14 May 2012. The Chairperson of the AVSECP/23, Mr. Bernard Lim, who had been present at the invitation of the Committee, had provided a summary of the key outcomes of AVSECP/23 and had indicated further direction for the work of the Panel; that had been followed by an introduction of C-WP/13837 by the Secretariat.

21. The Committee had been informed of the consensus achieved on the issue of 100 per cent screening of persons other than passengers, which had resulted in a unanimously supported text for a revised Standard 4.2.6 for inclusion in Amendment 13 to Annex 17 — *Security*, envisaged for adoption in 2014. The Committee had also noted progress made on enhancing the air cargo security framework on the basis of an Action Plan on Air Cargo Security and had been apprised of the activities of the Panel's working groups. The Committee had taken note of the groups' respective work programmes. In view of these accomplishments, the Committee had expressed satisfaction with the work of the Panel and had unanimously supported the Panel's recommendations as outlined in the paper.

22. A Committee Member had requested further clarification with regard to the Secretariat comments under paragraph 1.7.1 of C-WP/13837 Restricted, specifically related to the continued development of the continuous monitoring approach (CMA) for the Universal Security Audit Programme (USAP). The Secretariat had indicated that the proposal for the concept of a USAP that combined both a risk-based approach with continuous monitoring activities had received unanimous support at AVSECP/23, details of which were presented in C-WP/13835, to be considered by the Council under a different agenda item.

23. In conclusion, the Committee had recommended that the Council approve the Panel's recommendations and the Secretariat's comments.

24. Under Agenda Item 1 (Developments in aviation security since AVSECP/22) of the AVSECP/23 Report, the ANC had noted, and supported the development by the Secretariat of an Air Traffic Management Security Manual in coordination with the ATM Section of the Air Navigation Bureau (ANB). It had also noted a resurgence of the MANPADS threat, where the implementation of countermeasures could increase safety risks and would be subject to the Commission's review. Under Agenda Item 4 (Air cargo security), the ANC had supported enhancing cargo and mail security, including their supply chain, to secure safe aircraft operations. However, the ANC had drawn attention to the potential for confusion between the term "high-risk cargo" proposed for Annex 17 and the term "high-consequence dangerous goods" contained in the *Technical Instructions for the Safe Transport of Dangerous Goods by Air* (Doc 9284). The Commission had recommended that appropriate cross-references or guidance material be added to Annex 17 and Doc 9284 to mitigate any confusion and raise awareness of the potential risks associated with high-risk and high-consequence dangerous goods. Under Agenda Item 6 (Progress reports from working groups of the Aviation Security Panel), the ANC, recognizing the areas of mutual interest between the Dangerous Goods Panel (DGP) and the AVSECP, had supported enhanced coordination between those two Panels, particularly with regard to the development of a Dangerous Goods Awareness Module to enhance the training of security screeners.

25. The Commission had noted the parts of the report on Agenda Items 2 (Aviation security conferences); 3 (Status of Annex 17 — *Security*); 5 (100 per cent screening of persons other than passengers); 7 (Universal Security Audit Programme); 8 [Implementation Support and Development — Security (ISD-SEC) Programme]; and 9 (Other business).

26. The Representatives of the United States, Mexico, Japan, Saudi Arabia, Brazil, Colombia, Argentina, Nigeria, Belgium, Italy, the United Kingdom and France endorsed the paper. In so doing, the Representative of the United States expressed appreciation to the Secretary General in particular for his extra efforts in bridging the gap to achieve consensus on the issue of 100 per cent screening of persons other than passengers. He underscored, in this regard, that it had taken a long time to obtain a unanimous recommendation thereon by the AVSECP and to have that recommendation endorsed by the UIC. The

Representative of the United States also indicated that he understood the concerns raised by the ANC in its oral report.

27. The Representative of Brazil congratulated the Secretary General for his high-level diplomatic efforts to achieve consensus that had culminated in the paper, which would undoubtedly be extremely useful to ICAO's work in the field of aviation security. The Representative of Colombia also commended the Secretary General for his efforts.

