
ICAO

International Civil Aviation Organization

COUNCIL — 181ST SESSION

Montréal, 22 May – 22 June
and 5, 6 and 7 September 2007

SUMMARY MINUTES WITH SUBJECT INDEX



2008

Montréal

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COUNCIL — 181ST SESSION

SUMMARY MINUTES OF THE FIRST MEETING

(THE COUNCIL CHAMBER, TUESDAY, 22 MAY 2007, AT 1430 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. T. Araki
Australia	— Mr. S. Clegg	Lebanon	— Dr. H. Chaouk
Austria —	— Ms. S. Gehrer	Mexico	— Mr. D. Méndez (Alt.)
Brazil	— Mr. V. Elyseu Filho	Mozambique	— Dr. D. Deus
Canada	— Mr. L.A. Dupuis	Nigeria	— Dr. O.B. Aliu
Chile	— Mr. G. Miranda	Pakistan	— Mr. M. Rauhullah
China	— Mr. Tao Ma	Peru	— Mr. M. Gamarra (Alt.)
Colombia	— Mr. J. Ortiz Cuenca	Republic of Korea	— Mr. Shin, G.-S.
Egypt	— Mr. S. Elazab	Russian Federation	— Mr. I.M. Lysenko
Ethiopia	— Mr. T. Mekonnen	Saint Lucia	— Mr. H.A. Wilson
Finland	— Mr. L. Lövkvis	Saudi Arabia	— Mr. S. Hashem
France	— Mr. J.-C. Chouvet	Singapore	— Mr. K.P. Bong
Germany	— Dr. K. Kammann-Klippstein	South Africa	— Mr. T. Peege
Ghana	— Mr. K. Kwakwa	Spain	— Mr. J. Herrero (Alt.)
Honduras	— Mr. A. Suazo Morazán	Tunisia	— Mr. I. Sassi
Hungary	— Dr. A. Sipos	United Kingdom	— Mr. M. Rossell
India	— Dr. N. Zaidi	United States	— Mr. D.T. Bliss
Italy	— Mr. F.P. Venier		

ALSO PRESENT:

Mr. D. Ruhier (Alt.)	— Austria
Mr. R. da Silva Pinto (Alt.)	— Brazil
Ms. S. Chambers (Alt.)	— Canada
Mr. R. Constantin (Advisor)	— Canada
Mr. A. Mena (Alt.)	— Chile
Mr. J. Salinas (Alt.)	— Chile
Mr. E. Gissurarson (Alt.)	— Finland
Mr. P. Pape (Alt.)	— France
Mr. P. Ciancaglioni (Alt.)	— Italy
Mr. Y. Yanagisawa (Alt.)	— Japan
Mr. Kim, K.-J. (Alt.)	— Republic of Korea
Mr. Min, J.-H. (Alt.)	— Republic of Korea

SECRETARIAT:

*Mr. A.P. Singh	— D/ADB
*Mr. D. Wibaux	— D/LEB
Ms. N.J. Graham	— D/ANB
Mrs. F.A. Oduola	— D/ATB
*Mr. V. Zubkov	— C/PCO
*Mr. J. Maguire	— C/EOA
*Mr. R. Barr	— C/FIN
*Mr. J. Begin	— DD/ATB
Mr. M. Elamiri	— C/SSA
Mr. H. Belai	— C/S&F
*Mr. D. Antonini	— C/SGM
Ms. C. Zuzak	— C/ASA
*Ms. J. Bacon	— ADAN
*Mr. J. Huang	— LO/LEB
Mr. J. Murphy	— ASA
Mrs. C. Rideout	— CSO

*Part-time

Welcome to new Representative on the Council

1. The President of the Council extended a warm welcome to Mr. Imed Sassi, the new Representative of Tunisia on the Council, and bade farewell to Mr. Mohamed Chérif, who had served as Representative of Tunisia since 2 February 2005.

Subject No. 13: Work programmes of Council and its subsidiary bodies**Schedule for consideration of items during the 181st Session of the Council**

2. The Council noted the meeting schedule for the 181st Session presented in the President's memorandum PRES RK/1360 dated 16 March 2007, subject to the addition of a meeting of the Joint Support Committee on Monday, 28 May at 1000 hours; a meeting of the Finance Committee on Thursday, 31 May at 1430 hours; and a meeting of the Technical Cooperation Committee on Monday, 4 June at 1000 hours. It was noted that some afternoons of the last two weeks of the session had also been tentatively reserved for possible Council meetings.

3. The Council noted the schedule for consideration of items during the 181st Session as set out in the President's memorandum RK/1368 dated 7 May 2007, and, in accordance with Rule 24 of the *Rules of Procedure of the Council*, approved the addition of five items entitled "Amendment to *The ICAO Service Code: Paternity Leave*"; "Request of the Flight Safety Foundation (FSF) for inclusion in the list of international organizations that may be invited to attend suitable ICAO meetings"; "Revised dates of the Council Sessions in 2008"; "Draft Assembly working paper: Enhancing the effectiveness of the Assembly – Amendment of certain rules of the *Standing Rules of Procedure of the Assembly*"; and "Progress report on the Assad Kotaite Graduate and Postdoctoral Fellowship Fund".

4. The Council also added two items, related to the Finance Committee's review of the Report of the Human Resources Working Group (HRWG), and Implementation of paragraph 1.2.9.4 in Annex 1 (Personnel Licensing) concerning language proficiency requirements, to its work programme for the 181st Session.

Subject No. 19.1: Reports by the President of the Council**President's report on activities during the recess**

5. The Council noted the information contained in C-WP/12951, as updated by the President of the Council, as well as supplementary information provided orally by the President of the Council and the Secretary General on their recent missions.

6. The President of the Council thanked the Representatives of Egypt, China, Malaysia and Venezuela for the arrangements made during his missions to their countries. In connection with his mission to Egypt, he wished to highlight the excellent Civil Aviation Medical Centre and National Civil Aviation Training Organization which he had visited. During his meeting with the Minister of Civil Aviation, he had seized the opportunity to discuss training fellowships for developing countries, primarily for African States. The Minister of Transport had agreed to establish a programme and the Regional Office in Cairo would follow up on the issue.

7. In China, the President of the Council had had the opportunity to see the state-of-the-art infrastructure of the air navigation systems and the excellent planning underway to meet the aviation requirements to face the extraordinary growth of civil aviation in China.

8. In Malaysia, the President had learned that the Government was producing e-passports for Malaysian citizens. A special facilitation process was in place, in respect of which the Organization should obtain more information. The President had invited Malaysian authorities to seek the possibility of providing a briefing at ICAO regarding their experience with e-passports.

9. In Venezuela, the President had noted the progress being made in one of the most important technical cooperation projects regarding airport infrastructure in Caracas.

10. The Secretary General then supplemented the information which C-WP/12951 provided on his missions to China and the Republic of Korea. In China, during his meeting with the Minister of the General Administration of Civil Aviation of China, two documents had been signed between the Government of China and ICAO. The first was a letter of understanding on technical cooperation for the increased utilization of Chinese civil aviation experts in ICAO's technical cooperation activities. The second was a memorandum of understanding for a fellowship training programme for developing countries which would serve to attract students from selected developing countries worldwide for training at established civil aviation training institutions in China. The Secretary General thanked the Representative of China for his assistance during his mission.

11. In the Republic of Korea, a letter of understanding on technical cooperation and a management service agreement had also been signed between the Republic of Korea's Civil Aviation Authority and ICAO, which should lead to increased cooperation with the Minister of Construction and Transportation, the Civil Aviation Safety Authority, and other civil aviation entities in the Republic of Korea. The Secretary General thanked the Representative of the Republic of Korea for his assistance during his mission.

12. In connection with his mission to Geneva to attend the First Regular Session for 2007 of the United Nations System Chief Executives Board for Coordination (CEB), the Secretary General indicated that when the United Nations Secretary-General had spoken of a proposed UN High-level Summit on Climate Change to be held in September, he had highlighted to the Secretary-General the importance of ICAO's participation among the other organizations to be invited. The Secretary General had just learned that the UN Secretary-General had named three prominent envoys on climate change, i.e. the former Prime Minister of Norway, the former President of Chile, and the President of the 56th Session of the United Nations General Assembly, who would solicit the views of national leader, including those who were key actors in the climate change negotiations.

13. The Representative of Canada understood that the Secretary General had, during his meeting with the Secretary-General of the United Nations, raised a question which he had asked him to raise, concerning the policy of the new UN Secretary-General when it came to the recruitment of senior officials, the length of their contracts, and extensions beyond retirement. He sought clarifications from the Secretary General regarding that point. The Secretary General indicated that he had spoken informally with the UN Secretary-General on the appointment and length of duty of senior officers. The intention was generalize throughout the UN system the practice of recruiting for very short terms, i.e. for a period of some two years, even at very senior levels.

Subject No. 13: Work programmes of Council and its subsidiary bodies**Report on action taken to implement decisions taken by the Council during the 180th Session**

14. The Council noted the action taken to implement the decisions which it had taken during the 180th Session, set forth in C-WP/12983. It was noted that future reports would also report on the implementation of decisions from earlier sessions which took more than one session to complete work on.

15. The Representative of India complimented the Secretary General on a very good compliance report, and suggested that the monitoring of this compliance with Council decisions be institutionalized. He requested that the Secretary General assign this important task to an appropriate office.

16. The Representative of France observed that the way in which C-WP/12983 reported on amendments to Annexes would cast the impression that they had all been adopted without any objections or abstentions, which was not the case with at least one Annex. As regards the information on appointment of Directors, he noted that the unfortunate decision which the Council had adopted regarding the Bureau of Administration and Services was not reflected. The Council was perhaps embarrassed about that decision, but it should still appear in the report even if it was, in his view, illegal. The Representative of Argentina was surprised to note the comment just offered by the Representative of France concerning the possible illegality of a decision adopted by the Council, and believed it would be opportune to formally request some clarification regarding the opinion of Council Member States on the procedure which had been followed. Representatives had an obligation to inform their governments of any possible non-compliance with their responsibilities.

17. Referring to the comments just offered by the Representatives of France and Argentina, the Representative of Canada indicated that the Council had indeed taken a decision which was perhaps not illegal but certainly unconstitutional and outside of its powers. A joint letter on the subject had been sent by the Representative of France and himself, and had been followed by a letter from the Representative of the Republic of Korea who had referred to the need for the Council to be better prepared before being faced with a *fait accompli* and proposals presented under other business which had not been thought through. The Representative of Brazil recalled that at the time of the Council's decision on the subject, there had not been any intervention on the part of the Legal Bureau to the effect that there was any illegality. The Representative of Brazil wished to emphasize the importance of receiving clarifications from the Legal Bureau as to where the Council stood on such matters.

Subject No. 18.14: Other finance matters for consideration by Council**Financial situation of the Organization**

18. The Council noted C-WP/12944, in which the Secretary General submitted information on the financial situation of the Organization. It was understood that the Secretary General would present another report on developments in ICAO's financial situation during the next (182nd) Session.

Subject No. 52: Unlawful interference with international civil aviation and its facilities
Subject No. 52.1: Universal Security Audit Programme

Implementation of the ICAO Aviation Security Plan of Action

19. The above subject was documented for the Council's consideration in a paper presented by the Secretary General (C-WP/12846 Revised), a report thereon by the Committee on Unlawful Interference (C-WP/12847), and an oral report of the Finance Committee.

20. The Representatives of France and the Republic of Korea pointed out that Appendix D did not provide information on contributions in the order of \$300,000 which their Governments had made.

21. With the understanding that the information on the contributions of States, provided in Appendix D of C-WP/12846 Revised, would be the subject of a corrigendum, the Council noted the information contained in that paper, taking into account the comments offered by the UIC and FIC in their reports.

Assistance strategy for working with States regarding shortcomings with aviation security-related SARPs

22. The Council had for consideration C-WP/12907, in which the Secretary General presented an assessment on the possible application of Article 54 j) of the Chicago Convention, together with C-WP/12908, in which the Committee on Unlawful Interference reported on its consideration of the Secretariat's assessment.

23. Further to a query raised by the Representative of Canada, C/S&F provided some clarifications on the challenges of time constraints and the need for proper coordination which would make it difficult for the Secretariat to provide the Council with an appropriate proposal during the 183rd session.

24. The Representative of Argentina understood the explanations given by C/S&F, but emphasized the importance of coming to a decision as quickly as possible for defining the level of transparency and dissemination of information in the security field. The Organization needed to have a lever with which to pressure States to remedy deficiencies. The Representatives of India, France, and Germany also spoke in favour of retaining the time-frame based on a report during the 183rd session.

25. The Representative of France observed that when it came to substance, as necessary as it was to increase the leverage of the Organization when it came to the rectification of deficiencies, including the use of Article 54 (j), the situation between safety and security was very different when it came to the confidentiality of the data involved. Seeking to enhance security could not be dealt with in the same way, especially when it came to the dissemination of information. It would be necessary to seek the views of the AVSEC Panel and to remain extremely cautious. The Representative of Germany also commented on the need to strike a balance between the need for more transparency and the need to handle sensitive information very carefully.

