
ICAO

International Civil Aviation Organization

COUNCIL — 202ND SESSION

Montréal, 9 June — 23 June 2014

**SUMMARY MINUTES
WITH SUBJECT INDEX**



2014

Montréal

TABLE OF CONTENTS

	<i>Page</i>
SUMMARY MINUTES OF THE FIRST MEETING (OPEN)	1
Opening of the Session	3
Welcome to new Representatives on the Council	3
Schedule for consideration of items during the 202nd Session	3
Celebration of International Civil Aviation Day	4
Recommendations of the Joint Support Committee related to items under the Danish and Icelandic Joint Financing Agreements reviewed during the 202nd Session	5
Review of the composition of the Standing Committees of the Council	5
Report of the Ad Hoc Working Group on Technical Cooperation Programme Development	14
Report on technical cooperation programme development and update of Administrative and Operational Services Cost (AOSC) income and expenditures for the year 2014	15
Revision of the ICAO Service Code	18
SUMMARY MINUTES OF THE FIRST MEETING (CLOSED)	23
Review of the net base salaries of the President of the Council and Secretary General	25
SUMMARY MINUTES OF THE SECOND MEETING (OPEN)	27
Draft communication to States on the appointment of the Secretary General	29
Welcome to the Prime Minister and Head of Government of Burkina Faso	34
Report on the outcome of the review by ICAO of the limits of liability under the Montréal Convention of 1999	37
Report on the Diplomatic Conference on the draft Protocol to the Tokyo Convention of 1963 (Montréal, 26 March - 4 April 2014)	38
Any other business	42
Appointment of a new Member on the Committee on Aviation Environmental Protection (CAEP)	42
Request from the European Union (EU) to participate as Observer in closed meetings of the Council on aviation security	42
Request from Airports Council International (ACI) to participate as Observer in closed meetings of the Council on aviation safety and security	43
C-WP/14171—Status of the ICAO workforce for 2013	43
C-WP/14170—Financial situation of the Organization and level of the Working Capital Fund	43
ICAO Fuelling Aviation with Green Technology Seminar	43
SUMMARY MINUTES OF THE SECOND MEETING (CLOSED)	45
Review of the Report of the Twenty-fifth Meeting of the Aviation Security Panel (AVSECP/25) (Montréal, 17-21 March 2014)	47
SUMMARY MINUTES OF THE THIRD MEETING	53
International interests in mobile equipment (aircraft equipment)	55
Progress report on pending issues identified by the Committee on Relations with the Host Country	61
Review of the conclusions and recommendations of the Multidisciplinary Meeting Regarding Global Tracking	63
Report of the AFI Plan Steering Committee	72
Review of the composition of the Standing Committees of the Council	76
Elections by the Council	76

(i)

SUMMARY MINUTES OF THE FOURTH MEETING (OPEN)	77
Consolidated annual report on Planning and Implementation Regional Groups (PIRGs) and Regional Aviation Safety Groups (RASGs) – Results up to March 2014.....	79
New regional Air Navigation Plan (ANP) template and procedures for amendments	82
Proposal for the convening of a second High-level Safety Conference on Planning for Global Aviation Safety Improvement	85
ANC Work Programme for the 197th Session	88
ICAO Civil Aviation Training Policy	89
Programme of meetings for 2015 and tentative programme of meetings for 2016-2017-2018.....	93
Appointment of Members of the Evaluation and Audit Advisory Committee (EAAC)	94
Flights over and in Iraqi territory	95
Meetings of the Committee on Aviation Environmental Protection (CAEP).....	96
SUMMARY MINUTES OF THE FOURTH MEETING (CLOSED)	97
Progress report of the Monitoring and Assistance Review Board (MARB)	99
SUMMARY MINUTES OF THE FIFTH MEETING	103
Welcome to the President of Corte dei Conti, the new External Auditor of ICAO	105
Financial statements and Reports of the External Auditor for the financial year 2013	105
Financial year 2013 – Report on the carry over	107
Report on the performance of revenue-generating activities in 2013, with audited financial figures, of the Ancillary Revenue Generation Fund (ARGF), and the financial projections and business plan for 2014, 2015 and 2016	108
Proposed Action Plan to implement recommendations of the External Auditor which have been accepted by the Council	111
Review of ICAO language services / ICAO policy on language services.....	111
Report on publications for 2013	119
Environmental protection – Recent developments in ICAO / Recent developments in other United Nations bodies and international organizations	121
Environment Advisory Group (EAG) – Progress report	125
Report of ANC – Review of Addendum/Corrigendum No. 1 to the Report of the Twenty-fourth Meeting of the Dangerous Goods Panel (DGP/24)	128
SUMMARY MINUTES OF THE SIXTH MEETING	129
Review of the Addendum/Corrigendum to the Report of the Twenty-fourth meeting of the Dangerous Goods Panel (DGP/24)	131
Elections by the Council	137
Review of reports presented to the Council	140
Appointment of the Secretary General	142
Work programme of the Council and its Committees for the 203rd Session	146
Any other business	147
Progress report of the Council Retreat Planning Group	147
70th Anniversary of the Chicago Convention	148
Appointment of Members and Alternates on the Air Navigation Commission	149
Appointment of a Member to the Commission of Experts of the Supervisory Authority of the International Registry (CESAIR)	149
Public Key Directory (PKD) Membership	149
C-WP/14172 — Report of the JIU for 2013 and Programme of Work for 2014	150

	<i>Page</i>
C-WP/14173 — Report of the JIU entitled “Review of long-term agreements in procurement in the United Nations system”	150
C-WP/14169 — Report on activities during the recess.....	150
Farewell to Council Representative.....	150
Closing of the 202nd Session	150
SUBJECT INDEX TO THE SUMMARY MINUTES OF THE 202ND SESSION	151
LIST OF WORKING PAPERS CONSIDERED	153

COUNCIL — 202ND SESSION**SUMMARY MINUTES OF THE FIRST MEETING****(THE COUNCIL CHAMBER, MONDAY, 9 JUNE 2014, AT 1430 HOURS)****OPEN MEETING**

President of the Council: Dr. Olumuyiwa Benard Aliu

Secretary: Mr. Raymond Benjamin, Secretary General

PRESENT:

Argentina	— Mr. A.J. Dumont	Malaysia	— Mr. Y.-H. Lim
Australia	— Ms. K. Macaulay	Mexico	— Mr. D. Méndez Mayora
Bolivia (Plurinational State of)	— Mr. J.G. Soruco	Nicaragua	— Mrs. E. A. Aráuz Betanco
Brazil	— Mr. J.L. Vieira (Alt.)	Nigeria	— Mr. M. E. Nwafor
Burkina Faso	— Mr. M. Dieguimide	Norway	— Mr. K.M. Skaar
Cameroon	— Mr. E. Zoa Etundi	Poland	— Dr. M. Polkowska
Canada	— Mr. M. Allen	Portugal	— Mrs. M.H. Faleiro T. de Almeida
Chile	— Mr. W.H. Celedón	Republic of Korea	— Mr. Choi, D.
China	— Mr. Tao Ma	Russian Federation	— Mr. A.A. Novgorodov
Dominican Republic	— Mr. C.A. Veras Rosario	Saudi Arabia	— Mr. H.A. Abudaowd
Egypt	— Mr. A. Mahmoud	Singapore	— Mr. T.C. Ng
France	— Mr. O. Caron	South Africa	— Mr. L. Mabaso
Germany	— Mr. U. Schwierczinski	Spain	— Mr. V.M. Aguado
India	— Mr. P.N. Sukul	United Arab Emirates	— Capt. A. Al Hamili
Italy	— Mr. E. Padula	United Kingdom	— Mr. M. Rodmell
Japan	— Mr. T. Koda	United Republic of Tanzania	— Mr. R.W. Bokango
Kenya	— Mr. M. Adan (Alt.)	United States	— Mr. J.L. Novak (Alt.)
Libya	— Mr. M. Sayeh Eltayf	Venezuela (Bolivarian Republic of)	— Mr. D.A. Blanco Carrero

ALSO PRESENT:

Dr. N. Luongo (Alt.)	— Argentina
Mr. J.C.F. da Silva (Alt.)	— Brazil
Mr. P. de Moraes Jardim (Alt.)	— Brazil
Mr. C. Bühler da Silva (Alt.)	— Brazil
Mr. D.A. Dueñas (Alt.)	— Chile
Mr. M. Millefert (Alt.)	— France
Ms. M. Furuata (Alt.)	— Japan
Mrs. D. Valle Álvarez (Alt.)	— Mexico
Mrs. H. Jansson Saxe (Alt.)	— Norway
Mr. Kang. M. (Alt.)	— Republic of Korea
Mr. D.V. Subbotin (Alt.)	— Russian Federation
Mr. A. Almoghaby (Alt.)	— Saudi Arabia
Mr. R.A. Al Kaabi (Alt.)	— United Arab Emirates

SECRETARIAT:

Mr. D. Azema	— DC/OSG
Ms. N. Graham	— D/ANB
Dr. Fang Liu	— D/ADB
Mr. I. Galán	— D/TCB
Mr. J. Augustin	— D/LEB
Mr. R. Bhalla	— C/FIN
Mr. J. Weich	— DD/HR-ADB
Mr. H. Gourdji	— DD/MO-ANB
Mr. M. Fox	— C/OPS
Mrs. N. Abdennebi	— C/EAP
Mrs. L.M. Comeau-Stuart	— C/POD
Mrs. K. Balram	— C/SEA
Mr. A. Opolot	— LEB
Mr. A. Philbin	— C/COM
Mr. M. Leitgab	— ADADB
Mrs. J. Zorbas	— JF
Mr. A. Larcos	— ACC

*Part-time

Representatives to ICAO

Colombia

Cuba

Ethiopia

Greece

Indonesia

Morocco

Mozambique

Peru

Turkey

EU

Opening of the Session

1. The President of the Council extended a warm welcome to Council Representatives attending the 202nd Session. In doing so, he noted that once again during this session the Order of Business would be issued on a weekly basis so that it would present an overview of items to be considered for each week. For purposes of efficiency however, it was explained that the order of items at each meeting might be altered depending on time constraints.

Welcome to new Representatives on the Council

2. On behalf of all Council Representatives, the President extended a warm welcome to Mr. Alberto Juan Dumont, the newly-appointed Representative of Argentina, as well as to Mr. Hazim A. Abudaowd, the newly-appointed Representative of Saudi Arabia.

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

Schedule for consideration of items during the 202nd Session

3. The Council noted the meeting schedule for the 202nd Session presented in the President's memorandum PRES OBA/2281 dated 1 April 2014, for which there had been no changes since its issuance.

4. The Council also noted the schedule for the consideration of items during the 202nd Session of the Council as set out in the President's memorandum PRES OBA/2301 dated 20 May 2014, subject to the following changes:

- a supplementary item "Review of Addendum/Corrigendum to the Report of the Twenty-fourth meeting of the Dangerous Goods Panel" (C-WP/14178 refers), had been included in the Work Programme for this session, as indicated in the e-mail message from the President of the Council, which was dated 22 May 2014;
- the Working Group on Governance and Efficiency (WGGE) would present an oral report on its consideration of the item "Review of the composition of the Standing Committees of the Council";
- the item "New template for electronic regional air navigation plans and related amendment procedures", would now be presented as "New regional air navigation plan (ANP) template and procedures for amendments" (C-WP/14174 refers);
- the item "Needs, dates, agenda, and administrative arrangements for the High-level Safety Conference (2015)", would now be presented as "Proposal for the convening of a second High-level Safety Conference on Planning for Global Aviation Safety Improvement" (C-WP/14155 refers); and
- the item "Environment Advisory Group (EAG) – Progress report", would now consist of two working papers: an action paper that would request the Council to consider and take decisions on recommendations of the EAG, and an information paper (in English only), which would provide the Council with a summary of the discussions of the EAG.

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

5. The Council considered this item on the basis of C-WP/14138, which was presented by the Secretary General. In his introductory remarks to this item, the Secretary General, explained that the documentation contained three themes for this year's International Civil Aviation Day, during which ICAO would have an opportunity to celebrate its 70th anniversary. He also drew attention to the proposals concerning the frequency for establishing themes in future years. Finally, the Secretary General noted that for this year's event, a series of activities were being planned and that further details on some of these would be forthcoming in the near future.

6. The Representatives of Canada, Chile, France, and the Russian Federation indicated that they preferred the first option that was proposed in C-WP/14138 as a theme for this year's International Civil Aviation Day, i.e. "*Celebrating Seven Decades of Cooperative Air Transport Progress*". In doing so the Representative of the Russian Federation stated that one of the attractions of this particular proposed theme was that it carried with it a greater sense of the cooperative element of international civil aviation. The Representatives of Canada and Chile both expressed doubt as to whether the third option, which focused on the Chicago Convention, would be sufficiently appealing to the general public.

7. In stating a preference for the second option that was contained in C-WP/14138, i.e. "*Celebrating 70 Years of Global Civil Aviation*", the Representative of Brazil indicated that this option might prove more applicable as it would be more meaningful for members of the general public and easier for them to identify with. In this sense, the Representative noted that this year's celebration would represent a good occasion to also reach out to the media.

8. The Representatives of Australia, Bolivia (Plurinational State of), Dominican Republic, Germany, India, Malaysia, Norway, United Republic of Tanzania, and Venezuela (Bolivarian Republic of) indicated that they were in favour of the third option that was proposed in C-WP/14138 as the theme, i.e. "*Celebrating 70 Years of the Chicago Convention*", particularly since it was appropriate to focus on the Chicago Convention as the primary reason for the event taking place.

9. In her intervention to the Council, the Representative of Australia opined that all three options being presented lacked creativity and would therefore prove to be somewhat uninteresting to both the general public and the civil aviation community. In that context, the Representative proposed that further thought be given to refining the options so that they would be more marketable. The Representative of the United Republic of Tanzania expressed support for this intervention.

10. In response to questions from the Representatives of Australia, France, Norway and Venezuela (Bolivarian Republic of) who sought further information concerning the 70th Anniversary event to take place in Chicago in December 2014, the President of the Council explained that there were currently ongoing discussions with representatives of the US Government in relation to the hosting of an event at the same venue as that where the Chicago Convention had been signed in 1944. He hoped to convey more details about this to the Council at a later date in the current session (cf. C 202/6).

11. At the same time, it was intended that a related series of events would also take place in Montréal and more details on these would be conveyed in the near future. The President of the Council indicated that he was aware of the need to confirm transportation and accommodation details so further information would be provided shortly. Member States would receive an invitation to participate at the Chicago event with the invitation being issued to Ambassadors accredited to both Canada and the United States. As for the series of

events being planned in Montréal, the President acknowledged the need to contain any cost implications for everyone involved and it was for this reason that it was not currently envisaged that an invitation would be issued to all Member States since this would necessitate a significant and probably unwarranted travel commitment on the part of many.

