
ICAO

International Civil Aviation Organization

COUNCIL — 189TH SESSION

Montréal, 11 January–8 March 2010

SUMMARY MINUTES WITH SUBJECT INDEX



2010

Montréal

TABLE OF CONTENTS

	<i>Page</i>
SUMMARY MINUTES OF THE FIRST MEETING	1
Attempted sabotage of Northwest Airlines Flight 253 on 25 December 2009	2
Election of the Members of the Human Resources Committee (HRC) and of its Chair	10
Report of WGOG — Update of the <i>Repertory-Guide to the Convention on</i> <i>International Civil Aviation</i> (Doc 8900)	11
Appointment of a new Member of the Air Navigation Commission (ANC)	12
Approval of amendment EUR/NAT-S09/3 to the <i>Regional Supplementary</i> <i>Procedures</i> (Doc 7030/5)	12
Issuance of ICAO Press releases	12
Preliminary oral reports by the President of the Council and the Secretary General on ICAO's participation in the Fifteenth Meeting of the Conference of the Parties of the United Nations Framework Convention on Climate Change (COP15) (Copenhagen, Denmark, 7-18 December 2009)	12
Letter of condolences to the Cour des comptes on the passing of Mr. Philippe Séguin, the External Auditor of ICAO	15
 SUMMARY MINUTES OF THE SECOND MEETING	17
Welcome to the new President of the Air Navigation Commission (ANC), Mr. Mervyn G. Fernando	18
Update on the operational situation in Haiti	18
Schedule for consideration of items during the 189th Session of the Council	20
Assembly resolutions to be updated or declared obsolete	21
Assembly resolutions in the air navigation field to be updated or declared obsolete	23
Assembly resolutions in the air transport field to be updated or declared obsolete	24
Assembly resolutions in the joint financing field to be updated or declared obsolete	25
Draft Assembly working paper — Proposed consolidated statement of continuing ICAO policies in the legal field	25
Appointment of the External Auditor of ICAO for the financial years 2011, 2012 and 2013	25
Draft State letter on the election of the President of the Council	27
Any other business	27
Appointment of new Members and Observers on the Committee on Aviation Environmental Protection (CAEP)	27
Appointment of new Members on the Public Key Directory (PKD) Board	28
Appointment of a new Member of the Air Navigation Commission (ANC)	28
Diplomatic Conference 2010	28
ICAO <i>Colloquium on Aviation and Climate Change “En route to sustainability”</i>	28
Report on meetings of other organizations at which ICAO was represented during the third quarter — 1 July to 30 September 2009	29
Amendment to Annex III to the Danish Joint Financing Agreement	29

(i)

SUMMARY MINUTES OF THE THIRD MEETING (CLOSED)	31
Report on acts of unlawful interference for 2009	32
ICAO Comprehensive Aviation Security Strategy	34
Progress report of the Audit Results Review Board (ARRB).....	36
SUMMARY MINUTES OF THE THIRD MEETING (OPEN)	39
Security risk indicators and significant security concerns	40
Any other business	41
SUMMARY MINUTES OF THE FOURTH MEETING	43
Regional Conference on Aviation Security (Mexico City, 16 and 17 February 2010).....	44
Secretary General's mission to the ICAO North American, Central American and Caribbean Regional Office (Mexico City, 18 February 2010) and update on the operational situation in Haiti.....	45
Progress report on the Implementation Support and Development (ISD) Programme security-related activities.....	48
Status of compliance by States with the Machine Readable Passports (MRPs) implementation deadline	48
Action taken related to the organizational review of ICAO's Regional Programme	52
Administrative costs of the International Financial Facility for Aviation Safety (IFFAS) / Establishment of a fund for safety.....	54
Limits of appropriation/Flexible use of the Working Capital Fund (WCF) / <i>Draft Assembly working paper</i> — Level of the Working Capital Fund (WCF)	57
Report on the use of the Information and Communication Technology (ICT) Fund and possible means of financing the modernization of financial systems	58
<i>Draft Assembly working paper</i> — Arrears of contributions of the former Socialist Federal Republic of Yugoslavia (SFRY)	58
Any other business	59
SUMMARY MINUTES OF THE FIFTH MEETING	61
Report of ANC – Adoption of Amendment 13 to Annex 13.....	62
Report of ANC – Adoption of Amendment 17 to Annex 5.....	63
Report of ANC – Adoption of Amendment 75 to Annex 3.....	63
Report of ANC – Adoption of Amendment 36 to Annex 15.....	64
Any other business	66
SUMMARY MINUTES OF THE SIXTH MEETING	67
Report of ANC — Review of the Report of the Twenty-second Meeting of the Dangerous Goods Panel (DGP/22).....	68
Report of ANC — Adoption of Amendment 56 to Annex 4.....	68
Report of ANC — Adoption of Amendment 102 to Annex 8.....	70
Report of ANC — Adoption of Amendment 13 to Annex 13.....	76
Briefing on the Next Generation of Aviation Professionals Symposium (Montréal, 1 to 4 March 2010).....	76
Briefing on the High-level Safety Conference (HLSC 2010) (Montréal, 29 March to 1 April 2010).....	76

(ii)

SUMMARY MINUTES OF THE SEVENTH MEETING	79
Report of ANC — Adoption of Amendment 34 to Annex 6, Part I.....	80
Report of ANC — Adoption of Amendment 29 to Annex 6, Part II.....	81
Report of ANC — Adoption of Amendment 15 to Annex 6, Part III.....	82
Report of ANC — Adoption of Amendment 85 to Annex 10, Volumes I, III and IV.....	82
Environmental Protection — Recent developments in ICAO and other United Nations bodies	85
SUMMARY MINUTES OF THE EIGHTH MEETING (CLOSED)	91
Representation allowances of the President of the Council and the Secretary General /	
Review of the rules for determining the salary of the President of the Council /	
Review of the net base salaries of the President of the Council and	
the Secretary General	92
SUMMARY MINUTES OF THE EIGHTH MEETING (OPEN)	95
Current status of aviation activities in Chile.....	96
2009 Report on the activities of the Evaluation and Internal Audit Office (EAO).....	96
Report of ANC — Work programme of the Air Navigation Commission	
for the 184th Session.....	99
Report of HRC — Progress report on the work of the Human Resources Committee	99
Report on Technical Cooperation Programme Development	100
SUMMARY MINUTES OF THE NINTH MEETING	105
Membership in the Committee on Aviation Environmental Protection.....	106
Interim Report on the Outcomes of the Eighth Meeting of the Committee on	
Aviation Environmental Protection.....	108
Report of the External Auditor on Audit Activities in 2009 – Performance audit of	
the Technical Co-operation Bureau.....	110
Funding for language services.....	114
Funding options for the Draft Budget of the Organization for 2011-2012-2013.....	115
Any other business	123
High-level Safety Conference 2010 — Invitations to organizations not included in	
the list of international organizations that may be invited to attend	
suitable ICAO meetings	123
C-WP/13533 — Report on action taken to implement decisions taken by the Council	
during the 188th Session	123
C-WP13497 — Progress Report on ICAO Audit Activities: USOAP and USAP	123
C-WP/13535 — Financial situation of the Organization.....	123
C-WP/13534 — Report on activities during the recess	123

(iii)

	<i>Page</i>
SUMMARY MINUTES OF THE TENTH MEETING	125
Statement by the President of the Council — International Women’s Day 2010.....	126
Funding options for the Draft Budget of the Organization for 2011-2012-2013.....	126
Proposed cost recovery policy for indirect costs.....	128
Report of WGOG — Categorization of the ICAO meetings	132
Work programme of the Council and its Committees for the 190th Session.....	135
Any other business	139
Electronic voting for election of the Council during the 37th Session of the Assembly.....	139
Appointment of an Alternate and a Member of the Air Navigation Commission (ANC)	140
Appointment of an Alternate on the Air Transport Committee (ATC), the Joint Support Committee (JSC), the Finance Committee (FIC), the Committee on Unlawful Interference (UIC), the Technical Cooperation Committee (TCC) and the Human Resources Committee (HRC)	140
International Interests in Mobile Equipment (Aircraft Equipment).....	140
Future actions arising from the High-level Meeting on International Aviation and Climate Change Declaration and Recommendations	141
 SUBJECT INDEX TO THE SUMMARY MINUTES OF THE 189TH SESSION	 143
 LIST OF WORKING PAPERS CONSIDERED DURING THE 189TH SESSION	 147

COUNCIL — 189TH SESSION

SUMMARY MINUTES OF THE FIRST MEETING

(THE COUNCIL CHAMBER, MONDAY, 11 JANUARY 2010, AT 1430 HOURS)

OPEN MEETING

President of the Council: Mr. Roberto Kobeh González

Secretary: Mr. Raymond Benjamin, Secretary General

PRESENT:

Argentina	— Mr. A.M. Singh	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. Kim, C.-H.
Canada	— Mr. L.A. Dupuis	Romania	— Mr. A. Cioranu (Alt.)
China	— Mr. Chunyu Ding (Alt.)	Russian Federation	— Mr. A.A. Novgorodov
Dominican Republic	— Mr. C.A. Veras	Saudi Arabia	— Mr. T.M.B. Kabli
Ecuador	— Mr. I. Arellano Lascano	Singapore	— Mr. K.P. Bong
Egypt	— Mr. M.T. Elzanaty	Spain	— Mr. V.M. Aguado
El Salvador	— Mr. J.A. Aparicio Borjas	Switzerland	— Mr. D. Ruhier
France	— Mr. M. Wachenheim	Tunisia	— Mr. I. Sassi
Germany	— Mr. J. Mendel	Uganda	— Mr. J. Twijuke
Iceland	— Mr. H. Sigurdsson	United Arab Emirates	— Miss A. AL Hamili
India	— Mr. A. Mishra	United Kingdom	— Mr. M. Rossell
Italy	— Mr. G. Picheca	United States	— Ms. M. Kehoe (Alt.)
Japan	— Mr. S. Baba	Uruguay	— Mr. J.L. Vilardo
Malaysia	— Mr. S.-C. Kok	Venezuela	— Mr. D. Blanco Carrero

ALSO PRESENT:

Mr. B. Thébault (Alt.)	— France
Mr. F. Christensen (Alt.)	— Iceland
Mr. Seo, W.-S. (Alt.)	— Republic of Korea
Mr. Yoo, H.-J. (Alt.)	— Republic of Korea

SECRETARIAT:

*Mrs. F.A. Odutola	— D/ATB
*Mr. S. Berti	— A/C/AVSEC
*Mr. E. Macburnie	— TO/SFP
*Mr. J.S. Thaker	— TO/SFP
*Mr. B. Verhaegen	— LO/LEB
*Mrs. H. Biernacki	— TO/SFP
*Mr. J. Huang	— LO/LEB
Miss S. Black	— Précis-writer

*Part-time

Subject No. 52: Unlawful interference with international civil aviation and its facilities**Attempted sabotage of Northwest Airlines Flight 253 on 25 December 2009**

1. The Council heard the following oral report by the Secretary General on the attempted sabotage of Northwest Airlines Flight 253 on 25 December 2009 while the aircraft was in flight from Amsterdam, the Netherlands, to Detroit, United States.

“As has been widely reported, on 25 December 2009, a passenger on board Northwest Airlines Flight 253 attempted to detonate an explosive device containing pentaerythritol tetranitrate (known as PETN) while the aircraft was in flight from Amsterdam to Detroit, in an attempt to bring down the aircraft. The device did not explode but ignited, causing injury to the suspect and two other passengers. The suspect was subdued by passengers and crew. The aircraft landed safely shortly thereafter at Detroit Airport.

“Following the incident, the United States Transportation Security Administration (TSA) established security measures to be implemented by airlines at airports where there are international flights operating directly to the United States. These measures are focused on increased gate screening, including physical searches of passengers and cabin baggage. Other States have also introduced, or are planning to introduce, additional requirements. The TSA is also urging passengers to follow flight crew instructions, such as stowing personal items, turning off electronic equipment and remaining seated during certain portions of the flight. United States authorities subsequently identified 14 States whose passport holders would be subject to specific security measures. Such measures also apply to any passengers originating from these States.

“Immediately after the incident, United States and European Union representatives contacted ICAO to evaluate the situation and identify means by which ICAO could provide assistance. On 30 December, ICAO sent a message to members of the Aviation Security Point of Contact (PoC) Network, encouraging States to conduct a risk assessment and implement appropriate screening measures. Where additional screening measures are considered necessary, these may include the application of explosives trace detection technology, physical searches or randomly-deployed explosives detection canine teams, among others. States were also reminded of the need for cooperation in all matters related to aviation security, particularly with regard to Standard 2.4.1 of Annex 17, which refers to requests for additional security measures in respect of specific flights. In this respect, ICAO would seek to establish the necessary communication and coordination mechanisms to ensure that any response to this latest threat is provided with the greatest possible degree of harmonization. This message was followed by an electronic bulletin to all States.

“At the request of the United States, a meeting was held on 6 January in my office with officials from the Department of Homeland Security (DHS) and TSA, headed by the Undersecretary for the National Protection and Programme Directorate. We were informed that President Obama himself had been briefed on this meeting, which underlines the importance the US attaches to its relationship with ICAO. The meeting was focused particularly on four areas:

- Information collection (PNR/APIS)
- Information sharing
- Training / Technical Assistance
- Security and Facilitation Standards (Annexes 17 and 9; Biometrics; MRTD)

“Representatives of the ICAO Secretariat provided briefings on each of these subjects, with particular emphasis on work being undertaken in the fields of Advance Passenger Information Systems, the MRTD Programme, the Universal Security Audit Programme (USAP) and associated assistance activities and mechanisms involved in improving compliance with security Standards.