26. The Representative of Nigeria sought clarification on the meaning of "a limited degree of transparency". He recognized the note of caution which had been raised by the Representatives of France and Germany, but believed that before the convening of the forthcoming session of the Assembly it would be necessary to have at least some idea of what a limited level of transparency would be.

27. The Representative of Saudi Arabia highlighted that security, a very sensitive subject which could not be compared with safety, was related to the national security of States. The issue of security at airports was similar to the procedures that were adopted in the oil refineries and many other facilities in his country; therefore, when the Organization advocated transparency in the field of security, national security in his country as a whole would be affected. The cooperation agreement between Saudi Arabia and ICAO had therefore contained a stipulation for confidentiality. There was a need for an in-depth, informed study which would have to be very thorough, clear and unambiguous. The Representative of Saudi Arabia would therefore support the efforts of the Secretariat in developing a study that would help the Council in taking decisions. It would be necessary to consult the Aviation Security Panel in preparing such a study. The Representative of Japan shared the views expressed by the Representative of Saudi Arabia.

28. With the understanding that further information would be provided on the subject at an informal briefing during the 182nd Session, the Council took action on the basis of the report of the UIC and requested the Secretary General to present proposals and related procedures for the application of Article 54 j) on the *Convention on International Civil Aviation* with respect to aviation security for its consideration during the 183rd Session. In this regard the views of the Assembly with respect to transparency and disclosure principles relating to security audit reports and the recommendations of the Audit Results Review Board (ARRB) regarding States of concern should be taken into account.

Subject No. 24.2: Assembly agenda and documentation

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

**Draft Assembly working paper on developments in the Aviation Security
Programme since the 35th Session of the Assembly**

29. The Council reviewed a draft Assembly working paper on the above subject, presented by the Secretary General in C-WP/12899, together with a report of the Unlawful Interference Committee (C-WP/12900) in which a number of comments and suggestions were offered.

30. The Council agreed to the amendments proposed by the UIC, which would be introduced in the draft Assembly working paper attached to C-WP/12899. The revised draft would be circulated to Representatives under cover of a memorandum of the Secretary General, and all comments received during the subsequent two-week reply period would be given careful consideration, after which the working paper would be transmitted to Contracting States as documentation for the 36th Session of the Assembly.

31. The Council considered the next item on its order of business in closed session, and reconvened in open session at 1730 hours.

Other business

Subject No. 46: Edward Warner Award

Financial report of the Edward Warner Award Fund – 2006

32. The President of the Council indicated that further to his Memorandum PRES RK/1373 dated 2 May 2007, he had not, as of 16 May 2007, received a request for C-WP/12937 dealing with the above subject discussed by the Council. He therefore considered that the Council had noted the paper.

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

Guidelines for the carriage and screening of liquids, gels and aerosols

33. In accordance with Rule 32 a) of its Rules of Procedure, the Council agreed to invite the European Commission (EC) to participate in the Council's consideration of the above item during the current (181st) Session. It was understood that some clarifications on the term "Observer" in the Rules of Procedure would be provided at a future meeting.

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34. The President of the Council indicated that further to concerns expressed by the interpreters, and in accordance with the United Nations Agreement to which ICAO is a party, no interpreter shall be called upon to work at more than two meetings per day, a meeting being a period of approximately 2 ½ to 3 hours from the time when the interpreter is required to be on duty. The President requested that all efforts be made for Representatives to arrive in the Council Chamber five minutes prior to the beginning of each meeting.

— END —

COUNCIL — 181ST SESSION

SUMMARY MINUTES OF THE FIRST MEETING

(THE COUNCIL CHAMBER, TUESDAY, 22 MAY 2007, AT 1645 HOURS)

CLOSED MEETING

President of the Council: Mr. Roberto Kobeh González

Secretary: Dr. Taïeb Chérif, Secretary General

PRESENT:

Argentina	— Mr. D.O. Valente	Japan	— Mr. T. Araki
Australia	— Mr. S. Clegg	Lebanon	— Dr. H. Chaouk
Austria	— Ms. S. Gehrer	Mexico	— Mr. D. Méndez (Alt.)
Brazil	— Mr. V. Elyseu Filho	Mozambique	— Dr. D. Deus
Canada	— Mr. L.A. Dupuis	Nigeria	— Dr. O.B. Aliu
Chile	— Mr. G. Miranda	Pakistan	— Mr. M. Rauhullah
China	— Mr. Tao Ma	Peru	— Mr. M. Gamarra (Alt.)
Colombia	— Mr. J. Ortiz Cuenca	Republic of Korea	— Mr. Shin, G.-S.
Egypt	— Mr. S. Elazab	Russian Federation	— Mr. I.M. Lysenko
Ethiopia	— Mr. T. Mekonnen	Saint Lucia	— Mr. H.A. Wilson
Finland	— Mr. L. Lövkvist	Saudi Arabia	— Mr. S. Hashem
France	— Mr. J.-C. Chouvet	Singapore	— Mr. K.P. Bong
Germany	— Dr. K. Kammann-Klippstein	South Africa	— Mr. T. Peege
Ghana	— Mr. K. Kwakwa	Spain	— Mr. J. Herrero (Alt.)
Honduras	— Mr. A. Suazo Morazán	Tunisia	— Mr. I. Sassi
Hungary	— Dr. A. Sipos	United Kingdom	— Mr. M. Rossell
India	— Dr. N. Zaidi	United States	— Mr. D.T. Bliss
Italy	— Mr. F.P. Venier		

ALSO PRESENT:

Mr. D. Ruhier (Alt.)	— Austria
Mr. R. da Silva Pinto (Alt.)	— Brazil
Ms. S. Chambers (Alt.)	— Canada
Mr. R. Constantin (Advisor)	— Canada
Mr. A. Mena (Alt.)	— Chile
Mr. J. Salinas (Alt.)	— Chile
Mr. E. Gissurarson (Alt.)	— Finland
Mr. P. Pape (Alt.)	— France
Mr. P. Ciancaglioni (Alt.)	— Italy
Mr. Y. Yanagisawa (Alt.)	— Japan
Mr. Kim, K.-J. (Alt.)	— Republic of Korea
Mr. Min, J.-H. (Alt.)	— Republic of Korea

SECRETARIAT:

Ms. N.J. Graham	— D/ANB
Mrs. F.A. Odutola	— D/ATB
Mr. M. Elamiri	— C/SSA
Mr. H. Belai	— C/S&F
Ms. C. Zuzak	— C/ASA
Mr. J. Murphy	— ASA
Mrs. C. Rideout	— CSO

*Part-time

Subject No. 52: Unlawful interference with international civil aviation and its facilities**Draft Assembly working paper on Item 16 – Universal Security Audit Programme (USAP)**

1. The above subject was documented for the Council's consideration in C-WP/12905 Restricted, in which the Secretary General presented a draft Assembly working paper reporting on the overall progress made in the execution of the ICAO Universal Security Audit Programme (USAP), and in C-WP/12906 Restricted, a report thereon presented by the Committee on Unlawful Interference.

2. It was noted that paragraph 2.4 of the UIC's report had been superseded by the Council action taken earlier in the meeting on the item "Assistance strategy for working with States regarding shortcomings with aviation security-related SARPs", now calling for an informal briefing during the 182nd Session.

3. The Representative of Nigeria observed that paragraph 3.3 of the draft Assembly working paper seemed to point in the direction of what would be covered under limited transparency, and that the report of the UIC also contained some indication. His Delegation would, however, still appreciate by way of an example what would be the ramifications of that limitation, and asked if the Secretariat could provide such an example of a limited transparency and of what would not be included in such publicly disseminated information. C/ASA indicated that at this point, there were no specific proposals as to the modalities or the extent of any transparency of the audit results. There would, of course, be various options, each of which would need to be considered and explored carefully for the Council's consideration. At this point, the intention was simply to seek a general direction from the Assembly as to whether it might be timely to reconsider the principle of strict confidentiality. Examples could perhaps be presented to the Council in due course, with, at one end of the spectrum, the current situation of complete strict confidentiality on the part of ICAO of all aviation security audit results, and at the other end of the spectrum, which would not be appropriate in the context of aviation security, full public disclosure of States' audit results as was the case with the safety oversight audit programme. There could be a number of possible options within that range. One could consider an executive summary of all audit results being made available to all States, or something more circumscribed such as a notification system if there were deficiencies, or perhaps deficiencies that remained unresolved after a certain period of time. The intention at this point was to seek a direction from the Assembly as to whether it was timely to consider these various options.

4. While noting the clarifications provided by C/ASA, the Representative of Nigeria highlighted the importance of not simply asking the Assembly for general direction, but to have a clear idea of what the limit would be before asking it to adopt the sixth resolving clause of the Assembly Resolution attached to C-WP/12905 Restricted. His views were shared by the Representative of France, who observed that the Representative of Nigeria had quite rightly drawn the Council's attention to resolving clause 6, and who emphasized that States should be able to have access to audit findings without those findings falling into the wrong hands. The Representative of Argentina wished to endorse what had been said by the Representative of France, and also echoed the concerns of the Representative of Nigeria. To succeed in having the Council discontinue the policy of strict confidentiality would be the first step forward which, it was hoped, could be achieved in the short term. The Representative of Germany could support previous speakers who had said that the sixth resolving clause was very carefully drafted and should remain as it stood, and that a first step should be suggested to the Assembly for more transparency. If the Secretariat had no means of obliging States to take corrective measures in light of an audit and the results of that audit were not known, it was doubtful that the audit process was beneficial at all. The Representative of India also

supported the language of the sixth resolving clause, which was perfectly balanced and would allow the Assembly to consider the issue of a limited level of transparency.

5. The Representative of the United States indicated that his Administration was interested in seeing if it was possible to design a system in which, where there had been significant continuing unresolved security deficiencies in a particular State, identified through the follow-up audit process, there may be some way to notify other States of this continuing problem so that they could determine if it was necessary to take action to protect any of their own carriers that may be serving that State. While not making information public, transparency was a mechanism that would allow notification of serious problems that that other States could determine if it was necessary to take action in the interests of their own carriers.

6. The Council amended the second operative clause of the draft Resolution in Appendix B of the draft Assembly paper in order to include the words shown in bold type: “*Requests* the **Council to direct** the Secretary General to continue the USAP ...”.

7. The Council then took action on the basis of the recommendation of the UIC in C-WP/12906, and:

- a) approved the draft Assembly working paper attached to C-WP/12905 Restricted for submission to the 36th Session of the Assembly, incorporating the recommendations of the Committee in paragraph 2.6 of C-WP/12906 Restricted and the amendment recorded above; and
- b) approved Addendum No. 1 to the draft Assembly working paper attached to C-WP/12905 Restricted, containing the detailed analysis of audit and audit follow-up mission results, but removed its restricted status.

8. It was understood that a further progress report on the work of the Audit Results Review Board (ARRB) would be presented to the Council during its 182nd Session and every second Session thereafter.

9. The Council reconvened in open session at 1730 hours.

— END —

COUNCIL — 181ST SESSION

SUMMARY MINUTES OF THE SECOND MEETING

(THE COUNCIL CHAMBER, WEDNESDAY, 23 MAY 2007, AT 1100 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. T. Araki
Australia	— Mr. S. Clegg	Lebanon	— Dr. H. Chaouk
Austria	— Ms. S. Gehrer	Mexico	— Mr. D. Méndez (Alt.)
Brazil	— Mr. V. Elyseu Filho	Mozambique	— Dr. D. Deus
Canada	— Ms. S. Chambers (Alt.)	Nigeria	— Dr. O.B. Aliu
Chile	— Mr. G. Miranda	Pakistan	— Mr. M. Rauhuallah
China	— Mr. Tao Ma	Peru	— Mr. M. Gamarra (Alt.)
Colombia	— Mr. J. Ortiz Cuenca	Republic of Korea	— Mr. Shin, G.-S.
Egypt	— Mr. S. Elazab	Russian	— Mr. I.M. Lysenko
Ethiopia	— Mr. T. Mekonnen	Federation	
Finland	— Mr. L. Lövkvist	Saint Lucia	— Mr. H.A. Wilson
France	— Mr. J.-C. Chouvet	Saudi Arabia	— Mr. S. Hashem
Germany	— Dr. K. Kammann-Klippstein	Singapore	— Mr. K.P. Bong
Ghana	— Mr. K. Kwakwa	South Africa	— Mr. T. Peege
Honduras	— Mr. A. Suazo Morazán	Spain	— Mr. L. Adrover
Hungary	— Dr. A. Sipos	Tunisia	— Mr. I. Sassi
India	— Dr. N. Zaidi	United Kingdom	— Mr. M. Rossell
Italy	— Mr. P. Ciancaglioni (Alt.)	United States	— Mr. D.T. Bliss

ALSO PRESENT:

*Mr. B. Ramfjord (President, ANC)	
Mr. E. Gissurarson (Alt.)	— Finland
Mr. P. Pape (Alt.)	— France
Mr. B. Thébault (Alt.)	— France
Mr. Kim, K.-J. (At.)	— Republic of Korea
Mr. Yu, K.-S. (Alt.)	— Republic of Korea
*Mr. S.P. Creamer (Alt.)	— United States

SECRETARIAT:

Ms. N.J. Graham	— D/ANB
Mrs. F.A. Odutola	— D/ATB
Mr. J. Begin	— DD/ATB
*Mr. H. Belai	— C/S&F
*Mr. D. Antonini	— C/SGM
*Mrs. H. Biernacki	— TO/SGM
Miss S. Black	— Précis-writer

*Part-time

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Subject No. 24.2: Assembly agenda and documentation
Subject No. 52: Unlawful interference with international civil aviation and its facilities

**Draft Assembly working paper — Threat to civil aviation posed by
man-portable air-defence systems (MANPADS)**

1. Tabled for Council's consideration was C-WP/12903 presented by the Secretary General, to which was attached a draft Assembly working paper proposing amendments to Assembly Resolution A35-11, and C-WP/12904, a report thereon by the Committee on Unlawful Interference (UIC).
2. Under general comments, the Representative of India suggested that the Secretary General institute a mechanism within the Secretariat to monitor the implementation of all Assembly Resolutions. He averred that there was no point in the Assembly adopting resolutions if they remained unimplemented until the following Assembly. Observing that Assembly Resolution A35-11 did not request States to provide ICAO with information on the steps they were taking to implement that Resolution, the Representative of India underscored the need to consider whether the submission of such information should be made mandatory in the proposed new Assembly Resolution. The Representative of Argentina stressed the need for States to commit to furnishing such information so that the Organization would be able to determine the Resolution's effectiveness.
3. Referring to paragraph 3 of the draft Assembly working paper, the Representative of the Republic of Korea noted that the members of the Asia-Pacific Economic Co-operation (APEC) were constituting a Counter-Terrorism Task Force to conduct a vulnerability assessment of airports in the Asia/Pacific regions based on the ICAO *MANPADS - Information and Airport Vulnerability Assessment Guide*. He underscored that APEC members would be carrying-out further studies on the issue of MANPADS.
4. In the course of reviewing the draft Assembly working paper, the Council agreed that, further to a point raised by the Representative of Australia, a new paragraph would be added thereto which would report, in general terms, on the replies received to State letter AS 8/14-07/33 dated 15 May 2007 and the status of implementation of Assembly Resolution A35-11. The Council also agreed to the amendments to the draft Assembly Resolution recommended by the UIC in paragraph 2.3 of its report. In light of a suggestion made by the Representative of Argentina, the Council further agreed that new Operative Clause 6 would be expanded to include a phrase whereby the Secretary General would periodically request Contracting States to inform the Organization regarding the status of implementation of the Resolution and the measures taken to fulfill its requirements.
5. It was noted that the revised text of the draft Assembly working paper attached to C-WP/12903 would be circulated to Representatives under cover of a memorandum of the Secretary General and that all comments received during the subsequent two-week reply period would be given careful consideration, after which the working paper would be transmitted to States as documentation for the 36th Session of the Assembly.

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

6. The Council then reviewed C-WP/12901, in which the Secretary General presented proposals to revise Assembly Resolution A35-9, and C-WP/12902, a report thereon by the Committee on

Unlawful Interference (UIC). A revised draft Consolidated statement was appended to the UIC's report. It was recalled that the Council, during its consideration of a draft Assembly working paper on the Universal Security Audit Programme (USAP) (C-WP/12905 Restricted and C-WP/12906 Restricted), had approved the text of Appendix E to the proposed Consolidated statement [*cf.* C-DEC 181/1, paragraph 17 a)].

7. Under general comments, the Representative of the United Kingdom observed that the existing Assembly Resolutions, which had evolved over the years, were often inconsistent, repetitious and, in some instances, even contradictory. He therefore suggested that the Council seek the Assembly's approval for a thorough review, over the course of the upcoming triennium, of all Assembly Resolutions in force to ensure consistency. The outcome of that review could be presented to the next ordinary session of the Assembly in 2010. The Representative of India endorsed this proposal.

8. Referring to new Operative Clause 3 of Appendix G to the draft Consolidated statement, the Representative of Colombia noted that the Caribbean/South American (CAR/SAM) Regional Planning and Implementation Group (GREPECAS), at its Fourteenth Meeting (San José, Costa Rica, 16-20 April 2007), had agreed to a proposal by his State to establish a secure aviation security network with which to participate in the ICAO Aviation Security Point of Contact (PoC) Network for the sharing of information on threats against civil aviation.

9. During the ensuing review of the draft Consolidated statement, the Council agreed to the amendments thereto proposed by the UIC in its report, subject to the following: that, further to a point raised by the Representative of Canada, the title of Appendix B and its paragraph b) would be changed to reflect the wording agreed upon by the Committee; that in Preambular Clause 3 of Appendix C the phrase "the misuse of authentic passports by rightful holders in furtherance of the commission of an offence" would be deleted, as suggested by the Chairman of the UIC; that in Operative Clause 7 f) thereof the phrase "in consultation with the Aviation Security Panel" would be deleted, as suggested by the Representative of Nigeria; and that in Appendix D, paragraph b), Operative Clause 1 would be amended whereby the Assembly would note with concern that many States which experience acts of unlawful interference often do not provide the Council with the required official reports on such acts, as suggested by the Chairman of the UIC.

10. With regard to Appendix D, paragraph a), Operative Clause 8, there were several schools of thought: one school of thought was that the term "condemns" was too strong and should be changed to a more diplomatic term. The Representatives of India and Colombia shared this view. Another school of thought was that the clause should be replaced with one which was constructed in a positive manner, along the lines of "*Urges Contracting States to fulfil their obligations to return without delay an aircraft which is being illegally detained or to extradite or submit to competent authorities without delay the case of any person accused of an act of unlawful interference with civil aviation*", proposed by the Chairman of the UIC. This was supported by the Representatives of the United Kingdom, South Africa, Brazil and Argentina. The third school of thought was that the existing text was there for a specific reason and should be retained as weaker wording would send the message that the refusal to return an illegally-detained aircraft or to extradite or prosecute the accused was less serious than in the past. This view was shared by the Representatives of France, Spain, Italy and the Russian Federation. Affirming that there were cases when ICAO must condemn States which violated their international obligations, the Secretary General recalled that both the Assembly and the Council had condemned States for acts of unlawful interference. He emphasized that a decision to eliminate such a condemnation from a Resolution should not be lightly taken. The Representatives of Nigeria, Australia and Mexico considered that the clause should be reviewed by the Secretariat taking into account its historical background. The Council agreed that Operative Clause 8 would be reviewed by the Secretariat in light of these different schools of thought and amended, as necessary.

11. It was noted that the text of the draft Consolidated statement appended to C-WP/12902 would be revised in light of the discussion and suggested amendments submitted in writing to the Secretariat and circulated to Representatives under cover of a memorandum of the Secretary General. All comments received during the subsequent two-week reply period would be given careful consideration, after which the working paper attached to C-WP/12901 with the revised Consolidated statement would be transmitted to States as documentation for the 36th Session of the Assembly.

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

Appointment of Members of the International Explosives Technical Commission (IETC)

12. The Council considered the above subject on the basis of C-WP/12909 (with Addendum No. 1), presented by the Secretary General, and C-WP/12910, a report thereon by the Committee on Unlawful Interference (UIC). In taking the action recommended by the UIC, the Council appointed to the IETC the sixteen experts listed in the Appendix to the Committee's report.

Other business

Developments during the recess in the area of aviation safety

13. On behalf of Representatives, the President of the Council expressed sympathy to the families who had lost family members in the accident which had occurred in Douala, Cameroon on 5 May 2007, claiming the lives of 114 people, as well as to the African aviation community. Noting that that tragic event was a reminder that improving aviation safety was a task that could never be completed, he underscored that ICAO would continue to work to make headway in its mission to ensure the safety of international civil aviation.

14. Observing that one of the areas of concern was the safety situation in Indonesia, the President recalled that since the beginning of 2007 there had been two fatal accidents and at least one serious accident resulting in a hull loss. He noted that the Indonesian aviation industry was growing at a very fast pace, from 5 million passengers and five airlines in 2000 to 30 million passengers and 25 airlines in 2006, creating a very challenging situation for Indonesia's Director General of Civil Aviation (DGCA). Underscoring that over the last few weeks ICAO had been co-ordinating the efforts of many stakeholders in helping Indonesia find a solution to its safety situation, the President indicated that he had met the previous week with the DGCA and that they had agreed to hold an Aviation Safety Summit in early July 2007 in Bali, Indonesia that he would be attending.

15. In providing additional information, the Director of the Air Navigation Bureau (D/ANB) emphasized that ICAO's focus was on putting the Global Aviation Safety Plan (GASP) into action. One of the first key activities was to co-ordinate the good efforts of donor organizations which were willing and able to assist Indonesia in improving their safety record. D/ANB recalled that in her previous role as the United States Federal Aviation Administration's Regional Director for Asia/Pacific she had worked with the DGCA of Indonesia on safety and regulatory matters following a string of unfortunate accidents. She noted that recently Indonesia had completed its ICAO Universal Safety Oversight Programme (USOAP) audit and had been downgraded on an emergency basis to Category II by the FAA.

16. D/ANB noted that, since that time, the Minister had been replaced, as had the previous DGCA, along with some other key personnel. The previous week, the new DGCA (and a fairly large delegation, including the Indonesian Ambassador to Canada) had been at Headquarters to meet with ICAO officials and to attend the Colloquium on Aviation Emissions. During that meeting, ICAO had confirmed that the President of the Council would attend the Indonesian Aviation Safety Summit planned for 2-3 July 2007 as the keynote speaker. The President of the Council would also be meeting with the President of Indonesia to urge aviation legislative and regulatory reform. ICAO's intention, in conjunction with the Indonesian Government, was to have both sign a declaration of intent to take priority action on that basis. It was expected that Indonesian Members of Parliament, as well as Ministers of Finance, Manpower, Communications and others would attend, as well as senior-level representatives from the Indonesian pilots and air traffic controllers groups. Key donors, including Australia, China, the European Union (EU), France, Malaysia, Papua New Guinea, Singapore, Thailand and the United States were expected to be present and active at the Aviation Safety Summit, as were the International Air Transport Association (IATA), Airports Council International (ACI), the Flight Safety Foundation (FSF), the International Federation of Air Line Pilots' Associations (IFALPA), the Civil Air Navigation Services Organisation (CANSO), Boeing and Airbus.

17. D/ANB emphasized that, under the umbrella of the GASP, via the Industry Safety Strategy Group (ISSG), ICAO had taken on the role of co-ordinator for donor efforts in Indonesia, allowing the Indonesian Government to focus on its safety issues at hand. She noted, in this context, that following the Aviation Safety Summit, there would be a meeting of all of the donors to ensure prioritization, focus and most importantly, no duplication of efforts. D/ANB indicated that Airservices Australia and the FAA, both currently very active in Indonesia, were participating in the ISSG. She stressed, however, that at the end of the day, regulatory reform was necessary to obtain and keep the appropriate level of resources necessary to ensure that Indonesian and donor best efforts were sustainable.

18. In then offering an update on recent aviation accidents, D/ANB recalled that there had regrettably been three accidents in Indonesia and three in Africa since January 2007. She noted that one of the accidents in Africa had been security-related and not safety-related. With regard to the accident which had occurred on 5 May 2007, D/ANB indicated that ICAO had received the official accident notification and that the flight data recorder readout would tentatively occur on 23 May 2007 in Ottawa. The investigation team had been formally organized on 18 May 2007 and the recovery plan for the wreckage was ongoing.

19. Providing further information on the situation in Indonesia, the Representative of Australia noted that the Ministers of Transport of Australia and Indonesia had announced that their two States would work together to improve Indonesia's aviation and maritime safety capabilities. Australia would provide almost \$24 million over three years for a package of training and technical assistance that would be made available to Indonesia to support that State in addressing significant transport safety challenges. The said Ministers of Transport had indicated that priority would be given to improving the skills of safety regulators, managers, investigators and air traffic service providers. Recent assessments of transport safety by the Indonesian Government and ICAO would be used to develop the detailed work programme. That information would be complemented by the results of joint workshops, such as the said Aviation Safety Summit.

20. In affirming that the actions outlined by D/ANB were a good start, the Representative of India underscored that ICAO would be seen as being proactive in addressing the safety situation in Indonesia. He expressed confidence that the strategy that had been described, as well as the President's participation in

the said Aviation Safety Summit and his talks with Indonesian authorities, would bring about improvement in that State's safety record. The Representative of India requested that the Council be kept informed of the outcome of those meetings and of subsequent developments.

21. The Representative of South Africa voiced appreciation for the leadership which the President of the Council was providing in terms of aviation safety. Indicating that it was regrettable that the global media rushed to say that African skies were unsafe whenever there was an aviation accident in that continent, he emphasized that there was north/south and east/west traffic coming to Africa on a daily basis and that no one considered that the major airlines were taking risks. While acknowledging that there were some spots that needed attention, he stressed that there were others that were attaining ICAO's requirements. For that reason, the blanket statement that African skies were unsafe was regrettable. The Representative of South Africa noted that Kenya Airlines, which had been involved in the accident which had taken place on 5 May 2007, was an airline of international repute. It was compliant with IATA's Operational Safety Audit (IOSA). Moreover, it was one of the four airlines which had ordered Boeing's Dreamliner, having availed itself of the Cape Town Protocol to arrange financing. He indicated that, while it was unfortunate that the airplane involved in the said accident was only six months old, it demonstrated that the modernization of the African fleet was being addressed. In thanking the Air Navigation Commission (ANC) and the Secretary General for their initiative in convening a High-level Meeting on a Comprehensive Regional Implementation Plan for Aviation Safety in Africa on 17 September 2007, the day before the opening of the 36th Session of the Assembly, the Representative of South Africa underscored that while safety deficiencies were a concern, African States, together with ICAO, were on the right track to address them.