28. The Representative of Japan noted that his State, which was a Member of the AVSECP, agreed with, and was satisfied with, the results of the AVSECP/23. While there had been many difficult issues to address, including the said issue of 100 per cent screening of persons other than passengers and the issue of enhancing air cargo security, they had been discussed adequately and successfully by taking an outcome-based approach. That approach allowed States to take into consideration their specific national and other requirements and to apply flexible, more effective measures that were suited to their circumstances and met the desired outcomes. The Representative of Japan emphasized that it should be verified whether those measures would truly achieve an outcome having a sufficient level of security. He had great interest in the development and embodiment of that outcome-based approach in the future detailed work of the Secretariat and the AVSECP.

29. In voicing support for the oral reports presented by the UIC and the ANC, the Representative of Argentina stressed that it was necessary to do more than add appropriate cross-references or guidance material to Annex 17 and Doc 9284 to mitigate any confusion and raise awareness of the potential risks associated with high-risk and high-consequence dangerous goods as recommended by the Commission. Emphasizing that specific definitions of those terms should be given so that the classification of such dangerous goods would be clear, he urged the ANC and the Secretariat to work thereon as the problem would arise whenever such dangerous goods were transported.

30. Responding to a question by the Representative of Nigeria regarding the possible acceleration of the Annex amendment adoption process for the recommended revised Standard 4.2.6 relating to 100 per cent screening of persons other than passengers, the Chief of the Aviation Security Branch (C/AVSEC) noted that, as a matter of routine, the AVSECP, when contemplating amendments to Annex 17, considered the sense of urgency that was attached to the risk to be addressed by the Annex amendment and whether some sort of speedier process should be undertaken to bring a proposed amendment to Annex 17 into full force. In the case of the recommended amendment to Standard 4.2.6, the Panel had been of the view that the amendment should be processed through the normal course of events by referring the details of the proposal to the Working Group on Annex 17. The WGA17 would also take on board the item on air cargo security, as well as other potential amendments that could help improve the effectiveness and efficiency of aviation security, with a view to including them in the next amendment to Annex 17, envisaged for adoption in 2014. It was expected that there would be a very comprehensive report thereon by the AVSECP following its next meeting in April 2013, which would be presented to the UIC and the Council for consideration.

31. In sharing the ANC's view regarding enhanced coordination between the DGP and the AVSECP, the Representative of Belgium recalled that that issue had been raised several times by the Commission and emphasized that it was time to finally address it.

32. The Representative of Italy pointed out that although Article 1 (i) of the *Convention on the Suppression of Unlawful Acts relating to International Civil Aviation* (Beijing, 14 September 2010) criminalized the transport via civil aircraft of biological, chemical and nuclear weapons (BCN) and related

material, their transport could be legal under Annex 18 — *The Safe Transport of Dangerous Goods by Air* unless the BCN were illegal. He emphasized that it would be useful to highlight the difference between the three categories of cargo, namely, high-risk cargo, high-consequence dangerous goods and BCN

33. Recalling his previous involvement in the work of the AVSECP, the Representative of the United Kingdom underscored that the latter had come to a clear recommendation for the 100 per cent screening of persons other than passengers that was based on the existing tried and tested definition of “screening” that was simple while allowing a certain degree of flexibility for States to implement it in the way that was best-suited to their operations.

34. Noting that at the 37th Session of the Assembly there had been some criticism of the way in which ICAO decisions and resolutions on security measures had been made in the past, in particular that they had not been sufficiently risk-based, the Representative of the United Kingdom underscored that in its Resolution A37-17 (*Consolidated statement on the continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference*), Appendix C (*Implementation of technical security measures*), Operative Clause 13, the Assembly had directed the Council “to instruct the Aviation Security Panel to identify and develop a risk assessment methodology for aviation security and to include risk-based assessment with any recommendations for the adoption of new or amended aviation security measures in Annex 17 or in any other ICAO document”. He noted that within a month of the Assembly, the AVSECP had had the opportunity to try that approach when two explosive devices had been found on cargo aircraft, the intention of which had been to destroy those aircraft. The Representative of the United Kingdom underscored that on that occasion the process had been conducted correctly and in the right order: a risk assessment based on intelligence and law enforcement information had been carried out by one AVSECP Working Group to determine what the problem was. Another Working Group had been established to devise a policy response in terms of Standards and measures. A third Working Group (WGA17) was now refining the resultant proposals so as to turn them into effective Standards. Stressing that this process was an important development in the work of ICAO, the Representative of the United Kingdom emphasized that the Organization might wish to use that process as a model for any future changes to its security approach.

