
ICAO

International Civil Aviation Organization

COUNCIL — 185TH SESSION

Montréal, 22 September – 17 November 2008

SUMMARY MINUTES WITH SUBJECT INDEX



2009

Montréal

TABLE OF CONTENTS

	<i>Page</i>
SUMMARY MINUTES OF THE FIRST MEETING	1
Welcome to a new Representative on the Council	2
Election of Vice-Presidents of the Council	2
Election of Members and Alternates of the Joint Support, Finance, Unlawful Interference and Technical Co-operation Committees (JSC, FIC, UIC and TCC).....	2
Election of Chairpersons of the Air Transport, Joint Support, Finance, Unlawful Interference and Technical Co-operation Committees (ATC, JSC, FIC, UIC and TCC).....	2
Election of Members and Alternates of the Human Resources Committee (HRC) and of its Chairperson	3
Election of Members of the Edward Warner Award Committee (EWA)	4
Other business	4
Decisions taken during the recess	4
International Financial Facility for Aviation Safety (IFFAS)	4
Approval of amendment APAC-S 08/12 to the <i>Regional Supplementary Procedures</i> (Doc 7030).....	4
Meeting schedule for the 185th Session of the Council.....	4
Report of the 33rd Session of the Legal Committee — Compensation for Damage Caused by Aircraft to Third Parties Arising from Acts of Unlawful Interference or from General Risks.....	5
SUMMARY MINUTES OF THE SECOND MEETING (CLOSED)	7
Report of the External Auditor on audit activities in 2008.....	8
SUMMARY MINUTES OF THE THIRD MEETING	27
Welcome to the Minister of Defence of Brazil.....	28
Welcome to new Representatives on the Council.....	28
Schedule for consideration of items during the 185th Session of the Council	28
Report on activities during the recess	28
Report on action taken to implement decisions taken by the Council during the 184th Session	31
Progress report on the issue of flags of convenience.....	32
Progress report of the Audit Results Review Board (ARRB).....	36
Other business	39
Request from the European Commission to participate as observer in the Council's consideration of certain items during the 185th Session.....	39
SUMMARY MINUTES OF THE FOURTH MEETING	43
Convening of the Tenth Session of the Statistics Division.....	44
Organization and Programme for the Twentieth Meeting of the Aviation Security Panel (AVSECP).....	44
Review of the conclusions of the EC/ICAO Symposium on Regional Organizations (Montréal, 10 to 11 April 2008)	45
Report of WGOG – Progress Report of the Council Working Group on Governance (policy).....	49
Other business	49
Decisions taken during the recess	49
Financial report of the Edward Warner Award Fund – 2007.....	50

(i)

Report on meetings of other organizations at which ICAO was represented during the second quarter – 1 April to 30 June 2008	50
Appointment of a Member of the Air Transport Committee	50
SUMMARY MINUTES OF THE FIFTH MEETING	51
Report of the Special Working Group – Report of the External Auditor on audit activities in 2008	52
SUMMARY MINUTES OF THE SIXTH MEETING	59
Developments of the AFI Comprehensive Implementation Programme (ACIP).....	60
Level of the Working Capital Fund (WCF).....	64
2009 Technical Co-operation Administrative and Operational Services Cost (AOSC) budget estimates and update of the budget for 2008 AOSC income and expenditure	65
Other business	72
Financial situation of the Organization	72
SUMMARY MINUTES OF THE SEVENTH MEETING	73
Progress report on the Ancillary Revenue Generation Fund (ARGF) and Revenue-Generating Activities (RGA)	74
Report of HRC — Progress report on the work of the Human Resources Committee	78
Programme of meetings for 2009 and tentative programme of meetings for 2010-2012	81
Other business	86
Recommendations of the Joint Support Committee (JSC) related to items under the Danish and Icelandic Joint Financing Agreements reviewed during the 185th Session; Information on crossings of the North Atlantic during the calendar year 2007.....	86
SUMMARY MINUTES OF THE EIGHTH MEETING	87
Programme of meetings for 2009 and tentative programme of meetings for 2010-2012	88
Other business	95
Appointment of the Secretary General.....	95
Participation in the Special Africa-Indian Ocean (AFI) Regional Air Navigation (RAN) Meeting (Durban, South Africa, 24-29 November 2008).....	95
Working Group on Governance (WGOG) (Allocation of seats on the Council)	95
SUMMARY MINUTES OF THE NINTH MEETING	97
Progress Report on the Group on International Aviation and Climate Change (GIACC)	98
Results of the Committee on Aviation Environmental Protection (CAEP) Steering Group (SG) Meeting and other developments.....	103
Update and progress report on voluntary contributions to the Environmental Programme	104
Other business	105
Appointment of the President of the Air Navigation Commission	105
SUMMARY MINUTES OF THE TENTH MEETING	107
Report of AGEA — Report of the Advisory Group on Evaluation and Audit	108
Work programme of the Office for Programmes Evaluation, Audit, and Management Review (EAO) for the year 2009.....	115
The status of implementation of recommendations of the Joint Inspection Unit (JIU).....	118

(ii)

Report of WGOE — Recommendations of the Working Group on Efficiency to improve the efficiency and effectiveness of the ICAO governing bodies.....	119
Other business	119
Information on large-scale technical co-operation projects.....	119
SUMMARY MINUTES OF THE ELEVENTH MEETING	121
Report of WGOE – Recommendations of the Working Group on Efficiency to improve the efficiency and effectiveness of the ICAO governing bodies.....	122
Appointment of the President of the Air Navigation Commission	126
Review of the conclusions of the Air Transport Symposium (Abuja, 28 to 30 April 2008).....	126
Report of the Conference on the Economics of Airports and Air Navigation Services (CEANS)	127
Other business	127
SUMMARY MINUTES OF THE TWELFTH MEETING (CLOSED).....	129
Review of the Reports of the Seventh Session of the International Explosives Technical Commission (IETC/7) and the Seventeenth Meeting of the <i>Ad Hoc</i> Group of Specialists on the Detection of Explosives (AH-DE/17).....	130
SUMMARY MINUTES OF THE TWELFTH MEETING (OPEN).....	133
Public Key Directory — Amendments to the PKD Memorandum of Understanding (MoU)	134
Deliberations of the Public Key Directory (PKD) Board Meeting No. 4	145
Work programme of the Council for the 186th Session	145
Other business	147
Report of JIU: “ <i>Age structure of human resources in the organizations of the United Nations systems</i> ” (JIU/REP/2007/4).....	147
Report of JIU: “ <i>United Nations system staff medical coverage</i> ” (JIU/REP/2007/2)	147
Report of JIU: “ <i>Voluntary contributions in United Nations system organizations: Impact on programme delivery and resource mobilization strategies</i> ” (JIU/REP/2007/1)	147
Report of JIU: “ <i>Report of the Joint Inspection Unit for 2007 and programme of work for 2008</i> ” (A/62/34/Add. 1)	147
Approval of amendment EUR/NAT-SO8/1 to the <i>Regional Supplementary Procedures</i> (Doc 7030).....	147
Changes to the structure of the ICAO Secretariat	148
Attachment A — Memorandum of Understanding (MoU) regarding participation and cost sharing in the electronic machine readable travel documents ICAO Public Key Directory (ICAO PKD).....	149
SUBJECT INDEX TO THE SUMMARY MINUTES OF THE 185TH SESSION.....	151
LIST OF WORKING PAPERS CONSIDERED.....	153

COUNCIL — 185TH SESSION**SUMMARY MINUTES OF THE FIRST MEETING****(THE COUNCIL CHAMBER, MONDAY, 22 SEPTEMBER 2008, AT 1430 HOURS)****OPEN MEETING**

President of the Council: Mr. Roberto Kobeh González

Secretary: Dr. Taïeb Chérif, Secretary General

PRESENT:

Argentina	— Mr. S.R. Prado (Alt.)	Mexico	— Mr. D. Méndez Mayora
Australia	— Mr. P.K. Evans	Namibia	— Mr. B.T. Mujetenga
Brazil	— Mr. R.S. Magno	Nigeria	— Dr. O.B. Aliu
Cameroon	— Mr. A. Larang (Alt.)	Republic of Korea	— Mr. G.-S. Shin
Canada	— Mr. L.A. Dupuis	Romania	— Mr. C. Cotrut
China	— Mr. Tao Ma	Russian Federation	— Mr. A.A. Novgorodov
Dominican Republic	— Mr. C. A. Veras	Saudi Arabia	— Mr. S. Hashem
Ecuador	— Mr. I. Arellano Lascano	Singapore	— Mr. K.P. Bong
Egypt	— Mr. S. Elazab	South Africa	— Mr. T. Peege
El Salvador	— Mr. J.A. Aparicio Borjas	Switzerland	— Mr. D. Ruhier
France	— Mr. J.-C. Chouvet	Tunisia	— Mr. I. Sassi
Germany	— Mr. J. Mendel	Uganda	— Mr. J. Twijuke
Ghana	— Mr. K. Kwakwa	United Arab Emirates	— Mr. J. Haidar
Iceland	— Mr. H. Sigurdsson	United Kingdom	— Mr. M. Rossell
India	— Dr. N. Zaidi	United States	— Mr. D.T. Bliss
Italy	— Mr. F.P. Venier	Uruguay	— Mr. J.L. Vilardo
Japan	— Mr. W. Yoshioka (Alt.)	Venezuela	— Mr. D. Blanco Carrero
Malaysia	— Mr. S.-C. Kok		

ALSO PRESENT:

Mr. L.M. Coelho de Souza (Alt.)	— Brazil
Mr. A. Romera (Alt.)	— Brazil
Mr. A. J. de Lima (Alt.)	— Brazil
Mr. C. Ding (Alt.)	— China
Mr. P. Pape (Alt.)	— France
Mr. F. Christensen (Alt.)	— Iceland
Mr. P. Ciancaglioni (Alt.)	— Italy
Mrs. D. Jiménez Hernández (Alt.)	— Mexico
Mr. R.A. Al Kaabi (Alt.)	— United Arab Emirates
Ms. L. Faux-Gable (Alt.)	— United States

SECRETARIAT:

Dr. Fang Liu	— D/ADB
Miss S. Black	— Précis writer

Welcome to a new Representative on the Council

1. The President of the Council extended a warm welcome to Mr. A.A. Novgorodov, who was attending a meeting of the Council for the first time in his capacity as Representative of the Russian Federation.

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

Election of Vice-Presidents of the Council

2. On nominations by the Representative of the United States, the Council elected the following Representatives as its Vice-Presidents for the period 2008-2009 (C-WP/13204), with effect from 22 September 2008:

Mr. T. Peege (South Africa)	First Vice-President
Mr. D. Ruhier (Switzerland)	Second Vice-President
Mr. J. Haidar (United Arab Emirates)	Third Vice-President

3. The President of the Council thanked the three outgoing Vice-Presidents for their co-operation and excellent work and congratulated the newly-elected Vice-Presidents.

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

Election of Members and Alternates of the Joint Support, Finance, Unlawful Interference and Technical Co-operation Committees (JSC, FIC, UIC and TCC)

4. It was recalled that during the third meeting of its 182nd Session (182/3), the Council had agreed to suspend, for one year, the special provision of the *Rules of Procedure for Standing Committees of the Council* (Doc 8146) whereby each Committee shall consist of not less than 13 and not more than 17 Members for the election for Members and Alternates of the Technical Co-operation Committee (TCC) and the Committee on Unlawful Interference (UIC). The Council agreed to suspend that special provision for another year for the election of the Members and Alternates of those two Committees.

5. The Council then elected the Members and Alternates of the JSC, FIC, UIC and TCC appearing in Appendices A and B of C-WP/13217 for the period 2008-2009, with effect from 22 September 2008.

Election of Chairpersons of the Air Transport, Joint Support, Finance, Unlawful Interference and Technical Co-operation Committees (ATC, JSC, FIC, UIC and TCC)

6. On nominations by the Representative of India, the following were elected Chairpersons of the Council's subsidiary bodies listed below for the period 2008-2009 (C-WP/13205), with effect from 22 September 2008:

Air Transport Committee (ATC)	Mr. R.S. Magno (Brazil)
Joint Support Committee (JSC)	Mr. H. Sigurdsson (Iceland)
Finance Committee (FIC)	Dr. O.B. Aliu (Nigeria)
Unlawful Interference Committee (UIC)	Mr. J. Mendel (Germany)
Technical Co-operation Committee (TCC)	Mr. Tao Ma (China)

7. The President of the Council expressed his sincere thanks to the outgoing Chairpersons and welcomed the newly-elected Chairpersons.

**Election of Members and Alternates of the Human Resources Committee (HRC)
and of its Chairperson**

8. The above subject was documented for the Council's consideration in C-WP/13218, presented by the President of the Council.

9. The Council elected the six Members and four Alternates of the HRC nominated by the President of the Council as set forth in the Appendix to C-WP/13218 for the period 2008-2009, with effect from 22 September 2008. The membership of the Committee would also include the three Vice-Presidents of the Council in accordance with the Council's previous decision (182/3). On a nomination by the Representative of the United Kingdom, the Council also elected Mr. P.K. Evans (Australia) as Chairperson of the Committee for the period 2008-2009, with effect from 22 September 2008. The President of the Council expressed appreciation to the outgoing Chairperson, who had been the first Chairperson of the HRC, for his excellent work.

10. While expressing confidence in the ability of the newly-elected Members and Alternates of the HRC to fulfill their mission keeping in mind the best interests of the Organization, the Representative of France expressed reservations regarding the composition of the Committee. He emphasized that, whereas the Working Group on Human Resources, which he had had the honour to chair and which had proposed the creation of the HRC, had underscored the need to provide for a sufficient degree of experience and continuity in the Committee's membership, that should not be interpreted as meaning that it had to remain almost unchanged. The Representative of France observed, in this context, that the membership of the HRC was more restricted in size than that of the other Committees and that the possible rotation rate was thus lower. Averring that the actual turnover rate of the HRC was very low, he noted that the outgoing Chairperson had been elected as a Member for the period 2008-2009. While in no way opposing the excellent choices made, the Representative of France stressed that it was a matter of principle: although it was necessary to ensure some stability, all Representatives should have the opportunity to take part in all of the activities of the Council's subordinate bodies. He noted, in this regard, that whereas the composition of the other Committees had been the subject of extensive consultations, the same consultations had apparently not taken place for membership in the HRC. The Representative of France recalled that the President's memorandum PRES RK/1555 dated 11 June 2008 had invited nominations to the Joint Support, Finance, Unlawful Interference and Technical Co-operation Committees (JSC, FIC, UIC and TCC) but not to the HRC. The Representative of South Africa shared these views.

11. The President of the Council indicated that the above comments regarding the composition of the HRC would be taken into account when revised Annex IV-A to *The ICAO Service Code* (Doc 7350) was reviewed, in the light of experience, by the Council during its 188th Session. Reminding the Council that all Representatives were welcome to attend, as observers, all meetings of the various Committees, whether open or closed, he strongly recommended that they do so.

Subject No. 46: Edward Warner Award**Election of Members of the Edward Warner Award Committee (EWA)**

12. The Council had for review C-WP/13219, in which the President of the Council presented nominations to fill two vacancies on the EWA due to the passing away of the Representative of Japan and the departure of the Representative of Venezuela. The Council elected Mr. Bong Kim Pin (Singapore) and Mr. D. Blanco Carrero (Venezuela) to fill the vacancies with effect from 22 September 2008.

Other business**Decisions taken during the recess**

13. For the record, the President of the Council recalled the following decisions made during the recess by electronic mail: that the revised theme for International Civil Aviation Day was “*Tomorrow’s Aviation — a world of opportunity for skilled aviation personnel*”; that Mr. D. Gatinet (France) had been appointed as the tenth member of the Public Key Directory (PKD) Board; and that Mr. K. Narisawa had been appointed as the new member of the Committee on Aviation Environmental Protection (CAEP) from Japan to replace Mr. M. Kawakami with effect from 9 September 2008.