12. At the conclusion of its consideration of this item, the Council decided that:

- a) the 70th Anniversary theme for 2014 should be realized through a combination of theme proposals one and three, namely: *Celebrating Seven Decades of Cooperative Air Transport Progress* and *Celebrating 70 Years of the Chicago Convention*;
- b) in the future a specific anniversary theme be developed every five years, and that a new theme be adopted for the full four-year period between anniversaries;
- c) in order to align anniversary themes with the actual year of the anniversary, they would henceforth be adopted on the 7th of December of the previous year; and
- d) the Secretary General be requested to seek the cooperation of States and appropriate international organizations in celebrating International Civil Aviation Day.

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 202nd Session**

13. This subject was documented for Council consideration in C-WP/14140, presented by the Chairperson of the Joint Support Committee (JSC).

14. In his introductory statement, the Chairperson of the Joint Support Committee (Representative of Japan), indicated that the JSC was recommending to the Council that it approve the implementation of a new software function in the Integrated Situation Display System, which was aimed at optimizing flight profiles. This project had been presented to the user community at the most recent User Consultation Meeting held in Copenhagen in August 2013. The proposed capital expenditure was estimated at approximately USD 500,000 with 94 per cent of the cost being allocated to international civil aviation and recovered through the user charge for air traffic control services.

15. At the conclusion of its consideration of this item the Council approved the action recommended in the Executive Summary of JS-WP/1999 [subparagraphs a), b) and c)], as indicated in paragraph 2 of C-WP/14140.

Subject No. 41: Rules of procedure of the various representative bodies in ICAO

Review of the composition of the Standing Committees of the Council

16. The Council considered this item on the basis of an oral report from the Chairperson of the Working Group on Governance and Efficiency (WGGE), which had reviewed the Standing Committees of the Council and considered various options as regards their composition.

17. In his introductory statement, the Chairperson of the Working Group on Governance and Efficiency (Representative of China), noted that the WGGE had reviewed the composition of the Standing Committees of the Council in the course of four meetings at which it analyzed the current membership of the Committees and considered various options as regards the composition, particularly of the Air Transport Committee (ATC), Finance Committee (FIC), Human Resources Committee (HRC), Joint Support Committee (JSC), Technical Cooperation Committee (TCC), and the Committee on Unlawful Interference (UIC).

18. The Chairperson indicated that the majority of the members of the WGGE were of the view that the problem to be solved, which would require changing the composition of the Committees, had not been clearly articulated. In the circumstances, it was considered that any specific concerns could be resolved through rotational arrangements organized by the regional groupings. The WGGE therefore had agreed to recommend to the Council to make no changes to the rules governing the composition of the Standing Committees of the Council. However, some members of the WGGE had felt that consideration could be given in the future to open membership of the Committees for all Council Representatives on a voluntary basis but to limit the number of membership of Committees each Representative could hold.

19. The Representative of Venezuela (Bolivarian Republic of) indicated that his delegation had on a previous occasion (C 200/1) expressed concerns about the composition of the Standing Committees and the need to achieve a fairer balance of representation between Member States. He observed that some States appeared to be represented on most of the Committees whereas other States had only minimal representation. When the proposal had been made to review the composition of the Standing Committees, the whole Council had agreed to this review (C-DEC 200/1). The Representative expressed the view that it was important in this regard to ensure that all States elected to the Council had the same rights, opportunities and privileges, and that no one State or group of States have a dominant position, by being overrepresented.

20. Therefore, the Representative believed that there should be equitable participation on the Council Standing Committees to ensure their effectiveness. He acknowledged that sometimes historical practice becomes the norm over the years but that the Council should not accept the idea that there was an “inherited membership” on some of the Committees for some States with no prospect for change. This would not be within the spirit of the Chicago Convention.

21. In relation to the rotational arrangements organized by the regional groups, to which the oral report of the WGGE referred, the Representative noted that his region appeared to have one of the lowest participation rates of all with about three Committees per State. Venezuela (Bolivarian Republic of) itself was represented on only two Committees, with one of these being the ATC, which in any case under the existing arrangements was open to all Representatives. In the present circumstances, it was difficult for some States, such as his, to negotiate positions on the Committees on a rotational basis.

22. In concluding his remarks, the Representative urged the Council to ensure that all Representatives had the same rights to participate on the various bodies of the Council so that Committee membership would be equitable. If Council decided to maintain the status quo, that would effectively result in discrimination against certain States that did not have sufficient representation on the Committees. The Representative therefore proposed that the President of the Council use his good offices to meet with those States that would like to be on more Committees with the aim of achieving a better balance between the States. This exercise should also aim to establish criteria for the appointment of members to the Committees.

23. In outlining the position of the ABIS Group, the Representative of Portugal indicated that it was important for her rotational group to be represented on the Finance Committee (FIC). In doing so, she noted that the ABIS Group was the fifth largest contributor to the ICAO budget, representing 5.36 per cent of the total of

the scales of assessment whereas there were currently some members of the FIC that contributed less than one per cent of the budget. The current composition of the Finance Committee represented 67.23 per cent of the scales of the assessment for the triennium 2014-2016 but only six of the FIC members represented individual contributions of higher than four per cent. Seven of the FIC members represented 14.14 per cent of the scales of assessment with contributions of between 1 per cent and 4 per cent, while the remaining four members representing only 1.7 per cent of the scales of assessment with contributions of less than one per cent. According to this analysis it was possible to conclude that the smallest contributors to the ICAO regular budget had a low level of participation in the FIC.

24. The Representative also noted that presently, over 70 Member States were represented by a Council Representative who is also a member of a rotational grouping. That represented more than one-third of ICAO Member States. Only one member of a rotational grouping is currently a Member of the Finance Committee. Given the need to ensure that the membership of the Committees delivered a gender and geographical balance, it could be seen some of the Committees were unbalanced in geographical terms. Certainly it was the case that the smallest financial contributors were not well represented on the FIC. In conclusion, the Representative expressed support for the idea that the size of the FIC as well as the membership of other Committees be expanded so that all Council Representatives had the same right to participate in the different Committees.

25. The Representative of the Russian Federation emphasized that his delegation had always been opposed to the idea that the membership of the Committees should be restricted. He cited the Air Transport Committee as an example of a Committee that was open to all Council Representatives and yet worked well despite the larger membership size. He supported the principle of ensuring geographical balance on the Committees and in doing so referred to an informal analysis that had been drafted by the Delegation of Japan, which had concluded that in order to ensure fair geographical and regional balance, each Committee needed to have at least 16 members. There should be no restrictions on the rights of Council Representatives to participate on the Committees and the Representative expressed hope that the Council would arrive at a satisfactory resolution of this issue during the current Council session.

26. In agreeing that the current arrangement for the composition of the Council Committees needed reviewing, the Representative of India expressed the view that certain countries felt underrepresented on certain Committees. In the circumstances, it was important to develop a mechanism that would deliver a fairer outcome when composing the membership of the Committees. It was clear that the WGGE had genuinely attempted to arrive at some better options, as was indicated in its oral report, but that there were not necessarily any easy options in this regard. Therefore, the Representative supported the proposal that the President of the Council take on the task of reviewing the current arrangement with a view to possibly developing some criteria by which membership on the Committees could be allocated, including the possibility of expanding the size of the Committees if necessary, to achieve a better balance.

27. The Representative of Norway indicated that he did not have any complaints in relation to the Committees, including in relation to their current working arrangements or the advice that they provided to the Council. Nor did he perceive there to be a problem with the current composition of the Committees. In his view, they all seemed to be adequately fulfilling their responsibilities and presenting useful advice to the Council. At the same time he fully understood and respected the reasons why some Council Representatives wished to be on some of the Committees, not only because of their own distributed competence but also, due to their contribution to aviation in general, and ICAO specifically. It could be seen that the Committees provided Council Representatives with a chance to contribute to and influence issues before they come to the Council and he did not wish to restrict that possibility. He would prefer the possibility of retaining a certain future dynamic on the Committees and this was an option that was certainly open to the Council.

28. The Representative observed that the President of the Council had the power and credibility to evaluate nominations to the Committees and decide in these matters, whether alone or in consultation with others, including the Working Group of Governance and Efficiency, if he so chose. In the circumstances, the Representative supported the proposal for the President of the Council to review the current Committee arrangements. The Representative expressed full support and confidence in the President in this matter and he was prepared to fully respect the outcome of this review.

29. In emphasizing the importance of taking into account the issue of equitable geographical distribution, the Representative of Bolivia (Plurinational State of) stated that it was important to ensure that all States had the opportunity to contribute to the work of the Committees and by extension, the work of the Council. He noted that in some of the Committees, there were States that were represented for which aviation was an important sector, whereas there were other States represented on the Committees in which the aviation sector was not as significant. In this context, it was important to strike a balance and be aware of the differences between States. This would facilitate a better and more equitable outcome.

30. The Representative was a strong believer in greater transparency in such matters and so he thanked the Representative of Portugal for the additional and highly relevant information she had provided in her earlier intervention. In essence, the Representative believed that if the Council could arrive at an outcome in which all States could contribute to the work of the Committees for the greater development of air transport, no matter how much money one was putting into the system, then this would better serve the Council. He urged the Council to work together in resolving this issue now and not to delay in finding suitable outcomes.

31. The Representative of the United Arab Emirates aligned herself with the previous interventions of Venezuela (Bolivarian Republic of), Portugal, Russian Federation, and Bolivia (Plurinational State of). In doing so, the Representative noted that no State from the Arab Region was currently represented on the Finance Committee and it would therefore be important to examine the criteria for the composition of the Standing Committees. The Representative expressed her support for the proposal that the President of the Council informally work to resolve the issue.

32. Speaking in his capacity as a Council Representative and not as Chairperson of the WGGE, the Representative of China expressed support for the right of Representatives to participate in the work of the Committees on a voluntary basis, which would create the possibility for all Representatives to participate in all the Committees if they so desired. The Representative observed that although the WGGE had been unable to reach consensus on this idea of voluntary participation in the Committees, he nevertheless would support the President of the Council in his efforts to achieve a satisfactory resolution of this issue in collaboration with Representatives.

33. The Representative of Malaysia expressed support for the proposal outlined in the third paragraph of the oral report by the WGGE, concerning making better use of the rotational arrangements organized by the regional groupings. Whatever the final resolution of this issue, the Representative felt that it was important to arrive at a fair and just solution that reflected equal geographical representation. He supported the President of the Council in his efforts to achieve consensus and was confident that this would help to deliver an outcome that would be fair and just.

34. In expressing support for the idea of opening up the membership of the Standing Committees to all Council Representatives, the Representative of the United States cited the example of the Air Transport Committee (ATC) as a model, in which all Representatives had the right to participate and which appeared to all intents and purposes to be working well. Given that some Council Representatives wanted to participate on

some Committees on which they were currently not members, he suggested that the membership of the Committees be therefore opened up to all Representatives. In this context, one option could be for the WGGE to consider this specific option and then report to the Council on the practicalities involved. In general terms though, since the ATC already served as a workable model, the Representative was of the view that there would be no apparent reason why this could not be replicated for the other Committees as well.

35. In recalling that the Air Transport Committee (ATC) was unique among all the Standing Committees given its specific role as enshrined in the Chicago Convention, the President of the Council observed that the ATC could not necessarily be used as a direct example for comparative purposes. Nevertheless, he concurred with the previous interventions that had noted that the ATC had been working well as a Committee despite its larger membership size. In his time as a member of the ICAO Council however, the President had observed that even though the ATC comprised all Council Representatives, most of the interventions that were made on issues discussed in the ATC, were in many cases subsequently repeated when the same items were brought to Council. One would have expected that with all Representatives being present at the ATC when discussing an issue, that once a Committee recommendation was presented to the Council, the final decision would be easier to approve, but this had not been his experience. Indeed, the President of the Council observed that in most instances when a Council Representatives makes an intervention in the Council on some issues, it is only to repeat the same comments that he or she previously made at the ATC.

36. The Representative of Nicaragua expressed support for the proposal from the US that the membership of the Committees be opened up to all Council Representatives so that those who wished to do so had that option before them. She emphasized the need for the Council to arrive at a resolution that was fair and equitable to everyone and she would support the President in his efforts to informally try and arrive at a consensus resolution of this issue.

37. In emphasizing the importance of maintaining a workable size for the Standing Committees, the Representative of the United Kingdom observed that given the WGGE had met to discuss this issue on four separate occasions was an indication of how difficult it had been to arrive at a satisfactory and workable solution. He noted that the Committees existed for a reason and that it was not always easy to find the right balance on these matters. It was important for a Committee to be small enough to enable focused and detailed debate, where members could participate more than once, and if necessary, in order to genuinely thrash out a problem so as to make a coherent recommendation to the Council. Of course in attempting to achieve a fair and equal representation on the Committees, one option could be that all Council Representatives had the option to be on all the Committees. However, he would have serious reservations about extending the membership of the Committees in this manner since it could lead to Committees with 36 members where everything was discussed twice in exactly the same terms, first at the Committee and then at the Council. In that case, the Representative wondered whether it might not be just as appropriate to abolish the committee structure altogether and simply take all issues to the Council. This would represent the logical extension of any idea to open the Committees to everyone, but clearly would not be the most practical option.

38. In the circumstances, the Representative supported the proposal that the President of the Council attempt to informally resolve any particular grievances that individual Representatives might have with regard to the participation of particular States. He would prefer this rather than requesting the WGGE to hold yet another round of meetings, which might prove to be equally inconclusive. In the course of the President's informal consultations, the Representative suggested that President exercise some discretion in assessing what would represent a genuine grievance or sense of unfairness in regard to the composition of the Committees. He noted that there would always be a certain level of unevenness in the representation on the Committees because it would never be possible to please everyone.

39. The Representative also observed that the United Kingdom was itself not overly represented on the Committees but he for one would not perceive this to be a grievance since ultimately all the Council Representatives had to be prepared to compromise for the sake of the effective functioning of the Council. He would not be demanding additional representation for his country even though he noted that certain countries, including the European countries elected under Part One of the Assembly Session elections, were indeed slightly underrepresented. In this context, the Representative would not support a complete restructuring of the committee structure until it was clear as to the problem that was required to be resolved.

40. The Representative of Singapore cautioned against opening up the membership of the Committees too much since this would lead to them becoming inefficient in their functioning. On the other hand, he certainly recognized that current arrangements were unsatisfactory. In the circumstances, the Representative proposed that the Council consider selectively increasing the size of some of the Committees. He also expressed his full support for the President's informal efforts to try and resolve this issue and achieve a consensus outcome. He was confident in the President's ability in this regard.

41. In acknowledging that this was a difficult issue to resolve, the Representative of Italy nevertheless observed that despite the complexities, the Council should make every effort to arrive at a solution given the extent of dissatisfaction that existed in the current arrangements. He observed that some of the proposals that had been raised thus far in the debate were worthy of further consideration and on behalf of his delegation, he expressed his commitment to work together with all Council Representative so as to arrive at a suitable resolution of this issue.

