
ICAO

International Civil Aviation Organization

COUNCIL — 199TH SESSION

Montréal, 21 May – 4 September 2013

SUMMARY MINUTES WITH SUBJECT INDEX



2013

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COUNCIL — 199TH SESSION

SUMMARY MINUTES OF THE FIRST MEETING

(THE COUNCIL CHAMBER, TUESDAY, 21 MAY 2013, AT 1430 HOURS)

OPEN MEETING

President of the Council: Mr. Roberto Kobeh González

Secretary: Mr. Raymond Benjamin, Secretary General

PRESENT:

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

ALSO PRESENT:

Mr. P. Jardim (Alt.)	— Brazil
Mr. J.L. Viera (Alt.)	— Brazil
Mr. M. Delisle (Alt.)	— Canada
Mr. R. Geirhovd (Alt.)	— Denmark
Mr. A. Bardaro (Alt.)	— Italy
Ms. M. Furuata (Alt.)	— Japan
Mrs. D. Valle Álvarez (Alt.)	— Mexico
Mrs. L. Camacho Bueno (Alt.)	— Peru
Mr. J. Lazo Escalante (Alt.)	— Peru
Mr. Hwang, S.-Y. (Alt.)	— Republic of Korea
Mr. Kang, M. (Alt.)	— Republic of Korea
Mr. D. Subbotin (Alt.)	— Russian Federation
Mr. A. Almoghraby (Alt.)	— Saudi Arabia
Mr. K. Ferjan (Alt.)	— Slovenia
Mr. R.A. Al Kaabi (Alt.)	— United Arab Emirates
Mr. J. L. Novak (Alt.)	— United States

SECRETARIAT:

Mr. D. Azema	— DC/OSG
Ms. N. Graham	— D/ANB
Mr. B. Djibo	— D/ATB
Mr. M. Elamiri	— DD/SMM
Mr. J. Augustin	— A/D/LEB
Mr. J. Marriott	— C/AVSEC
Mr. A. Djojonegoro	— SFP
Mr. A. Larcos	— ACC

Representatives to ICAO

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

Opening of the Session

1. The President of the Council extended a warm welcome to Council Representatives attending the 199th Session. In doing so, he noted that during this session it was anticipated the Council would consider a range of working papers related to items being presented at the forthcoming 38th Assembly session.

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

Schedule for consideration of items during the 199th Session

2. The Council noted the meeting schedule for the 199th Session presented in the President's memorandum PRES RK/2154 dated 19 March 2013, subject to the following changes:

- the rescheduling of a meeting of the Air Transport Committee from Thursday, 23 May to Tuesday, 4 June 2013 at 1430 hours, and
- the addition of a meeting of the Finance Committee, which would take place on Wednesday, 5 June 2013 at 1430 hours.

3. The Council also noted the schedule for the consideration of items during the 199th Session of the Council as set out in the President's memorandum PRES RK/2168 dated 3 May 2013, on the understanding that:

- an additional item *Draft Assembly working paper – Consolidated statement of continuing ICAO policies and practices related to Facilitation*, would be scheduled for Council consideration during the fourth week of this session.
- the item *Revision of the ICAO Service Code*, would now be presented as a written rather than oral report.
- the item *Outcome of the Sixth Worldwide Air Transport Conference (ATConf/6)*, would now be presented as a written rather than oral report.
- the item *Membership of the Committee on Aviation Environmental Protection (CAEP)*, would now be considered as an Information Paper.

4. Separately, the Representative of Nigeria took the opportunity to inform the Council that a progress report on the AFI Plan would be prepared as an Assembly working paper to be presented to the Technical Commission, and that this would be circulated in due course.

Subject No. 18: Subjects relating to finance

Subject No. 24: Sessions of the Assembly

Subject No. 24.2: Assembly agenda and documentation

Subject No. 24.3: Action on Assembly resolutions and decisions

Subject No. 33: Character and working methods of Representative Bodies in ICAO

Draft Assembly working paper – Proposal to hold Assembly sessions every two years

5. In his introductory remarks to this item, the Acting Director, Legal Affairs and External Relations Bureau (A/D/LEB), explained that at the ninth meeting of the 198th Session, on 8 March 2013,

the Council had considered the proposal by Saudi Arabia for Assembly sessions to be held every two years, and for the budget of the Organization to be prepared on a biennial basis. He recalled that during its thirty-seventh session, the Assembly had requested the Council to do three things: first, to study the issue taking into account that the preparation for an Assembly session every two years should not result in any additional overhead costs for the Organization; secondly, to consider the possibility of reducing the number of Council sessions from three to two in a year when the Assembly session would be convened; and thirdly, to submit a report thereon to the thirty-eighth session of the Assembly.

6. It was also recalled by A/D/LEB that in line with a report from the Working Group on Governance and Efficiency (WGGE), the Council had decided against recommending the holding of Assembly sessions every two years. It had also decided against the adoption of a two-year budget and the reduction of the number of Council sessions from three to two in years when the Assembly would be convened. In doing so, the Council had requested the Secretary General to prepare a draft Assembly working paper (C-WP/13980) that referred to the relevant provisions of the *Convention on International Civil Aviation* (Chicago Convention) and which outlined the financial implications arising from any such proposal.

7. The Representative of Mexico indicated that he was in broad agreement with the recommendations of the WGGE but that in paragraph 5.2 of working paper C-WP/13980, the text should be redrafted so as to incorporate references to the pros and cons of the proposal in terms of cost-efficiency, which was one of the factors that the WGGE took into account in forming their conclusions.

8. In agreeing with the previous intervention, the Representative of Uganda stated that in the context of budget considerations referred to in paragraph 4.2 of C-WP/13980, additional text could be included in order to clarify that any potential midterm review of the triennial budget could deliver greater flexibility in budget outcomes. In this connection, it might reassure Member States attending the Assembly session to know more about the mechanism through which a midterm review of the budget occurred within the triennium cycle. The Representative was especially concerned with the potential meaning of the final sentence of paragraph 4.2, which was somewhat ambiguous in this regard.

9. The President of the Council thanked Council Representatives for their comments and acknowledged that it might be necessary to review the wording in paragraphs 4.2 and 5.2 of C-WP/13980. In relation to the overall budget process he agreed that the wording would have to be precise since it was the Member States at the Assembly that held the pivotal role in reviewing and approving the budget.

10. The Representative of Australia observed that the final sentence of paragraph 4.2 should be read in the overall context of the paragraph, including the Council's prior consideration of this issue. In this connection a business plan provided the means by which the Council had an opportunity to be regularly updated on budget-related issues. The existing budget processes had been considered by previous Council sessions so that existing review mechanisms were already in place.

11. In clarifying aspects of the existing budget process, the Representative of Nigeria confirmed that a mechanism for a midterm review of the budget already existed and that this was a procedure that provided useful guidance to the Council.

12. The Council then approved the draft Assembly working paper appended to C-WP/13980 for transmission to Member States as documentation for the 38th Session of the Assembly. Proposed amendments to the text of paragraph 4.2 and 5.2 of the draft Assembly working paper would be taken into account by the Secretariat and reflected in the final version of the Assembly working paper.

Subject No. 24.2: **Assembly agenda and documentation**
Subject No. 24.3: **Action on Assembly resolutions and decisions**
Subject No. 27: **Convention on International Civil Aviation**
Subject No. 33: **Character and working methods of Representative Bodies in ICAO**

Draft Assembly working paper – Proposal to amend Article 50 a) of the Convention on International Civil Aviation so as to increase the membership of the Council to 39

13. In his introductory remarks to the item, the Acting Director, Legal Affairs and External Relations Bureau (A/D/LEB), explained that this item related to a proposal at the 37th Session of the Assembly to increase the number of Council seats from 36 to 39. The Assembly had referred the matter to the Council, which had decided against recommending any increase in the size of the Council (C-DEC 198/9 refers). He recalled that the Council had requested the Secretary General to prepare a draft Assembly working paper incorporating recommendations on the proposal and this was now appended to C-WP/13981, wherein it summarized the pros and cons of the proposal to increase the number of seats; the procedural requirements relating to amendments to the *Convention on International Civil Aviation* (Chicago Convention); and the financial implications of increasing the size of the Council membership. The paper also included a table outlining the size of governing bodies in other specialized agencies of the United Nations system.

14. In concluding his introductory remarks to the Council, A/D/LEB drew attention to paragraph 5 of the paper, which set out the comments and recommendations of the Working Group on Governance and Efficiency (WGGE) vis-à-vis this proposal. The appendix to the draft Assembly working paper contained background information on the past amendments to the Chicago Convention that had related to increases in the number of Council seats.

15. In response to a question from the Representative of Malaysia on whether the Council during its consideration of this item at the 198th Session had arrived at a definite decision to endorse the recommendations of the WGGE against the proposal, the President of the Council confirmed the accuracy of the Council decision as reflected in paragraph 13 of C-DEC 198/9, which stated that the Council had decided not to recommend an increase in the membership of the Council. The President of the Council confirmed that although the interventions of all Council Representatives on this issue during the 198th Session were comprehensively recorded in C-MIN 198/9, it was the only the final decision of the Council that was required to be reflected in paragraph 13 of C-DEC 198/9. He also emphasized that it was ultimately up to the Member States attending the Assembly session that would decide this issue.

16. The Representative of Spain welcomed the draft Assembly working paper that was presented for Council consideration and especially the information that compared the size of governing bodies in other specialized agencies of the United Nations system. This comparison confirmed that the size of the ICAO Council was appropriate and in keeping with the size of other governing bodies in other specialized agencies. The Representative agreed that ultimately this matter should be decided by the Member States at the Assembly session, which would be the appropriate venue to decide the outcome for such an issue.

17. In agreeing with the previous intervention, the Representative of the United States stated that regardless of the conclusions that the Council had arrived at on this issue, it was clearly understood by all that it would up to the Assembly to decide the matter.

18. The Representative of Uganda sought clarification on whether the vote that would take place at the Assembly Session, would decide the outcome on the basis of a simple majority or a two-thirds vote. He also sought an explanation as to whether the term “Member States” was now to be used in preference to “Contracting States” when related issues arose such as in this instance.

19. By way of explanation, the Acting Director, Legal Affairs and External Relations Bureau (A/D/LEB) indicated that some years ago it had been determined that when referring to the Chicago Convention it would be appropriate to refer to “Contracting States to the Chicago Convention”. There were however instances where it was inappropriate to refer to Contracting States such as in the phrase “Contracting States of ICAO” whereby reference to the “Member States of ICAO” was clearly more suitable. In relation to the vote to take place at the Assembly session on this issue, A/D/LEB explained that pursuant to Article 94 (a) of the Chicago Convention, the requirement was for a two-thirds vote of the Assembly for adoption of the protocol and that it would additionally require at least two-thirds of the membership of ICAO to ratify it.

20. In response to related questions from the Representatives of India and Spain on whether the vote at the Assembly session would require a two-thirds majority of all ICAO Member States or only two-thirds of those Member States present at the session, A/D/LEB clarified that the vote required two-thirds of Member States present at the Assembly session but that the ratification process would require two-thirds of all ICAO Member States. Although it would not be possible to determine what would constitute a two-thirds majority vote at the Assembly session until it was known how many Member States were present, it was possible at this stage to determine that for any ratification part of the process, two-thirds of 191 Member States would necessitate 128 States to express their agreement.

21. In response to a supplementary question from the Representative of Malaysia who sought clarification on whether previous C-DECs on this issue had accurately reflected the conclusions of the Council in agreeing or otherwise with the recommendations of the WGGE, the President of the Council explained that the C-DECs of previous Council sessions had already been confirmed by the Council. His recollection was that the relevant C-DECs on this issue did in fact accurately record the outcomes of previous discussions but he noted that in any case the issue would ultimately be decided by the Member States at the Assembly session as was appropriate and in accordance with ICAO procedures.

22. The Council then approved the draft Assembly working paper appended to C-WP/13981 for transmission to Member States as documentation for the 38th Session of the Assembly.

Subject No. 17.1: Joint financing agreement with Iceland

Subject No. 17.5: Joint financing agreement with Denmark

**Recommendations of the Joint Support Committee related to items under the
Danish and Icelandic Joint Financing Agreements reviewed during the 199th Session**

23. This subject was documented for Council consideration in C-WP/13920, presented by the Joint Support Committee (JSC).

24. In his introductory statement, the Chairperson of the Joint Support Committee (Representative of Singapore), highlighted some key points in the working paper. He observed that report JS-WP/1984 outlined an upgrading of the multiplexing system and that to support air navigation systems in the Reykjavik Control Area, there was a need for connectivity to various surveillance and communications sources, as well as voice and data connections to adjacent centres. It was noted that the

manufacturer of the multiplexers was scheduled to cease production of the system at the end of 2013. Therefore, this project was necessary to maintain the latest developments in aviation technology. The project was being fully supported by ICAO and carried an estimated value of US \$788,000. This amount would be fully allocable to international civil aviation and recovered through user charges.

