
ICAO

International Civil Aviation Organization

COUNCIL — SPECIAL SESSION (August 2006) COUNCIL — 179TH SESSION

Montréal, 17 August 2006
and 2 October – 8 December 2006

SUMMARY MINUTES WITH SUBJECT INDEX



2007

Montréal

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International Civil Aviation Organization

C-MIN Special Session
(August 2006)

COUNCIL — SPECIAL SESSION (AUGUST 2006)

SUMMARY MINUTES OF THE FIRST MEETING

(THE COUNCIL CHAMBER, THURSDAY, 17 AUGUST 2006, AT 1430 HOURS)

CLOSED MEETING

President of the Council: Mr. Roberto Kobeh González

Secretary: Dr. Taïeb Chérif, Secretary General

PRESENT:

Argentina	— Mr. D.O. Valente	Italy	— Mr. S. Monti
Australia	— Mr. W. Fisher	Japan	— Mr. T. Nakada (Alt.)
Austria	— Ms. S. Gehrer	Lebanon	— Mr. S. Eid (Alt.)
Brazil	— Mr. P. Bittencourt de Almeida	Mexico	— Mr. D. Méndez (Alt.)
Canada	— Mr. L.A. Dupuis	Mozambique	— Dr. D. Deus
Chile	— Mr. G. Miranda	Nigeria	— Dr. O.B. Aliu
China	— Mr. Y. Zhang	Pakistan	— Mr. M. Rauhullah
Colombia	— Mr. J. Ortiz Cuenca	Peru	— Mr. J. Muñoz-Deacon
Egypt	— Mr. S. Elazab	Republic of Korea	— Mr. Rhee, S.-T.
Ethiopia	— Mr. M. Belayneh	Russian Federation	— Mr. I.M. Lysenko
Finland	— Mr. L. Lökvist	Saudi Arabia	— Mr. AA. Alharthy (Alt.)
France	— Mr. P. Pape (Alt.)	Singapore	— Mr. K.P. Bong
Germany	— Dr. K. Kammann-Klippstein	Spain	— Mr. L. Adrover
Honduras	— Mr. A. Suazo Morazán	United Kingdom	— Mr. N. Denton
Hungary	— Dr. A. Sipos	United States	— Mr. D.T. Bliss
India	— Dr. N. Zaidi		

ALSO PRESENT:

Mr. J. Riaboi (Alt.)	— Argentina
Mr. J. López González (Alt.)	— Argentina
Ms. W. Walsh (Adv.)	— Australia
Mr. L. Vonlanthen (Alt.)	— Austria
Mr. E. Gissurarson (Alt.)	— Finland
Mr. R. da Silva Pinto (Alt.)	— Brazil
Mr. K. Wu (Alt.)	— China
Mr. Kim, K.-J. (Alt.)	— Republic of Korea
Mr. Yu, K.-S. (Alt.)	— Republic of Korea
Mr. V.V. Postnov (Alt.)	— Russian Federation
Ms. A. McGinley (Obs.)	— ACI
Mr. P. Behnke (Obs.)	— ACI
Mr. G. Matschnigg (Obs.)	— IATA
Ms. G. Graham (Obs.)	— IATA
Mr. M. Comber (Obs.)	— IATA

SECRETARIAT:

Mr. A. Sánchez-Gutiérrez	— D/TCB
Mr. M. Elamiri	— D/ATB
Mr. W.R. Voss	— D/ANB
Mr. D. Wibaux	— D/LEB
Mr. J. Begin	— DD/ATB
Ms. M. McMunn	— C/SGM
Mr. D. Antonini	— SASO/SGM
Mrs. H.M. Biernacki	— TO/SGM
Mr. D. Chagnon	— PIO
Mr. J. Murphy	— Consultant, ASA
Mrs. C. Rideout	— CSO

*Part-time

1. The President of the Council extended a welcome to Dr. Karin Kammann-Klippstein, the Representative of Germany; Mr. Muhammad Rauhullah, the Representative of Pakistan, and Mr. Shawky Abdel Samie Elazab Mahmoud, the Representative of Egypt.

2. The President also extended a welcome to His Excellency William Fisher, High Commissioner of Australia, who had been appointed Representative of Australia on the Council for today's special session of the Council, and Ms. Wendy Walsh, First Secretary, his Adviser.

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

Planned terrorist plot against civil aircraft over the North Atlantic

3. The President indicated that he had decided to convene this special closed session of the Council following the disclosure by the authorities in the United Kingdom of a planned terrorist plot against international civil aviation. On 10 August, law enforcement authorities in the United Kingdom had arrested 23 people in connection with a terrorist plot to blow up as many as ten aircraft over the North Atlantic in the following days. The authorities reported that the plot introduced a different mechanism than had been used by terrorists in the September 11 2001 plot; it had involved liquid materials intended to be carried on board the aircraft, disguised in various ways, to be assembled into an explosive device once on board.

4. ICAO should not remain passive when such events took place. Such threats could seriously affect the safe, regular and orderly development of international civil aviation. Given the severity of this threat and the change in terrorist tactics to elude established aviation security screening procedures, the Organization had to take prompt action to assess the threat. On 10 and 11 August, the President had held discussions with the Acting Secretary General and several Secretariat staff, and the Council Representatives of the countries directly involved in this terrorist plot, i.e. the United Kingdom, the United States and Canada, with the objective of better understanding the level of threat for the international aviation community.

5. Given these discussions, the President had called this special closed session of the Council with three actions in mind:

- For the Council to note the information about this terrorist plot and recognize the severity against civil aviation;
- To request the Aviation Security Panel to study this new threat with the highest priority; the President was confident that the Panel could propose creative measures and reasonable and effective guidelines; and
- To encourage Member States to participate in the Aviation Security Point of Contact Network.

6. The President wished to thank the Airports Council International (ACI) and the International Air Transport Association (IATA) for participating in this special closed session of the Council and for presenting information papers. The detection of a terrorist plot was without a doubt the result of good intelligence work by the Government of the United Kingdom which was highly recognized. The President was confident that good intelligence and shared information and cooperation among Contracting States and the industry was a very effective tool to avoid perpetuation of such acts of unlawful interference.

7. This first item on the Order of Business for today's meeting was documented in C-WP/12746 Restricted, presented by the President of the Council and the Secretary General; in an Information Paper (C-WP/12747 Restricted, English only) presented by IATA entitled "Future action for handling security issues"; and in an Information Paper (C-WP/12748 Restricted, English only) presented by ACI.

8. Introducing C-WP/12746 Restricted, the Secretary General observed that, as the President had just indicated, this represented the most significant terrorist plot discovered since the horrendous events of September 11th 2001; had it been carried out, it would have destroyed as many as ten aircraft over the Atlantic. The security measures which had been put in place in the United Kingdom were described in C-WP/12746 Restricted. The United Kingdom authorities had informed ICAO that these security measures had been revised with effect from 14 August 2006. As described in the paper, the following security measures were presently in force:

- Amendment 11 to Annex 17 had become applicable as of 1 July 2006;
- A list of prohibited items had been developed by the Aviation Security Panel following the events of 11 September 2001. This list of hazardous and dangerous goods had been distributed on 28 November 2003 to all Contracting States as Appendix 35 in Amendment No. 1 to the Security Manual.
- Assistance to States, under the newly-established Coordinated Assistance and Development (CAD) Section within the Aviation Security and Facilitation Branch, by *inter alia*, developing an assistance programme to counter the new and emerging threats to civil aviation, and further developing ICAO's Aviation Security Training Programme, including the development of new and non-traditional training courses to effectively address current and future challenges to aviation security; and
- Establishment of the ICAO-wide Aviation Security Point of Contact (PoC) network, pursuant to the views expressed by the G8 Roma-Lyon Crime and Terrorism Group and recommendations of the Ministerial Conference held in Japan in January 2006. The Network had been established for the communication of imminent threats to civil air transport operations. Its objective was to implement by 1 September 2006 a network of international aviation security contacts within each State, designated as the appropriate authority to send and receive communications, at any time of the day or night, concerning imminent threat information, security requests of an urgent nature, and/or guidelines to support security requirements in the case of countering an imminent threat. The Secretary General wished to take this opportunity to encourage all States to participate in the Network and noted that 16 Member States with representatives on the Council had not replied by the 30 June 2006 deadline.

9. As the terrorist plot against civil aircraft posed a major threat against air transport operations, this issue needed to be included and given the highest priority in the agenda of the forthcoming eighteenth meeting of the Aviation Security Panel, scheduled to be held in Montreal from 11-15 September 2006. The Secretariat had already been in contact with the Panel members and observers to exchange views on how to address this new threat. The Panel had expressed its support for the prompt action being taken by ICAO. The Panel members from the United Kingdom, the United States and Canada had confirmed that more detailed information would be made available at the next Panel meeting.

10. It was expected that the deliberations of the AVSEC panel on this subject would be reported to the 179th Session of the Council.

11. The Secretary General noted that sub-paragraph d) of the terms of reference of the Aviation Security Panel specifically stated that the Panel would “identify and examine, as assigned by the Council and the Committee on Unlawful Interference, new and emerging threats to civil aviation, including the misuse of civil aircraft as weapons of destruction, and develop appropriate counter measures to such threats”.

12. The Observer from IATA indicated that he was pleased to be invited to this special session of the Council and to present C-WP/12747. For IATA, it was important that all stakeholders – ICAO, governments, airlines, and airports – work together on this subject; such cooperation had been successful after September 11 when the GASA (Global Aviation Security Action) Group had been formed, and it was important that stakeholders work together now and in the future.

13. To promote safe, secure, efficient and economical air transportation had been IATA’s mission since the time of its creation in 1944 and it was still IATA’s number one priority. In addition to the issues indicated in C-WP/12747, the Observer from IATA wished to mention some other items which had emerged over the last few days. The recent events in the United Kingdom and the United States had shown that the system, with its multiple layers of security, worked. IATA wished to congratulate the States concerned for the effective use of their intelligence, and also thanked ICAO for a quick reaction in arranging for this meeting. However, after one week of dealing with this new threat, there was a need to evaluate the impact of the new measures. These measures were to have no hand baggage or liquids on board, and they impacted on a couple of fronts.

14. In terms of facilitation, passengers had not been informed of the new measures and this had resulted in long queues. A CEO from British Airways had observed that the situation had gone from total chaos to organized chaos and was now getting back to normal.

15. Airports had not been prepared to handle this crisis. From an operational point of view, there had been a significant increase in hold baggage and insufficient space. The impact on cargo volumes was significant. Forty percent of all cargo globally was carried by air and accounted for up to thirty per cent of the revenue for air carriers. Dangerous goods had now been transferred to the hold. On the hold baggage systems, there was limited infrastructure and electronic items had caused more level 2 and 3 alerts.

16. In terms of liabilities, an increase in pilferage and exposure to claims had already been noted, because valuables were now being put in the hold. From the economic point of view, the immediate impact had been the cancellation of flights from the United Kingdom and severe restrictions to cabin baggage at the time of peak earnings for airlines. Airlines had lost revenue and faced additional handling and passenger service costs. Analysts were suggesting that the impact on network airlines may be similar to the catering strike that had led to British Airways canceling over 1,000 flights at a cost estimated by the airline of about thirty-five to forty million dollars – or nine per cent of its 2005-2006 net profits. Turn-around times would also be lengthened. The long-term impact was harder to determine; studies suggested that 9/11 had permanently reduced traffic by seven per cent. In this case there was as yet no estimate.

17. Intelligence sharing between States was vital but insufficient if just done on its own, and it was not sufficient to raise the awareness of all the stakeholders. IATA recommended three actions to the Council: First, that the Council request the Aviation Security Panel to develop provisions for a

security management system to focus on harmonization and mutual recognition that security improvement must be operational and effective. The Council could also review the need for further action in light of the emerging threat. That review could cover the counter measures to improvised explosive devices in component form, including liquid explosives, training and human factors profiling, pre-arrival risk assessment, etc.

18. The second recommendation was for ICAO to set up a crisis communication centre built on a security point of contact initiative including all stakeholders such as the governments, IATA, ACI, and service providers. ICAO should keep and maintain a data base of security experts and ramp up a 24/7 operation if necessary. Airlines had this in place, IATA had this in place, and when there was a threat such as this one, ICAO should have it as well.

19. The third recommendation was for ICAO to ask States to provide funding for aviation security, specifically for security auditing and technical assistance. States should make use of available technology during such emergencies, and use police and military forces, to assist in maintaining operations.

20. The Observer from the Airports Council International then introduced C-WP/12748, indicating that ACI was deeply honored to be invited to participate in this special session of the Council. ACI believed that when ICAO, its Contracting States, and representatives of the industry came together to address security threats, they could achieve rapid results and raise the aviation security baseline appropriately. This had been the case when they had worked together to strengthen and amend Annex 17 with more than fifteen new Standards introduced on a “fast track” basis after the events of 9/11. Now they were again faced with a complex threat, but ACI believed that under ICAO’s leadership there was the spirit of teamwork, the unity of purpose and the political will to introduce effective counter-measures and to deter future threats. He had personally felt that spirit of teamwork very strongly during a productive conference call of the AVSEC Panel on the morning of August 15th, just two days earlier.

21. One element needed to be emphasized in connection with the events of the past week: as harrowing as the events had been for the industry and for travelers, the truth was that the system had worked exactly as had been hoped. As IATA had already stated, accurate intelligence shared by States and industry had pre-empted a potentially lethal series of events. The plot had never entered the operational stage and thus had never tested airport or airline security which were essential. ACI joined IATA in congratulating the governments involved for their successful disruption of a sinister plot. Nevertheless, the international community was well aware of the fact that it could not afford to rest on its laurels for even one moment. Aviation security had no room for complacency, no room for August holidays, and could not take even an hour off. The terrorists and criminals needed to get their plans right just once to do great harm and to bring the industry to its knees. The aviation community must never let its guard down on the State, airport, or airline level.

22. The Observer from ACI provided a brief background of the ACI’s organizational framework as set out in paragraph 1.1 of its information paper. In brief, Airports Council International was the voice of airports worldwide. Its 1600 member airports handled over four billion passengers and 80 million tonnes of freight in 2005, about 95% of global traffic. ACI’s overriding priority was the security and safety of the global civil aviation network. Reflecting this priority, ACI was proud to have been an active observer at all ICAO AVSEC Panel meetings over the past fifteen years. A safe and secure air transport system was a precondition in promoting trade, tourism and investment links among and within nations. Good AVSEC was also a major factor in creating global prosperity and employment. Indeed, air transport had become the cornerstone of an inter-dependent global economy.