Subject No. 15.16: International Financial Facility for Aviation Safety (IFFAS)**International Financial Facility for Aviation Safety (IFFAS)**

14. As no request to have C-WP/13234 on the above subject tabled for discussion by the Council had been received by close of business on 18 September 2008 in response to his memorandum PRES RK/1590 dated 28 August 2008, the President indicated that he considered that the Council had noted the information provided therein.

Subject No. 14.1.3: Regional Supplementary Procedures (SUPPs)**Approval of amendment APAC-S 08/12 to the *Regional Supplementary Procedures* (Doc 7030)**

15. As no comments had been received by close of business on 15 September 2008 in response to his memorandum PRES RK/1584 dated 18 August 2008 on the approval of amendment APAC-S 08/12 to Doc 7030, the President indicated that he had, on 22 September 2008, approved that amendment on behalf of the Council in accordance with the established procedure.

Subject No. 13: Work programmes of Council and its subsidiary bodies**Meeting schedule for the 185th Session of the Council**

16. The President of the Council noted that the following changes had been made to the meeting schedule for the 185th Session of the Council set forth in his memorandum PRES RK/1564 dated 17 July 2008: a Council meeting would be convened on Wednesday, 24 September 2008 at 1000 hours to consider the Report of the External Auditor on the recruitment process of Messrs. J. Renaud and F. Souka (C-WP/13225 Restricted); an informal briefing of the Council would be given on Wednesday, 1 October 2008 at 1000 hours on the industry crisis and the next generation of aviation professionals; and in

order to allow Members of the Air Transport Committee (ATC) to attend the conclusion of the Fourth Symposium on ICAO MRTDs, Biometrics and Security Standards on Wednesday, 8 October 2008, the ATC meeting scheduled at 1000 hours on that day had been rescheduled to 1430 hours.

17. With regard to the consideration of the said Report of the External Auditor (C-WP/13225 Restricted), the President indicated that it would be for the Council to decide during its meeting on 24 September 2008 whether further information or action was required regarding a number of issues raised by the External Auditor and whether to constitute a special working group as proposed by the Representative of Australia. Under that proposal, a working group, comprising the Chairpersons of the Finance Committee (FIC), the Human Resources Committee (HRC), the Air Transport Committee (ATC) and the Council Working Groups on Efficiency and Governance, would advise the Secretary General of any such requirements in a letter by close of business on 26 September 2008. A draft of the letter would be circulated to all Representatives beforehand and as soon as possible after the Council meeting on 24 September 2008. The Secretary General's response would be considered by the Council during a meeting on 8 October 2008. The proposal was to complete consideration of the matter as soon as possible and prior to the Council phase of the 185th Session, which would begin on 27 October 2008.

Subject No. 12.5: Plans for legal meetings
Subject No. 16: Legal work of the Organization
Subject No. 16.1: Reports from the Legal Committee
Subject No. 16.3: International air law conventions

Report of the 33rd Session of the Legal Committee — Compensation for Damage Caused by Aircraft to Third Parties Arising from Acts of Unlawful Interference or from General Risks

18. It was noted that the Government of the United Arab Emirates would be sending an official communication to the Organization offering to host the Diplomatic Conference being convened for the adoption of the draft Unlawful Interference Compensation Convention and General Risks Convention (*cf.* C-DEC 184/6).

19. The meeting adjourned at 1600 hours.

COUNCIL — 185TH SESSION

SUMMARY MINUTES OF THE SECOND MEETING

(THE COUNCIL CHAMBER, WEDNESDAY, 24 SEPTEMBER 2008, AT 1000 HOURS)

CLOSED MEETING

President of the Council: Mr. Roberto Kobeh González

Secretary: Dr. Taïeb Chérif, Secretary General

PRESENT:

Argentina	— Mr. S.R. Prado (Alt.)	Mexico	— Mr. D. Méndez Mayora
Australia	— Mr. P.K. Evans	Namibia	— Mr. B.T. Mujetenga
Brazil	— Mr. R.S. Magno	Nigeria	— Dr. O.B. Aliu
Cameroon	— Mr. E. Zoa Etundi	Republic of Korea	— Mr. Shin, G.-S.
Canada	— Mr. L.A. Dupuis	Romania	— Mr. C. Cotrut
China	— Mr. Tao Ma	Russian Federation	— Mr. A.A. Novgorodov
Dominican Republic	— Mr. E.N. Méndez (Alt.)	Saudi Arabia	— Mr. S. Hashem
Ecuador	— Mr. I. Arellano Lascano	Singapore	— Mr. K.P. Bong
Egypt	— Mr. S. Elazab	South Africa	— Mr. T. Peege
El Salvador	— Mr. J.A. Aparicio Borjas	Spain	— Mr. V.M. Aguado
France	— Mr. J.-C. Chouvet	Switzerland	— Mr. D. Ruhier
Germany	— Mr. J. Mendel	Tunisia	— Mr. I. Sassi
Ghana	— Mr. K. Kwakwa	Uganda	— Mr. J. Twijuke
Iceland	— Mr. H. Sigurdsson	United Arab Emirates	— Mr. J. Haidar
India	— Dr. N. Zaidi	United Kingdom	— Mr. P.D. Fleming (Alt.)
Italy	— Mr. F.P. Venier	United States	— Mr. D.T. Bliss
Japan	— Mr. W. Yoshioka (Alt.)	Uruguay	— Mr. J.L. Vilardo
Malaysia	— Mr. S.-C. Kok	Venezuela	— Mr. D. Blanco Carrero

ALSO PRESENT:

Mr. P. Séguin	— External Auditor
Mr. J G. Bastianelli	— Assistant Auditor
Ms. A. Couzean	— Assistant Auditor
Mr. L.M. Coelho de Souza (Alt.)	— Brazil
Mr. A. Romera (Alt.)	— Brazil
Mr. A.J. de Lima (Alt.)	— Brazil
Ms. S. Chambers (Alt.)	— Canada
Mr. P. Pape (Alt.)	— France
Mr. F. Christensen (Alt.)	— Iceland
Mr. P. Ciancaglioni (Alt.)	— Italy
Mrs. D. Jiménez Hernández (Alt.)	— Mexico
Mr. A. Cioranu (Alt.)	— Romania
Ms. L. Faux-Gable (Alt.)	— United States
Mr. H. Dávila (Alt.)	— Uruguay

SECRETARIAT:

Mr. D. Wibaux	— D/LEB
Mr. R. Heighes-Thiessen	— D/TCB
Mr. J. Maguire	— C/EAO
Mr. A.R. Diallo	— C/HRB
Mr. J. Begin	— DD/ATB
Mr. A. Pchelnikov	— C/PRO
Mr. P. O'Hare	— C/ICT
Mr. L. Koukoui	— C/ISEC
Mr. M. Miguel	— ICT
Mr. H. Herrmann	— ICT
Mr. A. Samson	— ARGF
Mrs. C. Rideout	— CSO

1. The President of the Council extended a welcome to Mr. Philippe Séguin, who was attending a meeting of the Council for the first time in his capacity as External Auditor.

Subject No. 18.8: Financial statements and reports of the external auditor

Report of the External Auditor on audit activities in 2008

2. The Council had for consideration C-WP/13225 Restricted, to which was attached the Report of the External Auditor on certain audit activities in 2008. The comments of the Secretary General in response to the Report had been incorporated into the Report of the External Auditor.

3. The President of the Council recalled that at the previous meeting, the Representative of Australia had proposed that if the Council decided, in light of this meeting's discussion, that further information or action was required regarding issues raised by the External Auditor, a special working group could be constituted. The working group would comprise the Chairpersons of the Finance Committee (FIC), the Human Resources Committee (HRC), the Air Transport Committee (ATC) and the Council Working Groups on Efficiency and Governance, and would advise the Secretary General of any such requirements for further information or action by no later than close of business on 26 September 2008. A draft of the communication to the Secretary General would be circulated to all Representatives beforehand and as soon as possible after this meeting. The Secretary General's response would be considered by the Council during a meeting to be convened on 8 October 2008. The proposal was to complete consideration of the matter as soon as possible and prior to the Council phase of the 185th Session, which would begin on 27 October 2008.

4. Introducing his report, the External Auditor indicated that he had come to present to the Council the conclusions of the report that it had asked him to submit on the conditions in which Mr. Jean Renaud and Mr. Felicien Souka had come to ICAO. He recalled that the day after the arrest of Mr. Renaud and Mr. Souka on 18 June 2008, the Council had expressed a wish that he conduct as soon as possible an audit of the processes that had led to ICAO's recruitment of the two individuals. The External Auditor wished to clarify, firstly, that the word "recruitment" should be considered with great caution. In fact, Mr. Renaud had been made available to ICAO by the Ministry of Finance of Quebec under conditions in which he would continue to be paid by the Ministry. Mr. Souka had come into the ICAO framework as a service provider of a company that had won a call for tenders, although he was about to be given a contract for temporary employment when the affair had broken out in the media. Neither of the two had thus been officially recruited by ICAO, but both had cooperated in various activities of the Organization, and not just of any nature since they had had access to certain financial and accounting information of the Organization. Moreover their links with ICAO had been greatly expanded upon in the press, which, to put it lightly, probably had not helped the image of the Organization.

5. Since this was the first time that he was coming before the Council, and was, more so, speaking on such a sensitive issue, the External Auditor wished to comment on the ways the investigation had been conducted. In responding to the Council's request, he had sent without delay to Montréal, from 30 June to 4 July 2008, Mr. G. Bastianelli, the Manager of ICAO's external audit. Pursuant to the working procedures of the Cour des Comptes of France, the audit had been based on a consideration of documents which he, the External Auditor, had subsequently reviewed. The documents included Mr. Renaud's file in the Human Resources Branch, and documentary evidence on the contract granted to Mr. Souka's company. This consideration had been complemented and clarified by interviews with about ten people in the ICAO Secretariat as well as with the Quebec Deputy Minister of Finance. Some of the testimony reported was

contradictory with the documentary evidence collected. Although some of the people interviewed might wish to contest the report on their testimonies, the External Auditor gave assurances that it was not the custom of the judges in the Cour des Comptes of France to deform in any way in their report any testimony that they collected.

6. The audit had also called for the consideration of confidential data such as emails sent from ICAO by certain people involved in the affair. This was a rare, albeit not exceptional, procedure, used in conducting some audits and investigations for other audit situations in international organizations. It had been envisaged in Article 3 of the annex to the ICAO Financial Regulations, which allowed the Auditor or his representatives to have made available to them all of the documents, even confidential or restricted, which seemed necessary to the conduct of the audit. Without this complementary examination of certain e-mails it would not have been possible to clarify some aspects of the case. As requested by the Secretary General in the letter which he had addressed to him, the External Auditor had agreed that Mr. Bastianelli would work closely in cooperation with the Internal Auditor, who had participated in researching some documents and who had attended some of the interviews.

7. The External Auditor had, on 25 July 2008, sent to the Secretary General a draft report seeking his comments prior to 20 August 2008. The Secretary General's comments were mentioned in the final report circulated to Representatives. On 28 August 2008, the Secretary General had expressed a wish to re-read the final report. The final comments were received on 1 September 2008, accompanied by hitherto unwritten assertions on the subject of the reliability of the access badge registration system.

8. The report mentioned a certain number of items that did not appear to be directly related to the process bringing Messrs. Renaud and Souka to ICAO; however, in applying the financial regulations of the organization which gave the Auditor full latitude on the conduct and the scope of the audit, it seemed necessary to bring these elements to the Council's attention, either as information pertinent to the general context of the matter, or to any dysfunctions that might have been discovered.

9. The processes leading to the arrival of Messrs. Renaud and Souka in ICAO had been quite different. The External Auditor commenced by presenting his conclusions on the case of Mr. Renaud, a financial analyst and tax specialist who had entered the service of the Ministry of Finance of Quebec in 1997. Between 2004 and 2006, he had asked to be placed on leave without pay, and during that period he had worked for the Norbourg company which had made headline news. Not all of the people who had worked in that company had been accomplices in the misappropriation of funds by its manager; however, from 2006 it was known that there were doubts over the activities of Mr. Jean Renaud. For example, on 12 October 2006 the bankruptcy union of the Norbourg case had contacted the superior court of the district of Montréal in an attempt to recover an amount of money which had allegedly been fraudulently paid to Mr. Renaud, amounting to some \$460,000. The Le Devoir newspaper, a daily publication which was available in all newsstands and accessible on the internet, had, from that day on, reported on the accusations. Further details on the petition could also be accessed on the internet and were attached to the External Auditor's report.

10. Mr. Renaud's name had also cropped up in another case. On 28 January 2005 there had been a communiqué from Revenue Quebec, the institution responsible for tax collection, indicating that an investigation had been launched to determine the role of Mr. Renaud in a case of undue tax credit being granted to a company which he managed with his brother. It was thus enough to say that various suspicions were public knowledge. It was sufficiently serious for the Ministry of Finance of Quebec to ask Mr. Renaud, in January of 2006, to extend his leave without pay by one year. The next year, in January 2007, with these

suspensions still hanging over him, Mr. Renaud had asked to be reintegrated into the Ministry, and he had had the right to do so under the existing statutory rules. The Ministry had not, however, wanted to have amongst its ranks this agent who had become an embarrassment because of the suspicions hanging over him; they had therefore asked him to look for employment elsewhere. That was how Mr. Renaud had come into contact with ICAO, in this case with Mr. Samson, who was also an official of the Ministry of Finance of Quebec and who had been seconded to ICAO in September 2006 on an ex-gratia basis.

11. Mr. Samson's recollection of facts had been as follows: Although he was an official, as was Mr. Renaud, in the Ministry, he would not have known Mr. Renaud prior to his arrival in ICAO. He claimed to have been contacted at the beginning of 2007 by the Chief of Personnel of the Ministry, Mr. Lafleur, who had proposed that he look favourably upon receiving Mr. Renaud in the Organization. Mr. Samson would have advised Mr. Lafleur that he send a letter to the Secretary General proposing the services of Mr. Renaud on an ex-gratia basis, and the letter was sent on 8 March 2007. The agreement was given, and Mr. Renaud was placed under Mr. Samson to help him in the managing of the Ancillary Revenue Generation Fund (ARGF).

12. Consideration of the e-mail exchange during this period between Mr. Samson and Mr. Renaud gave quite a different version of the process and quite a different chronology. The message sent by Mr. Renaud to Mr. Samson on 18 January 2007 attested that the two men knew each other; they had met again the previous day and Mr. Samson had suggested to Mr. Renaud that he come to ICAO. Mr. Renaud said, in his e-mail, that he was quite enthusiastic with the prospect but expressed the fear that the Ministry would object to making two people available to the same organization. Mr. Samson's testimony was thus erroneous on at least two points. On the one hand, he knew Mr. Renaud, and on the other, he was at the origin of Mr. Renaud's arrival at ICAO. The fears expressed by Mr. Renaud on a possible reticence of the Ministry proved that the initiative of the procedure could not be attributed to the Ministry of Finance of Quebec.