25. In report JS-WP/1985 discussion took place of the upgrade of the Voice Communications Control System (VCCS). It was noted that there are two VCCSs dedicated to the Reykjavik Control Area and both are fully digital but they do not support the voice over internet protocol (VOIP) external connections. Therefore, an upgrade was required to ensure the latest trend in aviation technology and the cost was US \$737,000. This project was being supported by ICAO and 94 per cent of the cost would be allocable to international civil aviation and recovered through user charges.

26. Report JS-WP/1986 dealt with the refurbishment of the operations area of the Reykjavik Oceanic Area Control Centre (ROACC). The JSC noted that the design of the control room in the ROACC was approximately 20 years old, and the consoles are problematic in terms of the development of the centre. There was a need for new working positions and these need to be flexible to fulfil all relevant ergonomic regulations and address various environmental concerns. This project costs US \$1.459 million and it was fully supported by ICAO. The costs would be 94 per cent allocable to international civil aviation and recovered through user charges.

27. Report JS-WP/1987 addressed the renewal of weather measurement units at the Keflavik observation station. The JSC noted that most of the meteorological services in Keflavik had been provided through the use of US Navy facilities, which had since closed. The Icelandic Meteorological Office (IMO) was proposing to introduce a new system that would perform all conventional weather measurements as well as measurements of volcanic ash, cloud density, cloud height, through the use of lighter technology. The IMO station which services international aviation requirements represents 25 per cent of the total project investment with this costing US \$302,000. It would be 100 per cent allocable to international civil aviation and recovered through user charges for meteorological services.

28. Finally, report JS-WP/1988 outlined proposed amendments to Annex III, Section I to the Icelandic Joint Financing Agreement. Currently, the maximum number of regular personnel charged for meteorological services was 18.5 individuals. IMO proposed to increase this to 19.5 in order to accommodate staff training needs in accordance with the World Meteorological Organization (WMO) and ICAO competency requirements, as well as to meet continuous professional development standards. This would represent a more cost-effective option compared to covering training periods with replacements made in overtime. The cost was US \$70,000, which would be 100 per cent allocable to international civil aviation and recovered through the user charges for meteorological services.

29. In concluding his remarks to the Council, the Chairperson of the JSC noted that the issues covered in the above-mentioned reports had been presented to the user community at the consultation meeting in Reykjavik, Iceland, in August 2012. All the issues had been included in the Business Plan presented to the JSC in September 2012. The JSC agreed with the recommended actions in all the papers, which are outlined in the executive summary of these papers.

30. The Representative of Spain welcomed the comprehensive nature of the JSC report and thanked the Chairperson of the JSC for facilitating consideration of all issues. He observed that there was a range of complex matters that had been examined by the JSC and they should be understood in the context of the overarching management plan already seen by the Committee.

31. In taking the action recommended by the JSC, the Council then approved the action recommended in the executive summaries of reference documents JS-WPs/1984, 1985, 1986, 1987 and 1988, as indicated in paragraph 2 of C-WP/13920.

Subject No. 24.2: Assembly agenda and documentation

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

**Draft Assembly working paper – Declaration on Aviation Security and
the ICAO Comprehensive Aviation Security Strategy (ICASS)**

32. This item was presented in a joint oral report from the Committee on Unlawful Interference (UIC) and the Finance Committee (FIC). In his introductory remarks, the Chairperson of the Committee on Unlawful Interference (Representative of the United States) indicated that a joint meeting of the Committee on Unlawful Interference and the Finance Committee was held on Friday, 3 May 2013, to consider C-WP/13988, which presented a draft Assembly working paper on the Declaration on Aviation Security and the ICAO Comprehensive Aviation Security Strategy (ICASS). The Committees had requested further details on the projected increase in spending of voluntary contributions to \$5.29 million for 2014-2016 compared to the projected amount of spending during the 2011-2013 period for ICASS Strategic Focus Area 4. The Committees were informed that at the beginning of the current triennium, income from voluntary contributions substantially exceeded the level of spending, but this situation altered following implementation of the ICAO Aviation Security Assistance and Capacity Building Strategy. New mechanisms and partnerships had also been established so that funds can be used effectively and efficiently under the framework of State Improvement Plans.

33. The Committees requested clarification on Appendix B, including on whether there was a shortfall at 31 March 2013, or whether the closing balance indicated a projected deficit at the end of 2016. To ensure greater precision in financial reporting, the Committees agreed that Appendix B should be revised to include additional explanatory text for greater clarity and transparency on the financial position of the ICASS. It had also been suggested that the working paper reflect in-kind contributions in the form of long-term secondments of aviation security experts. The Committees expressed their overall satisfaction with the draft Assembly working paper, however, given the views and concerns expressed by the Committees, the Secretary General was requested to revise C-WP/13988.

34. By way of additional background to this item, the Secretary General confirmed that following the joint meeting of the UIC and FIC, the Secretariat had revised C-WP/13988 so as to improve the presentation and accuracy of financial information provided in Appendix B taking into account developments since March 2013 when the paper was originally prepared. He observed that the ICAO Aviation Security Programme would not have been possible without the generous in-kind contributions and assistance received, which was why he thought it necessary to include a list of those Member States who had provided in-kind assistance in the current triennium.

35. The Representative of Japan indicated that in the course of the Committee's consideration of this item, he had expressed concern as to the projected increased in expenditure for the ICASS Strategic Focus Area 4. He emphasized the need for the Secretariat to exercise greater care in the future when such expenditures were under consideration and to demonstrate more efficiency and transparency when reporting on the financial position of the ICASS.

36. In relation to the extra-budgetary amount of \$6.3 million referred to in paragraph 3.2.3 of the draft Assembly working paper, the Representative of France noted that this represented a significant

amount in the overall budget context and that the level of voluntary contributions carried implications for the regular budget. In this connection, additional explanatory information would be required from the Secretariat about the amounts contained in the working paper.

37. On a separate matter, the Representative of France observed that the use of the word “threat” in the working paper, such as in Appendix B, was somewhat inappropriate when the word “risk” might have been more suitable in this context. He noted that the word “threat” was more appropriate in the context of a discussion about terrorism whereas “risk” was more suitable in the context of a discussion about a budget or resources. The Representative encouraged the Secretariat to exercise greater precision in the vocabulary it used in working papers presented to the Council.

38. In relation to the final column of Appendix A of the draft Assembly working paper, which outlined “Expected results”, the Representative suggested that the Secretariat should carefully examine how the results would be assessed, which was crucial in measuring the overall results achieved in the ICASS implementation. He acknowledged that it was not always possible to outline specific details at this point but more detail was certainly required for some items.

39. The Representatives of the Russian Federation and Spain sought clarification on the amounts contained in the income and expense statement in Appendix B of the draft Assembly working paper and specifically whether the amount of voluntary contributions indicated was consistent with the amounts referred to in paragraph 3.2.3. They noted that Appendix B suggested a projected deficit of \$1.993 million as at 31 December 2016, which would negatively impact the availability of resources referred to in paragraph 3.2.3. The Representatives were concerned at the potential inconsistency in the figures contained in the documentation.

40. The Chief, Aviation Security Branch (C/AVSEC) explained that the amount of \$6.3 million, which was referred to in paragraph 3.2.3 corresponded to the amount of \$6,305,000 indicated in the table in Appendix B. He also drew attention to the balance as at 31 March 2013, which was \$4.3 million and which when subtracted from the projected expenditures until the end of the coming triennium, would result in a projected deficit of \$1.93 million. In this context, the balances and figures contained in the documentation had been verified by the relevant finance staff in ICAO.

41. In a supplementary question, the Representative of the Russian Federation referred to paragraph 3.2.3, which indicated that the estimates applied to the 2014-2016 triennium. However, this was in contrast to the information contained in the table in Appendix A, which suggested that the indicated expenses would only begin as of 1 April so that this was based on a projection of expenses.

42. In response, the Chief, Aviation Security Branch (C/AVSEC) accepted that the challenge had been to present the amounts as accurately as possible and compliant with the requirements of the ICAO financial systems but this would not be possible until 1 April 2013. Nevertheless, he did not perceive that this would significantly affect the overall message in the working paper.

43. On the same matter, the Representative of Spain suggested that it might be useful if paragraph 3.2.3 was redrafted in order to clarify that the amount of \$6.3 million was in addition to existing amounts. He understood that there was about \$4 million that was available now, which meant there would be a deficit of \$1.9 million. The Representative emphasized the need to be accurate and precise in regard to the amounts and also to ensure consistency between paragraph 3.2.3 and Appendix B. In response, the President of the Council requested that the Secretariat revise the information and figures contained in the draft Assembly working paper.

44. The Representative of Paraguay sought further information on the reasons behind the 300 per cent increase in expenditure that was foreshadowed for projects related to promoting global compliance, as indicated in Appendix B.

45. In response, the Chief, Aviation Security Branch (C/AVSEC) explained that a significant proportion of the foreshadowed increase in expenditure in this area related to the appointment of an AVSEC Officer in a number of ICAO Regional Offices in order to provide support to States, including direct compliance related assistance. The costs associated with these new posts over a three-year period, in addition to the activities to be undertaken, represented a significant proportion of the foreshadowed \$5.3 million expenditure.

46. The Council then approved the draft Assembly working paper appended to C-WP/13988 Revised concerning development pertaining to existing mandates on aviation security, for transmission to Member States as documentation for the 38th Session of the Assembly. Proposed amendments to the text of paragraph 3.2.3 of the draft Assembly working paper, which is appended to C-WP/13988, would be taken into account by the Secretariat and reflected in the final version of the Assembly working paper.

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

Directives for Panels of the Committee on Unlawful Interference

47. The Council considered C-WP/13928, in which the Secretary General presented issues relating to proposed panel directives, along with an oral report thereon by the Chairperson of the Committee on Unlawful Interference (UIC).

48. This item was introduced by the Chairperson of the Committee on Unlawful Interference (Representative of the United States), who indicated that the proposed directives reflected the recommendations of the twenty-fourth meeting of the Aviation Security (AVSEC) Panel, held from 8 to 12 April 2013. The Committee on Unlawful Interference (UIC) had noted that there were other panel directives in existence and that the purpose of the proposed directives was to provide greater clarity, given that the AVSEC Panel has been governed by directives for panels of the Air Transport Committee, even though the Panel reports to the UIC. Noting that the proposed directives are intended to be applied to the Panels of the UIC, clarification had been sought on whether the AVSEC Panel is in fact a Panel of the UIC or a Panel of the Council. In this regard, the President of Council clarified that the AVSEC Panel was established by the Council but reported to the Council through the UIC.

49. The Chairperson of the UIC explained that in light of the interest in ensuring the directives were directly applicable to the AVSEC Panel, it had been suggested that the task of modernizing Panel arrangements could be broadened to include a review of the directives of all Panels supporting the work of ICAO.

50. In relation to a number of provisions contained in the proposed directives, the UIC had noted that one Committee member questioned the need to restrict membership when, in practice, there was a high level of participation at the AVSEC Panel, such as at the most recent AVSEC Panel meeting, which was attended by 157 participants. Another Committee member had suggested that rules concerning the roles of the Chairperson and Vice-Chairperson might benefit from redrafting to enhance clarity. In light of the Committee's observations, it was agreed that the draft directives for Panels of the UIC

contained in C-WP/13928 should not be presented to the Council for consideration at this time. Rather, the proposed directives should be presented to the Working Group on Governance and Efficiency (WGGE) for its consideration, with a view to possibly developing a single set of directives applicable to all Panels of ICAO. Consideration could also be given to directives or procedures of other expert groups.

51. In response to a question from the Representative of Denmark who sought clarification on whether the WGGE was being requested to develop a single set of directives applicable to all Panels of ICAO, and if so, whether this would also include the ANC, the Chairperson of the Committee on Unlawful Interference explained that there had been considerable disagreement at the Committee on the issue of developing a single set of directives. He indicated that the Committee was well aware how different the AVSEC Panel requirements were and although he did not wish to presume what conclusions the WGGE would draw, he nevertheless acknowledged that a single set of directives might not be possible.

52. On the same matter, the President of the Council proposed that the WGGE be given the opportunity to at least consider whether it was possible to develop a single set of directives. Not all the Panels were governed by the same set of rules of procedure so his recommendation was that the WGGE simply review the possibility of developing a single set.