23. ACI also agreed with the assertion in C-WP/12746 that the AVSEC Panel should study this new development with the highest priority and urgency. The Panel brought together security experts who understood the operational implications of new counter measures to deter the type of attack that had recently been disrupted. ACI believed, however, that Annex 17 must remain the baseline for States in their aviation security programmes. While amendments to strengthen the Annex may be proposed by the AVSEC Panel at its meeting in September 2006, any new counter measures should also be carefully explained in the ICAO Aviation Security Manual. In addition, training of personnel to deal with the complex new threats should be incorporated into ICAO training programmes for security managers and security personnel worldwide.

24. ACI wished to underscore three points for the consideration of the Council, as at paragraph 1.3 of C-WP/12748.

25. First of all, threats to aviation security must be fully and effectively met. The public must have confidence that it is safe to travel and to fly. Governments must recognize that terrorism targets States and is therefore a matter of national defense, which must be funded and implemented by them in partnership and close collaboration with airport operators, airlines and other aviation stakeholders.

26. Second, certain additional security measures may be required, at least in some States. These measures must be effective, enforceable, practical and sustainable. A related objective must be that any new longer-term measures are introduced in such a way that the industry can continue to handle growing numbers of passengers and higher freight volumes without creating gridlock at major airports.

27. Third, the economic consequences of measures proposed must be understood by decision makers. Airports derive a significant portion of the revenues needed for operations and development of new infrastructure from the retail concessions, many of which are located beyond security checkpoints and already are operated under tight controls. ICAO, the governments and industry can find ways to ensure that such items do not represent any danger; the loss of these retail and duty-free revenues to airports might only be recovered by increasing aeronautical charges, an outcome the entire industry wants to avoid. ACI member airports derive as much as one quarter of their total income from retail and duty free sales concessions. Some 48% of all duty free sales worldwide are from airport duty free facilities. Airtight aviation security remains ACI's highest priority but ACI strongly believes that this aim can be achieved without a major upheaval for airport economics which are based on commercial principles even in cases where airports are government- owned.

28. The Observer from ACI believed the AVSEC Panel could find a way to ensure that such products pose no threat to aviation security. ACI and its colleagues at IATA would be taking up this issue in discussions in the weeks preceding the AVSEC Panel. The measures they would be proposing would be effective, enforceable and sustainable, while meeting the highest security standards. There may be operational procedures which both airports and airlines must modify to achieve the level of security required. ACI was open to considering those changes. In the three-week period ahead, ACI hoped that States Members and Observers to the ICAO AVSEC Panel would clarify proposals for the consideration of the Panel with carefully considered working papers. This particular Panel would be under tremendous pressure to address the concerns that the recent events in the United Kingdom had raised. The work must begin today to address the issues and allow the Panel to focus on effective counter-measures in the week of its meeting.

29. ACI thanked the Secretariat and the Council for providing it with an opportunity to voice the views of the world's airports. ACI's sincere aim was to once again ensure that the security baseline was sufficiently high so that threats would be pre-empted before they reached the operational stage.

ACI's Delegation would be pleased to answer any questions Council Members might pose in response to its remarks.

30. The Council then heard statements presented by the Representative of the United Kingdom, the Representative of the United States, and the Representative of Canada.

31. The Representative of the United Kingdom indicated that he was not in a position to provide the Council with much more information about the plots than what had already been generally available in the media. His authorities had provided him with a statement that did contain some additional elements, and the Representative of the United Kingdom verbally conveyed this additional information to those in attendance at the meeting, on the understanding that his statement would not be included in the written minutes.

32. The Representative of the United Kingdom then indicated that, as could be noted from the background information in C-WP/12746, his State, when learning of the planned attack, had raised its security level to the highest level, "Critical", and had introduced a number of extra measures for security. Since then, on 14 August 2006, the "Critical" state had been reviewed and re-graded to "Severe", which was one grade below, and under the new measures each passenger was permitted to carry one, and only one, item of cabin baggage through the security search point. The dimensions allowed for that single piece of cabin baggage were very specific, i.e. 45 by 35 by 16 centimetres. This baggage could not contain liquids of any type other than essential medicines or baby milk. This did not mean that duty free could not be purchased; once through the search point, passengers were at liberty to buy water, liquids, shaving foam, duty free, etc, and take them on board with the exception of flights to the United States, in respect of which passengers were re-screened at the gate and any liquids given up at that point. The Representative of the United Kingdom had information which could be distributed to his colleagues, if necessary, which itemized the specific security measures which were now in force. He pointed out that these were not the measures outlined in C-WP/12746.

33. The United Kingdom fully supported the idea of referring this matter to the Aviation Security Panel, which would be in a better position than the Council, simply because of the passage of time, to discuss intelligently the ICAO response. The United Kingdom's investigation was still at a fairly early stage, but by 11 September 2006, when the Aviation Security Panel would meet, it was hoped that the United Kingdom would have further information which it could make available to the Panel Members. The Representative of the United Kingdom would, when the Council considered the action it would take at this meeting, invite Representatives to consider some expanded wording for paragraph 4.1 of C-WP/12746 which he had distributed earlier in the day.

34. The Representative of the United States observed that terrorism affected everyone, whether they were Bali residents and tourists, Spanish or London commuters, Jordanian wedding guests, or citizens of the some 64 nations who happened to be in the World Trade Centre during the morning of September 11, 2001. The lesson of August 10, 2006 was that terrorists still viewed aviation as a prime target for advancing their agenda of mass murder and fear.

35. It was truly sad indeed, because international aviation was the primary means by which people of different cultures and backgrounds could get to know and respect each other as they engaged in trade, commerce, education and recreation. As stated so eloquently in the opening words of the Chicago Convention, "international civil aviation can greatly help to create and preserve friendship and understanding among the nations and peoples of the world." On any given aircraft, regardless of its registration, one could find men, women and children of all races, religions, nationalities and ethnic backgrounds. An attack on civil aviation was therefore an attack on the world community -- the

indiscriminate murder of innocent civilians for the sole purpose of destroying civilization's advance toward global cooperation.

36. With 189 Contracting States, ICAO was uniquely suited to unite the world community in addressing this common threat by fostering safer and more secure international civil aviation. As U.S. Transportation Security Administrator Kip Hawley had told the Representative of the United States that morning, the United States viewed this recent threat as an opportunity to upgrade its cooperation with other nations in working toward a seamless global response based on international standards and procedures. For this reason, the United States strongly supported the main thrust in the working paper presented by the President of the Council and the Secretary General, C-WP/12746 Restricted. The paper recounted the events announced by the United Kingdom police on August 10 and the response of United Kingdom and United States authorities thereto.

37. The United States commended the excellent work of the United Kingdom police and intelligence services for their expert handling of this matter. It appreciated also the cooperation and assistance rendered by the intelligence and law enforcement agencies of other governments which had helped to uncover a heinous plot and prevent a great tragedy. The Representative of the United States understood that the plot was in its final stages and that the terrorists were targeting, according to reports, up to ten flights perhaps by as many as three United States carriers flying from London to several cities in the United States. They had planned to smuggle peroxide-based liquid explosives (HMTD or TATP) onto the planes via baby formula, shampoo, beverages, hair gel or creams, assembled on board to detonate mid-flight over the Atlantic.

38. Because the investigation into the terrorist plot was still ongoing, the full scope of information concerning the plot, the terrorists involved and their plans was still to be confirmed. The investigation was raising additional threats and concerns. The Representative of the United States wished to stress that this threat was as serious today as it had been on August 10th. There were aspects of the case unfolding that required continuing vigilance. Inevitably some issues must remain confidential to avoid prejudicing the United Kingdom's investigative and legal process. In close coordination with the United Kingdom, the United States had responded immediately on August 10th by raising the threat level to "High" or "Orange" for all international flights arriving in the United States and all United States domestic flights -- prohibiting passengers from carrying on to the airplane any liquids or gels such as beverages, shampoo and toothpaste. Certain exceptions had been made for formula, breast milk and juice for accompanying babies, and for properly identified prescription medicines.

39. Stricter measures had been applied to United States-bound flights originating in Heathrow. There the threat level had been raised to code "Red" or "Severe", and virtually all carry-on luggage had been prohibited. On August 13th, the United States had modified its restrictions to mandate shoe screening and to allow up to four ounces of non-prescription medicine. United States authorities had also modified the restrictions on duty-free products to allow delivery to the aircraft. The United States restrictions on the Heathrow-originating flights had later been modified to allow limited carry-on baggage as described by the Representative of the United Kingdom. The United States understood that other governments imposed similar measures. The United States viewed these measures as temporary, probably for the next several weeks, as authorities studied the precise nature of the threat and made adjustments that reflected the investigative and scientific analysis of the explosive potential of liquids and other substances that could be carried on board the aircraft. The United States Government would then plan to issue interim measures that would remain in effect until new technologies could be deployed.

40. The Representative of the United States stressed the importance of international cooperation in developing these interim measures, which would remain in effect for some period of time.

Interim measures must be based on a full understanding of the new threat and of the methods of attack considered by the terrorists, to ensure that counter-measures were relevant, effective and enforceable. Such measures must also be sustainable and practical -- the experience of Contracting States would be an important factor in this analysis. The United States appreciated the excellent cooperation it had received from Contracting States and encouraged feedback on their experience with these measures. The United States commended the Aviation Security Panel and the Secretariat for the excellent work in developing Amendment 11 to Annex 17, which had come into effect less than 60 days ago. This programme remained essential, and it was important that Contracting States continue to implement the revised Annex 17. Further work to deal with the threat methodology would build on this foundation, but it would have to focus on areas where changes were relevant and necessary. For these reasons, the United States agreed with the indication in C-WP/12746 that the Aviation Security Panel should be directed to study this new threat and recommend actions to the Council. Among the issues the AVSEC Panel should consider were the following:

- (1) What have we learned about emerging threats to civil aviation from the full range of information, as it becomes available, about the United Kingdom plot? How does this information change the way we view, define and respond to emerging threats? In particular, what is the physical threat posed by specific quantities of liquids, gels and aerosols and their combination on the aircraft?
- (2) Does Amendment 11 adequately address the emerging threats to civil aviation? If not, what specialized expertise is needed to develop amendments, modifications or new SARPs? What should be the timeline for these amendments?
- (3) Should the list of prohibited items or substances that should not be carried in the cabin of an aircraft be expanded?
- (4) How should the ICAO manuals, guidance material and security training programs be modified to address the emerging threats?
- (5) How should ICAO's Universal Security Audit Programme be refined to address the capability of Contracting States to respond to these emerging threats?
- (6) What is the status of new technologies to detect liquid explosives? Should certain technologies be encouraged for deployment?
- (7) What modifications to the screening process should be considered for passengers, carry-on baggage, checked baggage and cargo?
- (8) Do the emerging threats call for additional levels of screening for liquid explosives and for passenger behavior? Should ICAO training centers include techniques for observing passenger behavior?
- (9) As we analyze the threats reflected in the August 10th plot, what additional potential threats also must be addressed? How can the levels of security protect against potential new threats that are not currently known or anticipated?
- (10) How can background checks and credentialing of persons with access to security-restricted areas be strengthened?

(11) How can an effective system be devised for obtaining advance passenger information and identification before the departure of international flights?

41. The Representative of the United States observed that the AVSEC Panel would have a full agenda on September 11 – 15th. His Delegation looked forward to receiving its thoughtful, expert advice. The United States also recommended that the Council request that this matter be included on the agenda of the September 2006 meetings of the International Explosives Technical Commission and the *Ad Hoc* Group of Experts on the Detection of Explosives to consider technological approaches to detecting liquid explosives. The work of these groups should be closely coordinated with the AVSEC Panel.

42. Referring to the recommended action at paragraph 3 of C-WP/12746, the Representative of the United States indicated that his Government fully supported the Aviation Security Point of Contact Network and strongly urged States that had not yet provided a point of contact to do so. The Representative of the United States could provide the Secretary General with his Government's point of contact at this time. ICAO should request the AVSEC Panel to consider whether this procedure could be used to disseminate urgent information to participating States about measures taken by Contracting States to address heightened security alerts.

43. Recognizing ICAO's responsibility to promote and facilitate civil aviation and the importance of not succumbing to the threat of terrorism, the United States believed that the Panel, the Secretariat and the Council should consider:

- (1) The adequacy of contingency plans for dealing globally with temporarily heightened security measures issued by Contracting States.
- (2) The adequacy of procedures for timely and accurate communication of changes in security measures providing that information to international travelers throughout the world.
- (3) Whether procedures could be established to facilitate travel during periods of heightened security, such as the Registered Traveler Program being tested in the United States.
- (4) When heightened security was focused on a specific airport or airports, could contingency plans be prepared that would minimize the disruption of air travel in other regions?
- (5) What steps could be taken to minimize the effect of heightened security on the economics of airlines and airports?

44. The United States Government planned to work through the AVSEC Panel to study the precise nature of this emerging threat and to develop recommendations based on the best available information and scientific analysis for consideration by the Council in its 179th Session.

45. The Representative of Canada observed that it had become ever clearer that aviation security and safety had become the focal point of activities within ICAO, and the Organization would have no other choice than to afford it the utmost importance. ICAO would have to take the necessary measures in order to provide all necessary and useful resources to security issues. The Representative of Canada wished to endorse the statements made by the Representatives of the United Kingdom and the United States, and to provide additional background information regarding contacts between the three States since the beginning of the plot being identified. The three States had come together because the United Kingdom had been the State where the plot had been initiated; the United States would have been the destination for

the affected flights; and Canada would have been the territory and airspace through which the plot would have developed.

46. The Representative of Canada thanked the Observers from IATA and ACI for their presentations. Their documents had been most important for the analysis of the above-mentioned authorities, especially during a conversation which had taken place on August 15th. Without repeating what his colleagues from the United Kingdom and the United States had mentioned, the Representative of Canada wished to address the recent update of Annex 17 through Amendment 11, which had come into effect less than 60 days ago. Most of the AVSEC Programme would still remain valid, and it was important that Contracting States be encouraged to urgently progress in full implementation of the revised Annex 17. Further work to deal with the new threat methodology would build on this, but should also be focused on the areas where changes were relevant and necessary.

47. Like the United States, Canada considered that Annex 17 should not be brought into question by recent events. Quite the contrary; Canada considered that recent events demonstrated that the aviation security environment was dynamic and the need for on-going priority attention to aviation security was underlined. The Canadian Delegation believed that as part of its action on the subject, the Council should produce a statement of concern to re-emphasize the seriousness of the terrorist threat, particularly as it related to the entire aviation security network, reminding States of the devastating economic impact terrorist attacks could have on the airline industry and tourism, as was so clearly explained by both IATA and ACI earlier on. Canada could add that the impact was not just economic, and did not just affect aviation. There could be effects across entire economies and important social and other effects, and Canada believed that this house should be mindful of this.