42. The Representative of Mexico observed that there were some legitimate grievances that had been aired by Council Representatives in the course of the consideration of this issue. In trying to find satisfactory options to resolve the issue, the Representative recalled that it was important for the Council to bear in mind the reasons why the Committees had been created in the first place. In this context, the Committees had been established to facilitate the Council's work so if the membership of the Committees was opened to all Representatives with no limitations, then this would endanger the efficient functioning of the Committees. He recalled that this may have occurred in the past and he cited as an example, the issue of the environment that had until recently been part of the mandate of the Air Transport Committee (ATC). By any objective analysis, it had proven difficult to deal efficiently or effectively with this issue within a group of 36. If all Committees were opened to all 36 Representatives, then it would be possible to conclude that the Committees were not necessary and that the Council simply met as a whole to deal with all items. Therefore, the Representative cautioned against opening the Committees up to all Council Representatives since it would result in the Committees ceasing to function in the way that had originally been intended.

43. The Representative indicated that if the intention was to facilitate Council's work, then consideration could be given to increasing the size of some of the committees but this would require careful analysis including consideration of the relevant rules and implications. In addition, there might be cost implications of expanding the size of the Committees. For instance, there were some Committees where interpretation services in all languages was not provided, which would necessitate a change. He urged the Council to keep these considerations in mind before making any decision on this issue. In concluding, the Representative expressed his support for allowing the President the opportunity to informally consult with Council Representative with the aim of achieving a consensus resolution. The Representative expressed full support and confidence in the President's ability in this regard.

44. The Representative of Spain noted that for his part, he regularly participated in Committee discussions of items where he had an interest in a particular issue, even though he might not have been a member of that particular Committee. On these occasions when he participated as an Observer, he had never encountered any

difficulties in doing so. Even though this option was open to all Council Representatives, he stated that it would nevertheless be necessary to try and resolve this issue to the satisfaction of all.

45. The Representative expressed the view that in general terms it would be important to retain some flexibility when it came to the structure of the Committees. This would include taking into account the need to retain a size that would be efficient while delivering a fair balance of all considerations. This might be 12 or 15 or 20 members but ultimately, the efficiency of any particular committee would be in the hands of the person chairing a committee and coordinating the discussions. In his assessment, the number of members on any particular Committee was not the most important factor in the work being carried out. In that context, the Representative endorsed the efforts of the President to try and informally resolve the issue and achieve a consensus outcome that would be supported by the Council.

46. The Representative of Japan expressed support for retaining the current membership size of the Committees in order to ensure their effective and efficient functioning. Expanding the size of the Committees by too large a number might not necessarily be the most optimal solution. Nevertheless, in giving consideration to expanding the size of any Committees, this could be considered for all except the Joint Support Committee (JSC), which had a unique function. In general terms though, the Representative was not in favour of expanding the size of the Committees since the evidence was already before the Council of the way in which the ATC had been unable to effectively deal with environmental issues, which were eventually moved onto the recently established Environment Advisory Group (EAG). In the circumstances, the Representative expressed support for the efforts by the President to try and find a consensus solution that would help to resolve this issue and be acceptable to all Council Representatives.

47. In acknowledging that there were good arguments for and against expanding the membership size of the Committees, the Representative of Australia indicated that any solution that dealt with the grievances of the current Council would in fact prove to be only a temporary solution since the Representatives on a new Council would have different preferences and desires on the issue of which Committees they wanted to participate in. This meant that the issue would keep coming back to the Council as a recurring problem unless a formal mechanism was established that clearly established a set of rules that was understood and accepted by everyone. In addition to reviewing the size of the Committees, this might include placing limits on the number of Committee memberships and how long a Council Representative could be a member of a Committee for any one time before there was a requirement for a rotation. There could be a range of related rules such as these.

48. In agreeing with the Representative of Spain, the Representative of Australia recalled that over the years she had held no qualms about going to a Committee meeting as an Observer and participating in the discussions even though she was not a member of that Committee. Nevertheless, she acknowledged that there was an inherent difference in being a member and being an observer so she understood that this would not necessarily represent a solution to the concerns that had been expressed.

49. The Representative of Germany indicated a preference for the proposal outlined by the United States that would lead to the membership of the Committees being opened up to all Council Representatives if they so desired. As far as he was concerned, he had no desire to participate in all the Committees. However, opening up the Committees, with the exception of the Joint Support Committee, to all Council Representatives would eliminate all the grievances that had been aired in the past about the composition of the Committees. This would also eliminate the need to justify whatever composition was being proposed for any particular Committee. This option could be trialed for a period of time and then assessed as to its effectiveness as a new arrangement for the composition of the Committees. If it proved unsatisfactory, then the decision could always be revisited.

50. As to the idea that a set of rules might help to resolve this issue, the Representative doubted that this would prove to be a satisfactory solution in the long-term. As an example he cited the rules for Panels, which supposedly limited their size to a membership of between 15 and 25 in order to make them more workable. However, in many instances, these meetings were conducted in the presence of more than 150 Observers, which was clearly counterproductive.

51. In expressing support for the earlier intervention of Venezuela (Bolivarian Republic of), the Representative of the Dominican Republic also welcomed the proposal outlined by the WGGE in their oral report, which in paragraph three proposed that one option to resolve the issue of the size of the Committees might be to make greater use of the rotational arrangements organized by the regional groupings. If a State or group of States wished to participate in the work of a particular Committee, then it always retained the option of working through its regional grouping to do so. The Representative expressed confidence that an acceptable solution to the Council could be found to resolve this issue.

52. The Representative of France emphasized that the Committees played a useful role in filtering the discussions on issues before they were presented as recommendations to the Council for decision. In that context, the size of the Committees ought to be kept small so that they could meet as often as needed, and so that they could work in more detail on issues. There were some strong arguments in favour of retaining smaller Committee sizes, which were not really related to equitable geographical representation or other related considerations. The Representative doubted that the ATC model should be replicated for the other Committees since this was a special case.

53. The Representative also cautioned the Council that in expanding their size, there would also be a need to consider how to rationalize the work of the Committees so as to avoid a repetition of discussions since clearly, there would be broader implications for the functioning of the Committees. Nevertheless, the Representative would support the efforts of the President in trying to find a consensus solution to this issue especially as yet another discussion in the WGGE would not necessarily be productive at this point.

54. In agreeing that it would not necessarily be the best outcome to have all 36 Council Representatives on all the Committees, the Representative of Egypt indicated that this would prove unproductive and would merely lead to discussions that had taken place at a Committee being repeated at the Council. The Representative proposed that one option could be for all the Committees to comprise of 18 members and it would be their recommendations that would be the focus of consideration when items were subsequently brought to the Council. As with other previous interventions, the Representative expressed support for any efforts that the President might undertake informally to try and resolve this issue.

55. The Representative of Nigeria observed that many of the interventions that had been made thus far in the debate were similar to those arguments that had been presented during the consideration of this issue by the WGGE. Although not a member of the WGGE, the Representative had participated as an Observer in the consideration of this issue. In the circumstances, the Representative expressed support for any efforts that the President might undertake in order to informally reach a consensus solution that would prove satisfactory to everyone.

56. The Representative of Burkina Faso expressed concern that even though he had followed the debate thus far, he remained unclear as to what the problem was that was requiring resolution. He reminded the Council that all Representatives had been elected with a universal mandate and whether a particular country was represented or not, both the Council and the Committees were obligated to strive towards the best outcomes for international civil aviation. If something was not working in the most optimal fashion, then the Council was required to assess what needed to change and to respond accordingly. If that resulted in a change to the structure of the

Committees then it would need to be so as to achieve a viable and productive solution for the good of ICAO. He urged the Council to work together in resolving this matter and if a particular Council Representative wished to participate in the work of a Committee, then there should be nothing that prevented him or her from doing so. Council Representatives should work through their regional groupings to draw attention to particular topics of relevance but in the overall scheme, the Council should not be distracted or deviate from its global mission.

57. In concluding the discussion, the President of the Council observed that the WGGE had met on four separate occasions to discuss this item and yet, had been unable to resolve the issue. One of the positive aspects of the problem that he had welcomed had been that there were clearly quite a number of Council Representatives who were willing to work within the Committee structure to alleviate the work of the Council. At this stage, he was not prepared to open the Committees to all Council Representatives as this might prove counterproductive. In any case, it remained true that all Council Representatives retained the right to attend any Committee that they were interested in and participate as Observers in those discussions. In reality the main difference between a Member and Observer of a Committee was that the latter had no right to participate in any votes taking place on the Committee but he noted that in his many years of experience, there had never been any votes taken at the Committee level that he could recall. He acknowledged that if the Committees were open to everyone however, there was the risk, albeit small, that on certain particular issues there would be an insufficient turnout to some meetings so it would therefore be important to continue appointing Committee members rather than issuing a general non-binding invitation to everyone.

58. The President declared himself ready to accept the challenge of attempting to informally consult with Representatives with the aim of finding an acceptable consensus solution to this issue. To that end, he indicated that he would later that day issue a formal written invitation to the Council inviting expressions of interest on which Committees all Representatives wished to participate in. Responses would be required no later than 12 June to enable sufficient time for this item to be brought back to the Council before the conclusion of the current session. In that context, the President encouraged Representatives to consult among themselves and within the regional groups, if necessary, so as to reach agreement on which Committees Representatives were wishing to participate in. The President also encouraged those Council Representatives who felt that they were serving on too many Committees, to wherever possible, relinquish that membership to accommodate other Representatives who wished to serve in that particular capacity.

59. The President recalled that both the Joint Support and Finance Committees had a predetermined membership size and that in the case of the former, there were certain unique requirements that needed to be taken into account. It was also the case that the Joint Support Committee conducted its meetings in one language only and that the issues that came before it were primarily of concern only to a select group of States. The composition of the Human Resources Committee included the three Vice-Presidents and a number of Members nominated by the President. The Unlawful Interference Committee and the Technical Cooperation Committee had around 13 to 20 members. For the purposes of this discussion, the Working Group on Governance and Efficiency and the Environment Advisory Group were not part of the consideration and nor was the Edward Warner Award Committee, which met for the most part for only two or three times per year.

60. In essence, the further consideration of this item would focus on the composition of four Committees: Finance, Unlawful Interference Technical Cooperation and Human Resources. In relation to the latter, there was an existing Council decision on its composition so there would not be much room for manoeuvre in that regard. Nevertheless, the President undertook to do his best to resolve all outstanding grievances on this issue but in doing so he sought the cooperation of all Council Representatives.

61. With respect to the Finance Committee, the President recalled that the membership of the FIC was fixed between 13 and 17 but that currently there were fewer than 17 members. Increasing the size of the FIC would be

an option but he did not wish to continue that discussion within the Council at this time especially as the whole item would be brought back to the Council in due course in the current Session. In the course of this consideration though the President would consult with the Members of the Finance Committee.

62. In response to a question from the Representative of the United States, the President of the Council clarified that he would shortly be issuing a written invitation to the Council inviting all Representatives to indicate those Committees on which they wished to serve. Based on the responses received, the President would then return to the Council at a later time during the current Session with a proposal for Council consideration on the composition of the Committees. In the course of this short period, the President reiterated that it would be important for Council Representatives to consider relinquishing their membership of any Committee of which they no longer wished to participate in as this would help to free spaces up for other Representatives with a particular interest in the work of that Committee. The President would separately also be meeting with various Representatives to consult directly on this issue with the aim of arriving at a consensus solution that would be acceptable to the whole Council. In the meantime, he once again encouraged Representatives to consult among themselves and within their regional groups in order to offer options that would facilitate a solution.

63. At the conclusion of its consideration of this item, the Council noted that the President would issue a letter (PRES OBA/2307, dated 9 June 2014 refers), inviting all Council Representatives to indicate the names of Members and Alternates wishing to serve on the Joint Support, Finance, Unlawful Interference, Technical Cooperation, and Human Resources Committees, with responses due by no later than 12 June 2014, following which it was understood that the President of the Council would consult with Council Representatives with the aim of achieving consensus and thereafter present the composition of each Committee for the period 2014-2015 for Council consideration in a working paper (C-WP/14164 refers).

Subject No. 42: Technical cooperation

Report of the *Ad Hoc* Working Group on Technical Cooperation Programme Development

64. The Council considered this item on the basis of an oral report from the Chairperson of the *Ad Hoc* Working Group (WG) and an oral report from the Chairperson of the Technical Cooperation Committee (TCC). The WG had been established by the TCC to review and address the reporting requirements of the Technical Cooperation Bureau (TCB).

65. In introducing the item, the Chairperson of the Technical Cooperation Committee (Representative of Malaysia) indicated that during its meeting, the TCC had considered the interim report of the *Ad Hoc* Working Group on Technical Cooperation Programme Development, which was established to review and address the reporting requirements of the Technical Cooperation Bureau (TCB). The Committee had endorsed the expansion of the original scope of the work of the WG and its preliminary conclusions and recommendations on the subjects of “Technical Cooperation Programme’s Contribution to ICAO’s Strategic Objectives”, “Key Performance Indicators”, “Customer Satisfaction Surveys by an External Party”, and “Fall Session Reporting Requirements”. More specifically:

- a) the Committee acknowledged TCB’s commitment to supplement the information available in the Annual Report of the Council with more details on the Programme’s relationship with the Strategic Objectives of the Organization;
- b) it was noted that, for ease of access by the Council, TCB dashboards are now displayed at the opening page of the ICAO Secure Portal and are updated on a quarterly basis, thereby providing the governing bodies with a historical overview of the Programme’s results;

- c) it was appreciated that the *Ad Hoc* Working Group would continue to build on existing Key Performance Indicators with a view to developing appropriate indicators to measure the Programme's impact on the resolution of safety and security deficiencies identified through ICAO audits;
- d) the Committee recognized the benefits of independent customer satisfaction surveys, acknowledging that the Working Group would continue deliberating on the feasibility of engaging a third party for these purposes and that TCB has issued a request for quotation;
- e) recalling that TCB was implementing a Marketing Plan as part of its Management Plan for 2014-2016, the Committee suggested that the public website provide guidance on how to approach TCB for requesting assistance; and
- f) in terms of reporting requirements, the Committee had discussed the recommendation that the financial and operational results portion of the Fall Session report be discontinued in exchange for information of a similar nature to be made available in the Council website.

66. The Council noted that the information that had been presented by the TCC on this item was being presented on an interim basis and that a further report from the Chairperson of the TCC on the conclusions of the *Ad Hoc* Working Group would be presented at the 203rd Session of the Council.