53. The Representative of Spain observed that at the AVSEC Panel meeting there had been 157 participants so one of the considerations would be whether or not to limit the number of Panel members. In his view the AVSEC Panel and the ANC Panels were remarkably different. Therefore, it would be difficult to have the same rules for all ICAO Panels so in his view the WGGE should focus on the UIC Panels. The Representative also suggested that the WGGE took into account the work that the ANC had already done in streamlining its Panel structures. Although not opposed to a single set of directives the Representative observed that this exercise would need to explore different options.

54. The Representative of the United Kingdom stated that it would be important in this exercise to keep the scale of the work under control. One of the features of the review of the directives in relation to the AVSEC Panel was that the proposals were improved greatly by having the directives discussed at some length by members of the panel themselves. If this review exercise was expanded to include other Panels, then it would potentially develop into an unwieldy and wide-ranging exercise. In the course of this exercise if options developed that could be applied to other Panels, then this would of course be welcome but the primary focus in this instance should be on exploring ways to help the AVSECP apply its approved directives.

55. In noting that she was present at the UIC meeting when this issue was discussed, the Representative of Australia recalled that the focus was predominantly on those Panels that were connected to the ATC and UIC. Nevertheless, when the WGGE considers this issue, it should not necessarily preclude a wider examination if that helped. While there might be scope for an across-the-board review to at least derive a core set of directives that could potentially apply to all ICAO Panels, there would need to be some recognition of the differing nature of individual Panels. In that context, while the WGGE focused on the ATC and UIC Panels, it might nevertheless benefit in understanding what the ANC was also doing in the same vein.

56. The Representative of the Russian Federation observed that one of the factors that would need to be taken into account was that the text of the directives per se would need to be revised. This would take time and while it was not necessary for this to be done in the lead-up to the Assembly, there would be a need for this to be carefully coordinated with all the stakeholders in the future.

57. In observing that there existed a the wide divergence of views on this question, the Representative of Germany expressed support for inviting the WGGE to at least consider the issue and to report back to the Council.

58. In taking the action recommended in the oral report by the Chairperson of the Committee on Unlawful Interference, the Council agreed that the proposed *Directives for Panels of the Committee on Unlawful Interference*, as contained in the Appendix to C-WP/13928, should be presented to the Working Group on Governance and Efficiency (WGGE) for its consideration, with a view to developing a single set of directives applicable to all Panels of ICAO.

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

**Draft Assembly working paper – Outcomes of the High-level
Conference on Aviation Security**

59. The Council considered C-WP/13987, in which the Secretary General presented on the outcomes of the High-level Conference on Aviation Security, along with an oral report thereon by the Chairperson of the Committee on Unlawful Interference (UIC).

60. In introducing this item, the Chairperson of the Committee on Unlawful Interference (Representative of the United States), indicated that the draft Assembly working paper summarized the outcomes of the High-level Conference on Aviation Security (HLCAS) held in Montréal from 12 to 14 September 2012, and provided a number of follow-up actions and activities to be carried out by the Secretariat. The UIC had noted that the Council, at its 197th Session, approved these follow-up actions and activities.

61. Referring to paragraph b) of the Appendix of the working paper, the Chairperson of the UIC drew attention to agenda item 6 concerning “Ensuring the sustainability of aviation security measures – Equivalence”, to which one of the Committee members had noted that many air services agreements currently in place between Member States did not include provisions addressing aviation security. In this respect, the Secretariat had agreed that the proposed State letter communicating guiding principles for sustainable aviation security measures should urge the inclusion of such provisions when developing or updating bilateral or multilateral air services agreements.

62. In taking the action indicated in the executive summary of C-WP/13987, the Council approved the draft Assembly working paper appended to C-WP/13987 concerning the outcomes of the High-level Conference on Aviation Security (HLCAS), which was held in Montréal in September 2012, for transmission to Member States as documentation for the 38th Session of the Assembly.

Subject No. 46: Edward Warner Award

Report of the Edward Warner Award Committee

63. In introducing this item, the President of the Council indicated that although in the past this item had been dealt with in a closed meeting and the working paper had been circulated on a Restricted basis, he would propose that in future, the Council dealt with this item in an open meeting since there was no apparent reason why it should not be the case.

64. In relation to the Edward Warner Committee, the President explained that it had met twice to consider the five nominations received in response to the State letter of 22 June 2012. The Committee had carefully examined the nominations received and concentrated its attention on a group of candidatures deserving particular consideration. Having discussed the merits of these candidates, the Committee decided to recommend to the Council that the Fortieth Award be bestowed on Dr. Assad Kotaite. In making this recommendation, the Committee acknowledged the eminent contribution of Dr. Kotaite to the development of international civil aviation in particular through his long association with ICAO as a jurist, Representative on the Council, Secretary General and subsequently as President of the Council. Attention was also drawn to Dr. Kotaite's dedication to international civil aviation and his successful career over many years.

65. As a member of the Edward Warner Award Committee, the Representative of Slovenia expressed support for the recommendation of presenting the Award to Dr. Kotaite. He also took the opportunity to suggest that the Secretariat consider options for maintaining the Award funding base.

66. On the same matter, the President of the Council noted that the report of the financial situation of the Fund would be distributed to the members of the Committee in due course and thereafter it would be distributed for information purposes to the Council. The statement once it was finalized would reflect the voluntary contributions which had been received and in this regard he expressed appreciation to all Representatives who had facilitated contributions from their countries to the Fund.

67. As a member of the Edward Warner Award Committee, the Representative of Nigeria also expressed support for the Award being presented to Dr. Kotaite, who in his view was an eminently suitable and deserving recipient. In relation to the financial situation of the Fund, the Representative took the opportunity to inform the Council that Nigeria would shortly be contributing \$2000 to the Edward Warner Award Fund.

68. Following a review of C-WP/13978 Restricted Revised, presented by the Chairman of the Edward Warner Committee, the Council approved the Committee's recommendation to bestow the Fortieth Edward Warner Award upon Dr. Assad Kotaite. It was understood that the Award would be presented during the 38th Session of the Assembly.

Any other business

Appointment of a new Member and Observers on the Committee on Aviation Environmental Protection (CAEP) (Subject No. 50)

69. In the absence of comments by 18 March 2013 to the President of the Council's e-mail dated 8 March 2013, Dr. Muni Majjigi has been appointed as the new CAEP Observer nominated by the International Coordinating Council of Aerospace Industries Associations (ICCAIA) to replace Mr. Paul Madden with effect from 19 March 2013.

70. Also, in the absence of comments by 18 March 2013 to the President of the Council's e-mail dated 8 March 2013, Mrs. Marie Hakanen has been appointed as the new CAEP Member nominated by Sweden to replace Mr. Kalle Keldusild with effect from 19 March 2013.

71. In addition, in the absence of comments by 9 April 2013 to the President of the Council's e-mail dated 13 March 2013, Mr. Rachid Tiroual has been appointed as the new CAEP Observer nominated by the Arab Civil Aviation Commission (ACAC) to replace Ms. Maryam Al Balooshi with effect from 10 April 2013.

Member nominated by Belgium on the High-Level Group on International Aviation and Climate Change (HGCC) (Subject No. 50)

72. In the absence of comments by 15 March 2013 from a majority of the members of the Council in response to the President of the Council's e-mail dated 11 March 2013, it was assumed that the Council agreed to the continued participation of Mr. Jos Delbeke as a member nominated by Belgium on the HGCC.

Public Key Directory (PKD) Membership (Subject No. 15.4)

73. In the absence of comments by 29 April 2013 to the President of the Council's e-mail dated 23 April 2013, Major General Ahmed Nasser Al Raisi (United Arab Emirates) has been appointed as a Member of the PKD Board to replace Major General Matar Salem Al Neyadi from April 2013 to the end of the three-year term in July 2014.

Appointment of a Member of the Commission of Experts of the Supervisory Authority of the International Registry (CESAIR)

74. In the absence of comments by 9 May 2013 to his memorandum PRES RK/2163 dated 11 April 2013, the President of the Council appointed Mr. Paulinus Okoronkwo to replace Mrs. Anastasia Aver Gbem on the Commission of Experts of the Supervisory Authority of the International Registry (CESAIR) for the remainder of her term, i.e. until 1 July 2015.

Request from the European Union (EU) to participate as Observer in closed meetings of the Council on aviation security (Subject No. 10)

75. In the absence of comments by 1 May 2013 to the President of the Council's e-mail dated 17 April 2013, Mr. Christopher Ross, Head of Office, Office of the European Union (EU) in Montréal, has been invited, in accordance with Rules 32 a) and 38 of the *Rules of Procedure for the Council* (Doc 7559), to participate as Observer on behalf of the EU during the current (199th) Council's consideration, in closed session, of all items related to aviation security.

Request from the Banjul Accord Group Aviation Safety Oversight Organisation (BAGASOO) to participate in ATConf/6 as an Observer (Subject No. 10)

76. In the absence of comments by 14 March 2013 to the President of the Council's e-mail dated 12 March 2013, the Banjul Accord Group Aviation Safety Oversight Organisation (BAGASOO) was invited to participate as Observer in ATConf/6.

Request from the Association of Asia Pacific Airlines (AAPA) and the Latin American and Caribbean Air Transport Association (ALTA) to attend the Symposium on Aviation and Climate Change, “Destination Green” as Observers. (Subject No. 50)

77. In the absence of comments by 17 April 2013 to the President of the Council’s e-mail dated 11 April 2013, the Association of Asia Pacific Airlines (AAPA) and the Latin American and Caribbean Air Transport Association (ALTA) were invited to participate in the ICAO Symposium on Aviation and Climate Change, “Destination Green” as Observers.

Request from the World Wildlife Fund (WWF) to attend the ICAO Symposium on Aviation and Climate Change, “Destination Green”, 14-16 May 2013, Montréal, Canada as an Observer (Subject No.10)

78. In the absence of comments by 8 May 2013 to the President of the Council’s e-mail dated 6 May 2013, the World Wildlife Fund (WWF) has been invited to participate as Observer during the ICAO Symposium on Aviation and Climate Change, “Destination Green”

Council Decision 197/7 – Adoption of Amendment 13 to Annex 17 (Subject No. 14.1.1)

79. In the absence of comments by 3 May 2013 to the President of the Council’s memorandum PRES RK/2167 dated 26 April 2013, it is considered that the proposed revisions to the French text of C-DEC 197/7 is agreed by the Council and a corrigendum to State letter AS 8/2.1-12/63 Confidential will be distributed to States and international organizations.

80. The meeting adjourned at 1615 hours.

COUNCIL — 199TH SESSION

SUMMARY MINUTES OF THE SECOND MEETING

(THE COUNCIL CHAMBER, WEDNESDAY, 22 MAY 2013, AT 1000 HOURS)

OPEN MEETING

President of the Council: Mr. Roberto Kobeh González

Secretary: Mr. Raymond Benjamin, Secretary General

PRESENT:

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

ALSO PRESENT:

Mr. P. Jardim (Alt.)	— Brazil
Mr. J.L. Viera (Alt.)	— Brazil
Mr. M. Delisle (Alt.)	— Canada
Mr. Chunyu Ding (Alt.)	— China
Mr. D. Blanco Carrero (Alt.)	— Colombia
Mr. R. Geirhovd (Alt.)	— Denmark
Mr. A. Bardaro (Alt.)	— Italy
Ms. M. Furuata (Alt.)	— Japan
Mrs. D. Valle Álvarez (Alt.)	— Mexico
Mrs. L. Camacho Bueno (Alt.)	— Peru
Mr. J. Lazo Escalante (Alt.)	— Peru
Mr. Hwang, S.-Y. (Alt.)	— Republic of Korea
Mr. Kang, M. (Alt.)	— Republic of Korea
Mr. A. Almoghraby (Alt.)	— Saudi Arabia
Mr. K. Ferjan (Alt.)	— Slovenia
Ms. M. Polkowska (Alt.)	— Slovenia
Mr. R.A. Al Kaabi (Alt.)	— United Arab Emirates
Mr. J. L. Novak (Alt.)	— United States

SECRETARIAT:

Mr. D. Azema	— DC/OSG
*Dr. Fang Liu	— D/ADB
*Mr. B. Djibo	— D/ATB
*Mr. J. Augustin	— A/D/LEB
*Mr. J. Marriott	— C/AVSEC
*Mr. A. Quiroz	— C/ASA
*Mr. B. Verhaegen	— SELO
*Mr. A. Djojonegoro	— SFP
Miss S. Black	— Précis-writer

*Part-time

Representatives to ICAO

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

Subject No. 24.2: Assembly Agenda and documentation
Subject No. 32.1: Headquarters premises

**Draft Assembly working paper – Consideration of proposals
to move the permanent seat of ICAO**

1. The Council had for consideration C-WP/14049 presented by the Secretary General, to which was attached a draft Assembly working paper providing specific information on the legal framework and related procedural aspects governing the consideration of proposals to move the permanent seat of ICAO. The Assembly was invited to: a) specify the number of votes required to decide on the transfer of the permanent seat of ICAO, which, under Article 45 of the Chicago Convention, shall not be less than three-fifths of the total of ICAO's membership; and b) vote on the offer from Qatar to host the Headquarters of ICAO set forth in a separate Assembly working paper (A38-WP/10).