35. Referring to the Representative of Nigeria’s query, the Representative of the United Kingdom noted, from Appendix B to the paper, that the HLCAS would be requested to adopt the principles for air cargo security and to recommend either a normal or an expedited amendment procedure for Annex 17.

36. In emphasizing the need to strike while the iron was hot, the Representative of France averred that the Organization should deal with the recommended revised Standard 4.2.6 on the issue of 100 per cent screening of persons other than passengers now and by itself. While he was not requesting that it be addressed with urgency, he stressed that in two years’ time when the next amendment to Annex 17 was envisaged for adoption, some Representatives would no longer be on the Council and some national officials would have changed, perhaps giving rise to a new difficult debate on the said issue. The Representative of France underscored that the Organization should seize the existing agreement on the revised Standard 4.2.6 as it was uncertain that it would still exist in 2014.

37. Observing that all of the Representatives who had taken the floor had acknowledged the good work of the AVSECP/23, the President of the Council indicated that the good work of the Panel’s Chairperson, Mr. Lim, should likewise be recognized, including his briefing of the UIC, which had been very useful.

38. In then taking the action proposed in the executive summary of C-WP/13837 Restricted, as amended by the President of the Council in light of the discussion, the Council:

- a) received, with satisfaction, the AVSECP/23 Report and commended the good work of the Panel and the ICAO Secretariat;
- b) as recommended by the UIC, approved the course of action recommended in the paper, as presented in the recommendations of AVSECP/23 and the Secretariat's comments; and
- c) requested the Secretary General to consider the ANC's oral report in order to facilitate the coordination between the DGP and the AVSECP.

39. The meeting adjourned at 1300 hours.

COUNCIL — 196TH SESSION

SUMMARY MINUTES OF THE THIRD MEETING

(THE COUNCIL CHAMBER, FRIDAY, 15 JUNE 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. L. Camacho Bueno (Alt.)
Canada	— Mr. M. Allen	Republic of Korea	— Mr. Choi, D.
China	— Mr. Tao Ma	Russian Federation	— Mr. A.A. Novgorodov
Colombia	— Mrs. G. Rueda de Higuera	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. L.F. Carranza	Uganda	— Mr. J. Twijuke
India	— Mr. A. Mishra	United Arab Emirates	— Miss A. AL Hamili
Italy	— Mr. A. Bardaro (Alt.)	United Kingdom	— Mr. P. Fleming (Alt.)
Japan	— Mr. T. Koda	United States	— Mr. D. Woerth

ALSO PRESENT:

Mr. P. Pape (Alt.)	— France
Mrs. D. Valle Álvarez (Alt.)	— Mexico
Mr. Bae, J. (Alt.)	— Republic of Korea
Mr. Hwang, S.-Y. (Alt.)	— Republic of Korea
Ms. M. Kehoe (Alt.)	— United States

SECRETARIAT:

Mr. D. Azema	— DC/OSG
*Mr. D. Wibaux	— D/LEB
*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	— DD/LEB
Mr. P. Noad	— DD/TCB
Ms. A. Andrade	— ADTC
Ms. L. Lim	— FSV/FSC
Miss S. Black	— Précis-writer

*Part-time

Representatives to ICAO

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

Subject No. 24: Sessions of the Assembly

**Draft Provisional Agenda for the 38th Session of the ICAO Assembly (2013);
site and date; and invitation to observers**