13. After this first exchange, Mr. Samson sought the view of Mr. Elamiri on 29 January 2007. At that point Mr. Elamiri was D/ATB, with only two days left in that capacity. As D/ATB he had been the originator of the ARGF project and apparently had left that job to become the officer in charge of audits, but continued to follow certain aspects of the ARGF file. He thus had professional links with Mr. Samson and it was to him that Mr. Samson handed the curriculum vitae which he had received from Mr. Renaud, a curriculum vitae which remained silent on the period 2004 to 2006. Mr. Elamiri must have pronounced himself favourably, because three weeks later the Ministry of Finance of Quebec sent to Mr. Samson a draft letter proposing the secondment of Mr. Renaud. This draft, which was a virtual copy of the letter officially sent to the Secretary General on 8 March 2007, praised unreservedly the merits of Mr. Renaud. The Ministry of Finance of Quebec did not believe that it should inform ICAO of the actual situation of Mr. Renaud, although it knew perfectly well the suspicions surrounding him as well as the prior activities of Mr. Renaud at Norbourg and elsewhere, which could scandalize the Organization. It was because of the risk of being associated with fraudulent behaviour that the Ministry of Finance did not wish to keep Mr. Renaud in its ranks, and the letter from the Ministry of Finance of Quebec could be considered to have serious omissions.

14. In ICAO, the terms of the ministerial letter had led to consider as useless any sort of background check of the curriculum vitae of Mr. Renaud, sent to Mr. Samson several weeks before. The External Auditor could allow that ICAO might not be aware of the outcome and the content of the Norbourg affair, or that of Revenue Quebec, although both were public knowledge. The Organization's imprudence or naiveté were confirmed by the recent initiatives of the Secretary General to henceforth do background checks on any recruitment. When it came to the Ministry, if one looked for extenuating circumstances, saying

that Mr. Renaud would be protected from any media frenzy if he were employed by an international organization, in brief that he would simply be forgotten, that was really a misjudgement.

15. The Ministry could also have assumed that Mr. Samson could not have avoided telling ICAO of the risk it ran with Mr. Renaud; Mr. Samson was working for ICAO, he owed the Organization at least minimum loyalty. It was established that the serious suspicions hanging over Mr. Renaud were known to Mr. Samson. That fact was confirmed by an e-mail from the Ministry of Finance addressed to Mr. Samson after the arrest of Mr. Renaud, indicating to Mr. Samson the language that he later on used. The language in that e-mail made it quite clear that Mr. Samson had received from the Ministry the necessary information available at the time on Mr. Renaud. Mr. Samson knew that there was a Revenue Quebec investigation and also knew, at least since January 2007, that Mr. Renaud's name had been cited in the Norbourg case. Nevertheless, he did not deem it necessary to inform ICAO of the suspicions about his former colleague. Contrary to the opinion that the Secretary General had given on this, the External Auditor considered that Mr. Samson was responsible for what was tantamount to concealment. The argument of the presumption of innocence was not justified. If one admitted that suspicions should not serve as an argument to hiring, it was not up to Mr. Samson to say that that risk could be assumed. It was to ICAO, and only ICAO, to decide, fully cognizant of the details.

16. Even if Mr. Samson was unaware of the criminal investigation, he should have transmitted the substantial information about Mr. Renaud to the Secretary General so that the Secretary General could take a fully informed decision. The lack of openness on the part of Mr. Samson during the audit was an aggravating factor. The fact that he received financial compensation from ICAO in addition to the monies paid by the Ministry, that his leave was not monitored, and that his performance was not evaluated as would be appropriate, should not be an obstacle to his being sanctioned in one way or another. Mr. Samson enjoyed the true sympathy of the Secretary General, because of the role he had had in the beginning of the years 2000 when he had been in the Ministry of Finance, and had been responsible for preparing subsidies to the Organization, including the Government of Quebec assuming to pay the rent of the offices in the Bell Tower which were occupied by the Technical Cooperation Bureau. These subsidies were, of course, the initiative of the Government in power at the time.

17. In summary, Mr. Renaud's arrival in ICAO had been the consequence of two acts of insincerity, Mr. Samson's and that of the Ministry of Finance of Quebec. The first was more serious. Two recommendations in the External Auditor's report suggested the necessary measures to be taken to deal with the consequences of these acts. The Council, if, like the Office of the External Auditor, was not convinced by the explanations of Mr. Samson, should request that the Secretary General put an end to the memorandum of understanding which had been at the origin of Mr. Samson's secondment to the Organization, since it was not possible to have confidence in a person who had contributed to putting the Organization in such a difficult situation. A letter should be sent informing the Minister of Finance of the return of Mr. Samson, expressing regret, at least implicitly, that the Ministry had remained silent. It was not because Quebec was lending financial aid to the Organization that ICAO should accept to be treated so cavalierly. Finally, the External Auditor recommended that the employment of persons on secondment be undertaken within the framework of a text that would specify their conditions of recruitment, the maximum duration of their contract, the conditions of employment and salary, and an assessment of their performance and a report on their leave. While bearing in mind that the secondment of officials by States was a subject that could have various diplomatic implications, the Organization should have rules embodying the various legal and administrative aspects.

18. The External Auditor next commented on the case of Mr. Souka, a computer specialist who, between February 2003 and August 2005, had worked for the Norbourg company. As was the case of Mr. Renaud, from the outset of 2007 detailed information had been available to the public on what Mr. Souka had been charged with in the Norbourg scandal, to wit having falsified the books of the group to conceal embezzlement of funds that had been perpetrated. The petition of 12 October 2006 regarding this matter could easily be accessed on the internet. After the bankruptcy of Norbourg, Mr. Souka had also worked for a number of small computer companies including Soteria, which also employed another computer specialist from Norbourg, Mr. Jean Hilaire Yapi, who had never been implicated in the financial scandal. Mr. Yapi was made known to ICAO for having been the consultant for a major computer enterprise, PCD, which in June of 2007 had won a bid for tender on modifications to the database of ICAO. Mr. Yapi then remained in the service of ICAO for similar work, this time under the name of his own company, Yapson.

19. In November 2007 Mr. Yapi had learned that the Organization was sending out a call for tenders so as to change the currency of the professional employees' salaries from United States dollars to Canadian dollars. Mr. Yapi had asked if Soteria, a company for which he was working, could also submit a tender. Article 6.4 of the Procurement Code of the Organization stated that orders should be the subject of calls for tenders except when they were estimated under \$10,000 or when there was only one known provider. Article 5 provided, moreover, that a file on the provider should be kept up to date and serve as the basis for the tenders. The call for tenders should be addressed only to those companies already registered, unless the order was truly specific and for an amount less than \$50,000. Soteria had not been registered among the suppliers of ICAO. It was nevertheless invited to submit a tender for the modification to the payroll system, because it had been estimated at \$50,000 which corresponded to the threshold allowing an exception. Nevertheless, the two answers received to the call for tenders had been quite a bit over that threshold, which indicated that the provisional amount had not been properly estimated. Soteria had come in with the lowest bid, \$100,000, which then later was brought down to \$88,000, and it was chosen. The tender had been accompanied by the curricula vitae of three persons who would be working for ICAO. In that of Mr. Souka, which was included in the annex to the External Auditor's report, employment at Norbourg was clearly indicated. As there had been no verification procedure, employment at Norbourg had not been verified by ICAO, and Mr. Souka had been able as of December 2007 to work on the payroll system of ICAO. Mr. Souka had apparently done a good job, because six months later, when ICAO had been looking to recruit a computer expert for an initial period of three months, he had been considered as the "preferred candidate" to be given this contract. Since the curricula vitae of applicants for temporary posts were not verified, even the Secretary General had agreed to that recruitment the day before Mr. Souka was arrested. In light of those events, the Secretary General had announced that henceforth a security certificate would be required both for the recruitment of consultants and for the grant of contracts to service businesses; this was a very useful measure that should be extended to cover anybody with abilities or references as candidates being given a temporary contract, or any businesses with which contracts were concluded.

20. When it came to procurement, some procedures already existed; before being registered with ICAO's Procurement Office as suppliers, candidate companies were evaluated. There were, however, ways around these procedures, as could be seen in the case of Soteria or in the example which followed: At the beginning of June 2008, Mr. Yapi had asked to become a registered company under the name of Yapson, as a provider to ICAO, but had been refused because this very small company did not have the necessary safeguards. That had not stopped Mr. Yapi from obtaining a personal contract. ICAO did not apply the provisions of the Procurement Code to that sort of contract; however, given the ambiguity surrounding the conclusion of that contract, the purchase order had been addressed to Mr. Yapi, while the estimate and bills received and paid by ICAO were in the name of the Yapson company. Moreover, in the candidacy file that he had submitted to ICAO at the end of May 2008, Mr. Souka had indicated that his first experience in ICAO

had already taken place in the framework of the contract given to Yapson, which confirmed that it was not in fact a personal contract for Mr. Yapi as an individual.

21. Although it was not registered in the supplier database of ICAO, Soteria had been allowed to bid for two different jobs after that given in November 2007 to modify the payroll software. Since Soteria had carried out the first job successfully, it was natural that the computer service seek again to bid, although strict application of the Procurement Code would have required that Soteria be registered. It was not possible to confirm with any certainty that Soteria would have been declined had it sought again to be registered, but that would have been the only check, had it been carried out, to avoid Mr. Souka's assignment to work on the sensitive data of ICAO. His arrival in ICAO had given rise to serious consideration about the consequences of the procedures in place not having been rigorously respected. Since this was a small business which was hardly known in Montréal, checks should have been conducted before awarding it a contract which was so crucial to the Organization. Finally, the audit had shown that Mr. Souka had come and started to work, and had even started billing before the purchase order had even been signed. For these reasons, the External Auditor recommended that the Procurement Code be applied with greater vigour, which meant in particular that exemptions should be strictly limited to explicitly foreseen and stipulated cases.

22. In conclusion, the External Auditor wished to offer three observations on the outcome of this affair for ICAO as he saw them today. Two people implied in fraudulent business had had access to the financial and accounting information of ICAO, without ICAO having been in a position either to appreciate or avoid the risk that it was running. This meant that there were serious shortcomings in the procedures and their application. Moreover, ICAO had suffered damage to its image because its name had been associated in the media with a major financial scandal. Finally, although the budgetary belt was tight in the Organization, this affair had compelled ICAO to spend more unforeseen monies in order to conduct and finance investigations to bring the events to light and to counter potential dangers to the integrity of sensitive information. Aside from the remit that the Council had given its External Auditor, ICAO had had to turn to the RCMP and also recruit a private consultant. The purchase order which had been sent to determine if there had been fraud within the Organization came to an amount to \$110,000 Canadian.

23. The Secretary General would not speak against the *Cour des Comptes*, which was well-known, having been established in 1807 by Napoleon and so having just celebrated its bicentenary.

24. The report which had been submitted unfortunately did not meet the request of the Council. This was an investigation report, rather than an audit report. What the Council had requested, as was set down in the letter which had been sent by the Secretary General on 26 June 2008, could be summarized as follows. In order to avoid a similar situation arising in the future, it would be necessary as soon as possible to perform an audit of the processes which had led to the arrival of Messrs. Renaud and Souka at ICAO. It was thus a question of ascertaining, in particular, whether there were shortcomings in the recruitment and procurement procedures, and consequently formulating recommendations which would allow ICAO to mitigate these deficiencies and to make sure that similar situations did not arise in the future.

25. The reference to Article 13.5 of the Financial Regulations to explain the External Auditor's departure from the subject did not hold water, because the Council had requested, on an urgent basis, a specific audit on the processes which had led to the arrival of these two individuals. If the External Auditor had incidentally noticed certain anomalies, he could at the most recommend to Council that these anomalies be studied, but within the parameters of another audit, not in the current one. All of the points which the External Auditor had noted incidentally nevertheless formed the basis of his report, so the report did not

target the crux of the matter but, rather, dealt with related issues which the Auditor had decided to study without advising the Council in advance.

26. The Secretary General wished to thank the External Auditor for having taken into account his comments of 24 July 2008 on the first draft of his report, and which had made it possible to shorten the report by some 20 paragraphs which had weighed it down unnecessarily. Nevertheless, the report continued to dwell on useless details. It was difficult to know, for example, how the dates when Mr. Samson had come into service, as well as details on his pay, his attendance, and his performance evaluation could respond to the concerns which had been conveyed in the Council with respect to avoiding a similar situation in the future. The witness accounts and the terms under which they were drafted in the report had not been checked with the people who had provided those testimonials, a fact which reduced their value enormously. For example, an important witness statement from the Deputy Minister of Finance, which had not been confirmed, was not consistent with what had been in the initial draft of the report. A crucially important sentence in that witness account had been deleted from the final report, which made the testimony lose all credibility. As a result, the audit report also lost credibility.

27. The report was dotted with false assertions, with insinuations, with repetitions of false statements and with various inexplicable suspicions vis-à-vis the Secretariat. The Secretariat's comments were not **all** reflected in the report. In conclusion, the report was not an audit per se and did not meet the request of the Council which had hoped that the External Auditor's recommendations would, in future, make it possible to avoid the recurrence of such a situation. The recommendations in the report, the first two at least, did not answer the Council's concerns.

28. The External Auditor indicated that in his many years in the auditing service, this was the first time he had heard a civil servant attack his work under such conditions. He noted that the line of argumentation was very weak and lacking, and that the Secretary General had not supported his statements with firm evidence. The External Auditor was prepared to go into detail at the appropriate time, and could even go through the different points in his report paragraph by paragraph. To begin with, however, he wished to refute the idea that in presenting the report he had exceeded his terms of reference. With all due respect, it was not up to the Secretary General to speak on behalf of the Council, and the External Auditor did not report to the Secretary General but to the Council.

29. The Secretary General's view of the situation was that the External Auditor had been tasked by the Council with a very general mission. There had been two small incidents, and the External Auditor had simply been requested to perform an audit of the processes without making reference to the embarrassing details of the affair. But it was these details that the Council, to his understanding, wished to know. The Council was not interested in simply knowing whether the recruitment procedures in general needed to be adapted. The Council wanted to be informed of the processes which had led to this situation occurring. The procedure was just one of the many facets of the whole process. The External Auditor believed that what he had reported to the Council fully met its request. It was up to the Council to decide whether or not it was happy with the results and recommendations.

30. The Secretary General wished to clarify that when speaking of certain contradictions which existed between the witness accounts and the report, he had in mind, for example, the testimony of Mr. Richard Boivin, Assistant Deputy Minister of Finance for Quebec. In an earlier draft of the report, the External Auditor had asserted that Mr. Boivin had said he did not know Mr. Samson. In the final report, that sentence had been deleted. If part of the testimony was missing, that would mean that the testimony had been abridged and was therefore false. That sentence was crucial to the report because it contradicted other

testimonies and revealed inconsistencies in the report. Its exclusion led one to wonder whether the whole testimony was correctly reflected.

31. The External Auditor maintained that the question of whether Mr. Richard Boivin knew either of the interested parties had absolutely no significance. The fact remained that the Minister of Finance for Quebec had been called to the General Assembly of Quebec, and in that forum had stated that ICAO was aware of the fact that an investigation was taking place. That assertion was in the official records of the National Assembly of the Province of Quebec. The understanding of the Ministry of Finance of Quebec was that if Mr. Samson, who had been seconded by the Ministry to ICAO some two years earlier, was aware of the investigation, that meant that ICAO itself was aware of the investigation. The problem lay in the fact that Mr. Samson had not informed the administration of ICAO of the facts. The Secretary General indicated that he had contacted the Deputy Minister of Finance of Quebec who had had the understanding that ICAO was aware of the facts. That assumption was not correct, since to inform “ICAO” in such a situation would be to inform the Secretary General, or the Director of Administration, or the Chief of the External Relations and Publications Office, or the Public Information Officer who was the spokesperson for ICAO. When the Secretary General had spoken to Mr. Samson about the situation, Mr. Samson had confirmed that he was aware of the suspicions cast on Mr. Renaud, but that with his training as a lawyer he felt that an individual was presumed to be innocent until proven guilty. It was for this reason that he had not shared the information with the Secretary General.