2. In providing supplementary information, the Secretary General indicated that he had received a letter dated 11 April 2013 from the Chairman of the Qatar Civil Aviation Authority conveying an offer from Qatar to host the Headquarters of ICAO as from December 2016. By President's memorandum PRES RK/2166 dated 22 April 2013, the President of the Council had informed Representatives of this offer and outlined the rules governing the matter. Assembly working paper A38-WP/1 Revised had been issued on 3 May 2013 amending the Provisional Agenda for the 38th Session of the Assembly to include a new Agenda Item 7 bis: Consideration of the State of Qatar's Offer to Host the Headquarters of the International Civil Aviation Organization (ICAO). Lastly, the Secretary General had received, on 2 May 2013, an offer from Qatar to host the Headquarters of ICAO which would be issued as Assembly working paper A38-WP/10 on Friday, 24 May 2013, and distributed to all Member States in the Organization's six working languages. An informal briefing thereon had been given to the Council by Qatar on 24 April 2013.

3. During the ensuing discussion, the Representatives of France, India and Burkina Faso thanked Qatar for its generous offer.

4. The Representative of France noted that the draft Assembly working paper now under consideration outlined procedures which were well-known and very clear. Its executive summary and action paragraph created difficulties, however. In affirming that it was quite legitimate for a Member State to request that an additional item be placed on the Provisional Agenda for an Assembly, he recalled that it had been done for previous Assemblies. In such circumstances, when a Member State made a proposal to the Assembly in the form of a working paper, the Council was in no way tasked with making recommendations thereon to the Assembly and even less to recommend that the latter vote on it. The Representative of France observed that whereas all working papers presented under all Agenda Items could be submitted to a vote, none of the other working papers for the 38th Session of the Assembly invited the Assembly to vote thereon. Noting that the Council was unfamiliar with the contents of A38-WP/10, he emphasized that the Council was unable to take a position on the draft Assembly working paper attached to C-WP/14049 as it did not have all the necessary information.

5. The Representative of France underscored that although Article 45 of the Chicago Convention accorded the Assembly the power to decide to change the permanent seat of ICAO, it did not stipulate how specific cases should be dealt with, notably the case where there was a Headquarters Agreement in force with a Member State. As far as he was aware, the Assembly had never intended to change the permanent seat of the Organization, an important point which should be taken into consideration by the Council. On the contrary, the 1990 Headquarters Agreement between ICAO and the Government of

Canada was still in force, as was the 1999 Supplementary Agreement thereto. The Council had requested the Secretary General to negotiate the conditions for the renewal of that Supplementary Agreement and had subsequently given him the green light to sign the resultant new Supplementary Agreement on ICAO's behalf (cf. C-WP/13904; 198/10). Affirming that there was no law which precluded the Secretary General from doing so, the Representative of France underscored that he should sign the new Supplementary Agreement as soon as possible; otherwise, it would be necessary for him to give the legal justification for not taking such action.

6. The Representative of France nevertheless noted that nothing prevented the Assembly from changing the permanent seat of the Organization, including the existence of a Headquarters Agreement. If that were to occur, then the current Headquarters Agreement would automatically be rendered null and void. In emphasizing that the Council could not present this issue to the Assembly without providing it with all of the information required to take a position, he underscored that that included a comparative analysis of the offer by Qatar and the recent offer by the Government of Canada. Such a comparative analysis should encompass not only the privileges and immunities of ICAO's staff and diplomatic community but also the impact of the proposed move on the Organization itself and its operations. As not all of the staff, whether Professional or General Service category, would agree to be relocated, regardless of where the new Headquarters would be, it was necessary to study the financial implications and the significant loss of capacity resulting from the proposed move. The role of the Council, which was the guardian of the smooth functioning of ICAO and of the development of international civil aviation, would be to take a stance on all of the various aspects of a change in the Organization's permanent seat. The Representative of France stressed that before the Council could recommend that the Assembly vote on the offer from Qatar, it would have to analyze the procedures for dealing with such an unprecedented situation. The Secretariat should be requested to make proposals to the Council in that regard.

7. Referring to action paragraph a) of the draft Assembly working paper, the Representative of France indicated that if the Council wished to make a recommendation regarding the number of votes required for the Assembly to decide on the transfer of the permanent seat of ICAO, then it should recommend a number that was sufficiently high so as to ensure that all of the regions represented at the Assembly would be stakeholders: a minimum of 75 per cent of ICAO's total membership.

8. The Representatives of Colombia, the Russian Federation, Cameroon, Denmark and Uganda endorsed these comments.

9. Recalling that the request which he had made during the last session (198/10) to defer the Council's consideration of the draft Supplementary Agreement had not been acceded to, presumably as he had been the only Representative making such a request, the Representative of India observed that the signature of the Supplementary Agreement had been postponed, apparently due to Qatar's offer.

10. Underscoring that a decision on transferring the permanent seat of ICAO could not be taken in a hurry as such a move would entail a displacement of work and people and affect the livelihoods of many, the Representative of India indicated that he had sent an e-mail to the President of the Council on 16 May 2013 seeking a postponement of Council's consideration of C-WP/14049 to later in the current session to enable him to obtain approval of his views from his Government. In reiterating his request, he emphasized that it would only be possible for Representatives, in line with their national administrations, to take a decision thereon once A38-WP/10 was issued. The Representative of India understood that, regardless of the Council's views, the matter had to be presented to the Assembly, although there was an opposing view from a recently-retired colleague. Stressing that it needed careful consideration, he averred

that the Council was not in a position to arrive at a decision on the draft Assembly working paper attached to C-WP/14049 during the present meeting. Referring to action paragraph a) thereof, the Representative of India recalled that Article 45 already specified a minimum number of votes required to decide on a proposal to transfer the permanent seat of ICAO, namely, not less than three-fifths of the total number of Member States (191). He indicated that if Qatar had the required 115 votes, then its offer was realistic and action paragraph a) became redundant.

11. The President of the Council underscored that it was for the Assembly, and not the Council, to review, evaluate and decide on the said offer from Qatar. C-WP/14049 had been presented to give the Council the opportunity to provide the Assembly with information on the legal framework and relevant procedures for considering the offer from Qatar. While the Council could amend the draft Assembly working paper attached thereto and make recommendations, it could not present comments on the offer from Qatar as that was not its role under the Chicago Convention. If, on the other hand, the Council decided not to present a working paper, then the Secretariat would clarify procedural matters during the Plenary meeting at which Qatar's proposal would be considered.

12. The Representatives of Colombia, the United States, Cameroon, Slovenia and Australia spoke in favour of the suggested threshold of 75 per cent for the vote on Qatar's proposal. In so doing, the Representative of Colombia underscored that it was a crucial decision by the Assembly which would have a huge impact on the Secretariat, as well as on the national delegations. He noted that some national delegations might decide to no longer be represented at ICAO. In further observing that it might not be economically feasible for some States to attend ICAO meetings if they were convened at a different Headquarters, the Representative of Colombia emphasized that a move of its permanent seat would constitute an important change for ICAO itself. The Representative of Cameroon shared this view, as well as the view expressed by the Representative of France.

13. The Representative of the United Kingdom considered that there was much merit in setting the minimum threshold above 60 per cent.

14. The Representative of the United States recalled that when the current text of Article 45 of the Chicago Convention had been adopted on 14 June 1954, three-fifths of the total number of Member States had seemed to be a high number. There were, however, some cases requiring a higher threshold, such as approval by a two-thirds vote necessary for the adoption of Annexes and Annex amendments by the Council and the adoption of amendments to the Chicago Convention by the Assembly. There were also some special cases where an even higher threshold was required. Moving the permanent seat of ICAO necessitated one of the highest thresholds, 75 per cent. The United States was not in favour of moving the Organization's permanent seat anywhere as it considered that it would be very disruptive for the staff and the Organization's work.

15. While agreeing that the Council, a political body, had the right to make a recommendation to the Assembly on the number of votes required to decide on the transfer of the permanent seat of the Organization, the Representative of Brazil expressed reservations about setting a minimum threshold. Such action would give the impression that the Council was abandoning its position of neutrality. Moreover, raising the minimum threshold from three-fifths (60 per cent) to 75 per cent would be prejudicial to Qatar's proposal and would compromise the Council's desired neutrality. The Representatives of the United Arab Emirates and Saudi Arabia shared this view, with the latter emphasizing the need for the Council to be objective at all times. The Representatives of Burkina Faso and France agreed that it was important for the Council to demonstrate its neutrality.

16. The Representative of the Republic of Korea observed that the draft Assembly working paper was missing a significant element: the status of the existing Headquarters Agreement between ICAO and the Government of Canada and the decision taken by the Council (198/10) regarding a new Supplementary Agreement thereto. He averred that it was the Council's duty to not only clarify voting procedures but also provide background information on that important element to facilitate the Assembly's decision-making. The Representatives of the Russian Federation, Cameroon, Singapore, the United Kingdom, Denmark, Paraguay, the United Arab Emirates, Swaziland, Uganda and Australia concurred.

17. In so doing, the Representative of Singapore suggested that action paragraph b) of the draft Assembly working paper be amended to indicate that the Assembly was invited to vote on whether to consider transferring the permanent seat of ICAO elsewhere, taking into account the terms and status of the existing Headquarters Agreement and Supplementary Agreement with the Government of Canada. He underscored that there should be a clear, open and transparent procedure to follow in the event that the Assembly did decide to move the Organization's permanent seat. The Representative of Singapore agreed with the Representative of France that the Secretariat should do a comparative analysis of the offers by Qatar and Canada, as well as a more detailed study of the potential impacts of such a transfer. In emphasizing that it might be necessary to open up the process as there might be other States interested in making an offer to host the Organization, the Representative of Singapore recalled that when the issue of the permanent seat of ICAO had first been considered, there had been four offers on the table, of which Canada's had been one.

18. In providing clarifications, the Secretary General recalled that the Council had mandated him to negotiate a new Supplementary Agreement, not a new Headquarters Agreement. The Headquarters Agreement which had been concluded with the Government of Canada in 1990 had never been the subject of any discussions between him and the Canadian authorities. What had been under discussion had been the conditions under which the ICAO Headquarters premises would be governed after the current lease expired on 30 November 2016. The Secretary General noted that when he had submitted the resultant draft Supplementary Agreement to the Council on 11 March 2013 (cf. C-WP/13904; 198/10), the Council had agreed with his assessment that the text was satisfactory from ICAO's point of view. It had endorsed the new 20-year Supplementary Agreement and authorized, not instructed, him to sign it on behalf of ICAO. The Secretary General recalled that during that meeting, he had "noted that Canada would be in a position to sign the Supplementary Agreement after completion of its own process, which required final governmental approval at the Cabinet level. After the signature, and following the completion of a 21-day tabling period in the House of Commons, Canada would be in a position to ratify the Supplementary Agreement. The latter would enter into force through an exchange of diplomatic notes between ICAO and Canada but shall not take effect before 1 December 2016, as stipulated in Article VIII of the Supplementary Agreement." (cf. C-MIN 198/10, paragraph 17). The new Supplementary Agreement had not yet been signed due to the valid reasons given by the Government of Canada. The Secretary General had not obstructed its signature in any way.

19. Noting that he had problems with the action proposed in the draft Assembly working paper, the Representative of Belgium indicated that the Council had two options. The first option was to decide that it was necessary to set forth the provisions in force governing proposals to move the permanent seat of ICAO, in which case the working paper should be transformed into a factual information paper. The action paragraphs a) and b) should be deleted and the title changed accordingly.

20. The second option, which corresponded to the title of the draft Assembly working paper, was to consider the proposal by Qatar and make a recommendation to the Assembly. Although the President had indicated that the Council was not to consider Qatar's offer, the Representative of Belgium

maintained that it had the capacity to do so in order to facilitate the Assembly's work. In that case, the Council should discuss the advantages, disadvantages, and risks associated with Qatar's proposal, as well as the number of votes required to decide on the transfer of the permanent seat of ICAO. Such a discussion could not take place during the current meeting as Representatives had not yet seen the detailed proposal contained in A38-WP/10 and the deadline for the submission of proposals, 27 May 2013, had not expired.