“In this context, I underscored ICAO’s role as a Specialized Agency of the United Nations with long-standing expertise in the field of aviation security, and its responsibility to approach these issues from a global perspective. I also advised the US Delegation that over the years Standards and Recommended Practices of Annex 17 have been strengthened with a view to enhancing security worldwide, and that security being a high priority programme in the work of the Organization, the necessary resources would need to be made available in order to address these continuously evolving challenges.

“The US Delegation expressed a strong desire to work with ICAO to address these challenges on a multilateral basis, including through the various initiatives that had been presented to them during the meeting, and by providing assistance to States in coordination with ICAO and other donor States. Reference was made to President Obama’s own expressed desire to develop better international mechanisms to deal with such matters, with particular reference again made to ICAO, and it is understood that he will be briefed on the outcome of the meeting.

“The meeting concluded that, as terrorism is a transnational problem, the attempted sabotage of Flight 253 is reflective of a worldwide problem, and therefore calls for global actions under ICAO’s leadership, with the support of its Member States.

“Following the meeting with the US, I met with a Delegation from Canada, headed by the Assistant Deputy Minister for Safety and Security. I was reassured that Canada, as announced publicly by its Minister of Transport, Infrastructure and Communities, would keep ICAO informed on the implementation of its security measures, and would take part in further discussions under the leadership of ICAO concerning the global harmonization of measures designed to address the threat posed by this incident.

“Turning to Europe, on 7 January, the European Union (EU) Regulatory Committee for Civil Aviation Security met in Brussels to exchange views on the security situation following this incident. The Committee unanimously underlined the need for an EU approach to addressing the security situation, including the use of imaging technology – commonly referred to as body scanners – as one means of screening passengers, taking into account privacy, data protection and health issues.

“During the course of negotiations between the EU and US on an Open Skies Agreement, taking place this week in Washington, D.C., discussions on the current aviation security situation are scheduled to take place on 14 January. Both parties to these discussions have invited me to attend this phase of the meeting.

“I have also been advised that a High-level Ministerial EU Meeting is scheduled to take place in Toledo, Spain from 21 to 22 January, to which other States will be invited. Following the incident of 25 December, the focus of the meeting will be on aviation security. ICAO would be available to attend this meeting, if required. It is expected that similar regional meetings will be organized, which could lead to a high-level conference under the auspices of ICAO.

“Within the Secretariat, this incident has naturally been the main focus of attention of the newly established AVSEC Branch. As you are aware, a meeting of the Panel is scheduled in a few weeks’ time,

from 22 to 26 March, and we will look forward to their expertise on this issue in due course. In the interim, the Working Group on Threat and Risk is scheduled to meet in Canberra, Australia from 27 to 29 January; and the Working Group on Technology is scheduled to meet in Buenos Aires, Argentina on 4 and 5 February. Both these Working Groups will be focusing their attention on the events of 25 December and related matters.”.

2. In emphasizing that the plot to detonate an explosive device on Northwest Airlines Flight 253 on 25 December 2009 was of profound concern to his State, the Representative of Canada noted that it underscored the continuing threat of unlawful interference with civil aviation. He recalled that, following the events of 25 December 2009, Canada’s Minister of Public Safety had stated that security threats to the United States were security threats to Canada. The Canadian Government remained fully engaged with the Obama administration on efforts to combat terrorist threats. The Canada/United States air transportation market was the largest bilateral air transportation market in the world. Canada and the United States had a long history of close cooperation on all matters relating to aviation security. In response to the plot and security directives issued by the United States TSA, Canada had taken immediate action to enhance the level of security for flights from Canada to the United States. Transport Canada, Canada’s authority for civil aviation security, continued to work very closely with the United States TSA on the implementation of the TSA’s security directives in Canada. International cooperation on civil aviation security was of paramount importance on bilateral, regional and multilateral levels.

3. In emphasizing that Canada remained a fully-committed partner of ICAO in taking all appropriate steps to prevent unlawful interference with civil aviation, the Representative of Canada indicated that it did so through leadership in the Aviation Security Panel (AVSECP) and the *Ad hoc* Group of Specialists on the Detection of Explosives (AH-DE), financial contributions to support the USAP, secondment to ICAO of Canadian aviation security experts as certified ICAO aviation security auditors to perform USAP audits and carrying-out training programmes to prepare States to undergo a USAP audit.

4. The Representative of Canada noted that the plot of 25 December 2009 and the forthcoming Winter Olympic and Paralympic Games in Vancouver and Whistler had led Canada to operate at an enhanced level of aviation security vigilance and readiness. Canada remained very mindful of the international dimensions of civil aviation security. For that reason, it was actively reviewing its capabilities to offer financial and in-kind assistance to support ICAO’s aviation security programmes. Canada looked forward to all forthcoming ICAO deliberations on aviation security, with a view to assuring the optimum balance of international civil aviation security enhancement and implementation and, of course, international consensus.

5. The Representative of Nigeria noted that his State had, since the incident of 25 December 2009, expressed its deep concern and dismay over the attempted act of sabotage on Northwest Airlines Flight 253. Nigeria condemned that terrorist act in all its ramifications. He indicated that, while information on the matter had been widely reported by the news media, he wished to provide a summary of the background information available to his State as it affected the transit of the passenger through the Murtala Muhammed Airport Lagos on 24 December 2009.

6. The passenger upon arrival on a Virgin Nigeria Flight from Accra to Lagos had presented himself at the Nigerian Immigration Arrival counter at 2007 hrs local time and thereafter had proceeded to check in at the KLM Counter at 2035 hrs local time for the KLM flight to Amsterdam en-route to Detroit. The passenger had gone through a normal checking process. His passport had been scanned, his United States visa had been scanned and the Advance Passenger Information System had returned with no objection.

The passenger had presented himself for immigration clearance and had gone through standard security screening procedure. He had passed through normal aviation security system comprising of walk-through metal detector and the baggage X-ray screening machine. The passenger had proceeded to the boarding gate where he also gone through secondary screening prior to flight departure, as confirmed by KLM airline security officials. Basically all existing aviation security provisions had been complied with.

7. The Representative of Nigeria indicated that, since the incident of 25 December 2009, his Government had further emphasized enhanced security measures at Nigeria's airports, as follows:

- No person, including crew members, was allowed to board an aircraft without passing through all aviation security screening procedures/formalities and 100 per cent examination was mandatory for all passengers.
- Secondary screening of passengers and the carry-on baggage was total and performed for all departing flights at the boarding gates, including body search.
- It was mandatory to conduct 100 per cent physical inspection of all passenger-accessible property at the boarding gate prior to boarding.
- Liquids, gels and aerosols were not allowed on board aircraft without compliance with the requirements of 100ml for liquids and placed in transparent resealable plastic bags.
- 100 per cent screening of checked-in baggage must be performed and positive passenger baggage match (PPBM) carried out.
- Thorough security check on catering, fuel and maintenance vehicles accessing the airside must be conducted.
- All airlines had been directed to ensure that any passenger that refused to comply with 100 per cent screening should be denied boarding.
- In combating the new threat of terrorism as unfolded, Nigeria would be upgrading its security screening system to 3D Total Body Imaging Scanner.

8. The Representative of Nigeria expressed satisfaction with the steps that had already been taken by ICAO. The Secretary General, in his oral report, had provided information on the ongoing security initiatives and consultations, as well as enhanced security measures that were being introduced. Nigeria supported those measures. The Representative of Nigeria wished to state that, as a nation, Nigeria abhorred all forms of terrorism. Nigeria was a major contributor to peace efforts in its region and was contributing to global peace. Nigeria was signatory to, and was implementing, treaties, conventions and resolutions on anti-terrorism of the United Nations (UN) and the African Union (AU).

9. The Nigerian Government and people had expressed sympathy with the Government and people of the United States and the Government had expressed its commitment to collaborate with the United States in any investigation that would unravel the circumstances surrounding the incident of 25 December 2009 and in finding lasting solutions.

10. Observing that there were also press reports that many States just like Nigeria were enforcing similar and other security measures at airports all over the world, the Representative of Nigeria underscored that the challenge for ICAO would be to seek harmonization of the various measures and procedures and to take proactive action to proffer effective and efficient solutions to this particular threat, as well as to other possible threats.

11. In that regard, the Representative of Nigeria proposed that the President of the Council establish a Council/ Secretariat Working Group, similar to the accelerated approach that had been employed to deal with the challenge of liquids, aerosols and gels. One of the tasks of the Working Group would be to review the latest development and propose a process. That should include, *inter alia*, a review of the agenda of the AVSECP, as well as the agenda for the meetings of the AVSECP's Working Group on Threat and Risk (Canberra, Australia, 27 to 29 January 2010) and of the AVSECP's Working Group on Technology (Buenos Aires, Argentina, 4 and 5 February 2010). In its work, the Council/Secretariat Working Group should seek information from States, particularly those States which had been directly impacted by the incident. The Representative of Nigeria was aware that the Secretariat was planning a technical consultative meeting of experts from the United States, the Netherlands and Nigeria and also the United Kingdom. Nigeria was poised to participate in such a meeting.

12. The Representative of Nigeria indicated that the Working Group might also consider the ICAO Comprehensive Aviation Security Strategy (ICASS) to ensure that it provided for proactive strategies for responding not only to current and recent threats but to ensure that future threats could be anticipated. In that regard, every aspect of the aviation security system should come into focus, including not only passengers but also other persons with access to secure areas at airports. He underscored that any comments of the Council/Secretariat Working Group would be of support to the Committee on Unlawful Interference (UIC) and the Council.

13. In concluding, the Representative of Nigeria emphasized that his State was ready to support that process and assist ICAO in the implementation of any new policies, procedures and Standards and Recommended Practices (SARPs) that might be developed. He wished to assure the Council and the international aviation community that Nigeria was committed to the enforcement of all international civil aviation security provisions and to keeping Nigerian aviation safe and secure.

14. The Representative of Mexico congratulated the Secretary General on his prompt action and on the measures taken by ICAO. His State deeply regretted the incident of 25 December 2009 and was very concerned regarding its ramifications. Mexico was particularly concerned that a passenger who was on a watch list had not been subject to enhanced screening and had put at risk the lives of the passengers and crew of Northwest Airlines Flight 253. The Representative of Mexico considered that the passenger watch list should be analyzed and checked against international jurisprudence, using relevant technology, taking into account that that might conflict with the national laws of some States.

15. In highlighting the importance of the third paragraph of electronic bulletin EB 2010/2 dated 6 January 2010 on the attempted sabotage of Northwest Airlines Flight 253, which encouraged ICAO Member States to conduct a risk assessment, the Representative of Mexico emphasized that such risk assessment was a priority as it would enable security measures to be established which were in accordance with the assessment. He underscored that there should be a balance in applying Standard 2.4.1 of Annex 17 — *Security* and the requests by States for additional security measures in respect of a specific flight(s) by operators of other States and the alternative equivalent measures proposed by those other States as part of the cooperation that should exist between States and the Organization. The Representative of Mexico noted that his State was concerned regarding this threat and had strengthened aviation security measures for all of its flights. It proposed that the detailed report on the incident of 25 December 2009 be submitted to the AVSECP and the UIC for their evaluation.

16. Noting that his State was also very concerned about the incident of 25 December 2009, the Representative of the Dominican Republic indicated that it had taken more effective aviation security

measures to prevent a possible recurrence of such an incident. While those measures had affected facilitation and passenger flow through its airports, passengers were being made aware of the measures. In that way, everyone was on constant alert. The Dominican Republic urged States to take action against such cowardly acts as the said attempted act of sabotage. In firmly supporting the Obama administration in seeking to calm the fears of passengers, the Dominican Republic stressed the importance of protecting the lives of the enormous number of passengers who passed through airports every day. It considered that the main task was to raise awareness among passengers and the general public about such incidents and the need to bear in mind that the world had changed and that there were irresponsible people in the world seeking to carry out such acts.

17. In thanking the Secretary General for his oral report and for electronic bulletin EB 2010/2 dated 6 January 2010, the Representative of Cameroon noted that the recent attempted act of sabotage on Northwest Airlines Flight 253 on 25 December 2009 had clearly shown that there was a need for improvement in airport screening technologies, human factors in aviation security and international cooperation in aviation security. He was concerned that the said incident might have high cost implications for the aviation industry, which had already been hit by the economic crisis of the past year. In emphasizing that States should be aware of their responsibilities, he recommended that the Council instruct the Secretary General to issue a State letter urging ICAO Member States:

- to improve airport screening technologies;
- in order to reduce the impact of human factors in aviation security: to make mandatory the profiling of security personnel; to move from the routine execution of aviation security activities to the procedural execution of such activities; and to involve only sufficiently qualified staff in the conduct of aviation security activities; and
- to improve cooperation in all matters related to aviation security.

18. The Representative of Cameroon recalled that, during the Council's earlier consideration (188/4) of C-WP/13410 on the consolidation of Assembly resolutions in the field of aviation security, some Representatives had expressed the need for a policy on aviation security matters. Considering that the lack of implementation of airport aviation security measures in a remote State could have an impact on another State, he underscored that it was now time for ICAO to demonstrate its leadership by introducing specific best practices related to international cooperation as Standards in Annex 17 in order to improve cooperation among ICAO Member States.