32. The Representative of Saudi Arabia indicated that in reading the report, he had the impression that the Council had requested the External Auditor to ascertain whether Mr. Renaud and his colleague were guilty or not. He wished to tell the External Auditor that what was most important to the Council was to know that there had been no violation of rules or regulations in ICAO, and to determine whether ICAO was affected by the incident. Other entities in Canada would be able to determine if a crime had been committed, and it was not the task of the Council to condemn anyone. The Representative of Saudi Arabia wished to draw the Council’s attention to the seriousness of accusing the Government of Quebec or of Canada, or any country that seconded employees to ICAO. ICAO was in a difficult position; it could not ask for a certificate of conduct for the employees seconded to it. The recommendation of the External Auditor was not acceptable to his Delegation because it was not based on any indication that there had been a violation of ICAO’s regulations or procedures. The External Auditor indicated that Mr. Renaud had been recruited on the basis of a letter received from the Ministry of Finance of Quebec, praising his person and his ability. ICAO could in no case have doubted the sincerity of the Ministry of Finance when it came to the integrity of that person. In light of what had since happened, however, there was at least an implicit allusion. The Representative of Saudi Arabia emphasized the need to ensure that employees of the Organization, whether seconded or not, did not violate the regulations of the Organization. The External Auditor indicated that in this case, it was very difficult to ensure that the people in question had not violated any rules.

33. The Representative of Egypt observed that the main question at hand was whether Mr. Renaud and Mr. Souka had caused any damage to the Organization. In this connection, the External Auditor indicated that Mr. Renaud had dealt with the cash flow of the Ancillary Revenue Generation Fund, and Mr. Souka had had access to all payroll and banking information of the Organization. An investigation had been entrusted to a computer company to determine where things stood, but the External Auditor considered, for his part, that apart from any technical considerations, some moral damage had been done. On the one hand, an additional cost to the Organization had been incurred because \$110,000 had been paid to the computer company, and \$24,000 to the External Auditor. The question at hand was not whether Mr. Renaud and Mr. Souka were guilty, but how people who were under suspicion could be recruited without the Organization knowing about the suspicions that were hanging around them. It could be argued

that one could go ahead and hire someone who was under suspicion, and give that person the benefit of the doubt until he or she was convicted, but it should be done in full knowledge of the situation. What was serious in this case was that the recruitment had taken place with no knowledge of the suspicions. If the Council had requested the forensic investigation at a cost of \$110,000, it had to be because the Organization had been exposed to real risks.

34. The Representative of the United States believed that the President's suggestion about the way to proceed, as had initially been suggested by the Representative of Australia under other business at the previous meeting (185/1) and supported by several Council Members was the right way to proceed. It was important that the Council not try to rush to judgement today; the purpose of today's meeting was to get information, facts, and, if Council Members had questions or concerns, to address those. The Council would ask the Chairs of the Finance, Air Transport and Human Resource Committees, as well as the Chairs of the Working Groups on Efficiency and on Governance, who would make up the working group, to deliberate and consider what additional information or potential action should be considered by the Council, through a letter to the Secretary General that Representatives would receive copies of. The Council could then meet again on 8 October 2008 and review the working group's findings after everyone had had a chance to think clearly about these issues and deliberate further.

35. The Representative of the United States had two questions for the Secretary General. He wished to know, firstly, whether it was true that Mr Samson had had knowledge of the allegations against Mr Renaud at the time he recommended approval of the secondment, and had not informed the Secretary General of that information. If that was true, the Representative of the United States sought the Secretary General's views as to whether it was proper for Mr. Samson not to have given him that information. According to the report, Mr. Samson had said that a person was innocent until proven guilty in a court of law, and therefore it was unnecessary to provide the information. Did the Secretary General agree with that, or did he think that Mr. Samson should have provided him the information? And if the Secretary General believed that Mr. Samson should have provided him the information, what steps had he taken in his discussions with Mr Samson or generally to make sure that he received the information he needed before he was asked to approve a secondment or to take a major action within the Organization?

36. The Representative of the United States then referred to the additional compensation that had been provided to Mr. Samson. His understanding from reading the report was that the Secretary General had approved providing the compensation of \$41,158 to Mr Samson, but that both his legal advisor and his finance advisor had suggested he delay that payment. Was it true that D/LEB and A/C/FIN had both suggested that the Secretary General delay that payment, and, if so, why did the Secretary General decide to make that payment in any event? Had that payment been authorized by the Finance Committee under Financial Regulation 11.3, which required authorization of *ex gratia* payments in excess of \$500?

37. The Secretary General explained that the compensation which had been paid to Mr. Samson had been an incentive since Mr. Samson had had to relocate from Quebec City to Montréal, and should be paid at least at the level of the people for whom he was responsible. Those people included at least two P-5s, and the Secretary General considered that Mr. Samson should really be at a PO level; he had some 70 people working under him, and the ARGF paid for 52 posts and had contributed \$12 million to the regular budget. The monthly compensation of \$5,500 represented the difference between what the Government of Quebec paid Mr. Samson, and the salary of a P-5 officer. The Human Resources Branch, Legal Bureau and Finance Branch had agreed to the payment of the compensation. D/LEB had suggested that an amendment be introduced to the memo between ICAO and Quebec to allow for this compensation to be paid to Mr Samson, and an amended document had been signed by the Secretary General and the Quebec counterpart. The

Secretary General had subsequently learned, on the day that Mr. Samson was about to go on leave, that he had not yet received the payment of the compensation owed him. The Secretary General had been surprised to learn this, and had asked that Mr. Samson be paid immediately. The Finance Branch and Legal Bureau had had no difficulty with the principle of compensation, but had recommended a deferral of the payment. The Secretary General had not agreed to the deferral, because there was no legal basis not to pay Mr. Samson retroactively for work he had already done.

38. Responding to the first point raised by the Representative of the United States, the Secretary General indicated that Mr. Samson had told him he had not been aware of the criminal investigations by the RCMP against Mr. Renaud but knew that suspicions had been cast. The Secretary General had not been happy with Mr. Samson, since he should nevertheless have been informed, but had considered that the matter was not serious enough to discontinue Mr. Samson's secondment since he still trusted him.

39. The Representative of the United Arab Emirates wished to echo the statement and request made by the Representative of the United States, and place on record his extreme dissatisfaction and unhappiness with Mr Samson's performance, knowing that he believed that Mr. Samson had known about the criminal investigation that was taking place and had hidden this fact from the Secretary General. The Representative of the United Arab Emirates had recently urged the Secretary General to dismiss Mr Samson summarily, because he had not shared with his supervisor some sensitive information. The Secretary General's response at that time had corresponded to the response at this meeting. The Representative of the United Arab Emirates had been told by his own legal counsel that Mr Samson might have been told by the authorities conducting the investigation that he may not divulge any information about the criminal investigation. The Representative of the United Arab Emirates also wished to place on record that he was known to have been very critical of Mr Samson, his performance, his agenda and his plans even as a revenue generating official.

40. The Representative of Nigeria observed from the statements made by the Secretary General, the External Auditor, and the Representatives who had thus far taken the floor that there seemed to be a mismatch as far as the expectation of the Council with respect the work that had to be done. It should nevertheless be possible to get a group to work on the External Auditor's report, and for that group to assist the Council to precisely assess those issues which were pertinent to its expectation with respect to this issue. It was noteworthy that there was also a government investigation and a forensic investigation taking place. The issue would be reviewed from the perspective of the existing processes, and what could be done to improve the system at ICAO. The issue of background checks, the liabilities and risks that arose with seconded staff, and the Organization's responsibilities would have to be reviewed. The privileges given to the seconded staff, and the policy that increasingly gave secondees some advantages above regular staff who went through more serious scrutiny would also have to be looked into. There were thus a number of policy issues that needed to be looked at, and the group's focus should be on those elements. The report before the Council extended beyond some of those policy issues. It seemed to infer some association which at this stage was unnecessary for the purpose of the Council. The group would focus on the policy issues and leave the extra insinuations and innuendos out of the realm of the work that the Council needed to do to protect ICAO and set the Organization's policies right in regard to secondees. The other aspects could be left to other agencies to take care of.

41. The External Auditor sought clarification as to the insinuations which the Representative of Nigeria had difficulty with, since it had not been his intention to include insinuations in his report. The Representative of Nigeria wished to make clear that neither the Secretary General nor the External Auditor were on trial at this meeting. In listening to what the Secretary General and the External Auditor had said,

he had perceived some insinuations on both sides and could see an argument heating up. As regards the report, there was, for example, the issue of entering and exiting the building, and a conclusion to the effect that the security manager was not abreast of the function of the systems he was supposed to monitor. The Representative of Nigeria had believed that the report would be limited to discussing how two individuals had come to the Organization and what could be done to stop it in the future. This report contained a judgment on the performance of a staff member, and the Representative of Nigeria did not know how that was pertinent to the issue of Mr. Renaud and Mr Souka. There were thus areas where the External Auditor had gone beyond the assignment that had been given. The Representative of Nigeria asserted that Representatives had the right to make statements in the Council, and that the External Auditor should not cross-examine any Representative. The subject should now be referred to the working group and the Council should focus on the policy issue as far as this case was concerned. The External Auditor wished to clarify that reference had been made to the security system because it was not advisable, because of insurance and other legal issues, for individuals to commence working for ICAO before formal contractual arrangements were concluded. The intention had not been to check into the conditions of access to the ICAO building.

42. The Representative of Brazil recognized that this subject was not a comfortable one to deal with, but believed that this exercise, if carried out in the way proposed by the Representative of Australia, would be a balanced, transparent and open process and would lead to just and fair results. He therefore asked all participants to deal with the subject in a very objective way, so as to ensure that the future functioning of the Organization would benefit from this exercise.

43. The Representative of Mexico could support the proposal which the President had made at the beginning of the meeting, since it would be the best way to proceed in the interest of efficiency and to have a balanced approach to the subject and to the whole process, because the Council was speaking of processes in the Organization which needed to be reviewed and amended. As regards the issue of damage, the Representative of Mexico knew from his own experience and interactions with highly respected businessmen that the image of the Organization had suffered some damage. The Representative of Mexico was not satisfied with the answer which had been given to the Representative of the United States on the subject of compensation to seconded staff, since Mexico, for example, seconded experts to ICAO and never asked for compensation. He would have difficulty explaining the justification for this compensation to his authorities. Referring to the security issue and access to the ICAO building, the Representative of Mexico observed that it was a very strong accusation to say that the security manager was not abreast of the functioning of the systems he was supposed to monitor. The Representative of Mexico was not familiar with the description of the post, and did not recall seeing the vacancy notice. He wished to know how many candidates had applied for that post, and also wished to know whether the customary and appropriate procedures had been followed in recruiting C/ISEC. From the report of the External Auditor, one could observe that the crux of the problem for ICAO lay in a random series of departures from the rules and procedures concerning recruitment and procurement codes. It was for this reason that the Council would have to take some measures, because the conduct of certain officers could be considered unacceptable.

44. Responding to the question raised by the Representative of Mexico with respect to the selection of C/ISEC, the Secretary General indicated that Mr. Koukoui had been employed by the RCMP and seconded to ICAO. Prior to the 36th Session of the Assembly, the RCMP had conducted a risk assessment and provided the Secretary General with a report which specified that it was necessary to restructure the Organization's security office and place a competent individual in charge of it. The RCMP had recommended Mr Koukoui, who was already in charge of security since the time of his recruitment by ICAO, except for the fact that he was then under the authority of the Chief of Conference and Office Services (C/COS). The RCMP recommended that the chief of security should report directly to the Secretary General.

This recommendation had been approved, furthermore, by the Representative of Canada, who had congratulated the Secretary General on his choice. Mr. Koukoui was responsible for security not only at ICAO Headquarters, but also in all of the United Nations agencies in Canada and at the ICAO Regional Offices.

45. The Representative of Mexico indicated that he was not objecting to the individual himself, but simply wanted to know whether there was any human resources policy set up for the recruitment of C/ISEC. He had never seen a vacancy notice posted, and had never been made aware of any other candidates. There was no explanation as to why Mr. Koukoui had been the preferred candidate, and the Representative of Mexico wished to know whether the normal procedures for recruitment of staff had been followed. The Secretary General indicated that Mr Koukoui had already been on staff at ICAO and was already responsible for security. He had initially been recruited to that position following all the due procedures. He reported to C/COS and the recommendation of the RCMP had been to the effect that Mr. Koukoui should answer directly to the Secretary General. The reporting line had been changed accordingly. There had thus been no post announcement.

46. The Representative of Canada clarified that in the case of security positions, the candidates were all from the national police force. The recommendations of the RCMP were made directly to the Secretary General, and there was no need to have a competition.

47. The Representative of France indicated that as a Member of the Council, he was somewhat disappointed by the attitude of the Secretary General, which did not reflect international practice and which did not even fall within the realm of simple courtesy. He first wished to respond to the question which had been raised by the Representative of the United States regarding Mr. Samson, and the Secretary General's reply. In his reply, the Secretary General had repeated the contents of the External Auditor's report, because he had confirmed that Mr. Samson was aware of the investigations but had not informed him. Implicitly, Mr Samson had made a mistake, and the Secretary General had decided to keep him even though he had lost trust in him. This was not a principle on which many administrations could be based. On the issue of compensation, as had been pointed out by Representative of Mexico this was rather extraordinary, because a number of Contracting States, in particular those represented on the Council, had for years made experts available to the Organization. So far as France was concerned, the Organization had never felt it was necessary to compensate them in addition to the payment provided by their own administration. That point had not been commented upon by the Secretary General. Article 11.3 of the Financial Regulations dealt with the question of ex-gratia payments, and it was not upon the request of the Quebec government, but rather an initiative of ICAO that should have been the subject of consultations with the Finance Committee. That Article applied to all funds in the Organization, including the ARGF. The Secretary General had developed a line of argumentation to justify the compensation paid to Mr Samson, but if the reasons were that good for the compensation, why did the Secretary General not consult the Finance Committee, which would simply support his views?

48. The Secretary General wished to clarify that he had not indicated that he did not trust Mr. Samson; he had indicated that he had not been happy with him, since he should have been informed. However, taking into account the position which Mr. Samson held, and the fact that the ARGF had succeeded in keeping on board 52 staff members who would have otherwise been terminated, and in the light of the fact that Mr. Samson had been able to add \$12 million to the regular budget, he had kept him on. The Secretary General continued to trust Mr. Samson insofar as he was the driving force behind the ARGF. As regards compensation, the Secretary General wished to thank France for having recently seconded an expert, as had been the case in the past with a number of States, including the United States, Japan, the Republic of

Korea, and Italy. These experts who had been made available to ICAO were paid similarly to the other Secretariat staff. The only difference lay in the level of responsibility of Mr. Samson, who should, in the Secretary General's opinion, be at a PO level because he was responsible for over 72 staff, and, in coordination with the other Bureaux, generated significant monies. This was not the case with other seconded staff who of course performed remarkable work but did not generate any monies. It was considered appropriate to pay Mr. Samson at least at the same level as two P-5 officers working under him.

49. The External Auditor indicated that he was still very much surprised by the questions which had been raised at the beginning of the meeting, following the presentation of his report. It would appear that the Secretary General fully agreed with him on the facts, but would have preferred that the External Auditor not raise certain matters in his report. The Secretary General did not, for example, appear to have anything to say regarding Mr. Souka. As a serious auditor, he felt that he had a responsibility to divulge all of the facts to the Council. As regards the Secretary General's loyalty to Mr Samson, which was highly laudable, the External Auditor maintained that no one was irreplaceable and that if Mr. Samson's functions were all that important, there was all the more reason to question entrusting them to someone from the outside, whose position in ICAO was very precarious. This type of serious responsibility should be given to someone who had a permanent posting in the Organization.