Subject No. 42: Technical cooperation

**Report on technical cooperation programme development and update of Administrative
and Operational Services Cost (AOSC) income and expenditures
for the year 2014**

67. The Council had before it information paper C-WP/14143, which was presented by the Secretary General, and a related joint oral report from the Technical Cooperation Committee and Finance Committee, which had considered this item at a combined meeting on 12 May 2014.

68. In introducing the item, the Chairperson of the Finance Committee (Representative of Mexico), indicated that during the joint meeting, the Finance Committee (FIC) and the Technical Cooperation Committee (TCC) had considered C WP/14143, which presented the operational and financial results of the Technical Cooperation Programme for the year ending 31 December 2013, as well as an update of the Administrative and Operational Services Cost (AOSC) budgetary estimates for 2014.

69. The Committees were informed that the Technical Cooperation Programme had a total implementation volume of USD 137.2 million in 2013, which generated a total income of CAD 9.48 million for the AOSC Fund and expenditures of CAD 8.34 million for an excess of income over expenditure of CAD 1.14 million in the AOSC Fund.

70. The Committees acknowledged that, although the Americas region continued to consistently show the largest implementation volume in financial terms, a relative geographical balance existed in terms of the number of States receiving support from TCB as well as in the number of projects executed in each region. The difference in implementation volume stemmed mainly from the type of projects, with the Americas region concentrating mainly on large-scale procurement projects and the other regions in capacity-building projects.

71. It was noted that USD 137.8 million is expected to be implemented in 2014, out of a total programme of USD 309.2 million. The updated forecast showed an estimated AOSC surplus of CAD 852 000 with an estimated income of CAD 9.1 million against estimated expenditures of CAD 8.25 million. Attention was drawn to the increase in consultancy and travel costs. In this regard, the Committees were informed that two consultants were being recruited to assist in the automation of project management and related processes, and that TCB had initiated the implementation of a broader marketing plan, which would require increased visibility on the part of TCB and representation in regional meetings.

72. In conclusion, the Chairperson of the FIC informed the Council that the Committees had congratulated TCB for the progress achieved, especially in the last two years, in stabilizing the programme's performance and the AOSC Fund results. In view of the expected implementation volume for 2014, combined with the marketing efforts to enhance and strengthen the technical cooperation programme, members of both the FIC and the TCC were encouraged by the direction that TCB was taking.

73. By way of supplementary information, the Director of the Technical Cooperation Bureau (D/TCB) informed the Council that as of 31 May 2014, the implementation rate stood at just over USD 50 million. This was USD 14.3 million higher than at the same time in the previous year. On this basis, D/TCB indicated that the prospects for 2014 were positive. D/TCB also confirmed that the TCB dashboards on the website had now been updated so as to reflect the information as at the end of May 2014.

74. The Representative of Spain welcomed the positive results that had been presented by both the Chairperson of the FIC and the Director, Technical Cooperation Bureau (D/TCB), which he perceived to have exceeded expectations. In particular, he welcomed the stabilization that had occurred in the technical cooperation programme. One area that the Representative indicated that he would continue to monitor would be in relation to the need to achieve a regional balance in the programme, not in terms of the number of contracts that are awarded but in terms of the volume. In this regard, he was aware of efforts currently being undertaken to address this, especially in Africa. The Representative indicated that it would also be important to continue to monitor the overall technical assistance efforts for any deficiencies that might be identified as a result of safety and security audits, since these would require the Council to respond accordingly in the future, if required.

75. In relation to the information paper that had been presented (C-WP/14143), and specifically section 3.2.2, which dealt with technical assistance, the Representative of the Russian Federation observed that this referred to only two projects. He requested that in the future when this item was presented to the Council that it would be more useful if the information presented on this point could be elaborated on by providing more details on the volume of funds expended for individual projects and what the sources of funding were for each project.

76. In welcoming the healthy state of the technical cooperation programme, the Representative of Argentina emphasized that this seemed to confirm that the programme was now on track and that the funds were being well-managed. His only concern at this point would be if forced attempts were made in order to achieve a more balanced outcome in terms of the implementation volume across the different regions. The Representative indicated that there were certain regions that, for unique reasons, required specially targeted projects, which in other regions might not be as necessary.

77. On a related point as the previous intervention from Argentina, and in expanding on his earlier intervention on this item, the Representative of Spain indicated that the technical cooperation programme had greater potential in the implementation of a broader range of projects but that some States might not currently be aware of the usefulness of the programme, which meant that there might be underutilization of the programme in some regions.

78. The Representative wondered whether there might be a need to disseminate more information in the regions about the potential of the programme so as to increase project activity in certain regions. It was of course understood that each region had its own specific needs but the intention in this case would be not so much to affect any perceived imbalance in project activity across the regions but rather to raise levels of awareness as to the possibilities of the programme. The Representative noted for instance, that some regions had a greater interest in procurement whereas others might have a need to respond effectively to identified safety and security deficiencies.

79. In relation to the same issue and any perceived imbalance between the regions in terms of the implementation of projects, the Secretary General explained that whenever he or the President of the Council undertook missions, they always took the opportunity to outline the role of TCB, in relation to the implementation of the strategic objectives of ICAO and specifically in terms of assistance and technical cooperation. Indeed, during his last four missions that he had undertaken in Africa, the issue was a feature of his discussions with the relevant authorities. In three of these, the country involved had requested assistance from TCB, primarily in relation to strengthening their expertise and capability. In all cases, this was considered to be essential given it would help strengthen oversight capabilities of specific projects. This level of assistance did not involve large amounts of money but it was important to the particular State making this request. In general terms larger projects are related to procurement, for instance, in terms of certification of a new airport. Nevertheless, the Secretary General emphasized that the distinction between the number of projects in any given region and the amount of money that is expended in a different region should not be seen as an important factor. Rather, what was important was the number of countries where TCB was involved, in one way or another, to the benefit of a particular country.

80. In relation to the projected programme implementation for 2014, the Representative of the United Republic of Tanzania expressed concern that the forward estimates presented in C-WP/14143 suggested a decrease in the volume of expenditure in the African region of around USD 13.5 million.

81. In relation to the list or roster of ICAO experts and field personnel that are used for the technical cooperation programme projects, the Representative of Venezuela (Bolivarian Republic of) wondered whether it would be possible to circulate this list to the Council as he was concerned that a high percentage of these experts appeared to come from only a handful of countries. In this regard, he perceived that there was an unequal distribution of nationalities with about 60 per cent of the experts coming from a specific country.

82. In response, the Director, Technical Cooperation Bureau (D/TCB) explained that the list could be made available since it was possible to identify from which countries experts were being drawn. He noted however, that when it came to recruiting experts, many different factors needed to be taken into account. For instance, ICAO always attempted to select an expert from the same region where a particular project was to be implemented. This was because it usually meant that the expert was more likely to be familiar with the region and in addition, this helped to reduce the costs since it would obviously be less expensive to use experts from within the same region as where the project was being implemented. Nevertheless, it was not always possible to select an expert on this basis. It was also necessary for ICAO to assess an expert's qualifications and to select the one that would be most appropriate for a specific project. ICAO always attempted to conduct the selection process in a thorough, fair and transparent manner. D/TCB also noted that the roster of experts was constantly changing and for that reason any list that was circulated would be merely be a snapshot at a given moment in time.

83. In concluding the discussion on this item, the President of the Council took the opportunity to encourage Council Representatives to encourage their Member States to submit the names of suitable experts for inclusion on the roster and to pursue this option in consultation with the Technical Cooperation Bureau.

Subject No. 7: **Organization and personnel**
Subject No. 46: **Recruitment policy**

Revision of the ICAO Service Code

84. The Council considered this item on the basis of C-WP/14166, which was presented by the Secretary General, and a related oral report from the Chairperson of the Human Resources Committee (HRC).

85. In introducing this item, the Chairperson of the Human Resources Committee (Representative of the United Arab Emirates) indicated that at their meeting the Human Resources Committee (HRC) had considered C WP/14166 and the amendments presented therein to *The ICAO Service Code*, which aimed at introducing a maximum time frame for the recruitment process and to limit all appointments to D-1 level posts to a maximum of two terms.

86. The HRC had discussed the proposal for a maximum recruitment time frame of twelve months, from advertisement to appointment decision for a post. During consideration of this issue, the Secretariat had explained that a noticeable improvement in the recruitment timelines had been made and that further improvements would be envisaged with a new or enhanced e-recruitment system. It was understood that a 120 day recruitment timeline, as recommended by the Joint Inspection Unit, was the target for the United Nations system. The HRC had requested the Secretariat to make continuous efforts to further improve recruitment timelines with the aim of reaching this target, while recognizing the need for longer recruitment timelines for D-1 and D-2 level posts in ICAO, which require the involvement of the HRC and the Council.

87. After further consultation, the HRC had agreed to endorse the proposal for a maximum recruitment time frame of twelve months in *The ICAO Service Code*, but had suggested that targets be added or key performance indicators for the current triennium to reflect a maximum recruitment time frame of seven months for D-1 and D-2 level posts as well as five months for P-5 level posts and below. The HRC had also agreed that a recruitment process should remain active for twelve months from the date of the appointment decision, so as to allow, when required, for the selection of another candidate to the post within this period.

88. During its discussion of the proposed amendment regarding the service limit of two terms for all D-1 level posts, the HRC also took note of the position of the ICAO Staff Association. The HRC had agreed to revise the proposed text for Staff Regulation 4.20 in C-WP/14166, Appendix A, to reflect that exceptional consideration could be given for a further extension beyond the two terms for D-1 level staff other than D-1 Regional Directors, on the basis of satisfactory performance and upon recommendation of the Secretary General, and with the express approval of the Council.

89. The Representative of India welcomed the report from the Human Resources Committee and expressed his support for the recommended amendments that had been proposed. He noted that he had attended the HRC meeting as an Observer when these issues had been discussed and had found himself to be in total agreement with the reasoning given in support of the amendments.

90. In relation to the proposed 120 day timeline for the recruitment process as recommended by the Joint Inspection Unit (JIU), the Representative noted that this had first been raised in 2012, which meant that some considerable time had already elapsed in taking action in this regard. Indeed, the Representative felt that given the time lapse, action in adopting the JIU recommendations should have already been taken, possibly during the 200th Session of the Council in November 2013. In the circumstances, the Representative suggested that the Council consider the introduction of timelines for taking action in the implementation of JIU recommendations.

On previous occasions , including at the HRC meeting, the Representative had taken the opportunity of noting that similar practices existed elsewhere across the United Nations system and he invited the Secretariat to ensure that it would keep the Council informed on such matters with a view to taking prompt and appropriate action as necessary.

91. In likewise noting the importance of the Secretariat taking action to respond to the recommendations of the Joint Inspection Unit (JIU), the Representative of Spain observed that it would be important in implementing the 120 day time frame for the recruitment process to identify appropriate key performance indicators that could be applied in conjunction with the process. The Representative wondered whether it might not be more worthwhile to determine how these targets would be met before agreeing to the 120 day time frame.

92. Separately, in relation to the proposed new text for Regulation 4.8: “recruitment process for all posts shall be completed within twelve months from the date of issuance of the vacancy notice to the date of the appointment decision. Should the appointment decision not be taken within this twelve-month time frame, the post should be re-advertised following established procedures”, the Representative sought clarification on the circumstances in which this would apply. He wondered whether this new text might not require some elaboration so as to make it clear as to the circumstances under which this would be applicable.

93. In relation to the latter point raised by the Representative of Spain, the Director, Bureau of Administration and Services (D/ADB) explained that the reference to a twelve month time frame for a recruitment process to remain active resulted from the discussions that took place during the meeting of the HRC. At the time it was understood that this measure would only be required to keep active a particular recruitment process. D/ADB noted that for instance, there had been occasions where a selected candidate had been appointed to a post but suddenly, due to various reasons, had decided against taking up the post. When this occurred during this period of time, the Secretariat was always able to recommend to the Secretary General that the next ranked candidate be selected for consideration. The new text in Regulation 4.8 sought to address such situations.

94. In relation to the issue of key performance indicators or targets to be met in the recruitment process, D/ADB indicated that for D-2 and D-1 level posts, which required a seven-month recruitment time frame, as well as for P-5 level posts, which required a five-month recruitment process, the Secretariat would always aim to meet these targets. At the present time, these targets are being met within a range of about 80-90 per cent of the time. D/ADB indicated that it was hoped that once the new e-recruitment system was implemented at the beginning of 2015, this would help deliver better results in meeting the targets that had been set. On the latter, D/ADB indicated that she would like to return to the Council at a future session to provide more information on the implementation of the new system and the results being achieved.

95. In response to the Representative of Malaysia who wondered whether the proposed new text of Regulation 4.21 might not require additional clarification to avoid any potential confusion especially with regard to the precise meaning of the extension of a contract of a D-1 staff member being made on an “exceptional basis” subject to “satisfactory performance”, the Director, Bureau of Administration and Services (D/ADB), explained that this new text was based on the recommendations from the HRC and reflected the Committee discussion. She explained that the proposed new text introduced three conditions for any extension of a contract being offered. Firstly, this would be subject to satisfactory performance. Secondly, it would require a recommendation from the Secretary General. Thirdly, all such extensions would need the approval of the Council.

96. In response to the Representative of India who sought information on whether a previous Council decision (C-200) concerning the adoption of new rules concerning the implementation of a six-month waiting period for applications from secondees and consultants, the Director, Bureau of Administration and Services

(D/ADB) indicated that action had already been taken in this regard and that an updated Administrative Instruction had been issued accordingly to reflect this change.

97. By way of elaborating on the new rules that would apply to D-1 level posts, the Secretary General explained that the practice which he had followed in applying the same provision for D-2 level posts as well as for D-1 Regional Directors, had been that extensions were only to be granted on an exceptional basis, and then only for a six-month period. It was always understood that any such extensions, rare as they were, would only be granted upon completion of satisfactory performance. The Secretary General recalled one case where he had granted a twelve-month extension but this was truly exceptional as it related to the particular individual fulfilling certain requirements vis-à-vis pension entitlements and the applicable retirement age. He noted that in any case, all extensions were subject to Council approval.

98. In relation to the issue of a maximum time frame within which a recruitment process ought to be completed, the Representative of the United Kingdom stated that the introduction of targets would undoubtedly help to facilitate this process. In an ideal world, the Representative hoped that the targets could have been even more ambitious. Nevertheless, for an aspirational over a non-binding target, ICAO should at least attempt to aim for the JIU recommendations as a matter of good practice. Once the new process was under way for a year or so, the Representative suggested that the Council could take the opportunity to review its operation and to consider whether the attainment of even more ambitious targets would be possible.

99. In relation to the issue of extension of contracts for staff at D-1 level posts, the Representative thanked the Secretary General for his previous intervention as it had helped to clarify some of the concerns he had in relation to how extensions were to be applied on an “exceptional basis”. The Representative also expressed doubt as to the linkage of extensions on an “exceptional basis” to the completion of “satisfactory performance”. He noted that the latter term was somewhat redundant as this was the standard that should in any case be the norm for staff. It seemed obvious that any staff member that had not deemed to have achieved a level of “satisfactory performance”, would not be offered an extension. On the basis he proposed that these words be deleted from the proposed new text of Regulation 4.21.