48. Canada, like others, wished to refer the matter to the AVSEC Panel for its consideration during the upcoming September meeting, requesting that the Panel use a full range of available information to advise the Council on appropriate action necessary to protect the security of civil aviation, including addressing the threat posed by liquid gels and aerosols. Canada also urged that other appropriate deliberative bodies in ICAO should address the issue. These bodies would include the *Ad Hoc* Group of Experts on the Detection of Explosives, which was meeting in September in Montreal, and also the Committee on Unlawful Interference. The efforts of these bodies should be coordinated with other organizations, such as the task forces of ECAC and the EC/EU, that were addressing the same challenges. The AVSEC Panel in September should determine a programme of work, including the engagement and coordination of special expert advice as appropriate, and a delivery date for a proposal for new SARPs to be considered by the Panel. Canada wished to be very clear that new SARPs were viewed as one possibility out of so many, together with new guidance material, training information and/or other appropriate ICAO responses. New SARPs would need to be looked at by the AVSEC Panel before ICAO embarked on this route. The Panel and other deliberative bodies should be directed to define their programme of work without being constrained on the elements of the Programme. Canada was eager to urge that full consideration be given to the range of operational, technical and other issues surrounding the screening of liquids, gels, and aerosols, and would press for this in the development of work programmes over the next few weeks.

49. The Representative of Spain endorsed the statements which had been made thus far, and believed that the proposal which the Representative of the United Kingdom had circulated for amending the action paragraph in C-WP/12746 was an improvement with which he fully concurred. The Representative of Canada had also mentioned that security did not belong to any one country, area or region. It was global; the responsibility of one and all. This was why it was essential for the Organization to take charge of the issue and ensure cooperation across the board amongst all countries throughout the

world, in order to ensure that the SARPs and procedures which were put into force were concordant with the threats.

50. The Representative of Saudi Arabia voiced his Delegation's support for the three working papers, and endorsed the statements which had been made by both Representatives on the Council and Observers from other organizations. The international community had to deal seriously with this threat in order to counter it with force, in order to protect the international community as a whole. This was the objective of the Organization. Terrorism was not restricted to one specific region, religion or group. This was why the international community as a whole had to counter these terrorist threats. What the world had known in terms of catastrophes targeting air transport, in particular civil aviation being used as weapons of mass destruction, placed an extremely heavy and great burden on the shoulders of ICAO. It was up to ICAO to examine this issue in a very logical, practical, serious and responsible manner with a view to developing measures and procedures which could be applied in order to counter these irresponsible criminal acts of terrorism. Saudi Arabia therefore supported any measures adopted by ICAO with a view to countering threats along the lines expressed by Dr Kotaite in his statement following the attacks on Beirut Airport, and also endorsed all of the efforts of the incumbent President, following the discovery of the planned terrorist plot against aircraft over the North Atlantic. Saudi Arabia believed that these initiatives were very healthy ones.

51. The mere fact that ICAO was trying to protect the citizens and airports of the world, and that these airports and citizens were being targeted, meant that civil aviation infrastructure and human beings were now considered to be victims, and any activity against these victims would entail serious responsibility on the part of organizations dealing with civil aviation. International laws and measures should be in place in order to prevent having airports and citizens serving as targets for any one group or State. The time had come for ICAO to look at these actions as an expert specialist organization based on objective and scientific technical data with a view to calling for a worldwide conference to deal with this issue, and examine all possible means to counter these acts of terrorism. The Air Navigation Commission and the Committee on Unlawful Interference should consider including this issue on their work programmes.

52. The Representative of India noted with serious concern the contents of the working paper presented by the President and the Secretary General which outlined the terrorist plot against civilian aircraft over the North Atlantic, the various measures which had already been taken by States, and the security levels which had been announced by States. India was a part of the worldwide fight against global terrorism. On account of severe threats to India, the threat level of security in India was already very high. After the uncovering of the plot in the United Kingdom, additional security measures had been introduced. India was seriously monitoring the situation

53. The Delegation of India also noted the working papers and the issues raised by IATA and ACI which presented the other side of the picture and the impact of the current security measures on the air transport industry, on airports, on transportation of passengers, etc. The core issue of today's discussion was the likelihood of liquid explosives being employed by terrorists, and experts had said that the threat from liquid explosives was real because liquid bombs were very easy to make and very easy to be deployed. Therefore the objective of the exercise should be to suggest measures which could prevent the occurrence of such events. The likelihood of the use of liquid explosives was not new. In two or three instances there had been attempts to carry liquid explosives inside an aircraft in packages for contact lens solution or talcum powder. As has been said, terrorists were constantly working and the international community had to be very proactive rather than reactive in order to stay ahead of them.

54. The issue involved three key elements. The topmost priority was the security of the State, the security of its citizens, and the security of civil aviation and passengers. The second important element concerned the air transport industry, and the third element was the airport as a business entity. India was of the view that the parties concerned had to somehow, in a workable manner, try to balance without compromising the security of the State and its citizens; and this was possible. There was a need to evolve long term as well as short term security measures. While evolving the long term measures would take time and would involve, among other things, the development of markers and technology, in the meanwhile it would be necessary to evolve some short term measures which would be preventive, effective, enforceable, practical and sustainable. India supported the proposed action contained in the working paper presented by the President and the Secretary General, as well as the suggestions which had been circulated by the Representative of United Kingdom. The Council was referring the matter to the Aviation Security Panel, and such referral should be under a broad framework with various elements which had been suggested by the Representative of the United Kingdom, the detailed treatment given by the Representative of United States, and the comments offered by the Representative of Canada. The Aviation Security Panel should not only come up with measures relating to liquid explosives; if time permitted, the Panel could also come up with any immediately thinkable matter which could be employed by terrorists.

55. The Representative of India also suggested that the work of the Aviation Security Panel should not be constrained by resources; if the Panel had to meet more than once it should be given the resources to do so. The Panel should work in such a manner that its recommendations were available to the Council during the 179th session (October/November/December 2006) The entire aviation community and all its stakeholders were looking to ICAO for its leadership to ensure the integrated global aviation system. States could be advised to continuously monitor threat levels and determine whether the security measures which were in force were sufficient. Although it had been said that a point of contact was likely to be operational in September, the Representative of India was of the view there should be no delay, and that the measures envisioned for September should be put in place immediately.

56. The Representative of Finland appreciated the three working papers presented on this subject, and could easily support the main thrust of the actions suggested. The discussions so far had clearly shown that there was a broad agreement on the way forward for ICAO. It was clear that the Council could not discuss details on what kind of new security measures might be needed; this was a matter for the Aviation Security Panel. The Council could perhaps move fairly quickly to a concrete discussion on the action it would take and the guidelines it would give the Security Panel, as well as on what other actions should be taken. The Council could, for example, stress the importance of a security focal point network and encourage every Member State to join. As to the action by the Council, Finland wholeheartedly supported the alternative conclusions suggested by the United Kingdom, and looked forward to suggestions from the Aviation Security Panel which were reasonable, practical and sustainable.

57. The Representative of China fully supported the contents of the three working papers now under consideration, as well as the suggestions for revised Council action which had been circulated by the Representative of the United Kingdom. The forthcoming meeting of the AVSEC Panel had a heavy agenda, with five very important items, and now that the Council was referring to it a further item which had even higher priority, he wondered whether the time allotted for the meeting would be enough. If that was not the case, the Council should request that the meeting be extended, or that another meeting be convened in the near future. The Representative of China endorsed the proposals submitted by the representatives of industry, i.e. IATA and ACI, and believed that the Organization should give careful consideration to their proposals.

58. The Representative of Lebanon emphasized the importance of countering all forms of terrorism, especially those directed against air transport, and expressed his appreciation for the information which had been presented both by way of working papers and presentations. His Delegation supported the action by the Council proposed in paragraph 4 b), whereby the Aviation Security Panel would be requested to study this new threat with the highest priority, including assistance to States and to report back to the Council as soon as possible. The Coordinated Assistance and Development (CAD) Section was well qualified to assist States in accordance with paragraph 2.3 of C-WP/12746. Lebanon also supported the action by the Council proposed in paragraph 4.1 c) which would encourage States to participate in the Aviation Security Point of Contact Network described in paragraph 2.4 of the paper. Lebanon also supported the intervention of Saudi Arabia, especially in terms of refraining from using any excuses to justify terrorist activities against civil aviation. The Representative of Lebanon thanked him for his reference to the unlawful acts conducted by Israel against the international airport in Beirut, and would address this issue under other business, expressing the position of the Lebanese Government.

59. The Representative of Egypt indicated that the security of civil aviation was a critical element in Egypt's effort to strengthen its economy, and was a cornerstone for development and progress in nations. His Delegation supported the paper presented by the President and Secretary General and would also support the development of more stringent measures to protect civil aircraft against any potential terrorists. Egypt supported the papers presented by IATA and ACI, as well as the interventions of previous speakers who had addressed all of the aspects in relation to the prevention of terrorist acts against civil aircraft. Commenting on a few points in relation to the plot now being discussed, the Representative of Egypt emphasized the importance of defining and determining the liquid explosives, and of informing Contracting States and stakeholders of their characteristics and the means to detect them. There was also a need to identify the medications that passengers may be allowed to carry on board and to determine the measures needed to allow them to do so.

60. The Representative of Japan appreciated the measures which had been taken by the States concerned to prevent the plot beforehand, but observed that notwithstanding the actions taken thus far by the States, ICAO and other stakeholders, this event was a strong reminder of the continuous terrorist threat facing civil aviation. Japan had been giving high priority to the aviation security activities of ICAO as well as its own national security initiatives, and had also been supporting and encouraging security measures to address this issue. Japan would continue to enhance this position. In general terms, Japan supported the proposal presented in the three working papers and appreciated the detailed additional information and concrete ideas on the counter actions presented by the Representatives of United Kingdom, the United States and Canada. In addition to the consideration of this matter at the upcoming Aviation Security Panel meeting, Japan believed that it was very important to expedite the operation of the Aviation Security Point of Contact Network.

61. The Representative of Nigeria endorsed the three working papers under consideration, and expressed appreciation for the further clarifications that had been given by the United Kingdom, the United States and Canada. He supported the proposal submitted by the United Kingdom in connection with the action proposed at paragraph 4.1 of C-WP/12746, and observed that the Representative of the United States had raised a number of questions that required further consideration by the Aviation Security Panel. He suggested that those points be submitted to the Panel as issues they should look into.

62. The Representative of Nigeria shared the concerns expressed by the Representative of China regarding the agenda for the forthcoming meeting of the Aviation Security Panel. These issues currently being discussed had priority over the current agenda and this should be clearly stated. Information needed to be circulated to Panel Members so that they could prepare adequately for a discussion on these new issues, and his Delegation would have no difficulty in supporting the Council's

approval of an extension or of an additional meeting if necessary. The issues raised in the working papers and during the discussion were more than enough for the meeting, and might need to be prioritized. Another consideration that may need to be taken on board concerned the possible need to convene a major conference on aviation security, which would be ideal to complement work that the Aviation Security Panel would carry out.

63. The Representative of Austria fully supported the suggestion in C-WP/12746 to request the Aviation Security Panel to give full priority to deal with the new threat to aviation security, and thanked IATA and ACI for their excellent contributions. She also supported the views expressed by the Representative of Finland, to the effect that the Council should not attempt at this time to predict the outcome of the Panel's work. She supported what had been said by IATA and ACI on the necessity of developing appropriate measures, and believed that the recent amendments to Annex 17 served as a good basis. The Organization should emphasize the importance of fully implementing those amendments. There should be a common understanding, when additional measures were introduced, of national threat assessments, and ABIS States strongly supported IATA's proposal for a Crisis Communication/Coordination System under ICAO auspices, which was in line with ICAO's recently established Aviation Security Point of Contact Network. The Representative of Austria observed that training had not been at the spotlight of the last Panel meeting, and believed that developments in screener training and human factors would require this subject to be given high priority during the forthcoming meeting. ABIS representatives on the AVSEC Panel would be fully engaged in contributing to the work of the next meeting.

64. The Representative of the Republic of Korea fully supported the main thrust of C-WP/12746, which was further strengthened by the proposal of the Representative of the United Kingdom, and believed that the forthcoming meeting of the Aviation Security Panel would be the most appropriate forum to deal with these issues. His Delegation wished to know whether the current composition of the Panel would be enough to cope with this new threat, or whether it would be necessary to form another technical expert group to deal with the technical aspects of the new threat to civil aviation. He emphasized the need for the Council to take a balanced view and position on this issue; one end of the spectrum was to ensure the security of civil aviation as perfectly as possible, and the other end of the spectrum was to promote the air transport industry.

65. The Representative of Australia indicated that to save time, he would concentrate on the suggestions in paragraph 4.1 of C-WP/12746 with regard to future action by the Council and by ICAO, looking forward to the work of the Aviation Security Panel which would meet in September. Australia expected ICAO to take a leadership role in looking forward to the way States approached the recent events in the United Kingdom. By the time it met in September, the AVSEC Panel would be very well served if it were in a position to be able to consider some collective options for dealing with the sort of threat which the aviation community now faced, rather than just hearing about individual views of States and actions which might already have been taken. The Representative of Australia was concerned that the Panel might, in September, simply be asked to begin deliberations on developing possible options rather than having the opportunity already to be able to react to considered opinions which were put to it. There had been some variation in individual country responses to the United Kingdom plot, and that was understandable, but there was a need for an agreed schedule of additional aviation security measures and actions which countries might implement, based on their own assessment of the threat faced by their aviation industry.

66. Australia therefore proposed that the Secretariat itself, before the meeting of the Aviation Security Panel in September, produce an options paper which might recommend a coordinated range of mechanisms for dealing with threats in the mid- to longer-term. The Representative of India had

mentioned that ICAO needed to stay ahead of terrorists and to develop practical and sustainable measures; that was very much along the lines of what his Delegation was suggesting. In the discussions so far in the lead up to this meeting, some Representatives had made the point that “knee-jerk” reactions must not be made. Australia also believed, like a lot of others, that it was important to avoid rushed decisions which might change aviation security measures as a result of the challenges brought to light by the United Kingdom plot. This was particularly true with regard to the security screening of passengers and luggage. The question arose as to what screening was able to detect, and whether it was ultimately feasible to try to screen for every eventuality. Many of the responses to the United Kingdom plot dealt essentially with screening of carry-on items. The Australian Delegation believed that screening-related measures alone as a response were perhaps insufficient, and that there were other questions to be looked at. The Representative of Austria had mentioned several of them, and he completely agreed with her remarks. There was the question of screener training, as well as that of human factors, which were very important in this regard. Australia would like ICAO to ensure that screening alone not be advocated as a sufficient response; there was a strong need instead to focus on broader issues as well, such as training and human factors.