50. The Secretary General indicated that he had not verbally mentioned Mr. Souka because his responses were recorded in the External Auditor's report. The External Auditor had recognized the fact that the term "recruitment" should be used very carefully, since Mr. Renaud had been made available to the Organization by the Ministry of Finance of Quebec, and Mr. Souka had come to work at ICAO as a member of a company which had won a bid for tenders. It was only on 21 October 2007 that the Finance Committee had decided definitely that the salaries of the Professional staff would be paid in Canadian instead of United States dollars as of January 2008. The time period allotted for the call for tenders was quite restricted. Seven companies had received the call for tenders, and only two had responded to the bid because of the short time period. The contract with Soteria was for some \$51,600, and Mr. Souka was one of the three experts proposed by that company. He had thus been recruited by Soteria and not by ICAO. Perhaps, in hindsight, there should be in place a system of security checks for companies, and the Secretary General had asked the Organization's procurement services that arrangements for such a system be made. Mr. Souka had subsequently been offered a three-month contract to temporarily occupy a P-2 opening in ICT which urgently needed to be filled.

51. The Representative of the Russian Federation wished to pick up on the question which had been raised by the Representative of Saudi Arabia, and believed that the working methods of the Organization would have to be reviewed to make sure that a similar situation did not arise in the future. A detailed investigation into the facts would have to be carried out. It was his view that the trust placed by Delegates in the Organization had been undermined. The Representative of the Russian Federation supported the proposal of the Representative of Australia for the establishment of a special group which would develop the appropriate recommendations. He drew the Council's attention to the concepts which had been raised many times by the External Auditor, regarding how such a situation could arise in the Organization. An investigation into what had taken place fell into the competency of specialized bodies, and the role of the Council lay in identifying the procedural shortcomings that had led to such a situation. The Representative of the Russian Federation could not understand how individuals recruited to such important positions in FIN and ICT had not be the subject of a security check, as was the standard practice with permanent staff members.

52. The Secretary General indicated that he would have no difficulty asking that arrangements be made for security checks of experts proposed for secondment by Contracting States, although it had not thus far been done. The Organization had not, until now, wanted to question the States on the staff which they wanted to second.

53. The External Auditor observed that security background checks might not provide a sufficient guarantee, since certain elements of an individual's criminal record could sometimes be removed in some countries. In the case of Messrs Renaud and Souka, such background checks would have served no purpose because there were no court records and the two individuals had simply been under suspicion. Governments should make available only those staff members who sincerely and honestly had something to offer to an organization, and not to turn that organization into a sort of wastebasket in which undesirable civil servants were dumped. The External Auditor also pointed out that in Quebec, there was a very marked distinction between the administrative and the political branches, and the Minister did not deal with administrative matters. This was the purview of the Deputy Minister, and it was to the Deputy Minister that ICAO should address a letter conveying its concerns.

54. The Representative of Argentina believed that well beyond the report presented there were certain facts that needed to be examined in great depth. To that effect there were three basic conclusions to be drawn from the report which should be subject to further study. First of all, it appeared that within the Organization there was an individual who had been aware of Mr Renaud's past and who had in fact sinned in remaining silent. Secondly, it appeared that certain other individuals in the Ministry of Finance of Quebec also had erred by omission and out of courtesy should have informed the Organization. Thirdly, there were certain internal recruitment procedures that needed to be revised and applied more strictly. These three points needed to be reviewed by the Council and the best manner to proceed would be to establish a working group as proposed by the Representative of Australia. The Delegation of Argentina wished to put that proposal forward as a formal motion.

55. The Representative of Iceland thanked the External Auditor for a report which was very clear and easy to understand, but sought clarification on a few points, beginning with the reference, in paragraph 44, to a "Mr. Miguel". The Representative of Iceland wished to know what Mr. Miguel's role was in this matter. There appeared to be a number of links between people such as Mr. Renaud, Mr. Souka and Mr. Yapi, who were outside the Organization, and people in ICAO, including Mr. Samson, possibly Mr. Elamiri and now Mr. Miguel. The Representative of Iceland wondered if there were other links. He also sought clarification on the procedure which was followed with procurement, and wished to know who had earmarked Mr. Souka as a "preferred candidate" for a vacancy which had been drawn up by the Human Resources Branch. Had this information regarding Mr. Souka's status as preferred candidate come up incidentally, or had it involved some research on the part of the Auditor?

56. The Representative of Iceland also requested some clarifications from the Secretary General. Firstly, it was not clear who had initiated the compensation of \$5,500 per month to Mr. Samson. In a letter which the Secretary General had sent on 27 June 2008, it was indicated that this payment was to compensate for the fact that Mr. Samson also maintained a house in Quebec City where he normally resided as a civil servant. The Representative of Iceland had later been told that the money paid by ICAO was an incentive. Now the Secretary General was indicating that this was a pay raise to place Mr. Samson at the same level as certain other staff members in the Organization. Had the Secretary General initiated the offer of the payment, or had Mr. Samson asked for it? The Representative of Iceland wished to know if other seconded staff were receiving additional incentive payments. Noting from paragraph 37 of the report that it had been envisaged to pay Mr. Renaud the same kind of supplementary pay as Mr. Samson received, the Representative of

Iceland wished to know if the draft letter which Mr. Samson's assistant had sent to the Human Resources Branch, requesting that the MoU be amended to allow Mr. Samson to be paid by ICAO and stating that the same letter should be sent for Mr. Renaud, had been initiated by the Secretary General or by Mr. Samson.

57. The Secretary General indicated that, notwithstanding the insinuations in the External Auditor's report, there had been no question of Mr. Renaud receiving compensation from ICAO. Some additional clarifications were then provided by C/PRO on the procedures which had been followed in the selection of Soteria through a call for tenders.

58. The External Auditor indicated that Mr. Miguel was a staff member in the Organization's ICT Section. The Regular Programme Procurement Section was the office responsible for procurement contracts. As regards Mr. Souka being earmarked as a "preferred candidate", the Auditor had addressed this question in writing to the Chief of the Human Resources Branch who had responded in writing that the ICT Section would be hiring Mr. Souka on a temporary contract as a consultant to ICAO given the experience and competence he had demonstrated when he had worked in the framework of the Soteria Solutions contract. The following phase, which was never completed, would have been for the Human Resources Branch to submit the recommendation for the Secretary General's approval. As a general rule, the Secretary General was simply informed by the section concerned of the preferred candidate, since the staff in that section were the specialists in their domain. This answer had therefore surprised the Auditor, since the approval of the Secretary General had been clearly requested on 11 June 2008 and the Secretary General had given that approval in writing six days later. However, when consulting C/HRB on the preliminary verifications of Mr. Souka's qualifications, the Auditor had been told that there had not been any preliminary verifications since the Secretary General's approval had not been obtained. That statement was clearly erroneous. In any event, the recommendations of the ICT Section would have sufficed to give Mr. Souka the contract.

59. The Representative of the Republic of Korea understood why Mr. Samson was receiving additional compensation, but wished to know if the Secretary General had ever considered requesting the Quebec Government to pay it. The Secretary General indicated he had decided to give Mr. Samson additional compensation for the reasons which he had explained earlier, and wished to add that this had been done in coordination with C/HRB, D/LEB and C/FIN. In order to be able to pay that compensation it had been necessary to amend the contract, and that had been at the recommendation of D/LEB, and not Mr. Elamiri as indicated in the report. On this point, the External Auditor indicated that an e-mail from Mr. Samson to C/HRB made reference to a proposal made to the Secretary General by Mr. Elamiri. It was thus Mr. Elamiri who had made the proposal for additional compensation. As regards retroactivity, under the terms of that MoU, Mr. Samson was not to receive financial compensation when he was on leave. Because of the unpaid leave, Mr. Samson's compensation was reduced by 25 per cent, from \$54,877 to 41,158.

60. The Representative of Spain found it unfortunate that the Council was discussing this subject at all. Members of the Council were responsible for safeguarding the prestige of the Organization and for mitigating both economic risks as well as public image risks. Without any doubt there were some individuals who were guilty for this embarrassing situation, and there was a need for a change in the procedures. From the conclusions of the External Auditor, the Representative of Spain had been able to draw two main ideas. Firstly, there had been a lapse in the sharing of information on the part of Mr. Samson as well as on the part of the Ministry of Finance of Quebec. Secondly, there was a lack of procedures for allocating responsibilities to secondees, who were not recruited following the rigorous process to which other members of the Secretariat were subjected. The Representative of Spain was extremely worried about the fact that there were secondees assigned responsibilities at the highest level of the Organization, as had been pointed out by the External Auditor. The Representative of Spain supported the proposal to set up a special

group. It would be necessary to establish the codes for recruitment, verification, and allocation of responsibility for consultants as well as secondees.

61. The Representative of Venezuela noted that the report of the External Auditor used the word “omission” repeatedly, which meant that the standards of the Organization had been jeopardized. Damage could be caused to the reputation of ICAO notwithstanding the best of intentions. The Representative of Venezuela supported the views offered by the Representative of Spain regarding the need to establish clear responsibilities so that the situation did not arise again in the future, as well as the proposal put forward by the Representative of Australia and the comments made by the Representative of Brazil.

62. The Representative of Namibia thanked Canada and the RCMP for having unveiled this problem, because it appeared that without the RCMP, this person could still be employed by the Organization with some unfortunate consequences. During the last session (184/5), when summarizing the views which had been offered following the Secretary General’s report, the President of the Council had observed that most Representatives had spoken for the need for an additional investigation to be carried out immediately. That investigation should have been carried out by the Internal Auditor of ICAO who was to be joined by the External Auditor. The report should therefore have been tabled jointly. The Representative of Namibia wished to know if the Chairman of the Finance Committee had consulted with the Secretary General to work out the modalities on the involvement of the External Auditor. The first draft of the report of the External Auditor, which included many paragraphs deleted in the final version, should perhaps be provided to the group that would be established by the Council. The External Auditor indicated that it would not be possible to communicate his draft report. As regards the Internal Auditor, the letter of the Secretary General had requested the External Auditor to work hand in hand with the Internal Auditor in order to avoid overlapping. The Internal Auditor was, however, within the hierarchy of the Organization, whereas the External Auditor was completely outside the organization. The Internal Auditor had not been able to participate in all of the meetings because he had been occupied with other activities.

63. The Representative of South Africa asked that the group which would be established look at the questions raised by the Representative of Namibia, and that it pay particular attention to paragraphs 9, 17, 22, 25, 27, 34, 35, 57, 58, 60 and 61 of the External Auditor’s report.

64. The Representative of India believed that the report of the External Auditor was an excellent report which laid the foundation for further action. The group would make recommendations to the Council for further action, and the Representative of India hoped that the Council would make further decisions and pass them on to the Secretary General for implementation. Implementation of the recommendations of the working group would be based on the External Auditor’s report, and further questions, answers and public records would be implemented under the oversight of the Council. The report of the External Auditor represented only the tip of the iceberg. In fact, there was an organization-wide reflection on human resources, procurement, people acting beyond their jurisdictions, employees working before their contracts took effect, security, and improper payments. The Representative of India hoped that the clarifications provided at this meeting would not be considered definitive. They would be further examined by the group, which would come up with its recommendations. In reading the report one could see that there were lapses, irregularities, violations, and non-adherences to the rules, regulations and policies at all levels in the Organization. The working group would identify the individuals who had played a role, and who have not adhered to policies, rules and regulations. The group would also make recommendations for future policies so that such events did not recur, would work in the time-bound fashion which had already been agreed to, and the Organization would be rejuvenated and work more efficiently in the future.

65. The Representative of Ecuador observed that an audit, by its nature, almost always revealed unfortunate circumstances as had just been pointed out by the Representative of India. What was absolutely essential to the dynamics of the institution was an analysis of the processes. Many aspects of the processes needed to be improved upon. The Representative of Ecuador therefore supported the establishment of a group which would deal with the processes. The task of the group would be much clearer when Representatives transmitted their questions and concerns to it. The Representative of Ecuador supported the proposals which had been put forward by the Representative of Argentina. What was important was the spirit in which the audit would be carried out. It was not necessary to go into details such as the different means of processes and procedures, and the Council should not be too judgemental or punitive. The Representative of Ecuador wished to support the criteria set forward by the Representatives of South Africa, Egypt and Nigeria. Greater transparency was needed at ICAO and would significantly improve the Organization's work.

66. The Representative of Switzerland recalled that a presentation had been made earlier in the year by the Human Resource Branch on the ICAO recruitment processes. At that time, he already had concerns about existing informal recruitment processes within the Organization. He had been told at that time that no informal recruitment processes existed. It did not matter whether the term "recruitment" was used or "appointment", "reassignment" or "secondment"; the External Auditor's report confirmed that at least for three cases dealt with in the report, informal recruitment processes did exist. His concern was that there may be other cases within ICAO where staff members had been recruited according to similar informal recruitment processes. There was work not only for the special working group but also for the Human Resources Committee in dealing with the issue.

67. The Representative of Switzerland observed that independent from the form of recruitment, all ICAO staff, and particularly those paid fully or partly from ICAO funds, were supposed to be in possession of a work contract signed by the Secretary General or the Human Resources Branch. Although the External Auditor's report provided a lot of information on the recruitment of the two persons in question, it would have been appropriate to provide, within the report and in the interest of transparency, copies of the work contracts or the MOUs, as well as descriptions of tasks, including obligations and responsibilities of these persons.

68. The Secretary General indicated that there were three types of seconded staff, each with well-defined policies governing their recruitment. These three types and the policies which governed them were as follows. a) *ex-gratia* personnel: in such cases States made available to ICAO experts for a period of time determined by the State in question, seconded to ICAO to work in a specific department of the Organization. The State continued to pay the seconded employee all of his emoluments and expenses associated with his assignment to ICAO. Once seconded to ICAO, the expert was considered a staff member of the Organization for the entire duration of the loan. The staff rules and regulations applied to the expert in question, including those pertaining to performance management. b) experts made available to ICAO in a field determined by the State: that decision was sometimes left to ICAO, but the field of specialization of the expert determined where he or she would be assigned to work. According to this formula the country paid into the ICAO coffers the amount equivalent to the salary and all of the relevant benefits of the staff member. The staff rules applied to this category as well. c) associate or junior officials: people in this category were similar to those under b), the only difference being that junior professionals, although they contributed to the work of ICAO, at the same time had an opportunity to get training for their field of speciality. They came to ICAO with scarcely more than two to four years of work experience. There was also a separate category of trainees who came to finish their training in ICAO. Some were sponsored by their governments, while others are referred by universities. In this case ICAO had the same policy as the United Nations, and a circular was

available on the subject. A copy could be made available to the External Auditor on request. Finally, in the trainee category, and given the budgetary problems of ICAO, the Secretary General had recently launched a pilot trainee project to assist various areas of ICAO, be it finance, computers, or general administration. A policy had been established for this pilot project, the results of which would be considered after one year of implementation.

69. The Representative of the Dominican Republic supported the proposal of the Representative of Australia to set up a group which would work towards enhancing the objectives of the Organization. He could not but stress the fact that the External Auditor who had been called upon to play this role had an obligation to present to the Council all the different facets of the problem which had to be taken into consideration. This was his direct responsibility pursuant to Article 54 of the Convention, and the Council was bound by that Article. The External Auditor had to respect his terms of reference but in so doing it was better to sin by excess rather than by omission.

70. The Representative of the United Arab Emirates wished to support the words of caution which had been offered by the Representative of Nigeria regarding the need to avoid turning this issue into a cross-examination. His Delegation would have some questions to ask the Secretary General and the External Auditor in order to really determine the facts.

71. The Representative of France thanked the Representatives of the Russian Federation and Spain for having spoken to the Council's obligations. The Organization needed to have the confidence of States. The Council was elected by the Assembly and it had a duty to all Contracting States to protect the reputation and ensure the proper functioning of the Organization. Those were the two criteria which should govern the work of the group set up by the Council to look at this.