21. The Representative of Belgium was open to both options. He could not, however, approve the draft Assembly working paper in the form presented. The Representative of Belgium also considered that the Council should propose to the Assembly that it review Assembly Resolution A8-5 (*Consideration of proposals to move the permanent seat*). While the right of each Member State to submit a proposal to the Assembly to transfer the permanent seat had to be respected, it was necessary to provide a better framework for exercising that right. The consequences for personnel and the continuity of ICAO's work were of such importance that it was necessary, in future, to define a longer period of time for the consideration of such proposals. The Representatives of Cameroon and Swaziland associated themselves with these comments.

22. The President clarified that while nothing precluded the Council from submitting an information paper to the Assembly, such a paper would not be presented. Once Qatar had introduced A38-WP/10, the Assembly would simply be informed that there was a related information paper. The Secretariat would provide any necessary clarifications during the deliberations.

23. The Representatives of the Russian Federation, Cameroon, Slovenia, Brazil, the United Kingdom, Denmark, Paraguay, the United Arab Emirates, Swaziland, Germany, Uganda, Malaysia and France voiced preference for an information paper. In underscoring that the Council was responsible for its contents, the Representative of the Russian Federation agreed with previous speakers that it should include information on the existing Headquarters Agreement and the new Supplementary Agreement, as well as the Council's recommendation regarding the number of votes required to decide on the transfer of the Organization's permanent seat. The Representative of Brazil emphasized that the paper should also provide information on the advantages and disadvantages of transferring the permanent seat of ICAO to Qatar. The Representative of the United Kingdom underscored that it should contain enough information to enable the Assembly to make a meaningful assessment of Qatar's proposal, including the disruptive cost of the move of the permanent seat in terms of retention of staff and recruitment of new staff. The Representatives of Denmark, Swaziland, Uganda and Australia reiterated the need to include information on the potential consequences of such a move.

24. In agreeing with the Representatives of France and Belgium and others on the need to provide a complete picture of Qatar's offer, the Representative of Germany emphasized that the information paper should not focus exclusively on purely monetary issues, such as the Supplementary Agreement between ICAO and the Government of Canada; rather, it should also highlight the potential impacts on the staff and the disruption of services and infrastructure. The Representative of Germany observed, in this context, that there was an entire aviation community that had been built around ICAO. Outlining these issues would make Member States aware that the transfer of the permanent seat of ICAO was not a matter that could be dealt with in one day. The Representative of Germany underscored that whereas it might have been correct fifty years ago to keep the permanent seat of ICAO open since the Organization had only recently been created, decades later it was a totally different situation and much more consideration had to be given to that issue.

25. Drawing attention to Article 54 (*Mandatory functions of Council*), paragraph n), of the Chicago Convention, which stipulated that the Council shall "Consider any matter relating to the Convention which any Contracting State refers to it", the Representative of the Russian Federation

maintained that the Council should consider Qatar's proposal. He suggested that discussion of the draft Assembly working paper attached to C-WP/14049 be deferred to later in the current session, after the expiration of the said deadline for notifying proposals. The Representatives of Slovenia and the United Kingdom supported such deferral.

26. In noting that he was open to either a working paper or an information paper, the Representative of the United States underscored that regardless of its form, the paper would have to clarify the potential consequences should a vote on Qatar's offer to host ICAO be successful. Observing that it might not be possible to achieve a high degree of agreement on a recommendation for the number of votes required to decide on the move of the Organization's permanent seat during the present meeting, in part because some Representatives might not have received their instructions from their national administrations, he indicated that he could accept deferring discussion of that issue.

27. The President of the Council stressed the need to take into account Assembly Resolution A8-5, which stipulated all pertinent documentation relating to any proposal to move the permanent seat of the Organization needed to be despatched to all Member States at least 120 days prior to the convening of the Assembly at which such a proposal would be considered.

28. The Representative of South Africa considered that it would be wise not to present the working paper to the Assembly as the issues raised therein could put the Council in a difficult position legally. He emphasized that it was the responsibility of ICAO Member States to assess Qatar's offer.

29. The Representative of Italy underscored that the Council had a role to play in clarifying for the Assembly the necessary conditions that any State's offer to host ICAO would have to meet and the elements that it would have to contain in order to qualify for consideration by the Assembly. He cited, in this regard, the coverage of expenses associated with the proposed move of the permanent seat and the evaluation of its potential effects.

30. Noting that his State's views on Qatar's proposal to host ICAO were well-known, the Representative of Canada recalled that they were most recently articulated by Foreign Minister Baird when he was at ICAO Headquarters on 2 and 3 May 2013. However, since this was the first time that the Council was considering the issue, if only in relation to the paper before it today, he wished to put Canada's views on record. Canada, Québec and Montréal had always taken their hosting responsibilities seriously. They had worked in good faith to complete a new Supplementary Agreement to extend ICAO's stay in Montréal for 20 years from 2016. The Council had endorsed the Supplementary Agreement on 11 March 2013 (198/10) and had given the Secretary General the authority to sign it.

31. For its part, Canada was now ready to sign the new Supplementary Agreement with ICAO and was therefore particularly concerned by the timing, as well as the manner and the contents, of the proposal from Qatar. In addition to the offer contained in the Supplementary Agreement, which included a savings of CAD 86 million over 20 years generated by free rent and reduced operating costs, as well as the CAD 7 million envelope to optimize space in the building, the Representative of Canada had sent a letter to the President of the Council on 17 May 2013 to outline a further financial contribution, as well as a range of immediate service improvements. These new contributions to ICAO were effective immediately and were as follows:

- CAD 1.4 million would be made available to allow ICAO to further upgrade conference facilities and to supply additional security equipment ahead of the Assembly in September/October 2013.
- accreditation services would be enhanced, including: 24-48 hour turnaround for Permanent Representatives to ICAO, applicable to the initial accreditation and all renewals; full diplomatic accreditation would be granted to Consuls General who also served as Permanent Representatives to ICAO; and a pilot project was being launched to partially complete the accreditation process for delegation staff before arrival in Canada in order to decrease processing time from seven to five days.
- with regard to entry visas: the Department of Citizenship and Immigration would deploy a full-time liaison officer in Canada's Permanent Mission to ICAO to provide enhanced frontline support to the Organization's diplomatic community. That Department would also conduct an information and outreach session at ICAO Headquarters to prepare for the Assembly this Fall.
- in collaboration with the Montréal Airport Authority and the Canada Border Services Agency, Canada was: submitting customs officers to a strengthened system of sensitivity training; expanding the suite of airport courtesies; and installing prominent, new ICAO signage at the airport arrival hall – all to heighten awareness and improve the overall experience of diplomatic travellers.

32. In then clarifying the status of a communication which many Representatives had received the previous day from his predecessor, Mr. A. Dupuis, the Representative of Canada indicated that, as noted therein, the ideas expressed represented Mr. Dupuis' personal views and not those of the Government of Canada.

33. The Representative of Canada appreciated the support of States with which he had spoken in recent weeks about keeping ICAO in Montréal and looked forward to working with all Council Representatives towards that goal.

34. The President of the Council noted that all Council Representatives and all Member States recognized, and very much appreciated, Canada's support and its contributions to ICAO as Host State. The Representative of Denmark wished to place on record his Delegation's appreciation for Canada's generous offers and treatment during all the years it had hosted ICAO. Recalling that, as Coordinator for the Tripartite Consultative Committee, he had been closely involved in the discussions regarding the facilities provided by Canada to ICAO and its national delegations, the Representative of Uganda likewise wished to place on record his thanks to Canada for the excellent facilities which it provided and for its willingness to provide even more. The Representatives of India and Italy also expressed gratitude to the City of Montréal for having graciously hosted ICAO over the years.

35. The Representative of the United Kingdom emphasized that other States which hosted comparable United Nations (UN) Specialized Agencies, including his State, which hosted the International Maritime Organization (IMO), were paying close attention to Canada's recent initiatives to determine if there were any best practices which they could adopt.

36. Responding to points raised by the Representatives of the United States and Malaysia regarding paragraph 2.1 of the draft Assembly working paper, the Acting Director of the Legal Affairs and External Relations Bureau (A/D/LEB) recalled that Assembly Resolution A8-5 provided “that no proposal to move the permanent seat of the Organization should be considered by any future session of the Assembly unless notice thereof, with all pertinent documentation, has been despatched to all the Contracting States at least one hundred and twenty days prior to the convening of such session of the Assembly.”. The question was if “all pertinent documentation” referred to all documentation on Agenda Item 7 *bis*, including also papers from the Secretariat or the Council or from other States, or if it referred only to documents from the proposer, in this case Qatar. On first glance, the plain and literal reading of the Resolution suggested that the first interpretation was the likely one.

37. A/D/LEB nonetheless acknowledged that a second interpretation was also possible. Recognizing that a Resolution was not a treaty and that not all States had accepted the provisions of the 1969 *Vienna Convention on the Law of Treaties*, he had nevertheless taken guidance from the interpretation provisions of that treaty, insofar as they could help to determine the meaning of a Resolution. Common sense would also lead to the same approach. Article 31, paragraph 1, of the said Vienna Convention provided that “A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms in their context and in the light of its object and purpose.”. Under Article 32 thereof, “Recourse may be had to supplementary means of interpretation, including the preparatory work of the treaty and the circumstances of its conclusion, in order to confirm the meaning resulting from the application of Article 31, or to determine the meaning when the interpretation according to Article 31: (a) leaves the meaning ambiguous or obscure; or (b) leads to a result which is manifestly absurd or unreasonable.”.

38. Noting that the minutes of the Third Plenary Meeting (14 June 1954) of the 8th Session of the Assembly did not reveal a very clear answer in any direction, A/D/LEB recalled that one delegation had pointed out that notification should be accompanied by all pertinent documentation which the Council judged to be useful and necessary. On the other hand, there had been an intervention by the then President of the Council which seemed to imply that it was information by the proposer which was covered. The President of the Council had then suggested to say in the text of Assembly Resolution A8-5 “with all pertinent documentation”, leaving it to the Council to interpret the requirements from the record of that Third Plenary Meeting (cf. Doc 7505 A8-P/10, Minutes of the Third Plenary Meeting, paragraphs 71 and 74). It therefore seemed to A/D/LEB that it was the Council, based on the preparatory work, which would interpret what was “all pertinent documentation” required to meet the 120-day deadline.

39. A/D/LEB concluded that, in the interest of giving Member States full opportunity and adequate time to consider the issue, as much of the documentation as was ready should be sent to them by the 120-day deadline of 27 May 2013, starting with the proposal by Qatar. However, if, for practical reasons, some additional documentation was absolutely not ready at that time, then the Council could nevertheless send it to Member States and the Assembly after the deadline, with an explanation.

40. Replying to an additional query by the Representative of the United States, A/D/LEB noted that the signature of the Supplementary Agreement between ICAO and the Government of Canada would not bring it into force. As indicated earlier by the Secretary General, it would instead enter into force “on the date of the last diplomatic note by which the Parties have notified each other that all necessary internal procedures for its entry into force have been completed”, pursuant to Article VIII, paragraph 4 thereof. In any case, the Supplementary Agreement shall not take effect until 1 December 2016, in accordance with that same paragraph 4. A/D/LEB underscored that even if the Supplementary Agreement were signed and in force, by virtue of Article VIII, paragraph 2 thereof, it would not affect any of the provisions of the 1990

Headquarters Agreement (Doc 9591). The Headquarters Agreement itself, in Article 37, provided that it shall cease to be in force if the seat of the Organization were removed from the territory of Canada. More fundamentally, the Organization's constitution, the Chicago Convention, provided, in Article 45, that the seat of ICAO could be permanently transferred by the decision of the Assembly, such decision to be taken by no less than three-fifths of the total number of Member States. That was a constitutional right given to Member States to both present and consider proposals made in that regard. No agreement, or supplementary agreement, signed by the Secretary General on behalf of ICAO or approved or endorsed by the Council could abrogate or render invalid the provisions of the Chicago Convention, which empowered the Assembly, i.e. Member States, to transfer the permanent seat of the Organization. Thus even during the life of the Headquarters Agreement or the Supplementary Agreement, the Assembly, i.e. Member States, could decide, on the basis of their sovereign and constitutional right, to transfer the permanent seat of ICAO. There could, however, be financial consequences for the Organization if that seat were transferred after the new Supplementary Agreement were signed if Canada could show that, in reliance on the signature, it had entered into certain financial commitments. That would be a matter for the competent body to rule on. It should be kept in mind that, at this point in time, Canada already had information that there was a proposal under consideration to transfer the permanent seat of ICAO to Qatar.