1. The Council considered: C-WP/13838, in which the President of the Council and the Secretary General presented the draft Provisional Agenda for the 38th Session of the ICAO Assembly for its preliminary consideration before referral to the Air Navigation Commission (ANC) and Council Committees, proposed alternative periods in September/October 2013 for the convening of the Assembly and the extension of invitations to observers; and an oral report thereon by the Working Group on Governance and Efficiency (WGGE).
2. For its review of the paper during its First Meeting of the 196th Session on 12 June 2012, the WGGE had met in expanded form by inviting the Chairpersons and Secretaries of the Council Committees. The Working Group had noted that certain items in Appendix A, for instance items T2 (*Aviation Safety - Policy*), T7 (*Air Navigation - Policy*) and E2 (*Economic Development of Air Transport – Policy*), were to be considered by the Technical Commission and the Economic Commission. The WGGE had noted further that some policy matters had, in the past, been considered by the Commissions even though generally, policy matters were taken in the Executive Committee. The Working Group had recommended that the Council pay specific attention to the policy matters that were proposed to be considered by the Commissions and examine whether the existing practice needed to be reviewed.
3. The WGGE had also recommended the following changes to the draft Provisional Agenda set forth in Appendix A of the paper:
 - a) that the last sentence of the note for Agenda Item T2 be amended to indicate that the Council will present the revised Global Aviation Safety Plan (GASP) for endorsement (rather than approval) by the Assembly;
 - b) that the penultimate sentence of the third paragraph of the note for Agenda Item T7 be amended to indicate that the Council will seek the endorsement (rather than approval) of the revised Global Air Navigation Plan (GANP) by the Assembly; and
 - c) that an agenda item on the progress of implementation of the Comprehensive Regional Implementation Plan for Aviation Safety in Africa (AFI Plan) be added for consideration by the Technical Commission.
4. With regard to the date of the 38th Session of the Assembly, the WGGE had recommended that option b) of paragraph 2.3 of C-WP/13838 be accepted, namely, from Tuesday, 24 September to Friday, 4 October 2013. That was to give sufficient time following the Assembly for preparation and report to the 200th Session of the Council and also took into account the commencement, on 17 September 2013, of the 68th Session of the United Nations General Assembly (UNGA), which some Ministers might be attending.
5. In the course of the ensuing discussion, the Representatives of Argentina, France, Saudi Arabia, Spain and Malaysia voiced support for option b) (from Tuesday, 24 September to Friday, 4 October 2013) as recommended by the WGGE. In so doing, the Representative of Saudi Arabia expressed pleasure that the dates would not overlap with Ramadan, which would begin on Wednesday, 10 July 2013. He also endorsed, in principle, the other actions proposed in the executive summary of the paper.

6. The Representative of Belgium favoured consulting the ANC and the various Committees regarding the draft Provisional Agenda as proposed in paragraph a) of the executive summary of the paper. He suggested, in this regard, that not only the contents but also the structure of the draft Provisional Agenda be considered in order to maximize the Assembly's efficiency and to ensure the active participation of Member States in the deliberations. Noting that the Organization only had the opportunity to hear the views of its Member States once every three years, the Representative of Belgium underscored that it should not miss the opportunity afforded by the upcoming Assembly. He recalled that Rule 14 of the *Standing Rules of Procedure of the Assembly of the International Civil Aviation Organization* (Doc 7600) stipulated that the Assembly shall establish, in addition to a Credentials Committee, an Executive Committee, a Coordinating Committee and an Administrative Commission and that it "may establish such other committees and commissions as it deems desirable for the conduct of its business", which was the case for the Economic, Technical and Legal Commissions. While recognizing that the establishment of the latter three Commissions was standard practice, the Representative of Belgium queried whether, if that was a good practice, other Commissions could also be established or another structure adopted so as to maximize the Assembly's efficiency. He suggested, as examples, a Commission dealing specifically with security matters and a Commission dealing specifically with environmental matters. The Representative of Belgium affirmed that their creation would promote discussions and facilitate the work of the Executive Committee and the Plenary. He also emphasized that greater transparency in the draft Provisional Agenda would enhance Member States' understanding.

7. The Representative of Belgium indicated that, while his Delegation was flexible with regard to the three options for convening the Assembly, he personally saw at least three advantages in selecting option a) (from Tuesday, 17 to Friday, 27 September 2013): it would give the Secretariat more time to prepare for the 200th Council Session in October/November 2013; it would give new Council Representatives more time to move to Montréal and settle in before the start of that Council Session; and for those new Council Representatives with children, the dates would correspond better with the start of the school year. Reiterating that his Delegation was flexible regarding the three options, the Representative of Belgium noted that option b) was equally suitable.

8. The Representative of Belgium agreed with the action proposed in paragraph c) of the executive summary of the paper regarding invitations to observers.