72. The President of the Council observed that the proposal of the Representative of Australia that he had read out at the beginning of the meeting had been very well supported. The group would have to take into consideration this meeting's debate, the comments of the Secretary General and those of the External Auditor. The group would report to the Council, and the Council would take decisions on how to proceed. The group would be composed of the Representatives of Australia, Brazil, France, India and Nigeria. The President assured the members of the group of his assistance as well as that of the Secretary General.

73. The Representative of Saudi Arabia indicated that he fully respected the Representative of France, and was impressed with his work in the various activities of the Organization, but had reservations regarding his being a member of the group since the External Auditor was of the same nationality.

74. The Council agreed to the establishment of the special working group and the course of action described above.

75. The meeting adjourned at 1300 hours.

COUNCIL — 185TH SESSION

SUMMARY MINUTES OF THE THIRD MEETING

(THE COUNCIL CHAMBER, MONDAY, 27 OCTOBER 2008, AT 1430 HOURS)

OPEN MEETING

President of the Council: Mr. Roberto Kobeh González

Secretary: Dr. Taïeb Chérif, Secretary General

PRESENT:

Argentina	— Mr. A.M. Singh	Mexico	— Mrs. D. Jiménez Hernández (Alt.)
Australia	— Mr. P.K. Evans	Namibia	— Mr. B.T. Mujetenga
Brazil	— Mr. R.S. Magno	Nigeria	— Dr. O.B. Aliu
Cameroon	— Mr. E. Zoa Etundi	Republic of Korea	— Mr. G.-S. Shin
Canada	— Mr. L.A. Dupuis	Romania	— Mr. C. Cotrut
China	— Mr. Tao Ma	Russian Federation	— Mr. A.A. Novgorodov
Dominican Republic	— Mr. C.A. Veras	Saudi Arabia	— Mr. S. Hashem
Ecuador	— Mr. I. Arellano Lascano	Singapore	— Mr. K.P. Bong
Egypt	— Mr. S. Elazab	South Africa	— Mr. T. Peege
El Salvador	— Mr. J.A. Aparicio Borjas	Switzerland	— Mr. D. Ruhier
France	— Mr. J.-C. Chouvet	Tunisia	— Mr. I. Sassi
Germany	— Mr. J. Mendel	Uganda	— Mr. J. Twijuke
Ghana	— Mr. K. Kwakwa	United Arab Emirates	— Mr. J. Haidar
Iceland	— Mr. H. Sigurdsson	United Kingdom	— Mr. M. Rossell
Italy	— Mr. F.P. Venier	United States	— Mr. D.T. Bliss
Japan	— Mr. S. Baba	Uruguay	— Mr. J.L. Vilardo
Malaysia	— Mr. S.-C. Kok	Venezuela	— Mr. D. Blanco Carrero

ALSO PRESENT:

Mr. A. Romera (Alt.)	— Brazil
Ms. S. Chambers (Alt.)	— Canada
Mr. Chunyu Ding (Alt.)	— China
Mrs. V. Pichinte Chacón (Alt.)	— El Salvador
Mr. P. Pape (Alt.)	— France
Mr. F. Christensen (Alt.)	— Iceland
Mr. P. Ciancaglioni (Alt.)	— Italy
Mr. W. Yoshioka (Alt.)	— Japan
Mr. W.-S. Seo (Alt.)	— Republic of Korea
Mr. H.-J. Yoo (Alt.)	— Republic of Korea
Mr. A.A. Alharthy (Alt.)	— Saudi Arabia
Mr. P.D. Fleming (Alt.)	— United Kingdom
Ms. L. Faux-Gable (Alt.)	— United States
Mr. H. Dávila (Alt.)	— Uruguay
*Mr. N. Jobim, Minister of Defense	— Brazil
*Mr. T. Fenoulhet (Obs.)	— European Commission

SECRETARIAT:

*Mr. D. Wibaux	— D/LEB
*Ms. N. Graham	— D/ANB
*Mr. R.J. Heighes-Thiessen	— D/TCB
*Mrs. F.A. Odutola	— D/ATB
*Dr. Fang Liu	— D/ADB
*Mr. P. Lamy	— DD/ANB
*Mr. M. Fox	— C/FLS
*Mr. A. Quiroz	— C/ASA
*Mr. R. Lambo	— C/ISD
*Mr. S. Berti	— C/SFP
*Mrs. H. Biernacki	— TO/SFP
Miss S. Black	— Précis-writer

*Part-time

Welcome to the Minister of Defence of Brazil

1. The President of the Council extended a warm welcome to the Brazilian Minister of Defence, Mr. Nelson Jobim, and his delegation, who were visiting the Organization. Mr. Jobim then addressed the Council, providing an overview of the important air transport activities in Brazil. In thanking Mr. Jobim for his presentation, the President expressed satisfaction that those activities were closely in line with ICAO's Strategic Objectives.

Welcome to new Representatives on the Council

2. The President of the Council also extended a warm welcome to Mr. A.M. Singh, Mr. E. Zoa Etundi and Mr. S. Baba, who were attending a meeting of the Council for the first time in their respective capacities as Representatives of Argentina, Cameroon and Japan. He also thanked Mr. M.A. Mbeng, the former Representative of Cameroon, for his co-operation and support during his tenure.

Subject No. 13: Work programmes of Council and its subsidiary bodies**Schedule for consideration of items during the 185th Session of the Council**

3. The Council noted the meeting schedule for the 185th Session and the schedule for the consideration of items presented in, respectively, President's memoranda PRES RK/1564 dated 17 July 2008 and PRES RK/1602 dated 10 October 2008.

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

4. Tabled for consideration was C-WP/13220, in which the President of the Council reported on activities during the recess, ICAO meetings held at Headquarters and missions undertaken by him and by the Secretary General.

President's mission to Australia

5. Referring to paragraph 18 of the paper, the President elaborated on his mission to Melbourne and Sydney, Australia from 15 to 18 October 2008, which he had undertaken at the invitation of the Government of Australia and in the company of the Representative of Australia on the Council. The main purpose of his visit had been to address the 2008 Sir Lawrence Hargrave Lecture at the Melbourne Branch of the Royal Aeronautical Society, a copy of which was available on the ICAO website, and to meet with high-level government and aviation officials.

6. In Melbourne, the President had met with members of the Aviation Policy Group (APG), which comprised the Secretary of Infrastructure, Transport, Regional Development and Local Government of Australia, the Chief Executive Officers (CEO) of the Civil Aviation Safety Authority (CASA) and of Airservices, and the Chief of the Royal Australian Air Force. An executive briefing had been held with members of the Aviation Safety Foundation Australasia (ASFA) and the Flight Safety Foundation (FSF), during which time views had been exchanged on issues related to safety, security, the environment, safety management systems, and training. The President had also met with officials from the Civil Aviation

Authorities of Papua New Guinea and representatives from the Pacific Aviation Safety Organisation (PASO). They had discussed possible measures to improve safety, the co-operation received from the Government of Australia and problems with the establishment of PASO. During their discussions, a special concern had been expressed regarding a lack of contact with the Asia and Pacific Regional Office. The President had also met with the Director General of Civil Aviation (DGCA) of Indonesia, with whom he had exchanged views on ways to enhance aviation safety. During his visit, the President had been afforded the opportunity to visit The Australian Advanced Air Traffic System and Training Facility (TAATS) at Melbourne Airport and Virgin's flight operations facilities.

7. In Sydney, the President had met with the Minister for Infrastructure, Transport, Regional Development and Local Government.

8. The President noted that, during all of the above meetings, discussions had focussed on ICAO's safety and security audit programmes, training, technical co-operation, environmental issues, the shortage of skilled aviation human resources and voluntary contributions to the aviation security programme. He had seized the opportunity to thank Australia for recently joining the Co-operative Aviation Security Programme (CASP) and for its voluntary contribution in the amount of CDN 35 400 to support ICAO's environment related activities.

9. The President thanked the Representative of Australia for all the arrangements he made for the successful visit.

President's mission to Sierra Leone

10. The Director of the Air Navigation Bureau (D/ANB) provided updated information regarding the mission which the President had undertaken to Freetown, Sierra Leone from 31 July 2008 to 1 August 2008 in the company of D/ANB and the ICAO Regional Director, Western and Central African Office (*cf.* paragraphs 9 to 13 of the paper).

11. D/ANB noted that they had had the opportunity to meet with many government officials, including the Head of State, and had had a very effective meeting regarding what action needed to be taken to provide Sierra Leone with the capability to oversee its air transportation system. They had been supported by the Governments of the United Kingdom, the United States and Nigeria in their meetings with the Transport Minister of Sierra Leone and his staff. Regrettably, the day after their departure the Minister of Transport and Aviation had been dismissed and replaced. The Director of Civil Aviation (DCA) had been transferred to the Roberts Flight Information Region (FIR) and the new Minister of Transport and Aviation had requested support from ICAO in terms of recommendations to fill the DCA position.

12. The Technical Co-operation Bureau (TCB) had developed a project which had been signed by the Government of Sierra Leone and which consisted of three phases. The initial phase involved putting in place two operational assistance (OPAS) inspectors. Those inspectors had been selected and would very shortly be en route to Sierra Leone to support the Government. The second phase of the project was focused on the documents (certificates, licenses, *etc.*) that were necessary to put the Government back in a position to provide oversight with the said OPAS inspectors. The third phase of the project was to have the competent, fully-trained staff available and in a position to provide direct oversight for Sierra Leone. Since the President's mission, the Civil Aviation Authority had entered into an agreement with the Russian Federation to have Russian-registered helicopters provide services between Sierra Leone's airports, with the Russian Federation providing the appropriate oversight for those helicopters. ICAO continued to liaise with

Sierra Leone to provide support and looked forward to the arrival of the OPAS inspectors. Responding to a query by the Representative of India, D/ANB clarified that the said project would cost some \$800 000. The first phase would take from three to four months to implement, with the OPAS inspectors staying as long as necessary to assist the Government of Sierra Leone. The overall project would last one year.

13. Responding to a query by the Representative of France regarding the progress made by Indonesia with respect to the USOAP findings following his mission, the President of the Council noted that an Act providing the Civil Aviation Authority of Indonesia with the legal framework and additional human and financial resources required had been presented for the Congress' approval. Indonesia was also making important progress with regard to the training of inspectors in the fields of safety oversight, airworthiness, *etc.* Observing that he would be on mission to Malaysia in November 2008 to address the 45th Conference of Directors General of Civil Aviation of the Asia and Pacific Regions, the President indicated that it had been agreed to also visit Indonesia to have a full review of the progress which that State had made. He would report to the Council on the outcome in due course.

Secretary General's mission to the United States

14. The Secretary General then provided additional information regarding his mission to New York, United States, from 23 to 25 October 2008 (*cf.* paragraph 7 of the paper). His mission had begun with the Food and Agriculture Organization of the United Nations (FAO) World Food Day 2008 celebration, whose theme had been "World Food Security: the Challenges of Climate Change and Bioenergy". The celebration had taken place at the UN with the participation of the UN Secretary-General Ban Ki-moon and former United States President Mr. W.J. Clinton, the guest of honour, who had given an excellent presentation in support of agriculture in developing countries.

15. On 24 and 25 October 2008 the Secretary General had attended the Second Regular Session of the United Nations System Chief Executives Board for Co-ordination (CEB) for 2008, which had dealt with climate change, energy, and the safety and security of personnel of the UN Specialized Agencies. The latter had been requested to redouble their efforts and their vigilance from the safety point of view.

16. The financial crisis had been at the core of the CEB deliberations. A Memorandum of Understanding (MOU) had been signed between the World Bank (WB) and the UN Secretariat. During the discussions, all had recognized that the situation was serious and that the crisis would have repercussions not only on developed countries but also on developing countries, with the most serious repercussions being on the poorest segments of the populations of the latter countries. The financial crisis, as well as the threat of a global recession and price volatility, threatened the very foundation of globalization. The CEB had committed itself to supporting the international community and to playing its role to strengthen and assist countries with a view to protecting their populations and employment.

17. The Secretary General had made a statement in his own personal capacity, in which he had emphasized that the current financial crisis was only the tip of the iceberg and that it was the developing world that would know its full extent. He had underscored that the developing world was one that was based on growth for the sake of growth and development for the sake of development, without taking into account the human element. Mankind had been disregarded, which was why at the moment there were some three billion people who had fallen below the poverty level and who lived on less than \$3 per day, two billion people who suffered from malnutrition, some 960 million people who suffered from hunger and tens of millions who died every year from hunger. Mankind's disastrous mismanagement of the planet had seen the destruction, over a few decades, of what nature had taken billions of years to create. It had led to the partial

destruction of fauna and flora, had affected biodiversity, which was considered to be the lungs of humanity, and had caused global warming. The CEB had agreed to work towards a type of development which would foster mankind, and at the moment the CEB was subject to the G-20 summit called by Mr. Sarkozy which would take place on 15 November 2008. In light of that planned summit, the CEB would prepare a response to prevent today's crisis from becoming tomorrow's disaster. The CEB would take proactive leadership among multilateral institutions to ensure a co-ordinated and comprehensive response on trade, development, employment, finance, humanitarian assistance, environment and the protection of global goals and norms to help with a fair and sustainable globalization.

18. In highlighting some of the points that the Secretary General had mentioned earlier in his discussion with the UN Secretary-General and other members of the CEB, the Representative of Canada underscored that the issue of security and protection of individuals in ICAO Headquarters was becoming an issue of paramount importance. Noting that the Secretary General and the host country, Canada, together with the RCMP, were looking into matters to make the building safer, he indicated that the Secretary General and Canada would soon inform the Council of new requirements regarding security. While recognizing that change was always a difficult thing to handle, the Representative of Canada requested that Representatives not challenge the decisions of the Secretary General and the RCMP as they were in support of collective security. Although some steps might be taken to perhaps restrict movement within the building, they would be done in full respect of Representatives' autonomy.

19. The Representative of Canada echoed the Secretary General's comments regarding the whole issue of humanity and the protection of marginalized groups. Recalling the speech which the Secretary General had made at the Conférence de Montréal earlier in the year in which he had spoken of the interest of aviation, he emphasized that Representatives should read his speech in the light of what was now happening in the world with regard to the current economic situation. In concluding, the Representative of Canada congratulated the Secretariat for its excellent work in addressing the case of Sierra Leone.

20. The Council noted C-WP/13220, as well as the information provided orally regarding the President's missions to Melbourne and Sydney (Australia) and Freetown (Sierra Leone) and the Secretary General's mission to New York (United States) (*cf.* paragraphs 18, 9 to 13 and 7 of the paper).

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

Report on action taken to implement decisions taken by the Council during the 184th Session

21. The Council had for consideration C-WP/13226, in which the Secretary General presented a summary of the action taken to date to implement the decisions taken by the Council during its last (184th) session, as well as Council decisions taken during the 178th-183rd Sessions which took longer than one session to complete. It was noted that, during a discussion on 27 October 2008 between the President of the Council, the Secretary General and the Delegation of the United Arab Emirates, it had been decided, in light of time constraints, to convene the Diplomatic Conference on compensation for damage caused by aircraft to third parties arising from acts of unlawful interference or from general risks at ICAO Headquarters in Montréal on the dates previously agreed by the Council, 20 April to 2 May 2009, and not in the United Arab Emirates (*cf.* C-DECs 184/6 and /7).