67. Australia believed that the current Standards which were set out in Annex 17 of the Chicago Convention seemed to be adequate in terms of overall requirements for the screening of passengers and baggage, but that they needed to be supplemented by further advice and guidance from ICAO in terms of practical measures that might be applied in circumstances such as this. The Representative of Australia therefore strongly recommended that the Secretariat commence work before the September meeting of the Aviation Security Panel towards developing an options paper which should recommend a coordinated range of mechanisms for dealing with threats in the mid- and longer-term, including an internationally consistent set of aviation security measures and technical advice on issues such as training, screening, and human factors. The *Ad Hoc* Group of Specialists on the Detection of Explosives and the Aviation Security Panel Working Group on Training were ideal mechanisms for progressing thinking on these matters prior to the Panel meeting.

68. The Representative of Australia indicated that he was currently distributing a short text which would propose an additional paragraph to the draft decision suggested in paragraph 4 of C-WP/12746; it was consistent with the proposals circulated already by the Representative of the United Kingdom

69. The Representative of Argentina indicated that his Delegation would have no difficulty in endorsing the action proposed in C-WP/12746 as expanded by the suggestions submitted by the United Kingdom and Australia, and suggested that the Council also note the information provided in the papers presented by ACI as well as IATA. Those two papers would allow the Council to establish a balance between the basic objectives of this Organization as supported by the Chicago Convention, i.e. the development of an orderly, regular, efficient aviation, and the development of solutions to this new emerging threat. This issue would have to be included as an item with the highest priority on the agenda of the next meeting of the AVSEC Panel. As regards the already rather lengthy agenda of the AVSECP/18, Argentina believed that this issue was of the highest priority, and that ICAO should invite States participating on the Panel to envisage extending the length of the meeting so as to enable them to deal with all the items on their agenda, because all of them were important and had a level of priority.

70. The Representative of Argentina wished to know exactly when the Aviation Security Point of Contact Network would be implemented, and believed that the action taken by the Council could include a request that this network be implemented as soon as possible. He hoped that all of the information which had not been officially distributed in the light of the sensitivity of this issue would be made available to the experts when they dealt with it, with a view to acting in as efficient a manner as

possible in developing future measures. The Representative for India had also made a very clear statement regarding the proactive nature of the Council, and the fact that it should be prepared for all possibilities. The measures envisaged at the moment involved materials which were introduced on board the aircraft in various ways, but carried outside the human body, and not within the body of the individual. Argentina believed that the AVSEC Panel of experts should look into the possible threat of dangerous materials being carried within the human body and thus introduced on board aircraft. Argentina believed it would be opportune at this time to look into this possibility.

71. The Representative of France wished to highlight the efforts which had been made in order to provide the Council with a complete and all-encompassing overview of the situation thanks to the three papers now under consideration, and, in focusing on the action which the Council would take at this time, observed that the decision-making bodies which would deal with this issue should have all possible freedom in discussing it. It was quite true that the addition of this very important item on the AVSECP/18 agenda would greatly overload the deliberations of the Panel, and the Representative of France therefore supported the suggestion of the Representatives of China, Argentina and Finland for extending the duration of the meeting or perhaps envisage holding an additional meeting. The establishment of a Point of Contact Network seemed to be an excellent response to the new threat, and the Delegation of France would fully endorse it and encourage States to participate in it. With regard to the action, the Representative of France felt it would be necessary, as had been pointed out by the United Kingdom Representative, that the time-frame make specific reference to the 179th Session for dealing with this issue in the light of the results of the AVSEC Panel meeting.

72. The Representative of the Russian Federation endorsed the three papers now under consideration, and the action proposed, including the additional measures suggested by the Representatives of the United Kingdom and the United States. The Secretary General would have to inform the Members of the AVSEC Panel immediately of any extension of the forthcoming meeting in the light of an increased workload so they could duly inform their administrations. As regards the issue of the liquid dangerous explosives, the Secretariat could inform the *Ad Hoc* Group of Experts on the Detection of Explosives and the International Explosives Technical Commission so that between now and the end of September when the AHDE would hold its meeting, it would have sufficient time to pick up on this point and prepare accordingly in order to provide the necessary answers to the questions which had been raised at this meeting. The Representative of the Russian Federation was pleased to inform the Council that his authorities had already informed the designated Aviation Security Point of Contact of the situation. The Point of Contact had responded promptly and efficiently in adopting the necessary measures to enhance security. The Representative of the Russian Federation could support what had been said by the Representative of Nigeria to the effect that it was absolutely essential to hold a major conference on aviation security.

73. The Representative of Peru observed that terrorism was a serious threat which had to be contained by means of the coordinated activities of the international community. ICAO had a very important role to play in terms of aviation security and the strengthening and enhancement of safety. Within this framework, his Delegation fully endorsed C-WP/12746 as well as the amendments which had been suggested by the United Kingdom and Australia. Peru also supported C-WPs/12747 and 12748, and thanked IATA and ACI for their presence at this meeting. The Council valued their opinions, and should take them into account. For this reason, the Delegation of Peru supported what had been proposed by the Representative of Argentina to the effect that the Council action would also note those two papers.

74. The Representative of Colombia indicated that his State supported all measures aimed at countering terrorism – not only terrorism aimed against aviation, but any terrorist acts aimed against the safety of countries, the right to life and the promotion of peace throughout the world. Colombia also

supported the three working papers under consideration, as well as the proposals made by the Representatives of the United Kingdom and Australia. The Representative of Colombia thanked IATA and ACI for their important contributions to this meeting as well as the suggestions and opinions from the United States and Canada. He believed that the AVSEC Panel should be provided with all necessary support in its study of this new threat with the highest priority and inform the Council as soon as possible, so that the Council and ICAO would be able to instruct States on how to best use human resources, and how to make the necessary advancements in technology in order to prevent any threats of this nature across the board. He also agreed with the views expressed to the effect that the AVSEC Point of Contact Network start operation immediately. His authorities had taken all necessary additional measures following the 10th of August in order to make sure that such acts do not take place in Colombia.

75. The Representative of Germany indicated that she could only subscribe to everything that had been said on this subject, and join every speaker who had expressed support for the working papers before the Council. Her Delegation endorsed the suggestions by the Representatives of the United Kingdom and Australia. She fully supported the view expressed by IATA and ACI to the effect that the economic impact of all measures had to be taken into account. This was particularly true for airports at this time, when one had to consider whether the ban on liquids had to be a permanent ban or a temporary measure, and whether a ban on liquids purchased after security controls was a necessary measure. These were details which the AVSEC Panel could have a look at, possibly with an extension of one or two days of its work.

76. The Representative of Chile observed that today's meeting demonstrated clearly the leadership skills of ICAO as it faced this extreme threat to aviation. The problem lay in how ICAO was to maintain this leadership. In the light of this, the Delegation of Chile wished to propose that the Organization have an on-going surveillance and monitoring of the situation as regards any future threats to aviation. The AVSEC Panel's forthcoming meeting had been scheduled already well before today, and the Secretariat would have to review the agenda in the light of what the Council was discussing today. The papers now before the Council were crystal-clear, in particular as regards C-WP/12746, and he could fully endorse them together with the amendments proposed by the Representatives of the United Kingdom and Australia. The papers presented by IATA and ACI were very much to the point, and the Representative of Chile supported the views of Colombia to the effect that all threats, not only those in the air, but any other types of threats be covered.

77. The Representative of Ethiopia added his Delegation's support to the papers presented by the President of the Council and the Secretary General, by IATA and by ACI. He also supported the suggestions by the Representatives of the United Kingdom and Australia for amending the Council action on this subject. With regard to the upcoming AVSEC Panel meeting, it was the view of his Delegation that the Secretariat should contact the Members of the Panel if the agenda was expanded, and indicate whether additional time was necessary for the meeting.

78. The Representative of Singapore supported the proposal for adding this subject to the agenda of the forthcoming AVSECP/18 meeting and to make recommendations to the Council, but wished to emphasize the need to balance security measures with airport economics and passenger facilitation. The security measures which would be proposed should be sustainable and targeted, and based on a level of threat assessment and intelligence. While it may be necessary to implement new measures to deal with new threats, the measures must be practical, as emphasized by the Representative of the United Kingdom, in order to avoid severe negative ramifications on airport economics, air travel and airport operations because of extensive flight delays and misconnections. The experience of Singapore had been that sales of duty free items had dropped by as much as seven percent. It was important that in the face of such new threats, all parties – the States, airports, airlines, security agencies

and retailers – work together to develop creative solutions to address issues arising from heightened security measures that were necessary to preserve civilian lives.

79. The President observed that the Council was discussing a highly sensitive, important issue. The three Representatives on the Council from the United Kingdom, the United States and Canada, along with many other speakers, as well as the three working papers before the Council, had all referred to the fact that the AVSEC Panel should analyze all of the possibilities. Canada, in particular, had emphasized that they should study all these possibilities and not only look at the possible development of new SARPs. Singapore had also referred to this in his statement. The United Kingdom had made a proposal which had received the support of many. The proposal concerned an amplification of the action proposed in paragraph 4.1 of the working paper presented by the Secretary General and the President. Other proposals had also been made commented upon. The President wished to inform the Council that in the consultations which he had with the three Representatives and the Secretariat, which he had referred to initially at this meeting, the decision had been taken that immediate contact be entered into with the AVSEC Panel Members. The Secretariat was currently contacting them. The President asked the Secretariat to expand on the work in progress

80. Some information was then provided by DD/ATB on the action which had been taken or which was underway. On Tuesday morning, 15 August, the Secretariat had convened a preparatory call of the AVSEC Panel that had been well attended and that had met with much support and enthusiasm; that acknowledged that this issue did deserve the highest priority on the agenda. While the full information and knowledge associated with the threat that the United Kingdom authorities had so ably addressed had not been made available to the Panel, the Representatives of the various countries involved had indicated that they would be in a position to share that more detailed information at the time of the Panel meeting in mid-September.

81. The Secretariat had agreed to several actions. The first was to create a very detailed sub-agenda to address the specific terrorist threat, in order to be as efficient as possible with respect to this topic, recognizing that the Panel already had a full agenda. Secondly, the recommendation from the Representative of Australia with regard to a coordinated range of mechanisms had been taken on board. Action had already started with an e-mail to a number of the Panel Members, soliciting their support and active participation with the Secretariat to develop such a document that would frame discussions and encourage thinking.

82. The Secretariat had encouraged the AVSEC Panel Members to take advantage of the three-week period between now and when they would travel to Montreal to attend the Meeting, to thoughtfully capture their contributions in working papers so as to be as best prepared as possible in terms of being productive with the time available, recognizing that the Panel had a commitment to deliver a report to the Council that would deal with this issue and make very specific recommendations. The Secretariat believed that it had done as much of the pre-planning and coordination that it could do up until now, to try to be on target, to try to be precise, to try to use time efficiently and to try to produce very specific responses. The response would have to be tempered with a better understanding of the threat that this terrorist plot presented, and bring on board the experiences that the industry participants had to report. Both Representatives of IATA and ACI had participated on the conference call and they would participate at the AVSEC Panel Meeting.

83. DD/ATB indicated that economics happened to be a topic that was of great personal interest to him, and had been a part of his professional affiliation with the Organization for quite some time. He gave assurances that the economics would be taken into account with regard to the work of the Panel and the recommendations that would come forward.

84. There had also been a number of useful suggestions with respect to the AVSEC Panel reaching out to other pools of experts, for example the *Ad Hoc* Group of Experts on the Detection of Explosives. There too, the Secretariat had already begun preliminary discussions, had received expressions of support and willingness to participate, and expected that it would continue developing that and actively engaging in appropriate dialogue and collaboration with those organizations. That included recognizing that this threat was possibly different from the threats which had already been studied with respect to conventional explosives. It concerned understanding how various commercial products with certain chemical properties could be misused by terrorist elements in developing improvised explosive devices for use against civil aviation. Along those lines, a Member of the Secretariat who was a PhD chemist had prepared a formal presentation to the Panel, informing Members of the types of materials that can could come into play with respect to these devices.

85. DD/ATB indicated that he was addressing this meeting in an acting capacity for Capt. H. Belai, the Acting Chief of the Aviation Security and Facilitation Branch. He had been in regular dialogue with A/C/S&F, who was being kept fully informed of the discussions that were taking place and the direction in which the Secretariat was moving. When Capt. Belai would return to the office at the end of August, DD/ATB would endeavor to brief him to ensure that he was fully up to speed with the progress that had been made and with the objectives that had been established for this important meeting of the AVSEC Panel. DD/ATB was encouraged by the strong expressions of support and the recognition of the high priority that had to be placed on this topic. The Secretariat recognized those issues and was doing all that it could to use resources efficiently, wisely and appropriately to deliver to the 179th Session of the Council some very detailed recommendations with respect to this terrorist plot.

86. As regards the Aviation Security Point of Contact Network, the Secretariat also recognized that the sooner that mechanism was developed and in place, the better. In addition to speed, the Secretariat had to concern itself with the matter of scope, or coverage. While the Secretariat was endeavoring to put in place the point of contact process as promptly as possible, at this time, of the 189 Contracting States, only 56 had responded. If the mechanism were implemented today, more than two-thirds of the members of ICAO would not be contacted because the Organization did not have a contact point for them. DD/ATB wished to stress the importance of responding to the State letter that had been issued in March, and urge all promptness in doing so. DD/ATB indicated that the proposals which had been put forward for amending C-WP/12746 were useful improvements on the recommendations, and believed that they should be taken on board as appropriate additional expansion on the Council action.

87. The President of the Council expressed his appreciation for the work which had been done by the Secretariat over the last few days. The Aviation Security Panel had demonstrated its capabilities when the Organization had had to deal with similar situations, and the President expressed the hope that ICAO would not have too many experiences such as this in the field of aviation security. The AVSEC Panel worked in coordination with the *Ad Hoc* Group of Specialists on the Detection of Explosives and in working together the two bodies could deal effectively with most of these threats. The President requested the Representative of the United States to submit to the Secretariat the suggestions he had made during his presentation, so that they could be taken into account as proposals for consideration by the Aviation Security Panel. It was also important to consider the comments which had been made by a number of Representatives regarding the fact that this was a high-priority issue, and that the Secretary General would have to consider the re-allocation of resources which might be needed for an extension of the Eighteenth Meeting of the Aviation Security Panel, currently scheduled to take place from 11 to 15 September 2006, or for convening an additional meeting of that Panel in accordance with the suggestion made by Representatives during the discussion.