22. The Representative of Saudi Arabia noted that the United Nations General Assembly (UNGA) had adopted, on 16 May 2007, Resolution A/61/L.56 (*Multilingualism*), which emphasized "the paramount importance of the equality of the six official languages of the United Nations". The UNGA had also proclaimed 2008 the International Year of Languages in an effort to promote unity in diversity and global understanding. It had requested the UN Secretary-General to name a co-ordinator to ensure that all language services would be given equal treatment. It was the UNGA's intention that all of the UN's six official languages be used in disseminating information on its activities so as to fill the gap between the use of the English language and the use of the other five official languages. The Representative of Saudi Arabia urged ICAO to respect UNGA Resolution A/61/L.56. The Representative of the Russian Federation expressed the hope that ICAO would adhere to that Resolution and maintain language services at an appropriate level in ICAO. The President of the Council assured that Council that the Secretary General would maintain the best possible level of language services in accordance with the resources at his disposal.

23. The meeting adjourned at 1225 hours.

— END —

COUNCIL — 181ST SESSION

SUMMARY MINUTES OF THE SECOND MEETING

(THE COUNCIL CHAMBER, WEDNESDAY, 23 MAY 2007, AT 1000 HOURS)

CLOSED MEETING

President of the Council: Mr. Roberto Kobeh González

Secretary: Dr. Taïeb Chérif, Secretary General

PRESENT:

Argentina	— Mr. D.O. Valente	Japan	— Mr. T. Araki
Australia	— Mr. S. Clegg	Lebanon	— Dr. H. Chaouk
Austria	— Ms. S. Gehrer	Mexico	— Mr. D. Méndez (Alt.)
Brazil	— Mr. V. Elyseu Filho	Mozambique	— Dr. D. Deus
Canada	— Ms. S. Chambers (Alt.)	Nigeria	— Dr. O.B. Aliu
Chile	— Mr. G. Miranda	Pakistan	— Mr. M. Rauhuallah
China	— Mr. Tao Ma	Peru	— Mr. M. Gamarra (Alt.)
Colombia	— Mr. J. Ortiz Cuenca	Republic of Korea	— Mr. Shin, G.-S.
Egypt	— Mr. S. Elazab	Russian	— Mr. I.M. Lysenko
Ethiopia	— Mr. T. Mekonnen	Federation	
Finland	— Mr. L. Lövkvist	Saint Lucia	— Mr. H.A. Wilson
France	— Mr. J.-C. Chouvet	Saudi Arabia	— Mr. S. Hashem
Germany	— Dr. K. Kammann-Klippstein	Singapore	— Mr. K.P. Bong
Ghana	— Mr. K. Kwakwa	South Africa	— Mr. T. Peege
Honduras	— Mr. A. Suazo Morazán	Spain	— Mr. L. Adrover
Hungary	— Dr. A. Sipos	Tunisia	— Mr. I. Sassi
India	— Dr. N. Zaidi	United Kingdom	— Mr. M. Rossell
Italy	— Mr. P. Ciancaglioni (Alt.)	United States	— Mr. D.T. Bliss

ALSO PRESENT:

Mr. E. Gissurarson (Alt.)	— Finland
Mr. P. Pape (Alt.)	— France
Mr. B. Thébault (Alt.)	— France
Mr. Kim, K.-J. (At.)	— Republic of Korea
Mr. Yu, K.-S. (Alt.)	— Republic of Korea
Mr. T. Fenoulhet, Observer from the	
European Commission in Montreal	

SECRETARIAT:

Ms. N.J. Graham	— D/ANB
Mrs. F.A. Odutola	— D/ATB
Mr. J. Begin	— DD/ATB
Mr. H. Belai	— C/S&F
Mr. D. Antonini	— C/SGM
Mrs. H. Biernacki	— TO/SGM
Miss S. Black	— Précis-writer

*Part-time

Subject No. 52: Unlawful interference with international civil aviation and its facilities**Guidelines for the carriage and screening of liquids, gels and aerosols**

1. The Council gave initial consideration to C-WP/12949 Restricted [with Blue rider (Arabic, Chinese, French, Russian and Spanish) presented by the Secretary General, which proposed guidelines for harmonized procedures for validation of compliance with liquids, gels and aerosols (LAGs) carried by passengers during transfer as developed by the Secretariat Study Group on the Carriage and Screening of Liquids, Gels and Aerosols, and C-WP/12950 Restricted, a report thereon by the Committee on Unlawful Interference (UIC).
2. The Representative of Singapore emphasized the urgent need for the Council to press on with efforts to provide industry with guidelines for LAGs following the two State letters issued on 1 December 2006 and 30 March 2007. He underscored that ICAO's work on LAGs guidelines was still incomplete and that there currently remained much confusion in many airports worldwide. ICAO must complete that work on the new LAGs security measures with a supply chain for the security tamper-evident bags (STEBs), and LAGs sold at airport retail outlets or on board aircraft, as well as on validation of the compliance with those new security measures. The Representative of Singapore noted that his State commended the Secretariat and the said Secretariat Study Group for the work done to develop the supply chain measures and validation processes, given the tight time schedule that had been directed. He recalled that C-WP/12949 Restricted had been developed based on inputs from the Secretariat Study Group which comprised members from different regions and the aviation industry in order to provide a global solution that would also address the different regional operational needs. That paper, which had been submitted to the UIC in April 2007, proposed measures that were currently used by airport retailers in securing duty free items from theft and pilferage and that were effective, implementable and practical.
3. In stressing that the Asia/Pacific regions remained committed to working towards a global, practical and sustainable solution to address the threats posed by LAGs, the Representative of Singapore noted that a group of aviation security experts from the Asia/Pacific regions had reviewed the proposed guidelines and provided additional comments through him to the UIC in April 2007. As reflected in the UIC report, those comments were accepted and incorporated as part of the UIC recommendations to the Council (*cf.* Appendix to C-WP/12950 Restricted). The Representative of Singapore indicated that the original changes proposed by the Asia/Pacific aviation security experts on Section 3 of C-WP/12949 Restricted should be expanded to include the following three suggestions for follow-up before the guidelines were issued. Different regions continued to struggle to address the threats posed by LAGs, including Europe, and there were many other pressures from the industry to provide clearer guidelines in the absence of guidance from ICAO. The Asia/Pacific aviation security experts therefore urged that before any region or Contracting State started to implement and enact any of its new guidelines on LAGs restrictions into its regional or national legislation, ICAO should assist by issuing the new guidelines quickly in order to achieve harmonization globally. The world looked towards ICAO for leadership in providing guidelines and a framework that would harmonize the new security guidelines worldwide and would not look favourably towards any specific region by providing guidelines which might not take into account the different operating conditions of other regions. ICAO should continue to welcome improvements that States might propose to the guidelines, but in the absence of any suggestions, it must proceed to set the baseline standard for the world to follow before any region proceeded to make legislative changes on new security measures on LAGs restrictions that might deviate from the framework that ICAO had intended.

4. The Representative of Singapore noted that his State endorsed the proposals set forth in C-WP/12949 Restricted with the suggested refinements proposed by the UIC as contained in C-WP/12950 Restricted. With regard to the recommended measures for the supply chain for LAGs and validation, his State was satisfied that the two papers provided the key objective and principles on supply chain security on LAGs restrictions and sufficient flexibility on how States might achieve and meet such security objectives through different implementation means without being overly prescriptive. His State urged the Council to endorse the objective and principles contained in the two papers. The Representative of Singapore proposed that a small group comprising Members of the Council be formed to further simplify the guidelines to be issued in a State letter while still maintaining the key objective and principles of C-WP/12949 Restricted and C-WP/12950 Restricted. That would allow the small group to also take into consideration the accommodation of the new guidelines that Europe was currently considering but which would only be made available in a week's time. The State letter, together with the simplified guidelines, should be made available to Representatives no later than the first week of June 2007 to give them time to consult their national administrations and to enable the Council to approve the issuance of the State letter before the end of the current Council session. Furthermore, to help States interpret and implement the measures, the Representative of Singapore proposed that the Secretariat Study Group work on providing guidance material on the LAGs supply chain security and validation process as was done for other ICAO security-related Standards and Recommended Practices (SARPs). He noted that his State was offering to host that meeting in Singapore at a time convenient to all parties.

5. The Representative of Japan fully subscribed to these views. Noting that his State had participated in the said Secretariat Study Group, he expressed appreciation to the Secretariat for having issued the comprehensive guidelines in such a short period of time. The Representative of Japan indicated that, although his State's initial comments on the guidelines were reflected in those submitted by the Representative of Singapore on behalf of the Asia/Pacific aviation security experts (*cf.* Appendix to C-WP/12950 Restricted), it had one additional comment to make regarding the verification carried out by the transit point State. While his State recognized that the guidelines were not mandatory and that consequently the validation procedures for supply chain security might vary from State to State, it considered that such validation should be based on sound technical judgement on matters relevant to aviation security only of the State where the passenger started his journey. The Representative of Japan indicated that he would provide the Secretariat with the text of a proposed new sentence to be added to paragraph 1.2 of the guidelines.

6. Emphasizing the importance of resolving this issue quickly, the Representative of the United Kingdom affirmed that the proposed establishment of a small group would be very helpful. In noting that his State would wish to participate in that group, he enquired as to its composition and the time and location of its meetings. In agreeing with the Representative of Japan on the need to address the problem of transit, the Representative of the United Kingdom queried whether there was sufficient time for it to be considered by the proposed group.

7. In endorsing the comments made by the Representative of Singapore, the Representative of the Republic of Korea observed that there were two issues which were very important for the enhancement of the effectiveness of the guidelines: the universal application of the guidelines in all airports around the world; and their global harmonization, which would facilitate travel. With reference to validation by States, he endorsed the proposal for self-declarations in addition to bilateral agreements and multilateral arrangements. The Representative of the Republic of Korea emphasized, in this context, that although such agreements/arrangements might be more efficient, in light of the difficulty in concluding them at an early date, self-declarations might be very useful. Averring that the fact that the guidelines were not mandatory

would complicate the Organization's work, he underscored that consideration should be given to transforming them into SARPs.

8. The Representative of Saudi Arabia supported the position outlined by the Representative of Singapore, as did the Representative of Saint Lucia. In affirming that the establishment of a small group was a good idea, the Representative of Saint Lucia underscored that confusion at airports had worsened since the Council had discussed this subject during its previous (180th) session. Noting that it would take a long period of time to obtain the consensus of the various States concerned regarding the validation of supply chain security, he enquired whether a simpler way to deal with that matter could be developed.

9. The Chief of the Aviation Security and Facilitation Branch (C/S&F) observed that it would be possible to formulate a simpler process if there was the opportunity to have discussions with all stakeholders, whether they were regional organizations, individual States or the aviation industry.

10. Noting that his government was still grappling with the complicated guidelines, the Representative of India indicated that only the minimum requirements prescribed in the State letters of 1 December 2006 and 30 March 2007 were being implemented in India. In particular, the aviation security regulator was experiencing considerable difficulty with the proposed supply chain management as it was very extensive, covering a wide range of stakeholders, including manufacturers, warehouse owners, retailers, aviation security personnel and airport owners. There were concerns that through the proposed mechanism a police régime would be introduced at all possible levels. Indicating that there were also concerns regarding the security tamper-evident bags (STEBs), the Representative of India noted that manufacturers were experiencing difficulties with them and that the aviation security regulator had an alternate bag which was much simpler. He underscored that there would be cost implications for passengers and an economic impact on the entire airport sector. Averring that the validation process was very complicated, particularly with regard to passengers in transit, the Representative of India agreed that a simpler process should be developed after wider consultation with stakeholders, one that was easy to enforce. He stressed that no time limit should be set for its presentation to the Council.

11. In sharing these views, the Representative of Ghana underscored that the entire process should be examined, from the manufacture of LAGs to their sale to passengers, from the point of view of ensuring the protection of air transport operations. In that way a universally-acceptable conclusion would be reached.

12. Responding to questions raised regarding the envisaged group, the Representative of Singapore suggested that it be comprised of Council Representatives representing each region, as well as of members of the Secretariat. Averring that it was necessary to set a target date for the completion of its work, he proposed 1 June 2007 so that the draft State letter containing the guidelines could be approved by the Council and issued by the end of June 2007 pursuant to the Council's earlier decision (180/16). Although most of the guidelines had already been spelled-out in C-WP/12949 Restricted, the Asia/Pacific aviation security experts considered that some refinements were necessary, possibly including some inputs from Europe.