19. The Representative of the United States thanked the Secretary General for dedicating the opening session of the 189th Session of the Council to this issue, as well as for his oral report and his leadership. She observed that, by now, all were familiar with the events that had occurred on 25 December 2009 on Northwest Airlines Flight 253. Umar Farouk Abdulmutallab had been arraigned in the United States after an alleged attempt to detonate an explosive device on board Flight 253 on its approach to Detroit. Investigations were ongoing about his exact movements and activities before, during and after he boarded the flight to Detroit. In thanking the Representative of Canada for his statement of solidarity with the United States on issues of security, the Representative of the United States emphasized that, because of the shared border, he was correct that any threat against the United States was a threat against Canada. Indeed, the incident of 25 December 2009 underscored the need for closer international cooperation to secure the global aviation networks upon which all depended and to provide the protection that travellers from all countries deserved. The Representative of the United States stressed that, while this most recent attack had been directed against the United States, the threat extended beyond its borders and put the citizens of every country at risk. Terrorism was a global problem that affected everyone and as such it required global

solutions. International aviation security was the responsibility of all members of the international aviation community. That communality of responsibility and commitment was at the core of the common struggle to guarantee the security of the flying public worldwide.

20. The Representative of the United States noted that, as reported by the Secretary General, officials of the United States DHS had met with the latter on 6 January 2010 to brief him personally on the measures being implemented and to discuss how the unique experience of ICAO could be brought to bear on those insidious emerging threats to the international travelling public. The four areas that the Secretary General had mentioned as possible work in ICAO were fruitful and capitalized on ICAO's expertise.

21. The Representative of the United States thanked Nigeria for its openness and candour in dealing with the 25 December 2009 incident. In affirming that the suggestions made by the Representative of Nigeria for a way forward in ICAO were of considerable merit, she thanked him for his leadership.

22. The Representative of the United States emphasized that her State remained committed to helping increase the security of international civil aviation. She noted, in this context, that every year since the attacks of 11 September 2001, the United States had given approx US \$1 million to ICAO's Aviation Security Programme and remained its largest donor. The TSA also routinely provided secondments and other in-kind support to ICAO. The Representative of the United States indicated that, in light of recent developments, her State was reviewing its assistance programme to determine what additional initiatives or efforts might be possible to assist in that regard.

23. While noting that the incident of 25 December 2009 had revealed that the security network had many gaps, the Representative of France indicated that that should not come as a surprise to anyone as there was no such thing as 100 per cent security. However, it had been a very serious incident and it demanded a response. States had to have the political will to take action. The Representative of France emphasized the solidarity of his State, as well as of Europe, with the United States on this subject. Measures had to be taken. The question was, which measures. He underscored the need to consider the issue of security in its entirety and not solely its technical aspects. The Representative of France stressed, in this regard, that the problem would not be solved merely by deciding what new equipment was required. It was necessary to address all aspects, including: the training of personnel, as had been mentioned; the organization of security checks; and the funding of security activities. Emphasizing the need for ICAO to be present whenever and wherever it was a question of improving security, the Representative of France endorsed the Secretary General's plan to attend the upcoming meetings on security.

24. The Representative of France observed that ICAO gave the impression of always reacting to events without anticipating future risks. While recognizing that anticipating risks was difficult to do, he underscored the need, in giving instructions to the AVSECP, to emphasize the issue of risk management. The Representative of France underscored that it was not possible to adopt measure after measure without considering risk management as was done in other security sectors.

25. In voicing appreciation for the Secretary General's oral report, the Representative of the Russian Federation noted that it showed that ICAO, under the Secretary General's leadership, had been able to respond effectively to the incident of 25 December 2009. Observing that the Russian Federation had also been the victim of that kind of attack, he indicated that it had recently introduced body scanners in international airports in its territory. While that had met with some opposition, body scanners were able to effectively screen passengers very quickly and reliably. In noting that his State had also certified and introduced in its international airports remote detection equipment for liquids and gels, the Representative

of the Russian Federation indicated that it had proposed the testing of such equipment free-of-charge to other States. Unfortunately, only one request had thus far been received. He was ready to provide additional information regarding the said equipment to interested Representatives.

26. In expressing his State's solidarity with the United States, the Representative of the Russian Federation concurred that terrorism knew no borders. He emphasized that States could only fight terrorism if they fought it together. The Representative of the Russian Federation also supported the position of the Secretary General that ICAO must take an active role in all security-related activities in the fight against terrorism.

27. The Representative of Spain voiced appreciation for the explanations provided by the Secretary General, as well as by other speakers, including the Representatives of Nigeria and the United States, regarding the incident of 25 December 2009. In emphasizing that the attempted sabotage of Northwest Airlines Flight 253 did not constitute a new form of threat, he underscored that it was an existing one of which ICAO and States had been aware for some time. The carriage of liquids, aerosols, gels, plastic explosives and powders was an issue that the Organization had considered previously. However, the measures currently in place in the air transport system made it virtually impossible to detect the materials brought on board Flight 253 on 25 December 2009. In saying virtually impossible, the Representative of Spain was referring to the technical detection methods and not the methods for the exchange of information and intelligence.

28. Emphasizing that the risk had not emanated from any one State, the Representative of Spain underscored that it had arisen on board a flight from Amsterdam to Detroit. In expressing solidarity with the United States, he agreed that it was a global problem as it had ramifications for many States. Noting that the threat existed and would persist, the Representative of Spain stressed the need to take action. The balance that was sought between facilitation and security was unstable and at the moment had been broken. It was therefore necessary to take measures that unfortunately affected facilitation in airports. For that reason, it was very important that ICAO take a global approach in its work, one that encompassed the exchange of information as well as technologies, so as to avoid causing discrimination or negatively impacting facilitation at airports.

29. The Representative of Spain expressed satisfaction that ICAO was keeping current with the various initiatives being taken, including those by the United States and the EU. He noted, in this regard, that the said High-level Ministerial EU Meeting scheduled to take place in Toledo, Spain, from 21 to 22 January 2010 would be attended by Internal Affairs and Justice Ministers and not Transport Ministers. With regard to risk assessments, the Representative of Spain underscored that while they were necessary, they were not sufficient. An individual risk assessment by each State would result in 190 different assessments and thus different implications for each State and different measures being taken. The Representative of Spain was thus in favour of ICAO's leadership in this matter, the more, the better.

30. In summarizing the discussion, the President of the Council noted that everyone agreed that security was a global issue which required global strategies. Cooperation among States was essential and was called for in Standard 2.4.1 of Annex 17. While he considered that cooperation was going well, he averred that much work remained to be done. Recalling, from the Secretary General's oral report, that the Twenty-first Meeting of the AVSECP would take place from 22 to 26 March 2010, the President of the Council underscored that the Council should place its trust in the Panel experts' experience and request the AVSECP to provide guidance on how ICAO could, on a global level, participate in helping to solve a problem that was of great concern to all. As mentioned by the Representative of Spain, the issue of

facilitation had to be taken into account. Any proposals for the use of new technologies must be realistic and feasible so that they could be implemented by all States.

31. The President of the Council indicated that the various suggestions for future action made by Representatives had been noted for further consideration by the Secretary General. In concluding his summary, he indicated that he wished that he could say that the Council was concluding with this problem. However, it would be overly optimistic to think that such a complex problem could be solved only with technology, or only with good intentions or only with cooperation — it would take much more.

32. The Council then noted the oral report by the Secretary General, on the understanding that the latter would inform Representatives in due course regarding the next steps to be taken and the results of the security-related meetings referred to above. It was also understood that the report of AVSECP/21 on the outcome of its consideration of this subject would be presented to the Council for its review and decision in due course.

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

Election of the Members of the Human Resources Committee (HRC) and of its Chair

33. This subject was documented for the Council's consideration in C-WP/13485, presented by the President of the Council.

34. The Council elected the six Members and three Alternates of the HRC nominated by the President of the Council as set for in the Appendix to C-WP/13485 for the balance of the 2009-2010 period. It was understood that the membership of the Committee would also include the three Vice-Presidents of the Council.

35. On a nomination by the Representative of Malaysia, the Council also re-elected Mr. P.K. Evans (Australia) as Chair of the HRC for the balance of the 2009-2010 period.

36. In congratulating Mr. Evans on his re-election, the Representative of the Russian Federation indicated that his State was interested in participating in the future work of the HRC and would wish, at a later stage, to present a candidate for membership in the Committee. Aware that the HRC currently worked only in the English language, he emphasized that, if the Russian Federation joined the Committee, then it would not insist that other languages also be used. The President of the Council noted this comment.

37. The Representative of Uganda commended Mr. Evans for his good work and affirmed that he deserved re-election to the Chair of the HRC. Observing that the HRC was a young Committee and was still evolving, he indicated that he looked forward to its continuous improvement so that it would become even more efficient in carrying out its functions. In then drawing attention to the Terms of Reference of the HRC which the Council had approved during the previous session (C-WP/13439; 188/4), the Representative of Uganda noted, from paragraph 3, that the Committee was to provide policy advice to the Council. In further noting, from paragraph 4, that the HRC was also to assist the Secretary General by advising him on the content and transmission of vacancy notices and on the selection of preferred candidates for senior appointments (level D1 and above), he underscored that it was unusual, as the HRC was a body of the Council, the policy-making organ of ICAO, and the Secretary General was the prime implementer of its policy. Averting that it seemed that the Council was thus advising the Secretary General, the Representative

of Uganda suggested that the next time that the Council reviewed the HRC's Terms of Reference, it remove the confusing allusion to the HRC as being an advisory group to the Secretary General. This was noted.

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

Subject No. 16: Legal work of the Organization

**Report of WGOG — Update of the
*Repertory-Guide to the Convention on International Civil Aviation (Doc 8900)***

38. The Council heard an oral report by the Chair of the Working Group on Governance (Policy) (WGOG) on the above subject. The Chair of the WGOG recalled that, during the Fourth Meeting of its 187th Session (187/4), the Council had considered C-WP/13344, a report by the WGOG on future sessions of the Assembly, which addressed, among other issues, the question of the update of the ICAO *Repertory-Guide to the Convention on International Civil Aviation* (Doc 8900). The latter was a repertory of practice of ICAO concerning the application and interpretation of the Chicago Convention in the form of an article-by-article guide to Assembly resolutions and decisions of the Council and its subordinate bodies. Unfortunately, while the latest edition dated back to 1977, no appropriations to update that document had been approved since. The decision of the Council had been to refer to the WGOG and the Secretary General the question of making the necessary appropriations to re-start the update of the Repertory-Guide [*cf.* C-DEC 187/4, paragraph 2 1)].

39. The WGOG had considered and discussed the main lines of a Secretariat's project to build a new repertory of salient decisions by the Assembly, the Council and subordinate bodies relating to the provisions of the Chicago Convention. It reiterated its strong interest in that important project and recommended that options be considered by the Secretary General for appropriate financing.

40. The Representative of Canada fully endorsed the WGOG's oral report. While not a Member of the Working Group, he considered that a study of the various decisions relating to the articles of the Chicago Convention and the development of a repertory thereof was very relevant. He recalled that in 2009 an unsuccessful effort had been made to reopen the issue of Assembly Resolution A4-3 (*Policy and programme with respect to the amendment of the Convention*) adopted in 1950 which, in Operative Clause 7, stipulated that "the Council should not itself initiate any proposal for amendment to the Convention for submission to the Assembly unless in the opinion of the Council such amendment is urgent in character;". The Council had considered a report by the WGOG on the outcome of its review of international governance (Chicago Convention) and had decided not to initiate any further action on the issue, on the understanding that all Contracting States had the right to present proposals to amend the Chicago Convention through the Council for the Assembly's consideration (*cf.* C-WP/13416; 188/6). The Representative of Canada therefore suggested that the Secretary General be requested to expand the scope of the envisaged study in order to enable ICAO to face the future.

41. In voicing support for the updating of the Repertory-Guide, the Representative of Mexico suggested that, to the extent possible, it be done on a cost-recovery basis. Noting that some States had used Doc 8900 in the past, he maintained that eventually its updating should be self-financing.

42. The Council noted the oral report by the WGOG, on the understanding that the Secretary General would determine the resources required for the updating of the *Repertory-Guide to the Convention on International Civil Aviation* (Doc 8900), identify possible sources of funding (the Regular Programme

budget or other sources), and report thereon in due course, possibly during the Council's consideration of his proposal for the draft budget of the Organization for 2011-2012-2013.

Any other business

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

Appointment of a new Member of the Air Navigation Commission (ANC)

43. In the absence of comments by 6 January 2010 to the President of the Council's e-mail dated 9 December 2009, Mr. Andrew H. Tiede (nominated by Australia) has been appointed to succeed Mr. Richard Macfarlane as a Member of the ANC with effect from 1 January 2010.

Subject No. 14.1.3: Regional Supplementary Procedures (SUPPs)

Approval of amendment EUR/NAT-S09/3 to the *Regional Supplementary Procedures* (Doc 7030/5)

44. In the absence of comments by 28 December 2009 to his memorandum PRES RK/1753 dated 30 November 2009, the President of the Council has approved amendment EUR/NAT-S09/3 to the *Regional Supplementary Procedures* (Doc 7030/5) on behalf of the Council, in accordance with the established procedure.

Subject No. 11: ICAO publications policy

Issuance of ICAO Press releases

45. The President of the Council noted that on several occasions the Secretariat had not been able to issue ICAO Press releases on short notice due to translation requirements. To enable the Secretariat to respond quickly to situations, he sought the Council's agreement that, in cases where it was warranted, ICAO Press releases would be issued in the English language first, with the other language versions being issued subsequently. The Council so agreed. The Representative of the Russian Federation underscored, in this regard, that the Language and Publications Branch (LPB) was not currently in the best position to respond to such short-notice translation requests. The President of the Council assured him that the Secretary General would find the optimal solution for the situation in LPB.