88. The action proposed at paragraph 4.1 of C-WP/12746 was amended in accordance with suggestions which had been circulated in writing by the Representatives of the United Kingdom and Australia, as well as other suggestions put forward by Representatives. In taking the action as amended, the Council:

- a) noted the information presented by IATA in C-WP/12747;
- b) noted the information presented by ACI in C-WP/12748;
- c) noted the information provided in C-WP/12746 and recognized the seriousness of the terrorist threat (including both new and already known *modus operandi*) for civil aviation worldwide;
- d) requested the Aviation Security Panel to study this new threat with the highest priority, to address in particular the threat posed by liquids, gels and aerosols, and to consider the full range of available information in order to advise the Council on necessary action to protect the security of civil aviation. Any measures recommended should be sustainable and practical. The Panel should also take into account the desirability of developing guidance to assist Contracting States with implementation. The Panel should report back to the Committee on Unlawful Interference and the Council so that the Council may take a decision on the subject during the 179th Session;
- e) requested the Secretariat, prior to the Eighteenth Meeting of the Aviation Security Panel, to produce a working paper discussing a coordinated range of mechanisms for dealing with threats in the mid- to long-term, including an internationally consistent set of possible aviation security measures and technical advice on issues such as training, screening and human factors;
- f) reminded Contracting States of the importance of full implementation of Amendment 11 to Annex 17, which has been applicable since 1 July 2006; and
- g) encouraged States to participate in the Aviation Security Point of Contact Network.

Other business

Action taken by Israel against the Beirut Rafic Hariri International Airport

89. The following statement presented by the Representative of Lebanon on the above subject was noted by the Council. The Representative of Lebanon reserved the right to request that this issue be included in the work programme of a future session of the Council.

“I wish to address, on behalf of my Government, this special meeting of the Council of ICAO, held to discuss the planned terrorist plot targeting numerous flights to the United States which was uncovered in the United Kingdom on 10 August 2006. Based on its conviction of the importance of the fight against terrorism in all its forms, but particularly air terrorism, whatever its cause and objectives, Lebanon reiterates its approval of this special meeting as well as of the decisions and recommendations issued by the Council, and it supports all actions employing any means necessary to combat this terrorism.

In reference to the letter, dated 20 July 2006, from the Minister of Public Works and Transport of Lebanon addressed to the President and the Members of the Council of ICAO and concerning Israel's bombardment and destruction of vital facilities at Lebanese airports and the total paralysis of air navigation in Lebanon, on the occasion of this special Honourable Council meeting today, we take the opportunity to relate the details of certain aspects of this attack, which, because of both its nature and its magnitude and repercussions, is a matter which comes within the remit of the International Civil Aviation Organization.

From the morning of 13 July 2006 until the ceasefire effective on 13 August 2006 and enforced by Security Council Resolution 1701, Lebanon was the object of a series of intensive military operations carried out by Israel, which killed more than 1200 people, wounded more than 3000, and caused the displacement of more than one million citizens from their homes. These military operations also caused the destruction of hundreds of residential buildings, infrastructure, roads, bridges, and means of communication and resulted in many other serious losses which have struck the national economy.

We should particularly turn our attention to that category of unlawful acts which target the Lebanese civil aviation sector, bearing in mind the extent of all kinds of losses undergone by Lebanon and the seriousness of the military operations which were unleashed on the country. From the first day of its military operations, Israel bombarded and destroyed the runways and fuel reservoirs at Rafic Hariri International Airport in Beirut. Israel also destroyed the roads and bridges leading to the airport, totally paralysing air traffic at Rafic Hariri International. Moreover, it bombarded and destroyed vital facilities at alternative airports such as Ryaq and Qolyaat, resulting in the total halt, by Israel, of air traffic to and from Lebanon until further notice, and threatening the security and safety of Lebanese civil aviation.

These operations fall within the framework of "unlawful acts against the security of civil aviation", against which ICAO has long fought, given that by nature such acts are a flagrant violation of international conventions on international civil aviation, in addition to the fact that they go against the rules of international law.

1 - These unlawful acts contravene the principles stipulated in the preamble and the following provisions of Article 44 of the Convention on International Civil Aviation (the Chicago Convention of 1944), namely, that the planning and development of international air transport be fostered so as to:

- a) Insure the safe and orderly growth of international civil aviation throughout the world;
- ...
- c) Encourage the development of airways, airports, and air navigation facilities for international civil aviation;
- d) Meet the needs of the peoples of the world for safe, regular, efficient and economical air transport; (and)
- ...
- f) Insure that the rights of contracting States are fully respected and that every contracting State has a fair opportunity to operate international airlines.

It is obvious that these provisions require the acknowledgement of every State's right to prevent the violation of its airspace and civil airports, its right to protect the security of its civil airport facilities, its

guaranteed right to operate those facilities safely and securely, and its right to prevent another State from destroying those facilities and paralysing air operations.

2 - The acts of aggression perpetrated by Israel contravene the provisions expressly stipulated in the international conventions on aviation security, specifically, the Montreal Convention of 1971 for the Suppression of Unlawful Acts against the Safety of Civil Aviation, and the Montreal Protocol of 1988 for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation. According to these two Conventions, unlawful acts of aggression threaten airport security and disturb the safety and orderliness of civil aviation operations, which are in the general interest of all States.

3 - As a signatory party to the Chicago Convention of 1944, the Montreal Convention of 1971, and the Montreal Protocol of 1988, Israel has committed to respecting the provisions of these Conventions. Its military acts against Beirut's Rafic Hariri International Airport constitute a violation by Israel of the principles enshrined in these Conventions.

4 - These unlawful acts run counter to the policy established by ICAO Assembly Resolution A17-1 and reiterated in subsequent Assemblies; Resolution A33-2 and Resolution A35-9 stipulate that "all acts of unlawful interference against international civil aviation constitute a grave offence in violation of international law" and that the Assembly "strongly condemns all acts of unlawful interference against civil aviation wherever and by whomsoever and for whatsoever reason they are perpetrated".

5 - These same operations go against the declaration of the High-Level Ministerial Conference on Aviation Security held in Montreal on 19 and 20 February 2002, which reiterated the condemnation of acts of unlawful intervention expressed by the ICAO Assembly.

6 - They also go against the numerous resolutions of the United Nations General Assembly and Security Council, as well as those of the ICAO Assembly and Council relating to the condemnation, by all international authorities, of various acts of violence carried out by Israel against the security of international civil aviation. Among these resolutions, we cite Security Council Resolution 262 of 1969 regarding the attacks by Israeli military aeroplanes on Beirut International Airport on 31 December 1968, and more recently, the ICAO Council Resolution adopted on 13 March 2002 following the destruction by Israel of Gaza International Airport. The latter resolution states that this act was a violation of the principles enshrined in the Chicago Convention, the Montreal Convention of 1971, and the Montreal Protocol of 1988 respectively, and is a matter of grave concern to the international community. It strongly condemns all acts of unlawful interference against civil aviation, wherever, by whomever and for whatever reasons they are perpetrated, reaffirming ICAO's important role in facilitating the resolution of questions which may arise between Contracting States in relation to matters affecting the safe and orderly operation of international civil aviation throughout the world. The resolution urges Israel to fully comply with the aims and objectives of the Chicago Convention.

After the first day of military action against Beirut's Rafic Hariri International Airport, the former President of the Council of ICAO sent a letter to the Deputy Prime Minister of Israel drawing his attention to the threat which such acts pose to civil aviation and to the fact that these acts are a violation of the principles and provisions safeguarding aviation security. Yesterday you sent us Israel's response to the President's Office, dated 25 July 2006, in which, we noted, Israel gives various justifications for its unlawful acts. However, these justifications as a whole do not differ from the previous justifications which were discarded by the international authorities when they condemned Israel's aforementioned numerous acts of violence against the security of civil aviation. Moreover, Beirut's Rafic Hariri International Airport was among the first airports in the world to undergo audit mission inspections and follow-up visits from ICAO as part of the Universal Security Audit Programme. These missions proved

that the airport complies with and applies all the international standards. The audit missions found no security deficiencies which could allow the traffic of military weapons or the dealings of illegal armed elements, a fact which made Beirut International Airport a vital facility, where air operations were carried out securely and which was used by dozens of airlines from numerous countries. This refutes Israel's allegations regarding use of the airport for unlawful purposes.

At the time of these sad events, on the initiative of the former President of the Council, Dr. Assad Kotaite, and later with the efforts of the current Council President, Mr. Roberto Kobeh González, and with the unflagging support of the director of the Air Navigation Bureau and his working group, ICAO, in conjunction with the United Nations, tried to find a way to enable aeroplanes bringing humanitarian aid to land at Rafic Hariri International Airport. The failure of these efforts added to the suffering experienced by Lebanon. We regret to say that the good offices of the Organization did not lead to the results expected before Security Council Resolution 1701 was adopted.

To make matters worse, despite Security Council Resolution 1701, Israel continued with its aerial blockade of Lebanon, preventing any aeroplanes bringing assistance and humanitarian aid from landing at Rafic Hariri International Airport and therefore violating the provisions of the Security Council Resolution. It goes without saying that Lebanon is in urgent need of the facilitation and expeditious dispatch of this kind of humanitarian aid. Moreover, it desperately hopes for the return to normal of its airspace and of the air traffic at its international airport.

These unlawful acts perpetrated by Israel have resulted in innumerable losses. The damage caused to airport runways, airport fuel reservoirs and bridges leading to the airport, as well as the losses linked to the complete closing of the airport, which paralysed air traffic at Rafic Hariri International, total several hundred million dollars. An official report on the damage and losses is to come out, in preparation for a request for compensation from Israel before the international authorities concerned.

I read with great interest the news release published by ICAO on 11 August 2006 regarding the planned terrorist plot discovered in the United Kingdom. My attention was especially drawn to these words: "Despite this new threat, aviation remains by far the safest mode of mass transportation. Comprehensive standards coordinated at the international level through ICAO form the backbone of this excellent safety performance."

Mr. President, while we support the content of your statement, we also find it necessary to stop and look at an essential fact, namely, the recent events which we have experienced, whether in the United Kingdom or in Lebanon, because these events confirm yet again that the civil aviation sector remains, sadly, one of the sectors most targeted by acts of hostility, whatever their nature or motivation.

Consequently, it is imperative that, through ICAO, the international community strive to protect and immunize the aviation sector using all available means. The severe and dissuasive condemnation of all unlawful acts which could target this sector is both necessary and a powerful instrument to that end.

Reaffirming the gravity of the acts of unlawful interference perpetrated by Israel against the safety and security of civil aviation, Lebanon:

1) Calls upon the Council to take note of this declaration and to include it in its entirety in the minutes of its meeting. Although at present Lebanon is not requesting the introduction of this matter into the agenda of the current Council session, it reserves the right to request this, as well as the examination of the matter by the Council, at a later session.

2) Thanks ICAO as well as friendly countries for their efforts during the ordeal it has undergone. Lebanon invites the Organization and its Member States to make an even greater effort toward the restoration of Lebanon's air traffic to its normal state, and we emphasize our profound desire for our country to once again take up and maintain its pioneering role in the world of international civil aviation in the near future."

90. The special session of the Council adjourned at 1740 hours.

— END —

COUNCIL — 179TH SESSION

SUMMARY MINUTES OF THE FIRST MEETING

(THE COUNCIL CHAMBER, MONDAY, 2 OCTOBER 2006, AT 1000 HOURS)

OPEN MEETING

President of the Council: Mr. Roberto Kobeh González

Secretary: Dr. Taïeb Chérif, Secretary General

PRESENT

Argentina	— Mr. D.O. Valente	Japan	— Mr. H. Kono
Australia	— Mr. S. Clegg	Lebanon	— Mr. S. Eid (Alt.)
Austria	— Ms. S. Gehrler	Mexico	— Mr. D. Méndez (Alt.)
Brazil	— Mr. P. Bittencourt de Almeida	Mozambique	— Dr. D. Deus
Cameroon	— Mr. T. Tekou	Nigeria	— Dr. O.B. Aliu
Canada	— Mr. L.A. Dupuis	Pakistan	— Mr. M. Rauhullah
Chile	— Mr. G. Miranda	Peru	— Mr. J. Muñoz-Deacon
China	— Mr. Tao Ma	Republic of Korea	— Mr. Shin, G.-S.
Colombia	— Mr. J. Ortiz Cuenca	Russian Federation	— Mr. I.M. Lysenko
Egypt	— Mr. S. Elazab	Saint Lucia	— Mr. H.A. Wilson
Ethiopia	— Mr. M. Belayneh	Saudi Arabia	— Mr. S. Hashem
Finland	— Mr. L. Lökvist	Singapore	— Mr. K.P. Bong
France	— Mr. J.-C. Chouvet	South Africa	— Mr. T. Peege
Germany	— Dr. K. Kammann-Klippstein	Spain	— Mr. L. Adrover
Ghana	— Mr. K. Kwakwa	Tunisia	— Mr. M. Chérif
Honduras	— Mr. A. Suazo Morazán	United Kingdom	— Mr. M. Rossell
Hungary	— Dr. A. Sipos	United States	— Mr. D.T. Bliss
India	— Dr. N. Zaidi		
Italy	— Mr. S. Monti		

ALSO PRESENT:

Mr. A.G. Sayce (President, ANC)	
Mr. R. Macfarlane (Alt.)	— Australia
Mr. R. da Silva Pinto (Alt.)	— Brazil
Ms. S. Chambers (Alt.)	— Canada
Mr. K. Wu (Alt.)	— China
Mr. P. Pape (Alt.)	— France
Mr. P. Ciancaglion. (Alt.)	— Italy
Mr. Kim, K.-J. (Alt.)	— Republic of Korea
Mr. Min, J.-H. (Alt.)	— Republic of Korea
Mr. Kim, B.-S. (Alt.)	— Republic of Korea
Mr. Yu, K.-S.. (Alt.)	— Republic of Korea
Ms. L. Faux-Gable (Alt.)	— United States
Mr. K. Edwards (Adv.)	— United States
Mr. K. Keldusild	— Co-Rapporteur, CAEP Emissions Trading Task Force (ETTF)

SECRETARIAT:

Mr. A. Sánchez-Gutiérrez	— D/TCB
Mr. D. Wibaux	— D/LEB
Mr. J. Augustin	— SLO
Mrs. J. Hupe	— C/ENV
Mr. B. Verhaegen	— LO/LEB
Ms. A. Andrade	— ADTC
Miss S. Black	— Précis-writer

*Part-time

Condolences for Mr. Walter Binaghi, a former President of the Council of ICAO

1. At the invitation of the President of the Council, the Representative of Spain, Dean of the Council, read a letter dated 18 July 2006 from Dr. Assad Kotaite, the previous President of the Council, on the sad demise, on 16 July 2006, of Mr. Walter Binaghi, his predecessor. The text of that letter is reproduced below.

“I regret very much that, due to my absence from Montreal, I am unable to be with you today to honour the memory of Walter Binaghi, who passed away on 16 July 2006, in Montreal, at the age of 87.

“Walter Binaghi was an outstanding citizen of Argentina who participated as a member of the Argentinian Delegation to the first ICAO Assembly in 1947. He then led the Air Navigation Commission from 1948 to 1957 and the Council from 1957 to 1976, when I succeeded him as President of the Council until my retirement on 31 July 2006.