100. In observing that the oral report by the Human Resources Committee had referred to the position of the ICAO Staff Association, the Representative of Germany sought elaboration on what this position had been in relation to the proposed new regulations. Separately, the Representative also questioned the value of the adjective in the phrase “express approval of the Council”, in the proposed new Regulation 4.21 since in his view “express” was somewhat redundant in this context. Finally, the Representative wondered when the new regulations would become applicable. He had recalled that there had recently been a recruitment process commenced for several D-1 level posts in the Secretariat and so he wondered whether the new regulations would apply in this instance.

101. In response, the Secretary General explained that given that the Council had already taken a decision in relation to the two-term limit for D-1 level posts (C-DEC 201/7, paragraph 16 refers), the draft regulations being presented for Council consideration at this meeting merely sought to update *The ICAO Service Code* so that it would be consistent with the Council decision that had already been taken. In relation to the position of the ICAO Staff Association, the Secretary General assured the Council that it had been involved in lengthy discussions on these issues and that its position had been to oppose the adoption of any such rules for a variety of reasons. The Secretary General noted that some of the reasons had been valid, while others less so, but in the circumstances of a pre-existing Council decision (C-DEC 201/7, paragraph 16), the issue had already been pre-determined.

102. In relation to the third point that had been raised by the Representative of Germany, the President of the Council agreed in the proposed new Regulation 4.21, that the word “express” should be deleted from the phrase “...with the express approval of the Council”.

103. In response to a question from the Representative of the United Arab Emirates who sought clarification on the meaning of the term “satisfactory performance” as it appeared in proposed new Regulation 4.21 and the mechanism by which this would be evaluated in order to grant an extension of a contract, the Director, Bureau of Administration and Services (D/ADB) explained that for all extensions of staff contracts, a pre-existing system was already in place whereby the supervisor would undertake an evaluation of a staff member’s performance. This would be the basis by which consideration would be given to granting an extension of a staff member’s contract.

104. By way of supplementing the information that the Director, Bureau of Administration and Services (D/ADB), had provided, the Secretary General added that in seeking the Council’s approval in the granting of an extension he would always clearly specify what the “exceptional basis” to justify this decision. It would of course go without saying that extensions would be sought only for staff members who had delivered satisfactory performance in their work. The Secretary General noted that there might of course be other reasons for the granting of an extension, such as in order to enable a staff member to complete a task that required his/her ongoing presence for a further six-month period. Indeed, there were other exceptional circumstances that arose from time to time, but whatever the circumstances, the Council would always be informed before any approval was sought.

105. In relation to the concerns expressed in the implementation of a two-term limit being imposed for D-1 level posts, the Chairperson of the Human Resources Committee, recalled that the ICAO Staff Association had been concerned that this might prove to be a disincentive for younger staff members, who might therefore leave the Organization, which of course would be counterproductive.

106. In welcoming the general thrust of proposed amendments that had been proposed by the Human Resources Committee, the Representative of France nevertheless wondered whether the proposed new text in Regulation 4.8, which aimed at ensuring that a recruitment process would be completed within a twelve-month time frame, did not require further elaboration so as to remove any possible ambiguity as to the intent.

107. In also welcoming the proposed amendments that had been proposed by the Human Resources Committee (HRC), the Representative of Australia as a participant during the HRC meetings, recalled that there had been quite a healthy and extensive level of discussion on all the issues requiring consideration. In relation to the proposed new text at Regulation 4.8, which aimed to ensure that a recruitment process would be completed within a twelve-month time frame, the Representative expressed her total support for this objective. In relation to the proposed new Regulation 4.21 and the granting of extensions of contracts on an “exceptional basis”, the Representative wondered whether it might not be worthwhile to indicate that there could only ever be the granting at most of a twelve-month extension. In relation to the concerns expressed by the ICAO Staff Association, the Representative noted that even when a staff member had reached the limit of their two terms at the D-1 level, that individual always retained the right to apply for other positions elsewhere in the Secretariat so that the Organization would continue to benefit from the staff member’s expertise and abilities, albeit, in another position.

108. In response to a question from the Representative of Mexico concerning the number of extensions that are currently being granted and the maximum number of extensions that can be given, the Director, Bureau of Administration and Services (D/ADB) confirmed that usually an extension is given for only a six-month period. This includes for the Regional Directors, although in their case it can depend in part on the initial period in

which they were appointed and whether the provisions of the previous Service Code would apply or not. In general terms though, an extension is usually only ever granted for a six-month period.

109. In taking the action indicated in the executive summary of C-WP/14166 and as recommended in the oral report by the Chairperson of the HRC, the Council approved the amendments to Article IV and Annex IV to *The ICAO Service Code*, as detailed in Appendices A and B to the Oral HRC Report on C-WP/14166. These amendments would, respectively, introduce:

- a) a maximum time frame of twelve months for the completion of the recruitment process for all posts, from the date of issuance of the vacancy notice to the appointment decision (Article IV, Staff Regulation 4.8); and
- b) a maximum service of two terms for all appointments to D-1 level posts (Article IV, Staff Regulation 4.20, 4.21 (new), and 4.22 (re-numbering of existing 4.21); and consequential editorial changes in Annex IV, paragraphs 15, 17, 18, 22, 23, 24, and 25)

110. In relation to the proposed new wording for Staff Regulation 4.21, as outlined in Appendix A, Council revised the proposed text so that the references to “on the basis of satisfactory performance” and “express”, would be deleted. The proposed new text was approved in-principle by the Council subject to the Secretariat undertaking a further revision to take into consideration the existing practice in relation to the extension of employment contracts as currently applies in *The ICAO Service Code* for D-2 level and D-1 Regional Director posts and on the understanding that the President of the Council would in due course circulate an e-mail message to the Council that would contain the revised text of Staff Regulation 4.21.

111. Finally, the Council agreed with the HRC recommendation that targets for key performance indicators be added in the Corporate Performance Management system for the current triennium to reflect a maximum recruitment time frame of seven months for D-1 and D-2 level posts, and five months for P-5 level posts and below.

112. The Council then reconvened in closed session in order to consider item 9 on the Order of Business C-O/B 202/1.

COUNCIL — 202ND SESSION

SUMMARY MINUTES OF THE FIRST MEETING

(THE COUNCIL CHAMBER, MONDAY, 9 JUNE 2014, AT 1720 HOURS)

CLOSED MEETING

President of the Council: Dr. Olumuyiwa Benard Aliu

Secretary: Mr. Raymond Benjamin, Secretary General

PRESENT:

Argentina	— Mr. A.J. Dumont	Malaysia	— Mr. Y.-H. Lim
Australia	— Ms. K. Macaulay	Mexico	— Mr. D. Méndez Mayora
Bolivia (Plurinational State of)	— Mr. J.G. Soruco	Nicaragua	— Mrs. E. A. Aráuz Betanco
Brazil	— Mr. J.L. Vieira (Alt.)	Nigeria	— Mr. M. E. Nwafor
Burkina Faso	— Mr. M. Dieguimde	Norway	— Mr. K.M. Skaar
Cameroon	— Mr. E. Zoa Etundi	Poland	— Dr. M. Polkowska
Canada	— Mr. M. Allen	Portugal	— Mrs. M.H. Faleiro T. de Almeida
Chile	— Mr. W.H. Celedón	Republic of Korea	— Mr. Choi, D.
China	— Mr. Tao Ma	Russian Federation	— Mr. A.A. Novgorodov
Dominican Republic	— Mr. C.A. Veras Rosario	Saudi Arabia	— Mr. H.A. Abudaowd
Egypt	— Mr. A. Mahmoud	Singapore	— Mr. T.C. Ng
France	— Mr. O. Caron	South Africa	— Mr. L. Mabaso
Germany	— Mr. U. Schwierczinski	Spain	— Mr. V.M. Aguado
India	— Mr. P.N. Sukul	United Arab Emirates	— Capt. A. Al Hamili
Italy	— Mr. E. Padula	United Kingdom	— Mr. M. Rodmell
Japan	— Mr. T. Koda	United Republic of Tanzania	— Mr. R.W. Bokango
Kenya	— Mr. M. Adan (Alt.)	United States	— Mr. J.L. Novak (Alt.)
Libya	— Mr. M. Sayeh Eltayf	Venezuela (Bolivarian Republic of)	— Mr. D.A. Blanco Carrero

ALSO PRESENT:

Dr. N. Luongo (Alt.)	— Argentina
Mr. J.C.F. da Silva (Alt.)	— Brazil
Mr. P. de Moraes Jardim (Alt.)	— Brazil
Mr. C. Bühler da Silva (Alt.)	— Brazil
Mr. D.A. Dueñas (Alt.)	— Chile
Mr. M. Millefert (Alt.)	— France
Ms. M. Furuhashi (Alt.)	— Japan
Mrs. D. Valle Álvarez (Alt.)	— Mexico
Mrs. H. Jansson Saxe (Alt.)	— Norway
Mr. Kang. M. (Alt.)	— Republic of Korea
Mr. D.V. Subbotin (Alt.)	— Russian Federation
Mr. A. Almoghaby (Alt.)	— Saudi Arabia
Mr. R.A. Al Kaabi (Alt.)	— United Arab Emirates

SECRETARIAT:

Mr. D. Azema	— DC/OSG
Ms. N. Graham	— D/ANB
Dr. Fang Liu	— D/ADB
Mr. I. Galán	— D/TCB
Mr. J. Augustin	— D/LEB
Mr. R. Bhalla	— C/FIN
Mr. J. Weich	— DD/HR-ADB
Mrs. N. Abdennebi	— C/EAP
Mrs. L.M. Comeau-Stuart	— C/POD
Mrs. K. Balram	— C/SEA
Mr. A. Opolot	— LEB
Mr. A. Philbin	— C/COM
Mr. M. Leitgab	— ADADB
Mr. A. Larcos	— ACC

Representatives to ICAO

Colombia

Cuba

Ethiopia

Greece

Indonesia

Morocco

Mozambique

Peru

Turkey

Subject No 7.4: Conditions of service

Review of the net base salaries of the President of the Council and Secretary General

1. With the First Vice-President of the Council in the Chair (Representation of Spain), the Council considered this subject on the basis of C-WP/14145 (Restricted), which was presented by the Director, Bureau of Administration and Services (D/ADB), and a related oral report from the Chairperson of the Finance Committee (FIC).
2. In introducing the item, the Chairperson of the Finance Committee (Representative of Mexico), indicated that at its meeting, the Finance Committee (FIC) had considered C WP/14145, which reported on a decision by the United Nations General Assembly (UNGA) to increase the net base/floor salary scale for Professional and higher categories, including the Under-Secretaries General level, by 0.19 per cent, while simultaneously consolidating the post adjustment for New York and other duty stations on a “no gain, no loss” basis, effective from 1 January 2014.
3. Since the Council had regularly accepted the decision of the United Nations General Assembly, the FIC had agreed with the recommendation that was presented in C-WP/14145, which proposed that, in the future, the salaries of the President of the Council and the Secretary General be automatically adjusted in tandem with changes to the net base/floor salary scale for the Professional and higher categories, which includes the Under-Secretary General level, as decided by the United Nations General Assembly.
4. In its discussions, the FIC had recalled that, as per C-DEC 198/3, an information paper on the status of the salaries and representation allowances of the President of the Council and the Secretary General was to be prepared by the Director of the Bureau of Administration and Services on a triennial basis. This paper would be circulated to Council Representatives under cover of a memorandum from the President of the Council, on the understanding that it would be tabled for discussion by the Council if so requested by any Representative.
5. The Representative of Japan took the opportunity to recall that the Council during its 201st Session, had requested the Secretary General to convey to the United Nations General Assembly and to the International Civil Service Commission (ICSC), the views of the ICAO Council that rising staff costs were having a considerable impact on the financial sustainability of the Organization and requesting the ICSC to study the impact of their recommendations on the budgets of United Nations system (C-DEC 201/1, paragraph 13 refers). The Representative urged that the Council continue to monitor this matter and that the issue of the review of the salaries of the President and the Secretary General should also be included in any related discussion by the Council when considering rising staff costs.
6. In response, the Director, Bureau of Administration and Services (D/ADB) confirmed that ICAO had indeed conveyed the views of the Council to both the United Nations General Assembly and to the International Civil Service Commission, and that the issue was currently being monitored. D/ADB indicated that it was intended to report further to the Council on this matter once more information was available on the outcome of any deliberations in this regard.
7. The Representative of the Dominican Republic welcomed the oral report of the Finance Committee and expressed his support for the recommendations that it had proposed on this issue.
8. In taking the action indicated in the executive summary of C-WP/14145 (Restricted), as recommended by the FIC, the Council:

- a) approved the revised net base salaries of the President of the Council and the Secretary General, effective 1 January 2014, as presented in paragraph 2.2 of C-WP/14145; and
 - b) decided that the salaries of the President of the Council and the Secretary General should be automatically adjusted in tandem with changes to the net base/floor salary scale of the Under-Secretaries-General, as decided by the United Nations General Assembly.
9. The Council adjourned at 1735 hours.