9. While noting that all policy matters, including those relating to security and the environment, were dealt with by the Executive Committee, the President of the Council underscored that the Assembly always had the possibility of deciding if the Executive Committee should refer such matters to working groups or special groups for consideration. He recalled that during the last few Assemblies a Friends of the President of the Assembly group had been established to address environmental matters.

10. Noting that he had participated in the WGGE's meeting as an observer, the Representative of Spain expressed support for the Working Group's oral report, in particular, the recommendation that the Council pay specific attention to the policy matters that are proposed to be considered by the Commissions and examine whether the existing practice needs to be reviewed. He underscored that having the Technical Commission consider items T2 (*Aviation Safety - Policy*) and T7 (*Air Navigation - Policy*) was inconsistent with the usual practice of having policy matters addressed by the Executive Committee. He further emphasized that the technical experts designated by Member States to attend meetings of the Technical Commission might not have the capability to address high-level policy matters relating to aviation safety and air navigation.

11. Observing that the Council was now just giving preliminary consideration to the draft Provisional Agenda, the President of the Council suggested, and it was agreed, that the Council await the reports of the ANC and the various Committees before deciding if certain items, such as items T2, T7 and E2, should be addressed by the relevant Commission or by the Executive Committee. It was noted that the reports of the Commissions and of the Executive Committee were submitted to the Plenary for approval.

12. In endorsing the action proposed in the executive summary of the paper, the Representative of Malaysia emphasized the need to finalize the dates for the election of Member States to be represented on the Council to facilitate preparation by candidate States. The President of the Council indicated that although traditionally the elections for Parts One and Two took place on the first Saturday after the opening of the Assembly and the election for Part Three, on the Tuesday of the second week of the Assembly, in line with the timeframe set forth in Rule 55 of the *Standing Rules of Procedure of the Assembly of the International Civil Aviation Organization* (Doc 7600), the Council would have the opportunity to review that issue and, if it considered that it was necessary to change the existing practice, to make a recommendation thereon to the Assembly.

13. During the Council's review of the draft Provisional Agenda, the Council agreed to the changes thereto recommended by the WGGE (*cf.* paragraph 3 above). It also agreed to amend the third sentence of the note for Agenda Item X5 [*Universal Security Audit Programme (USAP)*] by deleting the words "providing proposals", as suggested by the President of the Council.

14. In taking the action indicated in paragraphs 1.2, 1.3 and 1.4 of the paper, the Council:

- a) approved, on a tentative basis, the items and corresponding notes for the Plenary meetings, the Executive Committee (as amended above) and the Legal Commission;
- b) agreed, with respect to the Executive Committee, to refer Item X1 to the Finance Committee (FIC), Item X3 to the Technical Co-operation Committee (TCC); Items X4 to X6 to the Committee on Unlawful Interference (UIC), Items X7 and X8 to the Air Transport Committee (ATC) and Items X11 to X13 to the Human Resources Committee (HRC) for consideration; and
- c) agreed, with regard to the items and notes for the Technical, Economic and Administrative Commissions, to refer the technical items (as amended above) to the ANC, the economic items to the ATC and the administrative items to the FIC for consideration.

15. In taking the action recommended by the WGGE regarding the convening, site and date of the 2013 ordinary session (38th) of the Assembly, the Council decided to convene the Assembly at ICAO Headquarters in Montréal from Tuesday, 24 September to Friday, 4 October 2013.

16. In addition, the Council agreed that invitations to attend the Assembly as observer be extended to the following (*cf.* paragraph 4.2 of C-WP/13838):

- a) ICAO non-Member States members of the United Nations (UN) or a Specialized Agency or the International Atomic Energy Agency (IAEA), as indicated in Appendix B to the paper and those that may become members of those organizations in the interval before the Assembly, it being clear that any non-Member State which

adheres to the Chicago Convention before the opening of the Assembly or during the Session will be able to participate as a Member State;

- b) the international organizations reproduced in Appendix B to the paper and those that may be added to the list in the interval before the Assembly;
- c) the Regional Safety Oversight Organizations (RSOOs) and Regional Development Banks as indicated in Appendix C to the paper; and
- d) Palestine, in accordance with Assembly Resolution A22-6.