13. Supporting these proposals, the Representative of Spain affirmed that, with the assistance of the small group, the best solution could be found based on the work which had already been done. Afterwards, consideration could be given to converting the guidelines into SARPs for inclusion in the appropriate Annex, as suggested by the Representative of the Republic of Korea.

14. The Observer from the European Commission in Montreal noted that the European Commission strongly commended ICAO's swift action to develop universal guidelines for the carriage and screening of LAGs and shared the view that a decision should be made as soon as possible to remove confusion. He indicated that the European Commission would take a decision very soon to adopt the "known supplier" approach that was aimed in particular at facilitating the passage of passengers carrying LAGs from third countries in transit through the airports in the European Community. It believed very strongly in a swift decision but a good one. The European Commission would be delighted to continue working closely with ICAO, especially if a group were established or if the Secretariat Study Group were reconvened so that guidelines could be developed that were sufficiently flexible, simplified and clear to ensure that they were workable and could be implemented effectively and rapidly. The Observer from the European Commission indicated that, if a decision were made to convene the proposed group, then it should be borne in mind that the European Commission had participated in the Secretariat Study Group and that it would that body which would be adopting the said "known supplier" approach.

15. In supporting the comments and proposals made by the Representative of Singapore, the Representative of China emphasized the need for quick action in light of the financial losses incurred by airport retailers, particularly those at transit airports, due to the inability of passengers to carry LAGs on board. He noted that his State would wish to be a member of the proposed group.

16. Welcoming the proposals made by the Representative of Singapore, the Representative of South Africa underscored the need for a holistic approach. Averring that it was unilateral actions taken regarding the carriage and screening of LAGs which had created confusion, he emphasized that the establishment of a small group should be supported as it would enable global solutions to be developed for that global problem.

17. In strongly supporting the proposals put forward by the Representative of Singapore, the Representative of Egypt emphasized that the envisaged group should represent all regions of the world to ensure that the resultant guidelines would be universally acceptable.

18. Affirming that the development of the said guidelines was a high priority for all of the world given the threat of terrorism, the Representative of Colombia agreed to the proposed establishment of a group to review all of the work that had been done, not only by the Secretariat Study Group but also by stakeholders. He stressed that, given the urgency of the matter, the final guidelines should be issued in June 2007 at the very latest.

19. In also supporting the proposals made by the Representative of Singapore, the Representative of Pakistan indicated that he shared the concerns expressed by the Representatives of Japan, the Republic of Korea, South Africa, India and Ghana. Underscoring that it was a complex problem which required a fast, effective solution, he affirmed that the proposed small group would take the matter forward in a satisfactory manner. The Representative of Pakistan emphasized that universal application of the guidelines in a harmonized manner which was mutually agreed and which had a validation procedure was a challenge which had to be overcome..

20. The Council then agreed that the President of the Council, in consultation with the Chairman of the UIC, would establish a small Council working group comprising Members from each region, particularly those who had participated in the discussion, to review C-WP/12949 Restricted and C-WP/12950 Restricted with a view to simplifying the proposed guidelines and making them more acceptable to stakeholders. The Council working group would take into account the suggested amendments

submitted in writing to the Secretariat, as well as the soon-to-be-adopted European Commission regulation on the “known supplier” approach. The Council agreed to return to this subject later in the current session.

21. The Council reconvened in open session at 1100 hours to consider the remaining items on its order of business.

— END —

COUNCIL — 181ST SESSION

SUMMARY MINUTES OF THE THIRD MEETING

(THE COUNCIL CHAMBER, FRIDAY, 25 MAY 2007, AT 1000 HOURS)

OPEN MEETING

President of the Council: Mr. Roberto Kobeh González

Secretary: Dr. Taïeb Chérif, Secretary General

PRESENT:

Australia	— Mr. S. Clegg	Japan	— Mr. T. Araki
Austria	— Mr. D. Ruhier (Alt.)	Lebanon	— Dr. H. Chaouk
Brazil	— Mr. V. Elyseu Filho	Mexico	— Mr. D. Méndez (Alt.)
Canada	— Ms. S. Chambers (Alt.)	Mozambique	— Dr. D. Deus
Chile	— Mr. G. Miranda	Nigeria	— Dr. O.B. Aliu
China	— Mr. Tao Ma	Pakistan	— Mr. M. Rauhullah
Colombia	—*Mr. J. Ortiz Cuenca	Peru	— Mr. M. Gamarra (Alt.)
Egypt	— Mr. S. Elazab	Republic of Korea	— Mr. Shin, G.-S.
Ethiopia	— Mr. T. Mekonnen	Russian Federation	— Mr. I.M. Lysenko
Finland	— Mr. L. Lökvist	Saint Lucia	— Mr. H.A. Wilson
France	— Mr. J.-C. Chouvet	Saudi Arabia	— Mr. S. Hashem
Germany	— Dr. K. Kammann-Klippstein	Singapore	— Mr. K.P. Bong
Ghana	— Mr. K. Kwakwa	South Africa	— Mr. T. Peege
Honduras	— Mr. A. Suazo Morazán	Spain	— Mr. L. Adrover
Hungary	— Dr. A. Sipos	Tunisia	— Mr. I. Sassi
India	— Dr. N. Zaidi	United Kingdom	— Mr. M. Rossell
Italy	— Mr. P. Ciancaglioni (Alt.)	United States	— Mr. D.T. Bliss

ALSO PRESENT:

*Mr. R. Macfarlane (Alt.)	— Australia
Mr. R. da Silva Pinto (Alt.)	— Brazil
Mr. A. Mena (Alt.)	— Chile
Dr. J. Han (Alt.)	— China
Mr. E. Falcón Gotopo (Alt.)	— Colombia
Mr. Y. Yanagisawa (Alt.)	— Japan
Mr. Kim, K.-J. (Alt.)	— Republic of Korea
Mr. Min, J.-H. (Alt.)	— Republic of Korea

SECRETARIAT:

*Mr. D. Wibaux	— D/LEB
*Mr. J. Maguire	— C/EAO
Mr. R. Barr	— C/FIN
Mrs. C. Rideout	— CSO

*Part-time

Subject No. 18.4: Contributions by Contracting States and methods of assessment
Subject No. 24.2: Assembly agenda and documentation

Draft Assembly working paper – Confirmation of Council action in assessing the contributions of States which adhered to the Convention

1. The Council had for consideration C-WP/12917, in which the Secretary General presented a draft Assembly working paper on confirmation of Council action in assessing the contributions of States which had adhered to the Convention, and an oral report thereon presented by the Chairman of the Finance Committee.
2. The Council approved the draft Assembly working paper attached to C-WP/12917 for transmission to Contracting States as documentation for the 36th Session of the Assembly

Draft Assembly working paper – Financial aspects of the question of contributions in arrears

3. The above subject was documented for the Council's consideration in C-WP/12921, in which the Secretary General presented a draft Assembly working paper and resolution, and in C-WP/12922, which presented the recommendations thereon of the Finance Committee.
4. The second operative clause of the draft resolution appended to C-WP/12921 was amended to read: "2. **the Council to direct** the Secretary General ~~be directed~~ to dispatch to all Contracting States ...". A similar amendment was made to the action recommended by the Finance Committee in C-WP/12922. In taking the action recommended by the FIC, as amended, the Council:
 - a) amended C-WP/12921 to include an additional paragraph in the Assembly Resolution to read: "11. the Council direct the Secretary General to monitor and review, during the next triennium, the existing incentives for the payment of long outstanding arrears and make proposals to the next ordinary Session of the Assembly, as necessary, to reinforce the measures taken to reduce contributions in arrears"; and
 - b) approved the draft Assembly working paper appended to C-WP/12921, as amended, for transmission to Contracting States as documentation for the 36th Session of the Assembly.

Subject No. 18.14: Other finance matters for consideration by Council
Subject No. 24.2: Assembly agenda and documentation

Draft Assembly working paper – Incentive scheme for settlement of long-outstanding arrears (Report on Assembly Resolutions A34-1 and A35-27)

5. The Council had for review C-WP/12923, in which the Secretary General presented a draft Assembly working paper entitled "Incentive scheme for settlement of long-outstanding arrears (Report on Assembly Resolutions A34-1 and A35-27), and C-WP/12924, in which the Finance Committee presented its recommendations.
6. The Representative of Spain wished to place on record that he could not endorse the action proposed by the Secretary General in C-WP/12923, since it was not in compliance with what the Assembly had wanted the funds to be used for when the scheme had been put in place.

7. Referring to concerns voiced by the Representatives of Nigeria, Saint Lucia and Mozambique in connection with the title of the two working papers, which was inconsistent with the papers' contents and therefore misleading, the Chairman of the Finance Committee indicated that the issue of rationalization of Assembly Resolutions had been raised a number of times in the past and that some activities should be initiated in that regard.

8. The Representative of the United States requested that the Council refer C-WPs/12923 and 12924 to the Finance Committee that they could be taken into consideration as the Finance Committee prepared its recommendations to the Council on the budget for the next triennium.

9. It was understood that the title of the draft Assembly working paper would be amended in light of the discussion to more accurately reflect the paper's contents. In taking action on the basis of the recommendations of the Finance Committee, the Council did not approve the use of the funds as noted in paragraph 3 of the draft Assembly working paper. The Council delayed a decision on any future use of the funds until after the finalization of the 2008-2010 Budget, and referred C-WPs/12923 and 12924 back to the Finance Committee with the understanding that it would return to the subject after finalization of the budget for the 2008-2009-2010 triennium.

**Draft Assembly working paper and report on the use of the Information
and Communication Technology (ICT) Fund and possible means
of financing the modernization of financial systems**

10. The Council had for consideration a draft Assembly working paper on the above subject, presented by the Secretary General in C-WP/12929, and an oral report presented by the Chairman of the Finance Committee. In taking the action proposed in the C-WP/12929, the Council:

- a) approved the transfer, in 2007, of \$1.6 million from the Regular Programme appropriations, carried over from 2006 (C-DEC 179/17), to the ICT Fund;
- b) retained the excess funds currently available for IRIS as contingency until the project is completed; and
- c) approved the draft Assembly working paper attached to C-WP/12929 for transmission to States as documentation for the 36th Session of the Assembly.

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

Report of JIU – “Oversight Lacunae in the United Nations System” (JIU/REP/2006/2)

11. The above subject was documented for the Council's consideration in a paper presented by the Secretary General (C-WP/12745), and a report thereon presented by the Finance Committee in C-WP/12856.

12. C/EAO indicated that in paragraph 2.4 of the Finance Committee's report, it was noted that an oral presentation would be provided by the Secretariat on the practices of other UN Organizations with the UN System concerning issues of funding and languages in the presentation of this subject. C/EAO

accordingly provided a brief presentation of the knowledge which he had concerning the number of committees, whether they be oversight committees or oversight boards or audit committees. Audit committees had existed in the UN system for a considerably longer time than oversight boards or oversight committees. Most of these committees were internal and therefore there were very few language services provided except when it came to reporting to the ruling body, in which case the reports were always provided in all of the official languages. There were relatively few oversight boards and where boards were considered part of the ruling body, translation was provided. The FAO and WHO, were examples of where a subsidiary body reported to the ruling body itself and language services were provided. In other organizations, entities which were not considered to be necessarily part of the ruling body were treated more or less as internal meetings similar to what ICAO would have within the Secretariat, and language services were not provided. In the UN in New York, there was an audit committee and a proposal for an oversight board was still being discussed. Nothing had been decided at this point in time, and it would depend on whether the board was considered part of the ruling body. One other consideration had to do with confidentiality and efficiency; in many cases the audit committee was considered to be an internal body without languages being provided simply because it was more efficient and helped with confidentiality and the free-flow of information within the Secretariat itself. It would be necessary to take into account the needs of the Organization and the needs of the budget and the considerable budgetary constraints.

13. The Representative of Mexico wished to reiterate the position which he had stated in the Finance Committee, to the effect that ICAO, given its peculiarities, was quite different from other organizations in the UN System; it had a permanent Council, a Finance Committee, an External Auditor, and an Internal Auditor. It was for this reason that his Delegation did not think that the proposal to establish an oversight board was a good idea. Given the very size of the Organization and the procedures followed, there was absolutely no justification for such a board, given that oversight mechanisms were in place in the form of the External Auditor and the Finance Committee. If one turned to the proposal in paragraph 4.3, one could see that many of these duties and functions were already being provided on a continual basis in the Organization. The Representative of Mexico recognized that the proposal concerned a recommendation of the JIU, but pointed out that the recommendation was related to irregularities found in the Oil for Food Programme in the United Nations and was in no way related to ICAO. The proposal was therefore useless, futile and actually called into question the output of the work of the internal oversight mechanisms already in ICAO. Whereas ICAO wanted to move more quickly than the United Nations in many cases, in others, such as languages, it wanted a more restrained approach to their solution. The Representative of Mexico appealed to the Council to be consistent in deciding whether it aligned itself with the UN or not.

14. The Representative of Chile wished to endorse *in toto* what had been said by the Representative of Mexico. The Council was envisaging the establishment of a board without a clear indication of how much it would cost, at a time when, given the current situation in the budget, it was imperative to have this information. ICAO found itself in a financial crisis and it was envisaged that the Council go along with recommendations that in no way corresponded to the current needs and requirements of the Organization. The Representative of Chile proposed that the subject be studied in greater depth and that its implementation be deferred until the Council had clarified certain considerations, such as the cost.