“Walter Binaghi was instrumental in developing the Annexes to the Chicago Convention and the expansion of ICAO programmes to aviation security and the protection of the environment, which are, together with aviation safety, the major programmes of the Organization.

“Throughout the years since Mr. Binaghi’s retirement from ICAO, I maintained regular contact with him until a few days before he passed away.

“Walter remains for those who knew him and worked with him a source of inspiration. He was a person of great dignity and humility. We shall always remember him with a deep feeling of respect, admiration and affection.”

2. The Representative of Argentina then read a letter dated 20 July 2006 from Brigadier Carlos Esteban Matiak, Air Regions Commander of the Argentine Air Force, offering sincere condolences on the occasion of Mr. Binaghi’s death, an English translation of which is given below.

“The Aviation Authority of Argentina and all the members of Argentina’s civil and military aviation community wish to offer the President of the Council of ICAO, and through his kind intercession, all the national delegations and members of the ICAO Secretariat, their sincerest and most heartfelt condolences for the loss of Mr. Walter Binaghi. Mr. Binaghi was President of this honourable Council for 19 years, invaluable serving international civil aviation from 1947 to 1976.

“A man of honour and of fine virtues, Mr. Binaghi was reluctant to accept recognition and praise. His distinguished efforts strengthened and propelled international civil aviation. He was both an observer of, and a protagonist in, the world of civil aviation, and he contributed his energies and dedication to the stages of creation, development and consolidation, making it possible for ICAO to receive international acknowledgement as a prestigious Specialized Agency of the United Nations.

“His ethics and professionalism distinguished him, making him a role model for all of us who have chosen the noble profession of aviation. We bid him farewell with the hope that his example of indefatigability will endure.

“Mr. Walter Binaghi will be remembered by all his compatriots as a pre-eminent Argentine who worked altruistically for his country, for the common good and for the benefit of international civil aviation. We consider the preservation of the values and ideals for which he fought to be both our moral responsibility and a permanent way in which to honour his name, and we are eternally grateful for his

life's work and for the example which he set. May he rest in eternal peace with God, source of all reason and justice."

3. The Council then observed a minute of silence in memory of Mr. Binaghi.

Condolences to the Representative of Brazil

4. On behalf of the Council, the President expressed condolences to the Representative of Brazil, and through him, to the Government and people of Brazil, for the tragic loss of life arising from the mid-air collision of two aircraft in Brazil on 29 September 2006. He noted that the Organization would follow up on the accident. The Representative of Brazil thanked the Council for its expression of sympathy.

Welcome to new Representatives on the Council

5. The President then extended a warm welcome to Mr. T. Ma, Mr. S.A.S. Elazab, Dr. K. Kammann-Klippstein, Mr. S. Monti, Mr. M. Rauhullah, Mr. Gil-sou Shin and Mr. M. Rossell, who were attending a meeting of the Council for the first time in their respective capacities as Representatives of China, Egypt, Germany, Italy, Pakistan, the Republic of Korea and the United Kingdom. He also thanked the following Representatives whose tenures had ceased over the recess for their constant support and cooperation: Mr. N.E. Kamel (Egypt), Mr. F. Cristiani (Italy), Mr. Soo-taek Rhee (Republic of Korea) and Mr. N. Denton (United Kingdom).

Subject No. 14.3.15: Rules of the air

Statement by the President — Missile firings crossing international routes over the high seas

6. The President of the Council gave the following factual report regarding measures taken while the Council was in recess related to the missile firings by the Democratic People's Republic of Korea crossing international routes over the high seas:

"As a consequence of the missile firings by the Democratic People's Republic of Korea on 5 July 2006 and considering the hazard that they posed to civil aviation, the former President of the ICAO Council, Dr. Assad Kotaite, wrote to the Director General of the General Administration of Civil Aviation of that State, Mr. Kang Ki Sop. In his letter Dr. Kotaite reminded him of his State's obligations with respect to the *Convention on International Civil Aviation* and its Annexes concerning the protection of civil aviation from activities which may be hazardous to civil aviation. The letter also sought information concerning their adherence to the requirements of Annex 11 — *Air Traffic Services* related to the need to coordinate, with those States affected, the missile firings which were clearly hazardous to civil aviation.

"The reply from the Director General of the General Administration of Civil Aviation, dated 8 July 2006, did not address the concerns of the former President, nor did it provide any assurances that measures would be taken to protect civil aviation in the future. Consequently, a subsequent letter to the Director General was sent, dated 11 July 2006, seeking further clarification. On 15 July 2006, the United Nations Security Council adopted Resolution 1695 on the matter concerned. The ICAO Council has been kept informed of these developments via two President's memoranda, PRES AK/1241 and PRES AK/1246, dated 6 July 2006 and 19 July 2006, respectively. There have been no further developments regarding this matter."

7. The Representative of Japan noted that his State highly appreciated and supported the quick action taken by ICAO and the Council, through its President, in this matter of global concern relating to the safety of international civil aviation. It expressed concern that, as indicated in President's memorandum PRES AK/1246 dated 19 July 2006, the Organization had not yet received a satisfactory answer from the Democratic People's Republic of Korea to Dr. Kotaite's letter dated 6 July 2006. Bearing in mind United Nations Security Council Resolution 1695, which in its Sixth Preambular Clause expressed concern that the Democratic People's Republic of Korea "endangered civil aviation and shipping through its failure to provide adequate advance notice" of the missile launches, Japan requested the Democratic People's Republic of Korea to respect ICAO Assembly Resolution A32-6 (*Safety of navigation*) and meet its obligations under the *Convention on International Civil Aviation*. Japan further requested the ICAO Secretariat to continue to take appropriate follow-up action on this issue.

8. In expressing his State's support for this statement by the Representative of Japan, the Representative of the United States commended the work of the President of the Council during the recess to address this issue promptly and effectively. The United States was disappointed that there had not been an adequate reply and considered that the Council should follow up on that at the appropriate time. It was very important, and solely within the Council's jurisdiction, to ensure the safety and security of civil aviation. The United States wanted to make sure that civil aviation was safe and secure in the future and that there was no repetition of the said experience.

9. In observing that her State supported the action taken by ICAO concerning the missile firings by the Democratic People's Republic of Korea, the Representative of Germany indicated that it also supported Japan in its request that that State respect ICAO Assembly Resolution A32-6. Germany also supported the Council taking follow-up action on this matter at an appropriate time to ensure the safety and security of civil aviation.

10. The Representative of Australia indicated that his State supported Japan and other States in urging the Democratic People's Republic of Korea to comply with the terms of ICAO Assembly Resolution A32-6. Australia noted the progress that had thus far been made and agreed that this issue should be re-examined by the Council at a future date.

11. The Representative of Saudi Arabia indicated that his State also supported the follow-up action to the missile firings by the Democratic People's Republic of Korea mentioned by the Representative of Japan.

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

**Statement by the President — Action taken by Israel against the
Beirut Rafic Hariri International Airport**

12. The President of the Council then gave the following factual report regarding action taken during the recess by Israeli military forces in July 2006 against the Beirut Rafic Hariri International Airport, specifically, the bombing of the runways so as to render the airport inoperable.

"As a consequence of action taken by Israeli military forces against the Beirut Rafic Hariri International Airport in early July 2006, the former President of the ICAO Council, Dr. Assad Kotaite, corresponded with the Deputy Prime Minister and Minister of Transport and Road Safety of Israel on three separate occasions, copies of which letters were circulated to Representatives on the Council under cover of President's memoranda PRES AK/1243 dated 17 July 2006, PRES AK/1253 dated 26 July 2006 and PRES RK/1264 dated 16 August 2006. The primary purpose of these efforts was to preserve the

safety of international aviation and, more specifically, to facilitate humanitarian aid flights into Beirut airport as a first step towards the normalization of civil aviation operations. Letters were also sent to the Secretary-General of the United Nations and to the Director General of Civil Aviation Administration of Lebanon.

“This coordinated effort opened direct high-level coordination with personnel in the United Nations World Food Programme who play a significant role in attaining approval from the authorities concerned for the transport of humanitarian aid. In this regard, the United Nations Humanitarian Air Services (UNHAS) indicated a need for assistance from ICAO. The ICAO Secretariat being in no financial position to underwrite such an effort, the Government of France graciously funded an ICAO mission to Larnaca and later Beirut. The ICAO Technical Officer facilitated the development of operational procedures for the humanitarian flights and support coordination between the many different entities.

“The air embargo was lifted on 7 September 2006 and Beirut airport is almost back to full operation although one runway remains closed with repair work in progress.

“I wish to thank the Representative of France on the Council and his Government for their cooperation.”

13. The Representative of Saudi Arabia emphasized the need to remind Israel to respect the *Convention on International Civil Aviation* and requested that the Council take follow-up action on this issue in order to protect the lives of passengers, especially in Lebanon.

14. The Representative of Lebanon expressed gratitude for the Organization’s efforts to facilitate the flow of international air traffic at the Beirut Rafic Hariri International Airport in the aftermath of Israeli acts of aggressions against that airport. He noted, however, that such efforts had not led to the desired results due to Israel’s objections to restore air traffic to the airport, including flights for humanitarian aid. The Representative of Lebanon reiterated that his Government reserved its right to file a complaint with the Council in due course regarding the action taken by Israel against the said airport.

Subject No. 5: Election of Vice-Presidents of the Council

Election of Vice-Presidents of the Council

15. On nominations by the Representatives of France, the Russian Federation and China, respectively, the Council elected the following Representatives as its Vice-Presidents for the period 2006-2007 (C-WP/12722):

Mr. M. Belayneh (Ethiopia)	First Vice-President
Dr. A. Sipos (Hungary)	Second Vice-President
Mr. J. Ortiz Cuenca (Colombia)	Third Vice-President

16. The President of the Council expressed appreciation to the outgoing Vice-Presidents and congratulated the newly-elected Vice-Presidents of the Council.

Subject No. 6.3: Election of chairmen and members of subsidiary bodies of the Council

Election of Members and Alternates on the Joint Support, Finance, Unlawful Interference and Technical Co-operation Committees

17. The Council next elected, for the period 2006-2007, the nominees appearing in paragraphs 4, 5, 6 and 7 of C-WP/12724 for membership in the Joint Support, Finance, Unlawful Interference and Technical Co-operation Committees. The Council designated as their Alternates, for the period 2006-2007, the nominees appearing in paragraphs 10, 11, 12 and 13, respectively, of the paper, subject to the deletion of Mr. N. Denton (United Kingdom) as an Alternate to Mr. M. Rossell on the said Committees.

Election of the Chairmen of the Air Transport, Joint Support, Finance, Unlawful Interference and Technical Co-operation Committees

18. On nominations by the Representatives of Spain, Japan, Peru, Saudi Arabia and Nigeria, respectively, the following were elected Chairmen of the Council's subsidiary bodies listed below for the period 2006-2007 (C-WP/12723):

Air Transport Committee	Ms. S. Gehrler (Austria)
Joint Support Committee	Mr. K.P. Bong (Singapore)
Finance Committee	Dr. N. Zaidi (India)
Unlawful Interference Committee	Mr. D.T. Bliss (United States)
Technical Co-operation Committee	Mr. D.O. Valente (Argentina)

19. The President of the Council thanked the outgoing Chairmen for their cooperation and welcomed the newly-elected Chairmen.

Subject No. 50: Questions relating to the environment

Results of the Committee on Aviation Environmental Protection (CAEP) Steering Group (SG) Meeting (Queensland, 26-30 June 2006) on market-based measures to reduce emissions

20. The Council gave initial consideration to the above subject on the basis of President's memorandum PRES RK/1259 dated 9 August 2006. Attached to the memorandum was a note setting out the different views on the geographical scope of emissions trading for international aviation which had been outlined to the CAEP SG. The central point of dispute regarding the geographical scope was whether Contracting States could integrate international aviation emissions from aircraft operators of other Contracting States in their emissions trading schemes without mutual agreement. In welcoming Mr. K. Keldusild, the Co-Rapporteur of the CAEP Emissions Trading Task Force (ETTF), the President of the Council indicated that he would shed some light on the matter under discussion. The Chief of the Environmental Unit (C/ENV), who also served as the Secretary of the CAEP, then provided an overview of the background for establishing emissions trading, of actions taken by ICAO in that area and of the possibilities for moving forward.

21. In observing that aviation emissions trading was a difficult and contentious issue, the President urged the Council to focus its deliberations on the provision of the guidance requested by the CAEP for the continuation of its work. He also urged it to take into consideration Assembly Resolution A35-5 (*Consolidated statement of continuing ICAO policies and practices related to*

environmental protection), Appendix I (*Market-based measures regarding aircraft engine emissions*) which, in Resolving Clause 2 c) 2), requested the Council to, *inter alia*, provide guidance for use by Contracting States, as appropriate, to incorporate emissions from international aviation into Contracting States' emissions trading schemes consistent with the United Nations Framework Convention on Climate Change (UNFCCC) process. Observing that the CAEP had made very important progress, the President indicated that the Council recognized the excellent work done by the Committee. He emphasized, however, that to continue that work, the CAEP needed orientation from the Council.

22. In recalling that the Secretary of the CAEP had mentioned, in her overview, the difficulties for the Council in reaching a consensus during the present meeting on the geographical scope of emissions trading for international aviation, the Representative of Finland indicated that it was unfortunate that the CAEP, and especially the ETTF, had concentrated, in the note attached to President's memorandum PRES RK/1259 dated 9 August 2006, only on an issue that was mainly political in nature and which had some legal implications. It would have been preferable if the note had indicated the status of the preparation of the said guidelines and how an emissions trading scheme which included emissions from international aviation could function in practice. Averring that it would be futile for the Council to discuss the opposing arguments in favour of one or the other alternative regarding the geographical scope, the Representative of Finland maintained that that would not be the way to reach any kind of consensus. While it was difficult for him to correctly grasp all of the various options presented by the Secretary of the CAEP as possible means of going forward, he considered that the Council could set aside, for the moment, the main issue of the geographical scope, without choosing one alternative over the other, and instead focus on the guidance called for in Assembly Resolution A35-5. The Representative of Finland noted that the Secretary of the CAEP had mentioned the possibility of the ETTF and the CAEP developing the mechanics of an emissions trading scheme, the key elements of which included reporting, monitoring and compliance. While she had also indicated that it might not be possible to proceed very far on that route, it nonetheless remained a possibility. At this point the Council would have to try to go forward as far as possible to facilitate consideration of what would undoubtedly be a major issue at the next Assembly in a year's time. The Representative of Finland sought the views of the Co-Rapporteur of the ETTF on the possibility of something worthwhile being produced for the Seventh Meeting of the CAEP in February 2007.