17. It was understood that any requests to attend the Assembly as observer which the President of the Council approved under delegation of authority would be communicated to Representatives by memorandum.

18. The Council thus completed its preliminary consideration of the draft Provisional Agenda for the 38th Session of the ICAO Assembly appended to C-WP/13838, to which it would return during the next (197th) Session, when it would consider a revised working paper in light of comments of the ANC and the subordinate bodies to which items have been referred.

Subject No. 42: Technical cooperation

Policy on technical assistance

19. The Council had for consideration: C-WP/13850, in which the Secretary General proposed a new policy statement on the provision of technical support to States and non-State entities by ICAO; and a joint oral report thereon by the Technical Co-operation Committee (TCC) and the Finance Committee (FIC).

20. The TCC and the FIC had considered the paper during a joint meeting on 16 May 2012. It had been noted that the main aim of the new Policy on Technical Support, which encompassed the issues of technical assistance and technical cooperation, was to facilitate coordination between all stakeholders, avoid duplication and gain efficiencies by clearly delineating the responsibilities of all parties concerned.

21. Although that principle had been generally supported by the meeting, the suggested policy had been considered to be in need of further review. The requirement for the new term "technical support" had been questioned and the definitions for "technical assistance" and "technical cooperation" had not been considered clear enough to avoid ambiguity. The Committees had also recalled that the ICAO Assembly had already accepted a policy addressing both issues when acknowledging both the Organization's traditional role derived from the mandate by the United Nations (UN) to provide assistance in furtherance of the economic development of States on the one hand and, on the other, its mandate by the Assembly to provide assistance for remedying their deficiencies in the implementation of ICAO Standards and Recommended Practices (SARPs). It had therefore been concluded that what was required at this juncture was not the development of a new policy, but rather the definition of a framework for implementation of that policy, to clearly delineate the responsibilities within the Secretariat, as requested by the 36th Session of the Assembly. It had been agreed that the principles proposed in the Appendix to C-WP/13850 could serve as a starting point for this exercise.

22. Furthermore, concerns had been expressed by some Committee Members about the potential impact on the Regular Budget of funding of indirect costs associated with the delivery of technical

assistance projects by the Technical Cooperation Bureau (TCB). It had been the considered view of the Committees that it was not possible to decide on this issue independently from the upcoming budgetary discussions. It had been pointed out, in this regard, that ICAO was the only Organization in the UN system not providing such assistance within the framework of its Regular Budget, but funded by the recipient States and other external sources. It had been recalled, in this respect, that the FIC/TCC Working Group had proposed that five posts be transferred from the Administrative and Operational Services Cost (AOSC) Fund Budget to the Regular Budget to fund part of the core staff required by TCB to fulfill its technical assistance role as a minimum requirement independently of the implementation volume. However, instead of a number of posts, financial support could be defined in monetary terms, as recommended by the External Auditor. While several of the Members of both Committees had agreed that some form of financial support from the Regular Budget to TCB was required, some Members had expressed serious concern about the additional burden to the Regular Budget that that would represent. It had been suggested that discussion on that issue be resumed at a later date.

23. In conclusion, the Committees had agreed that they could not, at present, recommend that the Council approve the policy as proposed in C-WP/13850 and that it was also premature to decide on the transfer of the five AOSC-funded posts to the Regular Budget. They had agreed, however, on the need to define a coordinating structure for ICAO as a whole to provide technical assistance and, as part of the upcoming budgetary exercise for the Assembly, to determine if and how that structure should be funded.

24. Considering the actions proposed to be taken by the Council in the executive summary of C-WP/13850, the Committees had recommended that the Council: a) with respect to paragraphs a) and b), establish an Ad-Hoc Working Group to study further the subject of technical assistance with a view to refining the proposal in the Appendix of C-WP/13850, taking into account the views expressed; and b) postpone its decision on paragraph c) dependant on the conclusions of the Working Group's deliberations.

25. The President of the Council indicated that, if the Council accepted these recommendations, then it could request the Secretary General to create the said Ad-Hoc Working Group.