22. Responding to a query by the Representative of India regarding the application of Article 54 j) to security (*cf.* C-DEC 184/7), the Secretary General clarified that on 24 October 2008 an electronic bulletin (EB 2008/33) had been issued informing States of the procedure for transparency and

disclosure regarding significant compliance shortcomings with respect to security-related Standards and Recommended Practices (SARPs). Although issues such as the critical elements, security risk indicators and the concept of significant safety concerns had been included in the Agenda of the Twentieth Meeting of the Aviation Security Panel (AVSECP/20), to be held in Montréal from 30 March to 4 April 2009), the said procedure was now applicable.

23. The Representative of Egypt noted, in this context, that his State had signed the revised Memorandum of Understanding (MOU) for aviation security audits conducted under the Universal Security Audit Programme (USAP) and that the said Article 54 j) procedure would therefore apply to Egypt when it was audited.

24. To a point raised by the Representative of Saudi Arabia regarding the report on the impact of the 2008-2010 Budget on the provision of language services (*cf.* C-DECs 184/4 and 184/8), the Director of the Bureau of Administration and Services (D/ADB) noted that the following action had been taken: a memorandum had been sent to the Secretary General seeking approval for the retention of some staff members in the Language and Publications Branch (LPB) who were to have had their contracts terminated at the end of the year; the Vacancy Notice for the post of Chief, LPB (C/LPB) approved by the Human Resources Committee (HRC) had been posted on the ICAO website to initiate the recruitment process; the Secretary General had, in the meantime, appointed the Chief of the Russian Section as the Acting C/LPB; some temporary personnel had been hired to fill some other vacant posts in LPB; some adjustments had been made regarding the staffing of the Russian and Arabic Sections; and some staff members in the French Section who were to have had their contracts terminated at the end of the year would be retained for the whole triennium under the Temporary Staff Salaries Fund (TSSF). D/ADB emphasized that efforts were being made to ensure the same level of service for each of the Organization's six working languages.

25. Underscoring that 43 posts had been abolished from LPB, the Representative of the Russian Federation stressed that the Council, in presenting its budget proposal for the 2011-2013 triennium to the Assembly for approval, should highlight that the current budgetary constraints had caused serious problems in the provision of language services. Averring that the said posts should not have been abolished, he assured D/ADB that his Delegation would co-operate with her to resolve any problems relating to the provision of Russian language services.

26. The Council then noted C-WP/13226. In addition, further to suggestion made by the Representative of the United States regarding the Council's earlier decision (184/6) to refer Rule 31 of the *Rules of Procedure of the Legal Committee* (Doc 7669-LC/139/5) to the Working Group on Governance (Policy) for consideration and report to the Council, the Council requested that that Working Group also review, and report on, the process for electing the officers (Chairman and Vice-Chairmen) of the Legal Committee with a view to establishing a more systematic and effective approach (*cf.* Rule 6).

Subject No. 14: Subjects relating to air navigation

Progress report on the issue of flags of convenience

27. Further to a request dated 21 October 2008 from the Office of the European Commission in Montréal, which had been circulated under cover of the President's e-mail of the same date, the Council, in accordance with Rule 32 a) of its Rules of Procedure (Doc 7559), agreed to invite the European Commission to participate as an observer in the consideration of this item. Pursuant to the decision taken by the Council during its review of a report by the Air Navigation Commission (ANC) on the issue of flags of convenience

(183/6; C-WP/13133), an oral progress report was then given by the Chief of the Flight Safety Section (C/FLS) on the development of an international registry of air operator certificates (AOCs).

28. C/FLS noted that the project had two phases: Phase I consisted of the implementation of a database to collect the AOC and operations specifications content required under Annex 6 (*Operations of Aircraft*) from the States of the Operator. Phase II, which would take place when the AOC international registry was used on a regular basis, consisted of the definition of an additional data set and associated registry functionalities, to provide sufficient data to facilitate international civil aviation operations and their surveillance. As it was a large-scale project with multiple stakeholders, it had been decided to put some risk mitigation measures in place. A three-phased approach was being followed. The first phase, which was currently underway, consisted of the identification of core data and business rules; the second phase, project planning, approval and funding; and the third phase, development, data testing and operational implementation. In emphasizing that extra-budgetary resources were required for the project, C/FLS underscored that it was necessary to reach out to both States and industry to assist ICAO in the development of the international registry of AOCs.

29. While supporting the idea of ICAO managing such an electronic database, the Representative of Switzerland expressed doubts regarding its quick establishment given the low level of States' responses to the Organization's State letters. Furthermore, he presumed that the coverage of the international registry of AOCs would be difficult and that it would hardly compete with existing industry databases. The Representative of Switzerland cited, in this context, a database which had been established in 1966 and which currently comprised 197 States, 6 000 air operators and 60 000 aircraft. The related book, issued annually, was a widely-used work tool of government and industry organizations including the Federal Aviation Administration (FAA) of the United States, Airbus, and civil aviation and airport authorities. The data in the said book was also available in electronic format and was well-distributed to customers or license holders with monthly updates. The Representative of Switzerland urged the Secretariat to look into the possibility of establishing the ICAO international registry of AOCs on the basis of, and using, existing data collections and of having that existing data only validated by States.

30. Indicating that that was a very important point, C/FLS underscored that in order to achieve an international registry of AOCs ICAO would need to partner with many different organizations. He noted that the Secretariat had done some partnership with the international registry of civil aircraft, which covered between 70 to 80 per cent of aircraft that were involved in international operations. While there had to be some tailoring to make sure that the latter served the needs of the regulators, the Secretariat nevertheless welcomed those types of partnerships as they would be the only way to achieve such a large-scale project.

31. Responding to a query by the Representative of Nigeria, C/FLS noted that the ICAO International Aircraft Information System (ILAIS) established pursuant to Article 21 (*Report of registrations*) of the Chicago Convention was in the final stage of testing, which was expected to be completed by the end of November 2008. A State letter would then be issued advising States that the ILAIS was in place and that it would be governed by the rules established by the Council.

32. Referring to the comments made by the Representative of Switzerland, the Representative of France enquired whether the existing industry database could be of practical use to ICAO and whether any initiatives been taken to access it. Noting, from the oral report, that the new requirements of the European Aviation Safety Agency (EASA) for air operations within the EU would be taken into account in determining additional optional data fields for the international registry of AOCs, he indicated that it would be of interest for the Observer from the European Commission to provide the Council with some information on EASA's

practices to prevent the operation of flags of convenience. The Representative of India agreed that such information would be very helpful to the Council in taking further action on that issue.

33. To a question raised by the Representative of India, C/FLS clarified that, while the aviation sector had not advanced to the same point as the maritime sector, which allowed ships to be held in a port for safety reasons, Annex 6 had been strengthened as regards operational situations. In addition, under Annex 8 (*Airworthiness of Aircraft*), there were certain actions that the State of the aerodrome could take if an aircraft were suspected to be damaged. However, a substantial amount of study of means to further empower States to take appropriate action regarding foreign air operations within their territory when necessary to preserve safety was still required and the Secretariat did not currently have the resources available therefor.

34. While the Representative of the United Kingdom agreed that there was an essential need to ensure that it was possible to trace aircraft as they move around the world, he reiterated that there were already many existing databases which did just that. The only problem with those databases was that there was no unique identifier for all aircraft habitually involved in international civil aviation. The Representative of the United Kingdom therefore wondered whether it would be better if ICAO were to assist the industry by providing some format for establishing the unique identifier and allowing the commercial organizations to continue to do what they did best and for ICAO to do what it did best, which was to set the international regulatory framework and, having done that, being able to use that information more effectively for the reasons that we have discussed with respect to flags of convenience. While appreciating that the work was being funded by the International Air Transport Association (IATA), the Representative of the United Kingdom was concerned that ICAO might be spending a lot of time and energy trying to reinvent the wheel. Noting that *Janes* contained a massive amount of information, he questioned whether ICAO really wanted to get into the business of recreating that information with a few additional refinements, averring that it was better to establish those refinements so that *Janes* could then include it in its documentation.

35. C/FLS emphasized the need to differentiate between the ILAIS, which would contain records of aircraft that were habitually involved in international civil aviation, and an international registry of AOCs. As it pertained to the Article 21 element, besides the listing of the aircraft, there were two pieces of information that were vitally important as tools to reduce the number of flags of convenience: ownership and control. The Council had felt strongly that the establishment of an international registry of AOCs was something that ICAO should undertake.

36. Underscoring the importance of the project, the Representative of the United States emphasized the need to think more carefully about the role of ICAO and what value the Organization added to what was already available and how it could work more effectively with other organizations that were meeting part of the need for such information. He suggested that a meeting be held with manufacturers to discuss the issue of a unique identifier. While appreciating the funding by IATA, the Representative of the United States enquired how ICAO ensured the independence of the Secretariat's work, given ICAO's limited financial and human resources, if it was funded by an association of air carriers.

37. In response to comments made by the Representatives of France and India, the Observer from the European Commission provided some information on how the European Community had been addressing the issue of flags of convenience, specifically, on the activities of EASA with respect to the Safety of Foreign Aircraft (SAFA) Programme. The European Community had developed three basic tools to address flags of convenience: first, it had a harmonized and standardized procedure for ramp inspections, which were undertaken by national Civil Aviation Authorities, of aircraft operated by foreign carriers landing in the European Community. That was carried out within the framework of the SAFA Programme

through which the national Civil Aviation Authorities in the EU Member States verified the compliance of foreign aircraft with ICAO SARPs. Within the framework of the same programme, European carriers were also checked but against the tighter EU rules. The data collected through the SAFA Programme also included data on the AOCs and the information contained in the AOCs of the foreign operations, including its validity; that was compiled and fed into the SAFA database. There was an administrative agreement with ICAO to allow the ICAO Secretariat access to that database. The European Community was very happy to be able to contribute in that way to ICAO's project.

38. The second tool that the European Community used to address flags of convenience was through the monitoring and investigation by EASA foreseen in the framework of the recent extension of the Agency's competencies. EASA would also issue safety authorizations to foreign carriers wishing to operate into the Community. Those are additional to any permits or authorizations delivered in the framework of bilateral air service agreements. The actual implementing rules had yet to be adopted by the European Commission, but those would address the precise requirements to be fulfilled in order for foreign carriers to receive these safety authorizations.

39. The third measure was taken with respect to individual or a group of carriers in application of Regulation (EC) No 2111/2005 of The European Parliament and of the Council of 14 December 2005 in the form of a partial or total ban in instances where individual carriers failed to resolve safety deficiencies in a sustainable manner and/or where authorities failed to exercise correctly their oversight over the carriers under their regulatory control. The aim of that measure was to ensure that ICAO SARPs were effectively in force and respected at all times. Fifty-three companies operating illegally had been reported as officially de-certified as a direct result of that measure.

40. In concluding, the Observer from the European Commission emphasized that safety oversight was an area where the European Community, acting through the European Commission, was ready to help States improve their overall safety situation by means of technical assistance and accompany them all the way along the implementation of appropriate corrective action plans and projects to resolve effectively any deficiencies with a view to ensuring an appropriate level of safety, be it to avoid or be taken off the list of banned carriers.

41. Referring to the issue raised regarding the database and the kind of information that it was ICAO's responsibility to provide versus that of industry, D/ANB indicated it was a very fair question, particularly given the budget environment in which ICAO found itself. As she did not see the Organization's financial situation changing much in the next triennium, she considered it important to find a balance between core activities that were necessary in terms of databases and those activities that could be carried out in partnership with industry. The Secretariat was now working on determining a core set of data that was necessary for ICAO to retain, as well as on consolidating some of the existing databases and establishing selected authorization for accessing the databases. Its proposed policy would be a fundamental consideration in preparing the draft Budget for the next triennium.

42. The Council noted the oral report on the development of an international registry of AOCs, on the understanding that a project plan proposal therefor, which would include deliverables, a timeline and resources required and which would be funded by IATA, would be presented to the Council for consideration during the 187th Session.

Subject No. 14.5: Safety oversight
Subject No. 52.1: Universal Security Audit Programme

Progress report of the Audit Results Review Board (ARRB)

43. The Council next heard an oral progress report by the Director of the Air Navigation Bureau (D/ANB) on the activities of the ARRB undertaken since its last report (*cf.* President's memorandum PRES RK/1552; C-WP/13107).

44. D/ANB noted that, since the last progress report, which had been circulated to Representatives during the 184th Session under cover of President's memorandum PRES RK/1552, six new States had been referred to the ARRB by the Safety Oversight Audit (SOA) Section, and four by the Aviation Security Audit (ASA) Section. As of 15 October 2008, a total of 36 States had been referred to the ARRB for review under the Universal Safety Oversight Audit Programme (USOAP) and 33 States under the Universal Security Audit Programme (USAP). Included in those numbers were 18 States that had been identified as being of concern to both Programmes.

45. Since the last report to the Council, the ARRB had held three regular meetings and one extraordinary meeting. In a little over a year and a half since its first meeting in March 2007, the Board had held a total of 21 regular meetings, as well as a number of extraordinary meetings to co-ordinate its activities with the Regional Offices and to address issues needing immediate attention. Noting that States that make adequate and sustained progress towards rectifying the deficiencies identified during the audit that had led to their referral to the ARRB were removed from the list of States referred to the Board, D/ANB indicated that, to date, 18 States had been removed from that list. It should be noted, however, that the referral and removal of States was a very dynamic process. For example, a State that was removed from the list for having addressed their deficiencies in the area of its safety audit might find itself re-referred soon thereafter due to problems related to a its security audit. That was the worst of all situations and it had happened. One State in particular was a good example of both the co-ordination involved in providing assistance and of the dynamism of the referral process. The State – State X – had been initially referred to the ARRB by ASA for having failed to produce an aviation security corrective action plan. After having been briefed by the Board, the ICAO Regional Director had met with the State's representative and arranged for assistance to be provided in developing an action plan. The action plan had now been completed and accepted by ICAO, while other forms of assistance were ongoing. However, the State had since also been referred to the Board by SOA as a result of the USOAP audit. A representative from the State had subsequently visited ICAO Headquarters to discuss its needs and an aviation safety corrective action plan has been submitted. The implementation of the State's corrective action plans was now being monitored.

46. Observing that the Implementation Support and Development (ISD) Section provided and co-ordinated a wide variety of support to States referred to the ARRB, D/ANB emphasized that it was a very important portion of the ARRB. ISD support included the conduct of fact-finding missions and inspections, usually through the Regional Offices, the provision of assistance in reviewing corrective action plans, the provision of guidance regarding the transfer of oversight responsibilities, the development and planning of assistance projects and the mobilization of resources in co-ordination with the Technical Co-operation Bureau (TCB), funding agencies and donor States. ISD also worked closely with TCB and ANB to identify and select technical experts to provide support to a number of States referred to the ARRB. Two assistance projects, which were just about to enter into implementation, entailed the deployment of Operational Assistance (OPAS) inspectors for the purpose of putting into place effective systems for operator certification and surveillance. In one case, ISD had conducted an assessment visit to the State in conjunction

with the Regional Office and, in collaboration with TCB, developed and planned the project and mobilized funding for its implementation. In the other case, ICAO had assisted in reviewing the State's corrective action plan and had helped to clarify and prioritize their safety focus. Subsequently, ISD, in collaboration with TCB, had developed and planned an assistance project that had been accepted and funded by the State. Pending the completion of arrangements for implementing the project, including the recruitment of technical experts, ISD and TCB had also arranged, at the request of the State, for a neighbouring Co-operative Development of Operational Safety and Continuing Airworthiness Project (COSCAP) to carry out an evaluation of the State's commercial air transport operators.