COUNCIL — 202ND SESSION

SUMMARY MINUTES OF THE SECOND MEETING

(THE COUNCIL CHAMBER, WEDNESDAY, 11 JUNE 2014, AT 1045 HOURS)

OPEN MEETING

*President of the Council: Dr. Olumuyiwa Benard Aliu

First Vice-President of the Council: Mr. V.M. Aguado, Representative of Spain

*Secretary: Mr. Raymond Benjamin, Secretary General

Acting Secretary: Dr. Fang Liu, Director, Bureau of Administration and Services

PRESENT:

Argentina	— Mr. A.J. Dumont	Malaysia	— Mr. Y.-H. Lim
Australia	— Ms. K. Macaulay	Mexico	— Mr. D. Méndez Mayora
Bolivia (Plurinational State of)	— Mr. J.G. Soruco	Nicaragua	— Mrs. E.A. Aráuz Betanco
Brazil	— Mr. J. Taunay	Nigeria	— Mr. M.E. Nwafor
Burkina Faso	— Mr. M. Dieguimde	Norway	— Mr. K.M. Skaar
Cameroon	— Mr. E. Zoa Etundi	Poland	— Dr. M. Polkowska
Canada	— Mr. M. Allen	Portugal	— Mrs. M.H. Faleiro T. de Almeida
Chile	— Mr. W.H. Celedón	Republic of Korea	— Mr. Choi, D.
China	— Mr. Tao Ma	Russian Federation	— Mr. A.A. Novgorodov
Dominican Republic	— Mr. C.A. Veras Rosario	Saudi Arabia	— Mr. H.A. Abudaowd
Egypt	— Mr. A. Mahmoud	Singapore	— Mr. T.C. Ng
France	— Mr. O. Caron	South Africa	— Mr. L. Mabaso
Germany	— Mr. U. Schwierczinski	Spain	— Mr. V.M. Aguado
India	— Mr. P.N. Sukul	United Arab Emirates	— Capt. A. Al Hamili
Italy	— Mr. E. Padula	United Kingdom	— Mr. M. Rodmell
Japan	— Mr. T. Koda	United Republic of Tanzania	— Mr. R.W. Bokango
Kenya	— Mr. M. Adan (Alt.)	United States	— Mr. J.L. Novak (Alt.)
Libya	— Mr. M. Sayeh Eltayf	Venezuela (Bolivarian Republic of)	— Mr. D.A. Blanco Carrero

ALSO PRESENT:

Dr. N. Luongo (Alt.)	— Argentina
Mr. D.A. Dueñas (Alt.)	— Chile
Mr. Chunyu Ding (Alt.)	— China
Mr. A. Bardaro (Alt.)	— Italy
Ms. M. Furuhashi (Alt.)	— Japan
Mrs. D. Valle Álvarez (Alt.)	— Mexico
Mr. Kang, M. (Alt.)	— Republic of Korea
Mr. R.A. Al Kaabi (Alt.)	— United Arab Emirates

*The Honourable

*Beyon Luc-Adolphe Tiao,
Prime Minister and Head of
Government of Burkina Faso
and Delegation*

SECRETARIAT:

Mr. D. Azema	— DC/OSG
Dr. Fang Liu	— D/ADB
Mr. J. Augustin	— D/LEB
*Mr. J. Weich	— DD/HR-ADB
*Mrs. N. Abdennebi	— C/EAP
*Ms. M. Weinstein	— LO
*Mr. M. Leitgab	— ADADB
Miss S. Black	— Précis-writer

*Part-time

Representatives to ICAO

Colombia
Cuba
Ethiopia
Greece
Indonesia
Iran (Islamic Republic of)
Lebanon
Morocco
Mozambique
Peru
Turkey
Uganda

Airports Council International (ACI)
European Union (EU)

Subject No. 4: Appointment of the Secretary General

Draft communication to States on the appointment of the Secretary General

1. The Council had for consideration: C-WP/14144 presented by the President of the Council, to which was appended a draft State letter notifying Member States of the forthcoming appointment of the Secretary General for a three-year term and inviting nominations; and an oral report thereon by the Human Resources Committee (HRC), which had reviewed the paper during its First Meeting of the current session on 6 May 2014.
2. In its deliberations, the HRC had discussed an amendment of the draft State letter in relation to the required experience described in paragraph 3 thereof. It proposed to add the requirement for experience related to “strategic planning and performance management” in the third sentence, so that it would read as follows: “The candidate must also have ample experience in the management of large and complex organizations, including in the most recent standards of management, strategic planning, performance management and international governance.”
3. The HRC had also discussed aspects of the current selection practice for the post of Secretary General. One Member had suggested considering an external assessment for that post, in addition to the current practice, to better inform the appointment decision by the Council. Other Members had considered the current selection process, in which Council Members could directly interact with candidates in personal interviews, to be sufficiently robust.
4. The HRC recommended to the Council to approve the said draft State letter on the appointment of the Secretary General with its proposed revision.
5. The Secretary General drew attention to paragraph 1 of the Rules and Procedures for the appointment of the Secretary General (cf. Appendix C to Doc 7559 – *Rules of Procedure for the Council*, reproduced in Attachment A to the draft State letter), which stipulated that the appointment of the Secretary General was to take place approximately five months before the termination of the period for which the incumbent was appointed. On the basis of his experience, the Secretary General proposed that the transition period be shortened to approximately three months and that, consequently, the appointment of the Secretary General take place during the Committee phase of the Spring (May/June) Council Session. This would necessitate an amendment of the said Rules and Procedures.
6. Emphasizing that the current five-month transition period was too long, the Secretary General noted that it disrupted, to a certain extent, the work of the incumbent. In particular, it was necessary for the latter to avoid taking any decisions which might negatively impact on the work which his successor planned to undertake. As Representatives were aware, however, once the Secretary General-designate assumed his duties on 1 August, he would have very little time in which to coordinate with the Secretariat in the preparation of his response to the Charter Letter, which was to be presented to the Council in the Fall (October/November) session. In reiterating that a transition period of approximately three months would be ample, the Secretary General assured the Council that efficient use would be made thereof to provide his successor with all requisite information.
7. During the ensuing discussion, the Representatives of Mexico, the Russian Federation, Brazil, Venezuela (Bolivarian Republic of), Malaysia, Italy and the United Republic of Tanzania endorsed the HRC’s oral report and its proposed amendment to the draft State letter.
8. In so doing, the Representative of Mexico affirmed that the Committee’s suggested change enriched the contents of the draft State letter. Stressing the importance of having a smooth transition between the incoming and

outgoing Secretaries General which was in line with best management practices, he maintained that the current five-month transition period was more appropriate in view of the time required for the Secretary General-designate to leave his current employment and make the necessary arrangements to move to Montréal. A shorter transition period might be problematic, except in the case where the incoming Secretary General were a Representative on the Council or to ICAO or a retiree.

9. To address the concern expressed by the Secretary General, the Representative of Mexico suggested that the draft State letter be amended to indicate that the Secretary General-designate was invited to come to Montréal in June 2015 to commence the transition. At that time, he could be provided with an office and have informal consultations with, inter alia, the Bureaux Directors and the Chief of the Finance Branch (C/FIN). The Representative of Mexico recalled that, in the past, the transition period had sometimes been insufficient and the incoming Secretary General had had difficulty starting to work immediately after assuming office. In underscoring the importance of having a process which facilitated a smooth transition, he observed that there already was a clear mechanism in place: the incumbent Secretary General remained in office until the end of his/her mandate.

10. The Representative of Mexico emphasized that it would be worthwhile to have the incumbent consult with the incoming Secretary General on important, complex issues, including the latter's selection of his cabinet. Reiterating that a change to the transition period would require an amendment of the Rules and Procedures for the appointment of the Secretary General set forth in Appendix C to Doc 7559, the Representative of Mexico averred that that would be inadvisable. While the Council had amended its Rules of Procedure previously, under different circumstances, it should avoid doing so to the greatest extent possible. The Representative of Mexico thus favoured retaining paragraph 1 of Appendix C in its present form, with the consequence that the appointment of the Secretary General would continue to take place in the Winter (February/March) session.

11. The Representative of the Russian Federation shared this view. He stressed that in considering the duration of the transition period, the Council should take into account the importance of the Office of Secretary General and the complex nature of the work to be performed, as well as the time required by the incoming Secretary General to leave his/her current employment and relocate to Montréal, which added a degree of uncertainty to his/her arrival date at ICAO for the start of the hand over. The Representative of the Russian Federation noted, in this context, that the incoming Secretary General would be able to have informal consultations not only with the Secretariat but also with Council Members during that period. In suggesting that the Secretary General-designate be given the opportunity to choose how to effect the transition, he underscored that he/she was the incumbent's successor, not a rival.

12. In endorsing the Secretary General's proposal to shorten the duration of the transition period to approximately three months, the Representative of Brazil emphasized that the Council should put its trust in the Secretary General's testimony, based on his personal experience, that five months was too long. He noted that in some large States with parliamentary democracies, such as the United Kingdom, Heads of Government assumed office the day after their election. In others, such as the United States and Brazil, they assumed office two months later. Assuming that the Secretary General-designate would already be knowledgeable about ICAO's work and its operations, the Representative of Brazil maintained that a three-month transition period would be sufficient.

13. The Representatives of Venezuela (Bolivarian Republic of), Italy, the United States and the United Kingdom concurred. Noting, from the third paragraph of the draft State letter, that candidates for the Office of Secretary General must have ample experience in the management of large and complex organizations such as ICAO, the Representative of Italy indicated that it was unclear why it was necessary to have a five-month transition period before the Secretary General-designate could assume his/her duties. He averred that it was not

beneficial for ICAO to have such a long transition period where there were two individuals running its operations. In stressing the need to take the Secretary General's perspective seriously, given that he had served the Organization so well over the course of the last six years, the Representative of the United States agreed that the proposed shorter time frame would be sufficient for the good reasons set out by the Representatives of Brazil and Italy. In likewise agreeing that a three-month time frame for the transition ought to be possible, the Representative of the United Kingdom indicated that he would support that change if the Council were able to reach agreement thereon during the present meeting. He suggested that, if the Council were unable to do so, then it return to the matter later in the current session on the basis of further information on the advantages and disadvantages of the proposed shorter transition period.

14. The Representative of Burkina Faso reiterated that the Council should draw on the Secretary General's experience and at least take his proposal into account while giving full respect to the views expressed by those Representatives who preferred maintaining the *status quo*.

15. The Representative of Spain underscored that it was necessary and opportune to have a minimum of a one-month overlap *in situ* to enable the incoming and outgoing Secretaries General to exchange views. Prior to the said overlap, there should be at least a three-month period to enable the Secretary General-designate to give notice to his/her current employer. He thus advocated a four-month transition period as a minimum. Recalling his personal experience in another international organization, the Representative of Spain noted that there was a minimum of five months between the date of appointment and the date of reporting for duty, which included a one-month overlap. That practice had worked very well for many years, both for the incoming and outgoing Chief Executive Officers (CEOs), and should be taken into consideration by the Council when weighing the advantages and disadvantages of a shorter transition period. The Representative of Spain nevertheless was of the view that there should be a minimum of four months for the transition period.

16. The Representative of Malaysia had no objection to the current Rules and Procedures for the appointment of the Secretary General, which were in accordance with the Chicago Convention and had been in place for some time. Furthermore, he had no opinion regarding the Secretary General's proposal to shorten the duration of the transition period. In seeking clarification regarding the second sentence of the fourth paragraph of the draft State letter, in which it was indicated that the Council had decided that "the Secretary General shall be appointed for a term of three years and that a Secretary General who has served for two terms shall not be appointed for a third term", the Representative of Malaysia averred that the latter phrase was open to interpretation. Noting that a term was three years, he queried if a Secretary General's mandate could be extended for two years.

17. In underscoring that the Secretary General could only serve a maximum of two terms in accordance with Operative Clause 1 of Assembly Resolution A38-21 (*Term limits for the Offices of the Secretary General and the President of the Council*), the Director of the Bureau of Administration and Services (D/ADB) asked the Representative for his suggested wording to reflect that more clearly in the draft State letter.

18. The Director of the Legal Affairs and External Relations Bureau (D/LEB) recalled that the decision taken by the Council on 9 June 2006 (178/9) to introduce a limit of two terms for the Office of the Secretary General had initially been reflected in Assembly Resolution A36-28 (*Term limits for the Offices of Secretary General and the President of the Council*), which had been superseded by the said Assembly Resolution A38-21. It was also reflected in Rule 12 of the *Rules of Procedure for the Council* (Doc 7559). In affirming that two terms was the maximum which a Secretary General could serve, he emphasized that it was clear from the Council's previous discussions and the background documentation, if not from paragraph 4 of the draft State letter.

19. In order to avoid a multiplicity of interpretations, the Representative of Malaysia suggested that the second sentence of paragraph 4 be amended to indicate that the Secretary General can serve up to a maximum of two terms with no possibility of extension. To an alternative proposal by D/ADB that it be revised to refer only to a maximum of two terms, the President of the Council suggested that the second sentence be changed to indicate that the Secretary General shall be appointed for a term of three years, renewable once subject to the Council's approval. He was nevertheless uncomfortable with drafting new text in the Council.

20. The President of the Council noted that both he and his predecessor had found the one-month transition period for the presidency to be insufficient. He considered that it had been too short even though, as the Representative of Nigeria, he had already been *in situ*. The President noted, in this regard, that it had taken some time for a new Representative to be appointed as his replacement and to join the Council. The previous President had also been dissatisfied with the duration of the transition period as he had had much Council-related work to do and yet had been obliged to find time to liaise with him as the incoming President. It would thus have been preferable to have a little longer transition period for the presidency. Observing, on the other hand, that the five-month transition period for the Office of the Secretary General was considered by the incumbent and some Representatives to be too long, the President of the Council indicated that it was therefore necessary to review both transition periods.

21. Referring to the suggestion by the Representative of Mexico, the President averred that mentioning the transition period in the draft State letter on the appointment of the Secretary General would not resolve the issue. As an alternative, he proposed that the letter of appointment to the Secretary General-designate invite the latter to come to ICAO at a suitable time in order to meet with the incumbent and start the transition.

22. The President observed, from the exchange of views, that the majority of Representatives who had taken the floor favoured a three-month transition period. There were thus two options for the way forward: either the Council accept the draft State letter, subject to the President's verification of the time for the interviews of the candidates and the appointment of the Secretary General on the basis of a three-month transition period; or it accept the draft State letter specifying that the appointment would take place during the 204th Session in February/March 2015. In both cases, the letter of appointment would invite the Secretary General-designate to come to ICAO at a suitable time to commence the transition.

23. The Representative of Germany observed that two different issues were being mixed together when they should be separate: the date of the appointment of the new Secretary General who would assume office on 1 August 2015; and the date when the Secretary General-designate would arrive at ICAO to effect the transition with the incumbent. He noted that the latter issue gave rise, in turn, to the question of the status of the Secretary General-designate during the transition, i.e. whether he/she was considered to be a national or an international civil servant, and the question of his/her remuneration. The Representative of Germany indicated that while governments would generally have no difficulty in continuing to pay the salary of a national civil servant while he/she was Secretary General-designate, it was unclear if they would do so for a national from private industry whom they had nominated. In stressing that ICAO would not remunerate two Secretaries General during the transition period, regardless of its length, he emphasized that it would only pay the salary of the incumbent for the duration of the latter's mandate.

24. The Representative of Germany underscored that the only issue on which the Council had to take a decision was when the new Secretary General would be appointed. In his view, that could be as early as possible, in order to give the Secretary General-designate sufficient time in which to make all the necessary arrangements. It would then be for the incumbent and the Secretary General-designate to decide when the latter should come to Montréal to commence the transition. The Representative of Germany maintained that it was entirely incorrect to predicate

the Council's decision regarding the date of its appointment of the Secretary General on the desired duration of the transition period.

25. In sharing this view, the Representative of Australia supported the second option suggested by the President of the Council, whereby the date for the appointment of the Secretary General would remain unchanged i.e. the 204th Session in February/March 2015, and the letter of appointment would invite the Secretary General-designate to come to ICAO and start the transition. While she did not have a particular view on what date that should be, she considered that it was the easiest option as it would provide the incoming Secretary General with the requisite time to make his/her arrangements. Noting that the current Secretary General considered that five months was too long for the transition, the Representative of Australia indicated that its duration could be negotiable.