41. Reiterating that the Council had endorsed the draft 20-year Supplementary Agreement between ICAO and the Government of Canada, the Representative of Japan emphasized that Qatar's proposal to host ICAO should be carefully deliberated upon. Noting, from A/D/LEB's explanation, that the 8th Session of the Assembly had been unable to decide on an exact number of votes required for the transfer of the permanent seat of the Organization and had instead agreed on the ambiguous number of three-fifths or more of the total of number of Member States, he underscored that it was a critical matter for the upcoming Assembly to discuss.

42. Expressing concern that this unprecedented case might recur in the future in similar circumstances, introducing a degree of instability into the Organization, the Representative of Spain reiterated the need to consider the procedures to be followed for such an important issue as the transfer of the permanent seat of ICAO. Today's discussion and the discussions that would be taking place in the coming months would give the Council the opportunity to define the procedures more clearly. In agreeing that it was the constitutional right of ICAO to change the location of its Headquarters and that it was the sovereign right of the Assembly to take such a decision, the Representative of Spain underscored those rights were based on the provision of "all pertinent documentation" in accordance with Assembly Resolution A8-5. Concurring with A/D/LEB that it was for the Council to decide what was "pertinent", he reiterated the point made by previous speakers that it was necessary to provide the Assembly with sufficient information so that it could compare the current situation and Qatar's offer and take an informed decision.

43. The Representative of Burkina Faso noted that it was a point in time when it was very important to recognize that the Council's mission was to work to consolidate friendly relations and understanding among all the nations it represented. Reiterating the need for the Council to be neutral, he indicated that, in analyzing such proposals to host ICAO, the questions that the Council should ask itself were what was best for the Organization and what would ensure its continued and principled services to humanity for the 21st century and beyond.

44. In the absence of further comments, the Council took the action proposed by the President of the Council in light of the views expressed and:

- a) requested the Secretary General to present, for its consideration at the next meeting on Friday, 24 May 2013, a paper containing a revised draft Assembly information paper

which would include additional information on the status of the existing Headquarters Agreement between ICAO and the Government of Canada and the related Supplementary Agreement, as well as general information on the potential impacts on the Organization and its operations of a transfer of the permanent seat of ICAO from Canada; and

- b) decided to waive Rule 26 b) ii) of the *Rules of Procedure for the Council* (Doc 7559), which specified that working papers were to be distributed to Representatives at least five days in advance of the meeting at which they would be considered, to enable the above-mentioned paper to be tabled for discussion at the upcoming Third Meeting.

Subject No. 24.2: Assembly Agenda and documentation

Subject No. 52.1: Universal Security Audit Programme

Draft Assembly working paper – Universal Security Audit Programme (USAP)

45. The Council considered: C-WP/13990 presented by the Secretary General, to which was attached a draft Assembly working paper containing a final report on the implementation of the second cycle of audits under the Universal Security Audit Programme (USAP); and an oral report thereon by the Committee on Unlawful Interference (UIC), which had considered the paper at the First Meeting of the current session on 3 May 2013.

46. In taking the action recommended by the UIC, the Council approved the said draft Assembly working paper as documentation for the 38th Session of the Assembly, subject to the second sentence of the introductory paragraph of the Appendix being modified by replacing the words “these global average results” with the words “the average global LEI”.

**Draft Assembly working paper – Universal Security Audit Programme (USAP):
Transition to a continuous monitoring approach (CMA)**

47. The Council had for consideration: C-WP/13991 presented by the Secretary General, to which was attached a draft Assembly working paper setting forth an outline of the planned methodology for the USAP-CMA, which will replace the second cycle of USAP audits which ends in 2013, and an overview of the transition plan to the USAP-CMA, which identifies the beginning of 2015 for the commencement of the full implementation of the new approach; and an oral report thereon by the Committee on Unlawful Interference (UIC), which had considered the paper at the First Meeting of the current session on 3 May 2013.

48. In voicing support for the draft Assembly working paper and the UIC’s oral report, the Representative of Belgium underscored the importance of the interpretation of certain Standards contained in Annex 17 – *Security*, which had also been highlighted recently during the Twenty-fourth Meeting of the Aviation Security Panel (AVSECP/24) (Montréal, 8 to 12 April 2013). Emphasizing that the interpretation of those Standards would impact the implementation of the USAP-CMA, notably the audit protocol and the training of auditors, he expressed the hope that that issue would be resolved as soon as possible, during the first week of the 38th Session of the Assembly when an ad hoc meeting of the AVSECP would be taking place.

49. The Council then took the action recommended by the UIC and approved the said draft Assembly working paper as documentation for the 38th Session of the Assembly, subject to the second

sentence of paragraph 3.1 a) being amended by inserting, after the words “developing the necessary software tools”, the phrase “including means to prevent unauthorized access to sensitive security information”.

Subject No. 24.2: Assembly Agenda and documentation

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

Draft Assembly working paper – Implementation Support and Development – Security (ISD-SEC) Programme

50. The Council considered: C-WP/13993 presented by the Secretary General, to which was attached a draft Assembly working paper setting forth proposals for continued implementation of the ICAO Aviation Security Assistance and Capacity Building Strategy and the further refinement of assistance and capacity-building activities and tools in the 2014-2015-2016 triennium to support Member States; and an oral report thereon by the Committee on Unlawful Interference (UIC).

51. During the UIC’s review of the paper at its First Meeting of the current session on 3 May 2013, a Committee Member had noted that the draft Assembly working paper did not address the disclosure of ICAO Universal Security Audit Programme (USAP) results in the context of assistance and capacity-building activities. The Secretary of the Committee had recalled the outcome of the discussion on this matter at the ICAO High-level Conference on Aviation Security (HLCAS) (Montréal, 12 to 14 September 2012), and had drawn attention to the high level of confidentiality and the importance of a limited level of transparency with respect to USAP audit results, as referenced in Appendix E of the proposed revised *Consolidated statement on the continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference* in C-WP/13989.

52. The Council, as recommended by the UIC, approved the draft Assembly working paper attached to C-WP/13993 as documentation for the 38th Session of the Assembly.

Draft Assembly working paper – Aviation Security Assistance and Capacity Building Strategy

53. The Council had for consideration: C-WP/13992, in which the Secretary General presented a draft Assembly working paper outlining developments in the field of aviation security assistance and training, with focus on achievements attained through the implementation of the ICAO Aviation Security Assistance and Capacity Building Strategy; and an oral report thereon by the Committee on Unlawful Interference (UIC), which had considered the paper at the First Meeting of the current session on 3 May 2013.

54. As recommended by the Committee on Unlawful Interference (UIC) in its oral report, the Council approved, as documentation for the 38th Session of the Assembly, the draft Assembly working paper attached to C-WP/13992.

Draft Assembly working paper – Consolidated statement on the continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference

55. The Council considered: C-WP/13989 presented by the Secretary General, to which was attached a draft Assembly working paper proposing revisions to Assembly Resolution A37-17 (*Consolidated statement on the continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference*); and an oral report thereon by the Committee on Unlawful Interference (UIC).

56. During the UIC's review of the paper at its First Meeting of the current session on 3 May 2013, a number of improvements to the draft Consolidated statement at Appendix A had been suggested and supported by the Committee. One member had suggested including text in Appendix B thereof calling on States to expedite the ratification of the Beijing instruments, namely the *Convention for the Suppression of Unlawful Acts relating to International Civil Aviation* and the *Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft*. The Legal Affairs and External Relations Bureau (LEB) had advised, following the Committee meeting, to maintain Appendix B in the form presented, as ratification was addressed in Assembly Resolution A37-23 (*Promotion of the Beijing Convention and the Beijing Protocol of 2010*). The Committee had recommended that the draft Assembly working paper be approved by the Council with its proposed amendments.

57. Underscoring the relevance and timeliness of the draft Consolidated statement, the Representative of Mexico endorsed it, subject to the amendments recommended by the UIC, as did the Representative of Australia.

58. In also supporting the changes proposed by the UIC, the Representative of France suggested that Operative Clause 6 f) of Appendix C be amended to indicate that flights arriving from Member States where liquids, aerosols and gels (LAGs) screening was applied were to be treated in a way that was consistent with (instead of the same as) the way in which flights from Member States where LAGs restrictions were applied were treated. This proposal did not receive support.

59. The Representative of France also suggested that a brief text be inserted at the beginning of this draft Consolidated statement, as well as of other similar Assembly Resolutions, highlighting the progress made in the last three years. The Representative of Denmark endorsed this proposal as it related to the draft Consolidated statement under discussion. The Chief of the Aviation Security Branch (C/AVSEC) indicated that the fact that the actions taken were not succinctly captured in a single page suggested that the progress made was such that it could not be reflected in only one page. A solution could be to enhance the structure of Assembly Resolutions in future.

60. The Representative of Australia observed that paragraph 3.1 of the draft Assembly working paper outlining the proposed changes to Assembly Resolution A37-17 made detailed reference to developments which had occurred during the triennium. Recalling that the issue of the preparation of Assembly papers and Resolutions had been raised on more than one occasion during meetings of the Air Transport Committee (ATC) of which she was the Chairperson, she indicated that she would like to bring that issue up at a future Council meeting, under Any other business, and propose a way forward.

61. Drawing attention to Appendix A, Operative Clause 2, the Representative of India enquired whether the use of the words "in commercial service" would restrict the types of aircraft which were the targets of acts and attempted acts of unlawful interference. In then referring to Appendix B, Operative Clause 1, he queried if it could be made more stringent by enjoining Member States to include in

their legislation the maximum penalty possible under their respective laws for the unlawful acts mentioned therein.

62. C/AVSEC recalled that Operative Clause 2 of Appendix A was text approved by previous Assemblies. He did not consider that the words “in commercial service” in any way restricted the ability of ICAO to exercise its jurisdiction over a broader range of aircraft to include all aircraft serving civil aviation. C/AVSEC recalled that Annex 17 – *Security* was applicable to all of international civil aviation and, by a Recommended Practice, also to domestic aviation.

63. While noting this clarification, the Representative of Uganda suggested that the words “in commercial service” be deleted to avoid all ambiguity, particularly in the event that the Consolidated statement was cited in court cases. In endorsing this proposal, the Representative of the Russian Federation underscored that it would align the text with the wording of paragraph a) of Article 3 *bis* of the Chicago Convention, which referred to the use of weapons against “civil aircraft in flight”.

64. With reference to the point raised by the Representative of India regarding Operative Clause 1 of Appendix B, C/AVSEC indicated, on the basis of his experience, that the existing wording “severe punishment” was appropriate from a policy perspective as it encompassed punishment that was severe without being prescriptive as to the level of severity. In his view, the level of severity was a matter to be decided by the courts, which would take their guidance from the relevant laws and other domestic considerations.

65. Drawing attention to Operative Clause 10 of Appendix C, the Representative of China recalled that Member States were to have begun issuing only machine readable passports no later than 1 April 2010, in accordance with Standard 3.10 of Annex 9 – *Facilitation*. Furthermore, for non-machine readable passports issued after 24 November 2005, Member States were to ensure that the expiration date fell before 24 November 2015, pursuant to Standard 3.10.1. In emphasizing that Operative Clause 10 should be more forward-looking, he suggested that it be amended to read along the following lines: “*Calls upon* Member States to issue enhanced travel documents in accordance with the specifications of Doc 9303, Part 1;”. This was noted for further consideration during the Council’s review, later in the current session, of the draft Consolidated statement of continuing ICAO policies and practices related to facilitation (C-WP/14051).

66. Responding to points raised by the Representative of Denmark, C/AVSEC clarified that the Communiqué of the ICAO High-level Conference on Aviation Security (HLCAS) had been included in the draft Assembly working paper as Appendix B for information purposes, on the recommendation of the recent Twenty-fourth Meeting of the Aviation Security Panel (AVSECP/24). While it did not form part of the draft Consolidated statement, all of its elements had been incorporated in the latter. He noted, in particular, that Preambular Clause 8 of Appendix A recalled the said Communiqué and the HLCAS’ conclusions and recommendations.

67. The Representative of France suggested that the Declaration on Aviation Security adopted at the last Assembly which was included in the draft Consolidated statement after Appendix H be removed and replaced by the Communiqué. While the said Declaration was still useful, it was three years old. The Communiqué, on the other hand, was a very recent document which not only outlined progress made within ICAO but also set forth policy decisions to be adopted by Member States and relevant stakeholders.

68. In underscoring that there were practical difficulties in marrying the Communiqué with the draft Consolidated statement, C/AVSEC indicated that it would lead to duplication as the elements of the

Communiqué were already inserted in the latter. Furthermore, certain of the actions set out in the Communiqué had been accomplished by ICAO and it would be awkward to include in the draft Consolidated statement encouragement to the Council to take action that had in fact already been completed. While appreciating that the stronger political tone of the Communiqué might not be fully reflected, C/AVSEC emphasized that the draft Consolidated statement did use strong political language.