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

Subject No. 19.1: Reports by the President of the Council

Subject No. 50: Questions relating to the environment

Preliminary oral reports by the President of the Council and the Secretary General on ICAO's participation in the Fifteenth Meeting of the Conference of the Parties of the United Nations Framework Convention on Climate Change (COP15) (Copenhagen, Denmark, 7-18 December 2009)

46. Further to a request by the Representative of France, the President of the Council and the Secretary General gave preliminary oral reports on ICAO's participation in COP15.

47. In noting that ICAO had participated as an Observer, the President of the Council indicated that it had not had access to the meetings of the States which comprised the COP, which were held in closed session. He and the other officials representing ICAO at COP15 had nonetheless learned from various delegations attending the meetings of the discussions. The President was very satisfied that he had been given the opportunity to address the Plenary on 7 December 2009. He had spoken primarily of the work in the aviation sector being undertaken by States and industry as a result of the recommendations of the High-level Meeting on International Aviation and Climate Change (HLM-ENV/09) (Montréal, 7-9 October 2009) approved by the Council. The following day, ICAO had held a side event in collaboration with the International Maritime Organization (IMO) entitled “Concrete Solutions — Tangible Global Results” on international bunker fuels, which had been a great success. The President had opened the side event, which had also included a panel of aviation experts.

48. Aside from those two activities, the President and the other ICAO officials had held exchanges of views with various delegations, during which they had elaborated on the Organization’s current work, as well as on its future work, to be approved by the 37th Session of the ICAO Assembly (Montréal, 28 September – 8 October 2010). They had sought the delegations’ collaboration in facilitating that work within the UNFCCC process.

49. The President noted that, as he had indicated he would do during the Council’s consideration of the Report of the said High-level Meeting (C-WP/13448; 188/11), he had established an informal group comprised of members from the different regions and representatives of industry, the DGCA Climate Group, to develop an Assembly Resolution on greenhouse gas (GHG) emissions from international aviation. The Assembly Resolution would build upon past ICAO developments and take into account the results of COP15. The Secretariat, in consultation with Representatives of Council Member States represented on the DGCA Climate Group and the Members of that Group would prepare the draft Assembly Resolution. The latter would form the basis for discussions during the first meeting of the DGCA Climate Group, envisaged to take place at ICAO Headquarters in March 2010. Depending on the progress achieved, the Group might meet two more times, at the end of June and during August 2010. The resultant Assembly Resolution would then be presented to the 37th Session of the ICAO Assembly for approval.

50. Without wishing to diminish, in any way, the importance of COP15, the Secretary General noted that, when it came to ICAO’s participation therein, there had been a certain amount of frustration with the Conference’s fifteen days of work. As the President of the Council had indicated, there had been no possibility for ICAO and the other UN organizations to participate in the negotiating meetings or even to attend as Observers, even though COP15 was a UN meeting. ICAO had not been informed of the progress, or absence of progress, in the discussions concerning the aviation sector. It had been a paradoxical situation. The Conference had continued to be referred to as a success afterwards, despite the fact that there had not been any reference to the aviation and maritime sectors in the conclusions of COP15. The Secretary General recalled, in this regard, that at the end of the second week of the Conference, there had been total confusion as to the working methods being followed, with Plenary sessions being convened only to be subsequently cancelled. The Working Group on Bunkers had not been able to discuss any proposals as it had not been given any mandate to do so. The Secretary General thus considered that COP15 had essentially been a meeting dedicated to financing issues, which, while undoubtedly important, were not the issues that the aviation sector had wished the Conference to focus on. He indicated that, in the coming weeks, he would request a meeting with the UN Secretary-General to draw his attention to the fact that the timetables of ICAO and the UNFCCC for addressing GHG emissions were now reversed: while ICAO had been awaiting the results of COP15 in order to take them into consideration in its future work, the 37th Session of the ICAO Assembly would take place prior to COP16 (Cancún, Mexico, 29 November – 10 December 2010). The

Secretary General would seek clarification from the UN Secretary-General, as well as from the Executive Secretary of the UNFCCC, as to how ICAO should carry out its work to address aviation GHG emissions in order to be able to provide the UNFCCC with a result for the aviation sector for COP16.

51. The Representative of Canada enquired whether it was true that the UNFCCC was not waiting for any feedback from ICAO before COP17 (South Africa, 28 November – 9 December 2011). In averring that COP16 would only be of little concern to ICAO as the 37th Session of the Assembly would have already taken place, he sought clarification regarding the timetables of COP16 and COP17.

52. The Secretary General emphasized that, as COP15 had not given any indication as to a timetable for addressing aviation GHG emissions, ICAO's mandate remained based on the Kyoto Protocol and the directives from the 36th Session of the ICAO Assembly. In that sense, ICAO could continue its work. However, several UNFCCC meetings would take place between now and COP16 which might affect ICAO's deliberations. It was for that reason that he would be seeking clarification from the UN Secretary-General and the Executive Secretary of the UNFCCC.

53. The Representative of France emphasized the need to take into consideration ICAO's experience during the past year in trying to co-ordinate its work to address aviation GHG emissions with the work of the UNFCCC. Averring that the Organization's efforts in that regard had not been very effective, he stressed the need for caution. Underscoring that ICAO was somewhat independent of the UN and its Secretary-General, the Representative of France agreed with the President of the Council that ICAO should continue its work, without dragging its feet.

54. The President of the Council observed, in this context, that ICAO had many elements to work with, including: its constitution, the Chicago Convention; Assembly resolutions; the outcome of the said High-level Meeting; and the results of the meetings of the Group on International Aviation and Climate Change (GIACC). While not wishing to state that the Organization would pursue its work to address aviation GHG emissions without taking into account any opinions or decisions arising from the UNFCCC process, he was confident that ICAO could make progress and develop an Assembly Resolution that would enable the Organization to continue working on climate change.

55. Responding to a point raised by the Representative of Saudi Arabia, the Secretary General underscored that the absence of any reference to the aviation sector at COP15 was no obstacle to ICAO continuing its said work and making a contribution to COP16 for the aviation sector.

56. The Representative of Brazil noted that at COP15 there had been a political agreement, albeit a weak one, but no legally-binding agreement. Thus while ICAO had all of the elements that had existed prior to COP15 to work with, it still required a legal instrument. His State would thus make every effort to attend the envisaged meeting to consider the said draft Resolution.

57. The Representative of the United States observed that, although the ongoing work of both ICAO and the UNFCCC would continue along their own tracks, according to their respective mandates, that work would be relevant to both bodies. To a query by the Representative, the Secretary General confirmed that ICAO had a continuous working relationship with the UNFCCC and that there were several mechanisms by which they informed each other of their activities.

58. It was noted that further information on ICAO's participation in COP15 would be provided in the President's report on activities during the recess, to be circulated under cover of a PRES memorandum later in the current session.

Subject No. 18.7: Appointment of External Auditor

**Letter of condolences to the Cour des comptes on the passing of
Mr. Philippe Séguin, the External Auditor of ICAO**

59. The Secretary General informed the Council that he and the President of the Council had sent a joint letter of condolences to the Cour des comptes expressing sympathy, on behalf of the ICAO Secretariat and the Council and on their own behalf, to the Cour des comptes and to the family of Mr. Philippe Séguin on the latter's passing on 7 January 2010. Mr. Séguin had served as the External Auditor of ICAO since 2008. In addition, the Secretary General had requested the ICAO Regional Director of the Paris Office to attend Mr. Séguin's funeral on ICAO's behalf and to represent the Secretary General at the first opening meeting of the Cour des comptes on 26 January 2010.

60. Recalling that Mr. Séguin had been born in Tunisia, the Representative of Tunisia emphasized that his passing was a great loss. Mr. Séguin had done everything in his power to assist the Council through his external audits of ICAO. While such audits would continue, the Council had lost a friend.

61. The meeting adjourned 1610 hours.

COUNCIL — 189TH SESSION

SUMMARY MINUTES OF THE SECOND MEETING

(THE COUNCIL CHAMBER, MONDAY, 15 FEBRUARY 2010, AT 1430 HOURS)

OPEN MEETING

President of the Council: *Mr. Roberto Kobeh González
First Vice-President of the Council: *Dr. O.B. Aliu (Nigeria)

Secretary: Mr. D. Wibaux, Acting 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. Kim, C.-H.
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. T.M.B. Kabli
Ecuador	— Mr. I. Arellano Lascano	Singapore	— Mr. K.P. Bong
Egypt	— Mr. M.T. Elzanaty	South Africa	— Mr. T. Peege
El Salvador	— Mr. J.A. Aparicio Borjas	Spain	— Mr. V.M. Aguado
France	— Mr. M. Wachenheim	Switzerland	— Mr. D. Ruhier
Germany	— Mr. J. Mendel	Tunisia	— Mr. I. Sassi
Ghana	— Mr. S. Allotey	Uganda	— Mr. J. Twijuke
Iceland	— Mr. H. Sigurdsson	United Arab Emirates	— Miss A. AL Hamili
India	— Mr. A. Mishra	United Kingdom	— Mr. M. Rossell
Italy	— Mr. G. Picheca	United States	— Ms. M. Kehoe (Alt.)
Japan	— Mr. S. Baba	Uruguay	— Mr. J.L. Vilardo
Malaysia	— Mr. S.-C. Kok	Venezuela	— Mr. D. Blanco Carrero

ALSO PRESENT:

Mr. M.G. Fernando, President, ANC	
Mr. E.N. Méndez (Alt.)	— Dominican Republic
Mr. B. Thébault (Alt.)	— France
Mr. F. Christensen (Alt.)	— Iceland
Mr. R.A. Al Kaabi (Alt.)	— United Arab Emirates

SECRETARIAT:

*Ms. N. Graham	— D/ANB
*Mrs. F.A. Odotola	— D/ATB
*Mr. R. Bhalla	— C/FIN
*Mr. A.E. Eussner	— C/EAO
*Mr. J.V. Augustin	— DD/LEB
*Mr. W. Amaro	— C/JF
*Mr. B. Verhaegen	— LO
Miss S. Black	— Précis-writer

*Part-time

Welcome to the new President of the Air Navigation Commission (ANC), Mr. Mervyn G. Fernando

1. The President of the Council extended a warm welcome to Mr. Mervyn G. Fernando, who was attending a meeting of the Council for the first time in his capacity as the new President of the ANC.

Update on the operational situation in Haiti

2. Further to a number of requests, the Director of the Air Navigation Bureau (D/ANB) gave the following oral update on the operational situation in Haiti in the aftermath of the earthquake which occurred on 12 January 2010, the text of which would be circulated electronically to Representatives:

“On 12 January 2010, an earthquake measuring 7.0 on the Richter magnitude scale occurred 10 miles southwest of Port-au-Prince, Haiti. In addition to its devastating impact on human life, the earthquake caused extensive damage to general infrastructure and communications, including aviation.

“According to information last updated 8 February 2010:

- More than 200 000 people are estimated to have been killed and 300,000 more injured, according to the Government of Haiti. Further, 1.9 million Haitians have been displaced, including 450,000 children.
- 482 000 people are estimated to have left Port-au-Prince.
- A total of 94 UN personnel have been confirmed dead; eight are unaccounted for.
- The United Nations Office for the Coordination of Humanitarian Affairs Flash Appeal has received \$517 million, or 90 per cent of its goal.

“As you know, the Air Traffic Management (ATM) Section of the ANB, in coordination with the ICAO Regional Office concerned, initiates and coordinates appropriate contingency action, often in response to requests from States, in the event of disruptions of air traffic services and related supporting services affecting international civil aviation. Normally in the period of a year the ANB would deal with an average of 6 or 7 contingencies for reasons as diverse as the tragedy in Haiti, industrial action, natural disruption and war. Much of the scheduled work of the ATM and the Regional Office concerned comes to a halt, depending on the severity of the situation, so as to effectively support the continuity of safe, efficient and secure operations, as demanded by the aviation community. A primary task of this contingency effort within ICAO is to work in coordination with States responsible for airspace adjacent to that affected by the disruption and in close coordination with international organizations concerned. In the case of Haiti, the response by Headquarters and the ICAO North American, Central American and Caribbean Regional Office in Mexico came well in advance of any request, and once contact had been made with Representatives of the Haitian Government, much of the initial contingency planning processes were well advanced and had been activated with the unfailing support of adjacent States; in particular, Cuba, the Dominican Republic, Jamaica, the Netherlands Antilles and the United States. Facilities from neighbouring States have also been used for staging flights, passenger evacuation and medical treatment of injured persons.

“The coordinated contingency measures that were put in place to ensure the safety of flight operations within the Port-au-Prince flight information region (FIR) included in the first instance, the diverting of transiting en route aircraft around the Port-au-Prince FIR. This went some way towards easing the workload of the staff working at the Port-au-Prince Area Control Centre, but also to provide more effective air traffic management for the arriving and departing humanitarian air traffic. The second task was to ensure the smooth flow of humanitarian air traffic arriving and departing from Haitian airports. This could

not have been achieved without the sustained efforts of the Haitian Civil Aviation Authority under extremely difficult circumstances, in coordination with the neighbouring States. Special mention should be made too, of the extraordinary support provided by the United States in agreeing to provide with the support of the Haitian CAA, air traffic flow management services, including a slot allocation and prioritization scheme, from their Federal Aviation Administration (FAA) Air Traffic Control System Command Center in Herndon, Virginia. Additionally, the United State's installation of a fully-operational mobile air traffic control tower at the Port-au-Prince International Airport, currently staffed with Haitian and United States Air Force controllers, has been essential for the provision of safe and efficient air traffic services at that airport. From 15 to 31 January 2010, a total of 1 936 flights, including helicopters, operated through the Port-au-Prince International Airport. Offers for air traffic controllers have been received from several other States also.