26. While noting that paragraph 1 of Appendix C to the *Rules of Procedure for the Council* (Doc 7559) provided a certain degree of flexibility by indicating that the appointment of the Secretary General was to take place "approximately" five months before the termination of the incumbent's mandate, the Representative of the Russian Federation also considered that the appointment should continue to take place during the Winter (February/March) session in order to have a buffer in case problems arose involving the candidates for the Office of Secretary General. He underscored that paragraph 1 had been so worded for a good reason. Although it was the Council's prerogative to amend its Rules of Procedure, the Representative of the Russian Federation agreed with the Representative of Mexico and others that now was not the right time to make any changes thereto. He suggested that the Working Group on Governance and Efficiency (WGGE) discuss whether or not paragraph 1 of Appendix C should be amended in the future.

27. Agreeing with the Representative of Germany on the need to clearly separate the issue of the date of the appointment of the new Secretary General and the duration of the transition period, the Representative of South Africa indicated that they were both critical, for different reasons. Observing that the length of the transition period could vary depending on whether the incoming Secretary General was already serving at ICAO in a different capacity, such as Representative on the Council or to ICAO, or was an external candidate, he emphasized the need to discuss that issue further. The Representative of South Africa noted that it might be possible to make arrangements for the nominating State to remunerate the Secretary General-designate during the transition period in the case where the latter had previously been serving at ICAO. As it might not be feasible to make such arrangements for external candidates, the Council could not rule out the possibility that ICAO might have to remunerate both the incoming and outgoing Secretaries General during the transition period.

28. The Secretary General noted that he had raised the issue of the duration of the transition period out of two concerns. His first concern was that there be a transition period, for the sake of the Organization. The remuneration of the Secretary General-designate during that period was another matter. The Secretary General's second concern was that he did not wish to have to coordinate with the incoming Secretary General on every important issue for five months in advance of the latter's formal assumption of duties, including on policy issues on which he was already consulting the President of the Council. The duration of the transition period was not, however, a critical issue for the Secretary General, and he left it to the Council to take a decision thereon. He had simply wished to facilitate the Council's discussion on the appointment of his successor.

29. In supporting the President's summary, the Representative of the United Republic of Tanzania reiterated that it was necessary for the Council to decide on the time frame for the appointment of the new Secretary General. The date when the incoming Secretary General was to come to ICAO for the start of the transition could either be determined through the letter of appointment or, if necessary, referred to the WGGE for consideration and subsequent report to the Council.

30. The Representative of the United Kingdom agreed with the Representative of Germany that how the incoming and outgoing Secretaries General liaised to ensure a smooth transition was an issue that should be left entirely to them. It was not necessary for the Council to establish any rules therefor. Recalling that the Council would interview candidates for the Office of the Secretary General, he indicated that the latter could be asked how they envisaged making a smooth transition and their responses could be taken into account in the appointment process. If, on the other hand, it was considered necessary to consult the WGGE, then the Working Group should be requested to recommend either a three-month or a five-month transition period on the basis of their relative advantages and disadvantages. If it were necessary to reflect that uncertainty in the draft State letter, then it could be indicated that the appointment would take place between three and five months before the termination of the incumbent's mandate. That could be clarified following the Council's consideration of the WGGE's report.

31. In light of the discussion, the President of the Council suggested, and it was agreed, to request the WGGE to consider the following issues and present its recommendations thereon to the Council later in the current session: the time frame and/or date for the election of the Secretary General and the optimal duration of the transition period for incoming/outgoing Secretaries General, taking into account the views expressed by the Secretary General; and the optimal transition period for incoming/outgoing Presidents of the Council, taking into account the views expressed by the President, on the basis of his experience, that one month was insufficient.

32. The Council approved the said draft State letter contained in the Appendix to C-WP/14144, subject to:

- a) the third sentence of the third paragraph being amended by inserting the words “, strategic planning, performance management” after the word “management” to reflect that experience in those two areas was also required, as recommended by the HRC; and
- b) the addition, following the Council's consideration of the above-mentioned WGGE recommendations, of a reference to the time frame and/or date for the election of the Secretary General and to the duration of the transition period.

The Council agreed that, in compliance with paragraph 2 of the said Rules and Procedures for the appointment of the Secretary General (cf. Appendix C to Doc 7559), and as suggested by the President of the Council: the State letter be issued on 30 September 2014, ten months before the termination of the incumbent Secretary General's second term of office (on 31 July 2015); and that the deadline for the receipt of nominations by the President of the Council be 15 January 2015, so as to provide Member States with the requisite full three months in which to reply.

33. It was understood that, in accordance with paragraph 3 of the said Rules and Procedures, the President of the Council would circulate the names of candidates for the Office of Secretary General to all Member States as soon as they were received.

Welcome to the Prime Minister and Head of Government of Burkina Faso

34. On behalf of all Representatives, the President extended a warm welcome to the Honourable Beyon Luc-Adolphe Tiao, Prime Minister and Head of Government of Burkina Faso, who took a great interest in civil aviation, as evidenced by the significant development which had taken place in the aviation industry of his State.

35. The President recalled that the Council was the governing body of ICAO, aside from the triennial Assembly which elected States to be represented thereon. He underscored that for the past seventy years ICAO had been the leading forum for States and representatives of the aviation industry to meet to develop responses to the various challenges being faced. The results of the leadership role played by the ICAO Council were evident from the

development of civil aviation throughout the world. Civil aviation was now the preferred mode of transport, as well as the safest and most secure one. In 2014, the seventieth anniversary of the signing of the Chicago Convention, ICAO's constitutional instrument, would be celebrated and a host of activities was being organized in order to permanently acknowledge this milestone in the history of international civil aviation.

36. As aviation contributed to the economic development and social prosperity of the nations and peoples of the world, the work being done by the Council was of paramount importance. In acknowledgement thereof, it was a pleasure to have the Prime Minister and Head of Government of Burkina Faso share some words with the Representatives on the Council and the Representatives to ICAO who were present at the meeting.

37. At the suggestion of the Prime Minister and Head of Government of Burkina Faso, the Council first observed a minute of silence in memory of Dr. Assad Kotaite, the Council's President *Emeritus*, who had passed away on 27 February 2014. The Honourable Beyon Luc-Adolphe Tiao then addressed the Council. A translation of his speech is given below.

"Dignitaries, ladies and gentlemen,

"Allow me to express my warm thanks to the governments and the peoples of the City of Montréal, the Province of Québec and the State of Canada, for their legendary hospitality and on-going support for the delegations at ICAO Headquarters. My thanks also go to: the illustrious Council of ICAO; its President, Dr. Olumuyiwa Benard Aliu; the Secretary General, Mr. Raymond Benjamin; as well as to the national delegations of ICAO and the Secretariat. Thank you for welcoming me here this morning together with my delegation. I will seize this fortunate opportunity to convey to all of the members of the civil aviation community based in Montréal the friendly greetings and deep gratitude of His Excellency Blaise Compaoré, President of Burkina Faso and Head of State, as well as the appreciation of the people of our country, not just for your overwhelming support for the re-election of Burkina Faso, but also for the re-election of the seven other brethren African countries. We are also grateful for the appointment of two African Commissioners to the Air Navigation Commission (ANC) and the election by acclamation of the first African President of the Council of ICAO, Dr. Aliu. Through me, Burkina Faso expresses its hearty thanks and urges you to continue assisting us in our determination to fulfil this historic mandate for Africa.

"Ladies and gentlemen, distinguished guests,

"I do not doubt for one second that the African representatives to ICAO are working selflessly with everyone to honour the trust placed in them by the international community. For everyone in the international civil aviation community, it is fitting to recall your noble mission, in particular under Article 44 a) and d) of the Chicago Convention inviting you to 'Insure the safe and orderly growth of international civil aviation throughout the world;' and 'Meet the needs of the peoples of the world for safe, regular, efficient and economical air transport;'. Let us never forget that this mission must be accomplished for reasons clearly set forth in the Preamble of the Convention: '...to create and preserve friendship and understanding among the nations and peoples of the world ... to avoid friction and to promote that cooperation between nations and peoples upon which the peace of the world depends;'.
"

"Ladies and gentlemen, dear friends of ICAO,

"You face many complex challenges, and we the Heads and members of Governments are well aware of that. Your industry presently contributes over 58 million jobs worldwide with at least USD 2.4 trillion in wages accounting for roughly 3.4 per cent of world GNP. You help move 3.1 billion passengers. In 2012, you

carried 49.2 million tonnes of cargo valued at USD 6.4 trillion. In 2013, commercial aviation alone consumed USD 201 billion worth of jet fuel.

“Clearly, the impact of your work here in ICAO extends beyond the technical, environmental, tourism and economic fields to impact on social well-being. Indeed, by shortening the distances between the continents and the peoples of the world, your industry makes it possible for households in Alaska to enjoy roses freshly cut in Africa, not to mention life-saving medications that could not cross the oceans in time but by air.

“Your 2030 growth outlook is very reassuring. However, the growth of civil aviation has its challenges, not least of which are those relating to commercial space travel that you will be called on to manage sooner or later. It is therefore necessary, today, to begin to clearly identify all of the challenges arising from the development of your sector, so as to plan the best solutions. But as you well know, all of your work requires the achievement of consensus, which is the key to progress and sustainability in a multinational context. Dialogue and more dialogue toward an honourable outcome is the right approach! I urge you, therefore, to continue working hand-in-hand and listening to one another.

“On 7 December 2014, ICAO will celebrate 70 years of the Chicago Convention, 70 years of progress in international air transport. This important event requires that you exceed your own efforts to make civil aviation thrive for another 70 years and more. For its part, Burkina Faso will strive to build the necessary political support to advance your work. My State will always support consensus as the golden rule for cooperation and for the promotion of understanding, friendship and peace among the nations and peoples of the world.

“I remind you of the need for technical discussions which are open and constructive, but also friendly, mutually respectful and consensus-driven, and which have been key to the success of this Specialized Agency of the United Nations (UN) for seven decades.

“Ladies and gentlemen, dear friends of ICAO,

“I wish ICAO a well-deserved happy 70th birthday. Through me, Burkina Faso voices its support and renews its congratulations for your efforts toward reform and progress on certain burning issues such as measures to reduce CO₂ levels in the atmosphere and civil aviation security in the Sahel.

“Rest assured that Africa is more determined than ever to play its role on this honourable Council, and within all of the bodies of ICAO, to make international civil aviation stronger, ever more dynamic, prosperous and beneficial to all of the peoples of the world. I wish you every success in your work.

“Long live ICAO and international cooperation!”

38. In thanking the Prime Minister and Head of Government of Burkina Faso for his timely words of exhortation to the Council, the President indicated that very good note had been taken thereof.

39. The Representative of Burkina Faso later thanked Representatives for having agreed to have the Prime Minister and Head of Government of his State address the Council. Observing that ICAO, like the UN, was an institution which was based on the will of nations, he reiterated that many of the problems facing the international civil aviation community were linked to a lack of such political will. It was within the framework of according political will, and in view of reports highlighting the Organization’s importance, that certain Heads of Government gave themselves the task of visiting governing bodies such as the ICAO Council. It was for the Council to seize such opportunities to gain the support of visiting Heads of Government for its various decisions in order to achieve their desired results and enhance the Organization’s profile. The Representative of Burkina Faso

humbly urged Representatives to work together with the Secretariat on a protocol which would encourage many other Heads of Government to address the Council in future. For his part, he would not spare any efforts to support the Council's work at the highest level of his State.

40. Concurring that ICAO was based on the will of its Member States, the President emphasized that whenever the Council had the opportunity, it should interact with Heads of Government to promote the Organization's ideals and objectives and to strengthen the Council's leadership role in addressing the challenges placed before it. He reiterated the Council's appreciation that the Prime Minister and Head of Government of Burkina Faso had found the time to come to Montréal and address Representatives.

41. In the absence of the President of the Council and the Secretary General for protocol reasons, the First Vice-President of the Council, Mr. V.M. Aguado, the Representative of Spain, and the Director of the Bureau of Administration and Services (D/ADB), Dr. Fang Liu, presided over the Council's consideration of the next two items.

Subject No. 16: Legal work of the Organization
Subject No. 16.3: International air law conventions

**Report on the outcome of the review by ICAO of the limits of liability under the
Montréal Convention of 1999**

42. Tabled for the Council's consideration was C-WP/14148, in which the Secretary General presented the outcome of the second review carried out by ICAO, pursuant to Article 24 of the Montréal Convention of 1999, of the limits of liability of air carriers for damages in relation to the carriage of passengers, baggage and cargo set forth in that Convention. The review had concluded that the threshold stipulated therein for adjusting the Convention's limits of liability (10 per cent accumulated inflation rate for the five-year review period) had not been met for the present review cycle and that consequently the limits would, for the time being, remain at the same level as had been established during the first review, conducted by ICAO in 2009.

43. In expressing support for the proposed issuance of a State letter on the results of the said second review, the Representative of India enquired as to the number of Member States which had not yet become party to the Montréal Convention of 1999 and the reasons why they had not done so.

44. Noting that 84 of ICAO's 191 Member States were not yet party to the Convention, the Director of the Legal Affairs and External Relations Bureau (D/LEB) underscored that many efforts were being made by multiple entities and interested States to promote further ratification/accession. The Secretariat was unaware of the specific reasons for individual Member States not becoming party thereto. Recalling that the Montréal Convention of 1999 was one of the international air law instruments which was highlighted whenever ratification/accession issues were discussed with Member States, D/LEB indicated, on the basis of the feedback which had been received, that the reason therefor was not the level of the limits of liability; rather, it seemed to be the Member States' national priorities and legislative processes.

45. Responding to a question by the Representative of Germany, D/LEB clarified that the outcome of the second review would be taken into account in determining the accumulated inflation rate after the next review, to be conducted in five years' time. If it were above the 10 per cent threshold, then pursuant to Article 24, paragraph 1, of the Convention, the limits of liability would be duly revised upwards for all States Parties.

46. In then taking the action proposed in the executive summary of C-W/14148, the Council requested the Secretary General to issue a State letter notifying States Parties to the Montréal Convention of 1999 of the

outcome of the second review of the limits of liability and of the continued applicability of the current limits as set forth in paragraph 4.1 of the paper and reproduced below:

<i>Montréal Convention of 1999</i>	<i>Revised limit as of 30 December 2009</i>
Article 21	113 100 Special Drawing Rights
Article 22, paragraph 1	4 694 Special Drawing Rights
Article 22, paragraph 2	1 131 Special Drawing Rights
Article 22, paragraph 3	19 Special Drawing Rights

Report on the Diplomatic Conference on the draft Protocol to the Tokyo Convention of 1963 (Montréal, 26 March-4 April 2014)

47. This subject was documented for the Council's consideration in C-WP/14149 presented by the Secretary General. The Diplomatic Conference, convened under ICAO's auspices, had adopted, on 4 April 2014, the *Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft* (the Montréal Protocol of 2014), the text of which was available on the ICAO public website and the ICAO-Net under *Treaty Collection*. It was noted that the different language versions of the Protocol were still subject to verification by the Secretariat of the Conference and that States may propose linguistic editorial changes thereto until 4 July 2014.