15. The Representative of Pakistan supported the position of Mexico and Chile. To set up an ICAO oversight board in the present scenario would be a little too ambitious, since there were already other audit mechanisms in the form of a Finance Committee composed of exceptional Council members and a permanent Council which had oversight on all activities of the Organization. When compared to the United Nations, ICAO's output and programmes were not considered to be of such magnitude, either in terms of scope or financial outlay, to warrant burdening the Organization's workload with an additional oversight

board composed of representatives from different States. The working paper could be taken on board as a distant future proposal with the understanding that more analysis would be needed on its feasibility and suitability to ICAO. This time delay would give the Council an opportunity to further assess its in-place oversight instruments and to judge the practical need of establishing such a board.

16. The Representative of France wished to speak in the same vein as previous speakers. It would be necessary to take into consideration the characteristics and the requirements of each organization; ICAO was a relatively small one and it was unique because it had a permanent Council constantly monitoring its activities and services. ICAO also had a Finance Committee that was constant. Paragraph 3.1.3 of C-WP/12745 indicated that the Finance Committee could play the role of this oversight board; the only problem was that the Committee had more members than the JIU recommended, but one could have an *ad hoc* group in the Finance Committee with a restricted number of members who had experience in oversight. Such an arrangement would cost far less than having an oversight board from the outside meet once or twice a year. Discussions in the Finance Committee had shown that elements were obviously not yet mature, nor were they sufficiently clear when it came to the overall UN System because situations differed greatly and there was no true common thread. For these reasons, the Representative of France felt that it would be better not to endorse the establishment of such a board.

17. The Representative of the Russian Federation wished to fully endorse what had been said by the Representative of Mexico. The JIU, in its report, was working in circumstances in which billions of dollars had been entailed. He also agreed fully with what had been said by the Representatives of Chile, Pakistan and France, and did not endorse the establishment of yet another oversight board in the Council.

18. The Representative of Brazil agreed fully with the previous Delegations, especially the Delegation of Mexico. His Delegation had a particular concern with the idea of establishing the oversight board on a trial basis, because experience showed that it was much easier to create a new board than to terminate it. In other word, nothing was more permanent than the provisional. He therefore had reservations on the proposal. The Representative of Saudi Arabia felt that there was no benefit in establishing an oversight board and giving it the same remit, more or less, as that of the standing Council. He therefore endorsed what had been said by the Representative of Mexico and others who have spoken before him. The Representative of Egypt wished to endorse what had been said by the Representatives of Chile, Mexico, France and Saudi Arabia, and recommended that the Council take no action on the subject before it had looked carefully into the need for the creation of such a body and examined all the roles of the respective bodies that functioned within the Organization.

19. The Representative of Germany was sorry to disagree with previous speakers, .but continued to support the proposal since ICAO was a member of the UN family and the establishment of such a board has been recommended for all UN agencies, and it was suggested as a precautionary measure. Until audited or supervised, no organization would really acknowledge that it needed oversight. Organizations where abuse happened would not ask for oversight. It was therefore in the interest of the Organization's image that it needed to establish such a body. When it came to the cost, the Representative of Germany could not see why it was more costly than a sub-committee of the Finance Committee, because it was recommended that States who provided the experts bear the costs for them and the only additional cost would be interpretation and translation. If the Council could agree on such a board being considered and treated like a group of experts, it could work in one language as recommended by the Finance Committee and there would not be any additional cost to the Organization. Her Delegation would therefore strongly be in favour of implementing the recommendations of the JIU.

20. The Representative of the United Kingdom wished to join Germany in supporting the need for an oversight board. He had been surprised to hear some of his colleagues from the Finance Committee speaking against it, since this was a recommendation from the Finance Committee itself. The Finance Committee recognised the special nature of ICAO and had proposed a very light touch, which was commensurate with that special nature. It was important to recognise that the oversight committee was a committee which reported to the Assembly and not to the Council. It was therefore above the Council and would only be reporting on situations of an exceptional nature, and those are those which were recognised within the terms of reference. His question to those who were speaking against the establishment of the oversight board was – what are you afraid of? It did seem strange that, where the Council had such a clear recommendation, people were speaking against it. As to the nature of the Council, its Members were not experts in oversight, which was a specialised skill. He therefore thought that it was important that ICAO be seen to be consistent with the UN, that it have tempered the requirements of the UN to reflect the special nature of ICAO, but that it should be seen to be “cleaner than clean”. The Representative of the United Kingdom therefore strongly recommended that ICAO have an oversight board, and he strongly endorsed the conclusions of the Finance Committee.

21. The Representative of Australia recalled that the JIU report had addressed a crisis in confidence in the United Nations System. While it was true that that crisis had focussed on the activities in New York, as an Organization that was one of the UN family, ICAO was affected by such events. The JIU had come out with a fairly thorough study of the arrangements in place in all the international organizations, and had highlighted those which were considered to meet the various requirements and those which perhaps had some additional measures to take before they met the desired outcomes from the UN System. The proposal that the Finance Committee had come up with was probably one of the most pragmatic solutions that could have been developed. A very heavy formal arrangement could have been put in place, but the approach had been to use something akin to a Panel, a very small Panel at that, and the Organization had a large number of Panels. When one took into account the various meetings that Regional Offices convened, ICAO had approximately 100 or 150 meetings that occurred on a regular basis. What was being proposed was simply one more meeting. Some Representatives seemed to be more concerned about the cost than was the case when any other meeting for any other purpose was agreed upon.

22. As both Germany and the United Kingdom had outlined, this was a “light touch” precaution to make sure that the Council and the Assembly had some independent advice from experts. The Council would not contemplate any decisions on flight crew licensing without taking advice from experts, and the Representative of the United Kingdom could not see why having some experts to advise it on these important areas caused so much trouble. One of the interesting points that the JIU had highlighted was that the Organization did not have an independent reporting mechanism for people in the Secretariat who may think there was something of concern that they wanted to highlight. They had to use internal mechanisms, and the problem with internal reporting was that people could suffer consequences so they did not necessarily choose to report. One of the important roles the body could play was to serve as a forum whereby complaints or whistle blowing could be addressed properly. It would be decided whether a complaint was malicious in nature or whether there was something that needed proper investigation. The Representative of Australia saw a very definite role for the board in advising the Assembly on the Organization’s activities; indeed, in the Finance Committee’s report, there was mention of States which preferred that the Assembly would nominate the members. Australia was one of those States, although it would be happy for the alternative of confirmation by the Assembly. Given the importance of the subject, if the Council could not come to a decision at this time, it should refer it to the Assembly.

23. The Representative of the United States indicated that he had initially had a great deal of scepticism regarding the proposal because ICAO did have a lot of entities that provided oversight and he was

conscious of cost constraints and putting additional burdens on the Secretariat at the same time that the Council was making very demanding fiscal restraints. As the subject had evolved, he had become increasingly convinced that the Secretariat had provided the Council with a very cost-effective approach to the issue and had done everything possible to minimize the cost and concentrate on the real needs. He was also persuaded by some of the comments made by the Representatives of Germany, the United Kingdom and Australia about the importance of ICAO's participation in the UN family, taking the steps that were responsible to show that it was doing everything it could to have the most efficient organization with high standards of integrity and expertise. ICAO was really setting a good example in the UN System, and in Washington that was very important. The Representative of the United States wished to see that message made more clearly because the UN System, not including ICAO, was subject to a great deal of debate and controversy in his country. Although ICAO wished to be at the forefront, in order to take into account the concerns that had been expressed, it was possible that the Council could approve the proposal but not implement it right away, and wait until an occasion presented itself where it was necessary to invoke it. Perhaps, as the Representative of Australia had said, if the Council could not agree on the proposal it could refer it to the Assembly for consideration because it was a very important initiative.

24. The Representative of Nigeria continued to have difficulty, notwithstanding the eloquent speeches made by the Representatives of Australia, the United Kingdom and the United States, for some reasons – not only of cost – but the fact that ICAO was one of just a few organizations with a Council, and the Convention had given it some responsibilities to carry out. The Representative of Australia had said that ICAO used many Panels. The arrangement proposed was not one of a Panel, since it had been said that it would in a sense be above the Council. Whereas Panels advised the Council and it was the Council that reported to the Assembly; the proposal was for a body that would report independently to the Assembly. That was the source of considerable concern. If the body would advise the Council on the performance of its oversight functions, the format might be different. Whereas the Council could defer the matter, the Representative of Nigeria found it difficult to agree that the Council approve the proposal now and then implement it later.

25. The Representative of the Republic of Korea wished to join those speakers who were in favour of creating the oversight board, and advocated a leadership role for ICAO in this area. The creation of an oversight board could be considered in terms of two elements; i.e. responsibility and cost. The Representatives of the United Kingdom and Australia had explained that the proposal concerned an entity which would be above the level of those in place at ICAO for both internal and external audit, and cost would not be so much of a concern because the working methods of the oversight board would be along the lines of a study group. The bulk of the cost would be borne by the States involved and only a fraction would be paid by the Secretariat. If only one language was used, then those costs which would be paid by the Organization would be negligible.

26. Commenting briefly, the Representative of Canada wished to reiterate the position she had taken in the Finance Committee, to the effect that Canada would join those in support of the establishment of the oversight board.

27. Responding to the question which had been raised by the Representative of the United Kingdom, who had asked what Representatives were afraid of if they refused to set up an oversight board, the Representative of Saudi Arabia had the impression that if he did not respond, the question would serve as an accusation. Certain Representatives wished to avoid redundancy in ICAO's operations because the Council already carried out the functions outlined in the proposal. To approve the proposal would only increase the bureaucratic activities of the Organization. The Representative of Saudi Arabia wished to affirm that Representatives were not afraid of anything whatsoever in expressing their reservations.

28. The Representative of France wished to clarify, in response to certain comments which had been offered, that the position of the Finance Committee was not unanimous. In many cases, many divergent views had been expressed, as was indicated in the Finance Committee's report. As regards the substance of the matter, his own way of thinking was exactly opposite to the way of thinking of the United Kingdom. Even though the Representative of France supported rigorous controls, he was not all that favourable to the establishment of such an oversight board because it would be costly. Clarification would be needed on the relationship of the board vis-à-vis the Council. It was indicated that the board would be above the Council, notwithstanding the Council's role as the governing body. As regards cost, most certainly the basic costs of the Organization would be reduced by voluntary contributions from States; and yet if this was an essential function of the Organization, it should fall within the Regular Budget and not voluntary contributions. It would be highly desirable to make sure that the oversight mechanisms were in hand to allow the members of the Organization to alert those who were in charge of any information that was available to them. A special function could be identified within the Finance Committee, with the understanding that the Committee could, with respect to this special function, seek outside help and outside consultants. It would therefore not be absolutely necessary to set up a different body which, in his view, was not best suited here.

29. The Representative of Japan wished to join the voices who supported the establishment of an oversight board. There were more gains and not too much to lose by doing so, and since ICAO was a member of the United Nations, it should act in conformity with UN practices. Since there were some doubts or fears related to budgetary reasons primarily, and since there was nothing more permanent than a temporary measure, the Council could return to the subject in three years' time, receive a report and decide once again. The Representative of Germany supported the proposal put forward by Japan.

30. The Representative of Spain supported what had been said by the Representative of France. It was premature to take a decision and he was concerned about adding another level of bureaucracy to ICAO's procedures. It would be preferable to defer a decision until after the forthcoming session of the Assembly.

31. The Representative of Brazil supported what had been said by the Representative of Spain; the Council needed more study and any decision at this stage, be it to implement on a provisional basis for a limited period of time or to approve the proposal and implement it later, seemed somewhat premature. Brazil had no particular concern with the idea itself, but costs were involved and any trial application would have to take place against the background of clear knowledge of the costs involved. There was also a need to know more clearly if there was no repetition of functions with the entities that already existed and that provided oversight in one way or another in ICAO. ICAO was considered one of the best organizations of the UN System and should not have to automatically follow all of the solutions proposed for the UN, which was a much larger organization and covered a much wider range of subjects.

32. On the basis of the information provided by C/EAO, the Representative of Mexico observed that audit boards appeared to be incipient in the United Nations family and carried out the same function as the Finance Committee of ICAO and the Organization's Office for Evaluation, Audit and Management Review (EAO). The Council could defer a decision until the next triennium and evaluate each of the functions laid down in paragraph 4.3 of Appendix A to C-WP/12856. It should evaluate exactly what was being done by the External Auditor, the Internal Auditor, and the Finance Committee, and evaluate whether they were working properly. If any of these activities were not being carried out in-house the Council would have to decide how the problems were going to be resolved; whether it be by setting up a board or by hiring an external consultant or expert. As regards cost, if savings were to be realized because this activity would

be paid by States, the only States who would be able to participate would of course be the countries with the most resources; the others would simply serve as observers and support morally those experts who had the financial resources. The Representative of Ethiopia wished to associate his Delegation with the position of Mexico. As observed from the FIC report, divergent views were reflected and some more time was needed to make a decision.