“The Haitian authorities, in coordination with the United States Transportation Security Administration (TSA), have established, for the humanitarian flights, security measures at the airport, focusing on screening passengers and passport validation. In this regard, an Electronic Bulletin was issued, drawing States' attention to ICAO Standards that call on States to facilitate the entry into, departure from and transit through their territories of aircraft engaged in relief flights and to ensure the prompt clearance of personnel and articles arriving on such aircraft.

“The Haitian authorities are considering the resumption of commercial air operations, through Port-au-Prince International Airport. Currently, their target date is 19 February 2010; however, the actual date has yet to be announced.

“As of today, en route, terminal and airport operations are running smoothly but a plan to assist Haiti in the reconstruction of the aviation system will be fundamental to return to normal operations in the coming months and years. The Regional Office in Mexico City is proposing an ICAO multidisciplinary mission to Haiti in early March with the objective of communicating directly with the Director General of Civil Aviation, Mr. Jean-Lemerque Pierre, assessing actual conditions on-site and providing reconstruction assistance and advice. The mission can also facilitate the recent request of the Director General to reactivate agreements with the Technical Cooperation Bureau (TCB) aimed at strengthening the civil aviation authority in Haiti. At this stage, we are awaiting a response in terms of how the mission might support their needs and their preferred timing for such a visit.

“The Secretariat keeps the President of the Council and the Secretary General regularly briefed on such contingency activities, and Electronic Bulletins and President's memoranda are also issued to keep the ICAO Council informed. While it is rare that we would report to the Council periodically in person on such matters, if you see fit, Mr. President, as I said I would like to do this as a matter of routine in the future.

“In closing, ICAO continues to be committed to providing all possible assistance, advice and coordination support to Haiti, thus ensuring that the response to this emergency continues to be provided promptly.”.

3. The Chair of the Technical Cooperation Committee (TCC) recalled that during its January meeting, the Committee had agreed to propose to the Council that the Secretariat develop a comprehensive technical cooperation project for the reconstruction of the air transport services and air navigation services in Haiti. It considered that ICAO had an important role to play in defining what was needed, not only to address the emergency situation and contingencies in Haiti, which the Organization was already doing, but also for reconstruction — not only to return to the *status quo* but also to develop. The Chair of the TCC noted that a donors' conference would be taking place shortly and would require defined reconstruction projects.

4. The President of the Council indicated that he had raised the issue with the Secretary General and that they had decided that such a technical cooperation project should be developed. They would be sending a joint letter to the Prime Minister of Haiti to propose one. The President of the Council emphasized that the technical cooperation project should be developed in the knowledge of the deficiencies and problems being encountered in Haiti and that it should address not only the current emergency situation but also future needs.

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

Schedule for consideration of items during the 189th Session of the Council

5. The Council noted the meeting schedule for the 189th Session presented in the President's memorandum PRES RK/1757 dated 13 November 2009, subject to the following changes:

- as indicated in the Secretary General's e-mail dated 11 February 2010, the informal briefing of the Council scheduled for Tuesday, 16 February 2010 at 1430 hours on changes in the working methodology of the Regional Offices relating to technical cooperation activities that resulted from the revised organizational structure had been postponed to the next (190th) session, when a more concrete report on developments relating thereto would be presented. In its place, a Technical Cooperation Committee (TCC) informal briefing would be given on ICAO's procurement procedures and roster of suppliers and experts.
- a joint TCC/Finance Committee (FIC) meeting had been convened for Thursday, 18 February 2010 at 1430 hours.
- three additional FIC meetings had been scheduled for: Wednesday, 17 February 2010 at 1430 hours; Thursday, 18 February 2010 immediately following the above-mentioned joint TCC/FIC meeting; and Tuesday, 23 February 2010 at 1430 hours.
- in light of the overlap of the Next Generation of Aviation Professionals Symposium (Montréal, 2 to 4 March 2010) with the Council meeting on Wednesday, 3 March 2010 at 1000 hours, the latter meeting was cancelled, on the understanding that another Council meeting would be convened during the last week of the current session, if need be.

6. The Council also noted the schedule for the consideration of items during the 189th Session of the Council as set out in President's memorandum PRES RK/1769 dated 1 February 2010, subject to the following change:

- Item 46 – the title of this item “Review of the Report of the Eighth Meeting of the Committee on Aviation Environmental Protection” was amended to read “Interim Report on the Eighth Meeting of the Committee on Aviation Environmental Protection”, to reflect that the Secretary General would be presenting only an oral interim report on

the CAEP/8 meeting during the current session, pending presentation of a written report during the next (190th) session.

Subject No. 24.2: Assembly agenda and documentation

Assembly resolutions to be updated or declared obsolete

7. The Council had for consideration C-WP/13484 presented by the President of the Council and the Secretary General which described the background and suggested procedure for the presentation to the Assembly of “Assembly resolutions to be updated or declared obsolete”. The Appendix to the paper set forth a number of resolutions to be declared obsolete belonging to the finance field and to be cancelled as a matter of routine.

8. In enquiring as to the procedure for dealing with those Assembly resolutions which did not fall within the purview of the various Committees or the Air Navigation Commission (ANC), the Representative of the United Kingdom cited, as examples, the following three Assembly resolutions: Assembly Resolution A11-16 (*Efficiency in the preparation and conduct of meetings*); Assembly Resolution A9-16 (*Tenth Anniversary of the United Nations*); and Assembly Resolution A24-1 (*International Day of Peace*). Recalling that Assembly Resolution A11-16 had been adopted in 1958 and had been perpetuated ever since, he questioned whether it was necessary to have a resolution on efficiency in the preparation and conduct of meetings when it was a matter that was dealt with on a daily basis. Noting that the tenth anniversary of the UN had been celebrated in 1955, the Representative of the United Kingdom averred that Assembly Resolution A9-16 might be past its “sell-by” date. In querying whether the International Day of Peace still existed, he emphasized that, if it did, and if ICAO wished to continue observing it, then Assembly Resolution A24-1 should be refreshed and renewed. The Representative of the United Kingdom underscored that, while some Assembly Resolutions were rightfully reviewed prior to every Assembly, others were not and continued to appear in the consolidated edition of *Assembly Resolutions in Force* without any conscious deliberation. He stressed that if the Assembly Resolutions were to be recognized as being material to the way that ICAO conducted its business, then each and every one should be looked at carefully to ensure that they were still consistent with the Organization’s core objectives.

9. While agreeing that there were some Assembly Resolutions which were not in the ambit of the Committees or the ANC, the President of the Council emphasized that a full review of all Assembly Resolutions would be no easy task.

10. The Representative of France voiced concern over the very technocratic nature of the review of Assembly resolutions to be updated or declared obsolete. He averred that the action proposed in C-WP/13484, as well as in the subsequent papers (C-WPs/13487, /13488, /13489 and /13490) dealing with Assembly resolutions in the air navigation, air transport, joint financing and legal fields (*cf.* paragraphs 17 to 33), did not have any legal basis and would result in the loss of the positions adopted by the Assembly. The Representative of France emphasized that when the Assembly took a position, in the form of an Assembly Resolution, it was a political declaration which set forth the *raison d’être* at the time it was adopted. In maintaining that the proposed updating of Assembly Resolutions or declaring them obsolete was not very useful, not to say useless, he underscored that it increased the Secretary General’s workload and took up the Council’s and the Assembly’s time when the whole Organization was striving to make productivity gains and increase efficiency in all areas. The Representative of France therefore requested that the working method for updating Assembly Resolutions or declaring them obsolete be reviewed and placed on record his

disagreement with the action proposed in C-WP/13484, as well as in the said related papers C-WPs/13487, /13488, /13489 and /13490 to be considered under Agenda items 3, 4, 5 and 6.

11. The Representative of Tunisia affirmed that the issue of updating Assembly Resolutions or declaring them obsolete was very important as some Resolutions were totally anachronistic. He suggested that the Council request the Working Group on Efficiency (WGOE), in collaboration with the Legal Affairs and External Relations Bureau (LEB), to develop a new methodology for reviewing, classifying and updating Assembly Resolutions and so lay the groundwork for future measures to be taken.

12. The President of the Council noted that whereas the United Nations did not declare any of its Resolutions obsolete, ICAO had traditionally done so. Recalling that ICAO published a consolidated edition of *Assembly Resolutions in Force* following each Assembly, he stressed the importance of not allowing it to become too voluminous.

13. In enquiring as to what prevented the Council from resolving this issue during the present meeting, the Representative of Canada expressed doubt that referring it to a working group would be useful. Recalling that the same issue had been raised each year, with increasing relevance, since he joined the Council some eight years ago, he indicated that he sympathized with the Representatives of France and Tunisia and would be happy not to hear the issue spoken of next year.

14. In taking the action proposed in the executive summary of C-WP/13484, the Council:

- a) approved the Appendix to the paper, subject to text in the “Obsolete because” column for Assembly Resolution A36-37 being amended to refer to the financial years 2004, 2005 and 2006 instead of to the financial years 2001, 2002 and 2003; and
- b) instructed the Secretary General to present, during the next (190th) session, a draft Assembly working paper on Assembly resolutions to be updated or declared obsolete which would also take into account the decisions of the Council upon the recommendations of the Air Navigation Commission (ANC), the Air Transport Committee (ATC), the Joint Support Committee (JSC), the Technical Cooperation Committee (TCC) and the Committee on Unlawful Interference (UIC).

15. Responding to the point raised by the Representative of the United Kingdom, the President of the Council indicated that Assembly Resolutions A11-16, A9-16 and A24-1 would be reviewed to determine if they should be updated or declared obsolete. Depending on the outcome of the review, those Assembly resolutions would be incorporated into the paper referred to in paragraph 14 b), as appropriate.

16. In light of the comments made regarding the current procedure for reviewing Assembly resolutions, the President of the Council indicated that he would have a meeting with the Chair of the WGOE, the Chair of the Working Group on Governance (Policy) (WGOG) and the Director of the Legal Affairs and External Relations Bureau (D/LEB) to determine the best way to proceed in the future. If a new methodology were identified between now and the next (190th) session, then it would be presented in the said paper. This meeting would also consider the treatment of the three Assembly resolutions mentioned in the preceding paragraph.

Assembly resolutions in the air navigation field to be updated or declared obsolete

17. The Council considered this subject on the basis of C-WP/13487 presented by the Secretary General and an oral report thereon by the Air Navigation Commission (ANC).

18. In sharing the frustration expressed earlier by the Representatives of France and Tunisia regarding the procedure for reviewing Assembly resolutions, the Representative of the United Kingdom queried whether the ANC had reviewed in detail all of the Assembly resolutions in the air navigation field listed in the Appendix to the paper. Enquiring as to why the ANC had agreed to propose that only one such Assembly Resolution, Assembly Resolution A29-15 (*Smoking restrictions on international passenger flights*) be declared obsolete, he queried what conclusions the Commission had reached regarding Assembly Resolution A33-11 (*A global design code for aircraft*) and Assembly Resolution A21-24 (*Sickle cell trait in civil aviation*). The Representative of the United Kingdom underscored that, if a review of the Assembly resolutions was to be done properly, then it was necessary to question why each of the Assembly Resolutions listed in the Appendix was there.

19. The Director of the Air Navigation Bureau (D/ANB) noted that her Bureau was reviewing the said Assembly resolutions and would be presenting a report thereon to the ANC later in the current session. Assembly Resolution A29-15 was the only one which, on the face of it, could be proposed to be declared obsolete.

20. In voicing support for reviewing the procedure for updating Assembly resolutions or declaring them obsolete, the Representative of Spain emphasized that it should be done as soon as possible and not deferred to another Council session. He stressed that it was not the Assembly resolutions which were obsolete but the procedure for their review. To a further comment by the Representative, D/ANB confirmed that smoking was not allowed on board any international or domestic passenger flights.

21. The Representative of South Africa averred that, as long as there were still passengers who might try to smoke illicitly in aircraft lavatories, it was necessary to keep Assembly Resolution A29-15 in force. He underscored that smoking on board aircraft could result in unruly behaviour and could even be used to commit an act of unlawful interference. The Representatives of France, Uganda and Canada agreed that Assembly Resolution A29-15 should be retained.

22. The Representative of Nigeria underscored that if the Council decided not to propose that that Assembly Resolution be declared obsolete, then it should report to the Assembly on its implementation. He recalled, in this regard, that Operative Clause 4 requested the Council “to report on the implementation of this Resolution in all its aspects to the next ordinary session of the Assembly”.

23. The Representative of the United Kingdom stressed that an Assembly Resolution could not just be perpetuated; it was necessary to take the action requested by the Assembly and to go further. Noting that States had taken the necessary measures to restrict smoking progressively on all international passenger flights as called for in Operative Clause 3 of Assembly Resolution A29-15 and that the Council had reported on the implementation of that Assembly Resolution to the Assembly as called for in Operative Clause 4, he suggested that the Council consider having a new Assembly resolution developed by the Secretariat which would recognize the progress made and encourage and/or assist States to enforce the measures which had already been taken.