26. During the ensuing discussion, the Representatives of Nigeria, France, Slovenia, Uganda, Argentina, the United States, the Russian Federation, Cuba, Brazil, Spain, Japan, Malaysia, Singapore, Mexico and Paraguay endorsed the action recommended by the TCC and the FIC. In supporting the action in principle, the Representative of Denmark, noting that the envisaged Ad-Hoc Working Group was to refine the proposed Policy on Technical Support appended to C-WP/13850, underscored that unless and until the fundamental question of the financing of technical assistance and technical cooperation was addressed and set forth in a document the Council would continue to discuss this issue.

27. The Representative of Nigeria stressed the need for the Ad-Hoc Working Group to bear in mind that ICAO already had a policy which addressed both technical assistance and technical cooperation [*cf. Assembly Resolution A36-17 (Consolidated statement of ICAO policies on technical cooperation)*] and that the focus should now be on the development of a framework for its implementation.

28. Recalling that it had been the Secretary General who had established, in May 2011, the multidisciplinary Secretariat Working Group that had reviewed this issue, the Chairperson of the FIC emphasized that the two Committees had considered that the proposed Ad-Hoc Working Group should have some Council Member representation. The Chairperson of the TCC added that the Committees had been of the view that it should have regional representation and also comprise the Director of the Technical

Co-operation Bureau (D/TCB) and other staff members from relevant Bureaux, if necessary. The Representatives of Slovenia, Uganda, Argentina, Spain, Singapore and Paraguay shared this view.

29. In congratulating the Secretary General on his efforts to address this very important but very difficult issue, the Representative of France noted that technical cooperation was a reflection of the Organization's ability to go beyond the conduct of audits without deviating from the role which it had been assigned under the Chicago Convention and emphasized its importance for aviation safety. He stressed that the distinction to be made between technical assistance and technical cooperation should not be done on the basis of the nature of the services rendered but rather on the basis of the funding. In speaking in favour of establishing an Ad-Hoc Working Group under the Council, the Representative of France indicated that his State wished to participate therein. Averring that the inclusion of Item X3 (*Technical Cooperation – Policy and activities on technical cooperation and assistance*) in the draft Provisional Agenda for the 38th Session of the Assembly, considered under the previous item (*cf.* C-WP/13838), reflected a desire to improve the existing policy, he underscored that the Ad-Hoc Working Group should therefore not work under any policy constraints.

30. Affirming that the creation of an Ad-Hoc Working Group having broad participation was the best way forward, the Representative of Uganda indicated that his State also wished to be a Member thereof and emphasized the importance of establishing clear terms of reference for the Working Group in order to progress on this issue. Noting that the latter had been under consideration for a long time, he recalled that it had been on the table when he had joined the Council four years ago.

31. Reiterating that it was a long-standing problem, the Representative of Argentina emphasized the need to deal with it once and for all and not return to it every Council session. In recognizing the important work done thus far by the Secretariat in preparing the Policy on Technical Support, he noted that it was close to a solution and stressed that it was essential to reach one as soon as possible.

32. Associating himself with the comments made by the Representative of France, the Representative of the United States reiterated that it was not a question of the difference between technical assistance and technical cooperation but rather one of budgetary responsibility, authority and accountability. He maintained that the problem would continue to exist regardless of any definitions of those terms until the budgetary process made the responsibility and authority for technical assistance and technical cooperation projects clear and immutable and held the Officers concerned accountable.

33. Commending the Secretary General for the work done, the Representative of Brazil maintained that the proposed Policy on Technical Support had much merit, providing clearer definitions of technical assistance and technical cooperation and stipulating that ICAO would be involved in the implementation of technical support projects through its Technical Co-operation Programme “only once funding of the total project is assured and the funds required to recover all direct and indirect costs to be incurred by the Organization have been ascertained and, where applicable, transferred to a dedicated account of the Organization” (*cf.* C-WP/13850, Appendix, paragraph 2.2.1). He underscored that the latter provision would ensure that the problems encountered in 2011 did not recur.

34. In sharing the views expressed by the Representatives of France and the United States, the Representative of Spain reiterated that the matter could not be settled without addressing the budget issue. Underscoring that the Organization already had a high-level policy encompassing technical assistance and technical cooperation, as highlighted by the Representative of Nigeria, he stressed the need to flesh it out