33. The Representative of the United States wished to comment on the statements that had been made to the effect that the Council needed to further study the proposal. Every time the Council studied something, that constituted a cost to the Secretariat and a smaller staff was expected to undertake these studies. This was perhaps the fourth time in a little over a year that this issue had come up for consideration. Each time more information was presented and the Representative of the United States believed that the Council should at least establish the board, even if it did not need to implement it immediately. At least in principle, the Council should accept the proposition that ICAO had a responsibility to look at how it could do this as part of the UN System and have something in place that could be called upon if needed. The Representative of the United States was concerned that ICAO not become an Organization that took a lot of time and resources of the Council or the Secretariat to perform duties that were redundant. The board should be used very selectively at first to see how it worked. The three-year proposal by Japan was certainly a good one, but those who were calling for more studies, the Representative of the United States urged them to spend some time with the Secretariat and look at the work that had already been done because it seemed that the Council had studied this quite a bit and that a reasonable compromise had been developed. The Representatives of Italy and the United Kingdom supported what had been said by the Representative of the United States.

34. The Representative of Finland indicated that his Administration did not really see any practical importance of establishing an oversight board along the lines of what was proposed. ICAO had enough auditors, both internal and external, and they were doing a good job and were well respected. The Council had to of course take some account of what was recommended for the UN family. The best solution was the one suggested by the United States: yes, establish this oversight board in principle but leave it for later to activate. That solution would not give rise to any immediate cost, and the Council could come back to it when appropriate. The Representative of Finland saw no use to continue deferring the proposal for further study or until the time of the next session of the Assembly.

35. The Representative of South Africa indicated that he had looked at the subject holistically from the checks and balances which had been place for the Organization, including EAO, the External Auditors, and the business planning process which was in place. As the Delegation of Nigeria had rightfully said, the concern was not so much from a financial point of view but from that of reporting criteria. There was a need to identify from the onset the reporting structures of this board. C/EAO indicated that the JIU had recommended that the board be established under the authority of the governing body, and also have responsibilities to include review of internal oversight and make recommendations to the governing body. In ICAO, when the Assembly was not in session the governing body was the Council. In noting this clarification, the Representative of Nigeria strongly believed that the board should report to the Council and not to the Assembly. Whereas other agencies did not have a governing Council, and their secretaries general did their work and reported to the Assembly, ICAO had a governing Council and any oversight body that it set up on the recommendation of the JIU should report to it

36. In taking action on the basis of a summary proposed by the Representative of the United States, the Council agreed in principle that effective oversight was essential for all United Nations organizations, including ICAO. It was important that the Council ensure that it had in place, in a

cost-efficient way, the entities that were necessary to ensure effective oversight for issues that may arise, for which Members of the Council may not be in a position to address fully.

37. The Council commended the Secretariat on its work in trying to find the most cost-effective way of approaching the subject, and, while noting that several Representatives would have preferred to take a decision to establish an oversight body during the current (181st) session, referred the Secretary General's proposal in C-WP/12745, together with the Finance Committee's report in C-WP/12856, back to the Finance Committee to consider the additional issues raised by the Council during the discussion, and to report back on the subject during the next (182nd) session.

38. The Council directed the Secretary General to report to the 36th Session of the Assembly on the status of the Council's consideration of oversight responsibilities in implementing the JIU's recommendations.

Subject No. 18.1: Working capital fund

Detailed procedures for the use of the Long-Term Foreign Exchange Reserve Fund

39. The Council considered the above subject on the basis of a paper presented by the Secretary General (C-WP/12938) and an oral report thereon presented by the Chairman of the Finance Committee.

40. In taking the action recommended in C-WP/12938, the Council approved the detailed procedures contained in paragraph 2 of the paper, pending the decision it would take regarding paragraph 3, where it was indicated that in the event that the proposed budget for 2008-2009-2010 was approved in full Canadian dollar currency, the Long Term Exchange Reserve Fund would not be necessary.

Other business

Circulation of Information Papers under cover of PRES Memoranda

41. The Council agreed that Information Papers entitled "Status report of the External Auditor's recommendations on the 2005 and prior financial years" (C-WPs/12945 & 12946); "Progress report regarding Contracting States that have given their consent to the publication of relevant safety oversight audit information (C-WP/12966), "Recruitment and status of Women in ICAO" (C-WP/12958); and "Litigation report summarizing the claims and complaints which have been made against the Organization" (C-WP/12981), all of which were in the Work Programme for the 181st Session, would be circulated under cover of PRES Memoranda, in addition to the papers already indicated in the President's Memorandum PRES/RK 1368 dated 7 May 2007.

Status of Observers in the Council

42. The following legal clarifications were provided by D/LEB on the status of Observers in the Council.

43. The Chicago Convention is silent on the issues of the procedure to invite Observers from international organizations or other bodies to the meetings of the ICAO Council and of the rights and obligations of such Observers

44. Rule 32 a) of the *Rules of Procedure for the Council* provides that « the Council may invite non-Contracting States and international organizations or other bodies to be represented at any of its meetings by one or more Observers. ». Rules 32 b) and c) provide for a specific procedure for the invitation to Council meetings of Observers from the United Nations and the Specialized Agencies respectively.

45. The Definitions section of the Rules gives the following definition of an Observer :

« a person representing a Contracting State not represented on the Council, a non-Contracting State, an international organization or other body, designated and authorized by his State or organization to participate in one or more of the meetings of the Council without the right to vote or to move or second motions or amendments, under such further conditions as the Council may determine and holding credentials as evidence of his appointment. »

46. By virtue of Rule 37, meetings of the Council shall be open to the public unless the Council decides otherwise. Rule 38 relating to the closed meetings provides that closed meetings shall be « open to the Alternates and Advisers accompanying the Representatives, to Observers from any other Contracting State, unless the Council decides otherwise as well as to the members of the Secretariat whose attendance is necessary to the conduct of the meeting or is desired by the Secretary General, and to any other persons invited by the Council. »

47. Consequently :

1) The status of permanent observer from a State or an international organization in the ICAO Council does not exist.

2) The Council has the authority to invite international organizations and other bodies other than the UN and its Specialized Agencies to be represented at any of its meetings by one or more Observers.

3) Once invited to a Council meeting, an Observer shall have no right to vote or to move or second motions or amendments. He or she shall also comply with any further conditions determined by the Council.

4) The Council may invite any person to attend a closed meeting including an Observer representing an international organization or other body. The Council can set conditions on such participation or attendance.

48. It was understood that these clarifications would be circulated in writing to Representatives on the Council.

49. The meeting adjourned at 1300 hours.

— END —

COUNCIL — 181ST SESSION

SUMMARY MINUTES OF THE FOURTH MEETING

(THE COUNCIL CHAMBER, MONDAY, 28 MAY 2007, AT 1430 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. T. Araki
Australia	— Mr. S. Clegg	Lebanon	— Dr. H. Chaouk
Austria	— Ms. S. Gehrer	Mexico	— Mr. D. Méndez (Alt.)
Brazil	— Mr. V. Elyseu Filho	Mozambique	— Dr. D. Deus
Canada	— Ms. S. Chambers (Alt.)	Nigeria	— Dr. O.B. Aliu
Chile	— Mr. G. Miranda	Pakistan	— Mr. M. Rauhullah
China	— Dr. Jun Han (Alt.)	Peru	— Mr. M.A. Gamarra (Alt.)
Colombia	— Mr. J. Ortiz Cuenca	Republic of Korea	— Mr. Shin, G.-S.
Egypt	— Mr. S. Elazab	Russian	— Mr. I.M. Lysenko
Ethiopia	— Mr. T. Mekonnen	Federation	
Finland	— Mr. L. Lövkvist	Saint Lucia	— Mr. H.A. Wilson
France	— Mr. J.-C. Chouvet	Saudi Arabia	— Mr. S. Hashem
Germany	— Dr. K. Kammann-Klippstein	Singapore	— Mr. K.P. Bong
Ghana	— Mr. K. Kwakwa	South Africa	— Mr. T. Peege
Honduras	—*Mr. A. Suazo Morazán	Spain	— Mr. L. Adrover
Hungary	— Dr. A. Sipos	Tunisia	— Mr. I. Sassi
India	— Dr. N. Zaidi	United Kingdom	—*Mr. M. Rossell
Italy	— Mr. P. Ciancaglioni (Alt.)	United States	— Mr. D.T. Bliss

ALSO PRESENT:

Mr. B. Ramfjord (President, ANC)	
Mr. M. Keller (Adviser)	— Austria
Mr. E. Gissurarson (Alt.)	— Finland
Mr. P. Pape (Alt.)	— France
Mr. B. Thébault (Alt.)	— France
Mr. T. Burlage (Alt.)	— Germany
Mr. Kim, K.-J. (Alt.)	— Republic of Korea
Mr. Min, J.-H. (Alt.)	— Republic of Korea
Mr. Yu, K.-S. (Alt.)	— Republic of Korea
Mr. M. Fernando (Alt.)	— Singapore
Mr. A.G. Sayce (Alt.)	— United Kingdom
Mr. S.P. Creamer (Alt.)	— United States

SECRETARIAT:

*Mr. D. Wibaux	— D/LEB
Ms. N. Graham	— D/ANB
*Mr. R.J. Heighes-Thiessen	— D/TCB
Mrs. F.A. Odutola	— D/ATB
*Mr. V. Zubkov	— C/PCO
*Mr. J. Begin	— DD/ATB
*Mr. O. Magnusson	— C/EPM
Mr. J. Nagle	— C/CNS
*Mr. H. Pretorius	— PCO
*Mr. C. Gauthier	— Co-ordinator, JF
Miss S. Black	— Précis-writer

*Part-time

1. The Secretary General introduced to the Council the three newly-appointed Directors, namely Ms. N. Graham, the Director of the Air Navigation Bureau (D/ANB), Mr. R.J. Heighes-Thiessen, the Director of the Technical Co-operation Bureau (D/TCB) and Mrs. F.A. Odutola, the Director of the Air Transport Bureau (D/ATB). In welcoming the Directors on behalf of the Council, the President expressed confidence in their full co-operation in responding to the expectations of ICAO Contracting States, which was the Organization's main responsibility.

Subject No. 17.1: Joint Financing Agreement with Iceland

Report of JSC — Renewal of the voice communications control system for the Reykjavik Oceanic Area Control Centre

2. Following a review of the report of the Joint Support Committee (JSC) (C-WP/12961) on this subject, the Council took the action recommended by the JSC and:

- a) approved the proposed renewal of the voice communications control system at the Reykjavik Oceanic Area Control Centre as described in paragraphs 2 and 3 of the paper;
- b) approved the incorporation of the proposed capital expenditure (US \$2 558 400), subject to audit, in Annex II to the Icelandic Joint Financing Agreement, as shown in paragraph 3 of the paper; and
- c) requested the Secretary General to inform the Government of Iceland and other Contracting Governments to the Icelandic Joint Financing Agreement of the above action.

Report of JSC — Installation of a secondary surveillance radar in the Faeroe Islands

3. The Council then considered the report of the Joint Support Committee (JSC) (C-WP/12962) on the above subject and, in taking the action recommended by the JSC:

- a) approved the proposed installation of a secondary surveillance radar at Sornfelli in the Faeroe Islands as described in paragraphs 2 and 3 of the paper;
- b) approved the incorporation of the proposed capital expenditure (US \$2 405 000), subject to audit, in Annex II to the Icelandic Joint Financing Agreement, as shown in paragraph 3 of the paper; and
- c) requested the Secretary General to inform the Government of Iceland and other Contracting Governments to the Icelandic Joint Financing Agreement of the above action.

**Report of JSC — Renewal of HF voice communication transmitters under the
Icelandic Joint Financing Agreement**

4. The Council took the action recommended by the Joint Support Committee (JSC) in its report on this subject (C-WP/12963) and:

- a) approved the proposed renewal of three HF voice communication transmitters at the Gufunes Communication Centre as described in paragraphs 2 and 3 of the paper;
- b) approved the incorporation of the proposed capital expenditure (US \$506 000), subject to audit, in Annex II to the Icelandic Joint Financing Agreement, as shown in paragraph 3 of the paper; and
- c) requested the Secretary General to inform the Government of Iceland and other Contracting Governments to the Icelandic Joint Financing Agreement of the above action.

Subject No. 16: Legal work of the organization

Subject No. 17: Joint financing of air navigation services

**Report of JSC — Delegation of authority to the Joint Support Committee (JSC) under
Article 52 of the Chicago Convention with respect to responsibilities under the
Joint Financing Agreements**

5. The Council then examined C-WP/12965, in which the Joint Support Committee (JSC) presented a draft instrument of delegation of authority to the JSC of specific responsibilities under the Danish and Icelandic Joint Financing Agreements.

6. In emphasizing that the proposed delegation of authority to the JSC constituted a precedent for delegation of authority to other Standing Committees of the Council, the Representative of Argentina drew attention to the fact that paragraph 5 of the draft instrument did not clearly set out the procedure to be followed in the event that the Council was requested by a Contracting Government to the Danish and Icelandic Joint Financing Agreements to review a decision taken by the JSC under the delegation of authority. In particular, it did not indicate if such a decision would be suspended until after the Council had completed its review. He underscored that it was essential to resolve that issue as it could give rise to serious difficulties in the future.