23. The Representative of the United Kingdom shared the views expressed by the Representative of Finland regarding the next steps to be taken. In then referring to the Kyoto Protocol to the UNFCCC, Article 2.2 of which, *inter alia*, called for Annex I States to pursue the limitation or reduction of emissions of greenhouse gases from aviation bunker fuels working through ICAO, he enquired whether that Protocol, which was now in force, was binding on all of the States included in Annex I or only on those States which had ratified the Protocol. The Representative of the United Kingdom further enquired as to what would happen if ICAO did not take action, in particular, whether the initiative would revert back to the UNFCCC. Recalling that the Secretary of the CAEP had indicated that there had not been much progress within the UNFCCC over the past year, he queried what action had been taken, what action might be expected, especially in terms of preparing for the post-2012 commitment period, and whether it would meet ICAO's concerns. The Representative of the United Kingdom underscored, in this regard, that his State wished ICAO to take the initiative in these difficult matters.

24. In responding to some of the points raised, the Secretary of the CAEP indicated that it would only be possible to make progress on issues arising in connection with the interpretation of the UNFCCC, the Kyoto Protocol and the Chicago Convention related to the discussion of emissions trading for international aviation once there was a clearer design for an emissions trading scheme that included international aviation, with all the features defined. She noted that the only scheme encompassing

international aviation emissions which was likely to become operational in the near future was the emissions trading scheme in Europe. The features for including international aviation emissions in that scheme were not clear at the present time, however. In then elaborating on the deliberations of the various subsidiary bodies of the UNFCCC, the Secretary of the CAEP observed that the bodies were discussing ways forward in the post-2012 commitment period and that there was an opportunity for ICAO to contribute ideas thereto.

25. The Co-Rapporteur of the ETTF emphasized that it was important that ICAO try to continue the orderly development of the issue under discussion and not jump to premature conclusions which might block such development. Noting that the alternative measures which States could apply to address climate change were not as cost-effective or efficient as the one under discussion, he stressed the need for patience and to take a long-term view. In then replying to some of the questions raised, he indicated that, aside from the issue of the geographical scope of emissions trading for international aviation, the issue of the mechanics of an emissions trading scheme required clarification. The Co-Rapporteur of the ETTF noted, in this regard, that the draft guidance contained a chapter on accountable entities, which indicated that the preferred option was to select aircraft operators as the responsible entities as they were in command of their emissions. If that option were chosen, however, it would be necessary to define the term “aircraft operator”. More clarity was also required regarding the monitoring and reporting elements of an emissions trading scheme. The Co-Rapporteur of the ETTF observed, in this context, that the draft guidance recommended that an emissions trading scheme initially only include CO₂ and only include other emission species if there were more scientific understanding. These were examples of the guidance which ICAO could deliver for the use of its Contracting States. The Co-Rapporteur of the ETTF noted that the Organization could build on the various elements of an emissions trading scheme instead of dropping the whole concept of emissions trading for international aviation, which he did not consider to be a good way forward.

26. In emphasizing the need for the Council to fulfill the mandate which it had been assigned by the Assembly and for the CAEP to fulfill the mandate which it had been assigned by the Council, the Representative of France recalled that Assembly Resolution A35-5, Appendix H (*Environmental impact of civil aviation on the atmosphere*), Resolving Clause 2 b), requested the Council “to continue to study policy options to limit or reduce the environmental impact of aircraft engine emissions ... while continuing its consideration of market-based measures”. Resolving Clause 2 of Appendix I (*Market-based measures regarding aircraft engine emissions*) encouraged the Council “to evaluate the costs and benefits of the various measures” and to “provide guidance for use by Contracting States”. The Council was thus tasked with presenting options to the Assembly for decision. Consequently, it had tasked the CAEP with carrying out the requisite work and with making proposals for its consideration. The Representative of France averred that it was not the role of either the CAEP or the Council to decide on an option.

27. Referring to Assembly Resolution A35-5, the Representative of France observed that, pursuant to Resolving Clause 2 b) 3) of Appendix I, the implementation of greenhouse gas emissions charges was conditional upon there being a mutual agreement of States members of a regional economic integration organization. The Resolution did not, however, subordinate the eventual inclusion of international aviation emissions into Contracting States’ emissions trading schemes to that condition of mutual agreement. Work could therefore proceed on that hypothesis. In reiterating that, at the present stage, it was not a question of choosing one option over another, the Representative of France noted that the CAEP had not provided the Council with the technical elements of the two possible solutions to the issue of the geographical scope of emissions trading for international aviation, namely, integration of international aviation emissions from aircraft operators of other Contracting States into a Contracting State’s emissions trading scheme with or without mutual agreement. It was his impression that there had been a policy debate in the CAEP which had been dominated by certain States and that the technical

elements had therefore not yet been determined. The Representative of France considered that it would be reasonable, at this stage, to request the CAEP to continue to study those two options, as well as all of the mechanical aspects of an emissions trading scheme and all other technical elements which could be examined independently of the choice between the two options, and to report back to the Council with a more developed paper which included an indication of the said technical elements so that the Council could recommend a choice between the options to the Assembly for its decision. The CAEP should perform that work while respecting its own mandate and that of the Council.

28. The Representative of Brazil noted that the CAEP had made considerable progress in developing guidance for Contracting States on the application of market-based measures aimed at reducing or limiting the environmental impact of aircraft engine emissions pursuant to Assembly Resolution A35-5, Appendix I, Resolving Clause 1. Recalling that the Assembly, in Resolving Clause 2 b) 4) thereof, had urged Contracting States to refrain from unilateral implementation of greenhouse gas emissions charges prior to the next regular session of the Assembly in 2007, he underscored that that position reflected an underlying principle against unilateral action which was consistent with the Chicago Convention and the philosophy of international civil aviation. The Representative of Brazil suggested, as action by the Council, that the latter take heed of the Assembly's orientation and instruct the CAEP to finish developing guidance for the upcoming Assembly based on the principle that any Contracting State that wished to integrate international aviation emissions into its emissions trading scheme could only do so on the basis of mutual agreement with other Contracting States whose aircraft operators would be covered by the trading scheme on either a bilateral or multilateral basis. The Council should urge Contracting States to refrain from including other Contracting States' aircraft operators in its emissions trading scheme without the other State's consent, unless such an approach were approved by the Council or authorized by the Assembly. The Council should also request that any Contracting State which was considering developing an emissions trading scheme on a basis other than mutual agreement present a detailed proposal to the Council for its consideration. The Council should affirm its belief that it was important that Contracting States be mindful not to apply market-based measures regarding aircraft engine emissions, for example, emissions-trading or the imposition of emission-related charges or taxes, in a manner that resulted in the accountable entities paying more than once for mitigating the same environmental impact.

29. The Representative of Canada then highlighted a few considerations which he deemed important for the governance of the Council when addressing the issue of aviation emissions. He indicated that, when considering aviation emissions reductions, the CAEP must take into account the following: that aviation had already made significant improvements in fuel efficiency and economy and savings; that aviation growth was essential to developing countries and to trading; that aviation's contribution to global climate change was somewhat modest; that States must still make efforts to reduce emissions from aviation in accordance with ICAO guidance; that any recommendation from the CAEP must consider the sovereign rights of Member States of ICAO; and that it was his view that this issue belonged to ICAO and to no other forum.

30. The Representative of Canada recalled that the CAEP had determined that emissions trading could be a cost-effective method for addressing aircraft engine emissions in the context of the Kyoto Protocol. It was one of many measures or tools that States could choose to adopt, provided it was in accordance with international agreements. In noting that, at the present time there was no consensus within the CAEP and that the Committee had therefore asked the Council for guidance, the Representative of Canada indicated that the Council should give sufficient guidance to the CAEP to provide a way forward. In emphasizing the importance of reaching a consensus or a decision before the next Assembly, he recalled that, at the last Assembly, a clear message had been sent that most Member States were prepared to accept emissions-related charges only on a bilateral basis. That had also applied

to emissions-trading. It was his view that the situation had not changed. The Representative of Canada indicated that the CAEP should, most importantly, be instructed to develop guidance and/or advice for States which was based on the premise that emissions-trading would only be done on a mutually agreeable basis and that it could not be imposed on ICAO Member States. He noted that there were already established emissions trading schemes which could be used as precedents.

31. The Representative of Nigeria emphasized that, while there was no doubt that something was happening on the planet in terms of climate change, which should be of concern to every Member State of ICAO, the Organization still needed to do more work in balancing air transport growth and environmental concerns, particularly for developing countries. It was important to develop further guidance material so that States would clearly understand how to approach these issues.

32. The Representative of Nigeria noted that the UNFCCC called for special treatment to be given to developing countries and that Assembly Resolution A35-5, Appendix I, Resolving Clause 2, called for potential impacts of market-based measures regarding aircraft engine emissions on the developing world to be taken into account. Referring to the views provided by the CAEP in the Appendix to Addendum No. 1 to C-WP/12380 (*Market-based measures to address emissions*) (174/3), the Representative of Nigeria underscored that the conclusion of the Forecasting and Economic Analysis Support Group (FESG) at CAEP/5 [*cf.* paragraph 4.5 b)] that carriers from developed countries would suffer a small loss as a result of the imposition of CO₂-related charges when the proceeds were returned back into the aviation sector while those from developing countries would gain a small benefit had not been generally accepted, in particular by developing countries. In observing that emissions-trading seemed to be more attractive than the imposition of emissions-related charges, he queried whether any impact analysis had been conducted to determine how developing countries would be affected by emissions-trading. Noting that the efficiency of air traffic management had an impact on aviation emissions, the Representative of Nigeria further queried how an emissions-trading scheme in which the aircraft operator was the accountable entity would take into account factors such as delays and congestion over which the aircraft operator had no control. He emphasized the need to clarify these issues and to issue guidance thereon. The Representative of Nigeria stressed that, whatever direction was taken with regard to emissions-trading, it was necessary to constantly bear in mind the underlying principle of the UNFCCC that careful consideration should be given to developing countries and their aircraft operators.

33. The Representative of Argentina endorsed the comments made by the Representative of Brazil, particularly with regard to multilateralism, which was a very important issue for the Organization. He stressed that it must be clear that ICAO could not support any type of unilateral action as such action would be contrary to the legal principle which had allowed international civil aviation to develop as it had since the Chicago Convention had come into effect. In also endorsing the comments made by the Representative of Canada, the Representative of Argentina underscored that the series of points which the latter had outlined should be taken into account by the CAEP in developing guidance material to be applied by States either domestically or in their relations with others by means of an agreement.

34. In sharing the view expressed by the Representative of Nigeria regarding the effectiveness of emissions trading, which was the very heart of the matter, the Representative of Argentina emphasized that the lack of information regarding emissions trading schemes rendered it difficult to draw any conclusions as to their effectiveness. Observing, from the information which was available, that emissions trading for certain industries had not yielded the desired results, he indicated that it would be interesting to have a presentation on the results of the implementation of emissions trading schemes in various European States in 2006 similar to the one which had been given in 2005. The Representative of Argentina recalled, in this context, that Resolving Clause 2 of Appendix I of Assembly Resolution A35-5 encouraged the Council to evaluate the costs and benefits of the various market-based

measures aimed at reducing or limiting the environmental impact of aircraft engine emissions, including existing measures. It was necessary to determine if emissions trading schemes would be a useful tool for aviation. He noted, in this regard, that such schemes could result in an additional charge being imposed on aircraft operators, which would be a disincentive to the latter and which might lead to a decrease in the frequency of flights.

35. The Representative of Argentina suggested, as guidance for the CAEP in continuing its work, that it explore other types of market-based measures. In so doing, it should take into account economic considerations and the need to integrate the mandate of ICAO to promote the development of international civil aviation while minimizing the environmental impact of such development. In that way, a solution would be found which was efficient and compatible with the Organization's main objectives. The Representative of Argentina indicated that, in his opinion, the only form of market-based measures which would be useful would be, for example, the levying of an emissions-related charge on aviation activities if such funds were applied to the creation of a fleet renewal programme that would facilitate the acquisition of new aircraft with which to replace older, more polluting aircraft.

36. The Representative of Australia noted that climate change and greenhouse gas emissions invoked strong views of governments, including his. The Government of Australia recognized the need to address aviation greenhouse gas emissions and while it had not ratified the Kyoto Protocol, it was on track to reach its national targets in Annex I thereto on a voluntary basis. Although his Government had not elected to ratify that Protocol, its policy on aviation and marine bunker fuels was the same, namely, that international transport emissions must be addressed through ICAO and the International Maritime Organization (IMO). The Representative of Australia recalled that the last Assembly had, in Assembly Resolution A35-5, Appendix I, Resolving Clause 2 c) 2), instructed the Council, and thus the CAEP, to focus on two market-based approaches to aircraft engine emissions: the development of a voluntary trading system that interested Contracting States and international organizations might propose; and the provision by ICAO of guidance for use by Contracting States, as appropriate, to incorporate emissions from international aviation into Contracting States' emissions trading schemes. Underscoring that that work had not been completed, having only been undertaken some two years ago, he observed that, while the CAEP was seeking guidance from the Council, the latter was being requested to make a pronouncement with insufficient information, as many other Council Representatives had indicated. In emphasizing that, although there were two options now before the Council, there might be additional ones, the Representative of Australia stressed that the Council should not approve any of the options until it had adequate information on all aspects thereof.

37. In noting that the UNFCCC process had not settled on an agreed methodology for allocating international emissions from mobile sources to national inventories, the Representative of Australia underscored that it was critical to have information on such a methodology before any caps could be allocated for international flights. Referring to the comment made by the Representative of Argentina that at present there was only limited experience with emissions trading schemes, namely, through European air traffic services, he averred that the desired reduction in emissions had not occurred within the air traffic services due to the over-allocation of emissions credits and the focus on buying "hot-air" credits rather than on focussing on technology and energy efficiency. The Representative of Australia emphasized that it was vital that this issue be resolved at the multilateral level so that there were no competitive distortions in aviation. He fully supported the observations made in that regard by the Representative of Brazil. The Representative of Australia stressed that all ICAO Member States should respect the work processes of ICAO and await the final report and guidance from the Council and the CAEP on emissions trading. He further underscored that the CAEP should continue its work on all options and ensure that any solutions which it developed were consistent with both the UNFCCC process and the Chicago Convention. Indicating that States should refrain from taking unilateral action on

aviation emissions trading before that work was completed, the Representative of Australia suggested that the Council adopt a Resolution along the lines of Resolving Clause 2 b) 4) of Appendix I of Assembly Resolution A35-5 and call upon ICAO Member States to not take any such action, at least until the next Assembly. Such a Council Resolution would be consistent with States' commitment under the Kyoto Protocol to work through ICAO. He noted, in this regard, that while that instrument had been adopted in 1997, it had only entered into force in 2005.