47. D/ANB noted that, in general, the initiation, planning, implementation and monitoring of projects that resulted from the recommendations of the ARRB entailed close collaboration between the various Offices and Bureaux in the Secretariat, including ISD, ANB, TCB and the Regional Offices. Those projects usually entailed a series of planning and review meetings with the recipient States and interaction with donor States for the mobilization of financial resources. In one case, funding had also been successfully negotiated with the International Financial Facility for Aviation Safety (IFFAS) for the funding of a safety oversight project. She indicated that, of the 36 States identified by the ARRB for safety concerns, 13 were being closely monitored and the other 23 were in various stages of support and implementation. D/ANB underscored that, in the interest of full transparency, it would be helpful if she could mention, at least orally, the names of the States referred to the ARRB under the USOAP. It was challenging to mention State X and State Y and she often did not feel that she was giving the Council all of the information that she should. D/ANB was, of course, restricted by the Council's guidance. Her proposed change would allow her to give the Council additional details of the assistance being provided to specific States and would facilitate the securing of assistance for those States which required it. Consequently, D/ANB requested that the Council reconsider its previous decision (182/11) that the names of States referred to the ARRB under the Universal Safety Oversight Audit Programme (USOAP) should not be disclosed in ARRB activity reports.

48. The Representative of France emphasized that there was a contradiction between the decision of the Assembly to allow a wider distribution of the results of USOAP audits and the seal of secrecy on the disclosure of the names of States referred to the ARRB on the basis of those results to the Council elected by the Assembly. Affirming that it would be very useful for the Council to be informed of the names of those States which had been referred to be ARRB by the SOA, in order to take corrective measures, if necessary, or to learn whether they required assistance, he fully supported D/ANB's proposal, both on behalf of France and the European Union (EU).

49. The Representative of Saudi Arabia indicated that while he also endorsed the said proposal, he would have to consult with his national administration regarding the disclosure of the names of States referred to the ARRB on the basis of the results of USAP audits as airport security was a part of national security.

50. The Representative of Nigeria suggested that, as the Council was being requested to reconsider its earlier decision (182/11), and as the composition of the Council had changed in the interim, a paper on the subject should be presented for its consideration. He underscored that if the names of States were to be disclosed to the Council, then it should be done in a closed meeting.

51. In agreeing to D/ANB's proposal, the Representative of the Russian Federation stressed the need for utmost caution so as to avoid creating further problems for the States concerned.

52. While agreeing for the need for transparency, the Representative of India maintained that the Council should only be informed of the names of those States which were to be brought before it for consideration under the Article 54 j) procedure. He endorsed the proposal for a paper on the subject. In sharing this view, the Representative of Namibia underscored that the Council should only be informed of the names of States in a closed meeting.

53. The President of the Council stressed the need to take into consideration the fact that ICAO had received the approval of 190 States to publish the results of their USOAP audits on its public website.

54. In supporting D/ANB's proposal, the Representative of Egypt also endorsed the comments made by the Representatives of Saudi Arabia, Nigeria, the Russian Federation and India.

55. The Representative of Canada noted that, while he tended to share the views expressed by the Representative of France, he was also interested in the views of others, especially regarding the kind of safeguards that they wished to introduce into the process. He agreed with the President of the Council on the need to take into account the willingness of 190 States to have their names appear on ICAO's public website. The Representative of Canada also agreed on the need for a paper on the subject, based on the various interventions made, and on the disclosure of any names of States being made in a closed meeting. He was now being persuaded that only those States which were to be brought before the Council under the Article 54 j) procedure should be named as in multilateral diplomacy things were not accomplished overnight. The Representative of Canada was a believer in small steps and the ARRB determined possible small steps to assist States in rectifying their deficiencies.

56. In enquiring whether there were any States which had been referred to the ARRB which had not raised any subsequent concerns, the Representative of the United Kingdom underscored that, in the affirmative, it was difficult to publish their names as there was a certain stigma attached to such a referral. In the negative, then there effectively two categories: States on a watch list and States with significant safety concerns and where it was in the interest of the public at large to be aware of them. The Representative of the United Kingdom considered that the Council needed to be made aware, in a closed meeting, of the names of those States on the watch list and the general public needed to be aware of those which had significant safety concerns. D/ANB noted, in this regard, that the Secretariat had for many months been working with the two lists referred to by the Representative.

57. Underscoring that the Council needed specific information to better assess the effectiveness of ICAO's SARPs implementation strategy, both regarding successes and areas where more work was required and the assistance provided by donor States and industry, the Representative of the United States emphasized that it would assist in determining the allocation of resources. That was a critical role for the Council to play at a critical time for the Organization. Indicating that the Council should rely on the Secretariat to use good judgement on how the information was presented, the Representative of the United States suggested that a way forward would be to have information presented orally, as it had been during the present meeting, and in a closed meeting, so that it would be only for the consideration of the Council. The Council could work on that basis for a while and then develop some guidelines based on its experience on how to establish the procedure for the future.

58. Sharing this view, the Representative of Uganda indicated that he was ready to positively consider D/ANB's proposal when the envisaged paper was presented for the Council's consideration.

59. In also endorsing the approach suggested by the Representative of the United States, the Representative of Cameroon, who was a former safety oversight auditor, stressed the need for the Council to have a global overview of the safety situation. Emphasizing that some States were not in a position to remedy their deficiencies due to a lack of knowledge and not political will, he stressed that it was important for the Council to assist such States in an efficient manner.

60. The Representative of Singapore supported the constructive comments that had been made. He underscored that, in preparing the envisaged paper, D/ANB should take into consideration that there were six States whose names had been posted on ICAO's public website as having significant safety concerns, without much prior discussion, while Sierra Leone's name had not yet been posted thereon, despite the fact that the Council had discussed its safety situation at length, due to the structure of its MOU with ICAO on the conduct of its USOAP audit. The paper should propose a way to resolve that anomaly.

61. In noting the said oral report, the Council requested that the Secretary General present, for its consideration during the next (186th) Session, a paper proposing rules for the presentation of future ARRB activity reports taking into account the views expressed during the discussion, in particular, that the names of those States which had been referred to the ARRB under the USOAP should be provided orally in a closed meeting of the Council.

Other business

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

Request from the European Commission to participate as observer in the Council's consideration of certain items during the 185th Session

62. The Council then considered the full request of the Office of the European Commission in Montréal dated 21 October 2008, circulated under cover of the President's e-mail of the same date, to participate as observer in the Council's consideration, during the current session, of certain items of special interest to the European Commission. A few Representatives had expressed reservations and requested that the issue be tabled under "Other business".

63. Underscoring that he respected the European Commission's interest in attending the meetings of the Council on various subjects, the Representative of Mexico emphasized that it was not the possibility of having an Observer from the European Commission present in the Council Chamber during the Council's deliberations that was at issue; rather, it was the participation of the Observer in the Council's discussions that was at issue. He averred that to give a voice to members of organizations, as opposed to members from Contracting States, would impinge on the principle of equitable geographical representation (EGR). The Representative of Mexico noted, in this regard, that some Member States of the European Commission were already represented on the Council. He further noted that, whereas in the past the Council had agreed that an Observer from the European Commission could participate in meetings of the Council when the latter considered certain subjects, participation by the said Observer had become increasingly frequent and included meetings when subjects related to the Organization's Strategic Objectives were discussed. Recalling that France currently held the presidency of the European Union (EU), the Representative of Mexico indicated that the Representative of France could express the views of the European Commission. Stressing the need to rationalize the participation by the Observer from the European Commission in the Council's meetings, he emphasized that he did not consider that it was relevant for the

latter to participate in many of the meetings, particularly those held in closed session. Noting that most of the Council's meetings were held in open session and were thus open to the public, the Representative of Mexico indicated that the Observer from the European Commission could be present at those meetings for certain agenda items if he so wished. If he wanted to share his expertise on a given item, then he could approach Council Members as provided for in the *Rules of Procedure for the Council* (Doc 7559). The Representative of Venezuela was of the same opinion.

64. The Representative of France underscored that the Observer from the European Commission met all of the requirements for an observer set forth in the said Rules of Procedure. He emphasized that any regional organization, whether a Latin American or African or some other regional organization, could request to have an observer present at Council meetings. The Representative of France noted that, while the EU could request an EU Member State represented on the Council to have a representative of the European Commission as an alternate representative on the Council and to have him participate in meetings in that capacity, it preferred to be transparent and to have an Observer from the European Commission attend meetings. He stressed the need to consider the issue on a case-by-case basis, taking into account the Rules of Procedure. The Representative of France maintained that it would be in the interest of each and every Council Member to receive firsthand information from the Observer from the European Commission on subjects for which he had direct responsibility. Reiterating that, from the legal point of view, there was no difficulty in having the Observer from the European Commission participate in Council meetings, he indicated that perhaps the latter should be more selective in his choice of agenda items. The Representative of France affirmed that the matter could be handled in a very pragmatic manner in the interests of all.

65. While understanding the concerns of European States and also that it would be beneficial to the Council to have the views of the European Commission on certain issues, the Representative of Nigeria stressed the need to find a way to resolve the matter that was fair to everyone, not only to Council Members but also to Representatives to ICAO who attended Council meetings and who might have the need or wish to take the floor. Noting that not all shared the same understanding of the provisions of the Rules of Procedure relating to the status of observers from international organizations or other bodies, he suggested that the latter be reviewed and amended as necessary. The Representative of Saudi Arabia supported this proposal.

66. The Representative of the United Kingdom indicated that the issue was worth referring to either the Working Group on Governance or a small group that could look into the legal ramifications. To the point raised regarding the status of other observers compared to the status of the Observer from the European Commission, he emphasized that the Council should not unfairly discriminate against the European Commission. He affirmed that it had a unique position as representative of an organization which was part of a Regional Economic Integrated Organization (REIO), which had a unique status in the UN system. It was thus far from being a simple question regarding an individual; it was a much bigger legal and policy question, one that the Council did need to investigate.

67. Sharing the views expressed by the Representative of Mexico, the Representatives of Argentina and Ecuador agreed that an in-depth review of the Rules of Procedure relating to the status of observers from international organizations or other bodies should be carried out.

68. In taking the action suggested by the President in light of the discussion, the Council requested that the Working Group on Efficiency review the *Rules of Procedure for the Council* (Doc 7559) relating to the status of observers from international organizations or other bodies and report thereon to the

Council. It was understood that, in the meantime, the President would consult with the Office of the European Commission in Montréal and send Representatives another memorandum by e-mail inviting their approval of the participation of the European Commission as observer during the Council's consideration of certain items during the 185th Session, subject to certain limitations.

69. The meeting adjourned at 1740 hours.

COUNCIL — 185TH SESSION

SUMMARY MINUTES OF THE FOURTH MEETING

(THE COUNCIL CHAMBER, WEDNESDAY, 29 OCTOBER 2008, AT 1000 HOURS)

OPEN MEETING

President of the Council: Mr. Roberto Kobeh González

Secretary: Dr. Taïeb Chérif, Secretary General

PRESENT:

Argentina	— Mr. A.M. Singh	Mexico	— Mrs. D. Jiménez Hernández (Alt.)
Australia	— Mr. P.K. Evans	Namibia	— Mr. B.T. Mujetenga
Brazil	— Mr. R.S. Magno	Nigeria	— Dr. O.B. Aliu
Cameroon	— Mr. E. Zoa Etundi	Republic of Korea	— Mr. Shin, G.-S.
Canada	— Ms. S. Chambers (Alt.)	Romania	— Mr. C. Cotrut
China	— Mr. Tao Ma	Russian Federation	— Mr. A.A. Novgorodov
Dominican Republic	— Mr. C. A. Veras	Saudi Arabia	— Mr. S. Hashem
Ecuador	— Mr. I. Arellano Lascano	Singapore	— Mr. K.P. Bong
Egypt	— Mr. S. Elazab	South Africa	— Mr. T. Peege
El Salvador	— Mr. J.A. Aparicio Borjas	Switzerland	— Mr. D. Ruhier
France	— Mr. J.-C. Chouvet	Tunisia	— Mr. I. Sassi
Germany	— Mr. J. Mendel	Uganda	— Mr. J. Twijuke
Ghana	— Mr. K. Kwakwa	United Arab Emirates	— Mr. J. Haidar
Iceland	— Mr. H. Sigurdsson	United Kingdom	— Mr. M. Rossell
Italy	— Mr. P. Ciancaglioni (Alt.)	United States	— Mr. D.T. Bliss
Japan	— Mr. S. Baba	Uruguay	— Mr. J.L. Vilardo
Malaysia	— Mr. S.-C. Kok	Venezuela	— Mr. D. Blanco Carrero

ALSO PRESENT:

Mr. S.R. Prado (Alt.)	— Argentina
Mr. A. Romera (Alt.)	— Brazil
Mr. Chunyu Ding (Alt.)	— China
Mr. F. Christensen (Alt.)	— Iceland
Mr. W. Yoshioka (Alt.)	— Japan
Ms. L. Faux-Gable (Alt.)	— United States
Mr. H. Dávila (Alt.)	— Uruguay

SECRETARIAT:

*Mr. D. Wibaux	— D/LEB
*Ms. N. Graham	— D/ANB
Mrs. F.A. Odutola	— D/ATB
*Dr. Fang Liu	— D/ADB
*Mr. J. Maguire	— C/EAO
*Mr. V. Gapakov	— A/C/LPB
*Dr. R.I.R. Abeyratne	— Coordinator, AT Programmes
*Mr. A. Quiroz	— C/ASA
*Mr. R. Lockie	— ASA
*Mr. R. Lambo	— C/ISD
*Mr. S. Berti	— C/SFP
*Mrs. H. Biernacki	— TO/SFP
Mrs. C. Rideout	— CSO

*Part-time

Subject No. 15.6: Civil aviation statistics**Convening of the Tenth Session of the Statistics Division**

1. The Council considered the above subject on the basis of C-WP/13227, in which the Secretary General proposed the convening of the Tenth Session of the Statistics Division in October 2009, and an oral report thereon by the Air Transport Committee (ATC).
2. In taking the action proposed in C-WP/13227, as amended, the Council:
 - a) noted that the Air Transport Committee had agreed to convene STAP/14 in Montréal from 23 to 27 March with the agenda set forth in Appendix B to the paper;
 - b) agreed that the Tenth Session of the Statistics Division be held at ICAO Headquarters in Montréal from 13 to 16 October 2009, working as a single body; and
 - c) agreed that the said Statistics Division meeting work in all six ICAO languages.

Subject No. 52: Unlawful interference with international civil aviation and its facilities**Organization and Programme for the Twentieth Meeting
of the Aviation Security Panel (AVSECP)**

3. The Council considered this subject on the basis of C-WP/13262 presented by the Secretary General and an oral report thereon by the Committee on Unlawful Interference (UIC).
4. The Representative of China noted from the Executive Summary of C-WP/13262 that Chinese was not one of the working languages for the AVSECP/20. Although China was not a member of the Panel, it had sent an observer at previous meetings. Given the meeting's importance, he suggested that Chinese interpretation be provided, if at all possible.
5. The Representative of India noted that as part of the proposed agenda for the twentieth meeting, the AVSEC Panel would review a report of the New and Emerging Threats Working Group. He recalled that this work on the new and emerging threats was also being handled in the Legal Committee and had probably been referred to a sub-group. The Representative of India sought assurances that the two processes, one involving an international legal framework and the other the preparation of new SARPs for Annex 17, would be coordinated. The Representative of India also noted that as part of its consideration of Agenda Item 4 (Universal Security Audit Programme), the Panel would be invited to consider related issues such as critical elements and security risk indicators. He wished to know if the Panel would also be briefed about the decision of the Council on Article 54 j) and the process which had been adopted. The Panel would have to be briefed on that subject if it was to examine the issue of critical elements. The last point which the Representative of India wished to raise concerned the fact that the *Ad Hoc* Group of Specialists on the Detection of Explosives had recently considered the new technologies that were being developed to screen explosives. He wished to know if the report of the IETC and the *Ad Hoc* Group would be provided to the Panel to update it with regard to new technologies.