69. In the absence of further comments, the Council agreed to the following amendments to the said draft Consolidated statement recommended by the UIC: that Operative Clause 6 d) of Appendix C would be amended by adding the words “appropriate and proportionate to the threat” after the word “risk-based”; that a new Operative Clause 6 h) would be added to Appendix C that would read “give consideration to the potential security vulnerability of unmanned aircraft systems in order to prevent unlawful interference”; that Operative Clause 10 of Appendix F would be amended by adding the words “and regularly re-evaluate” after the word “promote”; and that the term “Contracting States” would be replaced with the term “Member States” throughout the draft Consolidated statement. It further agreed that Operative Clause 2 of Appendix A would be amended by deleting the words “in commercial service”, as suggested by the Representative of Uganda.

70. Subject to the changes recorded above, the Council approved the draft Assembly working paper attached to C-WP/13989 as documentation for the 38th Session of the Assembly.

71. The meeting adjourned at 1300 hours.

COUNCIL — 199TH SESSION

SUMMARY MINUTES OF THE THIRD MEETING

(THE COUNCIL CHAMBER, FRIDAY, 24 MAY 2013, AT 1000 HOURS)

OPEN MEETING

President of the Council: Mr. Roberto Kobeh González

Secretary: Mr. Raymond Benjamin, Secretary General

PRESENT:

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

ALSO PRESENT:

Mr. C. Schleifer-Heingärtner,	President, ANC
Mr. P. Jardim (Alt.)	— Brazil
Mr. J.L. Viera (Alt.)	— Brazil
Mr. M. Delisle (Alt.)	— Canada
Mr. Chunyu Ding (Alt.)	— China
Dr. S. Castro Gómez (Alt.)	— Colombia
Mr. R. Geirhovd (Alt.)	— Denmark
Ms. M. Furuata (Alt.)	— Japan
Mrs. D. Valle Álvarez (Alt.)	— Mexico
Mrs. L. Camacho Bueno (Alt.)	— Peru
Mr. J. Lazo Escalante (Alt.)	— Peru
Mr. Hwang, S.-Y. (Alt.)	— Republic of Korea
Mr. Kang, M. (Alt.)	— Republic of Korea
Mr. K. Ferjan (Alt.)	— Slovenia
Ms. M. Polkowska (Alt.)	— Slovenia

SECRETARIAT:

Mr. D. Azema	— DC/OSG
*Mr. I. Galán	— D/TCB
*Mr. B. Djibo	— D/ATB
*Mr. R. Bhalla	— C/FIN
*Mr. J. Augustin	— A/D/LEB
*Mr. J. Marriott	— C/AVSEC
*Mr. P. Noad	— DD/TCB
*Mr. A. Quiroz	— C/ASA
*Mr. S. Berti	— C/SFP
*Mr. B. Verhaegen	— SELO
*Ms. A. Andrade	— ADTC
*Mr. A. Djojonegoro	— SFP
*Ms. O. Bondareva	— LO
Miss S. Black	— Précis-writer

*Part-time

Representatives to ICAO

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

Subject No. 24.2: Assembly Agenda and documentation
Subject No. 32.1: Headquarters premises

**Draft Assembly working paper – Consideration of proposals to move
the permanent seat of ICAO**

1. The Secretary General informed the Council that he had received, the previous evening, a communication from the Embassy of the State of Qatar to Canada in Ottawa dated 23 May 2013 withdrawing its offer to host the Headquarters of ICAO, which read as follows:

“This has a reference to the offer submitted officially by the State of Qatar to host the Headquarters of International Civil Aviation Organization (ICAO).

“The Embassy of the State of Qatar to Canada hereby would like to convey to the Secretary General the decision taken by the Government of the State of Qatar recently to officially withdraw its above- mentioned offer.

“On this basis, the Embassy would highly appreciate if the Secretary General issues his instructions to the Secretariat to complete all the required procedures to withdraw the offer officially.”.

2. In noting that he would make this communication available on the Council website, the Secretary General indicated that he had given instructions so that Assembly working paper A38-WP/10 containing Qatar’s offer to host the Headquarters of ICAO would not be issued.

3. The Secretary General further noted that he had received that morning an e-mail dated 23 May 2013 from Mr. Alan H. Kessel, the Legal Adviser for the Department of Foreign Affairs and International Trade of Canada, his counterpart in the negotiations of the new Supplementary Agreement between ICAO and the Government of Canada, which read as follows:

“I am pleased to hear that we are back on track and I know that our people are talking to each other about finalising the French text of the Supplementary Agreement.

“My Minister is extremely gratified and keen to sign the document at the earliest convenient opportunity.

“I look forward to completing our joint endeavour.”.

4. The Representative of Canada reiterated that Canada, Québec and Montréal were extremely proud to host ICAO and took that responsibility very seriously. He availed himself of this opportunity to thank every Member of the Council. Each one had taken time to speak with him and his team during the last few weeks and their spirit of open engagement was valued by them all. Canada thanked Qatar for withdrawing its proposal to host the Headquarters of ICAO. Together with its partners in Québec and Montréal, Canada looked forward to continuing to serve the ICAO community through new and existing structures for consultations, and through the implementation of the enhanced services which the Representative of Canada had outlined during the previous meeting (cf. C-MIN 199/2, paragraph 31). Canada looked forward to Council Members’ collaboration to make them as effective as possible. As noted, Canada also looked forward to signing the Supplementary Agreement, which marked an important milestone in its relationship with ICAO and allowed Canada to renew the spirit of its profound commitment to this Organization.

5. Speaking on behalf of the Council, the President thanked the Government of Qatar for its interest in ICAO and thanked the Government of Canada for the actions it had taken and the offers it had made to improve relations with the Organization.

6. In light of the above-mentioned decision by the Government of Qatar to officially withdraw its offer to host the Headquarters of ICAO, the Council did not resume (199/2) its consideration of that subject, documented in C-WP/14049 Revised.

7. Observing that it could not be ruled out that another proposal to move the permanent seat of ICAO might be made in the future, the Representative of South Africa suggested that the Council at some point consider a working paper for the Assembly on the exact number of votes that would be required to decide thereon under Article 45 of the Chicago Convention so that the matter could be objectively examined. This was noted.

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

**Review of the Report of the Twenty-fourth Meeting of the
Aviation Security Panel (AVSECP/24) (Montréal, 8 to 12 April 2013)**

8. The Council considered this subject on the basis of: C-WP/13994, in which the Secretary General presented the recommendations of AVSECP/24, together with the Secretariat's comments, as well as a proposal for Amendment 14 to Annex 17 – *Security*; and oral reports thereon by the Committee on Unlawful Interference (UIC) and the Air Navigation Commission (ANC).

9. During the UIC's review of the paper at its First Meeting of the current session on 3 May 2013, a Committee Member, while expressing overall support for the AVSECP/24 recommendations, had requested clarification with regard to guidance material on the implementation of the account consignor concept, as well as its use of the term "common baseline security". The Secretariat had confirmed that, while the account consignor regime was referenced in guidance material, its implementation was not compulsory. The Committee had noted that the Working Group on Air Cargo Security was reviewing the matter with the goal of ensuring alignment of guidance material with the provisions of Amendment 13 to Annex 17, before those became applicable on 15 July 2013. In clarifying the meaning of "common baseline security", the Secretariat had agreed with an interpretation that that did not necessarily imply a requirement to implement identical security controls for all-cargo and passenger aircraft, but rather to ensure that cargo and mail had been secured prior to loading on an aircraft, either by screening or verifying that the cargo had come from a secure supply chain.

10. The Secretariat had been asked for more information on the Panel's discussion about the scope of acts of unlawful interference with civil aviation. The Committee had been informed that the subject had been discussed in depth, and that the Panel had acknowledged that it was appropriate for civil aviation authorities to prevent and respond to criminal acts that breached security measures at airports by coordinating with all relevant agencies.

11. In reply to a Committee Member's query, the Secretariat had confirmed that an ad hoc meeting of the AVSECP, to be held during the first week of the 38th Session of the Assembly, would be conducted informally and would not have an impact on resources required by the Assembly or conference rooms for regional meetings to be held on the margins of the Assembly.

12. In conclusion, the Committee had recommended that the Council approve the recommendations of the AVSECP/24 and related Secretariat comments, taking into account that the Committee's recommendations on paragraph 1.6.1 a), b) and c) were reflected in its oral reports on other agenda items concerned with: the draft Assembly working paper on the *Consolidated statement on the continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference* (cf. C-WP/13989; 199/2); the draft Assembly working paper on outcomes of the High-level Conference on Aviation Security (HLCAS) (C-WP/13987; 199/1); and the *Directives for Panels of the Committee on Unlawful Interference* (C-WP/13928; 199/1). The Committee had also recommended that the Council approve the proposed Amendment 14 to Annex 17 presented in the Appendix to C-WP/13994, and agree that Amendment 14 be circulated by the Secretary General to States and concerned international organizations for comments.

13. The ANC had reviewed the AVSECP/24 Report at the Eighth Meeting of its 193rd Session on 21 May 2013. Under Agenda Item 3 thereof concerning the progress reports from Working Groups of the AVSECP, the Commission had considered the emergence of cyberthreats and the broad scope of disciplines affected by the security countermeasures to be developed. Collaboration between the AVSECP and many ANC technical panels would be supported. Such collaborative work needed to be organized under clear procedures that the Commission would develop. The Commission had also emphasized the relevance of Recommendation 2/3 – Security of air navigation systems, made by the Twelfth Air Navigation Conference (AN-Conf/12) (cf. C-WP/13966; 198/6).

14. Under Agenda Item 6, which dealt with other business, the Commission had had two areas of interest:

- a) first, recognizing the areas of mutual interest between the Dangerous Goods Panel (DGP) and the AVSECP, the Commission had supported the Secretary General's initiative for the formation of a Joint Task Force of the AVSECP and the DGP, and had supported the resulting co-operation for the development of guidance material on countering the potential use in an act of unlawful interference of dangerous goods and, in the future, of chemical, bacteriological or radiological material; and
- b) second, the Commission had noted the security challenges with respect to the integration of unmanned aircraft systems into civil operation and airspace and had emphasized the need for collaboration between the Unmanned Aircraft System Study Group and the relevant working groups of the AVSECP.

15. The Commission had noted, without further comment, the parts of the Report on Agenda Items 1 (Developments in aviation security since AVSECP/23); 2 (Review of proposals for amendments to Annex 17 – Security); 4 [Universal Security Audit Programme (USAP)]; and 5 [Implementation Support and Development – Security (ISD-SEC) Programme].

16. With reference to the said *Directives for Panels of the Committee on Unlawful Interference*, the Representative of Mexico emphasized that the AVSECP was a panel of the Council and not of the UIC. The President of the Council recalled that during the Council's earlier consideration of C-WP/13928 relating to the proposed Directives, he had clarified that while the AVSECP had been established by the Council, it reported to the latter through the UIC (cf. C-MIN 199/1, paragraph 48). He noted that, as recommended by the UIC, the Council had agreed to refer the proposed Directives to the Working Group on Governance and Efficiency (WGGE) for its consideration, with a view to developing a single set of directives applicable to all ICAO panels (cf. C-MIN 199/1, paragraph 58).

17. In endorsing the action set forth in the executive summary of the paper, the Representative of Denmark underscored, with regard to paragraph a), that he would have difficulty in simply supporting the AVSECP/24 recommendations without according considerable importance to the Secretariat's comments thereon.

18. Responding to a question raised by the Representative regarding the AVSECP's recommendation set forth in paragraph 1.6.1 d) of the paper, the Chief of the Aviation Security Branch (C/AVSEC) agreed that the Panel did not have the standing necessary to present a paper to the 38th Session of the Assembly. The envisaged report on the AVSECP's work since the last Assembly and key aviation security work areas for the next triennium would be presented by a State and possibly co-sponsored by other States.

19. Drawing attention to the proposed Amendment 14 to Annex 17 appended to the paper, the Representative of Uganda voiced agreement with the justification given for the new provision 3.4.9 that it was crucial to oversee the implementation of security measures outsourced to external service providers. Stressing the need for such quality control to ensure that there were no significant security leaks, he questioned why it was being proposed as a Recommended Practice and not as a Standard.

20. C/AVSEC noted that Annex 17 already established a broad requirement for quality control systems so as to ensure that oversight was constantly applied to States' aviation security. The second cycle of the USAP placed great emphasis on States' compliance with requirements relating to oversight, which included quality control. The proposed new provision 3.4.9 arose from the increased tendency in many States to outsource aviation security activities, as indicated in the said justification. While the AVSECP had considered that highlighting the need for quality control arrangements for such outsourced security measures would be an appropriate action, it had not been of the view that the proposed provision should take the form of a Standard; rather, it had considered that a Recommended Practice would be appropriate in the short term, always with a view to elevating it to a Standard once a sufficient level of familiarity and implementation experience had been acquired.