7. The Representative of Spain noted that, although he was a Member of the JSC and his State was a party to the Danish and Icelandic Joint Financing Agreements, he did not support the proposed delegation of authority. Underscoring that it was not only the aircraft of Contracting Governments to the two Agreements that availed themselves of the air navigation facilities and services provided thereunder, he averred that the Council, as the governing body of the Organization, should continue to take decisions on joint financing-related issues. Recalling that the United Kingdom Civil Aviation Authority (CAA) acted as the agent of Denmark and Iceland for the billing and collection of the charges and that it was the United Kingdom Parliament which oversaw those activities, the Representative of Spain also maintained that it was thus only logical for the latter's related decisions to be presented to the Council for consideration. He emphasized that the Council should not abnegate its responsibilities under the said Agreements, particularly at the present time when it was deliberating on the Organization's future. The Representative of Spain contended that the proposed delegation of authority would diminish the Council's importance and reduce its

capacity for quality control of actions carried out by the Organization. He stressed that, although the Council usually approved JSC reports without discussing them at great length, there were instances when it did consider certain joint financing-related issues in detail. The Representative of Spain thus considered that it should be the Council and not the JSC which should be tasked with the oversight of the Danish and Icelandic Joint Financing Agreements.

8. The Representative of Finland observed that his State was pleased with the proposed delegation of certain responsibilities to the JSC. It considered that the Committee was, and would continue to be, representative of the Council as a whole and it did not foresee any problems arising in connection with the delegation of authority. Referring to the point raised by the Representative of Argentina, the Representative of Finland maintained that paragraph 5 of the instrument of delegation of authority would not create difficulties as States would only rarely avail themselves of the appeal procedure. Emphasizing that the Council seldom debated matters which had already been reviewed by the JSC, as pointed out by the Representative of Spain, he underscored that that demonstrated that the proposed delegation of authority would be beneficial. The Representative of Finland noted that it would also save some paperwork and, by implication, a small amount of money. He thus affirmed that the delegation of authority should be fully supported by the Council.

9. Endorsing these comments, the Representative of the United Kingdom stressed that the fact that the Council had spent so little time discussing the first three items on its order of business for the present meeting showed that it could very safely delegate authority to the JSC as proposed. Referring to a comment made by the Representative of Spain, he emphasized that his Government was not opposed to the said delegation of authority. The Representative of the United Kingdom noted, in this context, that it had delegated its authority so that its responsibilities under the Danish and Icelandic Joint Financing Agreements were now carried out administratively rather than through the Parliament. Affirming that the procedure for dealing with joint financing-related matters through the JSC was well-established and mature and thus suitable for delegation of authority and that the latter would in no way diminish the outcome of the work, he voiced full support therefor.

10. While the Representative of Nigeria did not have any problem with the proposed delegation of authority to the JSC, he sought clarification regarding paragraph 1 f) and i) of the draft instrument of delegation of authority on the determination of the user charge per civil aircraft crossing and the establishment of the ICAO administrative fee per civil aircraft crossing. Noting that, pursuant to paragraph 3, the JSC would provide the Council annually with a summary report of the activities carried out under the delegation of authority, he underscored that the new user charge and the ICAO administrative fee might be applied before the Council had the opportunity to review them. The Representative of Nigeria indicated that, while it was possible that in most cases the Council would ratify the decisions taken by the JSC regarding the user charge and the ICAO administrative fee, it was necessary to take into account that in some instances the Council might have a different view than the JSC. He queried how a decision then taken by the Council regarding the user charge and the ICAO administrative fee would be applied retroactively. Noting, from paragraph 5, that only interested Contracting Governments to the Danish and Icelandic Joint Financing Agreements could request the Council to review a decision taken by the JSC under delegation of authority, the Representative of Nigeria enquired why other Governments would not be able to request such a review.

11. The Representative of Germany expressed strong support for the proposed delegation of authority to the JSC. Referring to paragraph 5 of the draft instrument of delegation of authority, she queried how States would be informed of the date of the Committee's decision and suggested that it might be more appropriate to specify that a request for a review by the Council of a JSC decision should be submitted within

sixty calendar days of the circulation of the minutes of the relevant JSC meeting rather than within sixty calendar days from the date of the Committee's decision.

12. The Representative of Austria also supported the delegation of authority, for the reasons cited by previous speakers. Concurring with the Representative of Argentina that it would serve as a precedent for the delegation of authority to other Standing Committees of the Council, she underscored that, in general, such delegation of authority should go hand-in-hand with appropriate rotation in the Committees' membership.

13. Responding to questions raised regarding paragraph 5 of the draft instrument of delegation of authority, the Deputy-Director of the Air Transport Bureau (DD/ATB), who also served as the Secretary of the JSC, recalled that when the Committee had reviewed the draft instrument, it had considered that information on the JSC's deliberations and actions would be provided to the Contracting Governments to the two Agreements as soon as possible. No absolute timeframe had been defined. It should be kept in mind, however, that there was already a mechanism in place whereby the Secretary General communicated significant JSC decisions to the said Contracting Governments. DD/ATB emphasized that the intent of paragraph 5 was to offer the Contracting Governments the opportunity to respond to the JSC's decisions while setting a reasonable deadline therefor so that the progress of the two Agreements would not be stymied by a lack of responsiveness.

14. DD/ATB further underscored that the instrument of delegation of authority had been drafted with the explicit intent of delegation of authority to the JSC. While the Legal Bureau (LEB) had been consulted thereon, the broader precedence which such delegation would set for other Standing Committees of the Council had not been discussed. DD/ATB suggested that LEB could be consulted regarding that issue to determine if some alternative wording should be used in paragraph 5.

15. Referring to comments made by the Representatives of Spain and the United Kingdom, DD/ATB recalled that the United Kingdom had, a number of years ago, changed its process relating to the billing and collection of charges under the Danish and Icelandic Joint Financing Agreements from a parliamentary process to an administrative one, whereby notices were posted in certain identified newspapers as a way to inform participating States.

16. With respect to the points raised by the Representative of Nigeria regarding paragraph 1 f) and i), DD/ATB noted that the process for reviewing and establishing the user charge and the ICAO administrative fee was established in the said Agreements and was administered through the Joint Financing Section (JF) of ATB. The user charge and ICAO administrative fee were subject to external audit and were reviewed annually by the Users' Committee. There was thus a well-developed procedure to ensure that the user charge and the ICAO administrative fee reflected the cost of providing the air navigation facilities and services. There was also a mechanism for adjusting for under- or over-recovery based on actual costs.

17. The Representative of Argentina averred that it still was not clear from paragraph 5 at what point a JSC decision became applicable. He queried whether such a decision became effective immediately or only after the sixty calendar day response period had elapsed with no request for a review having been received.

18. The Representative of France indicated that he was in favour of the proposed delegation of authority to the JSC for obvious practical reasons. He nonetheless agreed with the Representative of Argentina on the need to clearly establish the starting point of the sixty calendar day response period and the

date on which JSC decisions took effect. The Representative of France then drew attention to the fact that there were two categories of States, those which were Contracting Governments to the Danish and Icelandic Joint Financing Agreements and those which were ICAO Contracting States. Noting that the ICAO administrative fee had an effect on the Organization's budget and consequently on all of its Contracting States, he questioned why, in paragraph 5 of the draft instrument of delegation of authority, the right to appeal a JSC decision was limited to Contracting Governments to the said two Agreements. While the Representative of France was of the opinion that there was little possibility of a JSC decision being contested, given the proven procedure for dealing with joint financing-related matters and the consultation process with the Users' Committee, he nevertheless considered that, as a matter of principle, the right of appeal to the Council should be extended to all ICAO Contracting States.

19. The Representative of India noted that he supported the proposed delegation of authority to the JSC as envisaged in Article 52 of the Chicago Convention as the framework was slightly different in character, being more operational in nature. Referring to the JSC Report on the installation of a secondary surveillance radar in the Faeroe Islands (C-WP/12962) considered earlier, he underscored that it was a catastrophe that the region had been without radar surveillance since January 2007 when the existing military radar had been shut down. In questioning why the Council had not taken action earlier, during its 180th session in February/March 2007, the Representative of India emphasized that the delegation of authority to the JSC was very much needed. He expressed the hope that a similar situation would not arise in the future.

20. Underscoring that there had to be strong justification whenever authority was delegated, the Representative of India suggested that the draft instrument of delegation of authority to the JSC should be amended to include a statement of the rationale behind, and justification for, the said delegation of authority. Observing that the Council served as an oversight body on an ongoing basis, he further suggested that it should be provided with a summary report of the activities carried out by the JSC under delegation of authority every session instead of annually as provided for in paragraph 3 of the draft instrument. The Representative of India emphasized that, while the JSC could go forward with its decisions to ensure quick operational implementation, the Council should be informed of its decisions every session. He noted, in this regard, that under paragraph 4 the Contracting Governments to the two Agreements were to be notified promptly of any decision taken by the Committee under delegation of authority. The Representative of India enquired whether the JSC would continue to meet in the Committee phase of the Council session, whether its reports would continue to be circulated to Council Representatives and whether JSC decisions would be communicated to the latter in the subsequent session or electronically.

21. The Representative of Saudi Arabia shared the concerns expressed by the Representative of Nigeria regarding paragraph 1 f) and i) of the draft instrument of delegation of authority on the determination of the user charge and the establishment of the ICAO administrative fee. Affirming that the views expressed by the Representative of France regarding paragraph 5 on the right to appeal a JSC decision were very relevant, he underscored that Contracting Governments to the two Agreements had certain rights which other ICAO Contracting States did not. The Representative of Saudi Arabia proposed that the Council accept the delegation of authority to the JSC on the condition that 50 per cent of the membership of that Committee comprise Contracting Governments to the said Agreements and that the remaining 50 per cent comprise other States represented on the Council. In suggesting that the draft instrument of delegation be amended accordingly, he indicated that he would not accept it otherwise.

22. The Representative of the Russian Federation noted that, while he had no problems with the proposed delegation of authority to the JSC, he agreed with the Representative of Argentina on the need to

clarify paragraph 5 of the draft instrument. He also agreed with the Representative of India on the need for sessional JSC reports to the Council on its activities carried out under delegation of authority. Observing that the texts of the Danish and Icelandic Joint Financing Agreements and related Protocols were not available in the Russian language, the Representative of the Russian Federation emphasized that it made it difficult for his State to deal with them and with any amendments thereto.

23. The Representative of Colombia voiced support for the proposed delegation of authority. In then referring to the concern expressed by the Representative of Argentina regarding paragraph 5 of the draft instrument, he indicated that it was his understanding that any decision by the JSC would enter into force immediately. However, in accordance with a general principle of international and national law, it would be possible for the Council to suspend such a decision while it conducted its review thereof pursuant to a request from a Contracting Government.

24. The Representative of the United States indicated that, as a Member of the JSC, he fully supported the proposed delegation of authority and was prepared to approve it during the present meeting. Underscoring, however, that the points raised during the discussion should be addressed, he enquired whether they could simply be addressed in the Council's decision or in the summary minutes of the meeting or whether the draft instrument of delegation of authority would have to be amended. Referring to the comments made by the Representative of Argentina and Colombia, *inter alia*, the Representative of the United States suggested that it should be clarified that a JSC decision would not become effective until at least sixty calendar days from the date on which it was taken unless there were a request to have it reviewed by the Council. Emphasizing that there should be a procedure for the Council's review of a JSC decision which would address the issue of whether such a decision would be suspended or not until after the completion of the review, he indicated that that could perhaps be accomplished through some interpretive guidelines or through the Council's decision or the summary minutes of the meeting.

25. In then drawing attention to paragraph 4 of the draft instrument of delegation of authority, the Representative of the United States suggested that the term "notified promptly" could be clarified as meaning within a limited time period, such as five business days. He noted that he had no objection to the proposal by the Representative of India that the Council be informed each session of the JSC decisions taken under delegation of authority or to the proposal by the Representative of France that non-Contracting Governments to the Danish and Icelandic Joint Financing Agreements which were represented on the Council be afforded the opportunity of requesting the Council to review a JSC decision. Observing that that might necessitate a revision of the draft instrument of delegation of authority, the Representative of the United States indicated that he would not object if the Council decided that it be amended accordingly. With respect to the suggestions made by the Representatives of Austria and Saudi Arabia regarding, respectively, rotation in the membership of the JSC, *inter alia*, and the participation in the JSC of non-Contracting Governments to the said Agreements, he affirmed that those were reasonable requests that could be handled through either the Council's decision or the summary minutes of the meeting.

26. Concluding, the Representative of the United States reiterated that he was prepared to support the proposed delegation of authority to the JSC. He observed that it could perhaps be refined to clarify how it was to be applied. If necessary, it could also be amended to allow non-Contracting Governments to the said Agreements which were represented on the Council to request a review by the Council of a JSC decision taken under delegation of authority, if that was the consensus of the Council.

27. The Representative of Pakistan contended that justification for the said delegation of authority was not convincingly presented by the JSC in its report. Noting that, in his experience, all of the