48. In endorsing the paper and the proposed action, the Representative of Mexico affirmed that it was essential to update ICAO Circular 288 – *Guidance Material on the Legal Aspects of Unruly/Disruptive Passengers* to enable Member States to take more informed decisions and to further promote the expeditious signature and ratification or accession to the Protocol.

49. The Representative of the United States indicated that his State was disappointed that the Protocol did not, in its estimation, effectively modernize the Tokyo Convention of 1963 or take meaningful steps to address the issue of unruly/disruptive passengers. Most importantly, while the Protocol did refer specifically to In-flight Security Officers (IFSOs), it failed, in his State's estimation, to provide the latter with authorities appropriate to their role. In fact, the Protocol gave them less authority to respond to certain categories of incidents on board aircraft than ordinary passengers already had. Furthermore, the attempt to address jurisdictional issues raised by a few States resulted in language that would make implementation of the State of Landing jurisdiction over offenders difficult for many States. Thus neither of the two most important features of the Protocol was an improvement over the *status quo*, in the United States' estimation. Moreover, his State considered that the Protocol contained a number of problematic minor provisions. Accordingly, the United States had not signed the Protocol when it was opened for signature on 4 April 2014 and was unlikely to become a party thereto in the future. The United States did, however, support the Resolution adopted by the Diplomatic Conference on that day as set forth in the Final Act thereof urging that ICAO Circular 288 be updated.

50. The Representative of Australia recalled that the seriousness of the emerging issue of unruly/disruptive passengers had been re-confirmed to the Council during the previous day's informal briefing on the state of the industry. Mr. Paul Steele, the Corporate Secretary of the International Air Transport Association (IATA) had described it as a massive developing problem which jeopardized the safety of flight operations. She noted that the final text of the Protocol agreed at the Diplomatic Conference did take some important steps to modernize the Tokyo Convention of 1963. Nevertheless, Australia was carefully considering it in the light of its own

operational and policy experience and had not yet reached a final decision regarding becoming a party to the Protocol.

51. With regard to the substance of the outcomes of the Diplomatic Conference, Australia shared a number of the views expressed by the Representative of the United States. It also welcomed and supported the said Resolution urging the updating of ICAO Circular 288. However, Australia considered that the text of the Protocol contained some significant flaws. It placed unnecessary restrictions on the powers of the IFSOs and did not properly balance the need to protect international aviation safety. In that respect, the Protocol did not significantly advance the issue of addressing unruly/disruptive passenger behaviour in any meaningful way. Australia also had doubts, like the United States, as to whether the jurisdictional gap had been truly closed, as the current language might make it difficult for many States to effectively implement the State of Landing jurisdiction.

52. In conclusion, Australia considered that the Diplomatic Conference was a regrettable lost opportunity to comprehensively strengthen the international legal régime governing these important aviation matters, particularly since opportunities to address emerging issues through international air law instruments were few and far between. However, Australia did not oppose the actions proposed in the paper, including the Secretary General's promotion of States' ratification of the Protocol.

53. The Representatives of Norway, China, South Africa, Bolivia (Plurinational State of), Germany, Venezuela (Bolivarian Republic of) and Nigeria voiced support for the proposed action.

54. To a query by the Representative of Norway regarding paragraph 4.2 of the paper, the Director of the Legal Affairs and External Relations Bureau (D/LEB) observed that the issue of promoting ratification was applicable not only to the new Protocol but also to other air law instruments such as the General Risks Convention and Unlawful Interference Compensation Convention of 2009 and the Beijing Convention and Protocol of 2010 for which the number of ratifications was low. Underscoring that it was a perpetual problem, he recalled that the Council, the Assembly and the Legal Committee had examined the issue of ratification of international air law instruments in the 1990s and concluded that there were no legal methods to make a State become a party thereto. As a result of the deliberations administrative packages had been developed to promote ratification of the various instruments by setting out the main benefits to be derived therefrom, as well as by providing a model instrument of ratification/accession. While an administrative package had been developed for the new Protocol, LEB was awaiting the finalization of the latter's text before posting it on the Organization's relevant websites.

55. D/LEB clarified that, for the sake of brevity, paragraph 4.2 of the paper referred to only two means of promoting the ratification of international air law instruments: visits by the President of the Council and the Secretary General to Member States and the organization of regional legal seminars. Emphasizing that there were additional means, he cited, as an example, the provision of a brief to the President of the Council when the latter was receiving a visit from a high-ranking government official. Furthermore, whenever an official visited LEB attention was drawn to those international air law instruments to which his State was not a party. Thus every opportunity was taken to promote ratification.

56. D/LEB underscored that, while his Bureau did what it could within the scope of its resources, it relied on States to host regional legal seminars as it did not have a budgetary appropriation therefor. Recalling that, in the past, several States had offered to host such seminars, he noted that the Republic of Korea had kindly offered to host one in 2015. He indicated that, in addition, LEB was often requested to make presentations regarding the ratification of certain international air instruments at seminars organized by other Sections or Bureaux, such as the Aviation Security Branch (AVSEC) of the Air Transport Bureau (ATB).

57. The Representative of Portugal enquired whether it would be possible to enlist the support of IATA, which represented most of the world's airlines, in promoting the ratification of the Protocol. In underscoring the Protocol's importance to airlines, she indicated that the latter could encourage ratification by their respective governments. The Representative of Portugal recalled, from the said informal briefing, that IATA and other aviation industry associations were very committed to supporting ICAO in the implementation of its Strategic Objectives.

58. D/LEB indicated that, as a matter of principle, the Secretariat would be willing to work with any entity, including IATA, to promote ratification, if the Council agreed to the paper's proposed action in that regard. He noted, from a Press Release issued by IATA on 10 April 2014, that IATA was "calling on governments to ratify important changes to the Tokyo Convention of 1963". The Director General and Chief Executive Officer (CEO) of IATA was quoted therein as saying "This agreement is good news for everybody who flies – passengers and crew alike. The changes, along with the measures already being taken by airlines, will provide an effective deterrent for unacceptable behavior on board aircraft."

59. Responding to a query by the Representative of China, D/LEB noted that once the Council had agreed to the proposed updating of ICAO Circular 288, the wheels would be set in motion. While the circular was approved by, and published under the authority of, the Secretary General, LEB wished to be able to report to the Legal Committee at its next meeting (Montréal, 30 November - 4 December 2015) that its updating had been completed.

60. The Representative of South Africa affirmed that the Diplomatic Conference had been a great success as it had not only addressed the main issue but had even gone further and had highlighted other issues that needed to be addressed at their own time and pace. Those issues would be addressed at the right opportunity by all ICAO Member States, working together.

61. Expressing the opposite view, the Representative of Bolivia (Plurinational State of) averred that the apparent success of the Diplomatic Conference was a pyrrhic victory. He considered that it had not dealt with the issue which it had been intended to address, that of unruly/disruptive passenger behaviour, and that there had been a forced solution to project the image of a successful conference. In emphasizing the need to continue to work on that issue and identify the root causes of unruly/disruptive behaviour, the Representative of Bolivia (Plurinational State of) stressed that it was not due to passengers' delinquent tendencies; rather, it was attributable to the excessive delays and other stressful complications to which passengers were subjected and which could result in a change in their behaviour. Such causes had not been discussed during the Conference. He noted that the issue had become confused with the potential inclusion of provisions in Annex 17 – *Security* relating to IFSOs, inter alia.

62. The Representative of Germany observed that the Diplomatic Conference was different from previous ones in terms of how it had been held and had proceeded, and its outcome. He would not comment on the proceedings as those Representatives who had attended the Conference already knew the point that he would make. Noting that the German Delegation to the Conference considered that it had been convened prematurely, the Representative of Germany underscored that it had been apparent on the first day that there were differences of opinion on various issues to be solved and that it was highly unlikely that agreement would be reached thereon. Nevertheless, every effort had been made to do so. Germany was, however, among those States which did not view the Conference as a success.

63. Although he accepted the comment made by the Representative of South Africa, the Representative of Germany emphasized that the key question was how many States would become party to the Protocol. It had been apparent during the Conference, and was still apparent now, that there were a number of States, including Germany, which, for a variety of reasons, would have difficulty convincing their Governments to ratify or accede

to the Protocol. He recalled, in this regard, that from the very beginning one of the objectives in drafting the Protocol was to ensure that it received a level of support similar to that of the original Tokyo Convention of 1963, which was among the most universally-accepted international air law instruments. Agreeing with the Representative of Australia that the Conference was a lost opportunity, the Representative of Germany indicated that he was not overly satisfied with its outcome. While he could agree with the action proposed in the paper, including promotion of the ratification of the Protocol, he expressed doubt that the desired results would be achieved.

64. The First Vice-President of the Council indicated that a good lesson learned was that it was the Council's responsibility, in considering a proposal to convene a Conference, to assess the maturity of the subject matter, the timing of the Conference and the approach so as to avoid difficulties at a later stage.

65. The Representative of Venezuela (Bolivarian Republic of) shared the views expressed by the Representatives of Bolivia (Plurinational State of) and Germany regarding the outcome of the Diplomatic Conference. While agreeing to the action proposed in the paper, he suggested that ICAO also: undertake a study of the root causes of unruly/disruptive behaviour by some passengers, as proposed by the Representative of Bolivia (Plurinational State of); evaluate the need for additional training for flight crews to enable the latter to better deal with such behaviour; and, with the aim of harmonization, review other related international air law instruments and associated documents to determine if there were any overlap. He suggested that the last two items be addressed by the Legal Committee during its next meeting in November/December 2015. In agreeing that the Diplomatic Conference had been convened prematurely, the Representative of Venezuela (Bolivarian Republic of) observed that another lesson learned was the usefulness of holding regional meetings prior to a Diplomatic Conference.

66. Concurring, the First Vice-President of the Council underscored the importance of determining in advance the willingness of States to address the subject matter at a Diplomatic Conference.

67. D/LEB noted that possible causes of unruly/disruptive passenger behaviour were mentioned in Circular 288, as well as in the Report of the Rapporteur to the Special Sub-Committee of the Legal Committee for the Modernization of the Tokyo Convention including the Issue of Unruly Passengers (cf. LC/SC-MOT-WP/1), which had subsequently been presented to the 35th Session of the Legal Committee. He recalled that while there had been some discussions during the various preparatory meetings as to whether ICAO was the suitable body to examine what could be psychological reasons for unruly/disruptive passenger behaviour, the Organization had not been given that mandate. In indicating that his Bureau might not be in a position to determine the possible causes thereof, D/LEB observed that other Bureaux might be able to assist in that regard. The First Vice-President of the Council underscored that ICAO could rely on input from other organizations, such as IATA, in identifying the possible causes.

68. With reference to the other two actions proposed by the Representative of Venezuela (Bolivarian Republic of), D/LEB indicated that, if the Council were to request the Legal Committee to undertake them, then they could be subsumed under an existing item on its General Work Programme, namely "Acts or offences of concern to the international aviation community and not covered by existing air law instruments".

69. In emphasizing that the matter of unruly/disruptive passenger behaviour had been more or less settled from the legal point of view with the adoption of the Protocol, the Representative of Mexico agreed that it was now necessary to work on preventing such behaviour, as highlighted by, inter alia, the Representatives of Bolivia (Plurinational State of) and Venezuela (Bolivarian Republic of). Recalling that a comprehensive list of offences was contained in the Appendix to Circular 288, he stressed that in undertaking such work, it was essential to collaborate with the aviation industry, which was already addressing the issue of prevention.

70. Endorsing the statement made by the Representative of South Africa, the Representative of Nigeria failed to see how the Diplomatic Conference could be described as unsuccessful. He underscored that the Council, comprising thirty-six Representatives of Member States, could not overturn the decision reached by the 88 Member States which had participated at the Diplomatic Conference. The First Vice-President clarified that the Council was not in the process of changing what had already been agreed at the Conference.

71. While aware that the President of the Council and the Secretary General promoted the ratification of the various international air law instruments during, inter alia, their missions to Member States, the Council noted that, in order to promote the ratification of the Montréal Protocol of 2014, it might also be necessary to engage with relevant organizations, such as IATA, which were interested in the issue of unruly/disruptive passengers. The comments made during the discussion were noted as lessons to be learned by the Council in assessing the maturity of the subjects to be put forward to a Diplomatic Conference.

72. In then taking the action indicated in the executive summary of C-WP/14149, the Council instructed the Secretary General to:

- a) promote the ratification of the Montréal Protocol of 2014; and
- b) update ICAO Circular 288 – *Guidance Material on the Legal Aspects of Unruly/Disruptive Passengers* pursuant to the Resolution adopted by the Diplomatic Conference on 4 April 2014 and set forth in the Final Act thereof.

Any other business

Subject No. 50: Questions relating to the environment

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

73. In the absence of comments by 2 May 2014 to the President of the Council's e-mail dated 8 April 2014, Mr. Alexandre Rodrigues Filizola has been appointed as the new CAEP Member from Brazil to replace Mr. Jorge Da Silveira with effect from 3 May 2014.

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

Request from the European Union (EU) to participate as Observer in closed meetings of the Council on aviation security

74. In the absence of comments by 2 May 2014 to the President of the Council's e-mail dated 3 April 2014, 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 (202nd) Council's consideration, in closed session, of all items related to aviation security.

**Request from Airports Council International (ACI) to participate as Observer
in closed meetings of the Council on aviation safety and security**

75. In the absence of comments by 2 May 2014 to the President of the Council's e-mail dated 2 April 2014, Mr. Michael Rossell, Representative of ACI 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 ACI during the current (202nd) Council's consideration, in closed session, of all items related to aviation safety and security.

Subject No. 50: Questions relating to the environment

ICAO Fuelling Aviation with Green Technology Seminar

76. Pursuant to his e-mail dated 25 April 2014, the President of the Council has approved the invitation of the organizations listed therein (with the exception of the Central American Bank for Economic Integration) to the ICAO *Fuelling Aviation with Green Technology* Seminar to be held in Montréal from 9 to 10 September 2014.

Council working papers presented for information

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

- **C-WP/14171** — *Status of the ICAO workforce for 2013* – circulated under cover of PRES OBA/2298 dated 2 May 2014 with a deadline of 9 May 2014 for comments;
- **C-WP/14170** — *Financial situation of the Organization and level of the Working Capital Fund (WCF)* – circulated under cover of PRES OBA/2302 dated 13 May 2014 with a deadline of 20 May 2014 for comments.

78. The meeting adjourned at 1310 hours.