21. To an additional point raised by the Representative of South Africa, C/AVSEC further noted that it was the normal practice of the AVSECP to introduce new concepts as Recommended Practices. It was only in exceptional cases, when there were urgent risks that needed to be addressed with a high degree of certainty, uniformity and consistency, that the AVSECP would recommend to the UIC and the Council that a new provision be a Standard instead of a Recommended Practice.

22. In then noting the oral reports of the UIC and the ANC, the Council took the action proposed in the executive summary of C-WP/13994, as recommended by the UIC, and:

- a) approved the course of action recommended in the paper, as presented in the recommendations of AVSECP/24 and the Secretariat's comments; and
- b) requested the Secretary General to circulate the proposed Amendment 14 to Annex 17 – *Security* presented in the Appendix to the paper to States and concerned international organizations for comment.

23. It was envisaged that, after further review by the UIC in light of any comments received, Amendment 14 to Annex 17 would be presented to the Council for adoption in early 2014.

Subject No. 24.2: Assembly Agenda and documentation
Subject No. 42: Technical co-operation

Draft Assembly working paper – Policy on technical assistance and technical co-operation and activities in technical co-operation during the period 2010-2012

24. The above subject was documented for the Council's consideration in two papers: C-WP/13982 presented by the Secretary General, to which was attached a draft Assembly working paper on the Policy on technical assistance and technical co-operation and activities in technical co-operation during the period 2010-2012; and C-WP/14046, in which the Technical Co-operation Committee (TCC) presented a revised draft Assembly working paper incorporating its proposed amendments to action paragraph b) of the executive summary and paragraphs 1.1, 2.3, 5.1 and 5.2 and reflecting its recommendation that, in line with Assembly Resolution A36-17 (*Consolidated statement of ICAO policies on technical co-operation*), it should underline that measures must continue to be taken to further reduce expenditures leading to a gradual reduction in administrative support costs charged to technical co-operation projects. At the suggestion of the President, the Council focused its attention on the latter paper.

25. The Representative of Spain endorsed C-WP/14046, in particular, the proposed change to paragraph 2.3 of the draft Assembly working paper to reflect the financial structure of the Technical Co-operation Programme (TCP) in a more positive manner, taking into account that donor contributions were also a relevant source of funding for technical co-operation projects, albeit on a smaller scale (cf. Table 2 – External Sources of Funding for 2007 to 2012).

26. The Representative of Uganda observed that there was an inconsistency between paragraph 2.2 e) of the paper, which indicated that there had been a general consensus in the TCC that a change in the methodology for recovering costs from TCB for support services provided by the Regular Programme was not warranted in the near future, and paragraph 5.2 of the draft Assembly working paper, which indicated that a mechanism for adjusting, as required, the amount to be recovered from the Administrative and Operational Services Cost (AOSC) Fund for such support services in the next triennium would be developed for consideration by the Council during its 200th Session in the Fall 2013. He therefore suggested that paragraph 5.2 be aligned with paragraph 2.2 e).

27. In affirming that paragraph 5.2 reflected the actual situation, the Representative of Spain recalled that during the TCC's discussion it had been indicated that there would not be a new cost-recovery methodology but rather that the current methodology would incorporate a mechanism for adjusting the amount to be recovered from the AOSC Fund on the basis of the support services provided. In noting these comments, the President suggested, and it was agreed, that paragraph 5.2 be retained in the form presented.

28. The Council also agreed that: paragraph 2.3 of the draft Assembly working paper be further amended by deleting the opening phrase "Unlike other organizations in the United Nations system", as suggested by the Representative of Denmark; that the paper reflect information regarding the volume of technical co-operation projects which were funded by donor States and other external sources, as well as the positive trend in the Technical Co-operation Programme (TCP) and thus the AOSC Fund, as suggested by the Representatives of Mexico and Italy, respectively; and that, pursuant to an additional suggestion by the Representative of Italy, a new paragraph be added outlining the positive developments which had occurred during the current triennium, such as the implementation of a Quality Management and Standardization System (ISO 9001:2008) within the Technical Co-operation Bureau (TCB).

29. Subject to these amendments, the Council approved the revised draft Assembly working paper attached to C-WP/14046 as documentation for the 38th Session of the Assembly.

Subject No. 42: Technical co-operation

Report on Technical Co-operation Programme development and update of Administrative and Operational Services Cost (AOSC) income and expenditures for the year 2013

30. The Council had for consideration: information paper C-WP/13984, in which the Secretary General reported on the financial and operational performance results of the Technical Co-operation Programme (TCP) for the year ending 31 December 2012 and, for planning purposes, on the revised 2013 Programme forecast and AOSC Fund budgetary estimates, including a summary of the projected income and expenditures; and a joint oral report thereon by the Technical Co-operation Committee (TCC) and the Finance Committee (FIC).

31. During the review of the paper at their first joint meeting of the current session on 26 April 2013, the Committees had acknowledged with satisfaction the significant progress made towards restoring the financial position of the AOSC Fund which, for the first time since 2007, had closed the year with an excess of income over expenditure of CAD 1.2 million. It had been further noted that this positive trend was expected to continue in 2013 with the updated forecast for the AOSC Fund showing an estimated surplus of CAD 0.2 million with an estimated income of CAD 8.4 million against estimated expenditures of CAD 8.2 million. These estimates were based on a Programme implementation forecast of USD 126 million in 2013. The Committees had noted that approval by the Council of the updated AOSC estimates was not required in accordance with *The ICAO Financial Regulations* (Doc 7515).

32. The Committees had emphasized that there had been a noticeable increase in the TCP implemented for the Africa region in 2012, representing 36 per cent of the overall Programme volume as compared to 52 per cent for the Americas region. Underscoring the importance of the Technical Co-operation Bureau's continued strive towards geographical balance among the various regions, the Committees had recommended that TCB actively pursue an outreach programme with a view to raising the awareness of States about its role and potential impact on the implementation of civil aviation programmes and projects worldwide. It had been suggested that TCB's regular attendance at multilateral governmental meetings be enhanced and funds secured for those purposes.

33. While noting the improvements made to the report's format and content, the Committees had agreed on the need to enhance its focus on the outcome of the TCP in terms of the latter's impact on all of ICAO's Strategic Objectives, including the AFI Plan. The monitoring of TCB's achievements by means of available ICAO mechanisms, such as the Monitoring and Assistance Review Board (MARB), had been encouraged as an integral part of the Secretariat's overall efforts in the provision of assistance.

34. The Committees had further recommended greater clarity in differentiating between technical assistance and technical co-operation activities, in accordance with the new definitions of these terms. Considering that the proposed Draft Budget of the Organization for 2014, 2015 and 2016 allocated funds for technical assistance provided to States by ICAO Headquarters and Regional Offices, the Committees had requested that, in future, reports describe the use of Regular Programme and Voluntary Funds by TCB in the implementation of technical assistance projects.

35. Finally, it had been suggested that when reporting on Programme deliverables by component (cf. Table 5 of C-WP/13984), a clear distinction should be made between resources deployed in the field and actual results by Programme component.

36. The Representative of Spain commended the implementation of technical co-operation projects in those regions of the world where they had not previously been carried out, such as in certain regions in Africa and other continents. Recalling the reference made in the joint oral report to the importance of TCB continuing to strive towards geographical balance among the various regions, he emphasized that it was not a question of balancing technical co-operation activities but rather of increasing them. Such activities were not to be reduced in one region in order to increase them in another.

37. Although agreeing that it was essential that future reports focus more on the TCP's outcome, the Representative of Spain underscored that it was the TCB Management Plan for 2013-2015 (cf. Appendix to C-WP/13882; 197/2) which served as the basis for such reports and that the Committees' recommended changes should be made in line therewith. In noting that the Director of TCB (D/TCB) had provided clarifications during the TCC/FIC joint meeting regarding the Quality Management and Standardization System (ISO 9001: 2008) and related customer satisfaction survey, the Representative of Spain indicated that it was expected that additional information thereon would be provided during the Council's consideration, during the upcoming (200th) session, of the TCB Management Plan for 2014-2016.

38. The President of the Council recalled that the Council had decided (190/9), for governance purposes, that reports on TCP development should systematically refer to the information provided in the Management Plan so as to avoid proposals for additional action which would increase TCB's workload. He concurred with the Representative of Spain that the intention was not to decrease technical co-operation activities in one region in order to introduce new ones in another region.

39. In seeking clarification regarding the Committees' recommendation that the Secretary General be requested to strengthen TCB's outreach programme and consider securing resources therefor, the Representative of Denmark averred that securing resources in the Regular Budget would be inconsistent with the majority view expressed during the ongoing budgetary discussions that the principle of zero nominal growth (ZNG) should apply to States' assessments.

40. D/TCB noted that, under the existing outreach programme, his Bureau had increased the scope of technical co-operation projects over the last two years by implementing an assistance plan at regional meetings of Directors General of Civil Aviation (DGCAs). TCB also participated in the meetings of various regional groups, such as the AFI Planning and Implementation Regional Group (APIRG). D/TCB stressed that the requisite resources would be obtained not from the Regular Budget but rather from the AOSC Fund, the funds allocated for the rectification of deficiencies and/or the AOSC accumulated surplus. The Chairperson of the FIC, the Representative of France, Mr. M. Wachenheim, indicated that that was also his understanding.

41. The Secretary General proposed that the Committees' recommendation be amended by deleting the reference to giving consideration to securing resources for strengthening TCB's outreach programme as it was ambiguous. Such funds would only come from AOSC-related sources, and were available. Furthermore, it was the Secretary General who was responsible for approving missions by D/TCB to promote the services provided by his Bureau. The Representatives of Paraguay and Malaysia supported this proposal. The Chairperson of the FIC suggested that the recommendation be further amended by replacing the word "request" with the word "encourage". The President of the Council

proposed that it also be amended to refer to continue strengthening the outreach programme to avoid giving the impression that it was a new undertaking. These changes were agreed.

42. While concurring with the Representative of Spain that the number of technical co-operation projects should be increased, the Chairperson of the FIC emphasized that that was contingent upon the States in question being in a position to finance the projects. He underscored that although balance between the various regions was an objective in itself within the existing framework, it was always with the objective of improving the situation for all regions. Maintaining that the TCB Management Plan should evolve to take into account developments, the Chairperson of the FIC indicated that if it was necessary to slightly amend it to incorporate the Committees' recommendations, then it was best to do so. It was preferable for the Management Plan to be dynamic rather than static.

43. In supporting the comments made by D/TCB and the Chairperson of the FIC, the Chairperson of the TCC, the Representative of Burkina Faso, Mr. M. Dieguimde, recalled that in discussing the need to strengthen TCB's outreach programme, the Committees had referred to the use of all possible means to enhance TCB's visibility at the State level. Such action was in line with the communications and publicity outreach initiative set forth in the said TCB Management Plan. It was the only way to raise States' awareness of the advantages of utilizing TCB's services in implementing their civil aviation projects and consequently to increase the number of such projects as mentioned by the Representative of Spain.

44. Responding to a point raised by the Representative of the United States, D/TCB clarified that pursuant to the said Management Plan, a Marketing Plan was being developed to raise awareness of the services available through TCB and the scope of assistance that could be provided.

45. Noting that he was an active Member and a former Chairperson of the TCC, the Representative of Uganda recalled that the Committee, together with the FIC, had acknowledged with satisfaction the significant improvement in TCB's performance and had recommended that further efforts be made to continue to enhance the financial position of the AOSC Fund. It was the Committees' understanding that if there were more technical co-operation projects, then there would be more revenue. In emphasizing that outreach to States should be further encouraged, the Representative of Uganda underscored that it was the reason for the increase in the implementation of technical co-operation projects in the Africa region. That increase had not come at the expense of projects in South America or other regions.

46. Expressing pleasure that TCB had restored the financial position of the AOSC Fund to a healthy level in a very short period of time, the Representative of Paraguay encouraged it to keep up the good work.

47. The Representative of Malaysia recalled that during the joint meeting he had raised the issue of the relatively low proportion of technical co-operation projects being implemented in the Asia/Pacific region, which was not very encouraging. This had, in part, led to the Committees' recommendation that TCB's outreach programme be strengthened. Noting, from the Secretary General's comments, that resources were available for that purpose and that the marketing of TCB's services was foreseen in the TCB Management Plan, the Representative of Malaysia emphasized the need to increase the awareness of States in the Asia/Pacific region and other regions of the benefits of utilizing TCB's expertise in implementing their civil aviation projects.