24. Emphasizing that, while it did seem as if Assembly Resolution A29-15 was obsolete, the continuing concern over smoking on board aircraft was not, the Representative of the United States agreed that that Assembly Resolution should be declared obsolete and that another resolution should be presented to the Assembly for adoption in order to reinforce ICAO's support for solving the smoking problem. In echoing comments made previously by the Representatives of Canada and France, she underscored that the procedure for reviewing Assembly resolutions took up a considerable amount of time and that it might not be a good way to spend the Organization's dwindling resources in the future. The Representative of Saudi Arabia shared this view. While concurring that the Assembly Resolution was obsolete, the Representative of Nigeria averred that another resolution was not required; it was only necessary to report to the Assembly on the implementation of Assembly Resolution A29-15.

25. The Representatives of Australia, India, Mexico, Venezuela and the United Arab Emirates expressed support for the ANC's recommendation that Assembly Resolution A29-15 be proposed to the Assembly to be declared obsolete. The Representative of South Africa indicated that he would go along with the majority of Representatives who supported that action.

26. In taking the action proposed in the executive summary of C-WP/13487, as recommended by the ANC, the Council:

- a) agreed to propose to the Assembly that Assembly Resolution A29-15 (*Smoking restrictions on international passenger flights*) be declared obsolete; and
- b) noted that Assembly resolutions in the air navigation field relating to specific agenda items or relating to proposed updated consolidated statements of continuing ICAO policies would be dealt with separately at a later date.

Assembly resolutions in the air transport field to be updated or declared obsolete

27. The Council considered this subject on the basis of C-WP/13488 presented by the Secretary General and an oral report thereon by the Air Transport Committee (ATC). Assembly Resolution A36-15 (*Consolidated statement of continuing ICAO policies in the air transport field*) was the only resolution in the air transport field which was currently in force. It would continue to be in force until it was superseded by an updated consolidated statement during the 37th Session of the Assembly. The Council was invited to approve that Assembly Resolution A36-15 would be declared obsolete at the time of adoption of its replacement by the Assembly.

28. In presenting the Committee's oral report, the Chair of the ATC suggested that the proposed action be amended to indicate that the Council was invited to note the executive summary of the paper and, once the 37th Session of the Assembly had adopted a resolution replacing Assembly Resolution A36-15, to declare the latter obsolete.

29. The President of the Council noted that a new Assembly resolution which supersedes a previous resolution contains a clause to that effect. The earlier resolution was thus automatically superseded and it is unnecessary for it to be declared obsolete in the terms of the paper being considered (C-WP/13488). In the present case, Assembly Resolution A36-15 would not be included in the list of Assembly resolutions to be declared obsolete during the upcoming 37th Session of the Assembly by means of an Assembly resolution.

Subject No. 17: Joint financing of air navigation services

Subject No. 24.2: Assembly agenda and documentation

Assembly resolutions in the joint financing field to be updated or declared obsolete

30. The Council considered this subject on the basis of C-WP/13489 presented by the Secretary General and an oral report thereon by the Joint Support Committee (JSC).

31. In taking the action proposed in the executive summary of C-WP/13489, as recommended by the JSC, the Council agreed that the three Assembly resolutions relating to joint financing which were currently in force [Assembly Resolution A1-65 (*Joint support policy*); Assembly Resolution A14-37 (*Increased participation by “User States” in the Joint Financing Agreements*); and Assembly Resolution A16-10 (*Economic, financial and joint support aspects of implementation*)] did not need to be updated or declared obsolete during the upcoming 37th Session of the Assembly.

Subject No. 16: Legal work of the Organization

Subject No. 24.2: Assembly agenda and documentation

Subject No. 24.3: Action on Assembly resolutions and decisions

**Draft Assembly working paper — Proposed consolidated statement
of continuing ICAO policies in the legal field**

32. The Council approved the draft Assembly working paper appended to C-WP/13490 presented by the Secretary General on an updated consolidation of resolutions in the legal field for transmission to Member States as documentation for the 37th Session of the Assembly.

33. Further to a suggestion by the Representative of Nigeria, it was agreed that, in future, such draft Assembly working papers should contain only the text of the draft consolidated statement which showed the proposed changes to the existing consolidated statement and not a “clean” copy thereof.

Subject No. 18.7: Appointment of External Auditor

Appointment of the External Auditor of ICAO for the financial years 2011, 2012 and 2013

34. The Council considered this subject on the basis of C-WP/13483 Revision No. 1 presented by the Secretary General and an oral report thereon by the Finance Committee (FIC). During the FIC’s discussion on the subject, it had been emphasized that communication between the External Auditor and the Council should be improved and that the External Auditor should provide annual audit plans and focus on general issues when reporting to the Council, while bringing more detailed findings and recommendations to the attention of the Secretary General in Management Letters.

35. In supporting the FIC’s recommendation that the Council offer an extension of appointment to the Cour des Comptes as External Auditor for 2011, 2012 and 2013, the Representative of Romania underscored that it should not only be for the same fee as charged for the current triennium (US \$690 000) but also for the work done over the past two years. Drawing attention to paragraph 3 (Lessons learned) of the paper, he noted that the second sentence of paragraph 3.2 indicated that “Subject to satisfactory performance by the External Auditor, the Council could renew the term of the existing External Auditor for a second term of service without going through the competitive process.”. However, the first sentence of paragraph 3.3

indicated that “The established procedures do not permit a three-year timeframe for evaluating the performance of the External Auditor.”. Emphasizing that that meant that the Council would, in fact, be appointing the External Auditor for six years, the Representative of Romania proposed that the Advisory Group on Evaluation and Audit (AGEA) be requested to provide guidance as to the best way to evaluate the External Auditor’s performance.

36. Endorsing this proposal, the Representative of Spain noted that it was difficult for the Council to have to take a decision regarding the renewal of the External Auditor’s contract in the second year of his mandate without having an evaluation of his performance on which to base it. He also voiced support for the action recommended by the FIC. The Representative of Spain underscored that there were several points raised in paragraphs 3.3 and 3.4 of the paper which should be taken into consideration by the Council and the External Auditor, namely that, although the Council could not interfere with the independence of the External Auditor, the latter’s working methods should be aligned with the Council’s expectations; that an annual audit plan should be submitted by the External Auditor to the Secretary General at the beginning of each year; and that a distinction should be made between operational recommendations, which should be addressed to the Secretary General through Management Letters, and the disclosure of significant findings through audit reports addressed to the Council. The Representative of Spain emphasized, in this regard, that it was necessary for the Council to know what action it was responsible for taking in response to the External Auditor’s recommendations and to ensure that the Secretary General responded to those recommendations which had been directed to him. The Representative of Namibia was of the same view.

37. The Chief of the Evaluation and Internal Audit Office (C/EAO) noted that these issues had been discussed during a recent meeting in Paris between the AGEA and the Cour des Comptes which he had attended. He further indicated that the Cour des Comptes had presented an annual audit plan for 2010 and had committed in writing that it would, in future, distinguish between Council-level recommendations and operational recommendations which would be addressed to the Secretary General in Management Letters.

38. The Representatives of El Salvador and France voiced support for the FIC’s recommendations, as well as for the comments made by the Representatives of Romania and Spain. The Representative of El Salvador stressed that the external audits should be developed in the context of the Organization’s Business Plan. Recalling that a problem had arisen earlier regarding the External Auditor’s mandate, with the Council having expected the External Auditor to carry out certain tasks which had not been specified in his mandate, the Representative of France emphasized the need to rigorously oversee the drafting of the External Auditor’s mandate.

39. Affirming that the “lessons learned” were extremely helpful and stressing the need to build on them, the Representative of the United Kingdom suggested that the FIC or some other group be requested to review, during the 192nd Session, the experience with the appointment and reappointment process for the External Auditor and to develop an internal guide on how the External Auditor should be appointed and assessed which would set forth criteria for reappointment and re-bidding. The Representative of the United Kingdom noted, in this regard, that the Council might, in future, want to decide not to reappoint the External Auditor and to go through a re-bidding process on every occasion, and to decide whether the appointment should be for three or six years.

40. In taking the action proposed in paragraphs a) and b) of the executive summary of C-WP/13483 Revision No. 1, the Council:

- a) confirmed the appointment of Mr. Alain Pichon, the interim First President of the Cour des Comptes (France), as interim successor of the late Mr. Philippe Séguin, as the External Auditor of ICAO; and
- b) as recommended by the FIC, decided to offer an extension of appointment to the First President of the Cour des Comptes as External Auditor of ICAO for 2011, 2012 and 2013 for the same fee as charged for the current triennium (US \$690 000), subject to confirmation by the upcoming 37th Session of the Assembly.

41. In addition, the Council requested the AGEA to provide guidance as to the best way to evaluate the performance of the External Auditor. It also requested the FIC to review the appointment, reappointment and performance assessment process for the External Auditor during the 192nd Session and to report thereon to the Council. It was understood that the External Auditor and the Secretary General would be informed of the comments made regarding paragraph 3 (Lessons learned) of the paper.

Subject No. 3: Election of the President of the Council

Draft State letter on the election of the President of the Council

42. The Council reviewed and approved the draft State letter appended to C-WP/13492 presented by the Secretary General notifying Member States of the forthcoming election of the President of the Council and inviting the submission of candidatures. The Council also fixed 18 October 2010 as the date by which the names for the Presidency should be in the hands of the Secretary General. It was understood that the information contained in Attachment C (Conditions of service) to the State letter would be adjusted, as appropriate, in light of the Council's consideration, later in the current session, of C-WP/13491 Restricted (Representation allowances of the President of the Council and the Secretary General/Review of the rules for determining the salary of the President of the Council/Review of the net base salaries of the President of the Council and the Secretary General).

Any other business

Subject No. 50: Questions relating to the environment

**Appointment of new Members and Observers on the
Committee on Aviation Environmental Protection (CAEP)**

43. In the absence of comments by 12 January 2010 to the President of the Council's e-mails dated 15 December 2009, Mr. Hatem Jameleddine has been appointed as the new CAEP Member nominated by Tunisia, replacing Mr. Ridha Dridi with effect from 12 January 2010, and Mr. Olivier Onidi has been appointed as the new CAEP Observer nominated by the European Commission, replacing Mr. Roberto Salvarani with effect from that same date.

44. Furthermore, in the absence of comments by 29 January 2010 to the President of the Council's e-mails dated 19 January 2010, Dr. Florin Vladu has been appointed as the new CAEP Observer

nominated by the United Nations Framework Convention on Climate Change (UNFCCC), replacing Mr. Roberto Acosta with effect from 29 January 2010, and Mr. Liu Xiaojie has been appointed as the new CAEP Member nominated by China, replacing Mr. Zhou Kaixuan with effect from that same date.

Subject No. 15.4: Facilitation

Appointment of new Members on the Public Key Directory (PKD) Board

45. In the absence of comments by 18 January 2010 to the President of the Council's e-mail dated 15 December 2009, Mr. Kim Rai-hyug has been appointed as the Representative of the Republic of Korea on the PKD Board, replacing Mr. Koo Bon-yul for the remainder of the three-year term, *i.e.* with effect from August 2009 to June 2011.

46. In addition, in the absence of comments by 28 January 2010 to the President of the Council's e-mail dated 14 January 2010, Ms. Katherine Mitchinson has been appointed as the Representative of the United Kingdom on the PKD Board, replacing Mr. Robin Chalmers for the remainder of the three-year term, *i.e.* with effect from February 2010 to November 2010.

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

Appointment of a new Member of the Air Navigation Commission (ANC)

47. In the absence of comments by 28 January 2010 to the President of the Council's e-mail dated 14 January 2010, Mr. Jorge Luiz França Alves (nominated by Brazil) has been appointed to succeed Mr. Luiz Ricardo Nascimento as a Member of the ANC with effect from 1 March 2010.

Subject No. 12.5: Plans for legal meetings

Diplomatic Conference 2010

48. In the absence of objections by 25 January 2010 to the President of the Council's e-mail dated 12 January 2010, the Diplomatic Conference to finalize and adopt the draft texts to amend The Hague and Montréal Conventions will be held in Beijing, China, from 30 August to 10 September 2010.

Subject No. 50: Questions relating to the environment

ICAO Colloquium on Aviation and Climate Change “En route to sustainability”

49. With reference to the President of the Council's e-mail dated 26 January 2010 stipulating a deadline of 5 February 2010 for comments, the ICAO *Colloquium on Aviation and Climate Change “En route to sustainability”* will be held in Montréal from 12 to 14 May 2010. The international organizations referred to in the said e-mail, which are not included in the list of international organizations that may be invited to attend suitable ICAO meetings, will be invited to attend the Colloquium. Further to a request received from the Representative of the Russian Federation on 26 January 2010, the International Federation of Air Line Dispatchers' Associations (IFALDA) will also be invited to attend.

Subject No. 10.1: Reports on meetings of other organizations at which ICAO was represented

**Report on meetings of other organizations at which ICAO was represented
during the third quarter — 1 July to 30 September 2009**

50. As no request had been received by 8 January 2010 to have C-WP/13486 on this subject tabled for discussion in response to memorandum PRES RK/1761 dated 14 December 2009, it was considered that the Council had noted the information contained therein.

Subject No. 17.5: Joint Financing Agreement with Denmark

Amendment to Annex III to the Danish Joint Financing Agreement

51. As no request had been received by 4 February 2010 to have C-WP/13531 on the above subject tabled for discussion in response to memorandum PRES RK/1768 dated 21 January 2010, it was considered that the Council had agreed to the action proposed in the executive summary of the paper.