38. The Representative of Japan indicated that, in addressing the issue of the geographical scope of emissions trading for international aviation, his State's basic principles were: firstly, that it was essential to develop guidelines acceptable to the international aviation community, namely, ICAO Contracting States, with a view to seeking a global solution on that issue; and secondly, in the belief that imposing such measures was not appropriate as it restrained economic growth, that voluntary initiatives should be encouraged and promoted. He observed that the second principle was generally applied for cross-over industry sectors in addressing the issue of global warming in Japan. The Representative of Japan emphasized that his State thus strongly supported an emissions trading scheme which was based upon the mutual agreement of the States concerned.

39. Recalling that Resolving Clause 1 of Appendix I of Assembly Resolution A35-5 requested the Council to continue to develop guidance on the application of market-based measures aimed at reducing or limiting the environmental impact of aircraft engine emissions, the Representative of Japan indicated that, in fulfilling that mission, the Council should give direction to the CAEP and its various groups so that the said guidance would be completed before the next Assembly. He underscored that the underlying principle of that Assembly Resolution was that States should refrain from implementing unilateral measures prior to the next Assembly's consideration of this subject.

40. The Representative of Spain emphasized that all Council Representatives agreed on the need to take into account the environment and to ensure that aviation's impact thereon was minimal. Observing that he had always considered that aviation and other industries should be treated equally, he noted that other industries had agreed to use emissions trading schemes to reduce their CO₂ emissions as that was the easiest method, technologically, and the most economical one. If it were not possible for aviation, which was dependent on solid fuels, to reduce its CO₂ emissions by other means, then there was an incentive for the other industries to extend their emissions trading schemes to encompass international aviation emissions. In that manner, aviation could continue to use solid fuels and air transport could continue to grow.

41. The Representative of Spain indicated that, although the best solution would be to have emissions trading implemented globally, current circumstances rendered that impossible. It was for that reason that the geographical scope of emissions trading was being examined. The Representative of Spain underscored that, if an emissions trading scheme were being implemented in a given geographical area, then it had to be done under uniform conditions and not on a bilateral basis, pursuant to Article 15 (*Airport and similar charges*) of the Chicago Convention, which stipulated that "Every airport in a Contracting State which is open to public use by its national aircraft shall likewise ... be open under uniform conditions to the aircraft of all the other Contracting States", and the Third Preambular Clause of that Convention, which referred to the establishment of air transport services on the basis of "equality of opportunity". The Representative of Spain considered that, in the current circumstances, the only way forward was for the CAEP to study uniform procedures for emissions trading for international aviation emissions which could be applied in a specific geographical region.

42. In agreeing with previous speakers that much information was lacking from the report presented to the Council, the Representative of Austria averred that it seemed, in some respects,

premature for the Council to be discussing the subject. She cautioned that a hasty decision could limit the possibilities for future action. The Representative of Austria noted, in this regard, that the CAEP had not worked on the possible levying of emissions-related charges since its Fourth Meeting. Stressing that an emissions trading scheme would only become applicable in several years' time, she underscored the importance of the Council not closing the door on possible courses of action. In enquiring as to what action the CAEP would take if the Council did not reach a decision during its present meeting, the Representative of Austria asked whether it would do further work on the mechanics of an emissions trading scheme or whether it would carry out other work.

43. The Secretary of the CAEP emphasized that the Committee had reached an impasse regarding the geographical scope of emissions trading for international aviation and was therefore seeking guidance from the Council. While the CAEP would, during its upcoming meeting, try to finalize the text of the guidance material on the other issues on which agreement had already been reached, it was doubtful that it could make good progress on the geographical scope issue without the requested guidance. The Committee would thus not be in a position to approve the final text of the entire guidance material during the CAEP/7 Meeting and to present it to the Council during its next (180th) Session as part of its report.

44. The Representative of Singapore concurred with the Representatives of Finland and France that it would be futile to discuss the two options for an emissions trading scheme for international aviation without any clarification of the mechanism and its effect on international aviation. He suggested that the CAEP be requested to develop such an emissions trading scheme in more detail and, more importantly, to address the particular issues that would only be encountered when some parties implemented the scheme. The Representative of Singapore emphasized that the CAEP should also ensure that such an emissions trading scheme would not hinder aviation growth but would rather promote, and support the demands for, future air travel.

45. In associating himself with the comments and recommendations made by the Representative of Brazil, the Representative of the United States noted that the latter had offered the instructions which the CAEP had requested and which were consistent with the principles of reciprocity and comity upon which ICAO was founded. He also appreciated the statements made by the Representatives of Canada, Nigeria, Argentina, Australia and Japan in support of the Council providing definitive and clear guidance to the CAEP at the present time, as well as the statements made by the Representatives of Australia and Japan that the Council should make clear that it urged that no unilateral action be taken by States or groups of States until the Assembly had had an opportunity to bring closure to this issue.

46. Recalling that the Representative of the United Kingdom and others had queried what would happen if ICAO did not move forward on this issue, the Representative of the United States affirmed that the Organization was moving forward, although perhaps not as quickly as some States would wish, and that a substantial amount of work had been done by the CAEP. He underscored that an extraordinary amount of time, effort and expertise had been applied and that great progress had been made in providing the guidance material on emissions trading schemes requested by the Assembly. The CAEP had, however, reached a point where it required guidance. The Council had an obligation to provide that guidance, and not simply defer the matter, so that the Committee could continue and complete its work. The Representative of the United States expressed confidence that the CAEP would complete the said guidance in time for it to be further considered by the next Assembly.

47. In observing that, from his State's perspective, emissions trading schemes were one of many tools which could be used in addressing the complex issue of greenhouse gas emissions, the

Representative of the United States noted that the different States represented on the Council and in the Organization had different combinations of tools that they were using to address this issue and were coming up with different solutions. He emphasized that, as all States worked for more scientific certainty as to the actual impact on the environment of specific tools employed and as to whether or not emissions trading schemes would, in fact, be beneficial for the environment, they needed to continue the good work of their experts to bring clarity to this issue. The Representative of the United States noted that, for a variety of reasons, the level of greenhouse gas emissions in the United States in 2006 was lower than the level in 2000. While it was not possible to project that reduction to the future, the fact was that the United States, which according to some measures, was the largest emitter of greenhouse gas emissions, producing some 43 per cent of the total emissions, was currently using less fuel than it had in 2000. That might not, however, be true of other States or regions of the world.

48. The Representative of the United States averred that the Council should respond to the very straightforward question put forward by the CAEP of whether ICAO would endorse the principle that one State could forcibly compel another State's aircraft operator into an emissions trading scheme or would decide that such participation must be based on mutual agreement of the States concerned. Noting that his State strongly believed that such participation should be on the basis of mutual agreement, the Representative of the United States emphasized that such an approach reflected the consensus and reciprocity that underpinned much of ICAO's work. He considered that, while all Council Representatives wished to make progress in the development of guidance on emissions trading and to meet the Assembly's directives as set forth in Assembly Resolution A35-5, they disagreed on how aircraft operators from other States should be covered under their emissions trading schemes. In affirming that both common sense and past ICAO experience dictated that the right way forward was mutual agreement, the Representative of the United States recalled that the Assembly, in Resolving Clause 2 of Appendix I of Assembly Resolution A35-5, had, in encouraging Contracting States and the Council to evaluate the costs and benefits of the various market-based measures, indicated that they should take into account the interests of all parties concerned. In other words, State sovereignty should be respected. The views of one State or group of States should not be forced on all other States. The Representative of the United States thus considered that the Council should instruct the CAEP to finish developing guidance for the upcoming Assembly based on the principle that any State wishing to integrate international aviation emissions into an emissions trading scheme could do so only on the basis of mutual agreement with other States whose aircraft operators would be covered by the scheme on either a bilateral or multilateral basis. Furthermore, the Council should urge States to refrain from including other States' aircraft operators in an emissions trading scheme without the consent of such other States, unless such an approach were approved by the Council or authorized by the Assembly. The Council should also request that any State considering developing an emissions trading scheme on a basis other than mutual agreement present a detailed proposal to the Council for further consideration and discussion. The Representative of the United States noted that information regarding the experience of groups of States in establishing emissions trading schemes would be valuable to the Council.

49. The Representative of the United States affirmed the importance of States not applying market-based measures regarding aircraft engine emissions, such as the levying of charges or taxes, in a manner that resulted in accountable entities paying more than once for mitigating the same environmental impact, as indicated by the Representative of Brazil. He stressed that there was no assurance that if a State or group of States imposed on the aircraft operators of other States an emissions trading scheme that they would not be subject to duplicative schemes to extract charges or fees for the same emissions. The Representative of the United States noted, in this regard, that there might be States in Europe which were imposing an environmental tax that would duplicate what would be covered by an emissions trading scheme. It was thus necessary to ensure that there was no duplication or redundancy built into an emissions trading scheme where different States were attempting to address the same international

aviation emissions. Observing that such emissions were, by definition, a global phenomenon, the Representative of the United States queried how one State could capture such emissions and apply its trading scheme without the redundancy of other States doing the same thing in a different manner and therefore imposing duplicative régimes on the aviation industry. It was for that reason that the Representative of the United States considered that it was the responsibility of ICAO to come up with a solution.

50. In concluding, the Representative of the United States recalled the Group of Eight (G8) meeting in Gleneagles, Scotland, in 2005. He noted that the issue of how to deal with aviation emissions had been part of the final communiqué which had been agreed to not only by the G8 States but also by many other States, including China, Brazil, India and Mexico. The senior leaders of those States had agreed that the way forward on aviation emissions was: better scientific understanding of the impacts; implementation of operational changes to save fuel, an area where there was a substantial amount of work that could be done; and shared research on technology improvements. The senior leaders had not indicated that emissions trading schemes must be used for international aviation emissions, much less imposed on other States. The Representative of the United States expressed the hope that the same spirit of cooperation so evident at Gleneagles could be harnessed by the Council as it moved forward, respecting differences and building a partnership through consent in reducing aviation's environmental footprint.

51. The Representative of South Africa shared the views expressed by the Representatives of Brazil, Canada, Nigeria, Argentina, Australia, Japan, Singapore and the United States, particularly with regard to the continuation of the CAEP's work. He recalled the statement made by the Director General of the International Air Transport Association (IATA) on 25 April 2006 during the Second Aviation and Environment Summit, in which he had indicated that: air transport contributed a small part of global CO₂ emissions, 2 per cent, whereas it supported 8 per cent of the world's economic activity; and within the transport sector, aviation was responsible for 12 per cent of CO₂ emissions, whereas road transport generated 80 per cent thereof. The Representative of South Africa considered that that statement highlighted the need for the Council to empower the CAEP to conduct further studies.

52. The Representative of Saint Lucia wished to associate himself with the comments made by the Representatives of Canada, Brazil and the United States, *inter alia*. Affirming that the Representative of Canada had very succinctly outlined the considerations to be taken into account in addressing the issue of aviation emissions, he suggested that his statement be used as a summary of the Council's discussion. Underscoring that he did not support a unilateral approach to solving this issue, the Representative of Saint Lucia indicated that the CAEP should be allowed to continue its work and requested to report thereon to the Council at the appropriate time. Recalling the comments made by the Representative of Nigeria, he noted that, as he was also from the developing part of the world, he was likewise interested in learning the impact of emissions trading schemes on developing countries. In indicating that it was not possible to determine what the said impact would be without having a specific emissions trading scheme to study, the Secretary of the CAEP underscored that the impact would vary according to the key design elements of the scheme.

53. The Representative of India noted that the task which the CAEP had given to the Council was a difficult one given the lack of detailed information. He considered that the CAEP should be requested to continue its work as mandated by the Council and in the spirit of Assembly Resolution A35-5, without addressing political and legal issues at the present time, and to report to the Council before its 180th Session so that the latter would be able to formulate its recommendations to the Assembly. In fully sharing the views expressed by the Representatives of Canada, the United States, Australia and Japan, *inter alia*, the Representative of India averred that there was no scope for unilateral application of an

emissions trading scheme in Assembly Resolution A35-5 and that such action should not be resorted to before the Assembly had taken a final decision on that issue.

54. Referring to the Attachment to President's memorandum PRES AK/1113 dated 7 November 2005 on the results of the CAEP Steering Group Meeting on market-based measures to reduce emissions held in Montreal from 3 to 7 October 2005, the Representative of India noted, from the paragraph e), that the CAEP had already recognized that States were free to pursue greenhouse gas emission charges by mutual agreement on a bilateral basis. He therefore found it difficult to understand why the CAEP was confused about accepting the same principle with regard emissions trading schemes for international aviation emissions.

55. In affirming that Assembly Resolution A35-5 did not provide any scope for unilateral action, the Representative of India noted from Resolving Clause 2 c) 2) of Appendix I that only interested States and international organizations were to participate in voluntary trading systems and that the incorporation of international aviation emissions into States' emissions trading schemes was to be consistent with the UNFCCC process. Observing, from his discussions with the UNFCCC Secretariat, that the said process involved respect for mutual agreement and bilateral action, he questioned where there was any scope in Assembly Resolution A35-5 for unilateral action. Underscoring that ICAO was a multilateral organization which worked on the basis of the principles of consensus and cooperation, the Representative of India indicated that ICAO should continue to emphasize mutual agreement and bilateral régimes.

56. The Representative of Germany noted that European States, including Germany, held the legal view that if a State decided to establish a scheme to protect its own environment, then it was its sovereign right to include every polluter that touched its territory in that scheme. Noting, from the discussion, that there was a large number of States represented on the Council which disagreed with that view, she averred that it was thus premature for the Council to give any guidance to the CAEP concerning the geographical scope of emissions trading for international aviation. Having listened to the explanations provided by the Secretariat of the CAEP, the Representative of Germany could not clearly understand why the Committee could not make any more progress. Observing that she very much supported the work which the Organization was doing in this area, she indicated that the ideal solution would be for ICAO to come to a consensus on emissions trading schemes for international aviation emissions. It was clear from the debate, however, that much of the technical information required to come to any conclusions was still lacking.

57. The Representative of Germany noted that the political question of the geographical scope of emissions trading for international aviation was basically a question of being in favour of, or being opposed to, emissions trading in aviation: those in favour wished to have a large geographical scope to cover a large part of the Earth in order to protect it; those opposed were against having a large geographical scope. In order to reach a decision and to take a political stand on that question, it was necessary to have much more information, not only regarding the mechanics of an emissions trading scheme but also regarding such issues as whether airlines themselves or the suppliers of fuel or other entities should be included in such a scheme. Information on other issues such as benchmarking, the grandfathering of rights, the cost of certificates and whether the latter should be given free-of-charge to certain airlines which had already done much to protect the environment by modernizing their fleets was also required as it could influence the Council's decision. Indicating that the Council was not, at this point, in a position to give unanimous guidance to the CAEP, the Representative of Germany suggested that: the Council urge the Committee to continue its work on the outstanding questions; the Secretariat proceed with the envisaged Colloquium on Aviation Emissions in April 2007; and that the Council consider the results of these actions at a later stage.