52. The meeting adjourned 1620 hours.

COUNCIL — 189TH SESSION

SUMMARY MINUTES OF THE THIRD MEETING

(THE COUNCIL CHAMBER, WEDNESDAY, 17 FEBRUARY 2010, AT 1000 HOURS)

CLOSED MEETING

President of the Council: Mr. Roberto Kobeh González

Secretary: Mr. D. Wibaux, Acting 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. A. Romera (Alt.)	Nigeria	— Dr. O.B. Aliu
Cameroon	— Mr. E. Zoa Etundi	Republic of Korea	— Mr. Kim, C.-H.
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. A.A. Alharthy (Alt.)
Ecuador	— Mr. I. Arellano Lascano	Singapore	— Mr. K.P. Bong
Egypt	— Mr. M.T. Elzanaty	South Africa	— Mr. T. Peege
El Salvador	— Mr. J.A. Aparicio Borjas	Spain	— Mr. V.M. Aguado
France	— Mr. M. Wachenheim	Switzerland	— Mr. D. Ruhier
Germany	— Mr. J. Mendel	Tunisia	— Mr. I. Sassi
Ghana	— Mr. S. Allotey	Uganda	— Mr. J. Twijuke
Iceland	— Mr. H. Sigurdsson	United Arab Emirates	— Miss A. AL Hamili
India	— Mr. A. Mishra	United Kingdom	— Mr. M. Rossell
Italy	— Mr. G. Picheca	United States	— Ms. M. Kehoe (Alt.)
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. P. Langlais (Alt.)	— Canada
Mr. Chunyu Ding (Alt.)	— China
Mr. E.N. Méndez (Alt.)	— Dominican Republic
Mr. J.T. Pérez (Alt.)	— Dominican Republic
Mr. P. Pape (Alt.)	— France
Mr. F. Christensen (Alt.)	— Iceland
Ms. S. Pop (Alt.)	— Romania
Mr. K. Tkhaze (Alt.)	— Russian Federation
Mr. A.B. Zarra (Alt.)	— Saudi Arabia
Mr. R.A. Al Kaabi (Alt.)	— United Arab Emirates

SECRETARIAT:

*Ms. N. Graham	— D/ANB
Mrs. F.A. Odutola	— D/ATB
Mr. M. Elamiri	— C/SSA
Mr. S. Berti	— C/AVSEC
Mr. A. Quiroz	— C/ASA
Mr. E. Macburnie	— SFP
Mr. J.S. Thaker	— TO/SFP
Mr. W. Parks III	— ISD/SEC
Mrs. H. Biernacki	— TO/SFP
Mr. M. Siciliano	— TO/SFP
Mr. A. Djojonegoro	— TO/SFP
Mrs. C. Rideout	— CSO

*Part-time

Subject No. 52: Unlawful interference with international civil aviation and its facilities**Report on acts of unlawful interference for 2009**

1. The Council considered the above subject on the basis of C-WP/13493 Restricted and Addendum No. 1, presented by the Secretary General, and an oral report presented by the Chairman of the Committee on Unlawful Interference. C-WP/13493 presented a report on acts of unlawful interference with civil aviation that had occurred in 2009, and described improvements in the way that data on acts of unlawful interference would be presented to the Council and Member States in the future, notably the establishment of a secure website enabling States to access information on a real-time basis.

2. Under general comments, the Representative of France noted that only 59 percent of the information recorded for 2009 came from official reports, meaning that some 40 percent of the information came from unofficial sources. If that was the case, how reliable were those unofficial data, and how did the Secretariat react to information coming from unofficial sources? It was his understanding that unofficial sources would include the media, which raised a question of substance. C/AVSEC indicated that the Secretariat was continuously trying to improve its collection of data on officially reported acts. When the Secretariat was aware, through the press or other media sources, of an act of unlawful interference that had not been officially reported, the usual procedure was to contact representatives of the State concerned, either directly through Representatives at ICAO Headquarters or indirectly through the Regional Offices, to try to elicit any relevant information. The unofficial report was then updated as necessary. Every effort was made to receive confirmation from official sources of any unofficial information obtained. The Representative of China believed that the provision of official information was not as timely as could be wished because States were not clear about the procedure to follow. It was hoped that the new database could be standardized in order to enable States to provide information in a timely manner.

3. The Representative of Uganda noted the information just provided in response to the query raised by the Representative of France, but wished to know whether any effort had been made to find out why States were not reporting, and what could be done to make them improve their reporting culture. It was very important that ICAO receive official information on such acts in order to be able to draw up appropriate plans to prevent unlawful interference. The Representative of Uganda noted from Addendum No. 1 to C-WP/13493 that the 23 acts of unlawful interference experienced in 2009 remained close to the average number for the past 20 years, giving the impression that no progress was being made. There was no increase in terrorism risk, and yet the average remained the same. The Representative of Uganda also noted that paragraph 2.2.3 of the main paper reported on an incident where a metal knife provided for an in-flight meal had been used to threaten a crew member, and wished to know if any measures were being contemplated to ensure that such incidents did not recur.

4. C/AVSEC believed that the reporting of acts of unlawful interference would improve with the recent establishment of an electronic database enabling States to access information on a real-time basis. It was true that data on acts of unlawful interference had remained steady, and this could be taken as a reflection of the fact that the measures which were being introduced to counter threats were having some success, given the fact that aviation was continuously expanding and the threat continued to evolve and was certainly becoming more serious in some ways. The fact that the numbers were not increasing was in some measure a sign of success. As regards the issue of steel knives being allowed on board, guidelines for prohibited articles were being provided to States in an effort to harmonize the process, but at the end of the day it was left up to each individual State which had sovereignty over its own procedures to determine what was and what was not allowed on board its aircraft. Steel knives were normally kept very short and were,

generally speaking, not a threat. On this point, the Representative of Germany indicated that in the 27 Members States of the European Union, as well as in Switzerland, Iceland and Norway, knives with a blade length of up to 6 centimetres were allowed. If a passenger came to a screening checkpoint with a pocket knife of this length, it would not be removed. C/AVSEC confirmed that the 6 centimetre rule was one which was applied in many parts of the world.

5. The Representative of Venezuela shared the concern which had been voiced by the Representative of Uganda with respect to paragraph 2.2.3 of the paper, and the need to standardize and harmonize onboard services. He also sought assurances that ICAO was guaranteeing the security of the data on its website.

6. The Representative of the United States wished to strongly support ICAO's role in sharing information on acts of unlawful interference, and believed that the database was a commendable step in the right direction which the United States fully endorsed. She hoped that the comments offered by the Representatives of Uganda, Venezuela and others on the importance of harmonization would be taken on board. Terrorism and other acts of unlawful interference was an international problem requiring international solutions, and the United States welcomed ICAO's continued leadership role in facilitating efforts in this area.

7. Responding to some questions raised by the Representative of South Africa, C/AVSEC firstly confirmed that the delegation of the country referred to in paragraph 2.3.1 of C-WP/13493 had been approached for official information on the incident described in that paragraph. In response to a further observation from the Representative of South Africa regarding the possibility that some States or regions mentioned in the paper had been singled out, C/AVSEC gave assurances that this was not the case. All regions were treated equally in terms of reporting. As regards the ICAO website and concerns which had been raised regarding its vulnerability, C/AVSEC indicated that the website was as secure as could be reasonably obtained. It had safeguards, and there were strict limitations on who could access this information. In terms of harmonization of measures, the Secretariat was endeavouring to harmonize all respects both in terms of reporting information and in terms of the countermeasures which had been introduced. That was one of the key objectives in the meetings which were being convened to discuss the Organization's response to the events of 25 December 2009.

8. In taking the action proposed in C-WP/13493 and recommended by the Committee on Unlawful Interference, the Council:

- a) reviewed and endorsed the revised process for incident reporting utilizing a continually available database at the secure website; and
- b) urged the appropriate security authorities of member States to review the content of the acts of unlawful interference database on a regular basis and provide ICAO with all pertinent information concerning any act of unlawful interference for inclusion in the database.

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

ICAO Comprehensive Aviation Security Strategy

9. The Council had for consideration C-WP/13494 Restricted, in which the Secretary General proposed seven strategic focus areas and their projected resource requirements under a new Aviation Security Plan of Action, known provisionally as the ICAO Comprehensive Aviation Security Strategy (ICASS) – Strategic Plan of Action 2011-2016, together with an oral report presented by the Chairman of the Committee on Unlawful Interference.

10. The Representative of Malaysia congratulated the AVSEC Panel for having recommended to the Council the Comprehensive Aviation Security Strategic Plan of Action 2011-2016 which would provide an important framework of ICAO aviation security activities for the next two triennia. His Delegation was particularly interested in Strategic Focus 3 (Promoting the Sharing of Information Amongst Member States to Raise Awareness of Threats and Security Trends Relevant to Civil Aviation Operations). The AVSEC Panel had also recommended a few methods to achieve this strategic focus, the most important among them was recommendation 6 (Review and maintain an up-to-date ICAO Aviation Security Point of Contact (POC) Network to enhance information sharing and to facilitate its use). The success of Strategic Focus 3 would to a large extent depend on this recommendation. To ensure the success of this important strategic focus, the Representative of Malaysia urged the Secretariat to undertake effective measures to promote and encourage the remaining 95 ICAO Member States who had not joined a PoC Network to do so. Otherwise, whatever sharing of security information under this strategic focus in future could at best be only 50 percent effective. The President of the Council concurred that the Point of Contact Network was very important. A number of State letters had highlighted this, and on missions to States which were not part of the Network, the President invited those States to participate.

11. The Representative of Spain wished to support the general strategy for aviation security in ICAO, and believed it was good to extend it over two triennia. Events might, however, happen in the future that would affect the strategy, and a degree of flexibility should be introduced so as to be able to address issues that had not yet been identified but that might arise in the next six years.

12. The Representative of Japan indicated that his Government duly supported the process of establishment of the Comprehensive Aviation Security Strategy, but wished to draw the Council's attention to the funding of those programmes. The UIC's report had, in this respect, indicated that while most of the activities proposed for the 2011-2016 period could be accommodated using existing resources, some envisaged tasks would call for additional resources. During the Committee's discussion, a view had been expressed to the effect that the required financial resources should be deliberated in the context of the entire budget. Japan duly supported this view.

13. The Representative of Singapore also fully supported the ICASS, as it provided ICAO and States with clear directions on key areas to focus on aviation security. The ICASS would provide ICAO and States with a means to better address emerging threats as well as to take concrete measures to achieve new enhancements to aviation security, including in critical areas of human factors and harmonization of security measures and standards. The Representative of Singapore noted that there remained a number of key activities that would benefit from support from States either financially or through contributions in kind. Singapore had previously made modest contributions in cash and in kind, and would continue to do so as it believed in the effective and successful implementation of ICASS.

14. The Representative of the United Kingdom supported the comments made by the Representatives of France, Spain and Japan on the budget and the relationship with the voluntary funds. In budget discussions the Council would need to be very careful to distinguish between those elements which were part of the Regular Programme budget and which were the core to the Organization, and those which were supported by voluntary funds which may be specific projects or programmes. It might be necessary to develop a Memorandum of Understanding between ICAO and donors who were sponsoring particular programmes or projects to make sure that there was a proper governance of the monies provided under those arrangements. The Representative of the United Kingdom noted that the programme under consideration tended to very much be a one-way arrangement, particularly if one looked at Strategic Focus 3, which spoke of organizations providing information to ICAO. The Organization might need to consider more of a partnership, which would have a genuine exchange of information recognizing the sensitivities.

15. The Representative of India wished to support the Strategic Plan of Action for ICASS for the years 2011-2016, and also wished to be associated with the views offered by the Representative of Japan regarding the need to keep the budgetary limitations in mind. One of his concerns had to do with Strategic Objective 3, and the sharing of information, already mentioned by some speakers. The key to any aviation security measure was that all the stakeholders should share their information. This was easier said than done, however, and it was his State's experience that even within a country, various interested agencies found it difficult to share intelligence information with each other. The information provided on the PoC website would have to be on a real time basis, and some thought would have to be given to how to develop it, especially since no additional resources had been asked by the Secretariat.

16. The Representative of the United States wished to underscore the importance which her Government placed on the security point of contact network, which should be fully exploited and, to the extent possible, enhanced, and looked forward to exploring how that could be done. The Representative of the United States noted India's concern regarding the sensitivity of information sharing, which continued to be a complicated issue, and believed that work would have to continue until a solution was found that was comfortable to all and that met everyone's needs for security within their own borders. She also concurred with the comments made by the Representative of Malaysia on the fact that 95 Members of ICAO had not yet joined the Security PoC Network, and hoped that the President would continue his good offices to urge fuller participation whenever possible, understanding that for many countries this might be a complicated step to undertake, but an important one which should continue to be explored.

17. The Representative of the Russian Federation shared the position expressed by the Representatives of Japan, Singapore and the United States, and expressed his Delegation's support for the proposal to organize a high-level meeting on security in 2011. The Representative of South Africa also supported the paper and the ICASS process.

18. In proposing a course of action, the President of the Council observed that some aspects, such as the required financial resources and the recommendations of the Twenty-first Aviation Security Panel, scheduled to take place from 22 to 26 March 2010, remained pending. For the time being, the Council endorsed, in principle, the proposed future activities of the ICASS, on the understanding that the Secretary General would present, during the next (190th) Session, a draft A37 working paper containing a final plan, which would take into account budgetary considerations, the recommendations of the Aviation Security Panel and Committee on Unlawful Interference, and the comments provided by the Council at this meeting.

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

Progress report of the Audit Results Review Board (ARRB)

19. The Council noted an oral report on the audit activities of the Audit Results Review Board covering the period from 1 June 2009 to 15 February 2010, presented by the Director of the Air Navigation Bureau, who also served as Chairperson of the ARRB. The report provided some examples of issues of concern and actions that had been taken, as well as some “success stories”, and was presented orally and in closed session, in accordance with a decision taken earlier (186/7) by the Council.

20. During the reporting period, the ARRB had held four regular meetings. During those meetings, four new States (Bangladesh, Bahamas, the Philippines and Uruguay) had been referred to the Board by the Safety Oversight Audit Section (SOA), and twelve States had been referred to the ARRB by the Aviation Security Audit Section (ASA). All of the new referrals had been reviewed by the ARRB and as of 15 February 2010, a total of 36 States (Angola, Bahamas, Bangladesh, Benin, Bhutan, Botswana, Cambodia, Cameroon, Central African Republic, Comoros, Congo, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Gabon, Georgia, Guinea-Bissau, Kazakhstan, Kiribati, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Namibia, Nauru, Niger, Philippines, Rwanda, Sierra Leone, Solomon Islands, Swaziland, Uruguay and Zambia) were now being monitored by the ARRB subsequent to the referral for safety issues, while 31 were being monitored after referral by ASA. Included in those numbers were 16 States which had been referred by both the safety and security audit sections owing to special concern.

21. One of the reasons that a State may be referred to the ARRB was if a Significant Safety Concern (SSC) had been identified during a Comprehensive Systems Approach audit. An SSC occurred when an audited State allowed the holder of an authorization to exercise the privileges attached to it, even though the minimum requirements established by the State and by the Standards set forth in the Annexes to the Chicago Convention were not met. This resulted in an immediate safety risk to international civil aviation. Currently, twelve States (Angola, Bangladesh, Cambodia, Congo, Djibouti, Guinea Bissau, Kazakhstan, Malawi, Mozambique, the Philippines, Rwanda and Zambia) had been referred to the Board due to an identified SSC. The effectiveness of the SSC mechanism had recently been demonstrated in the case of a State which had been successful in immediately resolving an identified SSC following its USOAP audit, without the finding ever being posted on the SOA restricted website.

22. Other cases, however, had not yielded the desired result. It had recently been brought to the Board’s attention that at least three States (Djibouti, Malawi and Zambia) had issued an air operator certificate (AOC) while their significant safety concerns remained posted on the restricted website. The ARRB would soon be requesting that the Council agree to new measures that could assist in resolving such cases, given the immediate risk to international civil aviation. Such measures might include informing all Contracting States through an electronic bulletin, or other means, that these States had issued AOCs with unresolved SSCs. Another option would be to refuse to issue new three-letter designator radio-telephony identifiers in response to a State’s request if that State had an unresolved SSC. This issue would be touched upon in the upcoming High-level Safety Conference.

23. D/ANB indicated that she also had some good news to report. Some States had made progress in resolving the most serious deficiencies identified during their aviation safety or security audits

and in implementing effective safety and security oversight systems. In these cases, the ARRB removed them from the list of States which had been referred to the Board.

24. Since the inception of the ARRB in November of 2006 until the end of the current reporting period, a total of 31 States had been removed in this manner, ten of them (Chad, Colombia, Eritrea, Indonesia, Luxembourg, Marshall Islands, Micronesia, Nepal, Sao Tome and Principe, the Seychelles and Sudan) for safety-related improvements. It should be noted, however, that some States had been re-referred to the ARRB on the basis of the results of a later audit.

25. Some notable successes had been observed during the reporting period. The ARRB had recently been informed, for example, that one State (Sierra Leone) had made progress in improving its aviation safety oversight capabilities. New operations and airworthiness inspectors had recently been recruited under a UNDP project, and funds had been set aside by the Civil Aviation Administration to retain their services at the conclusion of their current contracts. In addition, the CAA of that State had recruited graduates with engineering degrees as cadets. These positive actions came after long involvement by ICAO in the State, including a visit from the President of the Council.

26. Another success story concerned a State (Indonesia) which had been referred to the ARRB because of a high-level lack of effective implementation of the critical elements of a safety oversight system. That State had undertaken to resolve its identified deficiencies as expediently as possible. Recently, the first USOAP ICAO Coordinated Validation Mission (ICVM) had taken place in the State in order to validate the actions taken. In light of the mission's findings, the ARRB had agreed that the State had made progress in addressing its deficiencies and the State had been removed from the list of States referred to the ARRB.

27. With regard to aviation security, it had been recommended to the ARRB that two States be removed from the list due to significant improvements identified during recent follow-up visits. While the Board had noted the progress that had been made, it had been decided that these States should remain on the list in the short term in order that they continue to be high priorities for assistance.

28. The ARRB was an important coordination mechanism which ensured that assistance activities were coordinated between the different ICAO Bureaux and available to all interested parties. Additional activities which had been recently undertaken under the aegis of the ARRB to improve coordination between ICAO and external organizations would be reported upon during the High-level Safety Conference. The intent was to eventually coordinate the majority of international civil aviation assistance activities world-wide allowing this assistance to reach the greatest number of States and be used as efficiently as possible. This would ultimately allow ICAO to make great strides in assisting States in improving the safety and security of international civil aviation.

29. Under general comments, the Representative of Switzerland observed that D/ANB had made reference to "success stories", and wished to know in this connection if those examples could be considered successes not only for the States, but for ICAO which had no doubt taken some action to assist those States in being removed from the lists. The Representative of Switzerland also noted from D/ANB's report that ICAO would have the option to refuse to issue three-letter designator radio-telephony identifiers to airlines of States that had unresolved SSCs. He supported this idea, and would even go further in saying that not only should there not be new three-letter codes issued to airlines from these States, but ICAO should probably cancel the existing codes.

30. D/ANB indicated that, in the case of success stories, the Secretariat did not try to take credit for what a State had done to be taken off a list, but could in certain cases outline the actions that ICAO had taken. In many cases there were regional missions from the Regional Offices and collective follow-up missions which were called ICAO coordinated validated missions (ICVMs). There were also many cases involving ongoing TCB projects. Future reports could elaborate on ICAO's involvement. With respect to the refusal to issue three-letter designators, D/ANB did not have any authority technically to not issue them, although the practice at present was to act very slowly on requests for new designators from States which had significant safety concerns. The President of the Council indicated that the subject would be discussed at the upcoming High-level Safety Conference, and if as a result of the Conference a recommendation was adopted by the Council and the Assembly, the Organization would have the possibility of taking such measures.

31. The Representative of Spain indicated that more information on ICAO's role in success stories would be very useful. As regards the matter of denying designators, he wished to know if there were any legal mandates in the Organization that would make it possible. D/LEB indicated that, as had been stated by the President, the Secretariat did not have the authority, technical or otherwise, to refuse to issue a three-letter code when a State requested it, but that the Assembly or Council could at some point make a decision to revise the rules and procedures, which were very old, after the High-level Safety Conference.

32. The Representative of Uganda observed that there could be different causes for a State being placed on a list. In some cases States were doing their best to resolve the situation but were unable to do so because of a lack of resources. The treatment of those States should be different, and future reports should elaborate on the reasons certain States failed to respond. Since the purpose of listing States was to help them, more detailed information would make it possible for the Council to determine how States with genuine problems could be helped. D/ANB indicated that the suggestions put forward for the content of future reports had been noted by the Secretariat.

33. The Council reconvened in open session at 1200 hours to consider the remaining items on its order of business.

COUNCIL — 189TH SESSION

SUMMARY MINUTES OF THE THIRD MEETING

(THE COUNCIL CHAMBER, WEDNESDAY, 17 FEBRUARY 2010, AT 1200 HOURS)

OPEN MEETING

President of the Council: Mr. Roberto Kobeh González

Secretary: Mr. D. Wibaux, Acting 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. A. Romera (Alt.)	Nigeria	— Dr. O.B. Aliu
Cameroon	— Mr. E. Zoa Etundi	Republic of Korea	— Mr. Kim, C.-H.
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. A.A. Alharthy (Alt.)
Ecuador	— Mr. I. Arellano Lascano	Singapore	— Mr. K.P. Bong
Egypt	— Mr. M.T. Elzanaty	South Africa	— Mr. T. Peege
El Salvador	— Mr. J.A. Aparicio Borjas	Spain	— Mr. V.M. Aguado
France	— Mr. M. Wachenheim	Switzerland	— Mr. D. Ruhier
Germany	— Mr. J. Mendel	Tunisia	— Mr. I. Sassi
Ghana	— Mr. S. Allotey	Uganda	— Mr. J. Twijuke
Iceland	— Mr. H. Sigurdsson	United Arab Emirates	— Miss A. AL Hamili
India	— Mr. A. Mishra	United Kingdom	— Mr. M. Rossell
Italy	— Mr. G. Picheca	United States	— Ms. M. Kehoe (Alt.)
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. P. Langlais (Alt.)	— Canada
Mr. Chunyu Ding (Alt.)	— China
Mr. E.N. Méndez (Alt.)	— Dominican Republic
Mr. J.T. Pérez (Alt.)	— Dominican Republic
Mr. P. Pape (Alt.)	— France
Mr. F. Christensen (Alt.)	— Iceland
Ms. S. Pop (Alt.)	— Romania
Mr. K. Tkhaze (Alt.)	— Russian Federation
Mr. A.B. Zarra (Alt.)	— Saudi Arabia
Mr. R.A. Al Kaabi (Alt.)	— United Arab Emirates

SECRETARIAT:

*Ms. N. Graham	— D/ANB
Mrs. F.A. Odutola	— D/ATB
Mr. M. Elamiri	— C/SSA
Mr. S. Berti	— A/C/AVSEC
Mr. A. Quiroz	— C/ASA
Mr. E. Macburnie	— SFP
Mr. J.S. Thaker	— TO/SFP
Mr. W. Parks III	— ISD/SEC
Mrs. H. Biernacki	— TO/SFP
Mr. M. Siciliano	— TO/SFP
Mr. A. Djojonegoro	— TO/SFP
Mrs. C. Rideout	— CSO

*Part-time

Subject No. 52: Unlawful interference with international civil aviation and its facilities**Subject No. 52.1: Universal Security Audit Programme****Security risk indicators and significant security concerns**

1. The Council considered the above subject on the basis of C-WP/13496, presented by the Secretary General, and an oral report presented by the Chairman of the Committee on Unlawful Interference. C-WP/13496 presented the results of the work of the Secretariat Study Group tasked with reviewing the security risk indicators associated with the procedure for transparency and disclosure under Article 54 j) of the Convention; formulating the definition of significant security concern; and developing a mechanism to address such concerns in a timely manner.

2. In his oral report, the Chairman of the UIC indicated that at the request of a member of the Committee for further clarification, the Secretariat had prepared additional information of the proposed mechanism to process an SSeC. That additional information read as follows:

“The estimated timeframe for a validated and unresolved SSeC to be notified to all States would be up to 15 days after the audit for the initial validation and notification of the existence of an SSeC to the State concerned, plus an additional specified time period (up to a further 15 days) for the State to implement and notify ICAO of the corrective action.”

3. The Representative of the United States expressed her Delegation’s strong support for C-WP/13496, which represented an important step in increased transparency in the security process that struck a balance between the needs of the travelling public and the confidentiality concerns of the States. She also thanked the Secretariat for the clarification recorded above. The Representative of Iceland also expressed his satisfaction with the paper and with the additional clarification referred to by the Representative of the United States.

4. The Representative of Japan indicated that his Government also supported the paper, but wished to point out that if a decision was taken to immediately inform member States, such a decision would have to be taken on the basis of very objective criteria. The Representative of the Russian Federation wished to be associated with the words of caution offered by the Representative of Japan, and also expressed concern with the fact that this immediate notification would be made by facsimile or email, two means that might be accessible to the public. The concern raised by the Representative of Japan was further supported by the Representatives of the United Arab Emirates and Saudi Arabia, as well as by the Representative of Venezuela, who also concurred with the need for a more secure way of channelling information to States. C/ASA clarified that the immediate communications which would take place by email or facsimile would only be to notify States of the existence of a significant security concern, advising them of when the official notification had been sent by courier, with information on the tracking number provided by that courier service. The Secretariat believed that the significant security concerns should be closely linked to assistance, and it was for this reason that it was asking donor States to be more pro-active when there was a significant security concern happening in a particular State. The international community had a responsibility to assist a State in addressing an SSeC; it was not really a problem only for the State itself, but rather for the international civil aviation community.

5. The mechanism described in paragraph 3.3 of C-WP/13496 was expanded to include a new paragraph 3.3.3 which would read:

“3.3.3 In extreme situations of significant concern, the Secretary General will report and urge the audited State to take immediate action to solve the deficiency and will offer the cooperation of ICAO, if required.”

6. The existing paragraphs 3.3.3, 3.3.4 and 3.3.5 would be renumbered accordingly.

7. In taking the action recommended in C-WP/13496 and endorsed by the UIC, the Council reviewed and approved:

- a) the revised list of security risk indicators contained in paragraph 2.1 of the paper;
- b) the definition of significant security concern contained in paragraph 3.2.1;
- c) the mechanism described in paragraph 3.3, as expanded, and the Appendix to deal with significant security concerns identified during a USAP audit; and
- d) the additional information recorded at paragraph 7 above.

Any other business

8. The President of the Council informed Representatives of a letter of condolences he had sent on 29 November 2009 to Mrs. Dorothy Stimpson, the widow of the late Mr. E.W. Stimpson, who had served as Representative of the United States on the Council from 1999 to 2004.

9. The meeting adjourned at 1300 hours.

